CITY PLANNING COMMISSION

November 18, 2009 / Calendar No. 14

C 090478 ZSM

IN THE MATTER OF an application submitted by 76th and Broadway Owner 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 for an attended public parking garage with a maximum capacity of 194 spaces on portions of the ground, cellar, and first subcellar levels of a proposed mixed-use development on property located at 2148 Broadway a.k.a. 208-216 West 76th Street (Block 1167, Lots 37 and 40) in a C4-6A District, Borough of Manhattan, Community District 7.

This application for a special permit was filed by 76th and Broadway Owner LLC on June 3, 2009 for a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to facilitate the construction of a 194-space attended public parking garage at 2148 Broadway on the Upper West Side of Manhattan in Community District 7.

BACKGROUND

The project site comprises the northwest corner and north midblock portion of the block bounded by Broadway, West 76th Street, Amsterdam Avenue, and West 75th Street (Block 1167, Lots 37 and 40) and consists of two tax lots totaling 19,299 square feet of area. The site has approximately 128 feet of frontage on Broadway and 183 feet of frontage on West 76th Street and was formerly occupied by five- and six-story buildings that contained a 300-space public parking garage known as the Beacon Garage and a car rental establishment with a capacity of 270 vehicles, as well as ground-floor retail establishments along Broadway. The site has been cleared and is currently undergoing foundation work for a new mixed-use, 18-story building containing 76 residential condominium units, 24,950 square feet of ground-floor retail space along Broadway, and a car rental establishment with a capacity of 91 vehicles and 4,050 square feet of ground-floor commercial space on West 76th Street.

The project site shares the block with the Jewish Community Center to the east; a 298-space public parking garage located in the former New York Cab Company building, a landmark building, to the southeast; and to the south, a two-story commercial building and a 15-story residential building with ground-floor retail. Across West 76th Street, a 132-unit residential

development known as the Harrison has recently been completed, and within the vicinity of the site several other residential developments and conversions are under construction or have recently been completed.

The project site is located in a relatively mixed-use area of Manhattan's densely populated Upper West Side neighborhood. Mid- and high-rise apartment buildings with ground-floor retail line Broadway and Amsterdam Avenue, with several supermarkets and some destination retail located on Broadway. A number of significant cultural and community facility uses are located in the immediate area, including the 2,800-seat Beacon Theatre, a landmark, on the block to the south and the Riverside Memorial Chapel across Amsterdam Avenue to the east. The American Museum of Natural History is located farther to the east between Columbus Avenue and Central Park West.

The C4-6A zoning district in which the project site is located is a high-density contextual district that permits a range of residential, commercial, and community facility uses. Section 13-562 of the Zoning Resolution (Public Parking Garages and Public Parking Lots) allows public parking garages by special permit pursuant to Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas). Section 74-52 requires findings to be met relating to compatibility with other uses in the general area; traffic congestion and pedestrian flow; traffic on local residential streets; reservoir spaces; and adequacy of streets providing vehicular access to the garage. West 76th Street is a one-way eastbound narrow street with 15-foot sidewalks on both sides and a 30-foot roadbed. On-street parking is permitted on a limited portion of the north side of West 76th Street but is not permitted along the south side. Broadway is a two-way wide street, and Amsterdam Avenue is a one-way northbound wide street. The project site is well-served by transit, with local and express IRT subway stations located on Broadway at 79th and 72nd Streets, respectively, and numerous bus routes on Broadway, the avenues, and major crosstown streets.

The proposed attended public parking garage would contain 26,184 square feet of garage space providing 194 parking spaces on the cellar and first subcellar levels of the new development. At least 95 of the 194 spaces would be rented as accessory and/or monthly parking, provided that no more than 34 spaces would be reserved for accessory use (the maximum number of accessory

spaces allowed pursuant to zoning). Forty-six double-car stackers would be utilized to help accommodate the proposed number of spaces. The garage would be fully attended, and ten reservoir spaces would be provided. Vehicles would access the garage from West 76th Street via a new 22-foot-wide curb cut (including splays), a 20-foot-wide building entrance, and a 23-foot-wide, two-way ramp leading from the street to the cellar level. The proposed new curb cut for the garage would be located on the eastern end of the zoning lot approximately 158 feet from Broadway and 103 feet from Amsterdam Avenue; this curb cut would be located 16 feet east of another new curb cut that would serve the car rental establishment. Garage attendants would take control of entering vehicles on the cellar level and would park them on the cellar level and on the first subcellar level, which would be accessed by means of two dedicated vehicle elevators. The proposed garage would contain 291 square feet of space for required bicycle parking.

ENVIRONMENTAL REVIEW

This application (C 090478 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 09DCP061M. 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 June 29, 2009.

