



CITY PLANNING COMMISSION

February 29, 2012, Calendar No. 5

C 120085 ZSM

IN THE MATTER OF an application submitted by Post Office Garage, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-54 of the Zoning Resolution to modify the rear yard requirements of Section 33-292 (Required yards along district boundary coincident with rear lot lines of two adjoining zoning lots) to allow a 20-foot rear yard 23 feet above curb level for an existing 8-story attended public parking garage building, on property located at 340 West 31st Street (Block 754, Lot 63), in a C6-3X District in the Borough of Manhattan, Community District 4.

The application was filed by Post Office Garage LLC on October 5, 2011 for a special permit pursuant to Section 74-54 of the Zoning Resolution to waive rear yard requirements under Section 33-292 which require a 30-foot rear yard for a zoning lot in a Commercial District whose rear lot line coincides with a rear lot line of a zoning lot in an adjoining Residential District. This would facilitate the continued operations of a 309-space public parking garage on the sub-cellar floor through roof levels of an existing, eight-story parking structure.

RELATED ACTIONS

In addition to the proposed special permit (C 120085 ZSM) which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following application, which are being considered concurrently with this application:

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| C 110374 ZSM | 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 309 spaces |
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BACKGROUND

A full background discussion and description of this application appears in the related report for a special permit (C 110374 ZSM).

ENVIRONMENTAL REVIEW

This application (C 120085 ZSM), in conjunction with the application for the related action (C 110374 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 10DCP033M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on October 17, 2011.

UNIFORM LAND USE REVIEW

This application (C 120085 ZSM), in conjunction with the application for the related action (C 110374 ZSM), was certified as complete by the Department of City Planning on October 17, 2011, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02 (b).

Community Board Public Hearing

Community Board 4 held a public hearing on the application (C 120085 ZSM) on December 17, 2011, and on that date, by a vote of 28 in favor, 6 opposed, 0 abstentions, and 0 present but not eligible to recommend, adopted a resolution recommending approval of the application.

A summary of the recommendations of Community Board 4 appears in the related report for a special permit (C 110374 ZSM).

Borough President Recommendation

This application (C 120085 ZSM) was considered by the Borough President, who issued a recommendation on January 18, 2012, approving the application.

City Planning Commission Public Hearing

On January 4, 2012 (Calendar No. 2), the City Planning Commission scheduled January 25, 2012 for a public hearing on this application (C 120085 ZSM). The hearing was duly held on January 25, 2012 (Calendar No. 4) in conjunction with the public hearing on the related application (C 110371 ZSM).

There were two appearances, as described in the related report for a special permit (C 110374 ZSM) and the hearing was closed.

CONSIDERATION

The Commission believes that grant of this special permit (C 120085 ZSM), is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appears in the related report for a special permit (C 110374 ZSM).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-52 (Rear Yard Modification) of the Zoning Resolution:

1. that the public parking garage will alleviate excessive on-street parking demand and thereby relieve traffic congestion in the area; and
2. that because of site limitations such modification is necessary for the proper design and operation of the public parking garage.

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 201 of the New York City Charter, that based on the environmental determination and the consideration and findings described in this report, the application submitted by Post Office Garage, LLC for the grant of a special permit pursuant to Section 74-54 of the Zoning Resolution to modify the rear yard requirements of Section 33-292 (Required yards along district boundary coincident with rear lot lines of two adjoining zoning lots) to allow a 20-foot rear yard 23 feet above curb level for an existing 8-story attended public parking garage building, on property located at 340 West 31st Street (Block 754, Lot 63), in a C6-3X District in the Borough of Manhattan, Community District 4, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 120085 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 Number</u> | <u>Title</u> | <u>Last Date Revised</u> |
|-----------------------|----------------------------------|--------------------------|
| Sheet 2 of 6 | Site Plan | October 5, 2011 |
| Sheet 6 of 6 | Section & Rear Yard Encroachment | October 5, 2011 |

- 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 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.

- 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 120085 ZSM), duly adopted by the City Planning Commission on February 29, 2012 (Calendar No. 5), 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
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SHIRLEY A. McRAE, Commissioners