



CITY PLANNING COMMISSION

September 29, 2010, Calendar No. 4

C 080524 ZSM

IN THE MATTER OF an application submitted by Tower 111 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 201 spaces, on portions of the ground floor, cellar and subcellar of a mixed-use development on property located at 885 Avenue of the Americas (Block 807, Lots 34, 43, 48 and 50) in C6-6 and C6-4.5 Districts, within the Special Midtown District, Borough of Manhattan, Community District 5.

This is an application by Tower 111 LLC for a special permit pursuant to sections 13-562 and 74-52 of the Zoning Resolution to construct an attended public parking garage with 201 parking spaces, including 80 spaces devoted to monthly parking in Manhattan's Community Board #5.

BACKGROUND

Project Site

The 30,450 square foot project site is located on the block bounded by West 32nd Street, Sixth Avenue, West 31st Street, and Seventh Avenue in Community District 5 (Block 807, Lots 34, 43, 48 and 50). The project site was developed with five buildings and a 35-space public parking lot on Lot 34. These buildings, as well as the parking lot are being replaced with the new building, an approximately 401,000 square foot, 48-story mixed-use residential building containing 338 dwelling units, and approximately 50,658 square feet of commercial space consisting of retail and office space, and the proposed garage. The retail space will have entrances on West 32nd Street and on Sixth Avenue. The building is under construction and is expected to be completed by the end of 2010.

The site is located on the southern edge of the Special Midtown District predominantly in a C6-6 zoning district with portions of the zoning lot located in the midblock C6-4.5 zoning district. The area surrounding the site is primarily zoned commercial with manufacturing zoning in the mid-blocks to the south of the site.

Notable buildings in the area include the Manhattan Mall a block to the north, Macy's two blocks to the north, the Madison Square Garden/Penn Station complex a block to the north and west of the site, as well as the Empire State building a block to the north and a block to the east of the site.

In 1995 the City Planning Commission approved a re-zoning on the blocks to the south of the site along Sixth Avenue from West 23rd to West 30th Street and as a result this stretch of Sixth Avenue has experienced significant development with the construction of large new residential buildings as well as a new 40+ story hotel at West 30th Street & Sixth Avenue. A number of these development sites were parking lots or parking garages and there has been a subsequent decrease in the number of parking spaces in the area. In addition there are a number of new buildings planned in the area including the 15 Penn project on Seventh Avenue between West 32nd and West 33rd Streets which will add 2.1 million sq feet of commercial space to the neighborhood.

The proposed garage would be approximately 37,000 square feet and will be located on portions of the ground floor, cellar and sub-cellar levels of the mixed-use development under construction. Access and egress to and from the garage would be provided via a proposed 20-foot curb cut on West 31st Street, approximately 130' west of Sixth Avenue, which would replace the curb-cut for the parking lot that existed on the site prior to the construction of the new building. The required ten reservoir spaces would be provided on the entrance ramp down to the sub-cellar. Vehicles exiting the garage would travel west on West 31st Street, a one way narrow street.

The new building could have a garage with 80 accessory parking spaces as-of-right. The proposed garage would have 201 spaces. There would be 101 traditional attended spaces and 100 spaces on two-high car stackers (50 stackers). 80 spaces would be reserved exclusively for the use of monthly parkers. The garage would also contain 48 bicycle parking spaces located in the cellar level. The garage would be located on portions of the ground floor, cellar and sub-cellar level building. The garage would be open 24 hours a day, seven days a week, and would be fully attended. To enhance pedestrian safety, a

flashing light and ringing bell would be installed to notify pedestrians both visually and audibly of the presence of an exiting vehicle.

ENVIRONMENTAL REVIEW

This application (C 080524 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 08DCP002M. 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 June 21, 2010.

UNIFORM LAND USE REVIEW

This application (C 080524 ZSM) was certified as complete by the Department of City Planning on June 21, 2010, 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 on July 8, 2010 and on that date, by a vote of 25 in favor with none opposed and 1 abstaining, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation on August 16, 2010 to approve the application.

City Planning Commission Public Hearing

On August 11, 2010 (Calendar No. 3), the City Planning Commission scheduled August 25, 2010 (Calendar No. 28), for a public hearing on this application (C 080524 ZSM).

The hearing was duly held on August 25, 2010 (Calendar No. 28). There were three speakers on the application.

A representative from Macy's spoke in support of the application and noted that the proposed garage would serve Macy's customers who often drive into Manhattan in order to purchase larger items.

The applicant's counsel briefly described the project and explained that a public parking garage would complement the uses in the surrounding area and would help to replace some of the public parking that was lost in the neighborhood.

