



CITY PLANNING COMMISSION

February 11, 2004/Calendar No. 25

C 030215 ZSM

IN THE MATTER OF an application submitted by 2-10 West End Avenue Associates, 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 150 spaces on portions of the first floor, cellar and sub-cellar, of a proposed mixed building to be constructed on a zoning lot located at 2-10 West End Avenue (Block 1151, Lots 1, 61 and 63), in a C4-7 District, Borough of Manhattan, Community District 7.

The application for a special permit was filed by 2-10 West End Avenue Associates, LLC on November 15, 2002 to facilitate a 150-space public parking garage on a property located on West End Avenue between West 59th and West 60th streets. This action, in conjunction with the related actions, would facilitate a 31-story residential building with ground floor commercial uses and a below-grade public parking facility at 2 West End Avenue.

RELATED ACTIONS

In addition to the special permit that is the subject of this report, this action is being considered concurrently with the following actions:

C 030214 ZMM Amendment of the Zoning Map, Section No. 8c; and

N 030549 ZRM Amendment of the Zoning Resolution to allow the Inclusionary Housing program in C4-7 districts in Manhattan, Community District 7.

BACKGROUND

The applicant, 2-10 West End Avenue Associates, LLC, is requesting a special permit pursuant to Zoning Resolution Sections 13-562 and 74-52 to construct a 150-space public parking garage in association with a proposed 31-story residential building on West End Avenue between West 59th and 60th streets.

A full background discussion and description appears in the report on the related application for an amendment of the Zoning Map (C 030214 ZMM).

ENVIRONMENTAL REVIEW

This application, in conjunction with the related actions, 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 03DCP037M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on January 5, 2004, stating the following:

1. The applicant agrees to conduct a Phase II Environmental Site Assessment for the project site (Block 1151, Lots 1, 61 and 63), pursuant to the DEP-approved Site Investigation Protocol, which includes site plans displaying existing surface grade and sub-grade elevations and a map depicting the twelve proposed soil boring locations. The borings will be advanced to bedrock or twenty feet below grade, whichever is encountered first. The borings will be monitored with a photo ionizing detector, and two samples will be obtained from each boring for analysis. The samples will be analyzed for VOCs via EPA Method 8260, for SVOCs via EPA Method 8270 and 8 RCRA Metals. In addition to the soil borings, three monitoring wells will be installed on the project site. The groundwater samples will be analyzed for the same parameters as the soil samples. In addition to the above, a sample will be taken and analyzed from a potential dry well present on the site;
2. Implement a DEP-approved Health and Safety Plan (HASP) for the handling and removal of all hazardous materials, including lead-based paints and asbestos containing materials (ACMs), in accordance with all federal, state and local regulations; and
3. Complete an electromagnetic (EM) survey of the project site with the purpose of locating USTs/ASTs. All USTs/ASTs, including dispensers, piping, and fill ports, must be properly removed/closed in accordance with all applicable NYSDEC regulations prior to starting construction and demolition activities. Elements of the approved protocol include a magnetometer survey in order to locate underground storage tanks.

UNIFORM LAND USE REVIEW

This application (C 030215 ZSM), in conjunction with the application for the related action (C 030214 ZMM) were certified as complete by the Department of City Planning on November 3, 2003 and were duly referred to Community Board 7 and the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules. In addition, the related application to amend the Zoning Resolution (N 030549 ZRM) was referred for information and review in accordance with the procedure for referring non-ULURP matters.

Community Board Public Hearing

Community Board 7 held a public hearing on the certified application and the related actions on December 2, 2003 and, on that date, by a vote of 32 to 2 with 0 abstentions, adopted a resolution recommending approval of the application.

A summary of the vote of Community Board 7 appears in the report on the related application for an amendment of the Zoning Map (C 030214 ZMM).

Borough President Recommendation

This application, in conjunction with the related actions, was considered by the Borough President, who issued a recommendation approving the application on December 10, 2003.

A summary of the Borough President's recommendation appears in the report on the related application for an amendment of the Zoning Map (C 030214 ZMM).

City Planning Commission Public Hearing

On December 15, 2003 (Calendar No. 2), the City Planning Commission scheduled January 7, 2004 for a public hearing on this application (C 030215 ZSM). The hearing was duly held on January 7, 2004 (Calendar No. 14) in conjunction with the hearings on the related applications (C 030214 ZMM and N 030549 ZRM).

There were no speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of the special permit to construct a 150-space attended public parking garage pursuant to Zoning Resolution Sections 13-562 and 74-52, is appropriate.

A full consideration and analysis of the issues, and further reasons for approving this application, appear in the report on the related application of an amendment of the Zoning Map, Section No. 8c (C 030214 ZMM).

