



SPECIAL PERMIT pursuant to Section 197-c of the New York City Charter and Section 81-53 of the Zoning Resolution of the City of New York to grant a floor area bonus for the construction of a major subway improvement (IND 53rd Street/Lexington Avenue subway station) in conjunction with the construction of an office building at 599 Lexington Avenue within the Special Midtown District, Community District No. 6, Manhattan.

Zuck-Lin, Inc. applied for this special permit on July 20, 1983, requesting permission to construct a 47-story commercial office and retail building that would include a floor area bonus generated by a subway improvement. The site is located on the easterly blockfront of Lexington Avenue between East 52nd Street and East 53rd Street within the Special Midtown District, Community District No. 6, Manhattan.

The special permit was requested pursuant to Section 81-53 of the Zoning Resolution of the City of New York (the "Zoning Resolution") in order to:

- o Obtain a floor area bonus up to a 20% maximum; and
- o Modify the street wall continuity requirements set forth in Section 81-43 of the Zoning Resolution.

A simultaneous but separate application was made for an authorization for a curb cut pursuant to Section 81-44 of the Zoning Resolution, which report (N 840046 ZAM) accompanies this one.

BACKGROUND

The zoning lot on which the proposed project will be developed contains an area of 54,187 square feet (the "Zoning Lot"), and includes an existing nine-story mixed-use residential/commercial building containing 61,174 square feet of zoning floor area. This special permit would allow the construction of a new 47-story commercial building containing 816,588 square feet of additional zoning floor area. (The Zoning Lot, including the existing and proposed buildings, is hereinafter referred to as the "Property").

Zuck-Lin, Inc. was the contract vendee of Citilex Associates, the general partner of a partnership that was the former owner of the Property. The Property is now owned by Lexreal Associates. (Zuck-Lin, Inc. and Lexreal Associates are hereinafter collectively referred to as the "Applicant".)

On May 13, 1982, the New York City Board of Estimate adopted an amendment to the Zoning Resolution that created the Special Midtown District. Section 81-47 of those regulations (Off-Street Relocation of a Subway Stair) requires existing subway entrances adjacent to development sites to be relocated within the property line of the development. Because of this requirement, the Applicant must relocate two subway entrances to the IND 53rd Street/Lexington Avenue station (the "IND Station") within the Property.

Upon approval of a special permit by the City Planning Commission and Board of Estimate, Section 81-53 of the Zoning Resolution (Subway Station Improvements) allows the granting of a floor area bonus, up to 20%, for substantial improvements to designated subway stations. This provision of the Zoning Resolution also allows the waiver of street wall continuity requirements. The IND Station, which is adjacent to the Property, is one of the stations designated in Section 81-531 (Midtown Subway Stations), thus allowing such a bonus. It must be generated, however, by improvements in excess of the mandatory, non-bonused subway entrance relocation requirements of Section 81-47.

After lengthy discussions with the New York City Planning Commission, the New York City Transit Authority (the "Transit Authority") and the Metropolitan Transportation Authority, the Applicant has proposed a major subway improvement comprised of the construction of a pedestrian connection between the IND Station and the IRT 51st Street/Lexington Avenue subway station (the "IRT Station"), to allow a direct transfer between the IND Station mezzanine and the IRT Station platform. This pedestrian connection beneath the Property will be protected by the grant of a permanent irrevocable easement to the Transit Authority for the public benefit. Pursuant to Section 81-532 of the Zoning Resolution, the Metropolitan Transportation Authority and the Transit Authority have approved the design of this proposed subway improvement.

The subway improvement consists of two major components, the combination of which will provide a pedestrian connection between the IND and IRT Stations. First, the Applicant will design

construct and maintain a concourse level corridor extending from the southerly wall of the IND Station mezzanine at 53rd Street, to approximately the northern curb line of 52nd Street. This concourse level corridor will include: a) the provision for a new elderly and handicapped access elevator; b) a stairway at 52nd Street from grade level to the concourse level corridor; c) a stairway and escalator from the concourse level corridor to a lower underpass level corridor; and d) a new token booth and control points within the concourse level corridor. The Applicant will also excavate an area adjacent to the IND Station mezzanine and provide footings for the eventual expansion of the mezzanine by the Transit Authority.

