



CITY PLANNING COMMISSION

October 27, 2010 / Calendar No. 7

C 100289 ZSM

IN THE MATTER OF an application submitted by CRP/Extell Parcel L, L.P. and CRP/Extell Parcel N, L.P. pursuant to Sections 197-c and 201 of the New York City Charter, in accordance with Section 2-06 (c) (1) of the Uniform Land Use Review Procedure Rules, for the grant of a special permit* pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow a public parking garage with a maximum capacity of 460 spaces on portions of the ground floor, cellar, sub-cellar 1 and sub-cellar 2 of a proposed mixed use development (Parcel 1), on property bounded by West 61st Street, West End Avenue, West 59th Street and Riverside Boulevard (Block 1171, Lots 155 & 165), in a C4-7 District, within a general large-scale development generally bounded by West 72nd Street, Freedom Place, West End Avenue, West 59th Street and Riverside Boulevard, Borough of Manhattan, Community District 7.

* 197-d(b)(2) eligible

This application for a special permit pursuant to 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 CRP/Extell Parcel L, LP and CRP/Extell Parcel N, LP on April 7, 2010 to facilitate the construction of a mixed-use development of approximately three million square feet of residential, commercial, and community facility floor area and public parking on a site bounded by West 61st Street, West End Avenue, West 59th Street, and the future alignment of Riverside Boulevard in Manhattan Community District 7.

RELATED ACTIONS

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

N 100294(A) ZRM Zoning text amendment to Section 23-144 (In Designated Areas Where the Inclusionary Housing Program Is Applicable), Section 23-954 (Additional Requirements for Compensated Developments), Section 74-743 (Special Provisions for Bulk Modification), and Appendix F (Inclusionary Housing Designated Areas) to:

- allow the City Planning Commission to modify, by special permit, the definition of “outer court” to include any open area that is bounded on all sides but one by building walls and is not a yard or an inner court;

	▪ create a new Inclusionary Housing designated area consisting of the project site; ▪ clarify which bulk regulations are applicable to the project site; and ▪ allow the Commission to modify, by special permit, the base and maximum floor area ratios in Section 23-952 and the unit distribution requirements of Section 23-96(b).
N 100295 ZRM	Zoning text amendment to Section 74-744 (Modification of Use Regulations) to allow the Commission to allow, by special permit, automotive sales and service establishments not otherwise permitted by underlying district regulations.
C 100287 ZSM	Special permit pursuant to Section 74-681 to allow development in a former rail yard and over a railroad or transit right-of-way and to establish the reference plane of the development.
C 100288 ZSM	Special permit pursuant to Sections 13-562 and 74-52 to allow a public parking garage with a maximum of 1,800 spaces.
C 100290 ZSM C 100291 ZSM C 100292 ZSM C 100293 ZSM	Special permits pursuant to Sections 13-562 and 74-52 to allow separate public parking garages with a maximum, respectively, of 230 spaces; 290 spaces; 370 spaces; and 450 spaces.
C 100296(A) ZSM	Special permit pursuant to Section 74-743 to modify, in a General Large-Scale Development, regulations governing required street wall, tower setbacks and locations, minimum distance between buildings, and courts and the base and maximum floor area ratios and unit distribution requirements in Section 23-90 (Inclusionary Housing).
C 100297 ZSM	Special permit pursuant to Section 74-744(a)(2) to modify use regulations to allow an automotive sales and service establishment in a general large-scale development.
N 100298 ZAM	Authorization pursuant to Section 13-553 to allow a curb cut on a wide street (West End Avenue).
N 100286 ZCM N 100299 ZCM	Certifications pursuant to Section 26-15 to allow additional curb cuts in excess of one per narrow street frontage on West 61 st Street and West 59 th Street.
N 100300 ZCM	Certification pursuant to Section 26-17 to modify the streetscape regulations governing retail continuity, location of signs, and ground-floor transparency.

M 920358(D) ZSM Modification of a previously approved General Large-Scale Development special permit and restrictive declaration to reflect the current proposal.

BACKGROUND

A full background discussion and description of this application appears in the related report for a special permit (C 100296A ZSM).

ENVIRONMENTAL REVIEW

This application (C 100289 ZSM), in conjunction with the applications for the related actions (N 100294 ZRM, N 100294A ZRM, N 100295 ZRM, C 100287 ZSM, C 100288 ZSM, C 100290-100293 ZSM, C 100296 ZSM, C 100296A ZSM, C 100297 ZSM, N 100298 ZAM, N 100286 ZCM, N 100299 ZCM, and N 100300 ZCM), 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 09DCP020M. The lead agency is the City Planning Commission.

A summary of the environmental review appears in the related report for a special permit (C 100296A ZSM).