UNIFORM LAND USE REVIEW

This application (C 090478 ZSM) was certified as complete by the Department of City Planning on June 29, 2009 and was duly referred to Community Board 7 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

Manhattan Community Board 7 held a public hearing on this application on September 8, 2009 and on that date, by a vote of 28 in favor, eight opposed, and five abstaining, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Manhattan Borough President, who issued a recommendation approving the application on October 8, 2009.

City Planning Commission Public Hearing

On October 7, 2009 (Calendar No. 3), the City Planning Commission scheduled October 21, 2009 for a public hearing on this application (C 090478 ZSM). The hearing was duly held on October 21, 2009 (Calendar No. 17). There were four speakers in favor of the application and one speaker in opposition.

A land use attorney representing the applicant listed the various community facility and commercial uses in the area of the project site that generate demand for public parking and stated that there are currently no public parking garages between Amsterdam and Columbus Avenues from West 72nd to 81st Streets. He also stated that the number of public parking spaces within a quarter-mile walk of the site has decreased sharply in recent years while residential development has added demand for parking. Another representative of the applicant described the design and operation of the adjacent car rental facility as it pertains to vehicular movement and explained how the leases with the parking garage and car rental establishment would prohibit both facilities from illegally parking vehicles on West 76th Street adjacent to the building or on the sidewalk. The representative also stated that vehicles assigned one of the 95 spaces reserved for accessory and/or monthly parking would be identified by decals.

The manager of the Baseball Center NYC testified in support of the application, stating that a lack of public parking is a problem for his customers, who are often transporting children and equipment. A resident who lives near the project site also expressed support; he noted that the surrounding area contains a number of uses that draw from a wide area and asserted that reverse

commuting has become more prevalent among local residents in recent years due to the economic downturn.

A representative of the Manhattan Borough President also appeared in support of the application.

The City Council Member for the Sixth District, which includes the project site, spoke in opposition to the application. The Council Member expressed her concern that residents of the residential building immediately to the south of the site would lose some access to light and air as a result of the new as-of-right building and stated that she hoped this issue could be resolved. She also expressed disappointment that the new as-of-right car rental establishment on the site would contain many fewer vehicles than the former rental facility and described her support for car rental and car sharing generally. The Council Member reiterated her support for improved pedestrian safety on this block of West 76th Street.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit (C 090478 ZSM) is appropriate.

The Commission notes that the proposed public parking garage would be located in a part of the Upper West Side where a mix of community facility, cultural, commercial, and open space uses complements dense residential development. Some of these uses, such as the Beacon Theatre, the American Museum of Natural History, and Central and Riverside Parks draw visitors from around the New York City region. The area around the project site also includes a concentration of local and destination retail, including several supermarkets and a number of small- and medium-sized hotels. The Commission believes that, taken together, these uses constitute a significant source of demand for public parking. The Commission further notes that a number of public parking garages in the vicinity, including one previously located on the project site, have been demolished and redeveloped in recent years, resulting in a significant drop in the supply of public parking, while during the same period several residential developments and conversions have added hundreds of new housing units within a quarter-mile of the project site.

The Environmental Assessment Statement (EAS) prepared for the application states that the 194-space garage would generate an additional 31 vehicles per hour in the morning peak hour, 36 vehicles per hour in the midday peak hour, and 38 vehicles per hour in the evening peak hour compared to the new building with a 34-space accessory parking garage (the largest garage allowed as-of-right for this development in this location). All of the projected trips fall below the 50-vehicle-per-hour threshold set by the CEQR Technical Manual. The Commission believes that this modest increase in traffic will not contribute to traffic congestion in the surrounding area. The Commission also acknowledges that the car rental facility located in the new building would have its own separate access, vehicle holding area, and vehicle elevators and would utilize a separate below-grade level for storage of rental vehicles.

The Commission notes that the south side of West 76th Street, from which the proposed garage would be accessed, formerly provided an inhospitable environment for pedestrians, including steeply graded sidewalks, approximately 145 feet of curb cuts serving numerous points of vehicle ingress and egress, and the frequent presence of parked cars on the sidewalk. The Commission recognizes that the proposed garage and accompanying as-of-right development would result in a significant improvement of pedestrian conditions on this block, including a considerable reduction in the length of curb cuts, re-graded sidewalks, and rationalized movement of vehicles in and out of the building. The Commission further notes that the applicant has made available copies of executed leases with the garage and car rental establishment containing provisions prohibiting the lessees from parking vehicles on the street adjacent to the building or on the sidewalk. The Commission understands that the applicant has proposed a visual and audible warning device to alert pedestrians on West 76th Street to the presence of exiting vehicles as well as a barrier arm across the exit lane of the ramp to force vehicles to stop before exiting.