Second, the Applicant will design and prepare working drawings, contract documents and bid documents for: a) a connecting passageway between the concourse level corridor and the northbound platform of the IRT Station; b) a crossover below the concourse level that links the northbound and southbound platforms of the IRT Station (the "Crossover"); c) two additional elderly and handicapped access elevators that will provide access from the concourse level corridor to the southbound platform of the IRT Station; d) a new stairway and escalator from the Crossover to the southbound platform of the IRT Station; and e) the widening of the northbound and southbound platforms of the IRT Station. The Applicant will provide all of these drawings, documents and related materials to the Transit Authority, which will construct, at its own expense, this portion of the proposed pedestrian connection.

The Applicant's obligation includes the mandatory, non-bonused requirement for relocation of two existing subway stairways within the Property in accordance with Section 81-47 of the Zoning Resolution.

All of the Applicant's obligations have been incorporated into an agreement with the Transit Authority dated February 6, 1984 (the "Agreement"), which operates in addition to, and in conjunction with this special permit. The Agreement shall be recorded against the entire Property, and will legally bind the Applicant to perform the obligations in a timely and complete manner.

The Applicant's application requested the first subway improvement bonus under the recently enacted Special Midtown District. This special district was created, among other purposes, to encourage "as-of-right" development and reduce the number of "negotiated" approvals for buildings. To this end, the special

district eliminated many bonus mechanisms heretofore contained in the Zoning Resolution, and increased the number of mandatory amenities, e.g. relocation of subway entrances, pedestrian circulation spaces and through block pedestrian connections. These changes grew from the perception that density ameliorating benefits of bonused public amenities did not actually compensate for the greater bulk they created. The difficulty of enforcing the obligations created by these amenities, once undertaken by a developer, buttressed this perception. At times the required amenity was not built properly, while at others it was built properly and later neglected. The enforcement proceedings necessary to force compliance with the law in these cases have resulted in the expense of considerable legal energy and talent, including the issuance of building violations, criminal court summonses and civil court actions to seek affirmative equitable relief.

Although these efforts have proven successful and eventually gained compliance with the law, the public has been unjustly denied the benefit of the bonused amenity during the interim. For these reasons, this special permit requires the Applicant to meet three stringent deadlines for performance of its obligation to construct the bonused subway improvement. First, the design work, working drawings, contract documents and bid documents must be finalized before foundation permits are issued by the Department of Buildings. Second, the portion of the subway improvement being constructed by the Applicant must be substantially complete before any temporary certificate of occupancy is issued for any part of the proposed building. Third, the portion of the subway improvement being constructed by the Applicant must be 100% complete before a permanent certificate of occupancy is issued. These deadlines ensure that the public will benefit from the amenity at the same time, or before, the Applicant benefits from the occupancy of the proposed building.

ENVIRONMENTAL REVIEW

This application was reviewed by the Department of Environmental Protection and the Department of City Planning pursuant to the New York City Environmental Quality Review (CEQR) regulations as set forth in Mayoral Executive Order No. 91 of 1977, and the New York State Environmental Quality Review Act (SEQRA), whose regulations are set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq (6 NYCRR 617.00)

A Draft Environmental Impact Statement (the "DEIS") was prepared (CEQR #Q83-188 M), for which a Notice of Completion was issued on November 21, 1983. The Final Environmental Impact Statement (the "FEIS") was completed, with a final Notice of Completion issued on January 27, 1984.

The City Planning Commission considered the potential impacts disclosed in the FEIS, including the following major issues:

1. The proposed project will generate 13,820 person trips, which will result in a deteriorated level of service at both the Third Avenue/53rd Street and the Third Avenue/52nd Street intersections. The Applicant is providing sidewalk widenings into the 52nd Street, 53rd Street and Lexington Avenue boundaries of the Property. The Applicant is also providing a large triangular open space at the intersection of 53rd Street and Lexington Avenue. As a result of these mitigating measures, the sidewalks and intersections surrounding the Property will maintain acceptable levels of service for Midtown Manhattan;

2. The proposed project will increase traffic on 53rd Street near Lexington Avenue, which would result in an unacceptable level of service. To mitigate this impact, the roadbed of 53rd Street will be widened by approximately one foot, to a width of 35 feet. This added width will allow a separate left turn lane to be provided. In addition, parking regulations and signage will be modified along 53rd Street. The combined effect of the widening of 53rd Street and the modified parking regulations, more specifically described in Figure 8.2 of the FEIS, will allow traffic flows to improve to an acceptable level;

3. The proposed project will cause increased congestion on crowded public transportation facilities in the area. The required relocation of existing subway stairways, together with the proposed subway improvement, will mitigate this problem;