UNIFORM LAND USE REVIEW PROCEDURE (ULURP)

This application (C 100289 ZSM), in conjunction with the applications for the related actions, was certified as complete by the Department of City Planning on May 24, 2010, and was duly referred to Manhattan Community Board 7 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 non-ULURP applications which were referred for information and review.

Community Board Public Hearing

Community Board 7 held a public hearing on this application (C 100289 ZSM) and the related applications (N 100294 ZRM, N 100295 ZRM, C 100287 ZSM, C 100288 ZSM, C 100290-100293 ZSM, C 100296 ZSM, C 100297 ZSM, N 100298 ZAM, N 100286 ZCM, N 100299 ZCM, N 100300 ZCM, and M 920358D ZSM) on July 22, 2010 and on that date, by a vote of 35 to 3, adopted a report recommending conditional disapproval of the applications.

A summary of the recommendations of Community Board 7 appears in the related report for a special permit (C 100296A ZSM).

Borough President Recommendation

The application (C 100289 ZSM) and the related applications (N 100294 ZRM, N 100295 ZRM, C 100287 ZSM, C 100288 ZSM, C 100290-100293 ZSM, C 100296 ZSM, C 100297 ZSM, N 100298 ZAM, N 100286 ZCM, N 100299 ZCM, N 100300 ZCM, and M 920358(D) ZSM) were considered by the Manhattan Borough President, who issued a recommendation on August 31, 2010 recommending conditional disapproval of the applications.

A summary of the recommendations of the Borough President appears in the related report for a special permit (C 100296A ZSM).

City Planning Commission Public Hearing

On August 25, 2010 (Supplemental Calendar No. 3) the City Planning Commission scheduled September 15, 2010, for a public hearing on this application (C 100289 ZSM) in conjunction with the hearing on the related actions. The hearing was duly held on September 15, 2010 (Calendar No. 19).

There were a number of appearances, as described in the report on the related application for special permit (C 100296A ZSM), and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY

This action, as revised and in conjunction with the related actions, 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 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et. seq.) The designated WRP number is 09-002.

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 the special permit, as modified, is appropriate.

A full consideration and analysis of the issues, and reasons for approving this application, appears in the related report for a special permit (C 100296A 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 Supplemental Environmental Impact Statement (FSEIS), including Chapter 28 “Modifications to the Proposed Project” thereof, for which a Notice of Completion was issued on October 15, 2010, with respect to this application (CEQR No. 09DCP020M), and the CEQR Technical Memoranda issued on September 10, 2010 and October 26, 2010, with respect to modifications of this application set forth herein, 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 thereto, the action to be approved, with the modifications set forth and analyzed in the Technical Memorandum dated October 26, 2010, is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FSEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration attached as Exhibit B hereto, 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 FSEIS and Technical Memoranda, 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, that 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 CRP/Extell Parcel L, LP and CRP/Extell Parcel N, LP, pursuant to Sections 197-c and 201 of the New York City Charter, in accordance with Section 2-06 (c) (1) of the Uniform Land Use Review Procedure Rules, for the grant of a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow a public parking garage with a maximum capacity of 322 spaces on portions of the ground floor, cellar, sub-cellar 1 and sub-cellar 2 of a proposed mixed use development (Parcel 1), on property bounded by West 61st Street, West End Avenue, West 59th Street and Riverside Boulevard (Block 1171, Lots 155 & 165), in a C4-7 District, within a general large-scale development generally bounded by West 72nd Street, Freedom Place, West End Avenue, West 59th Street and Riverside Boulevard, Borough of Manhattan, Community District 7, is approved subject to the following conditions:

1. The development that is the subject of this application (C 100289 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 Philip Habib & Associates , filed with this application and incorporated in this resolution, and in accordance with the provisions and procedures set forth in the Restrictive Declaration

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-144	Garage B-1 Ground Level	October 27, 2010
Z-145	Garage B-1 Plan Cellar Level, Sub-Cellar 1 Level Sub-Cellar 2 Level	October 27, 2010

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. Development pursuant to this resolution shall be allowed only after the modification to the original Riverside South restrictive declaration attached hereto as Exhibit A, and the restrictive declaration attached hereto as Exhibit B, with such administrative changes to both documents as are acceptable to Counsel to the Department of City Planning, have been executed and recorded in the Office of the Register, New York County. Such restrictive declarations shall be deemed incorporated herein as conditions of this resolution.
4. 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.
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, sub-lessee 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 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.

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 100289 ZSM), duly adopted by the City Planning Commission on October 27, 2010 (Calendar No. 7), 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,
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SHIRLEY A. McRAE, KAREN A. PHILLIPS, Commissioners