



## CITY PLANNING COMMISSION

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September 24, 2008/Calendar No. 4

C 070261 ZSM

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**IN THE MATTER** of an application submitted by AG West 22<sup>nd</sup> Street Realty, 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 137 spaces on portions of the first floor, cellar and sub-cellar of a proposed mixed use building on property located at 133-145 West 22<sup>nd</sup> Street (Block 798, Lots 19, 21, 23, 24 and 25) in a C6-3A District, in the Borough of Manhattan, Community District 4.

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The application was filed by AG West 22<sup>nd</sup> Street Realty, LLC on December 22, 2006, 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 137 spaces on property located at 133-145 West 22<sup>nd</sup> Street.

### **BACKGROUND**

The project site is an approximately 14,466 square foot zoning lot located at 133-145 West 22<sup>nd</sup> Street (north side), between Sixth Avenue and Seventh Avenue. The site is within a C6-3A district.

The new building will be built as-of-right pursuant to the applicable provisions of the underlying C6-3A zoning district. The building will be 13 stories in height and hold 89 residential units. It will also contain 2,211 square feet of ground floor retail space. The site was formerly improved with four-story buildings constructed in the 1920's. These structures have been demolished.

The site is located in the Chelsea neighborhood. The midblocks of the surrounding area are predominantly developed with medium- to high-density, contextual residential buildings with ground floor retail. The avenue frontages in the area are developed with a mix of commercial and residential buildings of contextual form. Sixth Avenue, to the east of the site, is known as "Ladies Mile" and has numerous loft-style commercial buildings with big-box retail uses, and

some residential towers with ground floor retail uses. Seventh Avenue, to the west of the site, is developed with residential buildings with ground floor retail. Twenty-Third Street lies to the north of the site and also has a mix of commercial and residential uses, and a varied built form. The existing buildings that line West 22<sup>nd</sup> Street between Sixth and Seventh Avenues are predominantly residential, with ground floor retail.

The residential entrance to the building will be located at the eastern-most edge of the site. The building's retail space will be to the west of the residential lobby entrance, and east of the garage entrance. Vehicular ingress and egress from the public garage would be located at the western-most edge of the site, approximately 300 feet east of Seventh Avenue, at the midblock.

The proposed public parking facility would be fully attended and open 24 hours a day, seven days a week. Vehicular ingress and egress to the proposed public parking garage would be located approximately 300 feet east of Seventh Avenue and would be by a 25-foot wide curb-cut, and an approximately 21-foot wide ramp on West 22<sup>nd</sup> Street, an eastbound, 60 foot wide street, with one moving lane of traffic. Two car elevators would be used by garage attendants to move cars between the cellar and sub-cellar levels of the garage. Forty-five stackers would be located on the sub-cellar level. The public parking garage would provide 10 reservoir spaces as required. A flashing light and ringing bell will be placed at the entrance to the public parking garage to alert pedestrians of entering and exiting cars.

## **ENVIRONMENTAL REVIEW**

This application (C 070261 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 07DCP037M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on May 5, 2008.

## **UNIFORM LAND USE REVIEW**

This application (C 070261 ZSM) was certified as complete by the Department of City Planning on May 5, 2008, 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).

### **Community Board Public Hearing**

Community Board 4 held a public hearing on this application on June 4, 2008, and on that date, by a vote of 35 to 0 with 0 abstentions, adopted a resolution recommending disapproval of the application “unless the applicant reduces the number of spaces to 20% of the number of dwelling units, reserves a majority of those for monthly parkers living in the community and eliminates stackers.” The community board recommended denial of the special permit because:

- i) the applicant does not meet four of the findings required by Section 74-52 of the Zoning Resolution: a) the use is incompatible with vital and essential functions, b) it will contribute to serious traffic congestion, c) it will draw traffic to surrounding residential areas and d) the streets are inadequate for the additional traffic; we further note that Section 74-31(d) of the Zoning Resolution requires DCP to refer the application to the Department of Traffic for its report with respect to anticipated traffic congestion;
- ii) the application is inconsistent with the broad goals of the city to reduce traffic in Manhattan below 110<sup>th</sup> Street, as stated in Section 13-00 of the Zoning Resolution as well as in PlaNYC and other forward-looking statements of city policy.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation on August 4, 2008, approving the application with the condition that “...17 of the spaces be reserved for accessory use by residents of the building and another 66 are prioritized for residents in the immediate vicinity.”

