



CITY PLANNING COMMISSION

May 7, 2008/Calendar No. 15

C 070233 ZSM

IN THE MATTER of an application submitted by DD 11th Avenue, 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 108 spaces on portions of the ground floor and cellar, of a proposed mixed use development on property located at 316 11th Avenue (Block 701, Lots 62, 68, and 70) in a C6-4 District, within the Special West Chelsea District (Sub Area A), Borough of Manhattan, Community District 4.

The application was filed by DD 11th Avenue, LLC on December 11, 2006, for a special permit pursuant to Section 13-562 and Section 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 108 spaces on property located at 316 11th Avenue.

BACKGROUND

The project site is an approximately 27,156 square foot zoning lot located at 316 Eleventh Avenue, on the southeast corner of Eleventh Avenue and West 30th Street. The site is within a C6-4 district, on the northern boundary Special West Chelsea District, in Sub-area A.

The proposed parking facility would be part of a new as-of-right, mixed-use development with approximately 365 residential units, of which 80 units are proposed for low-income tenants, and approximately 4,800 square feet of retail space. The site was formerly improved with one three-story brick building and two one-story brick buildings, occupied by an auto repair shop, neon sign manufacturer, an overnight courier service and an HVAC company. These structures have been demolished.

To the east of the site on West 30th Street are a freight forwarding operation, a seven-story warehouse now converted to office use, a one-story parking public parking garage, a seven-story warehouse building, and an at-grade public parking lot at the corner of West 30th Street and

Tenth Avenue. The elevated High Line Park, currently under construction, runs east of the site between West 29th and West 30th Streets. To the south of the site on Eleventh Avenue at the corner of West 29th Street is a ten-story warehouse used as a self-storage facility. To the north lie the Eastern and Western Caemmerer Rail Yards, which are used as rail road storage yards.

To the south, West 29th Street between Tenth and Eleventh avenues exhibits the mix of uses that have come to characterize West Chelsea: parking garages, a fish wholesaler, clubs, caterers and contemporary art galleries. The Con Ed Manhattan Operations facility is located one block south of the site on the west side of Eleventh Avenue. The facility consists of a low-rise building fronting on Eleventh Avenue; most of the block is used for at-grade parking for Con Ed vehicles.

Also in the vicinity are the Hudson River Park along Twelfth Avenue, Chelsea Piers, the West 29th Street Heliport at the Hudson River, and the Javits Convention Center, located four blocks to the north of the site on 34th Street between Eleventh and Twelfth avenues.

The residential entrance to the building will be located on Eleventh Avenue. The building's retail space will front on Eleventh Avenue to the north of the residential lobby entrance, and on West 30th Street. Vehicular ingress to and egress from the public garage will be located on West 30th Street, an eastbound street, approximately 274 feet east of the corner.

In addition to the proposed public garage, accessory parking for 73 cars (20 percent of the units) will be located in a separate, as-of-right garage on the ground floor of the building. The as-of-right accessory garage will be served by a separate entrance and egress ramp and curb cut (23 feet in width, including splays), which will be located approximately 52 feet to the west of the entrance and egress ramp for the garage. The public garage that is the subject of this application will be located in the cellar of the building. The two garages are not physically connected to one another and their entrances will be separated by ground floor commercial uses.

The proposed public parking facility will be fully attended and open 24 hours a day, seven days a week. Vehicular ingress and egress to the proposed public parking garage will be by a 20-foot

wide ramp. The ramp will be located approximately 274 feet east of Eleventh Avenue. The public parking garage would provide 10 reservoir spaces as required. A flashing light and ringing bell will be placed at the entrance to the public parking garage to alert pedestrians of entering and exiting cars.

ENVIRONMENTAL REVIEW

This application (C 070233 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 07DCP081M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on January 7, 2008.

UNIFORM LAND USE REVIEW

This application (C 070233 ZSM) was certified as complete by the Department of City Planning on January 7, 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).

