



CITY PLANNING COMMISSION

February 4, 2015/Calendar No. 8

C 150078 ZSM

IN THE MATTER OF an application submitted by 7 West 21 LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(b) of the Zoning Resolution to modify height and setback requirements of Section 35-24 (Special street wall location and height setback regulations in certain districts), the rear setback requirements of Section 23-663 (Required rear setbacks for tall buildings in other districts), and the permitted obstruction requirements of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) to facilitate the development of an 18-story mixed use building on property located at 7 West 21st Street (Block 823, Lot 31), in an C6-4A District located within the Ladies' Mile Historic District, Borough of Manhattan, Community District 5.

The application for a special permit, in conjunction with the related action, was filed by 7 West 21 LLC on August 12, 2014. The requested special permit, in conjunction with the related action, would facilitate the development of a new 18-story mixed-use building at 7 West 21st Street in the Flatiron neighborhood of Manhattan.

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 application, which is being considered concurrently with this application:

C 150077 ZSM Special permit pursuant to Sections 13-45 and 13-451(a) to allow a 200-space public parking garage within the Manhattan Core.

BACKGROUND

7 West 21st Street is an existing surface parking lot located in the Flatiron neighborhood of Manhattan Community District 5. The site is a "T"-shaped through-lot with approximately 106 feet of frontage on West 21st Street, 137 feet of frontage on West 22nd Street, and a depth of approximately 198 feet connecting both streets. The site had previously been occupied by four 4-story buildings and four 5-story buildings that were demolished in 1926, and has been used as a surface parking lot since 1951. The parking lot is currently licensed by the Department of Consumer Affairs (DCA) to contain 256 public parking spaces; 141 spaces are located at-grade and 45 spaces are elevated in stackers. Two curb cuts exist along the West 21st Street frontage

and three curb cuts exist along the West 22nd Street frontage.

The site is located in the Ladies' Mile Historic District, which was designated as a Historic District by the Landmarks Preservation Commission (LPC) in 1989. The area is dominated by loft buildings with high street walls without setback that were constructed during the late 19th and early 20th centuries. These buildings generally range in heights between 100 and 150 feet – although many buildings on West 21st and 22nd Streets have street walls that exceed 150 feet in height without setback. Interspersed are smaller one- to six-story commercial buildings. Many building ground floors still contain parking and loading entrances as the district continues to shift from manufacturing to residential and commercial uses. In its designation report in 1989, the LPC did not describe the parking lot at 7 West 21st Street as being a contributing resource to the architectural and historic character of the Historic District.

The site is located in a C6-4A zoning district which allows, on a narrow street, a building with a minimum base height of 60 feet and a maximum base height of 125 feet, after which height the building must set back 15 feet and may rise to an overall height of 185 feet. On a wide street, the zoning district allows a building with a minimum base height of 125 feet and a maximum base height of 150 feet, after which height the building must set back 10 feet and may rise to an overall height of 210 feet. Section 35-24(e)(6) allows additional flexibility for buildings located within Historic Districts: new buildings may have a base height below the required minimum base height to match the base height of an adjacent building, and may vary the location of the street wall to match that of an adjacent building. Furthermore, within the six block area established in Section 35-24(e)(6)(ii), the maximum base height on a narrow street may exceed 125 feet up to 150 feet before setting back to match the street wall of an adjacent building. The C6-4A zoning district allows a base FAR of 10 for residential, commercial, and community facility uses, which may be increased up to 12 through an as-of-right floor area bonus from the Inclusionary Housing program (Section 23-90).

The site had previously received a special permit in 2004 (C 040333 ZSM) for a 363-space underground attended public parking garage with 18 reservoir spaces, and although the special

permit was renewed in 2008 (N 080327 CMM) and 2012 (N 120035 CMM), construction did not begin before the permit expired on August 12, 2014.

Also in 2004, the site was part of an application to rezone a larger area from an M1-6M zoning district to a C6-4A zoning district (C 040331 ZMM and N 040332 ZRM). The contextual rezoning was established to better reflect the mixed-use character of the area, to allow for residential development on underutilized lots, and to ensure that new development is keeping with the character of the surrounding area.

The proposed actions would facilitate the construction of a new 279,119 square foot, 18-story mixed-use building containing 300 residential rental units, approximately 8,000 square feet of ground floor retail, and 200 public parking spaces on the site. The proposed building will contain two “wings” that will rise to 185 feet without setback on both West 21st and West 22nd Streets. The residential lobby will connect both streets, and retail uses will be located on both streets. A 60-foot rear yard equivalent beginning on the second floor between the two wings will serve as open recreation space for residents, where a glass atrium will connect the first floor lobby to additional residential amenities on the second floor of the building’s south wing. Two garage vents will be located in a sunken garden in the rear yard instead of above the garage entrances on the building facades. The development will contain an overall FAR of 11.63, 11.3 of which will be dedicated to residential use. The development will exceed the base FAR of 10 for a C6-4A zoning district through an as-of-right floor area bonus from the Inclusionary Housing program (Section 23-90).

