



CITY PLANNING COMMISSION

March 18, 2009 / Calendar No. 13

C 080011 ZSM

IN THE MATTER OF an application submitted by 536 W 54th LLC A, 536 W 54th LLC B and 536 W 54th Street LLC C pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to Section 74-744(b) of the Zoning Resolution to allow residential and non-residential uses to be arranged on the third floor level without regard for the regulations set forth in Section 32-42 (Location within Buildings) and Section 74-744(c) to modify the sign regulations of Section 32-67 (Special Provisions Applying along District Boundaries) to facilitate the construction of a mixed use development on property located at 770 Eleventh Avenue (Block 1082, Lot 1), in a C6-3X District, within the Special Clinton District (Excluded Area), in a general large-scale development, Borough of Manhattan, Community District 4.

This application for the special permit pursuant to Section 74-744 to permit a commercial use and residential use to occupy the same floor and to waive signage regulations was filed by the applicant on July 13, 2007. The special permit, along with its related actions, would facilitate the development of a proposed, mixed-use building with approximately 900 residential units, of which approximately 180 would be affordable, an automobile dealership with vehicle repair facilities, some retail space, a fitness center and accessory parking. It is anticipated that the site would also contain the New York City Police Mounted Unit Headquarters and facilities for the Police Department's Mounted Troop "B" including stables, pending future site selection and acquisition actions.

RELATED ACTIONS

In addition to the special permit (C 080011 ZSM) 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:

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| C 080008 ZMM | Zoning Map Amendment from M1-5 to C6-3X |
| N 080009 ZRM | Zoning Text Amendment relating to Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts) and relating to Article IX, Chapter 6 (Special Clinton District) |
| C 080010 ZSM | Special Permit pursuant to Section 74-743 to waive height and setback regulations |

BACKGROUND

A full background discussion and description of this application appears in the report for a zoning map amendment (C 080008 ZMM).

ENVIRONMENTAL REVIEW

The application (C 080011 ZSM), in conjunction with the applications for the related actions (C 080008 ZMM, N 080009 ZRM, C 080010 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 07DCP071M. The lead agency is the City Planning Commission.

It was determined that the proposed action may have a significant effect on the environment. A Positive Declaration was issued on October 10, 2007, and distributed, published and filed. A summary of the environmental review appears in the report on the related application for a zoning map amendment (C 080008 ZMM).

UNIFORM LAND USE REVIEW

This application (C 080011 ZSM), in conjunction with the application for the related actions, (C 080008 ZMM, C 080010 ZSM) was certified as complete by the Department of City Planning on October 27, 2008, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related non-ULURP application (N 080009 ZRM), which was referred for review and comment.

Community Board Public Hearing

Community Board 4 held a public hearing on this application and the related actions on December 3, 2008, and on that date, voted unanimously to adopt a resolution recommending conditional disapproval of the application.

A summary of the recommendations of Community Board 4 appears on the related application for a zoning map amendment (C 080008 ZMM).

Borough President Recommendation

This application (C 080011 ZSM), in conjunction with the related actions, was considered by the Borough President, who issued a recommending conditional approval of the application on January 22, 2009.

A summary of the recommendations of the Borough President appears on the related application for a zoning map amendment (C 080008 ZMM).

City Planning Commission Public Hearing

On January 21, 2009 (Calendar No. 4), the City Planning Commission scheduled February 4, 2009, for a public hearing on this application (C 080011 ZSM). The hearing was duly held on February 4, 2009 (Calendar No. 23) in conjunction with the public hearings on the applications for the related actions (C 080008 ZMM, N 080009 ZRM, and C 080010 ZSM).

There were seven speakers, as described in the related application for a zoning map amendment (C 080008 ZMM), and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a special permit (C 080011 ZSM), in conjunction with the application for related actions, is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appear in the related report for a zoning map amendment (C 080008 ZMM).

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Sections 74-744(b) of the Zoning Resolution:

1. the commercial uses are located in a portion of the mixed building that has separate access to the outside with no opening of any kind to the residential portion of the building at any story; and
2. the commercial uses are not located directly over any story containing dwelling units; and
3. the modifications shall not have any adverse effect of the uses located within the building.

The City Planning Commission hereby makes the following findings pursuant to Section 74-744(c) of the Zoning Resolution: that such modification will result in a better site plan.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on March 6, 2009, with respect to this application (CEQR No. 07DCP071M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action is approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to a Restrictive Declaration, dated March 18, 2009.

The report of the City Planning Commission, together with the FEIS and Technical Memorandum, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 201 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 536 W 54th LLC A, 536 W 54th LLC B and 536 W 54th Street LLC C pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to Section 74-744(b) of the Zoning Resolution to allow residential and non-residential uses to be arranged on the third floor level without regard for the regulations set forth in Section 32-42 (Location within Buildings) and Section 74-744(c) to modify the sign regulations of Section 32-67 (Special Provisions Applying along District Boundaries) to facilitate the construction of a mixed use development on property located at 770 Eleventh Avenue (Block 1082, Lot 1), in a C6-3X District, within the Special Clinton District (Excluded Area), in a general large-scale development, Borough of Manhattan, Community District 4, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 080010 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 Ten Arquitectos, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-02	Site Plan	03.18.2009
Z-03	Zoning Analysis	03.18.2009
Z-04	Encroachment Diagram I, Height and Setback	03.18.2009
Z-05	Encroachment Diagram II, Height and Setback	03.18.2009
Z-06	Encroachment Diagram III, Height and Setback	03.18.2009
Z-07	Encroachment Diagram IV Signage	03.18.2009
Z-08	Location of Uses Plan	03.18.2009

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 its construction, operation and maintenance.
4. Development pursuant to this resolution shall be allowed only after restrictive declaration, dated March 18, 2009, executed by 536 W 54th LLC A, 536 W 54th LLC B and 536 W 54th Street LLC C, the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.
5. The development shall include those mitigative measures listed in the Final Impact Statement (CEQR No. 07DCP071M) issued on March 6, 2009 and identified as practicable.
6. 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.
7. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
8. 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.

9. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 080011 ZSM), duly adopted by the City Planning Commission on March 18, 2009 (Calendar No. 13), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,
ANGELA R. CAVALUZZI, AIA, ALFRED C. CERULLO, III, BETTY Y. CHEN,
RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. McRAE,
JOHN MEROLO, KAREN A. PHILLIPS, Commissioners