



CITY PLANNING COMMISSION

February 22, 2006, Calendar No. 23

C 050257 ZSM

IN THE MATTER OF an application submitted by Continental Residential Holdings, 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 174 spaces on portions of the first floor, cellar, and sub-cellar, of a proposed 41-story mixed use building on property located at 325 Fifth Avenue (Block 862, Lots 1, 3, 4, 9 (all including Lot 8), 11 and 73), in a C5-2 District, Community District 5, Borough of Manhattan.

The application was filed by Continental Residential Holdings, LLC on January 18, 2005 for a special permit pursuant to Section 74-52 and Section 13-562 of the Zoning Resolution for a 174-space attended public parking garage on the cellar and sub-cellar levels of a new residential building located on the east side of Fifth Avenue between East 32nd and East 33rd streets.

BACKGROUND

The project site is in a C5-2 Zoning District – a 10.0 FAR, central commercial district. The applicant is currently constructing a new 41-story, as-of-right, residential building with 250 units on the zoning lot. The project will feature an 8,300-square foot residential plaza approved by the City Planning Commission in 2004 (N 050079 ZCM, N 050080 ZCM). The garage, which is the subject of this special permit application, would be located beneath this building and the residential plaza.

Land uses surrounding the project site are predominantly commercial in nature with loft and office buildings of various heights. The area has seen an influx of new residents in recent years. A number of new residential towers are under construction or have been completed recently in the area, and some loft buildings have been converted from commercial to residential use. The Empire State

Building stands across Fifth Avenue, one block to the north, and Herald and Greeley squares are located one block west of the site. Besides the residential building currently under construction at the subject property, the affected block contains mainly commercial and residential loft buildings and some newer office structures. Most buildings on the block and the surrounding area contain ground floor retail space.

The applicant is seeking a special permit pursuant to Sections 13-562 and 74-52 to facilitate the construction of a 174-space, attended, public parking garage in the cellar and subcellar levels of a new residential building with ground floor retail space. The garage would occupy 35,645 square feet of space. Access to the garage would be provided from East 33rd Street, a one-way, westbound street, via a 20-foot-wide curb cut and 20-foot-wide two-way ramp. The ramp would be located 127 feet east of Fifth Avenue. Ten reservoir spaces would be located on the ramp and on the cellar level of the garage. Lane striping, mirrors and signs would direct drivers to the appropriate stop location. The garage would be fully attended and an attendants' booth would be located on the cellar level.

ENVIRONMENTAL REVIEW

This application (C 050257 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 05DCP053M. 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 October 31, 2005, stating the following:

The applicant agrees to contact the New York City Department of Transportation (DOT) within six months after the completion of the project and to inform them of the need to implement signal timing modification at the following intersection:

Madison Avenue and East 32nd Street – Weekday AM and PM Peak hours: Transfer 2 seconds of green time from the north-south phase to the eastbound phase.

UNIFORM LAND USE REVIEW

This application (C 050257 ZSM) was certified as complete by the Department of City Planning on October 31, 2005, and was duly referred to Community Board 5 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 5 held a public hearing on this application on December 8, 2005, and on that date, by a vote of 24 to 3 with 1 abstention, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation disapproving the application on January 17, 2006 with the following comments:

...the applicant has demonstrated no particularly unusual circumstances which justify special consideration, nor has it demonstrated that it would create significant benefits to the community which would outweigh the community's interest in seeing the purposes of the Zoning Resolution furthered, and

The City Planning Commission should develop comprehensive guidelines describing the conditions which warrant consideration of new parking facilities in the core of Manhattan.

City Planning Commission Public Hearing

On January 11, 2006 (Calendar No. 3), the City Planning Commission scheduled January 25, 2006, for a public hearing on this application (C 050257 ZSM). The hearing was duly held on January 25, 2005 (Calendar No. 9). There was one speaker in favor of the application and one in opposition.

The Manhattan Borough President's Land Use Director discussed the Borough President's opposition to the special permit. He noted that the recommended disapproval was not an attempt to single out this particular application; rather, the application reflects current zoning policy for public parking garage applications with which the Borough President disagrees. The representative explained that this application therefore provided the Borough President's first opportunity to request that the Department of City Planning and the Borough President's office together review the City's policy toward public parking garages in Manhattan south of 110th Street. He stated that the Commission and the Borough President should develop comprehensive guidelines describing the conditions which warrant consideration of new public parking garages in the Manhattan core.

The Borough President's representative spoke about improving New York City's air quality as a rationale for reducing the number of parking spaces in the Manhattan core. He acknowledged that vehicles often circle midtown in search of parking, increasing air pollution. He explained that the Borough President considered accessory and public parking garages differently, noting differences in the amount of traffic generated by the two facility types.