The proposed 200 public parking spaces will be located within the cellar and sub-cellar levels of the building and will be fully attended. The garage will have entrances on both West 21st and 22nd Streets, and an exit on West 22nd Street. The three curb cuts on West 22nd Street will be consolidated into one 21-foot curb cut, and the two curb cuts on West 21st Street will be consolidated into one 13-foot curb cut. The garage will provide a total of ten reservoir spaces leading from both streets to the cellar. Of the 200 parking spaces, 142 spaces will be non-elevated and the remaining 58 will be elevated and located in stackers. Twenty bicycle parking

spaces, as required by Section 36-711, will be provided in the sub-cellar level, and will also be handled by an attendant. Additional bicycle storage for the residential units will be located on the ground floor of the building with a total capacity of 150 bicycles. Street access for pedestrians will be provided from the cellar to West 22nd Street. The garage will have a total area of 42,274 square feet, including space dedicated to ramps, passenger loading, and elevated parking spaces.

Section 74-712(b) Special Permit (C 150078 ZSM)

Section 74-712(b) (Developments in Historic Districts) allows the City Planning Commission to modify bulk regulations for developments within Historic Districts. In order to facilitate the proposed development, which is located within the Ladies' Mile Historic District, three waivers are requested:

(1) Front setback waiver

The site is located on a narrow street in a C6-4A zoning district, and would normally be subject to a minimum base height of 60 feet, a maximum base height of 125 feet, and an overall building height of 185 feet provided that there is a 15-foot setback above the base height pursuant to Section 35-24(c). Section 35-24(e)(6)(ii) allows the maximum base height on this site to be increased to 150 feet since adjacent buildings on both West 21st and 22nd Streets have street walls of 150 feet in height without setback. The applicant proposes street walls of 185 feet without setback along both West 21st And West 22nd Streets to conform to the massing of its neighbors and to be reflective of the surrounding built context. A waiver is therefore required for the volumes between 150 feet and 185 feet in height within 15 feet of the West 21st Street and West 22nd Street street lines.

(2) Rear setback waiver

In addition to the 60-foot rear yard equivalent that is required on a through lot pursuant to Section 23-532, Section 23-663(b) requires a 10-foot rear yard setback above the maximum base height for a residential development. The proposed building's rear walls rise to 154 feet, 6 inches

before setting back 10 feet and rising to an overall building height of 185 feet. Such added height above 150 feet is the result of providing floor-to-floor heights of approximately 9 feet, 8 inches to align the proposed building's windows with those of adjacent buildings. Thus, a waiver is required for the volumes between 150 feet and 154 feet, 6 inches in height for a depth of 10 feet within the rear yard equivalent.

(3) Rear yard / permitted obstructions waiver

Obstructions that are permitted within rear yards or rear yard equivalents are listed in Section 23-44. Within the proposed building's rear yard equivalent, a glass atrium measuring approximately 20 feet, 7 inches by 30 feet with a height of 10 feet will be provided to facilitate access between the building lobby and resident amenity space on the second floor of the building's south wing. In addition, two exhaust vents from the below-grade garage will be located within the sunken garden on the ground floor. The vents will be placed in this location in order to avoid locating exhaust louvers on the building facades. The northern vent will measure 6 feet, 6.5 inches by 8 feet, 6.5 inches with a height of 2 feet, 7 inches, and the southern vent will measure 7 feet 10.5 inches by 8 feet, 6.5 inches with a height of 4 feet, 6.5 inches. Both the atrium and the vents are not defined in Section 23-44 as permitted obstructions within a rear yard, and therefore a waiver is required for these elements.

Sections 13-45 and 13-451(a) Special Permit (C 150077 ZSM)

Section 13-041(d) does not permit new public parking garages as-of-right within the Manhattan Core except by special permit pursuant to either of Sections 13-451 through 13-455, all of which also require that the findings of Section 13-45 are met. A special permit pursuant to Sections 13-45 and 13-451(a) (Additional parking spaces for residential growth) is requested to provide an attended public parking garage with 200 spaces and 10 reservoir spaces within the cellar and sub-cellar levels of the development.

ENVIRONMENTAL REVIEW

This application (C 150078 ZSM), in conjunction with the related application (C 150077 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 15DCP009M. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on September 29, 2014. The Negative Declaration included an (E) designation E-351 for air quality and noise to avoid the potential for significant adverse impacts, as described below. This (E) designation supersedes the prior (E) designation (E-131) applied to the project site in connection with the Ladies' Mile Rezoning (CEQR No. 040DCP038M).

The (E) designation requirement will apply to the project site on Block 823, Lot 31.

The (E) designation text related to air quality is as follows:

Any new residential and/or commercial development on the above-referenced properties must use natural gas for HVAC systems and ensure that the heating, ventilating and air conditioning stack is located on the northern (W. 22nd Street) tower at the highest tier or at least 214 feet high to avoid any potential significant adverse air quality impacts.

The (E) designation text related to noise is as follows:

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with minimum attenuation of 28 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA.

In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners or HUD-approved fans.

With the implementation of the above (E) designation (E-351), no significant adverse impacts related to air quality and noise would occur.

The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

UNIFORM LAND USE REVIEW

This application (C 150078 ZSM), in conjunction with the application for the related action (C 150077 ZSM), was certified as complete by the Department of City Planning on September 29, 2014, and was duly referred to Community Board 5 and the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 5 held a public hearing on this application (C 150078 ZSM), in conjunction with the related application (C 150077 ZSM), on November 13, 2014, and on that date, by a vote of 36 to 3 with 1 abstention, adopted a resolution recommending approval the application.

Borough President Recommendation

This application (C 150078 ZSM), in conjunction with the related application (C 150077 ZSM), was considered by the Borough President, who issued a recommendation on December 17, 2014 to disapprove the application, unless the following conditions are met:

1. The approved parking plans are revised to show the location of 6 electric car charging stations to ensure that they are accessible and the inclusion of 10 car share spaces;
2. A written commitment is made that the regulatory agreement will reflect:
 - a. the equal distribution of the affordable units throughout both building segments;
 - b. that such distribution will occur at all levels up to 85% of the total height of the building;
 - c. comparable quality of fixtures and furnishings for the affordable units; and that
 - d. all amenities, such as the children's room, gym, lounge, game room, and the rooftop recreational area will be accessible to all tenants and that the rates for such, if applicable, will be prorated to be affordable to all tenants;

3. The regulatory agreement will include language to ensure that even if the amenities are changed in the future, that all amenities will remain affordable to all of the occupants; and
4. The approved waiver plans will be revised to include a note stating that the atrium roof will be a green roof, and that a note is added clarifying that the green roofs on the atrium and the 21st Street segment will be vegetated roofs that would meet the requirements of the most current version of the LEED rating system of the United States Green Building Council.

City Planning Commission Public Hearing

On December 17, 2014 (Calendar No. 5), the City Planning Commission scheduled January 7, 2015 for a public hearing on this application (C 150078 ZSM) and the application for the related action (C 150077 ZSM). The hearing was duly held on January 7, 2015 (Calendar No. 18). There were six speakers in favor of the application and one in opposition.

The applicant's developer described the site's existing conditions and the proposed building program.

The building's design architect described the physical design of the building and provided an overview of the pedestrian experience along West 21st and West 22nd Streets.

The applicant's representative described the waivers requested under Section 74-712(b), and how the waivers would facilitate a building form that would be compatible with other buildings within the Historic District. She noted that Certificates of Appropriateness for the proposed development were issued by the Landmarks Preservation Commission on October 25, 2013 and April 8, 2014. The representative noted that the applicant is considering the comments made by the Borough President in her recommendation. She noted that the parking garage will contain six electric car charging stations and ten car-sharing spaces; that approximately 56% of the affordable units will be located in the building's north wing and 44% of the affordable units will be located in the building's south wing; and that all roof areas except that of the atrium roof will

have vegetation. The representative also clarified that the development will be considered one building with two wings connected by a common lobby.

The applicant's environmental consultant described the vehicle trip generation that would result from the 200-space public parking garage compared to an as-of-right garage of 62 parking spaces, and noted that all trips would be well distributed across the local street network. He also described the changes in residential parking and residential development in the surrounding area over the past decade, noting that the proposed 200 public parking spaces would address a demand for parking by area residents. He noted that although all parking spaces are proposed to be public, he has observed that parking trends in the area suggest that a high proportion of the public parking spaces at the project site are expected to be used by area residents for monthly parking.

The building's architect of record described the sustainability features of the building.

The building's garage engineer described the functionality of the electric car charging stations.

A representative for the Manhattan Borough President reiterated the Borough President's comments and recommendation for disapproval unless the conditions listed in her recommendation are addressed by the applicant.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a special permit pursuant to Section 74-712(b) of the Zoning Resolution, in conjunction with the application for the related action, is appropriate.

The requested actions would facilitate the development of a new 18-story mixed-use building at 7 West 21st Street containing 300 residential rental units, approximately 8,000 square feet of

ground floor retail, and 200 public parking spaces. The proposed building will contain two “wings” that will rise to 185 feet without setback on both West 21st and West 22nd Streets. The proposed development site is located within a C6-4A zoning district and within the Ladies’ Mile Historic District.

In addition to the special permit, the applicant seeks the grant of a special permit pursuant to Sections 13-45 and 13-451(a) to allow an attended public parking garage with a capacity for 200 parking spaces within the cellar and sub-cellar levels of the new building.

Section 74-712(b) Special Permit – C 150078 ZSM

The Commission believes that the grant of the special permit to modify height and setback requirements of Section 35-24, the rear setback requirements of Section 23-663, and the permitted obstruction requirements of Section 23-44 is appropriate.

The Commission believes that the scale and overall height of the proposed building are consistent with the existing built character of the area. The Commission observes that along West 21st and West 22nd Streets, many buildings have street walls that rise to heights between 150 and 185 feet without setback, and that these taller buildings are typically located within one-half block from Fifth Avenue, to which the development site is proximate. The Commission notes that adjacent buildings on both West 21st and West 22nd Streets have street wall heights of 150 feet without setback, and that Section 35-24(e)(6)(ii) allows the as-of-right maximum base height of the new development to exceed 125 feet up to 150 feet. The requested waiver to modify the height and setback requirements of Section 35-24 would allow street walls of 185 feet without setback along both West 21st and West 22nd Streets. The Landmarks Preservation Commission, in its first Certificate Appropriateness dated October 25, 2013 (15-0280), found that the proposed building is “in keeping with the scale of buildings found in this district and on this block,” and that the proposed height and massing of both wings “will be compatible with other buildings on these streets and in this historic district.” The Commission believes that the provision of street walls along both West 21st and West 22nd Streets in excess of 150 feet up to 185 feet is appropriate at this particular site within the Ladies’ Mile Historic District.

