



CITY PLANNING COMMISSION

October 3, 2007/Calendar No. 13

C 070204 ZSK

IN THE MATTER OF an application submitted by the Century 21 Department Stores LLC and Michael Sonnaband LLC pursuant Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-512 of the Zoning Resolution to allow a six-level public parking garage and to permit floor space on three levels (part of 1st and 3rd levels and the 2nd level) up to a height of 23 feet above curb level to be exempted from the definition of floor area as set forth in Section 12-10 (Definitions) of the Zoning Resolution and to permit public parking spaces to be located on the roofs (part of 5th level and 7th level) of the public parking garage to facilitate the enlargement of the commercial development at 416 to 450 87th Street and 415 to 435 88th Street (Block 6050, Lots 15,19, 51 and 59), in a C4-2A District, Borough of Brooklyn, Community District 10.

This application for a special permit for a public parking garage, pursuant to Section 74-512 of the Zoning Resolution was filed by Century 21 Department Stores LLC and Michael Sonnaband LLC on November 13, 2006, to facilitate an unattended public parking garage with a maximum capacity of 279 spaces and an enlargement to an existing commercial development located at 416 to 450 87th Street and 415 to 435 88th Street (Block 6050, Lots 15,19, 51 and 59) in the Bay Ridge area of Community District 10, Brooklyn.

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 action:

C 070203 ZMK: Amendment of the Zoning Map, Section No. 22b; changing from a C8-2 District to a C4-2A District in the Special Bay Ridge District of Brooklyn.

BACKGROUND

The special permit application (C 070204 ZSK), in conjunction with the related action for an amendment of the zoning map (C 070203 ZMK), would facilitate the development of a six-story public parking garage with 279 spaces and 30,470 square feet of new retail space in the Bay Ridge section of Community District 10, Brooklyn.

Existing Conditions, Land Use and Zoning

Century 21 currently has an 80,000 square feet store on 86th and 87th Streets between Fourth and Fifth Avenues. Century 21 also has a one-story retail annex, a three-story warehouse and a 68-space accessory surface parking lot (Block 6050, Lots 15, 19, 51 and 59) across 87th Street from its main store.

Land uses in the surrounding area include regional and local retail along 86th and 87th Streets and a number of auto-related uses along Fourth Avenue. Beyond Fourth Avenue to the west, and Fifth Avenue to the east, the area is predominantly low-scale residential in character with ground-floor retail uses along the avenues in two- to four-story buildings.

The area surrounding the commercial corridor is zoned largely R4-1 and R5B, reflective of the existing low density residential development. The commercial areas are zoned C4-2A and C8-2 between Fourth and Fifth Avenues, from 86th to 95th Street. The western side of Fourth Avenue, beyond 100 feet, is zoned R5B and R4-1, R6A with a C2-3 overlay on Fourth Avenue south of 89th Street, and R6B with a C2-3 overlay on the eastern side of Fifth Avenue south of 86th Street.

The 86th Street corridor and surrounding streets are the main commercial areas of Bay Ridge.

Project Description

The applicants propose enlargement of the Annex on 87th Street with the addition of a second story with 15,120 square feet of new retail space on 87th Street and a 279 space, unattended public parking garage. The garage would be in a six story building on 88th Street that would include 15,350 square feet of ground floor retail space. The building would have roof top parking and there would also be parking on the roof of the 2nd story retail addition on 87th Street.

The garage would have a separate entrance and exit, each with 12-foot 6-inch curb cuts on 88th Street. To avoid vehicular conflicts, the garage exit would be 25 feet west of the entrance on 88th Street, a one-way, eastbound street. The garage would include fourteen reservoir spaces. Two passenger elevators would provide access from the garage to street-level and to the enlarged retail annex. Upon exiting the garage, vehicles would come to a full stop at a gate arm before proceeding into 88th Street. Warning devices would alert pedestrians of a vehicle exiting the garage.

The garage exterior would have a mesh screen covering the façade. Rooftop lighting would be directed to avoid any impact on the surrounding uses.

