



## CITY PLANNING COMMISSION

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July 2, 2003/Calendar No.13

C 030258 ZSM

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**IN THE MATTER OF** an application submitted by Rosebud Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an attended accessory off-street parking garage with a maximum capacity of 190 spaces in the cellar of a proposed 21-story mixed use building located at 222 East 34<sup>th</sup> Street (Block 914, Lots 36, 37, 45, 53, 54, 55, 56 and 57), in C1-9A and C1-9 Districts, Borough of Manhattan, Community District 6.

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The application for the special permit was filed by Rosebud Associates, LLC on December 19, 2002 to allow an attended accessory parking garage with a maximum capacity of 190 spaces.

### **BACKGROUND**

The subject zoning lot, an area of 44,280 square feet, is located on the south side of East 34<sup>th</sup> Street (Block 914, Lots 36, 37, 45, 53, 54, 55, 56 and 57) and begins approximately 70 feet west of the corner of Second Avenue. Most of the zoning lot, including the site of the proposed garage, is zoned C1-9A with a Special Transit Land Use (TA) District overlapping its eastern property line near Second Avenue, and a remaining small portion is zoned C1-9 near Third Avenue. It contains four existing 5-story walk-up apartment buildings on the western portion and a new as-of-right 21-story mixed-use building on the eastern portion of the site that is currently under construction. The portion of the zoning lot, containing the proposed garage, has two existing curb cuts.

The new development would include 480 dwelling units, 23,000 square feet of retail on the ground floor, and 23,000 square feet of professional office on the second floor. The proposed

garage would contain approximately 27,526 square feet of space and accommodate 190 parking spaces. Access to this parking facility would be by a relocated 27-foot wide curb cut located on the western portion of the new development located at a signalized intersection for the Queens Midtown exit. In addition, another new 14 feet wide curb cut would be provided along East 34<sup>th</sup> Street for a loading berth.

The site is located in the Kips' Bay neighborhood and the surrounding area is characterized by a mix of commercial, residential and institutional uses. These include the Diocesan House of the Armenian Church, St. Vartan Park, P.S. 116, NYC Department of Social Services, NYU School of Medicine, and a combination of mid-rise residential buildings to apartment towers with ground floor retail.

In March 2001, the NYC Transit Authority (TA) and City Planning Commission (CPC) jointly certified an application (N 000506 ZCM) pursuant to Section 95-041 of the Zoning Resolution for a specific transit easement volume on the subject zoning lot to the proposed Second Avenue subway by a stair and escalators located on the easternmost portion of the site. In November 2000, the Department of Buildings (DOB) permitted 107 as-of-right parking spaces. DOB also approved the relocation of two existing curb cuts for access to the proposed accessory parking garage and required loading berth.

Accessory off-street parking spaces in a mixed residential, commercial or community facility development in Manhattan Community Districts 1 to 8 are allowed as-of-right pursuant to

Section 13-11 of the Zoning Resolution. Commercial or community facility uses shall not exceed one space per 4,000 square feet of floor area, or 11 spaces for this site. The residential component must not exceed 20 percent of the number of dwelling units contained in the development or 96 spaces for the site for a total of 107 as-of-right spaces.

The applicant is requesting a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an attended accessory parking facility with a maximum capacity of 190 spaces located in the cellar of the subject property occupying a total of 27,526 square feet of space. The garage would operate 24 hours a day, seven days a week with approximately 3 to 4 attendants. Of the proposed 190 spaces, 55 spaces would be accommodated by using vehicular lifts. The garage would have visual and audible warning devices at the entrance of the facility. A five-foot wide pedestrian walkway would be provided for the patrons at cellar level to access the elevator to the lobby of the building at street level. Signs at the garage's exit would prohibit left turns from the garage on to westbound 34<sup>th</sup> Street. There would be 10 reservoir spaces.

### **ENVIRONMENTAL REVIEW**

This application (C 030258 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 03DCP016M. 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 March 3, 2003.

