

IN THE MATTER OF an application from Union Square Development Associates requesting a special permit pursuant to Sections 118-70 and 74-721 of the Zoning Resolution, involving a new residential/commercial mixed use building proposed on the block bounded by Union Square East, Irving Place and East 14th and 15th Streets (Block 870, Lots 2, 17, 18 and 20), Borough of Manhattan

The application for the special permit was filed by Union Square Development Associates on July 2, 1984, seeking permission to construct a 26-story mixed residential/commercial building which would include a floor area bonus generated by an improvement to the 14th Street/Union Square station of the New York Transit System.

#### CONCURRENT APPLICATIONS

This application (C 850001 ZSM), seeks special permits pursuant to the sections 74-721 and 118-70 of the Zoning Resolution. Section 118-70 is included in the proposed Special Union Square District zoning and map changes, which are being considered concurrently with this application. On November 26, 1984, Calendar Nos. 2 and 3) the City Planning Commission adopted favorable resolutions on the following matters:

- a. C 841005 ZMM - An amendment of the Zoning Map, Section 12c, changing a C6-1 District to C6-4 District and establishing the Special Union Square District.
- b. N 841006 ZRM - An amendment of the Zoning Resolution, establishing new Article XI, Chapter 8 ("Special Union Square District") and amending various other sections concerning the Special Union Square District.

#### SPECIAL PERMITS REQUESTED

This application (C 850001 ZSM), seeks special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-721 - To permit the modification of the height and setback regulations for developments located on a zoning lot having a minimum area of 40,000 square feet or occupying the entire block.

2. Section 118-70 - To permit the granting of residential floor area bonuses for developments which provide major improvements on the 14th Street/Union Square Subway Station in accordance with the provisions of Section 74-634.

#### BACKGROUND

The site of the proposed development is the block bounded by Union Square East, 15th Street, Irving Place, and 14th Street, and containing the former S. Klein Discount Department Store located at 14th Street and Union Square East. The site also faces the Con Edison Building across Irving Place. The site contains a 24 unit Class B multiple dwelling. The major portion of the 76,503 square foot site contains buildings that have been vacant and boarded up since 1975, creating a visibly negative image for the Union Square area.

On June 18, 1984, the City Planning Commission certified an application (C 841005 ZMM and related item N 841006 ZRM) to establish and map a Special Union Square District with the following goals:

- a. To promote a revitalized mixed-use area around Union Square by encouraging controlled development on vacant and underutilized sites within the District.
- b. To stimulate such growth while providing guidelines which will ensure urban design compatibility between new development, existing buildings and Union Square and which will preserve and enhance the special character of the Square.
- c. To stabilize the area through residential development and thereby encourage active utilization of Union Square Park.
- d. To enhance the retail and service nature and economic vitality of 14th Street by mandating appropriate retail and service activities.
- e. To improve the physical appearance and amenity of the Streets within the District by establishing streetscape and signage controls which are compatible to Union Square Park.
- f. To improve access, visibility, security and pedestrian circulation in and around the 14th Street/Union Square Station.

The Special District mandates specific bulk and streetwall controls, retail use, streetscape and signage regulations to ensure that new development is compatible within the context of the existing neighborhood. In addition, on specific sites the Special District mandates subway stair relocation and permits a developer to apply for up to 20 percent greater floor area than allowed as-of-right in return for providing major improvements to subway access and circulation.

#### PROJECT DESCRIPTION

The zoning lot for the proposed development is located within the proposed Special Union Square District (C 841005 ZMM, N 8410006 ZRM) which is being considered concurrently but separately with this application. The 76,503 square foot block is located southeast of Union Square, and is bounded by Union Square East, Irving Place and East 14th and 15th Streets.

The applicant proposes to construct a 918,036 square foot, or 12 FAR, mixed-use building with an overall height of 26 floors plus roof top mechanical space. The masonry building will contain 446,889 square feet (6 FAR) of commercial space located in the 8 story base of the building. The ground floor will consist of primarily retail space, in compliance with the regulations of the Special Union Square District and will include a supermarket. There will be three below grade levels containing an accessory parking garage, providing 198 spaces with an entrance on 15th Street.

For the below-grade levels, in addition to parking, the applicant has proposed two alternative uses, cinemas and retail, either of which would be permitted within the Special District. The first alternative would be to provide four cinemas and a legitimate theater with a total of 1800 seats. The cinema/theater complex would be entered from 14th Street where an escalator would take patrons to an off-street queuing space (which will be a minimum of 4 square feet per seat as required by the zoning resolution). The second alternative proposed by the developer is to provide a maximum of 34,900 square feet in the below grade retail space. Retail stores located below grade would have individual

entrances located on 14th Street so that the space would not have the character of an internal mall. The developer requests approval of both alternatives because an operator for the cinemas has not been confirmed.

The second through seventh floors will be commercial office space with an entrance on Union Square East. The 471,147 square feet of residential space is divided into four 18 story towers (floor 9-26) with a total of 488 dwelling units. The entrance to the residential portion of the building is from 15th Street. The eighth floor will be a recreational facility accessory to the residential uses above. Access to this recreational facility will be via the elevator cores in each of the four towers.