Amendment of the Zoning Map - C 070203 ZMK

The site of the proposed new public parking garage and additional retail is currently zoned C4-2A and C8-2 and is also located within the Special Bay Ridge District (SBRD). C8-2 districts permit automotive and other commercial uses at a maximum Floor Area Ratio (FAR) of 2.0 and typically include auto repair, gas stations, car dealerships and car washes as well as general retail uses. C4-2A districts permit commercial uses serving a larger area at a maximum FAR of 3.0. In C4-2A and C8-2 Districts within the SBRD, commercial uses can be constructed to a maximum base height of 60 feet and a maximum height of 70 feet.

The proposed rezoning would extend the existing C4-2A district boundary easterly to 200 feet from 5th Avenue to include all of the applicants' site. The zoning change from C8-2 to C4-2A would increase the permitted FAR from 2.0 to 3.0 and would allow the development of the proposed 30,470 square feet of new retail and the 279-space parking garage.

Special Permit - C 070204 ZSK

The applicants are requesting a Special Permit pursuant to Section 74-512 of the Zoning Resolution to allow a public parking garage with 279 spaces, rooftop parking and an exclusion of the first three floors of parking up to 23 feet above curb level from the definition of floor area.

ENVIRONMENTAL REVIEW

This application (C 070204 ZSK) in conjunction with the related action (C 070203 ZMK) 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 07DCP062K. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Conditional Negative Declaration was prepared on July 6, 2007 stating the following:

The applicant agrees via a restrictive declaration to prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan for the Department of Environmental Protection (DEP) for approval. Remediation measure would be undertaken to pursuant to the remediation plan.

The restrictive declaration also restricts the manner in which the property may be developed or redeveloped, by requiring the remediation measures to serve as a condition precedent to any change of use in any such development or redevelopment of the property.

The applicant signed the conditional negative declaration on July 9, 2007. The conditional negative declaration was published in the City Record on July 16, 2007. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received and the conditional negative declaration was issued on September 4, 2007. The conditional negative declaration was published in the New York State Environmental Notice Bulletin on September 12, 2007.

UNIFORM LAND USE REVIEW

This application (C 070204 ZSK) in conjunction with the related action (C 070203 ZMK) was certified as complete by the Department of City Planning on July 9, 2007 and was duly referred to Community Board 10 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 10 held a public hearing on this application (C 070204 ZSK) in conjunction with the related action (C 070203 ZMK) on July 11, 2007, and on that date by a vote of 39 in favor, 0 opposed and 1 recusal, adopted a resolution recommending approval of the applications.

Borough President Recommendation

This application (C 070204 ZSK) in conjunction with the related action (C 070203 ZMK) was considered by the Borough President, who issued a recommendation approving the applications on August 15, 2007.

City Planning Commission Public Hearing

On August 22, 2007 (Calendar No. 2), the City Planning Commission scheduled September 5, 2007, for a public hearing on this application (C 070204 ZSK). The hearing was duly held on September 5, 2007 (Calendar No. 24) in conjunction with the hearing for the related action (C 070203 ZMK).

There were three speakers in favor of the application, all representing the applicant. The attorney for the applicant described the actions, the proposed mixed-use project and how the proposal would be in compliance with each of the required special permit findings. He stated that the addition of the ground floor retail space and additional parking in this area would spur job growth in this neighborhood. The environmental consultant for the applicant discussed the traffic aspects of the

proposed project. Another representative of the applicant stated that he believed that the proposed development of this long-vacant site would create jobs in the neighborhood.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for a special permit (C 070204 ZSK) in conjunction with related application for a zoning map change (C 070203 ZMK) is appropriate. The zoning map amendment and the approval of special permit would allow the expansion of the existing annex of the Century 21 department store with the addition of 30,470 square feet of new retail space and the construction 279 space public parking garage.

The proposed zoning change from C8-2 to C4-2A is an extension of the existing C4-2A district to include all of the applicants' site and the higher FAR of the proposed C4-2A district would facilitate the additional retail space and the garage that would serve the 86th Street commercial corridor.

The Commission notes that the garage entrance is located on 88th Street, between 4th and 5th avenues, both of which are major streets. 86th Street, two blocks to the north, is also a major street, and the garage is within one quarter mile of the Gowanus Expressway, which is an arterial highway.

