



**IN THE MATTER OF** an application submitted by MSG Arena, LLC 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 4 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.

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This application for a special permit pursuant to Zoning Resolution (ZR) Section 74-41 was filed by MSG Arena, LLC on February 10, 2023. This application, along with the related action, would facilitate the continued use and operation of Madison Square Garden (MSG) located at 4 Penn Plaza in the Midtown neighborhood of Manhattan, Community District 5.

### **RELATED ACTIONS**

In addition to this special permit that is the subject of this report (C 230238 ZSM), the proposed project also requires action by the City Planning Commission (CPC) on an application by the Department of City Planning (DCP) for a zoning text amendment which is being considered concurrently with this application:

**N 230240 ZRM** Zoning text amendment to modify ZR Section 74-41 (Arena, Auditoriums, Stadiums or Trade Expositions).

### **BACKGROUND**

The applicant, MSG Arena, LLC requests a special permit to allow an arena with a capacity in excess of 2,500 seats. The requested action would facilitate the continued operation of the MSG Arena located at 4 Penn Plaza (Block 781, Lots 1, 2, and 10) (project area). The related application, filed by DCP, would amend ZR Section 74-41 (Arena, Auditoriums, Stadiums or Trade Expositions) to incorporate additional required findings applicable to the arena special permit, including provisions related the public spaces and open areas, loading operations, and the

consistency and compatibility of an arena with transit facilities. As part of the approval process, the applicant would make improvements to the public realm and loading operations.

### **Site History**

The Madison Square Garden Complex<sup>1</sup> (MSG Complex), completed in 1968, was originally developed pursuant to a special permit approved by the CPC on January 16, 1963 (CP-17682), and the Board of Estimate on January 24, 1963 (Cal. No. 215), for an arena, auditorium, stadium, or trade exposition with a capacity in excess of 2,500 seats, pursuant to ZR Section 74-41. The MSG Arena, located between Seventh and Eighth avenues and West 33<sup>rd</sup> and West 31<sup>st</sup> streets, was approved for a term limit of fifty years and with a maximum capacity of 22,000 seats. The Arena was constructed as part of a larger, multi-purpose complex of facilities (MSG Complex) that included a theater (the Felt Forum), a bowling alley, a skating rink, and restaurants. While the MSG Arena and its related facilities were subject to the original 1963 special permit, the other uses in the larger complex like the theater, were not. A midblock north-south taxiway was provided at-grade to the east of the Arena for vehicular access and certain portions of the zoning lot were developed as “plazas” pursuant to the plaza standards of the 1961 ZR. The construction of the Arena was accomplished by the demolition of the above-grade Pennsylvania Station structure while leaving the below-grade Pennsylvania Station and tracks intact. The demolition of the original station, designed by McKim, Mead & White, is considered one of the principal catalysts for the adoption of New York City’s landmark preservation law.

The 1963 special permit was amended by a 1989 modification action (M 890725 ZSM) to facilitate the refurbishment of the Arena and other upgrades to the larger MSG Complex which includes areas and uses not subject to this special permit application. The modifications to the MSG Complex included the addition of vertical circulation at the east side of the Arena, consisting of six new passenger elevators, five new escalators, and a mezzanine within the pedestrian bridge that connects the Arena to Seventh Avenue; the addition of secondary Arena entrances at West 31<sup>st</sup> and 33<sup>rd</sup> streets; the expansion of guest amenities to incorporate new

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<sup>1</sup>“MSG Arena, LLC” or “MSG” is the applicant. “MSG Arena” or “Arena” refers to the use which is subject to the special permit. “MSG Complex” includes the Arena, the Theater at MSG, and other uses that may not be subject to the special permit.

and/or refurbished guest suites, restrooms, concessions facilities, seating, and promenades and escalator towers; improvements to back-of-house spaces, including a new freight elevator and improvements to the Arena loading area; the installation of a new scoreboard, television, and cable facilities; and upgrades to mechanical and life safety systems. In addition, the spaces formerly occupied by the Felt Forum Theater, bowling alley, and skating rink, were converted to a new Theater at MSG and an addition was constructed along the western side of the Arena along Eighth Avenue to accommodate backstage space, loading and egress for the theater. This change of use was not subject to the 1963 special permit for the MSG Arena.

The 1963 special permit expired on July 24, 2013. To allow the continued use of the Arena beyond the initial 50-year term, a new special permit pursuant to ZR Section 74-41 was approved by the CPC on May 22, 2013 (C 130139 ZSM) including a term limit of 15 years for arena use. The City Council approved the application with modifications on July 24, 2013 (Res. No. 1888), including reducing the term limit for the arena use to 10 years. The grant of the 2013 special permit was accompanied by the following three actions, none of which were subject to a term limit:

1. CPC Chairperson's certification pursuant to ZR Section 37-621 to eliminate non-bonused plaza area on the site (N 130138 ZCM);
2. Zoning text amendment to (a) to ZR Sections 37-625 and 74-41 to allow the CPC to approve design changes to existing plazas and other pedestrian-accessible open areas on the site in connection with the arena special permit; and, (b) to ZR Section 93-17 to create a new ZR Section 93-171, authorizing the CPC to modify, by special permit, sign regulations applicable to an arena use on the site (N 130137 ZRM); and
3. CPC special permit pursuant to Section 93-171 to modify sign regulations applicable to the arena pertaining to advertising, maximum permitted height, and maximum permitted surface area (C 130140 ZSM).

The 2013 special permit governs the Arena and the related facilities that were subject to the 1963 special permit. The approved plans for the 2013 land use actions reflect enhancements to pedestrian-accessible open areas on the site in connection with the 2013 special permit, as well as several flashing and static signs for the arena in connection with the sign special permit (C

130140 ZSM). Around the time of the 2013 special permit, the applicant also completed several as-of-right interior renovations and upgrades to the arena, which cost approximately \$1 billion in private funds. None of the upgrades were related to the public realm around the arena or the arena loading. The 2013 arena special permit will expire on July 24, 2023, and a new arena special permit is needed for the continued use and operation of the arena.

There have been several other ministerial land use actions related to the zoning lot that have been approved since the approval of the 2013 land use actions. On November 21, 2014, the DCP issued a letter to the New York City Department of Buildings (DOB) confirming that design refinements to the open space and street-level static signage on the MSG Complex site were in substantial compliance with the 2013 special permit and the sign special permit. On July 16, 2019, the Chairperson of the CPC approved two certifications requested by Vornado Two Penn Property LLC, to allow the elimination of non-bonused open spaces at Penn 2 (N 200004 ZCM and N 20009 ZCM). On December 31, 2019, DCP issued a letter to the DOB confirming that an enlargement of the Penn 2 building and modifications to the open areas at Penn 2, also proposed by Vornado Two Penn Property LLC, were in substantial compliance with the 2013 special permit.

DCP simultaneously proposes a zoning text amendment (N 230240 ZRM) to ZR Section 74-41 to incorporate additional required findings applicable to the special permit. The new findings are related to public spaces being commensurate with the civic importance of the site; public spaces that provide suitable amenities and that they be integrated with the above-grade and below-grade pedestrian network and transit facilities; arena access and adjacent areas facilitate public use and circulation; loading for the arena use does not interfere with public spaces, transit facilities, pedestrian activity, or function of streets; and that the arena is appropriately consistent and compatible with existing transit facilities and with proposed improvements of transit facilities.

### **Penn GPP and Penn Station Master Plan**

There are several significant transit and planning projects in the immediate area of MSG. The New York State Urban Development Corporation d/b/a Empire State Development (ESD) has proposed the Pennsylvania Station Area Civic and Land Use Improvement Project, which has a

project area generally bounded by Sixth Avenue to Ninth Avenue and West 30<sup>th</sup> Street to West 34<sup>th</sup> Street. ESD adopted a General Project Plan (Penn GPP) on February 18, 2021, and subsequently modified and affirmed the Penn GPP on July 21, 2022. The goal of the Penn GPP is to create a world-class hub of transit-oriented development in the area around Pennsylvania Station (Penn Station) that will integrate Moynihan Train Hall with a renovated Penn Station, the Hudson Tunnel Project, and a new train station one block south of Penn Station. The project would result in the development of 10 predominantly commercial office buildings on eight sites with over 18 million square feet and incorporating many transit and public realm improvements. Part of the above grade public realm improvements include the creation of shared streets in the Penn GPP project area, and most significantly for MSG, along West 33<sup>rd</sup> Street from Seventh Avenue to Eighth Avenue which is the street that accesses the MSG loading area.

In addition, and related to the Penn GPP, the Metropolitan Transportation Authority (MTA), Amtrak, and New Jersey Transit (NJT), collectively referred to as the Rail Agencies, are working on the Penn Station Master Plan and, pursuant to a Request for Proposals dated June 9, 2022, they have engaged a design team to advance a proposal to substantially redesign Penn Station. On behalf of the other two transit agencies, MTA is leading the design process. Proposed improvements to Penn Station include a new above-grade grand train hall situated midblock between MSG and the Penn 2 office building and located on the midblock driveway (former taxiway); expanding the below-grade transit connections and concourses; providing new expanded entrances on the Eighth Avenue corners of West 33<sup>rd</sup> Street and West 31<sup>st</sup> Street; creating a spacious, high-ceiling concourse by removing sections of one of the two below-grade levels; and bringing light and air to below-grade areas. The future improvements associated with the Penn Station Master Plan are not currently funded and, in order to implement the plan, would require extensive coordination and cooperation with MSG Arena, LLC as well as property and easements that are owned and controlled by MSG Arena, LLC.

## **Surrounding Area**

### Zoning

The area surrounding the zoning lot is mapped primarily with commercial zoning districts and includes portions of the Special Midtown District (MiD) and the Special Hudson Yards District

(HY). The C6-4 (HY) zoning district extends to the north and northwest of the zoning lot, and the C6-6 (MiD) zoning district extends to the east and northeast. A portion of the block to the immediate north of the Arena is also mapped within a C6-4 zoning district, but it is located within the Special Midtown District rather than the Special Hudson Yards District. The regulations of the C6-4 (MiD) zoning district are generally the same as those of the C6-6 (MiD) zoning district, other than that the maximum base floor area ratio (FAR) is 10.0 rather than 15.0. The area to the immediate southwest of the zoning lot is located within a C6-3X zoning district, a contextual zoning district with a maximum FAR of 6.0 for commercial uses and 9.0 for residential and community facility uses. Buildings in the C6-3X zoning district are subject to a maximum building height of 170 feet or 160 feet, depending on their location relative to a wide street. Commercial zoning districts also encompass the areas farther to the east, west, and north of the zoning lot.

The zoning lot is located within two zoning districts. The eastern portion of the block, occupied by Penn 2, 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 site and a seven-foot-wide strip of Penn 2 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 HY regulations, which would control the development of a new building or enlargement on the site, establish a maximum base height of 150 feet along a wide street and along a narrow street within 100 feet of a wide street, and a maximum base height of 90 feet along a narrow street beyond 100 feet of a wide street. Above the applicable maximum base height, buildings that do not contain a residential use above such height are required to set back 15 feet from a wide street and 20 feet from a narrow street. The HY regulations further set forth public access requirements for Subarea B4, including requirements for public space, an east-west through block connection, and a corner circulation space and only apply to new developments. Within the MiD, the height and setback of buildings are governed by two alternate, complex sets of regulations: daylight compensation regulations (ZR Section 81-26), and daylight evaluation regulations (ZR Section 81-27). The area to the south of the zoning lot includes M1-5, M1-6, and M1-6D zoning districts, the regulations of which generally allow light manufacturing uses, specified commercial uses, and limited community facility uses, subject to maximum FARs of 5.0 to 10.0. Further to the

southwest, beginning at the southern midblock portion of the block bounded by West 31st Street, Eighth Avenue, West 30th Street, and Ninth Avenue, is an R8B zoning district. It is the nearest residential district at over 200 feet away from the zoning lot, and allows residential and community facility uses, a maximum FAR of 4.0, and a maximum building height of 75 feet.

### Land Use

The project area is bounded by Seventh Avenue to the east, Eighth Avenue to the west, West 31<sup>st</sup> Street to the south, and West 33<sup>rd</sup> Street to the north. The area surrounding the project area is notable for being a major shopping, tourist, and entertainment destination with high-rise commercial office buildings, and for being the location of the busiest transit hub in the nation. The area to the immediate south and southeast of the project area is defined by midrise 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 southwest of the project area. The adjacent blocks to the east, north, and northwest of the project area are similarly improved with office buildings ranging from 22 to 55 stories in height. The blockfront on the east side of Seventh Avenue between West 32<sup>nd</sup> Street and West 33<sup>rd</sup> Street is the site of a proposed 56-story commercial office building known as Penn15 whose development is linked to the Penn GPP.

The block to the immediate west of the MSG Complex, across Eighth Avenue, is occupied by the four-story James Farley Post Office building, which is a designated landmark. The 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. The building was re-opened in 2021 as the Moynihan Train Hall, offering access to Amtrak and Long Island Rail Road (LIRR) service.

Seventh Avenue is a one-way southbound street which is 100 feet wide. It is a New York City Department of Transportation (DOT)-designated local truck route south of West 31<sup>st</sup> Street. Between West 31<sup>st</sup> and West 33<sup>rd</sup> streets, the roadway is 73 feet wide and includes four moving lanes, a taxi stand on the west side of the street, and a parking lane with a buffer area on the east side of the street. Eighth Avenue is a one-way northbound street which is 100 feet wide and is

also a designated local truck route. Between West 31<sup>st</sup> and West 33<sup>rd</sup> streets, the roadway is 50 feet wide and includes three moving lanes, a taxi stand on the east side of the street, and a protected bike lane on the west side of the street. A signalized midblock pedestrian crossing is located between West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street at the midblock.

West 31<sup>st</sup> Street is a one-way westbound street which is 60 feet wide and is also a designated local truck route. The roadway starts at a width of 34 feet near Seventh Avenue and, at approximately 100 feet to the west of the intersection, widens to 40 feet to accommodate a lay-by lane adjacent to Penn 2 and the MSG Complex. The street along this widened portion includes two moving lanes as well as a lay-by lane on each of the north and south sides of the street. A portion of the northern lay-by lane on West 31<sup>st</sup> Street is closed off to vehicular traffic and is used for staging, loading, and unloading before and after large MSG Arena events in accordance with permits issued by the Mayor's Office of Media and Entertainment.

West 33<sup>rd</sup> Street, which is 60 feet wide, functioned as a one-way westbound street until 2015, when the eastern portion of the street, located directly to the north of Penn 2, was closed to vehicular traffic to create a pedestrian plaza known as "Plaza 33" within that portion of the street. To facilitate the creation of Plaza 33, the segment of West 33<sup>rd</sup> Street between Seventh and Eighth avenues was changed to a two-way dead-end street with access and egress at Eighth Avenue only. The street starts at a width of 30 feet at Eighth Avenue and widens to 40 feet approximately 100 feet east of the intersection to incorporate a lay-by lane adjacent to the MSG Complex. As part of a future improvement related to development plans around the Penn GPP, a shared street is proposed along West 33<sup>rd</sup> Street including one segment between Seventh Avenue and Eighth Avenue which is the only route for trucks to enter into the MSG off-street loading area.

Plaza 33 contains a new LIRR East End Gateway entrance that leads to the below-grade LIRR Concourse at Penn Station. The LIRR Concourse is currently undergoing alterations and improvements that have required a closure of portions of West 33<sup>rd</sup> Street such that the street currently has one moving lane with no curbside parking and no north sidewalk between Seventh Avenue and Eighth Avenue. Prior to the LIRR Concourse project, the street accommodated one



moving lane in each direction and a lay-by lane on each side of the street that was restricted to commercial vehicle loading and unloading. A portion of the southern lay-by lane on West 33<sup>rd</sup> Street was also used for staging and, on limited occasions, for loading and unloading before and after large Arena events prior to the LIRR Concourse Project.

The MSG Arena does not have any public or accessory parking spaces on the zoning lot. There are numerous public parking facilities and some on-street parking spaces in the area. There is a total of 17 off-street parking facilities within a quarter-mile radius of the Arena, which collectively have a capacity of approximately 4,300 spaces. On-street parking regulations within a quarter-mile radius generally allow curbside parking after 6:00 PM or 7:00 PM, when curbsides are no longer reserved for commercial vehicle loading and unloading. Overall, there are approximately 1,000 to 1,500 legal curbside parking spaces available within this area after 6:00 PM or 7:00 PM. There are no public or accessory parking spaces at the MSG Complex or within the adjacent lay-by lanes located along the northern curb of West 31st Street and the southern curb of West 33<sup>rd</sup> Street.

The MSG Complex is located directly above Penn Station and there are multiple access points to mass transportation provided in the area immediately surrounding the zoning lot and the Arena, including connections to the LIRR including the new LIRR Gateway entrance at West 33<sup>rd</sup> Street and Seventh Avenue, as well as NJT, Amtrak, and the A, C, E, 1, 2, and 3 subway lines. The Moynihan Train Hall is located directly across Eighth Avenue from the Arena and provides additional access to Amtrak and LIRR. The Herald Square transit complex is located one block to the east on the Sixth Avenue and Broadway bow-tie and is served by the N, R, Q, B, D, F, and M subway lines and the Port Authority Trans-Hudson (PATH) trains to New Jersey. There are eight local bus routes within a quarter mile radius of the Arena including the M5 (which operates along Fifth and Sixth avenues), the M7 (which operates along Sixth and Seventh avenues), the M11 (which operates along Ninth and Tenth avenues), the M20 (which operates along Seventh and Eighth avenues), the M34 SBS (which operates along West 34<sup>th</sup> Street), the M34A Select Bus Service (which operates along West 34<sup>th</sup> Street), the M55 (which operates along Fifth and Sixth avenues), and the Q32 (which operates along West 33<sup>rd</sup> Street). In addition, 23 express bus routes that provide service to and from New York City's other boroughs have stops within the

vicinity of the Arena. Commuter and intercity bus service are provided at the Port Authority Bus Terminal, which is located approximately one half-mile north of the Arena and New York Waterways operates a free shuttle bus along West 34<sup>th</sup> Street and Seventh Avenue to the West 39<sup>th</sup> Street Ferry Terminal, which provides ferry service to Belford, Hoboken, Jersey City, and Weehawken in New Jersey.

### **Project Area**

The project area comprises the entire block bounded by West 31<sup>st</sup> Street, Seventh Avenue, West 33<sup>rd</sup> Street, and Eighth Avenue. The above-grade MSG Complex (Block 781, Lot 9001) is owned and controlled by MSG LLC with certain portions of the above-grade facilities owned by Amtrak. The portion of the block located below-grade (Block 781, Lots 1 and 2) is owned by Amtrak and occupied by the Penn Station facilities and it is not part of the project area related to this application. The other two sites are Penn 2 (Block 781, Lot 9002) owned by Vornado Two Penn Property LLC and the NJT property (Block 781, Lot 10) owned by New Jersey Transit Corporation.