4. The escalator and stairway accesses, located between the Lexington Avenue mezzanine and the platform of the IND Station, currently operate at near their maximum capacity during peak periods. The proposed project will increase this demand. Although no immediate solution to this impact is possible, the Applicant has included an excavation area under the 53rd Street sidewalk that will permit enlargement of the IND Station, and the addition of

two escalators leading to the platform, by the Transit Authority in the future; and

5. Carbon monoxide (CO) levels will increase due to the additional vehicular traffic generated by the proposed project at the Lexington Avenue/53rd Street intersection. Without mitigation, the National Ambient Air Quality Standard for 8 hour CO levels would have been exceeded by the proposed project. The widening of this intersection and the modified parking regulations, more specifically described in Figure 8.2 of the FEIS, will mitigate this impact.

UNIFORM LAND USE REVIEW

The application was certified as complete by the City Planning Commission on November 21, 1984 in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Board No. 6, Borough of Manhattan.

COMMUNITY BOARD HEARING

Community Board No. 6 held a non-complying public hearing on December 14, 1983 and adopted a favorable recommendation on that date. The vote was 27 in favor, 0 opposed, and 1 abstaining.

CITY PLANNING COMMISSION PUBLIC HEARING

On January 3, 1984 Public Notice was given for a Public Hearing on the DEIS, which was jointly held by the Department of Environmental Protection and the Department of City Planning on January 18, 1984. On January 4, 1984 (Calendar No. 10), the City Planning Commission scheduled a public hearing on the application for this special permit. The hearing was held on January 18, 1984 (Calendar No. 23) simultaneously with the hearing on the DEIS. There was one appearance at the hearing, by the representative of Community Board No. 6 advocating approval of the special permit, after which the hearing was closed. At the end of the hearing, the record remained open for an additional 10 days to receive further comments on the DEIS.

CONSIDERATION

FLOOR AREA BONUS

The proposed building is a 47 story commercial office and retail building that rises to a height of 651 feet above the mean curb level of the Property. At grade, the proposed building is setback approximately 18 feet from the property lines

on 52nd and 53rd Streets, and is set back 10 feet from the property line on Lexington Avenue. At grade, the proposed building is chamfered at the corner of 53rd Street and Lexington Avenue, providing a large triangular open space. This grade level open space area serves as a pedestrian circulation space within which the subway stairway is relocated. This open space area also serves as the approach to the lobby of the proposed building. The remaining base of the proposed building is located parallel to the street grid, and rises to a height of 89 feet on Lexington Avenue, and 539 feet on 52nd and 53rd Streets. The tower portion of the proposed building is set at a diagonal, (approximately 45°) in relation to the street grid. The front portion of the tower, along Lexington Avenue, rises to a height of 429 feet, and the remaining portion of the tower continues to rise to a maximum height of 651 feet. The bulk of the proposed building is designed to comply with Section 81-26 of the Zoning Resolution (Height and Setback Regulation-Daylight Compensation).

The Zoning Lot contains a total lot area of 54,187 square feet, of which 45,187 square feet of lot area are vacant and 9,000 square feet are occupied by an existing mixed use building. If developed as-of-right, the Zoning Lot could generate 731,469 square feet of floor area. The Applicant is requesting an increase in floor area up to the permitted maximum of 20%. This bonus would permit the Zoning Lot to generate a maximum of 877,762 square feet of floor area, 61,174 square feet of which is already utilized by the existing building.* New development pursuant to the bonus could not therefore exceed the 816,588 square feet to be occupied by the proposed new building.

The Zoning Lot is divided by two zoning district boundaries and is therefore subject to special provisions of the Zoning Resolution for lots divided by district boundaries: i.e. 27,075 square feet of the Zoning Lot are within a C6-6 zoning district (maximum as-of-right floor area ratio without bonuses equals 15.00) and 27,112 square feet are within a C6-4.5 zoning district (maximum as-of-right floor area ratio without bonuses equals 12.00). Pursuant to Section 77-22 of the Zoning Resolution, the maximum bonus for each portion of the Zoning Lot was computed, resulting in an adjusted maximum floor area ratio for the entire Zoning Lot of 16.2. This floor area can be distributed anywhere on the Zoning Lot provided that: within the C6-6 zoning district the floor area ratio does not exceed 18.00; within the C6-4.5 district the floor area ratio does not exceed 16.2; and within the Zoning Lot as a whole the floor area ratio does not exceed 16.2.