Community Board Public Hearing

Community Board 4 held a public hearing on this application on February 6, 2008, and on that date, by a vote of 32 to 1 with 0 abstentions, adopted a resolution recommending disapproval of the application. The community board recommended denial of the special permit for three reasons:

- i) the applicant does not meet four of the findings required by Section 74-52 of the Zoning Resolution: a) the use is incompatible with vital and essential functions, b) it will contribute to serious traffic congestion, c) it will draw traffic to surrounding residential areas and d) the streets are inadequate for the additional traffic; we further note that

Section 74-31(d) of the Zoning Resolution requires DCP to refer the application to the Department of Traffic for its report with respect to anticipated traffic congestion;

- ii) the applicant seeks to exploit a zoning designation created in the SWCD for a purpose other than that intended by DCP; and
- iii) the application is inconsistent with the broad goals of the city to reduce traffic in Manhattan below 110th Street, as stated in Section 13-00 of the Zoning Resolution as well as in PlaNYC and other forward-looking statements of city policy.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on March 12, 2008, approving the application with the condition that "...21 of the spaces be reserved as accessory and another 48 for overnight parkers."

City Planning Commission Public Hearing

On March 12, 2008 (Calendar No. 2), the City Planning Commission scheduled March 26, 2008 for a public hearing on this application (C 070233 ZSM). The hearing was duly held on March 26, 2008 (Calendar No. 17). There were three speakers in favor of the application and three speakers in opposition.

The applicant's representative described the project and the garage's operation. She reiterated the applicant's statement of findings that the public garage would be used by residents of the building that could not fit in the accessory garage, by residents of the surrounding neighborhood, and by employees and visitors of nearby businesses and attractions. She further described the current land uses in the area, explaining that they are predominantly commercial in nature. The applicant's traffic consultant also appeared in favor. He described the typical garage user in nearby operating parking facilities and explained that the number of parking spaces in the Special West Chelsea District is decreasing. The Director of Land Use from the Manhattan Borough President's Office reiterated the Manhattan Borough President's conditional recommendation.

Two representatives from Community Board 4 and an area resident shared their concerns that traffic congestion in the area is high, that the cumulative effects of parking facilities are not studied, that the proposed garage will contribute to air pollution and that they believe the proposed garage will negatively affect their community.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that grant of this special permit (C 070233 ZSM), as modified herein, is appropriate.

The Commission notes that the proposed garage would be located in a C6-4 district which permits high-density, mixed-use development. The C6-4 district continues to the north of the site into the Special Hudson Yards District, which is also planned for high-density, mixed-use development. The Commission notes that existing uses on the block and the immediate surrounding area include predominantly commercial uses: parking facilities, storage uses, auto repair facilities, light manufacturing uses and office space. Development generated by the creation of the Special West Chelsea District in 2005, is projected to result in increased residential and retail use in the area; however, with the site's location on the edge of the Special West Chelsea District, in close proximity to Hudson Yards development, the Javits Convention Center, the West Chelsea arts district, and other uses, it will continue to be situated in a mixed-use environment.

The Commission understands that the Environmental Assessment Statement prepared for the application stated that the proposed garage would generate an additional 28 vehicles per hour in the morning peak hour, 29 vehicles per hour in the midday peak hour, and 37 vehicles per hour in the evening peak hour. All of these projected trips fall below the 50-vehicle per hour threshold set by the CEQR Technical Manual; accordingly, there would be no significant adverse traffic impacts caused by the garage. The Commission notes that the garage will be accessed on West 30th Street, while the residential access to the building will be on Eleventh Avenue.

Warning signals and buzzers located on the garage ramp would alert pedestrians to the presence of a vehicle exiting the garage. Therefore, the Commission believes that the vehicles using the garage would not unduly inhibit traffic and pedestrian flow.

The Commission understands that cars would approach the garage from the north and south by way of Ninth, Tenth, Eleventh and Twelfth avenues, and from east and west by West 30th Street or West 29th Street, and that, in the surrounding area, these streets are predominately commercial and industrial in character. Accordingly, vehicular traffic to and through local streets in nearby residential areas would be minimal.

The Commission notes that the proposed garage will contain the required 10 reservoir spaces.