The applicant has proposed a major subway improvement (the "Subway Improvement") consisting of two components. First, the applicant will design, construct and maintain, an entry area, an 8' stairway and double run escalators and an elevator shaft and housing within that portion of the Zoning Lot fronting on Fourteenth Street. This Subway Improvement will encompass the mandatory relocation of the existing sidewalk staircase, onto the zoning lot pursuant to Section 118-50. The developer will also design and construct the expanded mezzanine within the station connecting the above mentioned stairs, escalators and elevator shaft with the station. The developer will design and construct floor and wall finishes in the expanded mezzanine area and relocate the token booth.

The second major component of the Subway Improvement will include design and construction of a new entry area and 10 foot stairway entrance at the northwest corner of the Zoning Lot at the intersection of Fifteenth Street and Union Square East. The applicant will design and construct a mezzanine furnished with token booth and control elements within the Zoning Lot connecting with the above mentioned stair. The applicant will also design and construct a passageway crossing over the IRT tracks connecting the above mentioned mezzanine with the remainder of the station. The applicant will design and reconstruct a stair from the uptown IRT platform to the existing mezzanine (Stair P-11) in order to reverse the direction and serve passengers using the new Fifteenth Street overtrack connection and entrance. The applicant will design and construct a high-wheel entrance

and exit at the entrance located within Union Square Park and Fifteenth Street and Union Square East.

The applicant will be responsible for the maintenance and repair of structural and surface elements of the Subway Improvements within the zoning lot and within the expanded mezzanine areas, including the overtrack crossing at Fifteenth Street and the reconfigured mezzanine at Fourteenth Street. The applicant will also be responsible for maintenance and repair of all surfaces within the IRT mezzanine where the applicant is installing new floor finish.

#### ENVIRONMENTAL REVIEW

The application was reviewed by the Department of Environmental Protection and the Department of City Planning pursuant to the New York State Environmental Quality Review (S.E.Q.) set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et. seq. (6 N.Y.C.R.R. 617.00) and the New York City Environmental Quality Review (C.E.Q.R.) regulations set forth in Mayoral Executive Order No. 91 of 1977. A Draft Environmental Impact Statement (DEIS) was prepared and a Notice of Completion for the DEIS was issued on June 15, 1984.

A public hearing on the Draft EIS was held on October 17, 1984 to coincide with the City Planning Commission Public Hearing pursuant to the Uniform Land Use Review Procedure (ULURP).

A Notice of Completion of the Final EIS was issued November 9, 1984. Possible significant effects of the proposed action and mitigation measures to reduce the impacts were noted as follows:

- o The proposed action represents a substantial change in the intensity of use of land. The new building would replace the vacant S. Klein store with a 26-story mixed-use building. The project would add 742 new residents and 1,800 employees to the area.
- o The incremental traffic generated by the proposed project would increase volumes throughout the impact area. Without mitigation, a significant traffic impact would be expected at nine intersections in the AM and 15 intersections in the P.M.

A number of mitigation measures, which are proposed for implementation as part of the Union Square Special District (refer to Union Square Special District EIS [CEQR No. 83-126 - ULURP Nos. 841005 ZMM and 841006 ZRM]), would reduce impacts to at least the Future No-Build condition. These measures include Union Square East Reconstruction now planned as the second phase reconstruction of Union Square Park. The plan includes a major rechannelization and rebuilding of the traffic route around the Park. Other measures include signal retimings, day-lighting (creating space at an intersection upstream of a turn), no standing/no parking regulations, and traffic enforcement agents.

- o The traffic mitigation measures proposed in the Union Square Rezoning will substantially reduce concentrations of CO with the project in place. With the exception of Site 2, at 15th Street between Union Square East and Irving Place, all of the maximum predicted eight-hour concentrations with the project and with mitigation measures in place are substantially reduced. At all other prediction sites, except site 1, maximum predicted eight-hour concentrations with these measures result in levels within the standard under Build conditions. At Site 1 at 14th Street and Broadway, carbon monoxide concentrations will remain above the standard. However, resulting eight-hour concentrations with the project and with mitigation are within the de minimis criteria at all receptor sites.
- o The project will generate up to 1,070 subway trips during the PM peak hour and 800 subway trips during the AM peak hour at the Union Square subway station. Congestion would increase slightly at two stairways to the uptown IRT platform which already operate at Level of Service E or F. With the subway bonus improvements in place, there would be increased use of access to the north end of the platform, circulation would improve, and v/c ratios would decline at a number of locations. However, the stairway towards the north end of the uptown IRT platform referred to as P. 12 would experience a decrease in Level of Service as a result of the new 15th Street entrance. This impact could be mitigated by reversing the nearby P-11 stairway. All other stairways and turnstiles function well with the project.

- o The proposed action would result in an adverse impact on the City's existing supply of low and moderate income housing due to the acquisition and demolition of a 24 unit SRO hotel located at One Irving Place on the northwest corner of Irving Place and 16th Street. The action would result, further, in the dislocation of the hotel's 22 occupants.