FINDINGS

The Commission hereby makes the following findings pursuant to Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) of the Zoning Resolution:

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 the 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 the 50 automobiles;
5. that the streets providing access to such use will be adequate to handle the traffic generated thereby;
6. not applicable; and
7. not applicable.

RESOLUTION

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

1. The applicant agrees to conduct a Phase II Environmental Site Assessment for the project

site (Block 1151, Lots 1, 61 and 63), pursuant to the DEP-approved Site Investigation Protocol, which includes site plans displaying existing surface grade and sub-grade elevations and a map depicting the twelve proposed soil boring locations. The borings will be advanced to bedrock or twenty feet below grade, whichever is encountered first. The borings will be monitored with a photo ionizing detector, and two samples will be obtained from each boring for analysis. The samples will be analyzed for VOCs via EPA Method 8260, for SVOCs via EPA Method 8270 and 8 RCRA Metals. In addition to the soil borings, three monitoring wells will be installed on the project site. The groundwater samples will be analyzed for the same parameters as the soil samples. In addition to the above, a sample will be taken and analyzed from a potential dry well present on the site;

2. Implement a DEP-approved Health and Safety Plan (HASP) for the handling and removal of all hazardous materials, including lead-based paints and asbestos containing materials (ACMs), in accordance with all federal, state and local regulations; and
3. Complete an electromagnetic (EM) survey of the project site with the purpose of locating USTs/ASTs. All USTs/ASTs, including dispensers, piping, and fill ports, must be properly removed/closed in accordance with all applicable NYSDEC regulations prior to starting construction and demolition activities. Elements of the approved protocol include a magnetometer survey in order to locate underground storage tanks.

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 2-10 West End Avenue Associates, LLC 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 150 spaces on portions of the first floor, cellar and sub-cellar in a proposed mixed building to be constructed on a zoning lot located at 2-10 West End Avenue (Block 1151, Lots 1, 61, and 63), in a C4-7 District, Borough of Manhattan, Community District 7, is approved subject to the following terms and conditions:

1. The property that is the subject of this application (C 030215 ZSM) shall be developed in size and arrangement substantially in accordance with dimensions, specifications and zoning computation indicated on the following plans, prepared by SLCE Architects, filed with this application and incorporated into this resolution:

Drawing Title	Date
First Floor Plan	September 18, 2003
Cellar Floor Plan	September 18, 2003
Subcellar Floor Plan	September 18, 2003

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. 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 right, title or interest in the property that is the subject of this application, or 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 or 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 and 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 the special permit.

7. The development shall conform to all conditions, modifications and alterations set forth in the Conditional Negative Declaration (CEQR No. 03DCP037M) dated January 5, 2004, issued pursuant to the New York State and New York City Environmental Quality Review. These conditions, modifications and alterations are as follows:
 1. The applicant agrees to conduct a Phase II Environmental Site Assessment for the project site (Block 1151, Lots 1, 61 and 63), pursuant to the DEP-approved Site Investigation Protocol, which includes site plans displaying existing surface grade and sub-grade elevations and a map depicting the twelve proposed soil boring locations. The borings will be advanced to bedrock or twenty feet below grade, whichever is encountered first. The borings will be monitored with a photo ionizing detector, and two samples will be obtained from each boring for analysis. The samples will be analyzed for VOCs via EPA Method 8260, for SVOCs via EPA Method 8270 and 8 RCRA Metals. In addition to the soil borings, three monitoring wells will be installed on the project site. The groundwater samples will be analyzed for the same parameters as the soil samples. In addition to the above, a sample will be taken and analyzed from a potential dry well present on the site;
 2. Implement a DEP-approved Health and Safety Plan (HASP) for the handling and removal of all hazardous materials, including lead-based paints and asbestos containing materials (ACMs), in accordance with all federal, state and local regulations; and
 3. Complete an electromagnetic (EM) survey of the project site with the purpose of locating USTs/ASTs. All USTs/ASTs, including dispensers, piping, and fill ports, must be properly removed/closed in accordance with all applicable NYSDEC regulations prior to starting construction and demolition activities. Elements of the approved protocol include a magnetometer survey in order to locate underground storage tanks.

The resolution (C 030215 ZSM), duly adopted by the City Planning Commission on February 11, 2004 (Calendar No. 25), is filed with the Office of the Speaker, City Council and Manhattan Borough President, together with a copy of the application and plans of the development, and in accordance with the requirement of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, AICP, *Chair*

KENNETH KNUCKLES, Esq., *Vice Chairman*

ANGELA M. BATTAGLIA, **IRWIN G. CANTOR, P.E.**, **ANGELA R. CAVALUZZI, R.A.**,

RICHARD W. EADDY, **ALEXANDER GARVIN**, **CHRISTOPHER KUI**, **JOHN MEROLO**,

KAREN A. PHILIPS, *Commissioners*

JANE D. GOL, *Commissioner, Recused*