*The Special Permit would also control reuse of the 61,174 square feet of existing floor area in the event the mixed use building is demolished. Any development other than a like kind replacement would require review by the Commission, and may require a modification to the Special Permit.

Subway Station Improvements

The floor area bonus is achieved by construction of a major improvement to the subway and related work. The Applicant will construct the pedestrian connection up to a "build to line" that coincides with the approximate northerly curb line of 52nd Street. The Transit Authority will, at its own cost, complete construction from this "build-to line" to and around the IRT Station. The work required of the Applicant includes the following:

1. Construction of a well designed, generously sized concourse level corridor, below grade within the Property to provide access from 52nd Street to the IND Station at 53rd Street. This concourse level corridor will also provide a connection between the IND Station mezzanine and the northbound platform of the IRT Station when the Transit Authority constructs its portion of the pedestrian connection;
2. Construction of an entrance from the concourse level corridor to a lower underpass level corridor to connect with the Cross-over to be constructed by the Transit Authority between the northbound and southbound platforms of the IRT Station;
3. Construction of an elevator connection from grade level at 52nd Street to the concourse level corridor to allow elderly and handicapped access;
4. Construction of an escalator and stairway from the concourse level corridor to the underpass level corridor, located in the southerly portion of the pedestrian connection near 52nd Street;
5. Construction of an entirely new stairway entrance within the Property near 52nd Street;
6. Construction of a glass enclosed light well to provide greater natural light to the concourse level corridor and the mandatory relocated stairway near 53rd Street;
7. Construction of a new token booth and turnstiles;
8. Construction of a new wide opening into the southerly side of the IND Station mezzanine;

9. Construction of an excavation area and footings for the possible future enlargement of the IND Station mezzanine by the Transit Authority, beneath the sidewalk at the south side of 53rd Street;*
10. Granting of a permanent, irrevocable easement to the Transit Authority, for the public benefit, through the Property to encompass the subway improvement;
11. Maintenance and repair of that portion of the subway improvement built by the Applicant, in accordance with the Agreement between the Applicant and the Transit Authority;
12. Preparation of all necessary designs, working drawings, contract documents and bid documents so that the Transit Authority can construct its portion of the subway improvement, including:
 - (a) the continuation of the concourse level corridor from the portion being built by the Applicant to the northbound platform of the IRT Station;
 - (b) the continuation of the underpass level corridor from the portion being built by the Applicant, under the IRT Station local tracks and to the southbound platform of the IRT Station, the Crossover;
 - (c) an escalator and a stairway connecting the Crossover to the southbound platform of the IRT Station;
 - (d) a partial widening of both the northbound and southbound platforms of the IRT Station; and
 - (e) two elevators, one from the concourse level corridor near the northbound platform of the IRT Station to

*The excavation and construction work under the 53rd Street sidewalk will facilitate a possible enlargement of the mezzanine of the IND Station by the Transit Authority. This enlargement is a part of a station improvement plan that would, if built, permit the addition of two escalators connecting the enlarged mezzanine and the platform of the IND Station, increasing escalator capacity. It should be noted, however, that while this enlargement has been discussed and considered by the Transit Authority, it is not part of any current or proposed capital program.

the underpass level corridor, and one from the Cross-over to the level of the southbound platform of the IRT Station. Both elevators will serve, in conjunction with the elevator from the street to the concourse level corridor, which is being built by the Applicant, to provide access for the elderly and handicapped to the IRT local trains.

In addition, the Applicant has incorporated the mandatory relocation of the two existing subway stairways on the southerly sidewalk of 53rd Street. These two stairways will be replaced by a single stairway, 12 feet wide, located in the triangular open space area at the corner of 53rd Street and Lexington Avenue. The open space area provides substantial pedestrian circulation space around all sides of the new stairway, including off-sidewalk queuing space in excess of Transit Authority minimum standards. This stairway will be set within a glass enclosed lightwell.

All work to be executed by the Applicant must comply with Section 81-533 of the Zoning Resolution and the Transit Authority Station Planning Guidelines. The City Planning Commission has received a letter from the Transit Authority, dated February 6, 1984, granting final approval of the design of these subway improvements, and listing items that remain to be finalized.

The Transit Authority's current program for station modernization includes plans for modernizing the IRT Station. Construction of the balance of the pedestrian connection between the IRT Station and the IND Station, as designed by the Applicant's architects and engineers and approved by the Transit Authority, should commence several months after the excavation for the proposed building begins. The funds for this modernization, however, have not yet been approved by the M.T.A. Board.

