



CITY PLANNING COMMISSION

September 19, 2007/Calendar No. 8

C070381 ZSM

IN THE MATTER OF an application submitted by Columbus 95th Street LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 100 spaces, including 43 accessory spaces, on portions of the ground floor, cellar and subcellar, and to allow floor space 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), within the C1-9 District portion of an existing mixed use building on property located at 95 West 95th Street (Block 1209, Lot 1), in C1-9 and R9 Districts, Borough of Manhattan, Community District 7.

This application for a Special Permit was filed by Columbus 95th Street LLC on March 9, 2007, to allow the conversion and reconfiguration of a portion of two existing accessory parking garages located in a C1-9 district, to a public parking garage with a maximum of 100 spaces, including 43 accessory spaces, and to exempt 925 square feet of floor area on the ground floor from the definition of floor area, pursuant to Section 13-562 and 74-52 of the Zoning Resolution.

BACKGROUND

The project site (Block 1209, Lot 1) is located between West 95th Street and West 96th Street on Columbus Avenue in Manhattan Community District 7. The site currently contains a primarily residential 33-story building with ground floor commercial uses.

The area surrounding the project site is predominantly residential in character. Much of Columbus Avenue from West 87th Street to West 104th Street was developed through urban renewal plans that produced several large residential towers 20 to 35 stories in height and relatively little commercial space. Many of the side streets in the area, however, were not redeveloped under urban renewal and remain smaller four to five story townhouses and apartment buildings.

Zoning

The project site is located within C1-9 and R9 zoning districts. The C1-9 zoning district is mapped along Columbus Avenue to a depth of 150 feet, and the R9 district is mapped on the northern part of the midblock between Central Park West and Columbus Avenue.

In addition, the project site is located within a Large Scale Residential Development (LSRD), which was approved by the City Planning Commission in 1963 and paralleled the public policy set forth in the West Side Urban Renewal Plan. Although the provisions of the West Side Urban Renewal Area expired in 2002, the provisions of the LSRD remain. The project site (which was designated as Site 10 of the LSRD) is limited to 244,000 square feet of residential floor area, 4,200 square feet of commercial floor area, and 98 accessory parking spaces are required pursuant to the LSRD.

Parking Garage

The project site currently contains two unattended accessory parking garages with separate fifteen foot wide curb cuts along the southern side of West 96th Street. The first curb cut, located approximately 125 feet from Columbus Avenue in the C1-9 zoning district, serves the sub-cellar level where 49 accessory parking spaces are located. The second curb cut, located approximately 175 feet from Columbus Avenue in the R9 zoning district, serves the cellar level (which is located directly above the sub-cellar level) and contains another 49 accessory parking spaces.

As certified, the applicant is proposing to add two new walls within the cellar and sub-cellar levels respectively, that would separate the portion of the garages within the C1-9 district from the portion of the garages within the R9 district. In addition, two new vehicular elevators would be added on the sub-cellar level in both zoning districts, connecting the sub-cellar level to the cellar level above. As a result of this reconfiguration, two bi-level garages would be created. The western curb cut, located within the C1-9 district, would be used as an entrance to a two-level, 100-space, attended public parking garage containing 20,558 square feet of floor area. Forty three of the spaces would be reserved as accessory spaces.

Vehicles would access the proposed public parking garage from West 96th Street via the existing 15-foot wide curb cut and one-way, 14 foot 3 inch wide ramp and descend to the sub-cellar level

where a parking attendant would park the vehicle either on the sub-cellar level or on the cellar level via the new elevator. West 96th Street is a two-way, 100-foot wide street that serves as a major east-west transportation corridor. Additionally, traffic signals at the bottom and the top of the ramp would regulate inbound and outbound traffic and an audible and visual warning device would alert pedestrians of outgoing vehicles.

The eastern curb cut located in the R9 district would access a smaller, two level accessory parking garage with 55 accessory spaces. In total, 98 accessory parking spaces would remain on the project zoning lot.

The applicant is also requesting to waive 925 square feet of floor area from the definition of floor area pursuant to Section 74-52 of the zoning resolution. This request is being made because the proposed public parking garage will generate 925 square feet of commercial floor area on the ground floor that was previously exempted from floor area as an accessory use. The project site currently contains 4,200 square feet of commercial space, the maximum allowed pursuant to the LSRD as described above. Therefore, the change of use will exceed commercial floor area limitation on the site.

Section 13-562 and 74-52 of the Zoning Resolution (Parking Garages or Public Parking Lots in High Density Central Areas) permits public parking garages with a maximum of 100 spaces in C1-9 districts and allows for floor area exemptions provided that findings must be made relating to compatibility with surrounding uses, parking demand, traffic congestion, impacts on residential streets, pedestrian flow, and reservoir spaces.

ENVIRONMENTAL REVIEW

This application (C 070381 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 07DCP013M. 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 May 7, 2007.