One mitigation option disclosed in the FEIS, with respect to the occupants, would be relocation to comparable housing. A second option would be to provide the tenants with comparable space within the proposed building.

With respect to the removal of units of low and moderate income housing, one mitigation option disclosed in the FEIS, would be replacement of an equal number of such units in another building or buildings. A second option would be replacement of these units within the proposed building. The developer has proposed to obtain and rehabilitate a building so as to replace the full number of units.

- o Development of the site may induce an increased demand for higher income bracket shopping resulting in some secondary displacement.
- o Measurements taken at the site place the site in the "Marginally Unacceptable" category according to CEPO/CEQR Guidelines established for the evaluation of the sound environment. Therefore there is potential for an adverse noise impact on the internal residential and working environments. In order to insure an acceptable interior environment, the applicant will provide double glazed windows and an alternate means of ventilation with a total of 35dB (A) sound attenuation capability.

A number of beneficial impacts were identified by the EIS if the project is built:

- o The proposed project will encourage active utilization of Union Square Park and increase street safety.
- o The proposed project is expected to generate approximately 3100 person years of employment. Further, real estate taxes from the development are estimated to reach \$7 million annually.
- o Access, visibility, and pedestrian circulation within the 14th Street - Union Square Subway Station will be improved as part of the proposed project.

#### UNIFORM LAND USE REVIEW PROCEDURE

On July 30, 1984, the City Planning Commission certified this application as being complete and duly notified Manhattan Community Board No. 5.

In addition, the City Planning Commission referred the application to Community Boards 2, 3 and 6 for information and comment.

#### Community Board Public Hearing

On September 13, 1984, Community Board 5 held a public hearing on the matter and voted in favor of the proposal with the following recommendations:

1. To implement the Subway Improvements as proposed,
2. To develop the apartment for rental basis and at a cost singles and couples can afford,
3. To contribute a Park Maintenance Fund, the fund should be over seen by Community Board No. 5,
4. To protect from destruction, save and remove certain architectural elements of the Irving Place Theatre, and
5. To relocate the SRO hotel tenants to appropriate housing and let the Community Relations Committee be involved in that process.

Although not an official review under ULURP, Community Board 6 submitted a resolution. In summary, the Board opposed the special permit for modification of height and setback regulations and the special permit for a 20% area bonus for subway improvements. The Community requested an acceptable plan for the relocation of tenants at the on-site Class B multiple dwelling containing single room occupancy units ("SRO"). The Community Board further requested that the height of the proposed development be limited to the height currently proposed by the developer and that mandatory height and setback limitations be imposed throughout the site.

#### CITY PLANNING COMMISSION PUBLIC HEARING

On September 19, 1984, (Calendar Nos. 12, 13 and 14), the City Planning Commission scheduled a public hearing on the following items:

- a. The application which is the subject of this report.
- b. C 841005 ZMM - An amendment of the Zoning Map, Section 12c, changing a C6-1 District to C6-4 District and establishing the Special Union Square District.
- c. N 841006 ZRM - An amendment of the Zoning Resolution, establishing new Article 11, Chapter 3, and amending various other sections concerning the Special Union Square District.

The hearing was duly held on October 17, 1984 (Calendar No. 25, 26, 27). There were 67 appearances, 30 in favor and 37 opposed to the actions. In addition the Commission received written comments from 22 individuals and organizations. 18 wrote in favor of the actions, 2 in opposition and 2 made comments regarding specific aspects of the district.

In this report, comments regarding the Special Permit application are summarized below. Statements and comments relating to the Special Union Square District are to be found in a separate report (C 841005 ZMM dated November 26, 1984 Calendar No. 3). Statements in favor of the Special Permit applications were varied and can be summarized as follows:

A representative from Community Board 5 presented the Board's position favoring the application, noting that the applicant had worked with the Community Board over a period of time to resolve concerns regarding the project. The Board representative also expressed concern about protecting the rights of tenants located on the development site at One Irving Place.

A representative for a state senator spoke in favor of the application, supporting the Community Board 5 recommendations to the developer, including completion of the subway improvements, a maintenance fund for Union Square Park, protection of architectural elements from a building on the site and assistance for locating suitable, low cost, permanent housing for the residents of One Irving Place. The representative supported the architects efforts in designing the building to minimize shadow on Union Square Park.

Representatives of several legitimate theater organizations spoke in favor of the project as a means of materially improving the quality of life of the neighborhood. The inclusion of a legitimate theater space within the development was seen as making the neighborhood more lively and diverse. A number of area residents, university students, employees and employers favored the project because it would remove a "blighted site", improve Fourteenth Street and/or provide improvements to the 14th Street Union Square Station.

A representative of a local development corporation, favored the application stating that the developer has been responsive to community concerns about the potential height of the development and concerns about shadows on the Park. The representative stated that the subway improvements would make the station safer for workers and residents during evening hours and that the inclusion of active retail space would strengthen Fourteenth Street. The representative expressed concern that the design of the building including fenestration and choice of materials be advanced.