The proposed project has created several important opportunities for the New York City transit system. First, the required relocation of the 53rd Street stairway entrances will provide expanded capacity for the heavily utilized IND Station, as will the new stairway entrance on 52nd Street. Second, the subway improvement will commence a long-standing

objective of the Transit Authority, the Department of City Planning and the Regional Plan Association, to upgrade the quality of subway service by connecting the IRT Station with the IND Station. Third, the completion of the pedestrian connection will increase the convenience of using the subway for many riders. Fourth, the additional stairway capacity, the pedestrian circulation space, concourse improvements and crossover will significantly improve street level pedestrian circulation.

Street Wall Waiver

Street wall continuity is mandated by Section 81-43 of the Zoning Resolution on the Lexington Avenue frontage of the Property. The 200.83' front lot line on Lexington Avenue would require a street wall of not less than 80% of the front lot line, i.e. 160.644'. Generally, this frontage must be used for specified retail uses pursuant to Section 81-42 of the Zoning Resolution. The City Planning Commission may waive the street wall continuity provision in conjunction with the granting of a special permit for a major subway improvement. The Applicant has, therefore, requested a waiver of the mandatory street wall continuity requirement to shorten the Lexington Avenue street wall to 82.5'. The length of street wall being waived by the City Planning Commission is 78.164', which will permit an improved subway stairway and better pedestrian circulation.

The 82.5' of the Lexington Avenue frontage that remains is set back ten feet from the property line and will comply with mandatory street wall continuity provisions to a height of 89 feet. This street wall will provide retail continuity along this portion of the Property.

Curb Cut

The site plan provides a curb cut, which is 20 feet wide including splays, on 52nd Street. To provide a superior loading system, the Applicant has requested an authorization, pursuant to Section 81-44(b) of the Zoning Resolution, for an additional 20 foot wide curb cut, including splays, on 53rd Street. These curb cuts will be used in conjunction with a proposed loading berth facility that will provide three off street loading berths for trucks. These loading berths must be immediately adjacent to an enclosed maneuvering area of the same size or larger than the area

required for the loading berths. The proposed loading berth facility provides this space, and permits one-way through block truck traffic that will minimize on street queuing. The proposed 53rd Street curb cut is further discussed in the report on the Authorization (N 840046 ZAM), which is being adopted simultaneously herewith.

Completion Deadlines

This special permit contains three specific deadlines for completion of the subway improvement and related work. All working drawings, contract documents and bid documents must be completed to the satisfaction of the Transit Authority by the time that a foundation permit is applied for or granted and before any foundation work commences. The first deadline ensures that the complete design of the subway concourse, elevators, stairways and related improvements to be constructed by the Applicant, as well as the design, working drawings, contract documents and bid documents for the portion of the subway improvement to be constructed by the Transit Authority, will be completed before construction of the building foundation commences. This deadline coincides with the point in time when the design of the proposed building and the subway improvement becomes irrevocable. Substantial progress on foundations is also the accepted stage of construction by which the building vests for purposes of zoning. Therefore, all plans must be completed, finalized and accepted by the Transit Authority before commencement. This deadline ensures that the subway improvement can be built in an expeditious manner.

The second deadline ensures that the actual construction of the portion of the subway improvement to be built by the Applicant will be completed before any portion of the proposed building is occupied. Therefore, the issuance of a temporary certificate of occupancy for any portion of the proposed building is explicitly conditioned upon substantial completion of the portion of the subway improvement to be built by the Applicant. The Applicant will gain none of the economic benefit from proposed building (estimated at approximately \$3,000,000 per year) unless the public is also receiving the benefit from the bonused amenity. It should be noted that the mandatory street wall continuity requirement may

only be waived in conjunction with a bonused subway improvement. If this special permit were not granted, the proposed building could not be built in its proposed configuration or to its proposed bulk. Therefore, the floor area bonus and the attendant waivers are essential to the existence of the proposed building.

The final deadline requires that the portion of the subway improvement to be built by the Applicant be 100% complete and to the satisfaction of the Transit Authority before a permanent certificate of occupancy for the proposed building is issued. This requirement continues the firm link between the amenity and the proposed building itself, so that both are completed simultaneously.