The zoning lot has a lot area of approximately 363,795 square feet and consists of the 12-story MSG Complex that includes the Arena, a 31-story office building at Penn 2, and an enclosed at-grade entrance to Penn Station on the NJT Property. The Penn 2 building is currently being altered to extend the base floors of the building toward Seventh Avenue and to incorporate other design modifications pursuant to the letter of substantial compliance issued by the DCP on December 31, 2019. Following the completion of this work, the existing buildings on the zoning lot will contain a total of 2,463,165 square feet of floor area. The C6-4 (HY) and C6-6 (MiD) zoning designations applicable to the zoning lot permit a basic maximum floor area of 4,206,440 square feet on the zoning lot.

### MSG Arena and Complex

The MSG Complex occupies the western portion of the zoning lot with frontages of approximately 542 feet on West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street and a frontage of approximately 455 feet on Eighth Avenue. The lot area of the MSG Complex is approximately 246,748 square feet and contains 987,243 square feet of floor area. The MSG Complex was designed by Charles

Luckman and Associates and completed in 1968 and consists of a 12-story, precast concrete-clad cylindrical building with a diameter of approximately 425 feet, as well as a pedestrian bridge (also known as Chase Square) that connects the MSG Arena to the Penn 2 office building through to Seventh Avenue. The pedestrian bridge serves as the primary entrance into the Arena and spans over the midblock taxiway. The cylindrical building includes four vertical escalator towers along its perimeter, located 90 degrees apart at the southeast (Tower A), southwest (Tower B), northwest (Tower C), and northeast (Tower D) corners of the Arena. Extending from the cylindrical massing along the Eighth Avenue frontage of the MSG Complex is a rectangular shaped addition that was constructed as part of the 1989 modification (M 890725 ZSM) to accommodate backstage space and loading for the Theater at MSG. The structure rises to approximately 109 feet and, while the Theater at MSG is not subject to this application, the applicant did allocate space from the addition to the MSG Arena back-of-house operations which are subject to this action.

The MSG Arena, with a maximum capacity of 22,000 seats, also has supportive programming including accessory event and performance spaces, such as the approximately 11,400-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. The first level of the building also contains an internal loading area for Penn Station, owned by Amtrak, adjacent to the MSG Arena loading area, and a restaurant facing West 33<sup>rd</sup> Street. The western portion of the MSG Complex contains the Theater at MSG, which has a maximum capacity of approximately 5,600 seats. The Penn Station internal loading area, the restaurant, and the Theater at MSG are not subject to the 2013 arena special permit. The pedestrian-accessible open areas at the MSG Complex contain design elements that the applicant incorporated in 2013 through 2015 pursuant to the 2013 arena special permit. Wayfinding signage, informational signage, and plaza identification plaques (installed in 2015) have been introduced to improve pedestrian orientation.

#### Open Plaza Areas and Public Realm

There are at-grade, pedestrian-accessible open areas on the zoning lot, adjacent to the MSG Complex and Penn 2, which were developed in accordance with the 1963 special permit and

filed as bonusable “plazas” under the plaza standards of the 1961 ZR. The plazas consist of 70,958 square feet of plaza area with 67,330 square feet on the MSG Complex and 3,628 square feet on a portion of Penn 2; and 11,970 square feet of plaza area located entirely on the eastern portion of Penn 2. These open areas around the MSG Complex are governed by the site plan required for the special permit use. This allows for greater design flexibility for these public spaces around the Arena in a manner reflective of their location and high pedestrian volumes and can more easily accommodate future Penn Station access points.

The MSG Complex is surrounded by at-grade open areas that consist of designated pedestrian-accessible areas that do not have any public amenities, seating or landscaping. The public sidewalks around the zoning lot are ringed by a row of security bollards and, because the MSG Complex sits atop Penn Station, there are a significant number of metal ventilation grates embedded in the ground. There are two open plaza areas on the corners of Eighth Avenue and West 33<sup>rd</sup> Street and on West 31<sup>st</sup> Street that also include entrances into Penn Station, the Arena, and the Theater. The Eighth Avenue and 31<sup>st</sup> Street corner also serves as a loading area for the Theater at MSG where trucks back up onto the sidewalk and onto the plaza to a loading door.

### Pedestrian Circulation

The main pedestrian access points to the MSG Complex are located at the eastern end of Penn 2, from Seventh Avenue and opposite West 31<sup>st</sup> Street to 33<sup>rd</sup> Street. These access points are 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, escalators, and an ADA accessible elevator located at the midblock portion of the zoning lot, within the Penn 2 building and the MSG Complex. The stairs and escalators lead to entrance/exit doors located to the immediate east and west of the midblock driveway, beneath the pedestrian bridge, and the ADA elevator opens to an area to the immediate west of the midblock driveway; pedestrians who egress from the stairs, escalators, or ADA elevator at these locations may cross the midblock driveway, within a designated pedestrian zone covered by the pedestrian bridge, or may move north or south, along a pedestrian path to the immediate east of the midblock driveway, to other portions of the zoning lot and adjacent streets.

The primary entrances to the Arena and the Theater at MSG are located at the eastern end of the MSG Complex, on the second and third levels, and accessed from easements located at Penn 2 on Seventh Avenue. Approximately 70 percent of people attending events at the Arena enter from Seventh Avenue. The Penn 2 building is currently near completion of a complete redesign of the building that includes an overhaul of the frontage along Seventh Avenue and entrances for the Penn 2 office building, the Arena and Theater at MSG, and for Penn Station. Pedestrians arriving at Penn 2's Seventh Avenue frontage may access entrances into the MSG Complex by traversing either of two weather-protected breezeways, running through the Penn 2 office building slightly above grade, and then up a short flight of stairs to the pedestrian bridge, which spans the midblock driveway at the second through fourth levels of the MSG Complex. ADA access along this same path is provided by ADA accessible ramps at Penn 2 and two ADA accessible lifts at the western end of the breezeways. Pedestrians arriving from Penn Station at the midblock portion of the zoning lot can directly access the pedestrian bridge by stairs located at the western end of the breezeways. Other pedestrian access points to the MSG Complex are provided along the perimeter of the building. They include four access points at the northwest and southwest corners of the building, known as the A Entrance, B Entrance, C Entrance, and D Entrance, which serve as entrances and exits for the Arena and the Theater; an entrance for employees, media, and additional ADA access on West 33<sup>rd</sup> Street ("8 Penn"); and VIP entrances located on West 31<sup>st</sup> Street ("4 Penn") and on West 33<sup>rd</sup> Street, respectively. Vertical circulation within the MSG Complex, consisting primarily of the four escalator towers at the perimeter of the building and adjacent stairs, provides pedestrians with access to the multiple levels of the Arena bowl.

The MSG Complex has a number of access points and doors around the cylindrical space for patrons of the Arena, Penn Station, the Theater, employees, and emergency egress. Because of this, the open areas around the Arena have historically been kept clear of any amenities, seating, or landscaping in order to accommodate circulation space and pedestrian movements for a 22,000-seat arena and for Penn Station.

#### Midblock Driveway

The area between the MSG Complex and Penn 2 contains a midblock driveway connecting West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street. The midblock driveway is owned by the applicant and is subject to easements benefiting Amtrak, LIRR, NJ Transit, and Penn 2 (Vornado). The north-south road located originally operated as a bidirectional taxiway and as the main vehicular drop-off and pick-up for MSG and Penn Station. The taxiway was closed after September 11, 2001 and is not open to passenger vehicles. There are permanent and temporary bollards around the perimeter of the Arena, as well as security kiosks located at both ends of the driveway, pursuant to a perimeter protection plan implemented by the MTA and approved by DOT in the form of a revocable consent. The midblock driveway continues to be used for pedestrian access along a sidewalk on the eastern end of the road that leads to entrances to Penn Station, Penn 2, the MSG Complex and is accessed underneath the pedestrian bridge. The north portion of the driveway is used as an open exterior loading area for the MSG Complex while the southern end of the driveway is used for Amtrak and Penn 2 loading.

The designated MSG Arena loading area within and adjacent to the midblock driveway is partially screened with a metal screen containing Arena imagery (that was installed in 2013), and the existing round railroad station vent structures adjacent to the Penn Station entrances on Eighth Avenue are clad with a decorative metal screen (that was installed in 2013). The West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street streetscapes have vitrines that were installed on the façade of the MSG Complex in 2014.

### Loading

The MSG Complex can stage up to six semi-trucks with trailers in the open off-street loading area for the Arena located in the northern end of the midblock driveway. The MSG Complex contains internal loading facilities for the Arena, at Level 1 of the building. Adjacent to the loading area is an interior ramp that leads up to the event level (Level 5). The internal loading facilities are accessible from the midblock driveway via an entrance at the northeast corner of the building (known as “10 Penn”). This loading entrance has a vertical clearance of 12 feet 6 inches. The portion of the midblock driveway located to the north of the pedestrian bridge is also used for Arena loading operations.

Since the MSG Complex was first developed, standards for arena loading have changed. Semi-trucks with trailers have increased in size, with typical lengths increasing from a range of 42 to 47 feet to 53 feet or, with the cab, 73 feet, and with typical heights increasing to 13 feet 6 inches and to 14 feet, making standard semi-trucks unable to access the Arena's internal loading facilities today. Most trucks are too tall to clear the 12-foot-6-inch height restriction at the loading entrance, and trucks that are less than 12 feet 6 inches tall but exceed 26 feet in length are unable to negotiate the slope and width of the ramp leading to the Level 1 loading area. For these reasons, semi-trucks carrying equipment for Arena events are loaded and unloaded outside within a designated, partially screened area at the northern end of the midblock driveway, and forklifts are used to transport the equipment into and out of the building, up to and down from Level 5, before and after events.

Smaller vehicles, such as box trucks that are less than 12 feet 6 inches in height and less than 26 feet in length, are able to enter the building and load or unload goods within the Arena's interior loading area. These trucks can also drive up the interior ramp adjacent to the loading area and make deliveries to the event level at times when a load-in or load-out is not taking place. A service elevator inside the MSG Complex is also available to transport performers or players and, on occasion, goods between the loading area on Level 1 and the event level. Amtrak also has a truck loading area inside the MSG Complex on Level 1, which is owned and operated by Amtrak. The entrance to the Amtrak loading area is at the southeast corner (Tower A) of the building, which is accessible from the West 31<sup>st</sup> Street end of the midblock driveway. The entrance to the Amtrak loading area has a vertical clearance of 12 feet and cannot accommodate large trucks such as semi-trucks with trailers. The internal loading areas for the Arena and Amtrak are adjacent to each other and are separated by an overhead roll-down door that, when open, allows forklifts and trucks less than 12 feet in height to pass between the two loading areas.

An average of approximately 235 events per year were scheduled at the Arena from 2017 through 2019 (the last three years prior to the COVID-19 pandemic). Of these, about 48 percent were professional and college sports (New York Knicks basketball games, New York Rangers hockey games, and college basketball games), 38 percent were concerts, and 14 percent were

other types of events (e.g., graduations, professional bull riding, and the Westminster Dog Show). Concerts and shows have grown steadily in number and dramatically in complexity since the opening of the Arena in 1968, with greater requirements for custom lighting, sound and stage setup and, correspondingly, increased truck volumes. From 2017 through 2019, concert events at the Arena required an average of approximately nine to 10 trucks, with some shows requiring 20 or more. Sports events such as basketball and hockey games generally involve four or fewer trucks or, on rare occasions, up to six trucks traveling to and from the Arena. These trucks often do not require a load-in or load-out and include TV production trailers, rental office trailers and toilets, and satellite trucks which park in the Arena loading area, around the Arena, and in the public right-of-way.

MSG has developed a complex loading operation using the open, off-street loading area on the northern end of the midblock driveway and using city streets around the Arena and locations further west on Eleventh Avenue. Typically for concerts and special events, the load-in before an event starts between 2:00 AM and 8:00 AM, with load-in for approximately 75 percent of such events commencing at or close to 8:00 AM, and generally takes four to six hours to complete, depending on the size and type of the show. The first trucks to unload typically arrive at the Arena about two hours before the scheduled load-in time. The load-out after an event typically begins between 10:00 PM and midnight (immediately following the conclusion of the show), with trucks arriving about an hour before the scheduled load-out time if they are not already staged in their off-street loading area or on city streets within the right-of-way, and generally takes four to six hours to complete. While the load-in and load-out for an event can occur on a single day, some events have load-outs that continue into the morning hours and some concerts have performances on multiple nights so that the load-in and load-out activities will occur on separate days. From 2017 through 2019, MSG Arena averaged about 235 events per year with 113 (48 percent) related to sports, 89 (38 percent) for concerts, and 33 (14 percent) for other types of events.

For sports events, TV trucks typically arrive between 1:00 AM and 5:00 AM on game days or on the day before a game to allow for interior setup. Box trucks (trucks between 24 feet and 28 feet in length) associated with transporting team equipment for hockey games also arrive on the



morning of a game day. Trucks and buses associated with regular deliveries for sports events typically load, unload, and park within the internal loading area on Level 1 and within the partially screened loading area at the northern end of the midblock driveway.

These delivery trucks, buses, and semi-trucks enter and leave the Arena off-street loading area from West 33<sup>rd</sup> Street, at the northern end of the midblock driveway. Semi-trucks typically pull into the partially screened exterior loading area and, after load-in or load-out is complete, slowly reverse back out onto West 33<sup>rd</sup> Street under the supervision of safety personnel. The space for the truck to back out of the loading area has been limited by the on-street space created for the pedestrian area Plaza 33. During some events, in coordination with Amtrak, a truck may also be staged within the midblock driveway to the south of the pedestrian bridge, adjacent to the Tower A entrance to the Amtrak loading area which is accessed from West 31<sup>st</sup> Street at the southern end of the midblock driveway.

Concerts and special events that involve more than four to six semi-trucks with trailers or TV broadcast / satellite trucks also use the adjacent right-of-way streets to load, unload, and/or stage vehicles. For these events, the applicant obtains a permit from the Mayor's Office of Media and Entertainment to allow trucks to temporarily park and/or stage along specific segments of neighboring streets, as described below. Applications for permits are made in advance of events, as schedules for shows and truck equipment are normally set approximately one month before the show.

Loading for the Arena has changed due to the current construction for the LIRR Concourse Project, the redevelopment of Penn 1 and Penn 2, and the partial closure of West 33<sup>rd</sup> Street. Under current operations, trucks are typically staged along Eighth Avenue and within the lay-by lane on West 31<sup>st</sup> Street and, for large events, are also staged on West 33<sup>rd</sup> Street between Eighth and Ninth avenues, and at Eleventh Avenue between West 30<sup>th</sup> and West 33<sup>rd</sup> streets. Trucks staged along Eighth Avenue or West 31<sup>st</sup> Street adjacent to the Arena are directed to travel around the block to access the West 33<sup>rd</sup> Street entrance to the northern end of the midblock driveway and unload within the designated Arena loading area. In addition, in coordination with Amtrak, a portion of the lay-by lane on West 31<sup>st</sup> Street is used for loading and unloading before

and after large events. Forklifts are used to shuttle equipment into the MSG Complex through the Amtrak loading entrance at the southern end of the midblock driveway and into the adjacent Arena loading area. When a truck is being loaded or unloaded at the lay-by lane, flaggers or security officers are used to manage the flow of pedestrians on the sidewalk.

Prior to the partial closure of West 33<sup>rd</sup> Street, trucks were staged along Eighth Avenue and within the West 33<sup>rd</sup> Street lay-by-lane adjacent to the Arena and, for large events, were also staged on West 33<sup>rd</sup> Street between Eighth Avenue and Ninth Avenue and Eleventh Avenue between West 30<sup>th</sup> Street and West 33<sup>rd</sup> Street. Trucks were loaded and unloaded within the designated loading area at the Arena and within a portion of the West 33<sup>rd</sup> Street lay-by-lane. Once construction activities on West 33<sup>rd</sup> Street are concluded, the lay-by lane on West 33<sup>rd</sup> Street will be the primary on-street vehicle staging area for the Arena and the lay-by lane on West 31<sup>st</sup> Street will continue to be used.

Trucks that access the MSG Complex are subject to rigorous security protocols. The applicant maintains a list of all trucks that are scheduled to arrive at the Arena on a given day, including delivery trucks and trucks carrying equipment for Arena concerts and other events. All trucks that access the MSG Complex from West 33<sup>rd</sup> Street are required to check in at a security checkpoint located near the intersection of West 33<sup>rd</sup> Street and Eighth Avenue. Trucks are allowed to proceed beyond the West 33<sup>rd</sup> Street security gate toward the site only if the security guard confirms that the truck is on the list of scheduled arrivals. Trucks that deliver via West 31<sup>st</sup> Street are similarly checked in and verified as an expected delivery by security personnel at the West 31<sup>st</sup> Street entrance to the midblock driveway. Trucks that are expected to access interior portions of the MSG Complex are subject to an additional security screening after the check-in process described above. This additional screening includes a full vehicle check before the vehicle enters the building.

Loading operations for the Theater at MSG are separate from those for the Arena. There are approximately 30 to 40 events per year at the Theater that involve the use of three to four trucks. For most events, load-in will start at 8:00 AM and conclude by 11:00 AM or 11:30 AM, and load-out will start between 10:00 PM and midnight, immediately following the conclusion of the

show. One or two trucks at a time are backed up from West 31st Street onto the open area at the southwest corner of the Site to load/unload in front of the Theatre loading entrance. The flow of pedestrians along Eighth Avenue and West 31<sup>st</sup> Street and around the adjacent entrance to Penn Station is maintained during these operations, except when pedestrians are temporarily stopped to allow for trucks to maneuver when entering or exiting the loading area.

### Mass Transportation

The zoning lot is located directly above Penn Station, a 21-track railroad station served by Amtrak intercity trains, 10 LIRR branches, and five NJT lines. Penn Station also contains stations for the A, C, E, 1, 2, and 3 subway lines. The MTA's Penn Station Access project, which has a projected completion date of 2027, would expand service to Penn Station by creating new rail connections for commuter trains on Metro-North Railroad's Hudson and New Haven lines in the Bronx.