### **UNIFORM LAND USE REVIEW**

This application (C 030258 ZSM) was certified as complete by the Department of City Planning on March 3, 2003, and was duly referred to Community Board 6 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 6 held a public hearing on this application on April 9, 2003, and on that date, by a vote of 32 to two with no abstentions, adopted a resolution recommending disapproval of the application with the following comments:

- ... that the special permit for additional accessory spaces as ill conceived and conflicting with established planning policy which seeks to restrict parking below 96<sup>th</sup> Street; and
- ... that Department of City Planning require the applicant to apply for a new curb cut for this garage and undergo a complete curb cut review procedure.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application with conditions on May 7, 2003.

The Borough President's recommendation included the following conditions:

- ... reduce the number of requested parking spaces to 63, allowing for the future loss of these 20 spaces through the construction of the Second Avenue Subway line;

... new curb cut application and review by DCP; and

... no left turn into garage from 34<sup>th</sup> Street.

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

On May 7, 2003 (Calendar No. 4), the City Planning Commission scheduled May 21, 2003, for a public hearing on this application (C 030258 ZSM). The hearing was duly held on May 21, 2003 (Calendar No. 5). There were three speakers in favor of the application and one speaker in opposition.

Speakers in favor included the applicant's architect, land use counsel and transportation engineer. They described the proposed building, site and parking garage. They discussed the traffic conditions within the area, including the NYC Department of Transportation (DOT) determination that vehicles exiting the garage be restricted to a right turn only. They stated that no phasing or signal timing change was necessary at this exit and explained that vehicular safety and travel would not be compromised by the proposed accessory garage.

The speaker in opposition to the application, a representative of Community Board 6, reiterated CB6's resolution to disapprove the application. The speaker also cited concerns about the relocation of the existing curb cut. She further stated that within recent years residential buildings in the vicinity had sought approvals from the Commission to allow public parking in accessory parking facilities due to the lack of demand for accessory spaces.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

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

The special permit would allow an attended accessory parking garage with a maximum capacity of 190 spaces. The subject garage is completely enclosed within the cellar of a new as-of-right 21-story mixed-use building containing 480 dwelling units and 46,000 square feet of commercial/retail space which is currently under construction, located on the south side of East 34th Street between Third and Second avenues. The accessory parking garage would be used by residents, customers, visitors and employees at the premises. Access to the garage would be from a two-way, 22-foot wide ramp located at a 27-foot wide curb cut on East 34<sup>th</sup> Street. The Commission notes that DOB and DOT have approved the relocation of an existing curb cut at the site to its proposed location. Some of the parking would be provided by using 55 vehicular lifts. The garage would have the required ten reservoir spaces provided along the ramp.

The Commission notes that the applicant has provided data that indicates there is a demand for the spaces from residents, customers, visitors and employees of the building. The Commission further notes that four parking facilities are located in the immediate vicinity, are operating at or near capacity, and that there is a lack of on-street parking space, since on-street parking is prohibited on East 34<sup>th</sup> Street and the surrounding streets.

The Commission believes that the proposed garage would not create serious traffic congestion and inhibit surface traffic or pedestrian movement. According to the Environmental Assessment Statement prepared for the application, the garage would generate a net increase of 15 vehicular trips (7 in and 8 out) or an average of one trip every 4 minutes during the weekday morning peak hour (between 8 a.m. and 9 a.m.), 11 vehicular trips (7 in and 4 out) or an average of one trip every 5.5 minutes during the weekday afternoon hour (between 12 noon to 1 p.m.), and 18 vehicular trips (7 in and 11 out) or an average of one trip every 3.3 minutes during the weekday early evening peak hour (between 5 p.m. and 6 p.m.). Furthermore, NYC DOT has required all cars exiting from the garage to make a right turn only onto East 34<sup>th</sup> Street to minimize conflict with the Queens Midtown Tunnel exit traffic and potential pedestrian conflicts. The Commission notes that the applicant is providing safety measures, including the installation of a flashing light and ringing bells, to alert pedestrians of an exiting vehicle from the garage. To further avoid vehicular and pedestrian conflict, the Commission requests NYCDOT to look at this garage after it has opened to evaluate and determine whether westbound vehicles should be prohibited from making a left turn into the garage at the intersection with the Queens Midtown Tunnel exit.

