



## CITY PLANNING COMMISSION

April 22, 2009 / Calendar No. 19

C 050269 ZSM

**IN THE MATTER OF** an application submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 68 spaces on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed-use building (Site 4, Garage A) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62<sup>nd</sup> Street, Columbus Avenue, West 60<sup>th</sup> Street, Amsterdam Avenue, West 61<sup>st</sup> Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62<sup>nd</sup> Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, Community Board 7, Borough of Manhattan.

This application for a special permit was filed by Fordham University on January 19, 2005, to allow an attended accessory parking garage with a maximum capacity of 68 spaces (Garage A) on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed-use building on the northwest corner (Site 4) of the block bounded by Columbus Avenue, Amsterdam Avenue, West 60<sup>th</sup> Street, and West 62<sup>nd</sup> Street in Manhattan Community District 7. Together with the related actions, the application would facilitate expansion of the Lincoln Center Campus of Fordham University.

### RELATED ACTIONS

In addition to the application for a special permit which is the subject of this report (C 050269 ZSM), implementation of the proposed project also requires action by the City Planning Commission on the following applications which are considered concurrently with this application:

**C 050260 ZSM** Special permit pursuant to Section 82-33 to modify regulations governing height and setback, minimum distance between buildings, courts, and minimum distance between legally required windows and walls/lot lines for a development in the Special Lincoln Square District

- C 050271 ZSM** Special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 137 spaces (pursuant to Section 11-42(c), additional time to complete the garage is also requested)
- N 090170 ZRM** Zoning text amendment to Section 82-50 (Off-Street Parking and Off-Street Loading Regulations, Special Lincoln Square District) to clarify the regulations regarding curb cuts on wide streets for off-street loading berths
- N 090171 ZAM** Authorization pursuant to Section 13-553 to allow a curb cut on a wide street (West 62<sup>nd</sup> Street) to provide access to two accessory parking garages
- N 090172 ZAM** Authorization pursuant to Sections 82-50(b) (as amended) and 13-553 to allow a curb cut on a wide street (West 62<sup>nd</sup> Street) to provide access to off-street loading berths

## **BACKGROUND**

A full background discussion and project description appears in the report on the related special permit application (C 050260 ZSM).

## **ENVIRONMENTAL REVIEW**

This application (C 050269 ZSM), in conjunction with the applications for the related actions (C 050260 ZSM, C 050271 ZSM, C 090173 ZSM, N 090170 ZRM, N 090171 ZAM, and N 090172 ZAM) 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 05DCP020M. The lead agency is the City Planning Commission.

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued on June 20, 2007 and was distributed, published and filed. A summary of the environmental review appears in the report on the related special permit application (C 050260 ZSM).

## **UNIFORM LAND USE REVIEW PROCEDURE (ULURP)**

This application (C 050269 ZSM), in conjunction with the related applications (C 050260 ZSM, C 050271 ZSM, and C 090173 ZSM), was certified as complete by the Department of City Planning on November 17, 2008 and was duly referred to Manhattan Community Board 7 (CB7) and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), in conjunction with the related non-ULURP applications (N 090170 ZRM, N 090171 ZAM, and N 090172 ZAM) which were referred for review and comment.

### **Community Board Public Hearing**

Community Board 7 held a public hearing on this application (C 050269 ZSM) and the related applications (C 050269 ZSM, C 050271 ZSM, C 090173 ZSM, N 090170 ZRM, N 090171 ZAM, and N 090172 ZAM) on January 21, 2009 and on that date, by a vote of 17 to 13 with one member voting “present,” adopted a resolution recommending approval of the application subject to the condition that the number of parking spaces be limited to “up to 35 percent of the number of units of the building, or 68 spaces, whichever is less.”

A summary of the Community Board 7 recommendations appears in the report on the related special permit application (C 050260 ZSM).

### **Borough President Recommendation**

This application (C 050269 ZSM), in conjunction with the related applications (C 050260 ZSM, C 050271 ZSM, C 090173 ZSM, N 090170 ZRM, N 090171 ZAM, and N 090172 ZAM), was considered by the Borough President, who issued a recommendation on February 25, 2009 recommending conditional approval of the applications.

A summary of the recommendations of the Borough President appears in the report on the related special permit application (C 050260 ZSM).