The Commission believes that the requested waiver of the rear setback requirements of Section 23-663 to exceed the maximum base height of 150 feet for 4 feet, 6 inches of height would be minimally visible from both streets, and would not adversely affect access to light and air to buildings or open spaces in the immediate vicinity.

The Commission believes that the location of the garage vents within the rear yard instead of above the garage entrances would result in a more desirable pedestrian experience along both West 21st and West 22nd Streets. The location of the glass atrium within the rear yard would provide a direct connection between the north and south wings, and would be minimally visible from the street.

The proposed development is proposed to exceed the maximum 10 FAR for the C6-4A zoning district up to 11.63 FAR through an as-of-right floor area bonus from the Inclusionary Housing program. In response to comments made by the Borough President in her recommendation regarding the distribution of affordable units, the applicant has stated, in a letter dated January 20, 2015, that approximately 60 affordable units will be provided in the development, 56% of which will be located in the north wing, and 44% of which will be located in the south wing. The applicant notes that the distribution mirrors the total apartment distribution between the two wings (58% of units in the north wing and 42% of units in the south wing).

The Commission acknowledges that the applicant will not be receiving any direct funding or subsidies from any City agencies for the affordable units, but will instead be receiving financing from bonds issued by the New York State Housing Finance Agency. The applicant has noted, in a letter dated January 20, 2015, that since the development will not be receiving any direct funding from the Department of Housing Preservation and Development (HPD), the green building requirements that are normally required of developments providing affordable units and receiving funding from HPD are not applicable to this development. In a follow up letter dated January 23, 2015, the applicant notes that the development will meet most of the mandatory sustainability measures required of a new development receiving funding from HPD, and will

exceed the required number of additional points that must be achieved for such development. The applicant, in the January 20th letter, notes that the development will not be participating in the U.S. Green Building Council's LEED program, but that many sustainable items that are part of the LEED checklist are integral to the development's design. While the Commission acknowledges that the development is not required to meet the requirements of either program, the Commission believes that new developments providing affordable units should be designed in an environmentally-responsible manner, and should seek to achieve the highest standard of sustainability normally required of any development receiving direct subsidies from the City.

In response to comments made by the Borough President in her recommendation regarding the location of green roofs, the applicant has stated, in the same letter dated January 20, 2015, that green roofs will be provided on the West 21st Street roof (49% of the non-mechanical roof area), and extensive plantings will be placed on the first floor roof in the courtyard and on the West 22nd Street roof (tenant recreation space). Roof areas that are not planted will be paved with light-colored pavers with a high solar reflectance index (SRI).

Sections 13-45 and 13-451(a) Special Permit – C 150077 ZSM

The Commission believes that the grant of the special permit to allow an attended public parking garage with 200 spaces in the cellar and sub-cellar levels of the building is appropriate. The Commission acknowledges that although the applicant seeks to designate all parking as public parking, the provision of such public parking may be permitted via a special permit pursuant to Section 13-451 provided that the proposed spaces will serve the parking needs of area residents.

The Commission notes that the site is currently occupied by a 256-space public parking lot that is licensed by the Department of Consumer Affairs, and that the proposed development would result in a nominal reduction of 56 public parking spaces and a consolidation of curb cuts from three to one on West 22nd Street and two to one on West 21st Street. Entrances to the facility will be located on both streets, and the exit will be located on West 22nd Street.

The Commission observes that many building ground floors along both West 21st and West 22nd Streets contain parking and loading entrances, which is reflective of the area's former role as a manufacturing district. The Commission believes that the location of parking entrances on both streets would not be inconsistent with the character of the existing streetscape of both streets. The Commission also believes that locating entrances on both streets would allow for the distribution of vehicles across the local street grid, and would therefore not create serious traffic congestion or unduly interrupt the flow of pedestrian traffic in the area. The facility will be fully-attended and will provide ten reservoir spaces, which will allow for the efficient movement of vehicles off the street.

The applicant documented the new and eliminated residential units and off-street parking spaces within one-third of a mile from the development site between 2003 and 2017, the project's expected build year, to demonstrate that the request for 200 public parking spaces is reasonable and not excessive in regard to recent trends in residential development and the provision of parking. Using data from the Department of Buildings, the Department of Consumer Affairs, and additional research performed by the applicant, the study found that between 2003 and 2017, the ratio of the change in off-street parking spaces to the change in residential units without the proposed 200 public parking spaces and 300 residential units is 3.1%. With the proposed 200 public parking spaces and 300 residential units, that ratio would increase to 7.1%. The Commission recognizes that the study assumes that although the parking spaces will not be accessory to the residential use on site, that the public parking spaces would serve the residential parking needs of residents both on the project site and in the immediate vicinity. The Commission notes that the ratio is well-below 20%, the Department of City Planning's expected growth ratio of new off-street parking spaces to new residential units for Manhattan Community District 5.

The Commission therefore believes that the ratio of new off-street parking spaces to new residential units with the proposed project demonstrates that the request for 200 public parking spaces is reasonable and not excessive in regard to recent trends in residential development and

the provision of parking. The Commission does, however, note that the area is rich in public transit options.