Those appearing in opposition to the application included a number of elected officials or their representatives, officers of Community Board 6, local civic organizations and residents of the area.

The elected officials opposed the proposed density and the granting of a floor area bonus to the project for subway improvements, and the concurrent timing of the special permit application with the rezoning application. The elected officials also objected to the direct loss of SRO housing in the site and potential indirect displacement of low and moderate income housing caused by the project.

Representatives of several social service organizations expressed concern about the potential displacement of occupants of the SRO. A representative of one organization recommended that developers provide replacement housing for those who are directly displaced by development. An attorney representing the tenants of the SRO expressed additional concern about the potential loss of SRO housing units through direct as well as indirect displacement.

Area residents expressed concerns about over crowding of the subway and that the proposed subway improvements were "cosmetic" and would not solve the outstanding problems of the station. A resident submitted a proposal to widen, straighten and relocate the existing curved IRT Division platforms.

Several residents opposed the project stating that it was too large, the towers were too tall and the development obscured the Con Edison Tower. Several residents praised the architects efforts to design a building compatible with its surroundings but opposed the size of the proposed development. Concerns were raised that the development would create a canyon with a "wind tunnel effect" on Irving Place.

The hearing was closed.

#### CONSIDERATION

The special permit application which is the subject of this report (C 850001 ZSM) is proposed pursuant to Section 118-70 of the Union Square Special Zoning District which permits the granting of a bonus for providing major subway improvements, and section 74-721 of the zoning resolution which permits the modification of height and setback regulations for zoning lots occupying a minimum area of 40,000 square feet. The Commission has considered this application in the context of the goals of the Special Union Square District which is the subject of separate reports (C 841005 ZMM and N 81006 ZRM, dated November 26, 1984, Calendar No. 3 and 2).

The Union Square special district proposal grew out of the recognition that an area suffering from a poor image and neglect was further burdened by an inappropriate zoning designation. Many factors were seen to contribute to this negative image: a subway station with functional inadequacies, a park

known as a major center of illegal drug use, and vacant land unbuilt upon and empty buildings not repaired and rented. It was further recognized that Fourteenth Street and Union Square proper have benefitted little from the development trends and upgrading in the broader area which has concentrated on the midblocks and the adjacent avenues. The last significant new construction around the square occurred more than 20 years ago during the grace period of the 1961 Zoning Resolution when a residential building located on the southeast corner of Fourth Avenue and 14th Street was built at an FAR of 9. Under the current C6-1 zoning, that building would not be allowed.

The Union Square Special zoning district is intended to promote and guide appropriate development in the area of the Square. The main goals of the zoning change are to encourage new development which is primarily residential so as to revitalize and re-inforce the mixed use character of the area around the Square, to re-inforce the form and function of the Park which is being reconstructed, to encourage the built form of new development to be compatible with the existing context, and to improve the subway station's functioning. The Commission believes that the proposed Union Square special zoning district provides a balanced and reasonable approach to meeting these goals.

The Commission proposed the special district prior to any specific development proposals in order to guide development so as to achieve the goals of the district rather than responding in an ad hoc fashion to proposals for specific sites. This application for a mixed use residential and commercial building (C 850001 ZSM) was submitted after the special district zoning was certified.

#### SRO Housing

In addition to considering the specific elements of the proposed height and setback modification and the subway station improvement and floor area bonus proposed in this application, the Commission has paid particular attention to an SRO on the site of the proposed development.

The Commission is concerned over the availability of SRO housing in the City as a special part of the City's housing stock, and carefully considered the testimony of several organizations at the public hearing. While there is only one SRO hotel within the proposed Union Square Special Zoning District, its demolition is contemplated by the Special Permit application which is the subject of this report.

The Commission's initial concern is with the proper and humane relocation of tenants who occupy units in the 24 unit hotel at One Irving Place. The Commission understands that the tenants are represented by legal counsel and that negotiations are underway with the applicant regarding relocation. Furthermore, the Commission recognizes that the tenants are protected by applicable laws and those laws require review and findings by the responsible public agencies.

The Commission's broader concern is with the supply of SRO housing units in the City. Undeniably economic pressures are at work which for a number of years have tended to reduce the number of SRO housing units. The Commission does not want its action in approving this Special Permit to add to the existing problem by permanently removing 24 SRO units from the City's housing stock. Therefore, the Commission has requested that the applicant replace these 24 SRO units on a permanent basis.

In response, the applicant has committed to either acquire a building in the surrounding community boards and rehabilitate it to contain not less than 24 SRO units, in accordance with code standards and review by the Mayor's Office of SRO Housing, or to provide not less than 24 units within the proposed building to be used as replacement SRO housing and to donate the rehabilitated building or the units in the proposed building to a qualified non-profit group to maintain and operate. This commitment has been made a part of the Special Permit and the applicant must elect one of the above options prior to obtaining a foundation or construction permit. The selection of the non-profit group to maintain and operate the replacement building or replacement units must be made prior to applying for or obtaining a TCO for the proposed building. Further, the acquisition, rehabilitation and transfer of ownership in the replacement building or the reservation and transfer of ownership in the 24 units in the proposed building must be made prior to applying for or obtaining a TCO for the proposed building. In requiring adherence to this strict schedule while at the same time allowing the applicant to acquire a building from within a broad area, the Commission believes that the goal of providing replacement housing will be most effectively assured.