FINDINGS

Pursuant to Section 81-535 of the Zoning Resolution, the City Planning Commission hereby finds that:

- a) The general accessibility, circulation, appearance, rider orientation and safety of the IND and IRT Stations will be substantially improved by the provision of new facilities;
- b) The environment of the IND and IRT Stations will be enhanced by provision for additional natural light, better orientation of riders, lighting and various other architectural treatments;
- c) The provision of the escalator between the concourse level corridor and the underpass level corridor will substantially assist in the efficient and convenient movement of passengers between the IND and IRT Stations when the connection to the IRT Station is constructed by the Transit Authority; and
- d) The street level entrances within the Property are highly visible in the streetscape, spacious and convenient, and relate well to the pedestrian circulation at both the street and underground level, as well as to the proposed project's ground floor uses.

The City Planning Commission has evaluated the benefits to the City of New York from the proposed subway improvement and has determined that the

appropriate amount of bonus is 20%, or a floor area ratio of approximately 2.7 when distributed across the Property in accordance with Section 77-22 of the Zoning Resolution. The total floor area bonus allowable on the Property shall not exceed 146,293.8 square feet of floor area.

Pursuant to Section 81-536 of the Zoning Resolution, the City Planning Commission finds that the waiver and modifications of the street wall continuity provisions of Section 81-43 of the Zoning Resolution will permit the proposed design of the major subway improvement to allow additional daylight and air to enter the IND Station mezzanine and the concourse level corridor. The City Planning Commission further finds that these benefits outweigh the disadvantages incurred by the interruption of street wall continuity.

TRANSIT AGREEMENT

The Applicant has signed an Agreement with the Transit Authority, which shall be recorded against and run with the Property. The Agreement grants to the Transit Authority an irrevocable easement in perpetuity through the Property, guarantees construction of the subway improvement according to specified approved plans, provides for certain architectural and engineering work to be performed by the Applicant for the Transit Authority, at the Applicant's expense, and provides for continuing maintenance by the Applicant of the portion of the subway improvement being built by the Applicant.

ENVIRONMENTAL FINDINGS

Having considered the FEIS, the City Planning Commission finds that consistent with social, economic and other essential considerations:

- (1) from among the reasonable alternatives thereto, the actions to be approved are ones that minimize or avoid adverse environmental effects to the maximum extent practicable;
and
- (2) to the maximum extent practicable, the adverse environmental impacts revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

This report, together with the FEIS, shall constitute the written statement of facts supporting the decision and indicating the social, economic, and other factors and standards that form the basis of the decision, pursuant to 6 NYCRR 617.9(C)(3).

RESOLUTION

The City Planning Commission has determined that this application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application by the Applicant for the grant of a special permit allowing an increase in floor area and a modification of the mandatory street wall continuity requirement by the completion of a major subway improvement, as an essential part of a 47 story commercial office and retail building at 599 Lexington Avenue, on a zoning lot bounded by 52nd Street, Lexington Avenue and 53rd Street and containing an existing mixed use (residential/commercial) building that will remain on the Zoning Lot, within the Special Midtown District, Community District #6, Borough of Manhattan, be and hereby is approved pursuant to Section 81-53 of the Zoning Resolution, subject to the following conditions that shall be made conditions of the certificates of occupancy, temporary or permanent, issued for any portion of the proposed building:

1. The Property shall be developed in size and arrangement substantially in accordance with the drawings and zoning computations dated as follows and made a part hereof:

<u>Number</u>	<u>Title</u>		<u>Received on Date</u>
Z1	Area and Tax Map	revised	January 27, 1984
Z2	Zoning Lot Plan Street Level	revised	January 27, 1984
Z3	Street and Lobby Plan	revised	February 10, 1984

Z4	Subway Concourse-First Cellar	revised	February 10, 1984
Z4A	Second Cellar Plan	revised	February 10, 1984
Z5	Typical Floor Plan-Low Rise(2-3)	revised	February 10, 1984
Z5A	Typical Floor Plan-Intermediate	revised	February 10, 1984
	Low Rise(4-5)		February 10, 1984
Z6	Typical Floor Plan	revised	February 10, 1984
	Intermediate Low Rise (6-18)	revised	February 10, 1984
Z7	Typical Floor Plan-Mid Rise	revised	February 10, 1984
	(19-32)		
Z8	Typical Floor Plan-High Rise	revised	February 10, 1984
	(33-41)		
Z9	Typical Floor Plan-Penthouse	revised	February 10, 1984
	(42-47)		
Z10	Section Looking North	revised	February 10, 1984
Z11	Survey sheet 1 of 2	revised	January 27, 1984
Z12	Survey sheet 2 of 2	revised	January 27, 1984
Z13	Subway Concourse Sections	revised	February 10, 1984
Z13A	Subway Concourse Sections	revised	February 10, 1984
Z14	Truck Maneuvering Diagram	revised	February 10, 1984
	(Ground Floor)		
Z15	Street Wall and Retail	revised	January 27, 1984
	Continuity Diagram		
Z16	Street Wall and Retail	revised	January 27, 1984
	Continuity Diagram		

