



CITY PLANNING COMMISSION

October 19, 2009/Calendar No. 16

C 090435 ZSM

IN THE MATTER OF an application submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1100 spaces on portions of the ground floor and plaza level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District, Borough of Manhattan, Community District 4.

* 197-d(b)2 eligible

This application (C 090435 ZSM) for a special permit pursuant to Sections 93-052 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1,100 spaces was filed by RG WRY LLC on May 14, 2009. The special permit, along with the related actions, would facilitate the development of the Western Rail Yard Project in Manhattan's Community District 4.

RELATED ACTIONS

In addition to the special permit which is the subject of this report (C 090435 ZSM), implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

C 090408 MMM Amendment to the City Map involving a change in grade to West 33rd
Street, between Eleventh and Twelfth avenues

C 090422 HAM	UDAAP designation, project approval and disposition of City-owned property
C 090423 HAM	UDAAP designation, project approval and disposition of City-owned property
N 090429 ZRM	Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District)
C 090430 ZMM	Zoning Map Amendment establishing a C1-5 district within an existing R8 District
C 090433 ZMM	Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District
N 090434 ZRM	Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of a Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District
C 090436 ZSM	Special Permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage

BACKGROUND

A full background discussion and project description appears in the report on the related zoning map amendment application (C 090433 ZMM).

ENVIRONMENTAL REVIEW

The application (C 090435 ZSM), in conjunction with the applications for the related actions (C 090408 MMM, C 090422 HAM, C 090423 HAM, N 090429 ZRM, C 090430 ZMM, C 090433

ZMM, N 090434 ZRM and C 090436 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 09DCP007M. The co-lead agencies are the City Planning Commission and the Metropolitan Transportation Authority.

It was determined that the proposed actions may have a significant effect on the environment. A summary of the environmental review appears in the report on the related application for a zoning map amendment (C 090433 ZMM).

UNIFORM LAND USE REVIEW

This application (C 090435 ZSM), in conjunction with the applications for the related actions (C 090408 MMM, C 090422 HAM, C 090423 HAM, C 090430 ZMM, C 090433 ZMM and C 090436 ZSM), was certified as complete by the Department of City Planning on May 18, 2009, and was duly referred to Community Board 4 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related actions (N 090429 ZRM and N 090434 ZRM) which were referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 4 held a public hearing on this application and related actions on July 22, 2009, and on that date, by a vote of 34 in favor to 0 opposed and 1 present but not eligible to vote, adopted a resolution recommending disapproval of the application.

A summary of the recommendations of Community Board 4 appears in the report on the related zoning map amendment application (C 090433 ZMM).

Borough President Recommendation

This application, in conjunction with the related actions, was considered by the Borough President, who issued a recommendation disapproving the application with conditions on August 26, 2009.

A summary of the recommendations of the Borough President appears in the report on the related zoning map amendment application (C 090433 ZMM).

City Planning Commission Public Hearing

On August 19, 2009 (Calendar No. 16), the City Planning Commission scheduled September 9, 2009 for a public hearing on this application (C 090435 ZSM). The hearing was duly held on September 9, 2009 (Calendar No. 37), in conjunction with the public hearing on the applications for the related actions.

There were a number of speakers, as described in the report on the related zoning map amendment application (C 090433 ZMM), and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (C 090435 ZSM), in conjunction with the related applications (C 090408 MMM, C 090422 HAM, C 090423 HAM, N 090429 ZRM, C 090430 ZMM, C 090433 ZMM, N 090434 ZRM and C 090436 ZSM), was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 22, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resource Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 08-094.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the grant of this special permit (C 090435 ZSM) is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appear in the report on the related zoning map amendment application (C 090433 ZMM).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 13-561 of the Zoning Resolution:

- (a) such spaces are needed for and will be used by the occupants, visitors, customers or employees of the use to which they are accessory;
- (b) within the vicinity of the site there are insufficient parking spaces available;
- (c) the facility will not create or contribute to serious traffic congestion nor will unduly inhibit vehicular and pedestrian movement;
- (d) the facility is so located as to draw a minimum of vehicular traffic to and through local streets;
- (e) adequate reservoir space is provided at the vehicular entrance 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 be required for more than 50 automobiles.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on October 9, 2009, with respect to this application (CEQR No. 09DCP007M), and the Technical Memorandum, dated October 19, 2009, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B

and C attached to the report on the related zoning map amendment application (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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 and findings described in this report, the application submitted by RG WRY LLC pursuant to 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1,100 spaces on portions of the ground floor and plaza level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District, is approved, pursuant to Sections 93-052 and 13-561 of the Zoning Resolution, subject to the following terms and conditions* :

1. The property that is the subject of this application (C 090435 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:

* The maximum capacity of the North Parking Garage is also subject to the conditions set forth in the Restrictive Declaration referenced in Paragraph 5 of this Resolution.

Drawing No.	Title	Last Date Revised
P-1	Site Plan	October 19, 2009
P-2	South Parking Garage Plan	October 19, 2009
P-3A	South Parking Garage Plan Option A	October 19, 2009
P-3B	South Parking Garage Plan Option B	October 19, 2009
P-4	North Parking Garage Plan	October 19, 2009

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, sub-lessee or occupant.

5. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached to the report on the related zoning map amendment application (C 090433 ZMM) as Exhibit B has been executed and recorded in the Office of the City Register of the City of New York, County of New York. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.

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 (C 090435 ZSM), duly adopted by the City Planning Commission on October 19, 2009 (Calendar No. 16), is filed with the Office of the Speaker, City Council, and the 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, FAICP Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN,
MARIA M. DEL TORO, RICHARD W. EADDY, NATHAN LEVENTHAL,
ANNA HAYES LEVIN, SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners