



CITY PLANNING COMMISSION

March 10, 2008/Calendar No. 8

C 070290 ZSM

IN THE MATTER of an application submitted by Real Estate Industrials, Inc. 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 88 spaces including 31 accessory spaces on portions of the ground floor and cellar level and to permit floor space on the ground floor 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, of a proposed mixed use development on property located at 535 -551 West 48th Street a.k.a. 514-544 West 49th Street (Block 1077, Lots 8, 9, 10, 18, 19, 20, 43, 55 and 56) in R8 and R8/C2-5 Districts, within the Special Clinton District., Borough of Manhattan, Community District 4.

The application was filed by Real Estate Industrials, Inc. on January 17, 2007, for a special permit pursuant to Section 13-562 and Section 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 88 spaces on property located at 542 W. 49th Street and 545 W. 48th Street. The property is within an existing M1-5 District and the site is proposed to be rezoned by changing an M1-5 District to an R8/C2-5 District, under a related application C 070289 ZMM.

RELATED ACTIONS

In addition to the application for a special permit pursuant to Sections 13-562 and 74-52, which is the subject of this report (C 070290 ZSM), implementation of the proposed development also requires action by the City Planning Commission on the following applications which are considered concurrently with this application:

C 070289 ZMM: An amendment to the Zoning Map, changing an existing M1-5 District to R8/C2-5 Districts; and

N 070539 ZRM: Amendment to the Zoning Resolution to create Section 96-31 (Special regulations in R8 districts) in the Special Clinton District.

BACKGROUND

A full background discussion and project description appears in the report on the related zoning map amendment application (C 070289 ZMM).

ENVIRONMENTAL REVIEW

This application (C 070290 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 07DCP043M. 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 prepared on October 12, 2007. A summary of the environmental review and the Conditional Negative Declaration appears in the report on the related zoning map amendment application (C 070289 ZMM).

UNIFORM LAND USE REVIEW

This application (C 070290 ZSM), in conjunction with the related application (C 070289 ZMM), was certified as complete by the Department of City Planning on October 15, 2007, 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), along with the application for the related text change amendment (N 070539 ZRM), which was referred to Manhattan Community Board 4 and the Manhattan Borough President in accordance with the procedure for referring non-ULURP matters.

Community Board Public Hearing

Community Board 4 held a public hearing on this application (C 070290 ZSM), in conjunction with the related actions (C 070289 ZMM and N 070539 ZRM), on December 5, 2007, and on

that date, adopted a resolution recommending conditional disapproval by a vote of 38 in favor, 0 opposed, and 0 abstaining. A full discussion of the Community Board 4 resolution appears in the report on the related zoning map amendment application (C 070289 ZMM).

Borough President's Recommendation

The Manhattan Borough President did not issue a recommendation on this application.

City Planning Commission Public Hearing

On January 30, 2008, Cal. No. 18, the Commission scheduled February 13, 2008 for a public hearing. The hearing was duly held on February 13, 2008, (Cal. No. 50) in conjunction with the hearing for the related action (C 070289 ZMM), and was continued. The continued hearing was duly held on February 27, 2008 (Calendar No. 39) in conjunction with the hearings on the related applications (C 070289 ZMM and N 070539 ZRM).

A full description of the City Planning Commission public hearing appears in the report on the related zoning map amendment application (C 070289 ZMM).

CONSIDERATION

The Commission believes that grant of this special permit (C 070290 ZSM) is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the report on the related application for a zoning map amendment (C 070289 ZMM).

FINDINGS

The City Planning 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 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;
5. That the streets providing access to such use will be adequate to handle the traffic generated thereby;
6. Not applicable; and
7. That floor space exempted from the definition of floor area 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 the following condition:

The applicant agrees via restrictive declarations to prepare hazardous materials sampling protocols, including health and safety plans, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocols and, if any such impact is found, submit hazardous material remediation plans including health and safety plans to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.

and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York 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 88 spaces on portions of the ground floor and cellar level and to permit floor space on the ground floor 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 in a proposed residential

building on property located at 535 -551 West 48th Street a.k.a. 514-544 West 49th Street (Block 1077, Lots 8, 9, 10, 18, 19, 20, 43, 55 and 56) in R8 and R8/C2-5 Districts, within the Special Clinton District, Borough of Manhattan, Community District 4, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 070290 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plan, prepared by H. Thomas O'Hara, Architect, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
DD-7	Site Plan and Cellar Level Parking	September 17, 2007

- 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.

7) The development shall conform to all conditions, modifications and alterations set forth in the conditional negative declaration (CEQR No. 07DCP043M) dated March 10, 2008, 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 restrictive declarations to prepare hazardous materials sampling protocols, including health and safety plans, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocols and, if any such impact is found, submit hazardous material remediation plans including health and safety plans to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.

The above resolution (C 070290 ZSM), duly adopted by the City Planning Commission on March 10, 2008, (Calendar No. 8), 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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