

Equivalent); and

2. Section 8 1-277 - to modify the height and setback requirements of Section 8 1-27 (Alternative Height and Setback Regulations - Daylight Evaluation);

to facilitate the development of a mixed use building on property located at 53 West 53rd Street (Block 1269, Lots 5, 6, 7, 8, 9, 11, 12, 13, 14, 20, 30, 58, 66, 69, and 165), in C6-6, C5-P, C5-2.5 and C5-3 Districts, within the Special Midtown District (partially within the Preservation and Fifth Avenue Subdistricts), (ULURP No. C 090432 ZSM), Community District 5, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 090431 ZSM (L.U. No. 1219), a special permit pursuant to Sections 81-212 and 74-79 (Transfer of Development Rights from Landmark Sites) to facilitate the transfer of approximately 136,000 square feet of unused development rights from the landmarked University Club to the project site;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-711 (b) of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 6, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

A Technical Memorandum was issued on September 4th, 2009 which describes and analyzes the modifications to the Proposed Actions, adopted herein. The Technical Memorandum concludes that the modifications would not result in any new or different significant adverse environmental impacts not already identified in the FEIS.

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 09DCP004M) and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on August 28, 2009. In the Technical Memorandum, dated September 4, 2009, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met.

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

- (3) The FEIS considered possible mitigation measures but determined that none of these measures were practical or feasible. A Technical Memorandum was issued on September 4th, 2009 which describes and analyzes the modifications to the Proposed Actions, adopted herein. The Technical Memorandum concludes that the modifications would not result in any new or different significant adverse environmental impacts not already identified in the FEIS. Due consideration has been given to the avoidance or minimization to the maximum extent practicable of adverse environmental impacts, but that no practicable measures were identified for mitigation of the shadow impact with respect to Fifth Avenue Presbyterian Church.
- (4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11 (d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 090432 ZSM, incorporated by reference herein, the Council approves the Decision with the following modifications:

Matter **underline and bold** is new to be added by the City Council.

Paragraph (1)(d) of the restrictive declaration attached as Exhibit C to the City Planning Commission's resolution and incorporated as a condition therein is modified as follows:

- (d) There shall be no more than 167 hotel units and no more than 300 residential units located in any building on the Development Site. No office use shall be permitted. **Any building on the Development Site shall contain less than 100,000 square feet of transient hotel (Use Group 5) floor area, and shall not contain a curb cut or loading berth.**

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 28, 2009, on file in this office.

City Clerk, Clerk of The Council