In a letter dated January 20, 2015, the applicant has stated that at least six electric car charging stations will be provided within the public parking garage, each of which will have the capability of charging two vehicles at once. Furthermore, the applicant stated that approximately ten spaces within the public parking garage will be dedicated to a car-sharing service.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-712(b) (Developments in Historic Districts) of the Zoning Resolution:

Such bulk modifications:

- (1) shall not adversely affect structures or open space in the vicinity in terms of scale, location and access to light and air; and
- (2) relate harmoniously to #buildings# in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

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 submitted by 7 West 21 LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-712(b) of the Zoning Resolution to modify height and setback requirements of Section 35-24 (Special street wall location and height setback regulations in certain districts), the rear setback requirements of Section 23-663 (Required rear setbacks for tall buildings in other

districts), and the permitted obstruction requirements of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) to facilitate the development of an 18-story mixed use building on property located at 7 West 21st Street (Block 823, Lot 31), in an C6-4A District located within the Ladies' Mile Historic 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 150078 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Morris Adjmi, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-030	Zoning Compliance Summary	09/18/2014
Z-100	Roof Plan/Site Plan	09/18/2014
Z-140	Waiver Section & Waiver Roof Plan	09/18/2014

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. 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.
5. Upon 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.

6. 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 150078 ZSM), duly adopted by the City Planning Commission on February 4, 2015 (Calendar No. 8), 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.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
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MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

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Wally Rubin, District Manager

November 14, 2014

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: 7-13 West 21st Street – Application for a special permit for public parking garage for residential growth and a waiver in street wall height and front setback, rear setback and rear yard pursuant to ZR Section 74-712 for development in Historic District

Dear Chair Weisbrod:

At the monthly meeting of Community Board Five on Thursday, November 13, 2014, the Board passed the following resolution with a vote of 36 in favor, 3 opposed, 1abstaining:

WHEREAS, 7-13 West 21st Street (“Site”) is located in a C64A zoning district in the Ladies’ Mile Historic District; and

WHEREAS, The Applicant, 7 West 21 LLC, has applied for a waiver for street wall height and front setback, rear setback and rear yard pursuant to ZR Section 74-712 (Developments in historic districts) and for a special permit to allow a 200-space public parking garage pursuant to ZR Sections 13-45 and 13-451 (Additional parking spaces for residential growth);

WHEREAS, The proposed actions are requested to facilitate development of a new building containing approximately 279,118.8 zoning square feet of mixed use development: approximately 271,184 zoning square feet of residential use, approximately 7,934.6 zoning square feet of local service/retail use, and a garage, which will serve the general public; and

WHEREAS, The proposed site is participating in the City’s inclusionary housing program to provide rental units affordable to households earning below the area median income; and

WHEREAS, The applicant wishes to install two vents in the rear yard, to allow additional venting of the parking garage, and

WHEREAS, Community Board Five approved an application to the Landmark Preservation Commission (“LPC”) for a certificate of appropriateness in September 2013; and

WHEREAS, The proposed building will replace a 256 space ground level parking lot, which was located on the Site until approximately October 2014 when the site was closed for environmental remediation; and

WHEREAS, The City Planning Commission (“CPC”) approved a special permit for a 363-space public parking garage on the Site on June 23, 2004 and renewed the special permit for an additional three years on

June 5, 2008 and for an additional three years on February 12, 2012 with an expiration of August 12, 2014;
and

WHEREAS, In 2004 CPC also approved (i) a zoning map amendment from an M1-6M to a C6-4A district for a five and a half block area bounded by Fifth Avenue, West 17 Street, Sixth Avenue and West 22nd Street and (ii) zoning text amendments to ZR Sections 11-44, 23-633 and 35-24 to clarify zoning text, grandfather a previously approved special permit, and allow street wall heights to match adjacent street walls provided that such height does not exceed 150 feet; and

WHEREAS, The proposed building will contain 300 dwelling units, which would permit 60 vehicle parking spaces as a matter of right but demonstrated that according to DCP guidelines, growth in parking has not kept pace with growth in residential population; and

WHEREAS, LPC approved a design for the proposed building that incorporates a straight 185 feet front wall with no front setback; therefore, be it

RESOLVED, Community Board Five **recommends approval** of the application for special permit for 200 spaces public parking garage and a waiver for front wall set back, rear yard setback and rear yard for developments in historic districts relating to construction of a residential building at 7-13 West 21st Street in the Ladies' Mile Historic District.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Eric Stern
Chair, Land Use, Housing and Zoning Committee



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Gale A. Brewer, Borough President

December 17, 2014

**Recommendation on ULURP Applications C 150077 ZSM
and C 150078 ZSM – 7 West 21st Street
By 7 West 21 LLC**

PROPOSED ACTION

7 West 21 LLC¹ (the “applicant”) seeks approval of two **special permits** pursuant to Section 74-712(b) and Sections 13-45 and 13-451 of the New York City Zoning Resolution (“ZR”), to permit an attended public parking garage with a maximum capacity of 200 spaces and to modify the height and setback requirements, rear setback requirements, and permitted obstructions requirements to facilitate the construction of an 18-story mixed-use development at 7 West 21st Street (Block 823, Lot 31) on a through lot located between Fifth and Sixth Avenues. The site is located in a C6-4A district within the Ladies Mile Historic District in Manhattan Community District 5.