The applicant's counsel explained how the proposed garage met the requisite findings of Section 74-52 and noted past City approvals for public parking on the site. The representative described the orientation of reservoir spaces in the garage, the timing of the application, alternative uses for the

below-grade space and that building residents would have priority for spaces in the garage pursuant to applicable provisions of the Multiple Dwelling Law.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that granting the special permit (C 050257 ZSM) is appropriate.

The Commission notes that the surrounding area is predominantly commercial in nature, but that the number of residential units in the area is growing. The proposed garage would provide parking for businesses in the area, and help to meet demand for parking that will be generated by new residents, including those in the new residential building at the subject property. The garage would benefit, and be compatible with, the mix of existing uses in the area, including nearby destinations like the Empire State Building, Bryant Park, the New York Public Library, Herald and Greeley squares and the Fifth Avenue shopping corridor.

The Commission notes that the Environmental Assessment Statement prepared for the special permit application predicted that the garage would generate 69, 38, and 63 vehicle trips per hour in the morning, midday, and evening peak hours, respectively. The Commission further notes that the EAS indicated that nearby streets can accommodate the trips generated by the proposed garage.

The Commission notes that the streets providing access to the garage are not local streets in residential areas. The Commission believes that the garage will not create serious traffic congestion and notes that the applicant has agreed to contact the Department of Transportation within six

months of the garage's opening to implement a signal timing modification at Madison Avenue and East 32nd Street.

The Commission further notes that the required ten reservoir spaces will be provided on the ramp and cellar level of the garage in order to prevent queuing issues and prevent traffic back-ups that could otherwise be caused by vehicles attempting to enter the garage. The Commission is pleased that the applicant has committed to installing lane striping, signage and mirrors to help drivers navigate into and out of the proposed garage.

The Commission acknowledges the Borough President's interest in examining the regulations governing parking in the Manhattan core and is pleased that the Department has expressed a willingness to meet and discuss the relevant issues with the Borough President. However, the Borough President's interest in reducing the number of public parking garages in midtown Manhattan and his dissatisfaction with the current regulatory framework do not justify the denial of an application which satisfies all of the findings required for the grant of a special permit under Section 74-52 under the relevant legal standards governing Commission review of special permits. The Commission notes in particular that the EAS prepared under the standards of the City's CEQR Technical Manual, supports the traffic-related findings of Section 74-52 and that operation of the proposed garage would not result in any unmitigated traffic impacts. The Commission believes that with implementation of the signal timing modification identified in the EAS and referenced in the Conditional Negative Declaration, the proposed parking garage would not result in any hazard or disadvantage to the surrounding area.

FINDINGS

The City Planning Commission hereby makes the 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. 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 condition:

The applicant agrees to contact the New York City Department of Transportation (DOT) within six months after the completion of the project and to inform them of the need to implement signal timing modification at the following intersection:

Madison Avenue and East 32nd Street – Weekday AM and PM Peak hours: Transfer 2 seconds of green time from the north-south phase to the eastbound phase;

and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 201 of the New York Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by Continental Residential Holdings, 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 174 spaces on portions of the first floor, cellar, and sub-cellar, of a proposed 41-story mixed use building on property located at 325 Fifth Avenue (Block 862, Lots 1, 3, 4, 9 (all including Lot 8), 11 and 73), in a C5-2 District, Community District 5, Borough of Manhattan is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 050257 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 The Stephen B. Jacobs Group, PC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-02	Site Plan & Zoning Sheet Garage Entrance	January 14, 2005
A-03	Cellar Plan	January 14, 2005
A-04	Subcellar Plan	January 14, 2005

- 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) The development shall conform to all conditions, modifications and alterations set forth in the Conditional Negative Declaration (CEQR No. 05DCP053M) dated October 31, 2005, 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 to contact the New York City Department of Transportation (DOT) within six months after the completion of the project and to inform them of the need to implement signal timing modification at the following intersection:

Madison Avenue and East 32nd Street – Weekday AM and PM Peak hours:
Transfer 2 seconds of green time from the north-south phase to the eastbound phase.

- 4) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
- 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 (C 050257 ZSM), duly adopted by the City Planning Commission on February 22, 2006, (Calendar No. 23), 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

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,
ALFRED C. CERULLO, III, RICHARD W. EADDY, JANE D. GOL, LISA A. GOMEZ,
CHRISTOPHER KUI, JOHN MEROLO, DOLLY WILLIAMS, Commissioners**

KAREN A. PHILLIPS, Commissioner, Voting No