The Commission believes the proposed garage would draw a minimum of vehicular traffic to and through local residential streets. The garage is located in a mixed-use area on the east side of Manhattan with access on East 34<sup>th</sup> Street, a wide, two-way corridor connecting Manhattan to New Jersey by the Lincoln Tunnel to the west and to Queens by the Queens-Midtown Tunnel to the east. The stretch of 34<sup>th</sup> Street within Community District 6 is predominately office/retail buildings along the north side between Madison and Park avenues and mixed-use buildings

between Park Avenue and the East River. They include the NYU School of Medicine, the East 34<sup>th</sup> Street Heliport, the Diocesan House of the Armenian Church, Rivergate Apartments and other mid-rise buildings containing ground floor retail stores interspersed throughout the area. The approach to the garage would be from East 34<sup>th</sup> Street primarily and there would be minimal use of local residential streets to access/egress the garage.

The Commission considered the recommendation raised by Manhattan Borough President to reduce the total number of parking spaces to 170 spaces to accommodate the transit easement. The Commission notes that the easement must be provided when required by the Transit Authority and parking spaces, within the easement volume, would be removed. Until such time, there is no reason to reduce the number of spaces.

The Commission notes that in a letter dated June 27, 2003, the applicant has further agreed that:

- a sign will be installed above the entry to the garage stating "No Public Parking;"
- no more than 30 spaces shall be made accessory to non-residential uses;
- accessory, non-residential parkers will be issued ticket validations or vouchers in order to provide parking for office, retail and community facility uses in the building; and
- no cashiers will be provided on the premises.

The Commission believes that these changes help assure the safe and efficient operation of the garage.



## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 13-561 (Accessory off-street parking spaces) of the Zoning Resolution:

- (a) such parking spaces are needed for, and will be used by, the occupants, visitors, customers or employees of such use to which they are accessory;
- (b) within the vicinity of the site, there are insufficient parking spaces available;
- (c) the facility will not create or contribute to serious traffic congestion nor will unduly inhibit vehicular and pedestrian movement;
- (d) the facility is so located as to draw a minimum of vehicular traffic to and through local residential streets; and
- (e) adequately reservoir space is provided at the vehicular entrance to accommodate vehicles equivalent in number to 20 percent of the total number of parking spaces, up to 50 parking spaces, and five percent of any spaces in excess of 200 parking spaces are needed for, and will be used by, the occupants, visitors, customers or employees of the use to which they are accessory; spaces, but in no event shall such reservoir spaces be required for more than 50 vehicles. However, in the case of a facility with a capacity of ten vehicles or less, the Commission may waive this finding.

## **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 City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application of Rosebud Associates, LLC for the grant of a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an attended accessory off-street parking garage with a maximum capacity of 190 spaces in the cellar of a proposed 21-story mixed use building located at 222 East 34<sup>th</sup> Street (Block 914, Lots 36, 37, 45, 53, 54, 55, 56 and 57), in C1-9A and C1-9 Districts, Borough of Manhattan, Community District 6, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 030258 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 & Associates, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
2 of 2	Parking Plan	June 27, 2003

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. At no time shall the number of accessory spaces for non-residential use exceed 30. No cashier will be provided on the premises.
5. Applicant shall issue ticket validations or vouchers to accessory, non-residential parkers in order to provide parking for office, retail and community facility uses in the building.
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 030258 ZSM), duly adopted by the City Planning Commission on July 2, 2003 (Calendar No.13), 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.