The applicant seeks a special permit pursuant to ZR §74-712(b). In order to grant the bulk modifications of special permit § 74-712(b), the City Planning Commission (“CPC”) must find that the proposed development (1) shall not adversely affect surrounding structures or open space in terms of scale, location and access to light and air; and (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness from the Landmarks Preservation Commission (“LPC”).²

The applicant also seeks a special permit pursuant to ZR § 13-45 and 13-451. The special permit requires that all of the applicable conditions of ZR § 13-20 (SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES) be met and that the findings of §13-45 and 13-451 have been met. These findings are as follows:

- (1) the location of the vehicular entrances and exits to such parking facility will not unduly interrupt the flow of pedestrian traffic associated with uses or public facilities, including access points to mass transit facilities in close proximity thereto, or result in any undue conflict between pedestrian and vehicular movements, due to the entering and leaving movement of vehicles;
- (2) the location of the vehicular entrances and exits to such parking facility will not interfere with the efficient functioning of streets, including any lanes designated for specific types of users or vehicles, due to the entering and leaving movement of vehicles;

¹ 7 West 21 LLC has as sole member 7 West 21 Managing Member LLC, which is managed by William C. Friedland and Richard Chapman. Rose Associates has been retained to develop and manage the property.

² The LPC issued a Certificate of Appropriateness (COFA 15-0280) on October 25, 2013. LPC’s determinations will not be re-examined in this application.

- (3) such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (4) for public parking garages, that where any floor space is exempted from the definition of floor area, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion;
- (5) such parking facility will not be inconsistent with the character of the existing streetscape; and
- (6) the number of off-street parking spaces in such proposed parking facility is reasonable and not excessive in relation to recent trends in close proximity to the proposed facility with regard to:
 - (a) the increase in the number of dwelling units; and
 - (b) the number of both public and accessory off-street parking spaces, taking into account both the construction, if any, of new off-street parking facilities and the reduction, if any, in the number of such spaces in existing parking facilities.

PROJECT DESCRIPTION

The applicant proposes to construct an approximately 279,118 square foot, 18-story mixed-use building containing 300 residential units, twenty percent of which will be affordable, approximately 7,934 square feet of ground floor local retail use, and an attended public parking garage with 200 spaces. The building is split into two segments atop a one-story base. The residential units are located within these two segments on floors 2 through 18. The second floor also contains an accessory residential amenities space. The residential segments are accessed through separate lobby entrances on West 21st Street and West 22nd Street. The lobbies are connected in the midblock through an atrium space which projects into the open area provided between the two segments beginning at the top of the first floor. In addition, the ground floor contains the two retail spaces; one fronts West 22nd Street and as proposed has a larger footprint, and the other retail space fronts West 21st Street. The ground floor includes the two entrance and one exit ramps for the two-level parking garage below, as well as the entrances to the two residential accessory bike storage areas.

The building is proposed at a FAR of 11.63, below the maximum 12.0 FAR permitted with the use of the Inclusionary Housing bonus, and rises to a height of 185 feet on both street frontages. The design of the building uses stone terra cotta, metal façade materials, and metal windows in a pier grid design with cornice elements to distinguish the base and crown of the building facades. The entrances to the residential lobbies and retail spaces will be slightly recessed from the street line. The mid-block open area will be landscaped, and there is rooftop space proposed for tenant recreational use over the West 22nd Street segment.

The public parking garage will occupy approximately 42,274 gross square feet of parking area, encompassing portions of the ground floor, cellar and sub-cellar. The garage will be accessed by two entrance ramps, one on West 21st Street and one from West 22nd Street. Both streets are 60' in mapped width, defined as narrow in the ZR, and run in one direction. The parking entrance on West 21st Street is 13 feet in width, including splays. As part of the proposal, two other curb cuts

currently located in front of the development site will be eliminated from this street frontage. On West 22nd Street, the applicant proposes a 21 foot wide curb cut, including splays, which includes an entrance lane and an exit lane for the public parking garage. West 22nd Street is a one way street heading east, so once cars exit the nearest north-south route will be Fifth Avenue. This frontage currently has two curb cuts; as part of the proposal both will be eliminated and replaced with the single curb cut described above.

In discussions with the Borough President's Office, it was disclosed that the applicant plans to breakdown the unit size in the following manner: 58 studio units (46 market, 12 affordable), 70 1-bedroom units (36 market, 34 affordable), 58 2-bedroom units (45 market, 12 affordable, including the super unit), and 4 3-bedroom units, one of which will be affordable. These units will be permanently affordable up to 50 percent AMI. In addition, the units are proposed to be equally distributed throughout the two building segments, up to 85 percent of the height of the building, and that the fixtures and furnishing materials of the affordable units will be of a comparable quality to the market rate units. Furthermore, all building amenities, except for the parking, will be available to all tenants, and that any cost or fee for access will be prorated for the affordable units' residents. Lastly, it was also disclosed that six electric car charging stations are proposed for the garage, and that ten spaces will be devoted to a car share operator.

Area Context

The project site is located in a C6-4A zoning district in the Ladies Mile Historic District in Community Board 5, Manhattan. Two blocks north is Madison Square Park, which is becoming the center of a burgeoning residential neighborhood. Along Fifth Avenue is a C6-4M District which expands to a "T" along 22nd and 23rd Streets. C6-2A is mapped along Avenue of the Americas to the west of the site, and there are manufacturing district pockets two blocks east (M1-5M) and two blocks north of the project site (M1-6).

