



## **CITY PLANNING COMMISSION**

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November 14, 2007 / Calendar No. 20

C 060373 ZSM

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**IN THE MATTER OF** an application submitted by 126 East 32<sup>nd</sup> Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 44 spaces on portions of the ground floor, cellar and subcellar of a proposed mixed use building on property located at 122 East 32<sup>nd</sup> Street (Block 887, Lots 84 and 87), in a C6-2A District, Borough of Manhattan, Community District 5.

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The application for the special permit was filed by 126 East 32<sup>nd</sup> Street, LLC on March 2, 2007 to allow an attended public parking garage with a maximum capacity of 44 spaces on portions of the ground floor, cellar and subcellar of a proposed 12-story mixed use (residential/retail) development located at 122 East 32<sup>nd</sup> Street.

### **RELATED ACTION**

In addition to the Special Permit which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following which is being considered concurrently with this application:

C 060372 ZMM      Zoning Map Amendment for an area bounded by East 32<sup>nd</sup> Street, a line 100 feet westerly of Lexington Avenue, a line midway between East 31<sup>st</sup> Street and East 32<sup>nd</sup> Street, and a line 150 feet easterly of Park Avenue South from a C4-5A District to a C6-2A District.

### **BACKGROUND**

A full background discussion and description of this report appears in the related application for a zoning map amendment (C 060372 ZMM).

### **ENVIRONMENTAL REVIEW**

This application (C 060373 ZSM ) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 06DCP079M. The lead is the City Planning Commission.

A summary of the environmental review and the Conditional Negative Declaration issued in October 17, 2007 appears in the report on the related application for a zoning map amendment (C 060372 ZMM).

### **UNIFORM LAND USE REVIEW**

This application (C 060373 ZSM), in conjunction with the application for the related action (C 060372 ZMM), was certified as complete by the Department of City Planning on August 20, 2007, and was duly referred to Community Board 5 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 5 held a public hearing on this application, and related application (C 060372

ZMM) on September 6, 2007, on that date, by a vote of 33 in favor 0 in opposition and 0 abstentions, adopted a resolution recommending approval of the application.

A summary of the recommendations of Community Board 5 appears on the related application for a zoning map amendment (C 060372 ZMM).

### **Borough President Recommendation**

This application (C 060373 ZSM), in conjunction with the related action (C060372 ZMM) was considered by the Borough President, who issued a recommendation approving the application on October 12, 2007.

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

On October 3, 2007 (Calendar No. 6), the City Planning Commission scheduled October 17, 2007, for a public hearing on this application (C 060373 ZSM). The hearing was duly held on October 17, 2007 (Calendar No. 14) in conjunction with the public hearing on the application for related action (C 060372 ZMM).

There were a number of appearances, as described in the report on the related application for a zoning map amendment (C 060372 ZMM).

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the grant of the special permit is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appear in the report on the related application for a zoning map amendment (C 060372 ZMM).

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-52 of the Zoning Resolution:

- (a) that such use will not be incompatible with, or adversely affect the growth and development of, uses comprising vital and essential functions in the general area within which such use is to be located;
- (b) that such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (c) that such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;
- (d) that such use has adequate reservoir space at the vehicular entrances to accommodate automobiles equivalent in number to 20 percent of the total number of spaces up to 50 and five percent of any spaces in excess of 200, but in no event shall such reservoir be required for more than 50 automobiles;
- (e) that the streets providing access to such use will be adequate to handle the traffic generated thereby;

- (f) Not applicable; and
- (g) Not applicable.

## **RESOLUTION**

**RESOLVED**, the City Planning Commission finds that the action described herein will have no significant effect on the quality of the environment, once modified as follow:

The applicant, 126 East 32<sup>nd</sup> Street, LLC, agrees via a restrictive declaration to prepare a Remedial Plan, including a health and safety plan for the Department of Environmental Protection (DEP) for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan;

and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by 122 East 32<sup>nd</sup> Street, LLC for the grant of a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 44 spaces on portions of the ground floor, cellar and sub-cellar of a proposed mixed use building on property located at 122 East 32<sup>nd</sup> Street (Block 887, Lots 84 and 87), in a C6-2A District, Borough of Manhattan, Community District 5, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 060373 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by SRA Architecture and

Engineering, P.C., filed with this application and incorporated in this resolution:

<u>Drawing Nos.</u>	<u>Title</u>	<u>Last Date Revised</u>
A2	Zoning Analysis	August 4, 2007
A3	East 32 <sup>nd</sup> Street North Elevations	May 8, 2007
A4	Lower Level 1 & 2, First Floor	August 4, 2007

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to it construction, operation and maintenance.
4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or

occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.
8. The development shall conform to all conditions, modifications and alterations set forth in the conditional negative declaration (CEQR No. 07DCP079M) dated October

17, 2007, issued pursuant to the New York State and New York City Environmental Quality Review. These conditions, modifications and alterations are as follow:

The applicant, 126 East 32<sup>nd</sup> Street, LLC, agrees via a restrictive declaration to prepare a Remedial Action Plan, including a health and safety plan for the Department of Environmental Protection (DEP) for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

The above resolution (C 060373 ZSM), duly adopted by the City Planning Commission on November 14, 2007 (Calendar No. 20), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**KENNETH J. KNUCKLES, Esq.,** Vice Chairman  
**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,**  
**ALFRED C. CERULLO, III, BETTY Y, CHEN, RICHARD W. EADDY,**  
**NATHAN LEVENTHAL, JOHN MEROLO, KAREN A. PHILLIPS,**  
**DOLLY WILLIAMS,** Commissioners