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

On February 18, 2009 (Calendar No. 8), the City Planning Commission scheduled March 4, 2009 for a public hearing on this application (C 050269 ZSM). The hearing was duly held on March 4, 2009 (Calendar No. 25), in conjunction with the hearings on the related applications (C 050260 ZSM, C 050271 ZSM, C 090173 ZSM, and N 090170 ZRM). There were a number of speakers, as described in the report on the related special permit application (C 050260 ZSM), and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the application for a special permit (C 050269 ZSM), as modified, is appropriate. A full consideration and analysis of the issues, and reasons for approving this application as modified, appear in the report on the related special permit application (C 050260 ZSM).

### **FINDINGS**

Based upon the consideration, the 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 vehicles equivalent in number to 20 percent of the total number of spaces, up to 50 parking spaces, and five percent of any spaces in excess of 200 parking spaces, but in no event shall such reservoir spaces be required for more than 50 vehicles.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on April 10, 2009, with respect to this application (C 050269 ZSM), the City Planning Commission finds that the requirements of Part 617, New York State Environmental Quality Review have been met and that, consistent with social, economic, and other essential considerations:

1. From among the reasonable alternatives thereto, the action, with the modifications set forth and analyzed in Chapter 27 of the FEIS, is one that avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigation measures that were identified as practicable

The report of the City Planning Commission, together with this FEIS, constitute 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 described in this report, the application submitted by Fordham University for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 68 spaces on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed-use building (Site 4, Garage A) in connection with the proposed expansion of Fordham University, Lincoln Center Campus,

bounded by Amsterdam Avenue, West 62<sup>nd</sup> Street, Columbus Avenue, West 60<sup>th</sup> Street, Amsterdam Avenue, West 61<sup>st</sup> Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62<sup>nd</sup> Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, Community Board 7, Borough of Manhattan, is approved subject to the following conditions:

1. The application that is the subject of this application (C 050269 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 Cooper, Robertson & Partners (CRP), Pei Cobb Freed & Partners (PCF), and Lee Weintraub Landscape Architecture (LWLA), filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
		April 22, 2009 for all drawings
Z-7	Site Plan – Proposed (CRP)	
Z-11	Zoning Analysis (CRP)	
Z-12	Site Plan: Diagrammatic Building Envelopes (CRP)	
Z-13	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP)	
Z-13.1	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP)	
Z-13.2	Block Sections: Diagrammatic Building Envelopes and Illustrative Massing (CRP)	
Z-14	Encroachment Diagrams (CRP)	
Z-14.1	Encroachment Diagrams (CRP)	
Z-14.2	Encroachment Diagrams (CRP)	
Z-15	Encroachment Diagrams (CRP)	
Z-15.1	Encroachment Diagrams (CRP)	
Z-18	Parking and Loading – Garage A (CRP)	
Z-18.2	Parking and Loading – Garage C (CRP)	
	Interim Stair Plan & Section (PCF)	
ZL-0.0	Illustrative Plan (LWLA)	

ZL-0	Survey (LWLA)
ZL-0.1	Site Demolition & Protection Plan (LWLA)
ZL-1	Materials Plan (LWLA)
ZL-2	Dimensions, Elevations and Drainage Plan (LWLA)
ZL-3	Planting Plan (LWLA)
ZL-4	Lighting Plan (LWLA)
ZL-5	Illustrative Sections (LWLA)
ZL-6	Illustrative Sections & Entry Sign Detail (LWLA)
ZL-7	Site Details (LWLA)
ZL-8	Bench Details & Site Furnishings (LWLA)

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. The development shall incorporate those mitigative measures disclosed in the Final Environmental Impact Statement (CEQR No. 05DCP020M) issued on April 10, 2009. With respect to shadow and construction mitigative measures, such measures are more fully set forth in the Restrictive Declaration attached as Exhibit A.
  
5. The maximum number of accessory parking spaces permitted in the garage that is the subject of this resolution (Garage A) is hereby limited to 35 percent of the number of dwelling units constructed in the private residential development on Site 4 or 68 spaces, whichever is less.
  
6. 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.

7. 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.
8. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration, set forth in Exhibit A attached hereto, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed by Fordham University and recorded in the Office of the Register of the City of New York, County of New York.
9. 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.
10. 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 050269 ZSM), duly adopted by the City Planning Commission on April 22, 2009 (Calendar No. 19), 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**

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**KAREN A. PHILLIPS, Commissioners**

**NATHAN LEVENTHAL, Commissioner, Recused**