The site is well served by public transit. The F and M lines stop at West 23rd Street and Avenue of the Americas, a block and a half to the north and west of the site, and the N and R lines stop at East 23rd and Broadway, less than a full block away to the east and north. In addition, the site is within easy walking distance to the 23rd Street and 18th Street stations for the 1 line at Seventh Avenue, and the 23rd Street PATH station on Sixth Avenue. Nine bus lines also serve the immediate area.

The Ladies' Mile Historic District gets its name from the stretch of Broadway from East 9th Street to East 23rd Street that was famous for shopping in the late 19th Century. It now consists of a mix of low and mid-rise buildings, some loft buildings originally built for manufacturing or as warehouses, tall buildings on large lots, and taller thin buildings on small lots. Many of the loft buildings in the district were built prior to the 1916 Zoning Resolution and are characterized by high street walls and no setbacks.

The area within 600 feet is generally commercial office, industrial, and mixed-use development. There are three significant residential developments with retail on 6th Ave between West 26th Street and West 23rd Street, and commercial office buildings along Broadway and Fifth Avenue. Throughout the neighborhood ground floor retail is a prevailing trend, significantly along Fifth

Avenue and Avenue of the Americas. There have been recent rezonings (1995, 1998, and 2006) in the area that have also increased the number of residential units through new construction and conversion.

In addition to Madison Square Park, other neighborhood markers include a number of Individual Landmarks such as the Flatiron Building, the Scribner Building (now the United States Synagogue), Church of the Holy Communion Complex, the Gorham Manufacturing Company Building, and the Lord & Taylor Store. There are three other nearby Historic Districts as well; to the north, Madison Square North Historic District, and to the east, Gramercy Park and Stuyvesant Square historic districts.

Site Description

The Project Site is a vacant surface parking lot at 7 West 21st Street (Block 823, Lot 31) in a C6-4A district within the Ladies Mile Historic District in Manhattan Community District 5. The site is an irregularly shaped through-block parcel with frontages on West 21st Street and West 22nd Street, between Fifth Avenue and Avenue of the Americas. In the ULURP application, the site was stated to be operational and licensed by the Department of Consumer Affairs (“DCA”) for a maximum capacity of 256 spaces. In discussions with Borough President staff, it was disclosed that the site is currently undergoing brownfield remediation.

C6-4A Districts permit a maximum floor area ratio (FAR) of 10.0 for residential uses and 10.0 FAR for commercial uses. The site is also located within an Inclusionary Housing designated area, which allows for maximum FAR bonus of 2.0 if twenty percent of the floor area of the development is allocated for affordable housing. The maximum residential FAR with inclusionary housing is 12.0. In this district, the minimum base height along the street wall is 60 feet, and the maximum base height is 125 feet, at which point a 15 foot setback is required since the building fronts on narrow streets. The maximum permitted building height is 185 feet. Within this district, if the site is also located within a historic district, then when the base height of an adjacent building is higher than the maximum base height allowed, the permitted maximum base height is 150 feet instead of 125 feet.

Proposed Actions

The applicant proposes two special permits to facilitate the mixed-use development at 7 West 21st Street:

- 1) A special permit (C 150078 ZSM) pursuant to ZR § 74-712(b) for three waivers or modifications of the bulk requirements in order to facilitate the development of an 18-story mixed use building. The first waiver is to allow the building street wall to rise to a height of 185 feet without setback on both street frontages. This requires a waiver of the height and setback requirements of ZR § 35-24 which in summary states that a setback is required above the maximum street wall base height of 150 feet. The second waiver would permit an encroachment into the required rear yard setback for a portion of the 15th Floor in both building segments. Pursuant to ZR § 23-633, there is a requirement at this site for a 10 foot rear setback above the permitted 150 foot maximum base height. The

third request is to modify the permitted obstructions requirements of ZR § 23-44. Since the site is a through lot, a 60 foot rear yard equivalent must be provided, and there is a limit to the obstructions that can be placed in this yard. The vents for the garage and the atrium structure are not permitted obstructions and therefore require a modification to this section.

- 2) A special permit (C 150077 ZSM) pursuant to Sections 13-45 and 13-451 to permit an attended public parking garage on portions of the ground floor, cellar and sub-cellar with a maximum capacity of 200 spaces. 60 accessory residential spaces would be permitted as-of-right by the Zoning Resolution.

The Building will conform to all other applicable height, setback and floor area regulations.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on November 13, 2014, Manhattan Community Board 5 voted to recommend the approval of the application by a vote of 36 in favor, 3 opposed, 1 abstaining. The recommendation was submitted to the Department of City Planning on November 17, 2014.

BOROUGH PRESIDENT'S COMMENTS

The applicant is requesting two special permits; one for a public parking garage with a maximum capacity of 200 spaces and one for bulk waivers to facilitate the construction of a mixed-use building. What characterizes Ladies Mile is the range of height within the mid-block which reflects the district's two distinct periods of significant development: first as a premiere residential neighborhood and secondly as an area for department stores and destination shopping. The front setback waivers, by maintaining a consistent street wall height, seek to ensure that this character is maintained. The special permit of ZR § 74-712 is a tool to encourage the development of vacant or underutilized parcels within a historic district, with the underlying understanding that since landmarking adds additional requirements to development there should be some relief from the zoning regulations. The relief offered should be commensurate with the benefits the development owner will reap. Historic Districts provide real and tangible benefits in terms of stabilizing and increasing property values, of providing a sense of place and architectural markers, and in general being places people want to visit and live.