### **City Planning Commission Public Hearing**

On March 12, 2008 (Calendar No. 9), the City Planning Commission scheduled August 27, 2008 for a public hearing on this application (C 070261 ZSM). The hearing was duly held on August 27, 2008 (Calendar No. 35). There were two speakers in favor of the application.

The applicant's representative described the project and the garage's operation. He reiterated the applicant's statement of findings and agreed that the applicant would hold spaces for building residents and residents of the surrounding neighborhood. The Director of Land Use from the Manhattan Borough President's Office reiterated the Manhattan Borough President's conditional recommendation.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that grant of this special permit (C 070261 ZSM) is appropriate.

The Commission notes that the proposed garage would be located in a C6-3A district which permits medium-density, mixed-use development. The Commission notes that current uses on the subject block are residential with ground-floor commercial retail and service uses. Commercial uses found on the subject block include an interior design office, an office supplies store, a bakery, a bicycle store, a kitchen and bath fixtures store, a soundtrack film and television office, a repertory theater, and other uses. Sixth Avenue, to the east of the project site, is predominantly commercial, with large, big-box retail uses between West 23<sup>rd</sup> Street and West 17<sup>th</sup> Street. West 23<sup>rd</sup> Street, to the north of the site, also has a wide variety of commercial and retail uses, with some residential uses. Seventh Avenue, to the west of the site, is developed with mixed-use buildings that have commercial uses on the ground floor with residential uses above.

The Commission notes that the Environmental Assessment Statement (EAS) prepared for the application stated that the proposed garage would generate an additional 28 vehicles per hour in the morning peak hour, 21 vehicles per hour in the midday peak hour, and 27 vehicles per hour

in the evening peak hour. All of these projected trips fall below the 50-vehicle per hour threshold set by the CEQR Technical Manual; accordingly, there would be no significant adverse traffic impacts caused by the garage.

The Commission notes that the residential entrance to the building will be located at the eastern-most edge of the site. The building's retail space will be to the west of the residential lobby entrance, and east of the garage entrance. Vehicular ingress to and egress from the public garage would be located at the western-most edge of the site, approximately 300 feet east of Seventh Avenue, at the midblock. Warning signals and buzzers located on the garage ramp would alert pedestrians to the presence of a vehicle exiting the garage.

Cars would likely approach the garage Seventh Avenue and after leaving the garage would likely use Sixth Avenue. These streets are not local streets in residential areas.

The Commission notes that the proposed garage will contain the required 10 reservoir spaces.

The EAS submitted for the application also indicates that, at the AM peak hour, the proposed garage would generate 21 trips in and 7 trips out; at the Mid-day peak hour, the proposed garage would generate 16 trips in and 5 trips out; and at the PM peak hour, the proposed garage would generate 13 trips in and 14 trips out. The Commission notes that a traffic study submitted with the EAS found that there is no difference in the level of service at the surrounding intersections between the build and no-build conditions. Accordingly, the Commission believes that the streets will be adequate to address traffic generated by the proposed garage.

## **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. Not applicable.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment;

and be it further

**RESOLVED**, by the City Planning Commission that based on the environmental determination, and the consideration and findings described in this report, the application submitted by AG West 22<sup>nd</sup> Street Realty , 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 137 spaces on portions of the first floor, cellar and sub-cellar in a proposed mixed-use building on property located at 133-145 West 22<sup>nd</sup> Street (Block 798, Lots 19, 21, 23, 24 and 25) in a C6-3A 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 070261 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 Cetra/Ruddy Incorporated, Architects, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
A101	Subcellar Parking Plan	April 15, 2008
A102	Cellar Parking Plan, Approach Option 1	April 15, 2008
A103	First Floor Plan	April 15, 2008

- 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.

The above resolution (C 070261 ZSM), duly adopted by the City Planning Commission on September 24, 2008, (Calendar No. 4), 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, FAICP Chair**  
**KENNETH J. KNUCKLES, Esq., Vice Chairman**  
**IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, AIA,**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. MCRAE,**  
**JOHN MEROLO, Commissioners**

**KAREN A. PHILLIPS, Commissioner, Voting No**