The Commission believes this is an appropriate response to the replacement of the One Irving Place hotel and an important example of an affirmative commitment to SRO housing.

### Height and Setback Modification

The goals of the Special Union Square District include promoting a revitalized mixed-use district while providing guidelines which will ensure that new development will be compatible with existing buildings and enhance the special character of the Square. Additionally, the goals include enhancing the retail and service nature and economic vitality of Fourteenth Street. These goals are important when considering the proposed development and the special permit application. The development site at Fourteenth Street and Union Square East is highly visible and has historically played a role in determining the image of Union Square.

The Special Union Square District mandates special controls for this development site. A development on this site must locate its streetwalls at the property line of Union Square East and on Fourteenth Street. Such streetwalls must be at least 85 feet high and may be a maximum of 125 feet high. Above 125 feet height, only tower portions of a development may penetrate a sky exposure plane of 2.5 to 1. No tower (as defined in the zoning resolution), may be permitted within 100 feet of Union Square. Retail uses are required along the Fourteenth Street frontage of the site.

In his application, the applicant has set the height of the new development so as to develop a project which is consistent with the scale and character of the neighborhood. In particular the applicant has proposed a project compatible with the neighboring Consolidated Edison Headquarters with its famous clock tower. The applicant proposed a scheme massing the residential uses in four 18-story residential building elements, one at each corner of the site on a high-coverage 8-story commercial and retail base. These tower elements are each shorter and slimmer than the Con Edison tower. The applicant, after consultation with community groups, submitted this development scheme rather than a one or two-tower schemes which would have had greater height.

The Commission recognizes that this proposal will allow the Con Edison Tower to dominate and that it will minimize shadows cast on Union Square Park. The Commission considers that the proposed masonry building meets the goals of the Special District in that a compatible urban design relationship between

the development and adjacent buildings is established. The development provides good distribution of bulk on the zoning lot by adequately spacing each tower. In addition, the uses in the commercial and retail base will enhance the economic vitality of Fourteenth Street. Either of the alternative below-grade uses - cinemas or additional retail - would positively benefit 14th Street. The Commission notes in particular that the alternative which provides cinemas and a legitimate theater would draw people during evening hours and on Sundays so as to further enliven 14th Street.

#### Subway Station Improvements and Floor Area Bonus

The proposed 26 story development is built on a zoning lot of 76,503 square feet. The zoning lot, if developed "as-of-right" could generate 10 FAR or 765,030 square feet of floor area. The applicant is requesting an increase in floor area ratio of 2 or 20% more floor area than is allowed "as-of-right". This bonus would permit the Zoning Lot to generate a maximum of 12 FAR or 918,036 square feet.

The floor area bonus is achieved by the applicant for the design and construction of the following subway improvements:

1. A street level entry area at Fourteenth Street with an 8 foot wide stairway, an up and a down escalator connecting to new mezzanine level area within the zoning lot.
2. Improvements to the mezzanine of the station adjacent to the above mentioned improvements to provide direct line of sight from token booth and control area to the stairway and escalators. These improvements include expansion of the mezzanine within the station, relocation of electrical equipment/transformer rooms, relocation of Transit Authority offices and toilets, a new scrubber room, concession areas, the relocation of a token booth and new floor and wall finishes and lighting.
3. A new street level entry at the north east corner of the site at East Fifteenth Street with a 10 foot wide stairway connecting to a below-grade mezzanine area within the building line and an expanded mezzanine bridge over the uptown IRT local tracks connecting to the existing

mezzanine over the IRT uptown platform, providing a new means of entry into the station and more evenly distributing passengers on the IRT platforms. The new entrance and mezzanine will include a new token booth and turnstiles, roll up grill, floor and wall treatment and reconstruction of a cable manhole.

4. The applicant will also provide high wheel entrance and exit controls at the Park entrance at Fifteenth Street in Union Square Park.
5. Granting of a permanent and perpetual easement to the Transit Authority and the City, for the public benefit, through the Zoning Lot to encompass the portion of the subway improvements within the Zoning Lot; and
6. Maintenance and repair of the subway improvements in accordance with the terms of the restrictive declaration.

The applicant's proposed improvement includes replacement of two existing subway stairways located on the sidewalk at Fourteenth Street with a single stairway within the zoning lot. This stairway relocation required pursuant to Section 118-60 of the Zoning Resolution, is included as part of the proposed improvement, but does not generate any floor area bonus.

Additionally, the developer will construct an elevator shaft and machinery housing within the entry area at Fourteenth Street connecting the street level with the mezzanine level. The applicant will also reorient and reconstruct an existing stairway (stair P-11) within the station connecting the Uptown IRT platform with the mezzanine. The reorientation of this stair is necessary to serve additional passengers using the new Fifteenth Street entrance. The applicant will receive no bonus for these improvements.