The Director for Land Use from the Manhattan Borough President's office reiterated the Borough President's recommendation for approval and noted the applicants' commitment to install a speed bump and dedicate 80 spaces in the garage to monthly parkers and prioritize an additional 20 spaces in the parking garage for monthly parkers.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for this special permit (C 080524 ZSM) is appropriate.

The Commission believes that a public parking garage at this location will serve a variety of uses, including the new residents of the building as well as those visitors to the areas attractions which include Madison Square Garden, the Manhattan Mall, and Macy's. The Commission notes that the applicant has set aside 80 spaces in the garage for monthly parkers and has agreed to prioritize an additional 20 spaces for monthly parkers as well as provide additional bike parking.

The Commission further notes that on-street public parking is limited in the immediate vicinity surrounding the project site and therefore there is inadequate street parking to accommodate the demand.

The Commission notes that the area around the proposed garage has experienced significant recent development with the construction of large new residential buildings as well as a new 40+ story hotel at West 30th Street & Sixth Avenue and does not believe that the proposed garage would be incompatible with, or adversely affect, future development.

The Commission believes that there would be a relatively low volume of vehicles entering or exiting the garage at the peak hours of operation and therefore the proposed public parking garage is not expected to unduly inhibit surface traffic or pedestrian flow. Furthermore, the Commission believes that the dedication of 80 spaces for monthly parkers will reduce the number of vehicles entering and exiting the garage in the peak hour.

The Commission further notes that West 31st Street is a one way westbound street and cars will therefore enter the garage from the east which is an area that is primarily developed with high density commercial uses. Cars leaving the garage will predominantly use Seventh and Eighth Avenues which are wide commercial thoroughfares. Therefore, the Commission believes that the streets providing access to the proposed garage are not residential in character and are adequate to handle the traffic generated by the proposed facility.

In addition, the Commission believes that measures designed to enhance pedestrian safety, a flashing light, ringing bell, as well as a speed bump at the exit lane of the garage would be installed to notify pedestrians both visually and audibly of the presence of an exiting vehicle and to reduce potential conflicts between pedestrians and vehicles entering/exiting the garage.

The Commission believes that the required ten reservoir spaces are adequate reservoir space at the vehicular entrances to accommodate waiting automobiles.

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Section 13-562 and 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 space 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) N/A

(g) N/A

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, that based on the environmental determination, and the

consideration and findings described in this report, the application submitted by Tower 111 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 201 spaces on portions of the ground floor, cellar and sub-cellar of a mixed-use development on property located at 885 Avenue of the Americas (Block 807, Lots 34, 43, 48 and 50) in C6-6 and C6-4.5 Districts, within the Special Midtown District, Borough of Manhattan, Community District 5, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 080524 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 Philip Habib PE, filed with this application and incorporated in this resolution:

<i>Drawing No</i>	<i>Title</i>	<i>Last Date Revised</i>
2 of 4	Ground Floor Plan	06-11-10
3 of 4	Cellar Level	06-11-10
4 of 4	Sub-Cellar Level	06-11-10

- 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) Eighty (80) 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 for these spaces. 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 and that the applicant or its successor(s) in interest have implemented a system for installation of non-transferable decals in vehicles owned by monthly customers for the purpose of verification of the monthly parking requirement.

- 4) 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.
- 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, sub lessee 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 080524 ZSM), duly adopted by the City Planning Commission on September 29, 2010 (Calendar No. 4), 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, RAYANN BESSER, IRWIN CANTOR,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,
NATHAN LEVENTHAL, ANNA HAYES LEVIN, KAREN A. PHILLIPS,
Commissioners

MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

July 9, 2010

Hon. Amanda Burden
Chair
Department of City Planning
22 Reade Street, Room 2E
New York, NY 10007

Re: 885 6TH AVENUE (BOUNDED BY WEST 32ND ST, 6TH AVE, WEST 31ST ST AND 7TH AVE), TOWER III GARAGE, APPLICATION FOR A SPECIAL PERMIT PURSUANT TO SECTIONS 13-562 AND 74-52 OF THE ZR OF THE CITY OF NEW YORK TO ALLOW A 201-SPACE PUBLIC PARKING GARAGE, INCLUDING 80 MONTHLY PARKING SPACES, IN AN AS-OF-RIGHT MIXED-USE DEVELOPMENT.