The Penn Station facilities beneath the zoning lot are organized around two below-grade passenger concourse levels that are connected to each other by stairs and escalators in multiple locations. The upper-level concourse is used primarily for access to NJT facilities, and the lower-level concourse is used primarily for access to LIRR and Amtrak facilities. The zoning lot contains seven pedestrian entrances providing direct access to the upper-level Penn Station concourse: one entrance on the east side of Penn 2, adjacent to the intersection of Seventh Avenue and West 32<sup>nd</sup> Street; one entrance on the NJT Property on the southeast corner of the zoning lot, adjacent to the intersection of Seventh Avenue and West 31<sup>st</sup> Street; one entrance at the southwest corner of the project site, adjacent to the intersection of Eighth Avenue and West 31<sup>st</sup> Street; one entrance at the northwest corner of the project site, adjacent to the intersection of Eighth Avenue and West 33<sup>rd</sup> Street; and three entrances beneath the pedestrian bridge at the center of the midblock driveway, beneath the pedestrian bridge (two entrances on the east side and one entrance on the west side).

There are two other pedestrian entrances to Penn Station located on or within the immediate vicinity of the zoning lot that provide a direct connection to the lower-level concourse. The LIRR's East End Gateway entrance, which is located partially on Penn 2 and partially within the

Plaza 33 portion of West 33<sup>rd</sup> Street, provides direct access to the LIRR Concourse beneath West 33<sup>rd</sup> Street. Another entrance to the LIRR Concourse is located on the south side of West 34<sup>th</sup> Street, approximately 100 feet west of Seventh Avenue. The LIRR Concourse also has below-grade pedestrian connections to Penn 1, located to the north of the Arena across West 33<sup>rd</sup> Street. Access to Amtrak and LIRR facilities at Penn Station is also provided at Moynihan Train Hall, which opened in 2021 and is located to the west of the project area across Eighth Avenue. Moynihan Train Hall contains a street-level passenger concourse and is directly connected to the LIRR West End Concourse, which runs below grade parallel to Eighth Avenue and connects with the LIRR Concourse that runs beneath West 33<sup>rd</sup> Street between Seventh and Eighth avenues. Pedestrian entrances to Moynihan Train Hall are located at the northwest corner of Eighth Avenue and West 31<sup>st</sup> Street, at the southwest corner of Eighth Avenue and West 33<sup>rd</sup> Street, on the north side of West 31<sup>st</sup> Street midblock between Eighth and Ninth avenues, on the south side of West 33<sup>rd</sup> Avenue between West 31<sup>st</sup> and West 33<sup>rd</sup> streets.

The zoning lot contains direct access to two New York City subway stations. The 34<sup>th</sup> Street-Penn Station subway station on the IRT Seventh Avenue Line, served by the 1, 2, and 3 trains, is located on the east side of the zoning lot. The 34<sup>th</sup> Street-Penn Station subway station on the IND Eighth Avenue Line, served by the A, C, and E trains, is on the west side of the zoning lot. Both stations have multiple entrances on and near the zoning lot and are directly accessible from other below-grade portions of Penn Station.

Mass transit is the most popular travel mode for visitors attending Arena events which highlights the location of the Arena to the various transit facilities. According to the applicant, 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 one to four percent of trips. Private vehicles, in contrast, account for 23 to 38 percent of visitor trips, and taxis and black cars account for five to nine percent of trips.

#### Vehicular Access and Traffic Conditions

There is no passenger vehicular access to the MSG Complex today other than curbside drop-off areas along the adjacent streets. Vehicular access is provided primarily by curbside drop-off

areas along Seventh Avenue and Eighth Avenue, each of which is classified as a major street and has a taxi stand on the curb face adjacent to the zoning lot. The Seventh Avenue taxi stand has been temporarily relocated to the east side of the street for the duration of the Penn 2 construction project. In accordance with the 1963 Arena Special Permit, the portions of West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street immediately adjacent to the zoning lot were improved with lay-by lanes to accommodate vehicular traffic. DOT regulations for these lay-by lines prohibit standing in most areas and limit other areas to commercial vehicles during specified hours. As a result of the ongoing construction work on the below-grade LIRR Concourse, West 33<sup>rd</sup> Street temporarily operates with one moving lane, no curbside parking, and no north sidewalk.

In contrast, the combined transit share of visitors traveling by bus, subway, commuter rail, and inter-city rail is 50 to 61 percent. Visitors arriving by private vehicle must use public parking facilities or on-street parking spaces located within the surrounding area. The Arena does not have any public or accessory parking spaces nor does the applicant have any off-site, off-street parking locations. There are approximately 4,300 available parking spaces, in 17 off-street parking facilities, located within approximately a quarter-mile of the project area. There are approximately 1,000 to 1,500 legal on-street spaces within the same area which become open to parking at 6:00 PM or 7:00 PM.

### Signage

The MSG Complex contains a number of signs that are accessory to the Arena and non-Arena uses, which are allowed on an as-of-right basis. Signage includes wayfinding and identification in connection with the pedestrian-accessible open spaces around the Arena, the surrounding pedestrian network, and pedestrian access to Penn Station and the MSG Complex. The Arena signs include (approved in the 2013 sign special permit) consist of: 44' x 44' LED panel on each of the four escalator towers at the perimeter of the MSG Complex; 20' x 71' LED panel on the western portion of the building, facing Eighth Avenue; 18'-8" x 26'-6" LED panel at each end of the western portion of the building, facing north and south; and several static, street-level vitrines facing pedestrian-accessible open areas on the MSG Arena. The LED panels are allowed to display cycling static representations of accessory content and limited advertising content for

sponsors as defined in the sign special permit. The static street-level vitrines are limited to accessory content.

There is a Penn Station entrance sign at the corner of Eighth Avenue and West 31<sup>st</sup> Street and at Eighth Avenue and West 33<sup>rd</sup> Street that protrudes out of the cylindrical Arena. On either side of the Penn Station sign is an MSG Complex awning.

### **Project Description**

The proposed arena special permit would allow the continued use and operation of the existing MSG Arena. In addition, the applicant proposes changes to the existing open areas which consist today of open areas without pedestrian and public amenities. The proposed changes would include the replacement of the open areas' walking surface with decorative pavers and pigmented concrete where appropriate. The color, scale, and arrangement of the decorative pavers are consistent with those used in other existing and proposed pedestrian-accessible open areas in the surrounding area, including Plaza 33, Penn 1, and the sidewalks at Penn 2. The pigmented concrete, which would generally be used along Eighth Avenue (in areas where multiple Penn Station grates complicate the use of decorative pavers), would be consistent in color with the open areas along Moynihan Train Hall's Eighth Avenue frontage.

The applicant would provide planter benches as an amenity that would facilitate public use in public spaces without impeding pedestrian traffic. The proposed planter benches are complementary in design and scale with those used in other existing and proposed pedestrian-accessible open areas in the surrounding area, including Plaza 33, and are located on three corners of the Arena. Five planter benches would be located within the open areas at the northeast corner of the Arena, near the Penn Station entrance at West 33<sup>rd</sup> Street and Eighth Avenue. The planter benches would be situated along the West 33<sup>rd</sup> Street property line, with benches oriented toward each other, to encourage social seating and to facilitate public use of the open area without impeding pedestrian access to and from the Penn Station entrance or MSG Complex entrances. There would be two planter benches within the open area at the southwest corner of the Arena, near the Penn Station entrance at West 31<sup>st</sup> Street and Eighth Avenue. The planter benches would be situated along the West 31<sup>st</sup> Street property line in locations that provide sufficient clearance for pedestrians from existing in-ground grates for Penn Station and above-grade structures. The seating would be oriented toward the open area to facilitate public

use of the open area. There would be two planter benches within the open area at the southeast corner of the Arena, to the west of the midblock driveway. These planter benches would be situated in the center of the open area, with benches oriented toward each other, to encourage social seating and activate the open space. They would provide sufficient clearance from the existing bollards along West 31<sup>st</sup> Street to ensure that pedestrian flow through the Site is not impeded.

Additionally, there would be new design elements to beautify and activate portions of the MSG Complex's exterior walls. These design elements include (i) planters along a portion of the West 33<sup>rd</sup> Street building wall, adjacent to the Eighth Avenue entrances to Penn Station and the Arena, and along a portion of the West 31<sup>st</sup> Street building wall at the southeast corner of the site, facing the proposed planter benches described above, and (ii) enhancements to the lighting at the building's west-facing exterior wall along Eighth Avenue, including to increase light output and coverage and to incorporate color effects.

A designated bicycle parking area with 20 bicycle racks (sufficient to accommodate up to 40 bicycles). The bicycle parking area would be located in an open area directly to the west of the midblock driveway, proximate to the midblock entrances to Penn Station. It would also be covered by the pedestrian bridge for weather protection.

The applicant, as part of their application, submitted a Loading Plan that outlines the existing conditions of their loading operations. They are not proposing any changes to their loading operations.

### **Requested Actions**

In order to facilitate the continued operation of the MSG Arena, a special permit and zoning text amendment are being requested.

### **Arena Special Permit**

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 zoning districts or any

manufacturing zoning district, the CPC may allow such use by a special permit pursuant to ZR Section 74-41. Because the 2013 arena special permit will expire on July 24, 2023, the Arena Special Permit is needed for the continued use and operation of the Arena. 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.

### Zoning Text Amendment

Under a separate application, DCP is seeking a zoning text amendment to ZR Section 74-41 to incorporate additional required findings applicable to the Arena Special Permit. Section 74-71, as amended, will require that the Arena meet certain findings related to the public realm and open areas, loading operations, and related to consistency and compatibility with transit facilities.

The proposed public space findings are that they should be of appropriate proportions and quality design and provided around the arena in a manner that is commensurate with the civic importance of the site; that such public spaces will facilitate public use and pedestrian flow, provide suitable amenities for the users of the space, and be integrated with the above- and below-grade pedestrian circulation network and transit facilities in the surrounding area; and that entrances and exits to the arena and to the adjacent open areas are located and designed to facilitate public use and circulation on the zoning lot.

The proposed loading for the arena will not unduly: interfere with the use of public spaces; interfere with transit facilities; interrupt the flow of pedestrian traffic in the pedestrian circulation network; or interfere with the efficient functioning of adjacent streets including for the staging or queuing of vehicles for loading or for security checks. An application for this special permit shall include a loading operations plan that describes the number, location and arrangement of all loading berths on the zoning lot as well as the location and management of offsite storage and staging of vehicles associated with the arena use. The plan shall be referred to the DOT and affected rail agencies for a report or recommendations on the plan. The CPC shall, in its determination, give due consideration to these reports and recommendations.



The arena should be appropriately consistent and compatible with existing transit facilities on or adjacent to the zoning lot, and with proposed improvements to such transit facilities by the affected rail agencies.

### **ENVIRONMENTAL REVIEW**

This application (C 230238 ZSM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA requirements 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 91 of 1977. This application was determined to be a Type II action which requires no further environmental review.

### **UNIFORM LAND USE REVIEW**

This application (C 230238 ZSM), in conjunction with the application for the related action (N 230240 ZRM), were certified as complete by the Department of City Planning on February 17, 2023, and duly referred to Manhattan 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 (N 230240 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 (C 230238 ZSM), and the application for the related action (N 230240 ZRM), on April 13, 2023, and, by a vote of 34 in favor, none opposed and one abstaining, adopted a resolution recommending disapproval of the special permit application (C 230238 ZSM) unless the applicant MSG Arena LLC agrees to the following conditions:

The applicant must pursue a permanent sustainable solution, including relocation, and unless the length of the special permit is restricted to a 3-year period, the CB5 recommends that a relocation plan that includes a full funding scheme be designed and implemented for such permanent solution and urges all partners to create a binding working group that must provide

regular updates (at least once/year), as well as a full review of the conditions and progress at year-2, and reports to elected officials, relevant agencies and the community board on progress being made.

The applicant makes the following improvements be made in the interim including that the public realm has public bathroom in the plaza, positive activation of the plaza with ambitious public realm design and concepts, wayfinding improvements, bike storage exceeding 20 bikes and locked bike storage, and that all tractor trailers, busses and broadcast vehicles are kept off the public right-of-way, including vehicles for the Theater, or when vehicles are parked in street or on sidewalk, establish a parking fee structure commensurate with the burden placed on our blocks. CB5 believes a full relocation of MSG Arena is in the best interest of both Penn Station and the applicant and must be the preferred alternative; and that there is a full repeal of the real estate tax exemption; and the state legislature and city council adopt legislation banning the use of facial recognition to discriminate against patrons.

On the same date, April 13, 2023, Community Board 5, by a vote of 34 in favor, none opposed and none abstaining, adopted a resolution recommending approval of the text amendment application (N 230240 ZRM) and applauds the DCP for thoughtfully addressing a major land use and zoning issue of Midtown Manhattan, and prioritizing public realm, pedestrian usage and micro-mobility; and further recommended that the amendment considers binding language compelling MSG Arena to committing to certain conditions and actions necessary to the upgrades and operations of Penn Station by current and future railroad operators, including transfer of ownership and easements.

### **Borough President Recommendation**

This application (C 230238 ZSM), and the application for the related action (N 230240 ZRM), were considered by the Manhattan Borough President, who issued a recommendation on May 22, 2023, to issue an approval of the text amendment application (N 230240 ZRM) and a conditional approval of the special permit application (C 230238 ZSM) with the following conditions:

1. “The term of the special permit be limited to a term of 5 years, during which time the Applicant shall present updated plans at a hearing of the community board and obtain certification from CPC that these plans continue to meet the findings set forth in ZR 74-71 and that the arena is compatible with Penn Station and the surrounding area.
2. The Applicant, within the 5-year term, work in good faith with Amtrak, the MTA, NJTransit, and the DOT to develop plans that include the following elements, which shall be facilitated via easements with the appropriate parties:
  - a. Repurpose the Theatre at MSG to serve as a new train hall with frontage, along with street level activation on 8th Avenue; and
  - b. Ensure that the taxiway serves as a loading area that minimizes truck traffic and queueing in the public rights of way while providing new station entrances.
3. The Applicant work with DCP, Community Board 5 and local stakeholders to achieve CB5’s recommendation to create an “ambitious public realm scheme.... that include[s] positive activation of the plazas, high quality public realm design, and improved wayfinding;” increased bike storage, and a public bathroom.”

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

On May 24, 2023 (Calendar No. 1), the CPC scheduled June 7, 2023, for a public hearing on this application (C 230238 ZSM), in conjunction with the application for the related action (N 230240 ZRM). The hearing was duly held on June 7, 2023 (Calendar No. 21).

The testimony at the public hearing highlighted differing visions for the future of the MSG Arena and Penn Station. Testimony ranged from the perspective that the Arena should be moved to a new location and Penn Station could then be appropriately redesigned, to testimony that supported the Arena staying at its current location with significant new transportation and public realm improvements with the participation and cooperation of MSG and the Rail Agencies (MTA, Amtrak and NJT).

The MSG applicant team, including an attorney, architect, engineer and company executives, testified and answered questions on topics ranging from the public realm, loading, special permit

term limits and future plans to improve Penn Station. They testified that MSG is consistent and compatible with the existing transit facilities by design as they were developed as a single integrated project. They testified that they have been and would continue to be working collaboratively with the Rail Agencies to make improvements to the station and that the special permit term should be granted in perpetuity so that any proposed future improvements related to Penn Station and the Arena would not be impacted by the delay and uncertainty of future land use actions. They believe that MTA, as the representative of the Rail Agencies, is attempting to take easements and land that they do not own or control without appropriate compensation, in order to undertake a series of station improvements. They emphasized that the proposed MTA Penn Station improvements are underdeveloped, would interfere with Arena operations, particularly NY Rangers games, and are infeasible from an engineering perspective, with the proposed midblock train hall and reconfigured loading area where the existing midblock driveway and main pedestrian entryway into the Arena via the pedestrian bridge are located. They believe that the MTA report, submitted as part of the new findings in the proposed text amendment, that found the Arena as not being consistent and compatible with Penn Station, is a negotiating tactic to take land and easements controlled by the applicant.

The architect described the proposed open space and public realm improvements for the project, including decorative pavers and nine planter benches. An engineer for the applicant discussed how loading operations with large semi-trucks were carefully orchestrated in a limited space and impacted by structural conditions that cannot be modified, such as the nine-foot limited clearance under the pedestrian bridge and the 12.5-foot clearance into the internal Arena loading area.

The applicant testified that they support the proposed text amendment and were working with DCP staff to establish a process for the applicant to return to the CPC with a design plan for improvements to Penn Station. Furthermore, they believe that the MTA should be studying how to make a world class train station, and that because Penn Station and MSG are intertwined, any changes to the station would require collaboration and coordination with MSG.

The CPC raised several questions regarding loading and the impacts of large semi-trucks staging and parking around the arena and their impacts on the public spaces and transit facilities. MSG

representatives stated that they believe the loading operations are highly orchestrated and work well on a constrained site. They said that they have no ability to create more structural space for trucks to either enter into the Arena for loading or to redesign the pedestrian bridge that crosses over the midblock driveway so that trucks could pass under and exit onto West 31<sup>st</sup> Street. The applicant noted that the pedestrian bridge is structurally important to the integrity of the MSG Complex and supported HVAC systems for the Arena and the professional hockey team, and, therefore, any modifications to raise the bridge to enable trucks to drive underneath or to completely redesign the pedestrian bridge, were infeasible. When questioned as to the impacts of MSG loading operations, an MSG attorney responded that MSG loading is similar to other major companies in the city in a dense urban environment and referred to DOT as the entity to make the streets work as efficiently as possible.

The applicant team emphasized that the MTA Penn Station plan that outlines future improvements was only at a conceptual stage and that MSG needs more defined plans in order to agree on any improvements that impact the Arena and business operations. An executive from the company stated that they were a business and a publicly traded company and would not negotiate in public. The team noted that MSG has been successfully working with a company that is offering a differing plan to redevelop Penn Station and that plan includes a redesigned loading area that would allow large trucks to enter the arena at West 33<sup>rd</sup> Street and exit at West 31<sup>st</sup> Street. This plan includes allowing the pedestrian bridge to remain in its current configuration, removing the Theater at MSG, creating a large train hall on the Eighth Avenue frontage, and payment to MSG for its property.

The applicant team would not comment on whether the proposed improvements in the MTA Penn Station plan would be beneficial to the Arena or commit to sharing costs of any proposed improvements.

Representatives from the Rail Agencies presented their plan for future Penn Station improvements and discussed their Compatibility Report which was submitted in response to the DCP's proposed text amendment to the arena special permit that allows a report or recommendations from affected transit agencies to be submitted to the CPC for consideration.

They described the original Penn Station as being built in 1963 for 200,000 daily users which increased to 600,000 daily users by 2019 (with a slight drop-off since the pandemic) and is now forecasted to increase. The internal conditions of the station are notable for being located predominantly below-grade and underneath structures, like the MSG Arena, that are not owned or controlled by the Rail Agencies. They stated that the internal environment of Penn Station is substandard with cramped, crowded, and chaotic conditions including insufficient stairs, overcrowding and multiple safety concerns with limited opportunities for improvements.