The City Planning Commission has received a letter from the Transit Authority dated November 15, 1984. This letter states that the TA has reviewed the plans for the subway improvement and has determined that the proposal appears to be feasible.

The proposed project would create several important opportunities to address the serious functional problems of the Street/Union Square Station resulting from the station's piecemeal development. Among the problems are maze-like corridors which produce unsafe conditions, confusing circulation patterns, and location of some entrances which cause people to cross heavy traffic. First, the reconfigured and expanded mezzanine, relocated stair and new escalators at Fourteenth Street would provide direct line of sight from the token booth and turnstile to the landing of the stairs and escalators. This improvement would replace the existing circuitous path, thus providing a clearer and more direct path and additional circulation space during peak hours. The direct line of sight from entrance to token booth would help orient passengers and enhance passenger security during both peak and off-peak periods.

Second, the new entrance and mezzanine at Fifteenth Street would resolve problems for subway users at both the street level and the mezzanine and platform level. Currently passengers wishing to enter the Union Square Station from the north and east must cross heavy traffic to enter the station in Union Square Park or must walk south to Fourteenth Street. The new entrance would allow passengers to enter the station without crossing heavy traffic. At the platform level, the new entrance would provide a second location for passengers to distribute onto and off of the IRT platforms. Currently, passengers using the IRT must enter or exit at Fourteenth Street. With the new entrance, passengers could also enter or exit from the platform at Fifteenth Street.

Both the stairway at Fifteenth Street and the stairway and escalator at Fourteenth Street are located in arcaded entry areas with 16 foot high openings onto the street. These openings make the entrances more visible, integrate the entrances into the buildings' architecture, provide daylight access into the mezzanine and improve ventilation within the station.

The subway improvement proposed is complementary to the improvements of the Transit Authority's Station Modernization Program for the IRT Division of the Fourteenth Street Union Square Station. Those improvements will be concentrated at the platform level and include the removal of existing unused "catwalks" and a variety of environmental improvements such as acoustical treatment and installation of new surfaces extending throughout the platform to the top of the platform stairs. The applicant's improvements will continue the Transit Authority's work throughout the IRT mezzanine and to the street.

### Restrictive Declaration

All of the Applicant's obligations have been incorporated into a restrictive declaration signed by the Applicant, contract vendee of the Zoning Lot, and by Rapid American Corporation, fee owner and dated November 26, 1984. The Restrictive Declaration contains the grant of a permanent and perpetual easement to the Transit Authority, a detailed description of the Subway Improvement, a performance schedule and conditions to be observed during the construction of the Subway Improvement, maintenance and operation obligations, security for performance of the work, insurance provisions, and other terms and conditions.

Prior to the approval of the Special Permit by the Board of Estimate, the Applicant shall enter into an agreement with the Transit Authority (the "Agreement") which Agreement shall be substantially similar to the restrictive declaration in both form and substance and shall operate in addition to and in conjunction with this special permit. The terms of the Agreement shall merge with (and control, in case of conflict) those of the restrictive declaration. The Agreement shall be recorded against the entire Zoning Lot immediately upon approval by the Board of Estimate, and shall legally bind the parties and their successors to perform the obligations contained therein in a timely and complete manner.

### Completion Deadlines

This special permit and restrictive declaration contains three specific deadlines for completion of the Subway Improvement and related work.

1. Prior to the granting of the special permit by the Board of Estimate, an agreement covering all aspects of the proposed Subway Improvement must be executed by the Applicant and the New York City Transit Authority. The Agreement shall be recorded against the Zoning Lot in the office of the Register of the City of New York (County of New York). The Commission must receive an executed copy of the Agreement not later than 12 noon the day prior to the date on which the Board of Estimate is scheduled to act on the special permits; otherwise, the special permit applications shall be deemed withdrawn. The Agreement must include, among other matters, the conditions to be observed by the Applicant during construction, the approved plans and drawings, for the Subway Improvement, the conveyance of a permanent easement in favor of the Transit Authority, and the terms upon which the Applicant must maintain the Subway Improvement.

2. The issuance of a temporary certificate of occupancy for any portion of the building is explicitly conditioned upon the Transit Authority's certification that the Subway Improvement is substantially complete. This requirement ensures that the Applicant will gain none of the economic benefits from the proposed building unless the public is also receiving the benefit from the bonused amenity.
3. Prior to obtaining a Permanent Certificate of Occupancy for any portion of the special permit building, the bonused subway improvements must be 100% complete in accordance with the approved plans and such completion shall have been certified by the Transit Authority.

### Findings

Pursuant to Section 118-70 and Section 74-634 of the Zoning Resolution, the Commission hereby finds that:

1. The new entrance at Fifteenth Street and the reconfigured mezzanine at Fourteenth Street significantly increases the stations general accessibility, aids in riders orientation and safety and provides additional circulation space.
2. The new escalators at Fourteenth Street are appropriate and necessary because there is significant traffic and they assist in the efficient and convenient movement of passengers.
3. The new entrances at Fourteenth and Fifteenth Street are conveniently located for passenger use and are suitably spacious and open.
4. The open entry areas and stairwells allow for daylight access, improvements to the air quality of the station and that the architectural treatments for the entrances and within the mezzanine area improve the station environment.