Dear Chair Burden:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, July 8, 2010, the Board passed the following resolution by a vote of 25 in favor, 0 opposed, 1 abstaining:

WHEREAS, The garage is located on 885 6th Avenue, bounded by 32nd St, 6 Avenue, West 31st St and 7th Ave; and

WHEREAS, The applicant seeks a special permit for a parking garage for a total of 201 spaces, which will include 80 monthly parking spaces and 121 transient spaces; and

WHEREAS, Entrance to the garage would be on 31st Street, which would replace a parking lot that existed in this location prior to the development of a new building; and

WHEREAS, There is a lack of parking in this neighborhood, further exacerbated by a 20% decrease in the area's parking spaces since 1995 resulting from the development of new buildings on former parking lot locations; and

WHEREAS, There are few on-street parking locations to accommodate the ever increasing parking demand around 32nd Street; and

WHEREAS, The developer has agreed to provide free storage space to the 34th St. Partnership, provide 48 bicycle parking spaces (two times the required amount under the current zoning resolution); and

WHEREAS, The developer has agreed to give a right of first refusal to all building residents for parking spaces before offering spaces to the public; and

WHEREAS, The developer has agreed to allow space for zipcars or other similar car-share services and the car-share spaces will come out of the 120 transient parking spaces; and

WHEREAS, Although Community Board Five has concerns over the traffic problems in mid-town, the project will provide a net benefit to the community; therefore be it

RESOLVED, That Community Board Five recommends approval the application for a special permit by Tower 111 Garage for a 201-space parking garage pursuant to Section 13-562 and 74-52 of the Zoning Resolution.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair

Kevin Finnegan
Chair, Land Use and Zoning Committee

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: C 080524 ZSM

Docket Description:

C 080524 ZSM – **IN THE MATTER OF** an application submitted by Tower 111 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 for a public parking garage with a maximum capacity of 201 spaces on portions of the ground, cellar, and sub-cellar levels of a mixed-used development located at 885 Avenue of the Americas (Block 807, Lots 34, 43, 48, and 50), in C6-6 and C6-4.5 zoning districts, in Manhattan Community District 5.

COMMUNITY BOARD NO: 5

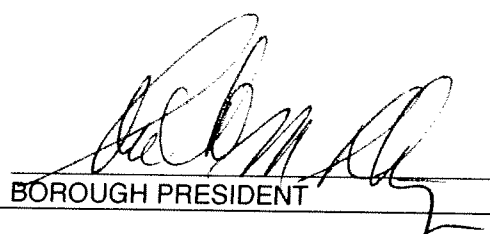
BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached


BOROUGH PRESIDENT

8/16/10
DATE



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

August 16, 2010

**Recommendation for
ULURP Application No. C 080524 ZSM – 885 Avenue of the Americas Parking Garage
By Tower 111 LLC**

PROPOSED ACTIONS

Tower 111 LLC¹ seeks a **Special Permit pursuant to Sections 13-562 and 74-52 of the New York City Zoning Resolution (“ZR”)** to allow an attended public parking garage on portions of the ground floor, cellar, and sub-cellar of a mixed-used development located at 885 Avenue of the Americas (Block 807, Lots 34, 43, 48, and 50). The development site is located in C6-6 and C6-4.5 zoning districts within the Special Midtown District (“MiD”) in Manhattan Community District 5. The garage would operate with a maximum capacity of 201 spaces.

In order to grant the special permit, the City Planning Commission (“CPC”) must find that the garage will have a minimal impact on surrounding uses, will not contribute to congestion or inhibit pedestrian flow, will not direct traffic through local streets, contains an adequate number of reservoir spaces, and is surrounded by streets that are adequate for generated traffic.

PROJECT DESCRIPTION

The applicant seeks a special permit to allow a 201-space attended public parking garage within a mixed-use development in Midtown. The proposed garage would be located at 885 Avenue of the Americas, between West 31th and West 32th streets. The parking facility would occupy the ground floor, cellar, and sub-cellar and consist of 30,450 SF.

The proposed facility would be located in an as-of-right 48-story building, which consists of 338 apartments, 27,234 GSF of above-grade retail, 23,424 GSF of office space, and 4,536 GSF of cellar-level retail space. The development includes 70,000 SF of acquired development rights from Lot 50. The building is currently under construction. Absent grant of the special permit, the applicant would use the cellar and sub-cellar for an as-of-right 80-space accessory parking garage. Under this scenario, the applicant would include 4,536 SF of cellar-level retail and 1,953 SF of residential storage space.

¹ Jeremy Halpern, David Halpern, and Mindy Schall are principal owners of Tower 111 LLC.