The MTA representative said that the proposed improvements in the Penn Station Master Plan, including the proposed 100-foot-tall train hall at the midblock driveway and the two new Eighth Avenue entrances, are advanced enough to determine with MSG the necessary improvements that will make the Arena compatible with Penn Station. In order to achieve these improvements, the MTA representative stated that the Rail Agencies need MSG collaboration including conveying property interests and contributing to the costs of construction that are proportionate to MSG's benefit. The representative highlighted that expansive new entrances to Penn Station and the Arena will have benefits for all. The Rail Agencies believe that the new midblock train hall will improve loading conditions by creating the ability for trucks to navigate through the lot and exit onto West 31<sup>st</sup> Street which is currently prohibited by the nine-foot clearance of the pedestrian bridge. The MTA spokesperson stated that the proposed improvements to Penn Station cannot be completed without cooperation from MSG.

The DOT's Manhattan Borough Commissioner testified in response to DCP's proposed text amendment to the arena special permit, which allows a report or recommendations from DOT to be submitted to the CPC for consideration. The representative stated that, in relation to the MSG loading plan, their priority is to establish the needs and safety of all roadway users and encouraged consideration of operational changes that minimize the potential impacts of commercial vehicles and prioritize the needs of pedestrians and that do not intrude on public spaces or transit facilities. Furthermore, he stated that DOT is ready to work with MSG to consider curb regulation changes and traffic management strategies. In response to a question about West 33<sup>rd</sup> Street being a future shared street, he stated that with improvements to the MSG loading situation, DOT could move more quickly to create a shared street at this location

extending west from Plaza 33. He was also asked about the fee structure for parking commercial vehicles, and, in response, he said there is not a fee structure related to specific entities but is the same meter structure across the same categories of parking, and that the meter fees are different for the various areas of the city.

Two representatives of a private company with a differing plan for future improvements at Penn Station, testified about the proposal they have created in collaboration with MSG, which would entail creating a grand Eighth Avenue entrance into Penn Station by removing the Theater at MSG, two train atriums at the midblock driveway on either side of the pedestrian bridge, and an expanded internal loading area for the Arena that would enable trucks to enter on West 33<sup>rd</sup> Street and leave on West 31<sup>st</sup> Street. Responding to a question about the complexities of MSG loading operations and the pedestrian bridge, the representative said that removing or modifying the pedestrian bridge, as proposed by the Rail Agencies, could be done but the cost would be prohibitive.

The CPC notes that 65 people signed up to testify at the public hearing and the CPC received 57 letters from individuals and groups regarding the special permit application. The letters were overwhelmingly against the application (84 percent) and stated that the special permit should not be approved and/or that MSG should find a new location.

There were no other speakers, and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this application (C 230238 ZSM) for a special permit, in conjunction with the related text amendment action (N230240 ZRM), as modified herein, are appropriate.

The Commission believes that this application revisits the same intertwined relationship issues between the World's Most Famous Arena and the nation's busiest transit hub and most important rail facility in the region. The Commission believes strongly in striking the right balance between the arena use and public transit facilities, and considered many factors, several of which were

considered ten years ago for the 2013 special permit, including the substandard conditions of Penn Station; a special permit term limit; economic development which is now further impacted by the COVID-19 pandemic; the provision of public spaces; the need for mutual cooperation between all involved stakeholders; and the larger fundamental planning and land use issues unique to the Central Business District of New York City. However, the Commission recognizes that several factors have changed, including that the new Moynihan Train Hall opened in 2021 in the former Farley Post Office building across Eighth Avenue from the Arena and Penn Station; the federal infrastructure bill has dedicated funds to start the Gateway Program, which will see new tunnels under the Hudson River and double train capacity on the Northeast Corridor into Penn Station; the new LIRR Gateway entrance and Plaza 33 at West 33<sup>rd</sup> Street and Seventh Avenue have opened; the Pennsylvania Station Civic and Land Use Project General Project Plan (Penn GPP) was approved (although recently scaled back in scope), and calls for the development of an entirely new train station that connects to Penn Station; and the Penn Station Master Plan study has developed a proposal to make much needed improvements to the much-ridiculed station. The Commission notes the importance of considering the conditions and findings in the zoning text as it relates to the Arena today and the proposal for public realm and loading improvements related to the Arena, while also including a mechanism for a future action requiring the applicant to return for approvals on the appropriate consistency and compatibility of the Arena and proposed improvements to Penn Station.

The Commission notes the importance of MSG as a famous and distinguished concert venue where entertainers aspire to perform, as well as an iconic sports arena with professional, collegiate, and other athletic sports accounting for nearly half the events at the venue. MSG is a vital economic generator for the city attracting up to 22,000 per event and providing approximately \$1.8 billion in economic benefits to the area. The Commission recognizes that MSG has recently completed a substantial investment in the overhaul and renovation of the areas inside the arena in order to improve the patron experience. The Commission believes that it is appropriate for MSG to invest in and improve the areas outside of the arena that are subject to the special permit: the loading areas for events that have impacts on city streets, sidewalks and the public realm and the open plaza areas around the arena that must maintain pedestrian circulation but should also be well-designed with landscaping and amenities.



### **Arena Special Permit**

The Commission believes that the MSG Arena meets the findings, as modified herein, for an arena, auditorium or stadium in excess of 2,500 seats. The original findings for the special permit are largely focused on the potential for impacts related to private vehicular traffic due to the capacity and size of an arena. The original findings will be discussed in this section and the new findings proposed through the text amendment will follow.

The Commission concurs that the principal vehicular access for the MSG Arena is not on a local street but on Seventh Avenue, Eighth Avenue, and West 34<sup>th</sup> Street, all of which are major streets. West 31<sup>st</sup> Street is a primary crosstown connection that provides access to Lincoln Tunnel. With the creation of Plaza 33, West 33<sup>rd</sup> Street is no longer a through-street at Seventh Avenue resulting in more vehicle traffic on West 31<sup>st</sup> Street. Seventh Avenue and Eighth Avenue both continue to have curbside taxi stands and there are public or accessory parking spaces on the zoning lot.

The Commission notes that the original design of the Arena included a north-south taxiway between MSG and Penn 2 that connected West 31<sup>st</sup> Street and West 33<sup>rd</sup> Street and served as the major drop-off and pick-up area for the MSG Complex, Penn Station, and Penn 2. The taxiway has been closed to regular vehicular traffic since September 11, 2001.

The Commission notes that the MSG Arena is located to draw a minimum of vehicular traffic to and through local streets in nearby residential areas. The prevailing land use in this area is commercial in character and the nearest residential neighborhood is located to the southwest of Arena along Eighth Avenue and West 30<sup>th</sup> Street. As noted above, the primary vehicular access is on major streets, and the location on top of Penn Station encourages patrons to use mass transit when traveling to and from the Arena.

The Commission also concurs that the use is not located within 200 feet of a residential district. The nearest residential district to the Arena is an R8B district, the northern and eastern boundaries of which are located on 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. The Arena is located more than 200 feet from the R8B residential zoning district.

The Commission notes that, because the Arena does not have any accessory or public parking spaces or vehicular access points on the site, there is no traffic congestion related to reservoir spaces or the location of vehicle access points. Visitors to the Arena who travel by private vehicle, use a variety of public parking garages spread around the area or park in an on-street curb parking space. The application states that there are approximately 17 off-street parking facilities with 4,300 spaces, and over 1,000 on-street parking spaces within the surrounding area. Additionally, the materials state that data collected by the applicant shows that there is no significant change in traffic volumes between days with Arena events and days without events.

Since the former midblock taxiway has been closed since September 11, 2001, patrons who travel by taxi, for-hire-vehicles, black car, or rideshare services are mainly dropped-off and picked-up at the major transportation corridors on Seventh and Eighth avenues.

The Commission believes that due consideration has been given to the proximity of bus and rapid transit facilities to serve the arena use. Applicant surveys found that mass transportation is the most frequent mode of travel for visitors to Arena events and accounts for 50 to 61 percent of visitors to the Arena. The Arena has direct connections to Penn Station located directly below the site with service by Amtrak, LIRR, NJ Transit, several subway lines, and to the Moynihan Train Hall. The Arena is also served by the 34th Street-Herald Square subway station complex, located one block to the east at the intersection of Sixth Avenue and Broadway, which serves several subway lines and the PATH trains to New Jersey. There are also eight local bus routes that have stops within one quarter-mile radius of the Arena. In addition, 23 express bus routes providing service to New York City's other boroughs have stops within the vicinity of the Arena.

Commuter and intercity bus service to points west of the Hudson River are provided at the Port Authority Bus Terminal, which is located on Eighth Avenue approximately one half-mile north of the Arena. In addition, New York Waterways operates a free shuttle bus to the West 39<sup>th</sup> Street Ferry Terminal, which provides ferry service to New Jersey.

There are multiple points of direct pedestrian access between the MSG Complex and Penn Station, including a large stairway and escalators located on 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 Penn 2 breezeways and the midblock driveway.

### **Arena Text Amendment**

The Commission believes the application for a zoning text amendment (N 230240 ZRM), as modified herein, is appropriate.

The Commission commends the Department in undertaking this text amendment to modernize and update the findings from the 60-year-old regulations to reflect a contemporary understanding of the most important areas of concern for an arena located in the dense urban environment of Manhattan. The arena special permit in ZR Section 74-41 is original to the 1961 Zoning Resolution. The permit allows arenas, auditoriums, stadiums or trade expositions to exceed the as-of-right capacities for these uses. The existing special permit findings relate to potential planning impacts of thousands of people attending events at an arena and how they move in and around the site and in the broader surrounding area. Thus, the findings focus on transportation, but they are almost exclusively focused on the movement and parking of personal vehicles. Specifically, the emphasis of the findings is on access to arena parking spaces, which streets are used to drive to the arena, whether private vehicles cause traffic and congestion on local streets, if there is an arterial highway nearby, and if the arena has adequate reservoir space and access points for vehicles to enter parking spaces in order to prevent on-street congestion. The Commission notes that an arena located in such close proximity to mass transportation is an ideal example of transit-oriented development and the Penn Station area affords a wide variety of subway, bus, and rail lines. The findings for the special permit should therefore address a more expansive view of transportation modes, the urban context, and the special significance of the location of this Arena atop the nation's busiest transit hub.

The Commission welcomes the additions to the special permit zoning text proposed by the Department that will add findings in ZR Section 74-41 applicable in HY Subarea B4 to include

the consideration of the public realm and open areas of appropriate civic importance; loading operations of the Arena; the significance of Penn Station as a gateway access point into New York City; the Arena's facilitation of public use and movements – in particular pedestrian circulation – both above and below-grade as well as access in and around the arena and transit hub; and the Arena's appropriate consistency and compatibility with existing transit facilities and with future improvements to such transit facilities.

The arena text amendment findings are discussed below and divided into three sections: Public Realm, Open Areas, and Civic Importance; Loading; and Existing Transit Facilities and Future Improvements.

#### Public Realm, Open Areas, and Civic Importance

The Commission acknowledges that, at the nexus of MSG Arena and Penn Station, there are numerous issues that must be addressed. First, in relation to the public spaces, the Commission recognizes that public spaces must balance appropriate proportions, civic importance, quality design, and to facilitate the movement of commuters and Arena patrons. The open areas and public spaces around the Arena have few amenities, such as landscaping or seating, and are further encumbered by necessary air ventilation grates from Penn Station below and a row of security bollards installed by MTA that ring the entire block. The Commission acknowledges that the bollards and grates are not within the control of MSG or subject to this special permit application. However, the open areas are subject to the special permit. The Commission notes that the applicant has proposed minor improvements to public open areas around the Arena. These include new decorative paving and planters with integrated seating.

The Commission believes that the proposed paving plan to add high-quality decorative pavers and pigmented concrete is an enhancement to the site. It is also consistent with materials that were used in other existing and proposed pedestrian-accessible open areas in the surrounding area such as at Plaza 33 and Moynihan Station, which makes for design consistency that links the site to the larger area.

The Commission concurs that the nine shaped planter benches that are proposed on the northwest (five), southwest (two), and southeast (two) corners of the Arena enhance the public space and provide social seating without impeding pedestrian movements. These combined planter benches will be the first trees and public seating area on the site and will facilitate public use. The Commission acknowledges that the structural limitation of the depth between the at-grade open areas and the roof of Penn Station make it infeasible to achieve the required soil depth for landscaping. By combining a planter and seating area into a single design feature, the benches will create a suitable amenity for users of the open space. The planter benches provide enough clearance around the existing bollards along the sidewalk to not impede pedestrian movements and were designed to be complementary in design and scale with those used in other existing and proposed pedestrian-accessible open areas in the surrounding area. The two planter benches in the southeast corner of the site are oriented toward each other which will encourage social seating and activate the open space.

The Commission believes that the entrances and exits to the Arena are located and designed to facilitate public use and circulation. There are several access points for the Arena with the primary access point located on the Seventh Avenue frontage. According to the applicant, 70 percent of people entering the Arena arrive from Seventh Avenue while 30 percent arrive from entrances at the Arena and the Eighth Avenue corners, which is an increase along the western side of the Arena since MSG has opened more entrances at these locations.

In tandem with the first finding, public use and pedestrian flow is critical to the success of these spaces. Access points into Penn Station and MSG are located next to each other and should be designed to complement each and to be appropriately integrated. The Commission notes that while the entrances and exits to the Arena and open areas do facilitate public use and circulation, the jumble of signs and temporary canopies are poorly designed and do not provide a clear sense of the location of Penn Station or multiple Arena entrances. The Commission believes that the public spaces must be designed to facilitate the movement of pedestrians, commuters and patrons of MSG and Penn Station while being integrated with the public transit facilities that bring thousands of people into the area.

While acknowledging the above statements, the Commission believes that there are unresolved issues regarding the application's proposal for public spaces and open areas. The Commission believes that Penn Station is the premier gateway access point into Manhattan for mass transit commuters, tourists, and residents. In 1963, Penn Station averaged 200,000 daily riders and that volume has increased to 600,000 by 2019. While ridership decreased during the COVID-19 pandemic, daily ridership numbers are once again starting to approach the 2019 numbers and the MTA has projected continued growth in ridership. This tremendous growth in ridership has placed novel demands on the public spaces on MSG property that serve as the entrances and exits of the station and primary pedestrian pathways for commuters, residents, and visitors traversing the area. It is critically important that all users of the area, including patrons of MSG, can enjoy safe, attractive, and well-designed public spaces with appropriate amenities, clear wayfinding, and aspirational design features that befit the significance of the location.

The new findings state that that “public spaces of appropriate proportions and quality design are provided around the arena in a manner that is commensurate with the civic importance of the site.” The Commission emphasizes that the application did not propose public realm or design features worthy of the nation's busiest transit hub. The Commission appreciates that the applicant has included new planter benches around the open areas that will add trees and public seating to the barren plazas that would provide some measure of activation of those spaces. However, the Commission believes that these additions are not sufficient to satisfy the language of the findings. The Commission believes that additional public realm improvements are necessary to create a space that befits the significance of MSG and Penn Station as the premier facilities of their kind. These additional improvements must include additional options for public enjoyment of open areas on the lot, including seating and planting in areas that would not unduly obstruct pedestrian traffic. The Commission notes that Department staff have identified areas where such improvements could be located along the edges of the MSG structure. Further, the Commission believes that the long expanse of blank wall along the Eighth Avenue midblock frontage requires design intervention to provide visual interest for the public and to create appropriately civic space where today there is an unrelenting and empty expanse of stone. The Department has also identified suggested precedents for art installations and wall treatments that should serve as inspiration in redesigning this façade.

Finally, the Commission believes that the public spaces lack a sufficiently significant design gesture that would create an iconic or civically important space. The Department has suggested a range of options for design features at the Eighth Avenue plazas that would achieve this objective, ranging from relatively modest lighting strategies to grand canopies. The Commission understands the applicant's assertion that significant interventions are made difficult by subsurface conditions, however it is critical that further attention is paid to the public realm around the MSG Arena and the Commission urges the applicant to think creatively to find solutions that are achievable and satisfy the critically important objective of creating iconic public space. In response to public comments by the Commission and discussions with Department staff, the applicant has proposed additional improvements that include a glass canopy above each of the two Eighth Avenue entrances to Penn Station which would each accommodate station signage; a signage scheme that will unify a variety of mismatched signs and canopies; one additional planter bench in the southeast corner of the Arena next to the originally proposed two planter benches to create a more circular social seating area; an Eighth Avenue blank wall treatment that adds a distinctive lenticular art concept; and some enhanced lighting areas. The applicant's commitment to make these additional improvements are set forth in three letters to the Commission dated June 23, June 30, and July 7, 2023.

The Commission appreciates that MSG is now engaged and actively working to respond to the longstanding comments of the Department and those of this Commission regarding the importance of public realm. The commitments MSG has made will greatly improve the public's experience of this area. Given the complexities of this site and the extremely limited time that remains in this ULURP process, the Commission believes that development of design concepts should not be rushed or compromised to meet the deadline.

The Commission hereby modifies the zoning text amendment to include a process for continued design development of public spaces consistent with the applicant's commitments to the Commission and requirements provided herein and to ensure that the continued design development of the Arena and its adjacent public spaces would enhance the character of the surrounding area in a manner that is commensurate with the civic importance of the site. The

process provided for in this modification requires that the applicant submit design drawings that demonstrate the continued design development of public spaces and the integration of such spaces into the public realm consistent with the applicant's commitments within six months of approval of this application. The Chairperson of the CPC shall certify that the design has been developed consistent with this approval and the relevant conditions of the Commission's resolution.

Finally, the Commission appreciates that the applicant, in its letter to the Commission dated June 23, 2023, has committed to work with the Department of Transportation on plans for public rights-of-way adjacent to the Arena. These future improvements may include a new shared street on West 33<sup>rd</sup> Street and curb extensions for enlarged sidewalk space along Eighth Avenue. The Commission believes that it is critically important for MSG to work closely with DOT to advance these public realm efforts that would complement and enhance MSG's public realm design on its own property. Similarly, MSG should also work in a collaborative fashion with DOT and the MTA to evaluate and rationalize the site security features, such as bollards, that ring the Arena and Penn Station. The Commission understands that the bollards were installed by MTA and are located outside of MSG's property. However, the bollards are currently located in the middle of public sidewalks and the Commission urges MSG, DOT, and the MTA to work together to explore options to relocate bollards to the curb line to maximize protected public space. Further opportunity exists with the dedication of West 33<sup>rd</sup> Street as a shared street, where movable security features could limit access into the shared street at its intersection with Eighth Avenue, thereby providing the opportunity to remove bollards along the midblock and create a unified public space. movable security features could limit access into the shared street at its intersection with Eighth Avenue, thereby providing the opportunity to remove bollards along the midblock and create a unified public space.