The City Planning Commission has evaluated the benefits to the public from the proposed Subway Improvement and has determined that the improvement is a superior one and that a floor area bonus of 20% of the basic maximum floor area permitted by the underlying district is appropriate. The total floor area bonus allowable on the zoning lot shall not exceed 153,006 square feet of floor area.

### TRANSIT AGREEMENT

The applicant shall sign an Agreement with the Transit Authority prior to approval by the Board of Estimate of this special permit and which shall be recorded against and run with the Zoning Lot. The Agreement shall grant to the Transit Authority a permanent easement in perpetuity through the zoning lot, guarantee construction of the Subway Improvement according to specified approved plans, and provide for continuing maintenance by the Applicant of the Subway Improvement for the life of the proposed building.

### 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).

Consequently, the Commission has determined that the application warrants approval subject to the conditions stated in the following resolution.

### 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 Union Square Development

Associates for the grant of a special permit (C 850001 ZSM) allowing an increase in floor area by the completion of a major subway improvement and a waiver of height and setback regulations as an essential part of a 26 story and penthouse mixed use commercial and residential building on the block bounded by Union Square East, Irving Place, East Fourteenth Street and East Fifteenth Street within the Special Union Square District, Community Board #5, Borough of Manhattan, be and hereby is approved pursuant to Section 118-70 and Section 74-72 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 Zoning Lot shall be developed in size and arrangement substantially in accordance with dimensions, specifications and zoning computations indicated on drawings submitted with this application dated as follows and made a part hereof:

<u>Number</u>	<u>Title</u>	<u>Received on Date</u>
A-1	Site Location	Revised 11/26/84
A-2	Roof Plan	Revised 7/27/84
A-3	Cellar 1	Revised 11/26/84
A-3A	Cellar 1 - alternate	Revised 11/26/84
A-4	Cellar 2	Revised 7/27/84
A-5	Cellar 3	Revised 7/27/84
A-5A	Cellar 3 - alternate	Revised 7/27/84
A-6	Ground Floor/site plan	Revised 11/26/84
A-7	Second Floor	Revised 7/27/84
A-8	Floor 3 - 7	Revised 7/27/84
A-9	Floor 8	Revised 7/27/84
A-10	Floor 9	Revised 7/27/84
A-11	Floor 10-13	Revised 7/27/84
A-12	Floor 14 - 19	Revised 7/27/84
A-13	Floor 20 - 26	June, 1984
A-14	Sections	Revised 7/27/84
A-14A	Sections - alternate	Revised 7/27/84
A-15	Elevations	Revised 7/27/84

<u>Number</u>	<u>Title</u>	<u>Received on Date</u>
A-16	Elevation at store front level	Revised 11/26/84
Attachment #3	Zoning Computations	Revised 11/26/84
Survey by Harwood & Harwood, P.C.		Revised 7/9/84
AA-6	Entry Area 14th Street	Revised 11/20/84
AA-7	Mezzanine Plan 14th St.	Revised 11/20/84
AA-8	Mezzanine Plan 14th St.	10/19/84
AA-9	Entry Area 15th St.	10/19/84
AA-10	Section/Elevation 14th St.	10/19/84
AA-11	Section/Elevation 15th St.	10/19/84
AA-12	Section/Elevation 15th St.	10/19/84

2. The proposed project shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted, and as shown on the plans approved with the application. All zoning computations are subject to verification and approval by the New York City Department of Buildings;
3. The proposed project shall conform with all applicable laws and regulations relating to construction, operation and maintenance;
4. This Resolution shall be effective only if an Agreement is entered into between the Applicant and the Transit Authority in a form substantially similar to and incorporating the terms and conditions of the Restrictive Declaration signed by the applicant and the fee owner, attached hereto and made a condition of the Commission approval of the special permits, prior to the granting of the special permits by the Board of Estimate and only if an executed copy of the Agreement is received by the Commission not later than noon the day prior to the date on which the Board of Estimate is scheduled to act on the special permit applications. If an executed copy of the Agreement has not been received by such time, then the application shall be deemed withdrawn.

5. In the event that the Zoning Lot is developed as, sold, or converted to a cooperative or condominium ownership, a copy of this Resolution, the 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.
6. The proposed project shall comply with the following condition to mitigate adverse environmental impacts disclosed in the FEIS:
  1. Reverse the direction of stairway P-11 in the Union Square subway station.
  2. Provide replacement units for the existing SRO units which will be removed as a result of the project.
7. Beginning on the first day of the month following the issuance of an excavation permit for the proposed building, and continuing until the time that the applicant applies for a TCO for any portion of the proposed building, the applicant shall provide a written report to the Chairman of the Commission on a quarterly basis (on the first day of the month of each third month thereafter) which report shall include a statement of the applicant's progress towards the replacement of SRO units.

