



CITY PLANNING COMMISSION

August 22, 2012 / Calendar No. 11

C 120231 ZSM
CORRECTED

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation & Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Sections 13-562 and 74-52 of the Zoning Resolution to allow a public parking garage with a maximum capacity of 168 spaces on portions of the ground floor, cellar level 1 and cellar level 2 of a proposed development on property bounded by Delancey Street, Norfolk Street, Broome Street and Essex Street (Site 2, Block 352, p/o Lot 1 and Lot 28), in a C6-1 District, Borough of Manhattan, Community District 3.

This application for a special permit pursuant to Zoning Resolution Sections 13-562 (Public Parking Garages and Public Parking Lots) and 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) was filed by the New York City Department of Housing Preservation and Development on March 21, 2012. The requested special permit, along with its related actions, would facilitate the development of a proposed, mixed-use development of approximately 1.65 million square feet on nine City-owned sites, generally centered on the intersection of Delancey Street and Essex Street, in the Lower East Side neighborhood of Manhattan Community District 3. The program for the proposed development is expected to include a variety of mixed-income residential, commercial such as retail and office space, and community or cultural uses. The project would also allow for a number of neighborhood amenities, including parking, a 10,000-square-foot, publicly-accessible open space, and a new and expanded public Essex Street Market facility.

RELATED ACTIONS

In addition to the proposed special permit (C 120231 ZSM) which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following which is being considered concurrently with this application:

C 120156 MMM A proposed amendment to the City Map involving: the establishment of Broome Street between Norfolk Street and Clinton Street; the establishment of Suffolk Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Clinton

Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Delancey Street between Norfolk Street and Clinton Street; the establishment of the name Delancey Street for the Unnamed Street between Clinton Street and Franklin D. Roosevelt Drive; and the adjustment of grades necessitated thereby, including authorization for any disposition or acquisition of real property related thereto, in accordance with Map No. 30236, dated March 14, 2012, and signed by the Borough President.

- C 120226 ZMM A proposed amendment to the Zoning Map, Section No. 12c, establishing a C2-5 District within an existing R8 District.
- N 120227 ZRM A proposed amendment to the Zoning Resolution, modifying Sections 74-743 (Special Provisions for Bulk Modifications) and 74-744 (Modification of Use Regulations) concerning special permit regulations for large-scale general developments, relating to the former Seward Park Extension Urban Renewal Area.
- C 120228 ZSM Special Permit, to modify the bulk regulations within a Large-Scale General Development.
- C 120229 ZSM Special Permit, to modify the use regulations within a Large-Scale General Development.
- N 120230 ZAM A request for the grant of an Authorization by the Commission, pursuant to Section 74-744, to modify signage regulations to allow signs accessory to non-residential uses above the level of the finished floor of the third story.
- C 120233 ZSM Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Suffolk Street, Broome Street and Norfolk Street (Site 3, Block 346, p/o Lot 40), in an R8/C2-5 District.
- C 120234 ZSM Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking on property bounded by Delancey

Street, Clinton Street, Broome Street and Suffolk Street (Site 4, Block 346, p/o Lot 40), in an R8/C2-5 District.

C 120235 ZSM Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Broome Street, Clinton Street Grand Street and Suffolk Street (Site 5, Block 346, p/o Lot 40), in an R8/C2-5 District.

N 120236 HAM Urban Development Action Area Project (UDAAP) designation and project approval, for properties located on Essex, Delancey, Norfolk, Grand, Stanton and Broome streets (Block 346, part of Lot 40; Block 347, Lot 71; Block 352, Lots 1, 28; Block 353¹, Lot 44; Block 354, Lots 1, 12; and Block 409, Lot 56), as an Urban Development Action Area, to facilitate the development of residential, community facility and commercial uses, including the redevelopment of the Essex Street Market.

C 120237 PQM Acquisition of property bounded by Essex, Delancey, Norfolk, and Broome Streets (Block 352², p/o Lots 1 and 28), by the New York City Department of Citywide Administrative Services.

C 120245 PPM Disposition of city-owned property (Block 346, p/o of Lot 40; Block 347, Lot 71; Block 352, Lots 1 and 28; Block 353, Lot 44; Block 354, Lots 1 and 12; and Block 409, Lot 56), by the New York City Department of Housing Preservation and Development to a future developer, or by the New York City Department of Citywide Administrative Services to the New York City Economic Development Corporation (NYCEDC) or a successor local development corporation.

BACKGROUND

A full background discussion and description of this application appears in the related report for a special permit application (C 120228 ZSM).