The Commission believes that with the improvements proposed in the application materials and the additional commitments to public realm improvements contained in the applicant's June 23, June 30, and July 7, 2023 letters, as described above, which will be further developed in connection with the new Chair certification process the Commission is adopting today, the applicant has met the findings related to public spaces, pedestrian use, and circulation.



## Loading

The Commission was disappointed that the applicant did not propose improvements to its loading operations in their application. The applicant submitted, as part of its application and as required by the Department's text amendment, a loading plan report that outlines the location and arrangement of all off-street and on-street loading areas and the details of its loading operations. Additionally, MSG submitted a supplemental report consisting of an assessment of transportation and loading operations. All of the applicant's supportive loading materials simply document the existing loading conditions and outline their inadequacies without detailing any proposed improvements to address these issues.

The Commission dedicated a significant amount of time during the public hearing to asking questions and trying to understand the Arena's complicated loading operations, including an extensive discussion of why the pedestrian bridge over the midblock driveway with only nine feet of clearance could not be improved so trucks could traverse the midblock driveway in a one-way direction entering from West 33<sup>rd</sup> Street and exiting on West 31<sup>st</sup> Street. The Commission also heard from the applicant team that MSG has no control or even a great degree of foreknowledge as to when trucks arrive to load for events other than when equipment brought by truck needs to be in place and assembled by a certain time for soundchecks. According to the applicant, load-ins for events typically start between 2:00 AM and 8:00 AM, although most frequently around 8:00 AM, and load-outs start between 10:00 PM and midnight. The Department staff made numerous site visits to the Arena to view loading operations and witnessed load-ins typically starting at 8AM during the morning rush hour. The Commission believes that the adjustments to the loading regime are necessary to minimize adverse effects on pedestrian circulation and use of public streets, particularly during peak commuting hours.

The Commission understands that the Arena has had inadequate and outdated internal loading facilities since it was originally built, when standards for truck dimensions changed, rendering the loading entrances of the Arena almost immediately obsolete. Since that time, conditions at both the Arena and Penn Station have evolved to a significant degree, placing additional stress on streets, sidewalks, and the public realm that must be addressed. Concerts at the Arena are

happening more frequently and have grown larger with shows using more trucks for lighting, equipment, sound, and custom stages while Penn Station has seen its daily ridership steadily grow. The Commission believes that the MSG loading operations have dramatic effects on the public realm, city streets, and pedestrian circulation and must be addressed and improved, which includes improving the internal loading operations in order to increase capacity and access into the Arena.

The Commission received a report from the Department of Transportation in response to the new finding in the arena text amendment that would require the referral of the MSG loading plan to DOT for a report or recommendation. In the report, DOT recommends the development of a Transportation Management Plan (TMP) that would be consistent with DOT policies and include the following measures: off-site and off-street locations for commercial vehicles staging that do not impede pedestrian safety or circulation; managed access and restricted hours for vehicular access on West 33<sup>rd</sup> Street; and consolidated commercial deliveries. The Commission welcomes the input of DOT and has considered recommendations received in its modification of the text amendment.

Additionally, the Commission received a June 23, 2023 letter from the applicant committing to changes to its loading operations, stating that it will no longer park or stage trucks on West 33<sup>rd</sup> Street between Seventh and Eighth avenues and that it will use flaggers or security personnel to walk all such vehicles along that section of West 33<sup>rd</sup> Street when they enter or exit MSG's on-site loading area. The Commission is pleased that the applicant has agreed to these changes and notes that this section of West 33<sup>rd</sup> Street has had similar measures and restrictions in place for some time, necessitated by construction on adjacent properties. The Commission notes that the proposed changes will make permanent these interim restrictions on truck storage and staging and that this will immediately have a positive impact on the West 33<sup>rd</sup> Street public realm and will make the street safer for pedestrians and improve pedestrian circulation. Furthermore, these changes would further the city's goal of eventually transforming this section of the West 33<sup>rd</sup> Street into a shared street. However, the Commission believes these changes are the minimum necessary to address longstanding deficiencies in the Arena's loading operations, particularly as

they relate to conflicts with pedestrian movement and the use of city streets adjacent to the Arena and throughout the broader neighborhood for storage and staging of trucks.

The June 23, 2023 letter from the applicant also committed to coordinating with DOT on a TMP to further address the Arena's loading operations, including the recommendations made by DOT and designated locations for security checks and/or screening of trucks.

To enable MSG to further develop the commitments in its letter and to work with DOT to complete the TMP consistent with DOT's recommendations and MSG's commitments, the Commission hereby modifies the Department's text amendment to require that the applicant complete the TMP within six months of approval of this application. The TMP must be developed in accordance with requirements detailed herein, in consultation with DCP and DOT, and be submitted to the Chairperson of the City Planning Commission. The Chair would certify that the loading operation plan has, to the greatest extent feasible, been developed in accordance with the plans approved by the Commission and the relevant conditions of the Commission's Resolution. The Commission believes that this Chair certification and TMP will enable more improvements to MSG loading operations and recommends that off-site, off-street truck parking locations should be found for all events at MSG that can't be adequately handled in the existing on-site off-street loading area; and that a program be created to establish managed access and restricted hours of truck operations. The Commission notes that a TMP takes time to develop and review with the appropriate city agencies and given the limited time following receipt of MSG's additional loading commitments and DOT's recommendation letter, that creation of this new process with a six-month time horizon is appropriate.

The Commission believes that with the cessation of truck staging and parking on West 33<sup>rd</sup> Street between Seventh and Eighth avenues, the use of flaggers or security personnel to guide trucks entering or exiting MSG's on-site loading area, and the commitment to additional loading improvements, consistent with DOT's recommendations, to be incorporated into a TMP in consultation with DOT, the applicant has met the finding related to loading for the Arena. The modifications to the text amendment related to the Chair certification process and the

requirement related to the TMP will ensure further development of these proposed loading improvements consistent with the applicant's commitments.

### Existing Transit Facilities and Future Improvements

The Commission heard testimony at the public hearing from two of the Rail Agencies (MTA and Amtrak) about the proposed future improvements of the Penn Station Master Plan and the creation of a new light-filled midblock train hall where the existing driveway and off-street loading areas for MSG and Amtrak are located; two expansive new entrances at the corners of Eighth Avenue with West 33<sup>rd</sup> Street and with West 31<sup>st</sup> Street; improving safety and pedestrian movements at the platform level; the redesign of the labyrinth of confusing and narrow passageways; and removing one of the existing two levels of Penn Station and creating a single-level station with higher and wider corridors that create a well-integrated and expansive space. The Commission strongly supports planning and design efforts for long-needed and essential improvements to Penn Station that would benefit commuters, residents, tourists, and patrons of the Arena and benefit its status as a critically important transit hub.

The Commission heard testimony calling for the Arena to be relocated to another site, but acknowledges such calls are beyond the scope of this application. With the Commission's consideration of the issuance of a special permit for the Arena's operation at this location, it is of paramount importance, and central to the required findings, that the Arena is a good neighbor to Penn Station and that the various complementary uses on the site work together in a consistent and compatible fashion. To further these goals and to allow for the future construction of an appropriately grand new Penn Station, the Commission believes that MSG must work closely with the Rail Agencies. The Commission welcomes the June 29, 2023, letter submitted by the applicant committing to work collaboratively with the Rail Agencies and the State on the plans for the reconstruction and reimagining of Penn Station. The Commission emphasizes that MSG's collaboration must go beyond the performative. The Commission expects that any improvements to Penn Station will require use of property owned by MSG. The Rail Agencies, MSG and Vornado already have various easements over each other's property and the Commission believes MSG will likely need to convey additional easements or other property interests as necessary to allow for the rehabilitation of Penn Station and the development of new entrances to

Penn Station and a midblock train hall. The Commission will evaluate what MSG property is needed when the Rail Agencies' designs for Penn Station are 30 percent complete, and MSG is required to show its continued appropriate compatibility with the proposed design for Penn Station. The Commission notes that the terms of any such property conveyances are beyond the scope of its current determination and the Commission is taking no position on the appropriate business terms of any agreements between MSG and the Rail Agencies.

The Department proposed the arena text amendment in order to update and broaden the limited, narrowly focused findings and to address long-standing, unresolved issues at the complex site related to the MSG Arena and Penn Station. As part of this update, there is a new finding that acknowledges the importance of the Penn Station transit hub and requires consideration of the consistency and compatibility of the Arena with adjacent rail facilities. This finding for the Arena contemplates a two-step process. The first step requires the Commission to evaluate the consistency and compatibility of the existing Arena, inclusive of any modifications proposed by the applicant and modifications imposed by the Commission at this time, with the rail facilities in their current form. The second step would come at a future date when Rail Agencies have developed a design for future improvements at Penn Station, at which time MSG would likely need to modify its plans to remain appropriately consistent and compatible with the Penn Station improvements and to return to the Commission for approval of such proposed modifications. This review process is further detailed below and in the Commission's resolution.

The Commission believes that the Arena is consistent and compatible with the rail facilities as they currently exist on and adjacent to the site. The modifications proposed by the applicant, together with the requirements further imposed in this report, ensure that the Arena will continue to be able to operate in an appropriate manner while also allowing for ongoing operation of Penn Station. The Commission notes that the Arena and Penn Station have coexisted for decades at this location. While the growth in transit ridership and changes to the use of the Arena have presented fresh challenges, the Commission believes that the Arena is generally consistent and compatible with the rail facilities. The Commission looks forward to the design process for Penn Station, which was recently announced by the Governor, and eagerly anticipates the development of designs for the future Penn Station. The Commission acknowledges that the process laid out in

this report will eventually require an evaluation of continued consistency and compatibility at such time as the Rail Agencies have a sufficiently developed design for Penn Station improvements.

#### Special Permit Term and Additional Process Requirements

The Commission believes that a term of 10 years for the arena special permit is appropriate. The Commission notes that the previous term for the 2013 special permit was granted for 15 years and was subsequently reduced to 10 years by the City Council. In the last 10 years there have been significant planning and transportation efforts undertaken and completed in the Penn Station area and others are slowly moving forward and MSG must move forward with them. During this time, MSG has continued its successful business operations hosting musical and sports events unabated by the special permit term.

The Commission believes that the 10-year term will provide an opportunity for the Rail Agencies to bring forth a more fully realized set of improvements to Penn Station. At the same time, if the Rail Agencies are not able to bring forth an improvement plan, the Commission believes that the term limit will ensure that MSG will make improvements to areas controlled by the special permit use that will result in significant benefits to the public realm and improvements to the loading operations for the Arena. The special permit term will enable the Commission to reappraise the findings and conditions in an appropriate timeframe.

The Commission has reviewed illustrations provided by the applicant as well as materials and documents submitted by the Rail Agencies that show the approximate locations of where the most significant above grade improvements would be located, which generally correspond to the two Eighth Avenue corners at West 33<sup>rd</sup> Street and West 31<sup>st</sup> Street as well as the train hall located over the midblock driveway all of which are owned and controlled by MSG. The Commission heard testimony at the public hearing of a plan to improve Penn Station from a private entity that includes similarities and some notable differences from the Rail Agencies' plan. The Commission intentionally refrains from opining on specific details of any contemplated improvements or the relative merits of the concept plans. The Commission will review the application to modify the special permit that is submitted by MSG Arena LLC in

collaboration with the Penn Station design drawings developed by the Rail Agencies at that future date.

In the Resolution section of this report, the Commission is establishing a clear and detailed multi-step process related to open area and public realm improvements that are part of this special permit approval application as well as a process to guide the Commission's future consideration of the continued consistency and compatibility of the Arena with any future transit improvements proposed by the Rail Agencies. First, the applicant must complete the open area and public realm improvements as proposed in the application and as committed to in the subsequent letters from the applicant and those further developed as part of the subsequent six-month design process subject to Chair certification, within two years after approval of the respective plans. The Chair will be able to extend the time to complete open area and public realm improvements if those improvements will conflict with other planned work, for example, repair work and waterproofing on Penn Station that impacts the above at-grade pavement or structures. The Commission believes that it is appropriate to consider necessary repair or maintenance work in determining the appropriate time frame for completion of required improvements. Therefore, process detailed herein allows the Chair to determine if an extension is needed to extend the construction of open area and public realm improvements.

Second, the process for evaluation of the continued consistency and compatibility of the Arena with respect to the larger, more significant improvements to Penn Station, would come when the Rail Agencies jointly complete 30 percent design development on the proposed improvements to Penn Station. At such time as the Rail Agencies reach the 30 percent design mark, the applicant must submit a special permit modification application to the Department, which will include a discussion of what modifications are needed and whether and how the proposed modifications will enable the Arena to continue to meet the special permit findings, including but not limited to appropriate consistency and compatibility of the Arena with the plans to improve the rail facilities as detailed in the design drawings, and an implementation schedule for proposed modifications. The Commission anticipates that the Rail Agencies may want to provide comments on MSG's application.

In conclusion, the Commission supports the Madison Square Garden Arena special permit application, as well as the Department's application for modifications to the text of the applicable special permit. Madison Square Garden is one of the world's preeminent venues for sports, music concerts, and other marquee events. Its operation is part of the fabric of New York City and is vital both for its economic impact and for the part it plays in the image of the city. As such, the Commission has outlined the several ways in which MSG's responsiveness to Departmental and Commission concerns was insufficient. As has been detailed in this report, the Commission believes that MSG must do substantially more than it initially proposed to improve both its loading operations and the public realm around the Arena in ways that reflect the civic importance of the site and resolve longstanding deficiencies and conflicts arising from MSG's loading operations.

The Commission believes it is unfortunate that the full engagement of the applicant came so late in the process as to necessitate the Commission modification to create new process for development and consideration of further refinements to loading and public realm improvements. However, the Commission is nonetheless pleased to see MSG's commitments to additional improvements and to work with the Department on these substantive and meaningful changes. Similarly, the Commission is heartened to receive MSG's further commitment to work collaboratively with the Rail Agencies as they develop designs for the major renovation and reconstruction of Penn Station, a project that is one of the most significant infrastructural interventions the city has seen and which will begin to address some of the wrongs of the demolition of the original Penn Station. The Commission looks forward to the future return of MSG upon further design development of the Penn Station improvements. As has been noted above, it is of paramount importance that MSG act in good faith in its collaboration with the Rail Agencies to further their design process and future construction of Penn Station improvements. Both MSG and Penn Station are integral to the identity of New York City and the Commission is pleased to approve these applications and provide a path forward for improvements that will benefit this City, its residents, commuters, and patrons of the Garden for generations to come.



## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to a special permit for Arena, Auditoriums, Stadiums or Trade Expositions in Section 74-41(a):

- (1) 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;
- (2) that such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;
- (3) that such use is not located within 200 feet of a Residence District;
- (4) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent traffic congestion;
- (5) that vehicular entrances and exits for such use are provided separately and are located not less than 100 feet apart; and
- (6) that due consideration has been given to the proximity of bus and rapid transit facilities to serve such use.

The City Planning Commission hereby makes the following findings pursuant to a special permit for Arena, Auditoriums, Stadiums or Trade Expositions in Section 74-41(c):

- (1) the provisions of paragraphs (a)(1) through (a)(6) of this Section are met;
- (2) public spaces of appropriate proportions and quality design are provided around the arena in a manner that is commensurate with the civic importance of the site;
- (3) such public spaces will: facilitate public use and pedestrian flow; provide suitable amenities for the users of the space; and be integrated with the above- and below-grade pedestrian circulation network and transit facilities in the surrounding area;
- (4) entrances and exits to the arena and to the adjacent open areas are located and designed to facilitate public use and circulation on the zoning lot;
- (5) the proposed loading for the arena will not unduly: interfere with the use of public spaces; interfere with transit facilities; interrupt the flow of pedestrian traffic in the pedestrian circulation network; or interfere with the efficient functioning of adjacent

streets including for the staging or queuing of vehicles for loading or for security checks. An application for this special permit shall include a loading operations plan that describes the number, location and arrangement of all loading berths on the zoning lot as well as the location and management of off-site storage and staging of vehicles associated with the arena use. The plan shall be referred to the Department of Transportation and affected transit agencies for a report or recommendations on the plan. The Commission shall, in its determination, give due consideration to these reports and recommendations; and

- (6) the arena shall be appropriately consistent and compatible with existing transit facilities on or adjacent to the zoning lot, and with proposed improvements to such transit facilities by the affected transit agencies.

## RESOLUTION

**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 Arena LLP. pursuant to 197–c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 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 4 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 230238 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 Gensler, and Matthews Nielsen Landscape Architects, PC filed with this application and incorporated in this resolution, as may be amended in accordance with the Chair certification process described below:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
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Z.1	Zoning Computations	February 10, 2023
Z.2	Site Plan	February 10, 2023
Z.3	Level 1/Street Level Plan	February 10, 2023
Z.4	Level 2/MSG Lobby Level Plan	February 10, 2023
Z.5	Level 3/Mezzanine Level Plan	February 10, 2023
Z.6	Level 4/Technical Level Plan	February 10, 2023
Z.7	Level 5/Event Level Plan	February 10, 2023
Z.8	Level 6/Lower Concourse Plan	February 10, 2023
Z.9	Level 7/Lower Level Suite Plan	February 10, 2023
Z.10	Level 8/Upper Concourse Plan	February 10, 2023
Z.11	Level 9/Upper Suite Plan	February 10, 2023
Z.12	Level 10/Upper Bowl Plan	February 10, 2023
Z.13	Longitudinal Section	February 10, 2023
L.0	Open Area Circulation	February 10, 2023
L.1	Open Area Subject to Special Permit	February 10, 2023
L.2	Open Area Site Plan	February 10, 2023
L.3	Open Area Details	February 10, 2023
L.4	Open Area Details	February 10, 2023

## 2. FUTURE PENN STATION IMPROVEMENT MECHANISM

When the Rail Agencies complete 30 percent design development drawings (“Preliminary Drawings”) for future improvements to Penn Station that include use of property owned by MSG or require alterations to the MSG Complex, or require other modifications to the Special Permit (“Penn Station Project”) as evidenced by written notice, including a copy of the Preliminary Drawings, signed by all of the Rail Agencies to MSG and the Department, MSG shall, within ninety (90) days of its receipt of such notice file with the Department an application to modify this Special Permit in order for the Arena to remain appropriately consistent and compatible with proposed improvements to Penn Station. The application shall contain, at a minimum, the following materials:

- a) a written description of any alterations to the MSG Complex, any modifications to the approved drawings, and any other modifications to the arena use or the special permit that MSG may propose in order to continue to satisfy the finding pursuant to ZR Section 74-41(c)(6) that the Arena is appropriately consistent and compatible with proposed improvements to transit facilities on or adjacent to the zoning lot by the Rail Agencies, and an explanation of how any proposed modifications will enable the Arena to continue to meet all applicable findings;
- b) a written description of the specific respects in which the proposed modifications to the special permit relate to the Penn Station Project, including, to the extent applicable, the pedestrian- and/or transit-oriented goals thereof;
- c) amended drawings reflecting any proposed modifications to the special permit;
- d) a proposed schedule for implementation of any proposed modifications to the special permit; and
- e) a statement as to whether each of the Rail Agencies has or has not accepted and has or has not agreed to the proposed modifications to the special permit or has requested additional modifications to which MSG has not agreed.