The Environmental Assessment Statement prepared for the project noted that it would not result in more than 50 peak-hour vehicular trips and therefore would not result in significant traffic impacts.

The garage entrance is located close to the 86th Street shopping corridor. Vehicles would use 4th Avenue to access the garage and 5th Avenue after leaving the garage. These two streets are not local residential streets. The garage provides the required 14 reservoir spaces. The Commission notes that the area around the garage contains regional retail uses along 86th Street and there are auto related uses along Fourth Avenue and 88th Street. Lighting on the roof of the garage would not be directed to the abutting streets or uses and the Commission believes that the roof top parking would not impair the character of the neighborhood.

The Commission believes there is a need for additional off-street parking in this major commercial area. The Commission notes that the only existing off-street public parking facility serving the area is a 204 space municipal lot located on 5th Avenue between 85th and 86th streets. Furthermore, the Commission notes that the garage will be open in the evenings to provide supplemental valet parking space for nearby restaurants and that in its 2005 Needs Report, Community Board 10 states that “Traffic related issues are a major concern in our district. New initiatives are needed along our commercial strips to provide more off-street parking.” Without the floor area exemption requested, the garage would accommodate 90 fewer spaces than the proposed 279.

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Section 74-512 of the Zoning Resolution:

- a) that the principal vehicular access for such use is located on an arterial highway, or major street, or a secondary street within one-quarter mile or an arterial highway or major

street;

b) that such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;

c) that such use has adequate reservoir space at the vehicular entrances to accommodate either ten automobiles or five percent of the total parking spaces provided by the use, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles;

d) that the streets providing access to such use will be adequate to handle the traffic generated thereby;

e) that, where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development of adjacent areas; and

(f) 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.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to following condition:

The applicant agrees via a restrictive declaration to prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan for the Department of Environmental Protection (DEP) for approval. Remediation measure would be undertaken to pursuant to the remediation plan.

and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by Century 21 Department Stores LLC and

Michael Sonnaband LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-512 of the Zoning Resolution to allow a seven-level unattended public parking garage with a maximum capacity of 279 spaces and to permit floor space on three levels (part of 1st and 3rd levels and the 2nd level) up to a height of 23 feet above curb level to be exempted from the definition of floor area as set forth in Section 12-10 (Definitions) of the Zoning Resolution and to permit public parking spaces to be located on the roofs (part of 5th level and 7th level) of the public parking garage to facilitate the enlargement of a commercial development at 416 to 450 87th Street and 415 to 435 88th Street (Block 6050, Lots 15, 19, 51 and 59), in a C4-2A District, Borough of Brooklyn, Community District 10, is approved, subject to the following conditions:

1. The property that is the subject of this application (C 070204 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by SBLM Architects, filed with this application and incorporated in this resolution:

<i>Drawing No.</i>	<i>Title</i>	<i>Drawing Date</i>
CPC-P1	Proposed Site Plan	7/05/07
CPC-P2	First Floor Plan	7/05/07
CPC-P3	Second Floor Plan-Parking Level 1	7/05/07
CPC-P4	Third Floor Plan-Level 2 Parking	7/05/07
CPC-P5	Fourth Floor Plan-Level 3 Parking	7/05/07
CPC-P6	Fifth Floor Plan-Level 4 Parking	7/05/07
CPC-P7	Sixth Floor Plan-Level 5 Parking	7/05/07
CPC-P8	Roof Plan-Level 6 parking	7/05/07

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 plan listed above which has 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 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, and terms or conditions of this resolution, 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 powers of the City Planning Commission, or of any 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.
7. The development shall conform to all conditions, modifications and alterations set forth in the conditional negative declaration (CEQR No. 07DCP062K) dated September 4, 2007, issued pursuant to the New York State and New York City Environmental Quality Review. These conditions, modifications and alterations are as follows:

The applicant agrees via a restrictive declaration to prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan for the Department of Environmental Protection (DEP) for approval. Remediation measure would be undertaken to pursuant to the remediation plan.

The above resolution (C 070204 ZSK), duly adopted by the City Planning Commission on October

3, 2007 (Calendar No. 13), 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, AICP, Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

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