2. The proposed project shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted, as shown on the plans filed with the application. All zoning computations are subject to verification and approval by the Department of Buildings;
3. The proposed project shall conform with all applicable laws and regulations relating to construction, operation and maintenance;
4. The proposed project shall meet all of the conditions, and complete all items listed that remain to be finalized, as contained in the Transit Authority's letter of approval dated February 6, 1984;
5. This Resolution shall be effective only if the Agreement between Lexreal Associates and the Transit Authority, dated February 6, 1984, relating to the subway improvement that is the subject of this special permit, shall have been recorded and filed with the City Register in the County of New York and indexed against the Property;
6. In the event that the Property is developed as, sold, or converted to a cooperative or condominium ownership, a copy of this Resolution, the Transit Agreement, and any subsequent modification of the terms of either document shall be incorporated in full in all of the offering documents for such cooperative or condominium;
7. All ground level open space areas within the Property, which are shown on drawing number Z-3 (Street and Lobby Plan) and which is not within the proposed building, shall remain accessible, usable, unobstructed and open to the public 24 hours per day, every day of the year. All such open

space areas that are not covered by upper floors of the proposed building, shown on the approved drawings attached hereto, shall remain unobstructed to the sky, and all other portions shall remain unobstructed to the level where the proposed building begins. Obstruction of these open space areas by unpermitted fencing, planting, or other restriction, including limitation as to hours of accessibility by the public, shall be a violation of this special permit.

8. The Applicant shall in good faith provide a plaque, not less than two square feet in size, displayed in a prominent location in the open space area within the Property located near the intersection of 53rd Street and Lexington Avenue. This plaque shall contain the City Planning Commission specified public space logo, and shall state that "The City Planning Commission requires that this open space area be provided for the benefit of the public";
9. The Applicant shall provide four street trees on Lexington Avenue adjacent to the Property. The trees are to be planted greater than 30 feet north of the intersection of 52nd Street and Lexington Avenue. The trees are to be situated along the proposed building's required street wall frontage on Lexington Avenue. The trees are to be at least 4" caliper and shall be planted, and replaced as necessary, with gratings flush to grade in at least 100 cubic feet of soil per tree; with a depth of soil at least 3 feet;
10. The off-street loading berths shall be used for all truck and service vehicle loading and unloading for the proposed building, including all deliveries to the owners, tenants and users thereof. Any persistent or continuous pattern of on-street loading or unloading related to the proposed building on any of the streets bounding the proposed project shall be grounds for revocation of the special permit. It shall be the

responsibility of the owners and tenants of the proposed building to enforce compliance with this condition;

11. The proposed project shall comply with the following conditions to mitigate adverse environmental impacts disclosed in the FEIS:
 - (a) The Applicant shall widen the existing roadbed of 53rd Street between Lexington and Third Avenues, measured curb to curb, to 35 feet by narrowing the sidewalk on the southerly side of 53rd Street by approximately one foot as shown on drawing numbers Z-2, Z-3, and Z-14;
 - (b) The left turn lane of 53rd Street at Lexington Avenue (the southernmost lane) shall be delineated by a solid eight inch line and three left turn arrows (pointing westerly and thence southerly), and the word "ONLY" shall be placed three times in the pavement every 50 feet back from the corner;
 - (c) A traffic sign stating that the "Left Lane Must Turn Left" shall be prominently positioned on 53rd Street to provide adequate notice of the intended function of the left turn lane;
 - (d) The Applicant shall inform and periodically remind tenants, their staff and other workers, to comply with condition number 10 above and the traffic regulations on the bounding streets, as indicated on Figure 8:2 of the FEIS, which shall include the following:
 - (1) "NO STANDING, 7:00 A.M. to 7:00 P.M., except commercial vehicles loading and unloading Monday through Saturday", along the entire northerly curb of 53rd Street between Lexington and Third Avenues;
 - (2) "NO STANDING, 7:00 A.M. to 7:00 P.M., Monday through Saturday", along the southerly curb of 53rd Street from Third Avenue to a point approximately 150 feet east of Lexington Avenue;