The Commission may also invite the Rail Agencies to submit comments, individually or jointly, on the MSG application, including whether the Rail Agencies have agreed to modifications proposed by MSG, whether the Rail Agencies have requested additional modifications or actions from MSG to which MSG has not agreed, and whether and to what extent MSG's agreement or failure to agree to the Rail Agencies' requests will assist or hinder the Rail Agencies' implementation of the Penn Station Project.

### 3. ADDITIONAL PUBLIC REALM REQUIREMENTS

MSG Arena, LLC has provided three letters, dated June 23, June 30, and July 7, 2023, detailing its commitments to improve the public realm and open areas in and around the Arena. MSG shall refine and implement those commitments, as described below:

- Seating. The open area on the southeast corner of the Arena will incorporate an additional third planter bench to the proposed two planter benches and will provide for

more social seating. Additionally, new bench seating and/or plantings will be incorporated beneath the existing soffits, subject to infrastructural constraints. Additional seating shall be conducive to public use in its dimensions and materiality. Public seating shall not interfere with pedestrian circulation around the site and into entrances to Penn Station and Madison Square Garden.

- **Landscape.** The existing soffits will incorporate new plantings and/or bench seating, subject to infrastructural constraints. Trees and other plantings shall be located within the public areas, especially in proximity to seating areas, to provide visual interest and enhance pedestrian comfort. The placement of such features shall not interfere with the circulation of pedestrians.
- **Lighting.** MSG will enhance the lighting around the entire street frontage of the MSG Complex and the midblock driveway. Lighting enhancements also be implemented in the areas beneath the existing soffits and at the Penn Station entrances. The lighting shall foster a safe, legible, and inviting environment and be coordinated with existing fixtures near and around the MSG Complex.
- **Civic Identity.** The existing Penn Station entrance structures on Eighth Avenue will be replaced with more modern, dramatic structures that could include large glass canopies that extend over portions of the corner open areas without disrupting pedestrian flow. New entrance structures will also incorporate lighting to illuminate the area below. The Penn Station signage on the new structures will require coordination and consultation with the Rail Agencies. Any replacement structures shall establish a stronger identity and inspire a sense of civic pride at the two plaza areas along Eighth Avenue and utilize vertical design elements which have proven successful not only in marking entry but establishing an identity of a place.
- **Blank Walls.** The Eighth Avenue façade will incorporate a graphic treatment that would enliven the existing blank wall. The graphic treatment will enhance the façade with artwork and/or wayfinding, not branding or advertisements. The sidewalk experience should be an enjoyable experience for everyone and significant portions of blank walls, such as that along Eighth Avenue, shall be mitigated through the integration of wayfinding, art, materiality, graphic design treatments, and/or enhanced lighting. Such

an approach shall be dynamic and respond to views from multiple locations and distances, including along the sidewalk, as well as across street from Moynihan Station.

- Wayfinding. A unified design language for the MSG complex signage will be implemented to establish a clearer hierarchy of entrances, reduce visual noise, distinguish commercial signage from transit signage, and employ consistent colors and typeface across all signage. Wayfinding will also be improved for pedestrians navigating the midblock driveway onsite.
- Obstructions. Existing canopy structures serving the arena entrances will be removed and others will be reduced in size. Obstructions at the midblock driveway entrances will be removed to the extent feasible to facilitate pedestrian circulation. Structures such as vestibules, tents, canopies, storage units, metal barricades, etc. shall not be placed in public open areas. Mechanical and security infrastructure should be integrated with open space and building design elements to the greatest extent feasible.

In order to provide greater detail to these commitments, MSG shall prepare revised design and public realm plans within six months after approval of the special permit and shall submit such revised plans to the CPC Chairperson. The revised plans shall be sufficient to enable the Chairperson to certify that the arena design has to the greatest extent feasible, been developed in accordance with the plans approved by the CPC and the relevant conditions of this Resolution.

#### 4. TRANSPORTATION MANAGEMENT PLAN (TMP) REQUIREMENTS RELATED TO LOADING OPERATIONS

MSG Arena, LLC will complete a TMP developed in consultation with the Department of Transportation and the Department of City Planning in order to provide greater detail to the commitments made by MSG Arena, LLC in its letter of June 23, 2023 and the recommendations made by DOT, as follows:

- TMP will be consistent with DOT's freight policies and goals as established in reports such as Truck Smart, Delivering Green, and Off-Hour Deliveries.
- TMP shall include the following measures, but not limited to:

- a. No parking or staging of trucks on West 33<sup>rd</sup> Street between Seventh Avenue and Eighth Avenue;
- b. Flaggers or security personnel to walk all such vehicles along West 33<sup>rd</sup> Street between Seventh Avenue and Eighth Avenue when the access or leave the MSG off-street loading area;
- c. Off-site and off-street locations for commercial vehicle staging that do not impede pedestrian safety or circulation;
- d. Managed access and restricted hours for vehicular traffic on West 33<sup>rd</sup> Street;
- e. Consolidated commercial deliveries, including deliveries via electric vehicles and cargo bike;
- f. Designed locations for security checks and/or screening of trucks.

MSG Arena, LLC will submit the TMP to the CPC Chairperson within six months after approval of the special permit. The TMP shall be sufficient to enable the Chairperson to certify that the loading operations plan has to the greatest extent feasible, been developed in accordance with the plans approved by the CPC and the relevant conditions of this approval.

5. 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.
6. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
7. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
8. Upon failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, 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.

9. 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.
  
10. This permit shall expire 10 years following the effective date hereof (the "Expiration Date").
  
11. MSG shall, except as otherwise set forth below, complete construction of the improvements that are shown on Drawings No. L.0 through L.4 in substantial conformity with the Plans or in substantial conformity with the approved drawings of a subsequent certification pursuant ZR Section 74-41(c)(6)(aa) (each "Open Space Improvements") no later than two (2) years after such approval (each an "Open Space Improvement Completion Date"). In the event that the Chairperson reasonably determines that there is planned work in connection with certain facilities serving Penn Station (including, without limitation, replacement, repair, removal, and/or addition of waterproofing) areas) that is reasonably expected to (i) be commenced within one (1) year after an Open Space Improvement Completion Date and (ii) interfere with MSG's ability to construct some or all of the Open Space Improvements or require the demolition, replacement or removal of a material portion of the Open Space Improvements, MSG may request the Chairperson extend an Open Space Improvement Completion Date, by written notice to the Chairperson. Such written notice shall include a description of the Penn Station work that is expected to interfere with construction of the



Open Space Improvements, a description of the Open Space Improvements that will be interfered with by the Penn Station work, and a proposed revised schedule for completion of the Open Space Improvements. The Chairperson may thereafter extend the Completion Date for some or all of the Open Space Improvements by up to one (1) year after the date on which such Penn Station work is completed.

The above resolution (C 230238 ZSM), duly adopted by the City Planning Commission on July 12, 2023 (Calendar No. 5), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**DANIEL R. GARODNICK, Esq.,** *Chair*

**KENNETH J. KNUCKLES, Esq.,** *Vice Chairman*

**GAIL BENJAMIN, ALFRED C. CERULLO, III, ANTHONY W. CROWELL,**

**JOSEPH I. DOUEK, DAVID GOLD, Esq., RASMIA KIRMANI-FRYE,**

**RAJ RAMPERSHAD,** *Commissioners*

**ORLANDO MARÍN,** *Commissioner, Voting No*



# BOROUGH PRESIDENT RECOMMENDATION

<b>Project Name:</b> Madison Square Garden Special Permit	
<b>Applicant:</b> MSG Arena, LLC	<b>Applicant's Administrator:</b> Elise Wagner
<b>Application #</b> 230238ZSM	<b>Borough:</b> Manhattan
<b>CEQR Number:</b> 23DCP102M	<b>Validated Community Districts:</b> M05

**Docket Description:**

IN THE MATTER OF an application submitted by MSG Arena, LLC 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 4 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.

\*Note: A zoning text amendment to modify Section 74-41 is proposed under a concurrent related application N 230240 ZRM (see <https://zap.planning.nyc.gov/projects/2023M0123>).

Plans for this proposal are on file with the City Planning Commission and may be seen on the Zoning Application Portal at <https://zap.planning.nyc.gov/projects/2022M0440>, or the Department of City Planning, 120 Broadway, 31st Floor, New York, NY, 10271-0001.

*Please use the above application number on all correspondence concerning this application*

**RECOMMENDATION:** Conditional Favorable

*Please attach any further explanation of the recommendation on additional sheets as necessary*

**CONSIDERATION:**

Recommendation submitted by	MN BP	Date: 5/22/2023 12:03 PM
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# BOROUGH PRESIDENT RECOMMENDATION

<b>Project Name:</b> Arena Text Amendment	
<b>Applicant:</b> DCP - Department of City Planning (NYC)	<b>Applicant's Administrator:</b> DCP - Department of City Planning (NYC)
<b>Application #</b> N230240ZRM	<b>Borough:</b> Manhattan
<b>CEQR Number:</b> 23DCP100M	<b>Validated Community Districts:</b> M05

**Docket Description:**

*Please use the above application number on all correspondence concerning this application*

**RECOMMENDATION:** Favorable

*Please attach any further explanation of the recommendation on additional sheets as necessary*

**CONSIDERATION:**

Recommendation submitted by	MN BP	Date: 5/22/2023 12:03 PM
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OFFICE OF THE

# MANHATTAN BOROUGH PRESIDENT

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**Mark Levine, Borough President**

May 22, 2023

## **Recommendation on Madison Square Garden Special Permit No. C230238ZSM by MSG Arena, LLC and Non-ULURP No. N 230240ZRM by NYC Department of City Planning**

### **PROPOSED ACTIONS**

MSG Arena, LLC (the “Applicant”) is seeking a special permit pursuant to Section 74-41 of the Zoning Resolution to facilitate the use and operations of the Madison Square Garden (MSG) Arena located at 3-10 Penn Plaza (Block 781, Lot 9001) in Community District 5 in Manhattan.

Section 74-71 of the Zoning Resolution (ZR 74-71) requires that any arena seeking this special permit:

1. Locate vehicular access on an arterial highway, a major street, or a secondary street within one-quarter mile of an arterial highway or major street;
2. Minimize vehicular traffic in local streets and residential areas;
3. Is not located within 200 feet of a residential zoning district;
4. Provide adequate space for entering and exiting vehicles to prevent traffic congestion;
5. Provide vehicular entrances and exits no less than 100 feet apart; and
6. Provide “due consideration” to the proximity of bus and rapid transit facilities.

Additionally, the Department of City Planning is seeking a zoning text amendment (Application No. N 230240 ZRM) to ZR 74-41 to require the Applicant to:

1. Meet findings 1 through 6 as already written in ZR 74-41;
2. Provide adequate public spaces that are “commensurate with the civic importance of the site”;
3. Ensure that the public spaces encourage pedestrian flow, provide suitable amenities, and are integrated with the above- and below-grade pedestrian circulation networks;
4. Provide entrances and exits next to open areas and encourage public use and circulation;
5. Ensure that loading operations do not “unduly” hinder the use of public spaces, transit facilities, pedestrian circulation, or the use of adjacent streets; and
6. Be compatible with existing transit facilities as well as with any proposed improvements to such transit facilities.

Although this text amendment application is moving through a public review process, these new findings, which have been written to apply to the part of Manhattan in which the MSG Arena is located<sup>1</sup>, will also have to be met by the Applicant. The Applicant will also enter into a restrictive declaration with the City, which will outline requirements and be recorded against the property.

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<sup>1</sup> The proposed text specifies Pennsylvania Station Subarea B4 of the Special Hudson Yards District.

## **BACKGROUND**

Since its inception in 1879, Madison Square Garden (MSG) has occupied four sites in Manhattan, including its current location which is above the New York Pennsylvania Railroad Station. MSG is a complex that includes an arena, a theater, operational space, and restaurants. The facility is the busiest arena in the United States. Its current iteration was developed in 1963, pursuant to a special permit, which was established with a maximum capacity of 22,000 seats. That special permit was granted with a 50-year term limit and was modified in 1989 (M 890725 ZSM) to facilitate upgrades to the MSG complex. These upgrades added new circulation at the east side of the Arena and included six new elevators, five new escalators, and a mezzanine within the MSG complex's pedestrian bridge. The facility also added entrances at West 31<sup>st</sup> and 33<sup>rd</sup> Streets. The complex was home to the Felt Forum, a bowling alley, and a skating rink, which were later converted into a new theater (the "Theater", formerly known as the "Hulu Theater").

When the 1963 special permit expired in 2013, a new special permit was approved with actions that included a City Planning Commission (CPC) Chairperson certification to eliminate non-bonused plaza area on the site (N 130138 ZCM), a zoning amendment to allow CPC to approve design changes to existing plazas and other pedestrian-accessible open space in connection with the special permit, and the creation of a new provision in the Zoning Resolution to authorize CPC to modify, by special permit, sign regulations applicable to an Arena use on the site as well as a CPC special permit to modify sign regulations. In its approval of the special permit, the CPC made a modification to reduce the term to 15 years; that limit was reduced to 10 years by the City Council.

Land use actions pertaining to open space and signage compliance, the elimination of non-bonused open spaces, and compliance of adjacent properties with special permit compliance, have been approved since the 2013 special permit. The Arena's existing special permit is due to expire on July 24, 2023. The Department of City Planning will issue a comfort letter to ensure that the Arena is able to continue its operations while the special permit and zoning text amendment applications undergo public review.

### **Area Context**

Madison Square Garden is on a zoning lot located between 7<sup>th</sup> and 8<sup>th</sup> Avenues and West 31<sup>st</sup> and West 33<sup>rd</sup> Streets, a bustling part of Midtown that serves as a major transportation hub and includes high- and mid-rise commercial buildings. MSG sits above New York Penn Station, the busiest transit facility in North America, which connects commuters and visitors to the Amtrak, Long Island Railroad, NJ Transit, and the A, C, E, 1, 2, and 3 Subway lines. In addition to rail and Subway lines, there are eight local bus routes that stop within a quarter mile of the Site. An additional 23 express bus routes and a free New York Waterways shuttle bus also serve commuters in the area.

Directly to the north of the MSG block is Plaza 33, a pedestrian plaza that opened in 2015 and includes an entrance to the Long Island Railroad (LIRR) concourse. The Moynihan Train Hall, a landmarked building that previously served as a post office, is to the west of the LIRR. While the

2021 opening of Moynihan provided a new train hall, the facility only serves Amtrak and LIRR commuters. Meanwhile, Penn Station continues to experience severe operational challenges. Parts of the station still see crowding during peak periods, while its public areas lack suitable amenities and accessibility. The station's main train has low ceiling heights in some areas, a lack of uniform wayfinding signage, and does not receive natural light, creating what many commuters describe as a subpar environment.

In 2020, Empire State Development, acting on behalf of New York State, announced a General Project Plan (GPP) to fund improvements to Penn Station and accommodate a potential expansion to the block to the south of the station. The plan was modified in 2022 and in July of that year the Public Authorities Control Review Board (PACB) voted to approve the funding agreement for the GPP. The GPP includes the construction of 10 new buildings with commercial office, retail, community facility, hotel and residential uses across eight development sites. This development will help fund improvements to Penn Station, including the expansion of below-grade public concourses, moving all public platforms and public-facing services to the lower level, increasing ceiling height, adding a new above-ground train hall (a portion of which would extend onto the MSG site). Property owners who develop properties as part of the GPP would have to provide improvements that include 18 new station entrances, sidewalk widenings, stairways, and other improved circulation measures. Plans also include a new public plaza, enhancements to existing open spaces, and the study of a shared street on West 31<sup>st</sup> Street between 7<sup>th</sup> and 8<sup>th</sup> Avenues.

Amtrak is undertaking a separate effort to plan for a potential expansion of Penn Station that would add seven new tracks directly to the south of the station. This project would help accommodate trains coming into Manhattan as part of the Gateway Program, which will repair and update the existing rail and tunnel infrastructure that connects New York and New Jersey while also providing new rail tunnels and increasing reliability.

Additionally, the Metropolitan Transit Agency (MTA) has begun construction on its Penn Access project, which will provide four new stations along the Metro-North Railroad's New Haven line, giving commuters direct access to Penn Station. The project is slated to be completed by 2027.

## **Site Description**

The MSG Complex includes the Arena, the Theater at the Garden, and accessory spaces including a 11,400 square foot expo center, retail vendors, eating and drinking establishments, suites, internal loading and circulation space and back-of-house and mechanical spaces—all in a 12-story cylindrical building. A pedestrian bridge connects the 2 Penn office building to the eastern side of the Arena. Four escalators in the Arena building provide access to the four “tower” corners of the site. The building on 8<sup>th</sup> Avenue, which extends from the cylindrical building, houses portions of the Arena and the Theater at MSG. The MSG Complex contains a total of 987,243 square feet of floor area.

There are several open areas on the site, portions of which were considered plazas under the 1961 Zoning Resolution. The site includes loading areas that facilitate the operations of the MSG

Complex. The Applicant owns the midblock driveway between the MSG Complex and 2 Penn. This area is also known as the taxiway because it served as taxi access for Penn Station but was closed after September 11, 2001. The taxiway is currently used for pedestrian access to both Penn Station and MSG and also serves as loading space for MSG, 2 Penn, and Penn Station. The pedestrian walkway connecting 2 Penn and MSG is located above the taxiway. There is an easement on the midblock driveway that benefits Amtrak, LIRR, NJ Transit, and Vornado, the owner of 2 Penn.

Open areas on the site have various signs and plaza identification plaques pursuant to the Area's 2013 special permit. Other large signs are also located on the site, including LED panels and static signs.

### **Proposed Improvements**

The Applicant proposes four enhancements to the public open spaces in the site in exchange for receiving the special permit in perpetuity. These enhancements include replacing the walking surface of the open areas to be consistent with surrounding open areas, installing 9 planter benches in the open areas at the West 33<sup>rd</sup> Street and West 31<sup>st</sup> Street Penn Station entrances on 8<sup>th</sup> Avenue. In an open area to the west of the taxiway, the Applicant proposes to install planters, new lighting, and 20 bike racks with a capacity for 40 bikes.