**AMANDA M. BURDEN, AICP, Chair**  
**KENNETH J. KNUCKLES, Vice-Chairman**  
**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., RICHARD W. EADDY,**  
**ALEXANDER GARVIN, JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO,**  
**KAREN A. PHILLIPS, JOSEPH B. ROSE, DOLLY WILLIAMS, Commissioners**



## MANHATTAN COMMUNITY BOARD SIX

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Timothy McGinn  
Chair

Toni Carlina  
District Manager

April 2003

**RE: 222 East 34<sup>th</sup> St. (2<sup>nd</sup> and 3<sup>rd</sup> Avenues) – C.P. ULURP application #C030258ZSM to grant a special permit for an off-street garage.**

**WHEREAS**, a new building is being constructed in a C1-9 and 1-9A district mixed use building on the south side of East 34<sup>th</sup> Street between Second and Third Avenues; and

**WHEREAS**, the applicant seeks a special permit for 190 accessory parking spaces at the cellar level of a 511,156 sq. ft. building with 480 dwelling units and 23,000 sq. ft. ground floor retail and 23,000 sq. ft. of office space on the second floor.

**WHEREAS**, under existing zoning, the as of right mixed use building is permitted 107 parking spaces; and

**WHEREAS**, the proposed entrance to the garage is directly opposite the egress roadway from the Queens Midtown Tunnel; and

**WHEREAS**, East 34<sup>th</sup> Street is a heavily trafficked cross-town street near the entrance and exits to the FDR Drive, the NYU Medical Center and the entrances and exits from the Queens Midtown Tunnel; and

**WHEREAS**, the applicant has proposed using a pre-existing curb cut formerly located at another portion of the site, and for a different, smaller building; and

**WHEREAS**, the applicant does not plan to apply for a new curb cut permit, required by the Department of City Planning for all proposed curb cuts on wide streets; and

**WHEREAS**, CB6 in recent years has had nearby residential buildings apply for special permits for transient parking because their accessory parking spaces were unfilled, thus demonstrating a demand of less than twenty percent of residential units; and

**WHEREAS**, the local retail uses, office uses and employee parking proposed for the building should not, as a matter of Land Use Policy generate passenger car parking spaces; and

**WHEREAS**, CB6 has recommended that ten percent accessory parking spaces be allowed at the proposed Con Edison Waterside large scale development on First Avenue; and

**WHEREAS**, excess accessory parking spaces can easily be transformed into de facto transient parking spaces contradicting the special permit intent; now

**THEREFORE**, be it

**RESOLVED**, that CB6 opposes the special permit for additional accessory parking spaces as ill conceived and conflicting with established planning policy which seeks to restrict parking below 96<sup>th</sup> Street; and be further

**RESOLVED**, that CB6 requests that the Department of City Planning require the applicant to apply for a new curb cut for this garage and undergo a complete curb cut review procedure.

**Passed: 32 in Favor 2 Opposed 0 Abstention 0 Not Entitled**



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

**C. VIRGINIA FIELDS**  
 BOROUGH PRESIDENT

May 7, 2003

**ULURP NO:** C030258ZSM

**APPLICANT:** Rosebud Associates, LLC  
 425 East 61<sup>st</sup> Street  
 New York, New York 10021

**REQUEST:**

**IN THE MATTER OF** an application submitted by Rosebud Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an attended accessory off-street parking garage with a maximum capacity of 190 spaces in the cellar of a proposed 21-story mixed-use building located at 222 East 34<sup>th</sup> Street (Block 914, Lots 34, 37, 45, 53, 54, 55, 56, and 57), in C1-9A and C1-9 Districts, Borough of Manhattan, Community District 6.

**PROJECT BACKGROUND/DESCRIPTION:**

The proposed garage would be located in the cellar level of a new 511,156 gross square feet as-of-right residential/commercial/office/retail development located at 222 East 34<sup>th</sup> Street between Second and Third Avenues. The new 21-story development will consist of 480 dwelling units, plus 23,000 square feet of ground floor retail and 23,000 square feet of office space on the second floor. The site, Lots 36, 37, 45, and 53 on Block 914, encompasses approximately 35,280 square feet. The new building will utilize transferred air rights from 4 adjacent 5-story residential buildings (Block 914, Lots 54, 55, 56, and 57 owned by the project applicant) to facilitate construction of 21-stories. Both the project site and air rights parcels comprise the zoning lot. The building is currently under construction and is anticipated to be completed during this year.