- (3) "NO STOPPING ANYTIME" along the southerly curb of 53rd Street from Lexington Avenue to a point approximately 150 feet east of Lexington Avenue;
 - (4) "TOWAWAY ZONE" for the entire block between Lexington and Third Avenues; and
 - (e) All pavement work required to widen the roadbed of 53rd Street and all the required signage shall be constructed in accordance with the standards of the New York City Department of Transportation and paid for by the Applicant.
12. No foundation permit for any development on the Property shall be applied for or granted, and no foundation work on the Property shall commence until either:
- (a) The Applicant terminates this special permit and waives all rights to construct the proposed building permitted pursuant to this Resolution, or any building containing bonused floor area generated pursuant to Section 81-53 of the Zoning Resolution; or
 - (b) The Applicant shall have complied with the following conditions:
 - (1) The Applicant shall have completed the preparation of final working drawings, contract documents and bid documents for the portion of the subway improvement to be constructed by the Applicant;
 - (2) The Transit Authority shall have certified in writing to the City Planning Commission that the final working drawings, contract documents and bid documents for the portion of the subway improvement to be constructed by the Applicant have been completed to the full satisfaction of the Transit Authority;

- (3) The Applicant shall have completed the preparation of final working drawings, contract documents and bid documents for the portion of the subway improvement to be constructed by the Transit Authority;
- (4) The Transit Authority shall have certified in writing to the City Planning Commission that the final working drawings, contract documents and bid documents for the portion of the subway improvement to be constructed by the Transit Authority have been completed to the full satisfaction of the Transit Authority, and that these documents have been submitted to the Transit Authority in sufficient quantities for the Transit Authority to commence and complete the bidding process, the awarding of contracts and the supervision of construction.
- (5) The City Planning Commission shall have informed the Department of Buildings in writing that the Applicant has fully complied with these, and all other applicable terms and conditions of this special permit.

13. No temporary certificate of occupancy for any portion of the proposed building shall be granted or applied for, nor shall any portion of the proposed building be occupied until:

- (a) The Applicant shall have met all of the terms and conditions of the Agreement between Lexreal Associates and the Transit Authority, dated February 6, 1984;
- (b) The Transit Authority shall have certified in writing to the City Planning Commission that the subway improvement that is the subject of this special permit and the Agreement is "substantially complete," as this term is defined in the Agreement, and that the subway improvement can be used by the public;

- (c) The Applicant shall have provided the City Planning Commission with a leasing and use plan for the entire retail frontage of the proposed building on Lexington Avenue; and
 - (d) The City Planning Commission shall have informed the Department of Buildings in writing that the Applicant has fully complied with these, and all other applicable terms and conditions of this special permit.
14. No permanent certificate of occupancy for any portion of the proposed building shall be granted or applied for until:
- (a) The Applicant shall have complied with all conditions of the Agreement between Lexreal Associates and the Transit Authority, dated February 6, 1984;
 - (b) The Transit Authority shall have certified in writing to the City Planning Commission that the subway improvement that is the subject of this special permit and the Agreement is "finally complete", as this term is defined in the Agreement;
 - (c) The Applicant shall have leased at least 50% of the street level retail space in the proposed building, including the Lexington Avenue frontage, either within one year after the first temporary certificate of occupancy, or before application for the permanent certificate of occupancy; and
 - (d) The City Planning Commission shall have informed the Department of Buildings in writing that the Applicant has fully complied with these, and all other applicable terms and conditions of this special permit.
15. All leases or other agreements for use or occupancy of space within the proposed building, entered into prior to substantial completion of the subway improvement, shall give actual notice of the conditions of this special permit to the potential tenant.

16. Upon the failure of any party having any right, title or interest in the Property or the failure of any heir, successor, or assign of such party to observe any of the covenants, restrictions, agreements, terms, or conditions of this Resolution, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of this special permit, and such power of revocation shall be in addition to and not in limitation of any other powers of the City Planning Commission, of any other agency of government, or of any private person or body.
17. Any alteration in the premises or in the manner of operation that departs from any of the hereinbefore specified conditions, unless authorized by the City Planning Commission, shall cause an immediate termination of the special permit herein granted.

HERBERT STURZ, Chairman
MARTIN GALLEN, Vice Chairman
JOHN P. GULINO, R. SUSAN MOTLEY,
THEODORE E. TEAH, Commissioners