As part of their application, the Applicant has submitted a loading plan, which proposes continued usage of the taxiway for loading, with the Arena's loading entrance at West 33<sup>rd</sup> Street and Amtrak's loading entrance on West 31<sup>st</sup> Street. The applicant also proposes to keep the loading entrance for the Theater on the corner of West 31<sup>st</sup> Street and 8<sup>th</sup> Avenue. The plan notes that the State's proposed midblock train hall would significantly reduce the size of the driveway that is currently used by loading trucks and would not accommodate any additional staging space for trucks beyond what exists on the site today.

### **COMMUNITY BOARD RESOLUTION**

Manhattan Community Board 5 ("CB5") held two public hearings regarding these applications on February 22, and March 8, 2023. On April 11, 2023 the Board voted in support of DCP's proposed zoning text amendment, noting that the additional findings were comprehensive and addressed major concerns for the area. The Board recommended denial of the special permit unless certain conditions were met, including limiting the term of the special permit to three years. CB5 listed necessary interim improvements for the area, including a new public bathroom, wayfinding signage, additional bike storage, and a solution to keep trucks off the public rights-of-way. The Board also noted its support for the permanent relocation of the MSG complex.

## **BOROUGH PRESIDENT'S COMMENTS**

For decades, the future of Penn Station has been tangled up in the question of whether Madison Square Garden could be relocated.

When MSG's special permit was last extended in 2013, the hope was that a ten-year term would be sufficient to plan and complete the relocation of the arena. But today a plan for relocation is no closer to reality than it was a decade ago.

50 years since its construction, MSG is still on top of Penn. And while the MTA and Amtrak have made significant improvements to the station in recent years, the busiest rail station in North America is far from the top tier transportation hub that it could and should be.

MSG may yet move. But there's a problem with continuing to wait for this: There is not currently a viable alternative site with a willing property owner, community buy-in, and mass transit access comparable to that of the arena's current location. There is also no clear way to pay for the multibillion-dollar cost of relocation.

But that doesn't mean we can't create a world class Penn Station.

By using the leverage of the special permit approval process, I believe we have a chance to—finally—make the vision of a grand train hub a reality. This will require cooperation by all railroads on the site (Amtrak, NJ Transit, MTA), and it will require that MSG make significant accommodations and concessions to ensure that the arena is compatible with an improved Penn Station.

It is my view that key elements of such a plan should include:

- The creation of a new grand train hall on 8<sup>th</sup> Avenue (necessitating the demolition of the MSG Theater) as well as new station entrances at the midblock;
- A new perimeter building around MSG, which would allow station operations to be moved to the perimeter of the site, thus opening up room for a double height concourse throughout the station;
- Activation of the sidewalk via a new perimeter building which will include retail and other engaging uses on 8<sup>th</sup> Avenue;
- Clearance in the taxiway to allow through-traffic for loading trucks to enter on West 33<sup>rd</sup> Street and exit on West 31<sup>st</sup> Street; and
- A new truck loading area underneath the Arena, to avoid the current need for trucks to unload outside, which at present often causes disruptions in the surrounding streets.

I believe the case for demolishing the Theater at MSG and creating a grand train hall on 8<sup>th</sup> Avenue is particularly compelling. While the MTA estimates that only 30% of Penn passengers come from the west, that amount alone would make the 8<sup>th</sup> Avenue entrance the fourth busiest rail hub in America. The estimate of over 100,000 daily riders entering from the street on the west side of Penn dwarfs the 8,000 total riders currently using Moynihan daily. And the rapid growth of new housing and offices in Hudson Yards and nearby means the number of users entering Penn from this direction is certain to grow.



The presence of the Theater today means there is currently a blank wall on 8<sup>th</sup> Avenue, making for an extremely uninviting streetscape. Demolition of the Theater would open the façade for more active uses, allow a widening of the sidewalk, and eliminate the disruption of trucks unloading before shows on the corner of West 31<sup>st</sup> Street. A grand new entrance on 8th Avenue would pair nicely with the Moynihan Train Hall across the avenue and would help achieve the goal of unifying the whole two-block complex.

Implementing an ambitious redesign of Penn that is compatible with the Arena will require that MSG cooperate in significant ways. The special permit process should be used to ensure this outcome.

I support DCP's proposal for a zoning text amendment which would require MSG to provide adequate public spaces, amenities, and entrances compatible with the transit facilities and with above- and below-grade pedestrian circulation.

I also support DCP's assertion that MSG should enter into a restrictive declaration with the City, which will outline requirements and be recorded against the property. I believe that MSG should also amend the easements for the so-called taxiway to accommodate an enclosed loading facility for MSG and loading operations for Amtrak and 2 Penn. This part of the block should also include new entrances to provide commuters access to Penn Station.

MSG also needs to provide the easements necessary to facilitate the conversion of the Theater at MSG into a new train hall on 8<sup>th</sup> Avenue and work on plans for the creation of a new façade around the perimeter of the arena that would relocate operational equipment and activate the sidewalk.

MSG must also improve accessibility in the arena for patrons with disabilities.

I support extending the special permit for a period of five years to allow time for completion of designs for a new transit hub, ensure cooperation from MSG, and focus the attention of the three rail agencies on coming to an agreement on this complicated project.

Transformation of Penn will not be possible without substantial federal support. We currently have strong partners in the White House, at US DOT, and in leadership in congress. That may not be true in the future.

There is now enormous momentum on the site, with the opening of Moynihan Train Hall, widening of the LIRR passage, the new entrance to Penn from 7<sup>th</sup> Avenue, and upgrades to the public plazas and commercial spaces in the 1 and 2 Penn buildings. These on-site improvements are coupled with massive investments in our regional transportation system now underway, including Penn Access and the Gateway program.

We must build on this momentum to once and for all transform Penn station into a world-class facility worthy of our great city. With sufficient focus and will from all parties, we have a chance

in the coming five years to lock in a plan for such a bold transformation. That opportunity may not come again. The time to act is now.

## **BOROUGH PRESIDENT'S RECOMMENDATION**

Therefore, the Manhattan Borough President recommends **approval** of DCP's ULURP Application No. N 230240 ZRM to amend the Zoning Resolution to add findings to Section 74-71.

And the Manhattan Borough President recommends **conditional approval** of Application No. C230238ZSM for a special permit pursuant to ZR 74-71 on the condition that the following criteria are met:

1. The term of the special permit be limited to a term of 5 years, during which time the Applicant shall present updated plans at a hearing of the community board and obtain certification from CPC that these plans continue to meet the findings set forth in ZR 74-71 and that the arena is compatible with Penn Station and the surrounding area.
2. The Applicant, within the 5-year term, work in good faith with Amtrak, the MTA, NJ Transit, and the DOT to develop plans that include the following elements, which shall be facilitated via easements with the appropriate parties:
  - I. Repurpose the Theatre at MSG to serve as a new train hall with frontage, along with street level activation on 8<sup>th</sup> Avenue; and
  - II. Ensure that the taxiway serves as a loading area that minimizes truck traffic and queueing in the public rights of way while providing new station entrances.
3. The Applicant work with DCP, Community Board 5 and local stakeholders to achieve CB5's recommendation to create an "ambitious public realm scheme.... that include[s] positive activation of the plazas, high quality public realm design, and improved wayfinding"; increased bike storage, and a public bathroom.



Mark Levine  
Manhattan Borough President



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> Madison Square Garden Special Permit	
<b>Applicant:</b> MSG Arena, LLC	<b>Applicant's Primary Contact:</b> Elise Wagner
<b>Application #</b> 230238ZSM	<b>Borough:</b>
<b>CEQR Number:</b> 23DCP102M	<b>Validated Community Districts:</b> M05

**Docket Description:**  
 IN THE MATTER OF an application submitted by MSG Arena, LLC 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 4 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.  
 \*Note: A zoning text amendment to modify Section 74-41 is proposed under a concurrent related application N 230240 ZRM (see <https://zap.planning.nyc.gov/projects/2023M0123>). Plans for this proposal are on file with the City Planning Commission and may be seen on the Zoning Application Portal at <https://zap.planning.nyc.gov/projects/2022M0440>, or the Department of City Planning, 120 Broadway, 31st Floor, New York, NY, 10271-0001.

*Please use the above application number on all correspondence concerning this application*

<b>RECOMMENDATION: Conditional Unfavorable</b>			
<b># In Favor:</b> 34	<b># Against:</b> 0	<b># Abstaining:</b> 1	<b>Total members appointed to the board:</b> 43
<b>Date of Vote:</b> 4/13/2023 4:00 AM		<b>Vote Location:</b> Virtual	

*Please attach any further explanation of the recommendation on additional sheets as necessary*

<b>Date of Public Hearing:</b> 3/22/2023 10:00 PM	
<b>Was a quorum present?</b> Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
<b>Public Hearing Location:</b>	Virtual

**CONSIDERATION:** CB5 resolution letter attached.

Recommendation submitted by	MN CB5	Date: 4/18/2023 2:31 PM
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# MANHATTAN COMMUNITY BOARD FIVE

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Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109  
New York, NY 10123-2199  
212.465.0907 f-212.465.1628

Marisa Maack, District Manager

April 14, 2023

Daniel Garodnick  
Chair of the City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: MADISON SQUARE GARDEN - MSG Arena LLC application for a new special permit pursuant to ZR Section 74-41 in order to continue operations of the MADISON SQUARE GARDEN arena that is located in Community District 5, Manhattan. In conjunction with this application, the City is proposing a text amendment to the Section 74-41 arena special permit to update the findings**

Dear Chair Garodnick:

At the regularly scheduled monthly Community Board Five meeting on Thursday, April 13, 2023, the following resolution passed with a vote of 34 in favor; 0 opposed; 0 abstaining; 1 present not entitled to vote:

WHEREAS, MSG Arena, LLC (the “Applicant”), seeks a City Planning Commission (“CPC”) special permit pursuant to Section 74-41 of the New York City Zoning Resolution (the “Zoning Resolution” or “ZR”) to continue to allow an arena with a capacity in excess of 2,500 seats (the “Arena Special Permit”) to facilitate the use and operation of the Madison Square Garden arena (the “Arena”); and

WHEREAS, This application is being made in conjunction with an application by the Department of City Planning (“DCP”) for a zoning text amendment to Section 74-41 to incorporate additional required findings for the Arena Special Permit; and

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

WHEREAS, The MSG Complex is located at 3–10 Penn Plaza (Block 781, Lot 9001) in the Borough of Manhattan, and the MSG Site is part of a single Zoning Lot with the rest of the properties on the block include the 2 Penn Plaza office building owned by Vornado Realty and a NJ Transit entrance to Penn Station at 380 Seventh Avenue; 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 and an arena is allowed by a special permit within certain zoning districts pursuant to Section 74-41 of the Zoning Resolution; and

WHEREAS, MSG Arena was 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, and MSG Arena and 2 Penn were constructed in accordance with the 1963 Special Permit and were completed in 1968; and

WHEREAS, 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; and

WHEREAS, In an effort to maintain financial solvency, PR sold the property's air rights in 1962. In exchange, the original Pennsylvania Station was to be demolished, a smaller underground train station would be constructed at no cost to PRR, and PR would receive a 25 percent stake in the new MSG arena, which would be constructed above the underground station. These plans resulted in the demolition of the station; The destruction of this iconic structure sparked a public outcry. Commenting on the destruction of Pennsylvania Station, The New York Times Editorial Board stated, "we will probably not be judged by the monuments we build but by those we have destroyed." Up until this time, there was a generally held belief that architecture was expendable, and that its loss would be more than justified by new development. However, the loss of the original Pennsylvania Station fueled the historical preservation movement in New York that led to the creation of New York City's Landmarks Preservation Commission; and

WHEREAS, The grant of the 1963 Arena Special Permit was subject to a term of fifty years that expired on January 24, 2013, and to allow the continued use of the Arena beyond the initial fifty-year term, the applicant, MSG Holdings, sought a special permit in perpetuity; a new special permit pursuant to Section 74-41 (the "2013 Arena Special Permit") was approved by CPC on May 22, 2013 (C 130139 ZSM), and approved by the City Council with modifications on July 24, 2013 (Res. No. 1888), for a term of 10 years; and

WHEREAS, Because the 2013 Arena Special Permit will expire on July 24, 2023, and because it cannot be extended or renewed, a new Arena Special Permit pursuant to At. 74-41 is needed for the continued use and operation of the Arena; and

## **EXISTING CONDITION:**

WHEREAS, MSG Arena is a sports and concert venue of international reputation, dubbed the world most famous arena, and hosts basketball and hockey games for the Knicks and the Rangers, as well as concerts and other large events such as bull riding, and political conventions; and

## **ZONING**

WHEREAS, The area surrounding MSG Site is zoned 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 zoned as an R8B District; and

WHEREAS, The Site located on the western portion of the Zoning Lot, is occupied by the MSG Complex, designed by Charles Luckman and Associates and completed in 1968 and consists of a 12-story, precast concrete-clad cylindrical building with a diameter of approximately 425 feet, as well as a substantial portion of “Chase Square,” the pedestrian bridge that connects the cylindrical building to the Penn 2 office building; the westernmost portion of the building, fronting on Eighth Avenue, extends from the cylindrical massing as a roughly rectangular volume at Levels 1 through 5 to accommodate portions of the Theater at MSG (also referred to as the Hulu Theater), which has a maximum capacity of approximately 5,600 seats; and

## **LAND USE**

WHEREAS, The Site also contains at-grade open areas surrounding the MSG Complex. The open areas consist of designated pedestrian-accessible areas (portions of which constitute “plazas” under the plaza standards of the 1961 Zoning Resolution) and exterior loading areas for the Arena, the Theater at MSG, Penn 2, and Penn Station. The area between the MSG Complex and Penn 2 contains a midblock driveway connecting West 31st and West 33rd Streets The Midblock Driveway is owned by the Applicant and is subject to easements benefiting Amtrak, LIRR, NJ Transit, and Vornado Two Penn Property L.L.C. It was originally operated as a taxiway accommodating two-way vehicular traffic between such streets. It was later modified to provide one-way, northbound access through the Site. However, access to the Midblock Driveway has been limited to pedestrians and loading and service vehicles since September 11, 2001, for security reasons; and

## **PENN STATION**

WHEREAS, The Zoning Lot encompasses above Penn Station, a 21-track railroad station served by Amtrak intercity trains, ten LIRR branches, and five NJ Transit lines. Penn Station also contains stations for the A, C, E, 1, 2, and 3 subway lines, as described below. The MTA's Penn Station Access project, which has a projected completion date of 2027, would expand service to Penn Station; 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, In 2018, the NY State Legislature passed the Penn Station Act that notes that Penn Station is unsafe and needs to be upgraded and modernized, and currently, the MTA is conceiving a plan for Penn Station Reconstruction that would cost \$7 Billion and would require transfer of ownership of the MSG taxi-Driveway, enclose the Chase-Box passageway and create a glass atrium with new entrances to Penn Station from 31st and 33rd streets; and

WHEREAS, The columns supporting the Garden are a major hindrance to upgrading or expanding tracks and platforms, Structures in the station area between 33rd and 31st Streets and Seventh and Eighth Avenues currently depend on 1162 columns. An efficient structure should need only a quarter of that number, as noted in a report by THE PENN STATION PLANNING STUDIO, University of Pennsylvania School of Design in May 2013; and

WHEREAS, Penn Station is unsafe and does not meet NFPA(National Fire Prevention Association) code for safety. NFPA sets fire safety code for public structures, including transportation venues such as train stations. As noted in the Neighborhood Condition Study prepared for the General Project Plan for the Empire Station Complex, "Passenger overcrowding within Penn Station poses significant safety issues. Platform egress times do not meet governing evacuation criteria, as specified in NFPA 130, due to an insufficient number of vertical circulation elements. (VCEs), such as stairs, escalators, and elevators. This results in passenger congestion even during normal operations. The only platforms that comply with the maximum four-minute time to clear the platforms called for under NFPA Section 5.5.6.1 are Platforms 9 and 10. All other platforms require additional VCEs to evacuate occupants in four minutes or less."; and

WHEREAS, Upgrades and improvements to platforms and concourses are extremely constrained due to columns and other structural elements that support MSG Arena that encumber platforms; and

WHEREAS, MSG Arena greatly limits ceiling height and access to air and light into the concourses of Penn Station and may hinder evacuation and ability to extract smoke in case of a fire; and

## **LOADING**

WHEREAS, 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 Arena is the official home of two professional sports teams, the Knicks men's basketball team and the Rangers hockey team, and hosts a variety of other major events serving a diverse community of patrons; and

WHEREAS, Since the MSG Complex was first developed, standards for arena loading have changed. Semi-trailers have increased in size, As a result of these changes, semi-trailers are unable to access the Arena's internal loading facilities today. Most trucks are too tall to clear the 12-foot-6-inch height restriction at the loading entrance, and trucks that are less than 12 feet 6 inches tall but exceed 26 feet in length are unable to negotiate the slope and width of the ramp leading to the Level 1 loading area. For these reasons, semi-trailers carrying equipment for Arena events are loaded and unloaded outside using staging area and public right-of-way; and

WHEREAS, An average of approximately 235 events per year were scheduled at the Arena from 2017 through 2019. Concerts and shows have grown steadily in number and dramatically in complexity since the opening of the Arena in 1968, with greater requirements for custom lighting, sound and stage setup and, correspondingly, increased truck volumes. From 2017 through 2019, concert events at the Arena required an average of approximately nine to ten trucks, with some shows requiring 20 or more.; and

WHEREAS, Concerts and special events that involve more than four to six semi-trailers or TV broadcast trucks may also require the use of adjacent streets to load, unload, and/or stage vehicles. For these events, the Applicant obtains a permit from the Mayor's Office of Film, Theatre and Broadcasting to allow trucks to temporarily park and/or stage along specific segments of neighboring streets; and

## **PROPOSED APPLICATION**

WHEREAS, The Applicant is seeking an arena special permit for continued use and operation of MSG Arena on the site in perpetuity; and

WHEREAS, For the Special Permit to be issued, all findings contained in Art 74-41 must be made, including findings under Zoning Text Amendment filed in conjunction with MSG Arena Special Permit; and

WHEREAS, The Applicant is proposing the Replacement of the open areas' walking surface with high-quality decorative pavers and pigmented concrete, High-quality planter benches that beautify and facilitate public use of the Site's public spaces without impeding pedestrian traffic, new design elements to beautify and activate portions of the MSG Complex's exterior walls. A



designated bicycle parking area with 40 bicycle racks (sufficient to accommodate up to 40 bicycles); and

## **PENN-MSG HISTORY**

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

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

## **CPC 2013 FINDINGS AND CONSIDERATIONS**

WHEREAS, In 2013, many considerations were given to the MSG Arena special permit, the CPC issued a special permit for 15 years and noted that MSG Arena is currently not compatible with Penn Station, and further noted that along with the issuance of a 15 year term special permit, MSG Holding, along with MTA, AMTRAK, NJT, NYC DOT, NYC DCP and elected partners, had an obligation to work together to find a permanent solution to cure the area of its challenges and permit Penn Station necessary improvements; and

WHEREAS, CPC recognized that while a permanent solution leaving MSG Arena in place was a possibility, it was an unlikely one and MSG Arena relocation would be the more preferred alternative to create both a 21st century train hub and a 21st century arena; and

WHEREAS, City Council determined that the CPC-approved special permit needed to be modified to limit the term to 10 years and also struck out various steps and conditions required by CPC, leaving all parties to not work towards a permanent solution; and

WHEREAS, CPC noted “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; and

WHEREAS, 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; and

WHEREAS, CPC carefully evaluated issuing a term-limited special permit and concluded it was adequate and necessary; and

*MSG Site Plan Issues because of loading, Penn Station Issues*

WHEREAS, Penn Station itself faces a number of challenges, which generally fall into two related categories: tracks and station capacity constraints; the 11 platforms serving the 21 tracks 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 and 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; and

WHEREAS, The relationship between MSG and the problems of Penn Station underscored 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; and

WHEREAS, In 2013, the Commission strongly believed 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, as relocating the MSG Arena to another site could provide substantial benefits for Penn Station, as well as for MSG itself; and

WHEREAS, 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; and

**CURRENT PLANNING EFFORTS**

WHEREAS, There are currently five major planning efforts related to Penn Station:

- 1- The Moynihan Train Hall project to relocate Amtrak operations to the Farley Post Office building is mostly completed.