¹ Correction 8/30/12: Due to administrative error, the block number had been previously identified as Block 352; it is Block 353.

² Correction 8/30/12: Due to administrative error, the block number had been previously identified as Block 353; it is Block 352.

ENVIRONMENTAL REVIEW

This application (C 120231 ZSM), in conjunction with the application for 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 lead agency is the Office of the Deputy Mayor for Economic Development (ODMED). The designated CEQR number is 11DME012M.

A summary of the environmental review and the Final Environmental Impact Statement appears in the related report for a special permit application (C 120228 ZSM).

UNIFORM LAND USE REVIEW

This application (C 120231 ZSM), in conjunction with the application for the related actions (C 120156 MMM, C 120226 ZMM, N 120227 ZRM, C 120228 ZSM, C 120229 ZSM, N 120230 ZAM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, N 120236 HAM, C 120237 PQM, C 120245 PPM), was certified as complete by the Department of City Planning on March 26, 2012, and was duly referred to Community Board 3 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 related non-ULURP applications which were referred for information and review.

Community Board Public Hearing

Community Board 3 held a public hearing on this application (C 120231 ZSM) and the related applications on May 22, 2012, and on that date, by a vote of 44 in favor, 0 opposed and 1 present not voting, adopted a resolution recommending conditional approval of the applications.

A summary of the recommendations of Community Board 3 appears in the related report for a special permit application (C 120228 ZSM).

Borough President Recommendation

This application (C 120231 ZSM), in conjunction with the related actions, was considered by the President of the Borough of Manhattan, who issued a recommendation on July 5, 2012, for conditional approval of the applications.

A summary of the recommendations of the Borough President appears in the related report for a special permit application (C 120228 ZSM).

City Planning Commission Public Hearing

On June 20, 2012 (Calendar No. 11), the City Planning Commission scheduled July 11, 2012, for a public hearing on this application (C 120231 ZSM). The hearing was duly held on July 11, 2012 (Calendar No. 21), in conjunction with the public hearing on the related actions.

There were a number of appearances, as described in the related report for a special permit application (C 120228 ZSM), and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of the special permit as described in this application (C 120231 ZSM), in conjunction with the related applications (C 120156 MMM, C 120226 ZMM, N 120227 ZRM, C 120228 ZSM, C 120229 ZSM, N 120230 ZAM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, C 120237 PQM, N 120236 HAM, C 120245 PPM) is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the related report for a special permit application (C 120228 ZSM).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-52 of the Zoning Resolution:

- (a) 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;
- (b) that such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (c) that such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;
- (d) 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;
- (e) that the streets providing access to such use will be adequate to handle the traffic generated thereby;

- (f) that, where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development of adjacent areas; and
- (g) that, where any floor space is exempted from the definition of floor area, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion.

RESOLUTION

RESOLVED, that having considered the Final Generic Environmental Impact Statement (FGEIS), for which a Notice of Completion was issued on August 10, 2012, with respect to this application (CEQR No. 11DME012M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FGEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with environmental commitment letters, dated August 15, 2012, from HPD and August 15, 2012, from NYCEDC, those project components related to the environment and mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FGEIS and Technical Memorandum, 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, 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 the NYC Department of Housing

Preservation & Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Sections 13-562 and 74-52 of the Zoning Resolution to allow a public parking garage with a maximum capacity of 168 spaces on portions of the ground floor, cellar level 1 and cellar level 2 of a proposed development on property bounded by Delancey Street, Norfolk Street, Broome Street and Essex Street (Site 2, Block 352, p/o Lot 1 and Lot 28), in a C6-1 District, Borough of Manhattan, Community District 3, is approved subject to the following conditions:

1. The development that is the subject of this application (C 120231 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans prepared by Beyer Blinder Belle Architects & Planners LLP, filed with this application and incorporated in this resolution, and in accordance with the provisions and procedures set forth in the Restrictive Declaration:

<u>Dwg. No.</u>	<u>Title</u>	<u>Date</u>
802	Parking Garage Plans- Zoning Lot 2	03/21/2012

2. The development which is the subject of this application shall conform to all applicable laws and regulations relating to their construction, operation and maintenance.
3. 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.
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. 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 and the restrictive declarations 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 or of the restrictive declarations.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

The above resolution (C 120231 ZSM), duly adopted by the City Planning Commission on August 22, 2012 (Calendar No. 11), 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
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, MICHELLE DE LA UZ,
MARIA M. DEL TORO, RICHARD W. EADDY, ANNA HAYES LEVIN,
ORLANDO MARÍN, SHIRLEY A. McRAE Commissioners