Under existing zoning, the as-of-right residential building is permitted to provide approximately 107 accessory parking spaces on an as-of-right basis. This proposal for a 190-space attended accessory parking to replace the permitted 107-space as-of-right garage will allow the applicant to better meet the additional parking needs of the 480 dwelling unit residential development – an increase of 83 parking spaces.

CITY PLANNING COMMISSION  
 2003 MAY 8 PM 2:14  
 DEPT. OF CITY PLANNING

Access to the garage would be via a 27-foot wide curb cut located on the south side of East 34<sup>th</sup> Street. The garage would occupy approximately 27,526 gross square feet of parking area. The proposed garage will open 24 hours a day, seven days a week and will have attended parking, with approximately 3-4 attendants employed at the garage. The proposed accessory parking garage would utilize a ramp connecting the street level to the cellar level and would also utilize a stacker system for parking to achieve 190 spaces needed on the site. In accordance with applicable regulations, the proposed garage would have a total of 10 reservoir spaces (not included in total number of spaces).

Patrons of the proposed garage would deliver their vehicles to an attendant's station near the foot of the ramp; attendants would park vehicles. On egress, an attendant would retrieve the vehicle from the parking space. The driver then drives up to the exit and exits the garage onto East 34<sup>th</sup> Street. Only right-turns would be permitted for exiting vehicles. Measures to enhance pedestrian safety includes the installation of a flashing light and ringing bell to both visually and audibly alert pedestrians to the presence of an exiting vehicle.

**SUMMARY OF COMMUNITY BOARD ACTION:**

At a regularly scheduled board meeting on April 9, 2003 CB # 6 voted 32 - 2 - 0 - 0 opposing the special permit for additional accessory parking spaces. In the opinion of the Community Board the additional parking spaces are ill conceived and conflicting with established planning policy which seeks to restrict parking below 96<sup>th</sup> Street. Furthermore, the Community Board requested that the Department of City Planning require the applicant to apply for a new curb cut for this garage and undergo a complete curb cut review procedure.

**BOROUGH PRESIDENT ACTION:**

- The Manhattan Borough President recommends approval.
- The Manhattan Borough President recommends disapproval.
- The Manhattan Borough President recommends approval, subject to the recommendation detailed below.
- The Manhattan Borough President recommends disapproval, unless the conditions detailed below are addressed as described

**COMMENTS:**

While this 21-story mixed-use development will rise in an area that is served well by public transportation there is the issue of transportation choices for the future residents. The applicant sites insufficient parking spaces available and references four parking garages in the vicinity of the new building. On one mid-day period, the applicant did a survey. It revealed the four garages were filled to 70% of capacity on the average, with one garage at 40% and another at 91%. The Borough President recognizes that this is a market-rate luxury rental development. And as such, on-site parking is considered an amenity.

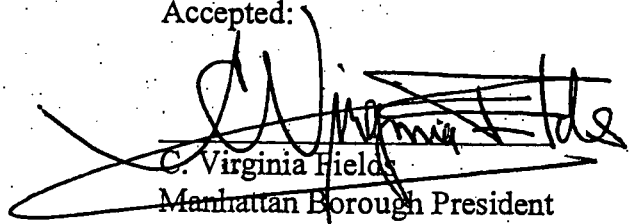


The site abuts Second Avenue and in fact, a portion of the underground parking has an easement for the future Second Avenue Subway Line. Currently, the proposal calls for 20 parking spaces on this easement, which will disappear once construction begins for the Second Avenue Subway. Given that, the Borough President approves this application with the following modifications.

- Reduce the number of requested parking spaces to 63, allowing for the future loss of these 20 parking spaces through the construction of the Second Avenue Subway Line.
- New curb cut application and review by DCP.
- No left turn into garage from 34<sup>th</sup> Street.

The Manhattan Borough President therefore recommends approval with modifications of this application.

Report and Recommendation  
Accepted:



C. Virginia Fields  
Manhattan Borough President