- 2- The Gateway Commission, part of PANYNJ initial planning work on the Trans-Hudson Tunnels which would include two new tunnels under the Hudson River and refurbishment of existing tunnels with completion date of 2035, budget \$16 billion.
- 3- The Empire Station Complex General Project Plan, led by ESD, introduced in 2020 and currently on hold due to market conditions, with a completion date of 2038 in best case scenario and potential 75 years construction timeline. Budget not available.
- 4- Penn Station Reconstruction aka Penn Master Plan, led by MTA, in early design phase with a design contract approved but not commenced. Budget \$7 billion.
- 5- Penn Station Expansion, proposing to add 6 to 9 tracks to the south of Penn Station. Completion date 2042, Budget \$12 billion.

## **PUBLIC REVIEW CB5**

WHEREAS, the special permit and the zoning text amendment were certified by CPC on Jan 12, 2023; and

WHEREAS, CB5 LUHZ Committee held two public hearings on 2/22, and 3/8, and one public meeting on 3/22, with a total of 88 speakers, 26 in favor, 59 opposed, including MTA, Municipal Art Society, Regional Plan Association, ReThink Penn Station, Save Chelsea, Chelsea Consortium of Block Associations, London Terrace Tenants Association among others; and

WHEREAS, Numerous speakers who spoke in favor of MSG were recipients of a Garden of Dreams Foundation grants, a philanthropic organization fully funded by MSG, and MSG indicated that the Foundation would continue to operate regardless of MSG Arena's location; and

WHEREAS, MSG stated on 2/22/2023 at a LUHZ committee public meeting and hearing that a site to the east of 7th Avenue would be an acceptable site for MSG relocation, and also stated at subsequent meetings that MSG did not wish, nor was contemplating to relocate; and

WHEREAS, CB5 evaluated in-depth numerous aspects of the special permit application, including all aspects related to findings pursuant to art 74-41 and specifically loading, public realm, impact to Penn station, compatibility with Penn station, proposed improvements,

WHEREAS, CB5 finds that MSG does not meet the findings introduced in the ZT amendment, and

## **PUBLIC REALM**

WHEREAS, CB5 finds that MSG will overburden the public realm, and finds its proposed improvements to be underwhelming, inadequate, including benches and planters would obstruct

the public plazas and impede pedestrian traffic; the pavers improvements are very modest and do not reflect the civic purpose and significance of the area; and

WHEREAS, CB5 encourages DCP to work with MSG to create an ambitious public realm scheme for the time the venue will stay at its current location, that include positive activation of the plazas, high quality public realm design, and improved wayfinding; and

WHEREAS, The bike storage proposed is too modest and should include locked secure storage and more than 40 bike storage; and

## **LOADING**

WHEREAS, CB5 finds that loading will unduly interfere with the use of public spaces; interfere with transit facilities; interrupt the flow of pedestrian traffic in the pedestrian circulation network; or interfere with the efficient functioning of adjacent #streets# including for the staging or queuing of vehicles for loading or for security checks; and

WHEREAS, CB5 finds the proposed loading plan submitted by MSG to be grossly inadequate and not respectful of the needs of commuters, pedestrians, neighbors and other users of the public right-of-way; and

WHEREAS, Until a permanent acceptable solution is found for MSG, trucks parked in public right-of-way shall be charged a steep parking fee that reflects the burden to the area and the area's needs to capital improvements; the parking fee should be commensurate with the onerous loading operation, and the fees collected shall be directed to either a public realm improvement fund, or a fund dedicated to Penn Station reconstruction, or other capital improvements at the site; and

WHEREAS, CB5 notes that the loading operations at the Theater at MSG (aka Hulu Theater) is not part of the special permit application, is not mitigated by the proposed loading plan and would continue to overburden the area by creating congestion and unsafe conditions, and such loading shall also be subjected to a parking fee for the use of public right-of-way; and

## **COMPATIBILITY**

WHEREAS, CB5 finds that MSG is has become inconsistent and incompatible with the existing transit facilities on or adjacent to the zoning lot, and with proposed improvements to such transit facilities by the affected rail agencies; and

WHEREAS, MSG has stated at multiple committee meetings of CB5 that it will fully cooperate with MTA and Amtrak, and it is critical that MSG makes a tangible, enforceable commitment to MTA and AMTRAK, to address both existing conditions such as waterproofing and water infiltration, as well as future improvements such as MTA reconstruction of Penn Station, transfer

of property and easements and to permit urgently needed upgrades to Penn Station, including HVAC, new Vertical Circulation Elements (VCE), platform engorgements; and

WHEREAS, CB5 notes that MSG admitted at a committee meeting of CB5 that a site east of 7th Avenue may satisfy MSG for a new location, and notes that existing relocation sites will become rarer as time goes by and Midtown gets fully developed and therefore the time is now; and

WHEREAS, CB5 believes that for MSG, a new site could provide a modern, more generously-sized event space and relief from some of the operating constraints at the current site; and

WHEREAS, CB5 notes that under the current application, a restrictive declaration would be issued in conjunction with the issuance of a special permit and is concerned that this restrictive declaration may be too vague and too hard to enforce to effectuate necessary changes to upgrade Penn Station; and

WHEREAS, CB5 notes that relocation of MSG Arena is preferred alternative to properly and perennially upgrade Penn Station and to give it a dignified above grade presence consistent with its place as the largest transit hub in the western hemisphere; and

WHEREAS, MSG has stated at multiple committee meetings of CB5 that it will fully cooperate with MTA and Amtrak, and it is critical that MSG makes a tangible, enforceable commitment to MTA and AMTRAK, to address both existing conditions such as waterproofing and water infiltration, as well as future improvements such as MTA reconstruction of Penn Station, transfer of property and easements and to permit urgently needed upgrades to Penn Station, including HVAC, new Vertical Circulation Elements (VCE), platform engorgements; and

WHEREAS, MSG must contribute financially to improvements made to Penn Station that will benefit the arena, including but not limited to loading area reconstruction and broadcast facilities; and

WHEREAS, CB5 notes that MSG admitted at a committee meeting of CB5 that a site east of 7th Avenue may satisfy MSG for a new location, and notes that existing relocation sites will become rarer as time goes by and Midtown gets fully developed and therefore the time is now; and

#### **MISC WHEREAS,**

WHEREAS, While not connected to the Special Permit application, CB5 notes that MSG is the beneficiary of a full tax exemption since 1982 and CB5 is on record since 2013 asking for repeal of tax exemption and notes that according to IBO tax exemption the exemption cost \$42 million last year in foregone revenue, and amounts to over \$750 million in foregone revenue in the lifetime of the tax exemption; and

WHEREAS, Legislation is pending in the State legislature to repeal MSG tax exemption and CB5 supports such legislation; and

WHEREAS, While not connected to the Special Permit application, CB5 notes that MSG uses facial recognition technology to discriminate against patrons based on their involvement with law firms undertaking litigation against MSG and its subsidiaries (although those patrons are not involved themselves in litigation), and numerous employees of law firms involved in litigation against MSG have been barred from entering the venue; and

WHEREAS, There is legislation pending in the State legislature to prohibit the use of facial recognition to discriminate against patrons and CB5 supports such legislation; and

## **CONCLUSION**

WHEREAS, CB5 finds that MSG Arena does not meet any of the findings of the zoning text amendment, and consistent with CB5's position of 2013, finds that the preferred alternative to address the numerous issues at and around Penn Station require the arena to relocate; and

WHEREAS, There may be realistic sites elsewhere in Manhattan and especially in CB5 and a good faith effort by all parties, including the applicant themselves, the other majority property owners, the railroad operators, elected officials at the city, state and federal level, must be made now to find an adequate, sustainable and permanent solution; and

WHEREAS, CB5 is extremely concerned that issuance of a permit for a middle to long term will not accomplish a permanent solution but only delay any tangible action; and

WHEREAS, CB5 recognizes that issuance of a 10-year permit in 2013 did not accomplish the stated goal to "give ourselves time" to develop a permanent plan and urges all parties to not repeat this mistake; and

WHEREAS, CB5 is strongly opposed to issuance of a permit in perpetuity; Therefore, be it

**RESOLVED**, Community Board Five recommends denial of a special permit pursuant to art. 74-41 for MSG Arena unless MSG Holding agrees to pursue a permanent sustainable solution, including relocation, and unless the length of the special permit is restricted to a 3-year period; and further be it

**RESOLVED**, CB5 recommends that a relocation plan that includes a full funding scheme be designed and implemented for such permanent solution and urges all partners to create a binding working group that must provide regular updates (at least once/year), as well as a full review of the conditions and progress at year-2, and reports to elected officials, relevant agencies and the community board on progress being made; and further be it

**RESOLVED**, CB5 recommends the following improvements be made in the interim:

**PUBLIC REALM:** public bathroom in the plaza, positive activation of the plaza with ambitious public realm design and concepts, wayfinding improvements, bike storage exceeding 20 bikes and locked bike storage,

LOADING: Keep all tractor trailers, busses and broadcast vehicles off public right-of-way, including vehicles for Hulu Theater, or when vehicles are parked in street or on sidewalk, establish a parking fee structure commensurate with the burden placed on our blocks,

**RESOLVED**, CB5 believes a full relocation of MSG Arena is in the best interest of both Penn Station and MSG corporation; and must be the preferred alternative; and further be it

**RESOLVED**, CB5 urges the full repeal of the real estate tax exemption; and further be it

**RESOLVED**, CB5 urges the state legislature and city council to adopt legislation banning the use of facial recognition to discriminate against patrons.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero  
Chair



Layla Law-Gisiko  
Chair, Land Use, Housing and Zoning Committee

Cc: Hon. Carl Heastie, New York State Assembly Speaker  
Hon. Charles Schumer, New York State Senator  
Hon. Andrea Stewart-Cousins, New York State Senator  
Hon. Jerry Nadler, U.S. Representative  
Hon. Liz Krueger, New York State Senator  
Hon. Robert Jackson, New York State Senator  
Hon. Tony Simone, NYS Assembly Member  
Hon. Linda Rosenthal, NYS Assembly Member  
Hon. Eric Bottcher, NYC Councilmember  
Hon. Keith Powers, NYC Councilmember  
Hon. Carlina Rivera, NYC Councilmember  
Hon. Mark Levine, Manhattan Borough President



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> Arena Text Amendment			
<b>Applicant:</b>	DCP - Department of City Planning (NYC)	<b>Applicant's Primary Contact:</b>	DCP - Department of City Planning (NYC)
<b>Application #</b>	N230240ZRM	<b>Borough:</b>	
<b>CEQR Number:</b>	23DCP100M	<b>Validated Community Districts:</b>	M05

**Docket Description:**

*Please use the above application number on all correspondence concerning this application*

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 34	<b># Against:</b> 0	<b># Abstaining:</b> 1	<b>Total members appointed to the board:</b> 43
<b>Date of Vote:</b> 4/13/2023 4:00 AM		<b>Vote Location:</b> Virtual	

*Please attach any further explanation of the recommendation on additional sheets as necessary*

<b>Date of Public Hearing:</b> 3/22/2023 10:00 PM	
<b>Was a quorum present?</b> Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
<b>Public Hearing Location:</b>	Virtual

**CONSIDERATION:** CB5 Resolution letter attached.

<b>Recommendation submitted by</b>	MN CB5	<b>Date:</b> 4/18/2023 2:33 PM
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# MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109  
New York, NY 10123-2199  
212.465.0907 f-212.465.1628

Marisa Maack, District Manager

April 14, 2023

Daniel Garodnick  
Chair of the City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: Department of City Planning Zoning Text Amendment 74-41 in relation to Madison Square Garden Special Permit**

Dear Chair Garodnick:

At the regularly scheduled monthly Community Board Five meeting on Thursday, April 13, 2023, the following resolution passed with a vote of 34 in favor; 0 opposed; 0 abstaining; 1 present not entitled to vote:

WHEREAS, The New York City Department of City Planning (DCP) (the “Applicant”), is proposing a zoning text amendment (the “Zoning Text Amendment”) to Section 74-41 (Arenas, Auditoriums, Stadiums, or Trade Expositions) of the New York City Zoning Resolution (the "Zoning Resolution" or "ZR") to incorporate additional required findings for a City Planning Commission (CPC) special permit to allow an arena with a capacity in excess of 2,500 seats (the “Arena Special Permit”); and

WHEREAS, In a separate application, MSG Arena, LLC is applying for the Arena Special Permit pursuant to the amended ZR Section 74-41 to facilitate the continued use and operation of the Madison Square Garden (MSG) arena (the “Arena”).

WHEREAS, The Affected Area, to which the Zoning Text Amendment applies, is located in a high density commercial C6-4 zoning district, within Subarea B4 of the Special Hudson Yards District and consists of Subarea B4 of the Special Hudson Yards District; and

WHEREAS, The Arena Site is occupied by the MSG Complex, which consists of a 12-story, precast concrete-clad cylindrical building containing the Arena, a theater (“the Theater at MSG” or “Theater”), a restaurant, and “Chase Square,” a pedestrian bridge located approximately midway between Seventh and Eighth Avenues over the former taxiway that connects West 31st and West 33rd Street that connects the Arena to the Two Penn Plaza building; and

WHEREAS, DCP is proposing a Zoning Text Amendment to Section 74-41 to incorporate additional required findings applicable to the Arena Special Permit, pertaining to the suitability of open areas on the Arena Site, public access to the Arena Site, and the proposed loading operations for the Arena.

WHEREAS, DCP's proposed Zoning Text Amendment to ZR Section 74- 41 (Arenas, Auditoriums, Stadiums, or Trade Expositions) incorporates the following additional required findings for the Arena Special Permit:

1. Public spaces of appropriate proportions and quality design are provided around the arena in a manner that is commensurate with the civic importance of the site;
2. Such public spaces will facilitate public use and pedestrian flow
3. Entrances and exits to the arena and to the adjacent open areas are located and designed to facilitate public use and circulation on the zoning lot
4. The proposed loading for the arena will not unduly interfere with the use of public spaces; interfere with transit facilities; interrupt the flow of pedestrian traffic in the pedestrian circulation network; or interfere with the efficient functioning of adjacent streets including for the staging or queuing of vehicles for loading or for security checks
5. The arena shall be appropriately consistent and compatible with existing transit facilities on or adjacent to the zoning lot, and with proposed improvements to such transit facilities by the affected transit agencies.

WHEREAS, The proposed Zoning Text amendment would create a relevant set of new criteria to evaluate MSG Arena's capacity appropriateness and mitigate MSG Arena's impact to Penn Station, the busiest transit hub in the western hemisphere with over 600,000 passengers daily as well as its surroundings; and

WHEREAS, While the original zoning text article focused largely on vehicular traffic concerns, the amendment rightfully prioritizes pedestrian experience, public realm, micro-mobility and Penn Station users; and

WHEREAS, It is deemed essential to prioritize the criteria of consistency and compatibility of the arena with the transit hub as the cornerstone of the amendment and ensure that it remains perennial; and

WHEREAS, As the heart of the North East Corridor and one of the most critical pieces of infrastructure in the nation, it cannot be overstated that Penn Station's operational and physical capacity, along with its need for major upgrades, must be given the highest priority; and

WHEREAS, The zoning text amendment must make sure that the arena's operations which it seeks to permit are compatible at the time of permit review but also remain perennially compliant with the zoning text; and

WHEREAS, The application by MSG for a special permit to continue operating the arena with a capacity exceeding 2500 people concurs with a plan to record a Restrictive Declaration wherein MSG or its parent company will commit to adhering to specific conditions, particularly in supporting the reconstruction of Penn Station; and

WHEREAS, A Restrictive Declaration must be a requirement of the Zoning Resolution and must be added to the language of the amendment; and

WHEREAS, The language of the Restrictive Declaration is not known at this time; and

WHEREAS, There is concern that the Restrictive Declaration will not be sufficient to permanently prioritize Penn Station and compel mitigation of negative impacts during the lifetime of the venue; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of the proposed zoning text amendment and applauds the DCP for thoughtfully addressing a major land use and zoning issue of Midtown Manhattan, and prioritizing public realm, pedestrian usage and micro-mobility; and be it further

**RESOLVED**, That CB5 recommends that the amendment considers binding language compelling MSG Arena to committing to certain conditions and actions necessary to the upgrades and operations of Penn Station by current and future railroad operators, including transfer of ownership and easements.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero  
Chair



Layla Law-Gisiko  
Chair, Land Use, Housing and Zoning Committee

Cc: Hon. Liz Krueger, New York State Senator  
Hon. Robert Jackson, New York State Senator  
Hon. Tony Simone, NYS Assembly Member  
Hon. Linda Rosenthal, NYS Assembly Member  
Hon. Eric Bottcher, NYC Councilmember  
Hon. Keith Powers, NYC Councilmember  
Hon. Carlina Rivera, NYC Councilmember  
Hon. Mark Levine, Manhattan Borough President