During its review, the Commission expressed concern that the operation of the garage could have implications for traffic at the intersection of West 30th Street and Tenth Avenue. The Commission recognizes, in this regard, that the Hudson Yards FGEIS showed that the intersection of West 30th Street and Tenth Avenue operates at an acceptable level of service C or better in the weekday AM, Midday and PM peak hours. According to the West Chelsea FEIS, in the weekday AM, midday, and PM peak hours, at West 30th Street, Tenth Avenue carries approximately 1,550 vph, 1,500 vph, and 2,000 vph, respectively. On West 30th Street between Tenth and Eleventh Avenues, traffic volumes are approximately 450 vph, 550 vph, and 400 vph, in the weekday AM, midday, and PM peak hours, respectively.

The Commission understands that, at the PM peak hour, vehicles leaving the garage would travel east on West 30th Street, adding 19 vehicles per hour to the intersection of West 30th Street and Tenth Avenue. The Commission understands that that the as-of-right accessory garage will add 5 vehicles per hour to the intersection of West 30th Street and Tenth Avenue, for a total of 24 vehicles per hour. In this regard, the Commission observes that the West Chelsea FEIS projected that an increase of 33 vehicles at the West 30th Street and Tenth Avenue intersection, inclusive of demand generated by the subject development, would still allow the intersection to operate acceptably. Accordingly, the Commission believes that the streets will be adequate to address

traffic generated by the proposed garage.

The Commission notes the testimony of the applicant's representative and subsequent written submissions by the applicant which point to the recent reduction and further anticipated shortfall in parking supply in the West Chelsea area. This suggests that, over time, the proposed facility will increasingly serve local residents. For that reason, the Commission is pleased that the applicant is agreeable to a condition by which: (1) through December 31, 2013, all spaces would be available for monthly parking with thirty-five such spaces also available for use on an hourly or daily basis; and (2) on and after January 1, 2014, all spaces would be available on a monthly basis only. The application is hereby modified to reflect this condition.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) of the Zoning Resolution:

1. 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;
2. That such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface and pedestrian flow;
3. That such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;
4. 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;
5. That the streets providing access to such use will be adequate to handle the traffic generated thereby;
6. Not applicable; and
7. Not applicable.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment;

and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York 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 108 spaces on portions of the ground floor and cellar in a proposed mixed-use building on property located at 316 11th Avenue (Block 701, Lots 62, 68, and 70) in a C6-4 District, within the Special West Chelsea District (Sub Area A) , Borough of Manhattan, Community District 4, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 070233 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plan, prepared by Philip A. Habib, Engineer, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
2 of 3	Special Permit Parking Plan	October 31, 2007

- 2) For the period until December 31, 2013, 73 spaces in the public parking garage shall be available for monthly parking only and 35 spaces shall be available for either monthly parking or parking on an hourly or daily basis. Applicant or its successor(s) in interest shall certify to the Chairperson of the City Planning Commission, in a form acceptable to the Department of City Planning and together with such supporting information as the Department shall require, on an annual basis upon a date acceptable to the Department, that the spaces are being utilized in the manner set forth herein. The public parking

garage shall be open to inspection by the City at all times during hours of operation for purposes of verifying compliance with this condition.

- 3) On and after January 1, 2014, all one hundred eight (108) spaces in the public parking garage shall be available for monthly parking only and no parking on an hourly or daily basis shall be permitted. On or before January 1, 2014, applicant or its successor(s) in interest shall certify to the Chairperson of the City Planning Commission, together with such supporting information as the Department shall require, that: (a) all signage indicating availability of spaces on an hourly or daily basis has been removed; (b) new signage indicating availability of spaces on a monthly basis only has been installed at visible locations; (c) applicant or its successor(s) in interest have implemented a system for installation of non-transferable decals in vehicles owned by monthly customers, and for the restriction of entry to vehicles bearing valid decals only; and (d) cashier booth(s) or similar structures at the entry to the parking garage have been removed.
- 4) 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.
- 5) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
- 6) 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, sublessee or occupant.
- 7) 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.

- 8) 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 070233 ZSM), duly adopted by the City Planning Commission on May 7, 2008, (Calendar No. 15), 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, R.A., ALFRED C. CERULLO, III, BETTY Y. CHEN,
MARIA M. DEL TORO, RICHARD W. EADDY, NATHAN LEVENTHAL,
SHIRLEY A. MCRAE, JOHN MEROLO, KAREN A. PHILLIPS, Commissioners