The proposed building itself is well-designed and is in keeping with the massing, street wall continuity, and overall architectural rhythm of the taller buildings in the district. As noted in the Certificate of Appropriateness issued by the LPC, "the careful massing of the building into two distinct, but architecturally related parts allows the facades to relate successfully to the streetscape on both West 21st Street and West 22nd Street." In addition, the design of the proposed building echoes the strongly articulated base, shaft, and crown design of its compatriots in the district.

In addition to helping to create a contextually appropriate building, the bulk waivers will facilitate the inclusion of the bonus floor area generated by the inclusion of affordable housing

units. Because this bonus and the associated bulk waivers are permanent, the affordable housing should be held to the highest standard of quality and inclusiveness. The proposed development includes two connected buildings, so the affordable units must be spread evenly between the two segments. Furthermore, the affordable units should be spread on as many floors of the building as possible, rather than the minimum 65 percent of floors mandated by the ZR. The fixtures and furnishings in the affordable units should be of a comparable quality to the market rate units, and the amenities provided within the building, save the parking, should be accessible to the affordable tenants at a reduced cost. In discussions with the Borough President's office, the applicant indicated that these requests would be features of the project, but has not yet adjusted the application to reflect this information. The Borough President is not comfortable approving the waivers without explicit confirmation that these units will not only remain affordable but that they will be distributed throughout both building segments and comparable in all respects.

Of broader concern is that the affordable units, which already generate a permanent floor area bonus, are being cross-subsidized by potentially multiple state bond and tax programs. This office has stated previously that this "double-dipping" should be uncoupled – we should be getting more for our investment. Given the value of real estate in Manhattan, projects should provide additional affordable units when a developer is utilizing and receiving multiple benefits. Lastly, while the developer stated in discussions with this office that the affordable units would be distributed in both building segments, there is no proactive regulatory requirement that they do so. The only way to guarantee that there is no two-door building and that the city is receiving an amount of affordable units commiserate with all benefits is to modify the zoning text that governs the voluntary Inclusionary Housing Program.

In addition, the request for a public parking garage raises a few concerns. Given the adjacent availability and density of mass transit options, and the central location of this site within the borough, we have to question whether the number of proposed parking spaces is truly appropriate, regardless of the the loss of spaces and influx of residential units. The residential study that accompanies the application lays out the argument for parking: that over the past ten years, far more residential units have been created than new parking spaces. However, the study has as the underlying assumption that there was an appropriate parking supply at the start of this timeframe. The study parameters further assume that a ratio of parking spaces of 20 percent of all residential units is appropriate throughout the Manhattan Core, not taking into account neighborhood differences or the availability of transit. These nuances are worth considering.

Furthermore, the entrances to this garage are not located on or immediately near major cross-borough access routes. While no CEQR thresholds have been triggered warranting further analysis or impact, this office does not concur that there will no adverse impact. Although the previous use of the site was an at-grade parking lot, which also had such impact, a negative impact in the past should not be justification for continuing such impact into the future. When evaluating this application, the City Planning Commission should take all of these additional factors into account. If the Commission does find that the size of the garage is appropriate, it should mandate the inclusion of spaces for a car share service to help discourage private car ownership in Manhattan. In discussions with the Borough President's staff, the applicant has indicated that 10 car share spaces will be included in the garage. The Commission should ensure that this verbal commitment is made real. Furthermore, the applicant indicated the six electric

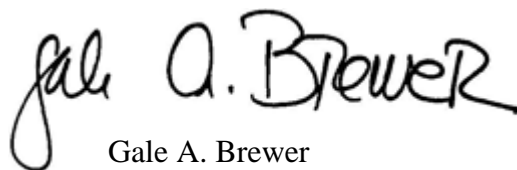
charging stations will be included in the garage. Prior to approval, the building plans should be updated to show the location of these spaces.

The proposed project, if modified to ensure the true inclusion of the affordable units, will be an appropriate addition to the Ladies Mile Historic District. One of the elements that distinguish this district was the use of innovative building technology at the time of its development. In order to continue this element of the district, the proposal should be further modified to include sustainable building elements, including a green roof over the midblock atrium for which the building is receiving a rear yard waiver.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends disapproval of ULURP Application Nos. C 150077 ZSM and C 150078 ZSM, unless:

- 1. The approved parking plans are revised to show the location of 6 electric car charging stations to ensure that they are accessible and the inclusion of 10 car share spaces;**
- 2. A written commitment is made that the regulatory agreement will reflect:**
 - a. the equal distribution of the affordable units throughout both building segments;**
 - b. that such distribution will occur at all levels up to 85 % of the total height of the building;**
 - c. comparable quality of fixtures and furnishings for the affordable units; and that**
 - d. all amenities, such as the children's room, gym, lounge, game room, and the rooftop recreational area will be accessible to all tenants and that the rates for such, if applicable, will be prorated to be affordable to all tenants;**
- 3. The regulatory agreement will include language to ensure that even if the amenities are changed in the future, that all amenities will remain affordable to all of the occupants; and**
- 4. The approved waiver plans will be revised to include a note stating that the atrium roof will be a green roof, and that a note is added clarifying that the green roofs on the atrium and the 21st Street segment will be vegetated roofs that would meet the requirements of the most current version of the LEED rating system of the United States Green Building Council.**



Gale A. Brewer
Manhattan Borough President