The applicant has the right, until application for a foundation permit or any other permit which would allow actual construction to begin for any portion of the proposed building, to elect, by a written statement to the Commission, whether to replace the SRO units off-site within a replacement building or on-site within the proposed building. Prior to the issuance of a foundation permit or any other permit which would allow actual construction to begin on any portion of the proposed building, the Commission shall give written notification to the Department of Buildings of the applicant's election. Upon issuance of such a permit, all quarterly reports thereafter shall include a statement of the applicant's progress with respect to replacement of the SRO units, including the location and size of the units and the applicant's choice of a not-for-profit organization to maintain and operate the units.

If the applicant elects to replace the SRO units off-site, then prior to and as a condition of the application for or issuance of a temporary certificate of occupancy (TCO) or permanent certificate of occupancy (PCO) for any portion of the proposed Building, the City Planning Commission shall determine, in its discretion, to certify in writing to the Department of Buildings after consultation with the Mayor's Office of Single-Room Occupancy (SRO) Housing that the applicant has acquired the entire fee interest in a building within the boundaries of Manhattan Community Board Districts 2, 3, 5 or 6, rehabilitated as necessary and has either obtained a TCO or a PCO or will apply for a TCO or a PCO simul-

taneously with the application for a TCO or a PCO for any portion of the proposed building in order to replace the 24 SRO units presently existing on the Zoning Lot, which units are to be demolished in order to construct the proposed building. The replacement building shall contain not less than 24 SRO units. Current tenants in the on-site SRO building shall have the right of first refusal to units in the replacement building. The replacement building shall comply with all applicable laws and regulations. The applicant shall donate and transfer its entire fee interest including any reversionary interest, without liens, mortgages or other financial encumbrances in the replacement building to a not-for-profit organization to be selected by the applicant, subject to review by the Mayor's Office of SRO Housing and approval by the Commission, which organization shall maintain and operate the building only as SRO housing.

If the applicant elects to replace the SRO units on-site, then as a condition of the application for or issuance of any TCO or PCO, the Commission shall determine, in its discretion, to certify in writing to the Department of Buildings after consultation with the Mayor's Office of SRO Housing that the applicant shall have reserved not less than 24 units of the proposed building to be occupied solely as SRO housing. Plans for the provision of these units shall have been submitted to the Mayor's Office of SRO Housing for its review and to the Commission for its approval and shall be submitted to the Department of Buildings as part of any application and shall be incorporated into the TCO (or PCO, at the time of issuance) for any portion of the proposed building. Such units shall comply with all applicable laws and regulations. The applicant shall donate and transfer its entire fee interest including any reversionary interest, without liens, mortgages or other financial encumbrances in the SRO units to a not-for-profit organization to be selected by the applicant, subject to the review by the Mayor's Office of SRO Housing and approval by the Commission, which organization shall maintain and operate the units only as SRO Housing. The election by the applicant to provide the replacement SRO units on-site within the proposed building shall be deemed to be within the scope of the special permits herein and shall not require an amendment thereto.

The applicant shall execute a restrictive declaration with respect to the replacement building or replacement units in a form satisfactory to the Commission specifying that such building or units shall be used only for SRO purposes and transferred only to a not-for-profit organization approved by the Commission after consultation with the Mayor's Office of SRO Housing.

8. No temporary certificate of occupancy for any portion of the building shall be applied for or issued, nor shall any portion of the proposed building be used or occupied, until
  - a. The Applicant shall have met all of the terms and conditions of the Agreement;
  - 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 Restrictive Declaration, and that the Subway Improvement can be opened and used by the public;
  - c. The City Planning Commission shall have informed the New York City Department of Buildings in writing that the Applicant has fully complied with these, and all other applicable terms and conditions of this special permit;
  
9. No permanent certificate of occupancy for any portion of the proposed building shall be applied for or issued until:
  - a. The Applicant shall have complied with all conditions of the Agreement;
  - 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 City Planning Commission shall have informed the New York City Department of Buildings in writing that the Applicant has fully complied with these, and all other applicable terms and conditions of this special permit.
  
10. Upon the failure of any party having any right, title or interest in the Zoning Lot 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.

11. 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.
12. This special permit shall lapse two years after the date of its approval by the Board of Estimate unless substantial construction of the Subway Improvement has been undertaken, except that, if substantial construction has been delayed by reasons beyond the Applicant's control, then the period for substantial construction shall be extended by the period of such delay.
13. Neither the City Planning Commission nor any of its staff shall have any liability to the Applicant for money damages by reason of its actions or its failure to act in accordance with the provisions for this special permit.

The above resolution duly adopted by the City Planning Commission on Nov. 28, 1984 (Calendar No. 49) is herewith filed with the Secretary of the Board of Estimate, pursuant to Section 197-c of the New York City Charter.

HERBERT STURZ, Chairman  
MARTIN GALLEN, Vice-Chairman  
MAX BOND, JOHN P. GULINO,  
DENISE M. SCHEINBERG,  
THEODORE E. TEAH, Commissioners