UNIFORM LAND USE REVIEW

This application (C 070381 ZSM) was certified as complete by the Department of City Planning on May 7, 2007 and was duly referred to Community Board 7 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 7 held a public hearing on this application on July 10, 2007 and on that date, by a vote of 32 in favor, 0 opposed, and 2 abstaining, adopted a resolution recommending disapproval of the application.

The Community Board believed that the application did not meet the required findings for the special permit and noted that the proposed operation and reconfiguration of the existing parking garages would greatly inconvenience residents and potentially result in unsafe conditions.

Borough President Recommendation

This application (C 070381 ZSM) was considered by the Borough President, who issued a recommendation approving the application on August 15, 2007, subject to the conditions that:

- 1) Thirty-two spaces be prioritized for public parking spaces rented on a monthly basis;
- 2) The applicant makes garage design improvements;
- 3) Nineteen existing vacant accessory spaces be leased to tenants; and
- 4) The applicant pursue the creation of a loading and unloading zone in front of the building's entrance at West 95th Street.

City Planning Commission Public Hearing

On August 8, 2007 (Calendar No. 5), the City Planning Commission scheduled August 22, 2007, for a public hearing on this application (C 070381 ZSM). The hearing was duly held on August 22, 2007 (Calendar No. 29). There were three speakers in favor of the application and none in opposition.

The Senior Planner for the Manhattan Borough President restated the Borough President's approval of the application and the conditions for such approval. The land use counsel for the applicant reviewed the existing conditions at the proposed project site and the purpose of the requested action. The traffic consultant for the applicant reviewed the traffic flow and operation of the existing accessory parking garages and the proposed public parking garage. In addition, the traffic consultant highlighted certain changes to the design of the garage that were made in response to some of the concerns raised by the Community Board and Borough President.

There were no other speakers, and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of the special permit (C 070381 ZSM) is appropriate.

The Commission notes that the proposed public parking garage would be located in a high-density neighborhood with locally serving retail and relatively little public parking, and that access to the proposed garage would be primarily from Columbus Avenue, West 96th Street, and Central Park West, which are not local streets.

The Commission notes that there are currently 98 accessory parking spaces located within two separate parking garages on the project site and that the applicant is proposing to maintain this number of accessory spaces. The Commission further notes that the proposed public parking garage would add an additional 57 public parking spaces to the project site, which, according to the environmental assessment statement completed for the garage, would likely result in a relatively modest increase in traffic with a maximum of 30 additional vehicle trips during the late afternoon hour of 4:00pm to 5:00pm. The Commission believes that those additional vehicles

would not unduly inhibit traffic or pedestrian flow. Ten reservoir spaces would be provided within the public parking garage and warning signals and buzzers would be located at the entrance to the garage ramp to alert pedestrians of vehicles exiting the facility.

Additionally, the Commission recognizes that the proposed conversion of the existing accessory parking garage to a public parking garage would cause 925 square feet of floor area on the ground floor to be counted toward commercial floor area, exceeding that allowed by the large scale residential development within which the project is located. The Commission notes that an exemption of this floor area is needed for the conversion to take place and that the proposed public parking garage would help address some of the unmet residential parking needs in this neighborhood.

The Commission notes that the application was revised on September 6, 2007, to provide a pedestrian walkway and door that would connect the building core to the accessory parking garage and to provide for emergency access between the accessory and public parking garages in case of elevator failure. The Commission notes that these changes were made in response to some of the concerns raised by community residents.

FINDINGS

Based upon the above consideration, the City Planning Commission hereby makes the following finding required by Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas);

1. That such use will not be incompatible with, or adversely affect the growth and development of, uses comprising vital and essential functions in the general area within which such use is to be located;
2. That such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
3. That such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;

4. That such use has adequate reservoir space at the vehicular entrances to accommodate automobiles equivalent in number to 20 percent of the total number of spaces up to 50 and five percent of any spaces in excess of 200, but in no event shall such reservoir space be required for more than 50 automobiles;
5. That the streets providing access to such use will be adequate to handle the traffic generated thereby;
6. Not applicable
7. That, where any floor space is exempted from the definition of floor area, such additional floor spaces 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; 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 described in this report, the application submitted by Columbus 95th Street LLC (C 070381 ZSM) for the grant of a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 100 spaces, including 43 accessory spaces, on portions of the ground floor, cellar and subcellar, and to allow floor space 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), within the C1-9 District portion of an existing mixed use building on property located at 95 West 95th Street (Block 1209, Lot 1), in C1-9 and R9 Districts, Borough of Manhattan, is approved subject to the following conditions:

1. The application that is the subject of this application (C 070381 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 and 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	8/14/07

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 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. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. 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.
6. 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.

7. 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, duly adopted by the City Planning Commission of September 19, 2007 (Calendar No. 8), is filed with the Office of the Speaker, City Council, and 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, Esq., Vice Chairman

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