Vehicles would enter and exit the proposed public garage via a single 20-foot curb cut on West 31st Street. The garage will have 101 traditional parking spaces and 100 spaces on 50 double-height vehicle stackers. The applicant proposes that 80 parking spaces be used for monthly overnight parkers with preference for building residents. The remaining 121 parking spaces would be used for transient parkers. The garage will have 10 reservoir spaces located on the ground floor and cellar level. Additionally, the garage will include parking for 48 bicycles, to be accessed by valet, and the applicant has expressed interest in providing spaces for a Zip Car or another car-share program.

The development site is located at the southern end of the Midtown business district partially within two zoning districts, a C6-6 zoning district and a C6-4.5 zoning district, within the MiD. The surrounding block has a mix of uses, including commercial office space, retail, and the Church of St. Francis of Assisi. Additionally, the project site is proximate to 34th Street, a major retail and commercial corridor, as well as to local and regional mass transit.

Additionally, the applicant has agreed to store street furniture and sanitation supplies for the 34th Street Partnership in the area below the garage ramp.

COMMUNITY BOARD'S RECOMMENDATION:

At its full board meeting on July 8, 2010, Community Board 5 **approved** this application by a vote of 25 in favor, 1 abstention, and 0 opposed. The community board received letters in support of the application from the 34th Street Partnership, a local business improvement district, and Macy's, an area retailer.

BOROUGH PRESIDENT'S COMMENTS:

The public purpose ZR §13 is to control traffic congestion and ensure compliance with environmental standards by requiring a Special Permit for certain parking facilities, including public garages, in the Manhattan core. With increasing public concern about traffic congestion and pollution and recent City initiatives to discourage automobile use in the core, this policy has never been more relevant. Given the importance of this public purpose, applicants should satisfy the findings required by ZR §74-52 under a very strict interpretation.

Case law establishes that applicants for a Special Permit are generally entitled to favorable consideration of their applications if they have demonstrated that they have met the specific findings identified in the statute. However, given the important public purpose behind the Special Permit requirement and the importance of encouraging transit-based development instead of automobile use in Manhattan, applicants should satisfy the findings under as strict an interpretation as is reasonable.

The proposed garage is compatible with the surrounding uses in the area. It will draw minimal traffic through residential streets. Further, the garage includes an adequate amount of reservoir spaces, and nearby streets, some of which are major City arterials, can adequately handle traffic generated by the garage.

In order to meet the required finding that the garage will not create or contribute to traffic congestion or inhibit pedestrian flow, the applicant has relied on an Environmental Assessment Statement (“EAS”). CPC issued a negative declaration for this application, suggesting that the garage would have minimal adverse impact on the environment. However, the applicant’s EAS studied the garage with a residential accumulation of 62 during the day and 44 overnight, monthly public parkers. Residential parkers and monthly overnight parkers typically use vehicles less than transient parkers and have a smaller impact on congestion. The garage should operate in a manner similar to the way it was studied, which will align the garage’s operation with the impacts disclosed in the EAS. To ensure the garage’s operation more closely reflects how its operation was studied, the applicant agreed to prioritize an additional 20 spaces for monthly parking – for a total of 100 spaces.

Further, the area around 34th Street experiences significant pedestrian activity. As the residential and commercial populations continue to grow in the area, pedestrian activity will increase on the traditionally calmer side streets near major thoroughfares. While a single curb cut used for ingress and egress maintains a more regular streetscape, it also concentrates vehicle activity at a single point through the pedestrian right-of-way. The uniquely high level of pedestrian flow in this area requires additional safeguards to prevent pedestrian-vehicle conflicts. In addition to traditional safety measures, such as audio/visual warning systems, the applicant has agreed to install a speed bump at the top of the garage ramp to slow vehicles as they exit the garage. By slowing traffic through the pedestrian right-of-way, the chance for pedestrian-vehicular conflicts will be minimized.

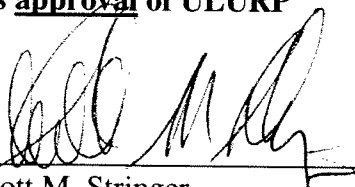
With the adjustments to the monthly parking priorities and the modification to the design of the garage’s ramp, the proposed garage satisfies the required findings.

Additionally, the applicant should be commended for its commitment to promote alternative modes of transportation by providing 48 bicycle parking spaces – 28 more spaces than is required. Furthermore, the applicant has demonstrated commitment to the neighborhood by committing to free storage for street furniture and sanitation supplies for the 34th Street Partnership.

BOROUGH PRESIDENT’S RECOMMENDATION

By prioritizing an additional 20 monthly parking spaces and adjusting the design of the ramp to incorporate pedestrian safety measures, the proposed garage satisfies the required findings.

Therefore, the Manhattan Borough President recommends approval of ULURP Application No. C 080254 ZSM.



Scott M. Stringer
Manhattan Borough President