The Commission notes that the proposed garage would be located between Broadway and Amsterdam Avenue, both major arterial streets, and within a short distance of two major crosstown streets, West 72nd and 79th Streets. West 79th Street also provides access to the Henry Hudson Parkway. The Commission notes that cars would approach the proposed garage from the north via Broadway and from the south via Broadway or Amsterdam Avenue, neither of

which are local residential streets. Vehicles approaching from the west would use West 76th Street and from the east would likely use West 77th or 75th Streets. The Commission observes that in the surrounding area, these streets are predominantly mixed-use in character. Accordingly, the garage would draw a minimum of vehicular traffic to and through local streets in nearby residential areas.

The Commission notes that 10 required reservoir spaces would be provided on the ramp and on the cellar level of the proposed garage.

The Commission further notes the applicant's intention to reserve at least 95 of the 194 spaces in the garage for use as accessory and/or monthly parking and is therefore requiring, at all times, that at least 95 parking spaces shall be available for accessory and/or monthly parking, provided that no more than 34 spaces shall be reserved for accessory use. The Commission further notes that the applicant, in a letter dated November 11, 2009, stated that the required accessory and/or monthly parking would be memorialized in the lease with the garage operator and explained how decals would be used to identify vehicles with accessory or monthly parking arrangements.

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, 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 of 76th and Broadway Owner 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 for an attended public parking garage with a maximum capacity of 194 spaces on portions of the ground, cellar, and first subcellar levels of a proposed mixed-use development on property located at 2148 Broadway, a.k.a. 208-216 West 76th Street (Block 1167, Lots 37 and 40), in a C4-6A District, Borough of Manhattan, Community District 7, is approved, subject to the following conditions:

1) The property that is the subject of this application (C 090478 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 Philip Habib & Associates, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	Last Date Revised
2 of 5	Parking Plan – Ground	6/25/09
3 of 5	Parking Plan – Cellar	11/9/09
4 of 5	Parking Plan – Subcellar	6/25/09

- 2) At all times, at least 95 parking spaces shall be available for accessory and/or monthly parking, provided that no more than 34 spaces shall be used for accessory use.
- 3) 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.
- 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 090478 ZSM), duly adopted by the City Planning Commission on November 18, 2009 (Calendar No. 14), 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 ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY, NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. McRAE, Commissioners

RESOLUTION

Date: September 8, 2009

Committees of Origin: Land Use and Transportation

Re: 2148 Broadway (West 76th Street.)

Full Board Vote: 28 In favor 8 Against 5 Abstentions 0 Present

The following facts and concerns were taken into account in arriving at our conclusion:

A grandfathered rental-car facility of 270 spaces was closed to allow for the development of the Laureate (2148 Broadway, at West 75th Street).

This rental-car facility consistently used the sidewalk and street to stage its arriving and departing cars.

The Zoning Resolution precludes new rental-car facilities from having more than 100 spaces.

Readily available rental cars make it possible for New Yorkers not to own cars of their own, thus reducing congestion, pollution, and demand for parking.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan **approves** application #090478ZSM to the Department of City Planning by 76th and Broadway LLC for a special permit pursuant to ZR Sections 13-562 and 74-52 to allow a 194-space public parking garage to be constructed on portions of the ground floor, cellar, and sub-cellar of a new as-of-right, mixed-use residential and commercial retail building to be located at 2148 Broadway in Manhattan (Block 1167, Lots 37 and 40), and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan applauds 76th and Broadway LLC for attempting to replace the rental-car spaces on site and urges City Planning to reexamine the counterintuitive and counterproductive limitation on rental-car space, and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan requests that the developer provide an safe environment for pedestrians, with adequate signage and sound and light signals, at the garage entrance/exit, and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan asks for a commitment from the developer that no cars, including rental cars, will be parked or driven on the sidewalk or parked illegally on West 76th Street.

Joint Committees: 9-2-0-0.

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BOROUGH OF MANHATTAN

SCOTT M. STRINGER BOROUGH PRESIDENT

October 8, 2009

Recommendation on ULURP Application No. C 090478 ZSM – 2148 Broadway Garage by 76th and Broadway Owner, LLC

PROPOSED ACTIONS

76th and Broadway Owner, LLC¹ seeks a **Special Permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution** ("ZR") to allow an attended public parking garage with a maximum capacity of 194 spaces on portions of the ground floor, cellar, and sub-cellar of an 18-story as-of-right, new residential building at 2148 Broadway² (Block 1167, Lots 37 and 40). The project site is located in a C4-6A zoning district in Manhattan Community District 7.

In order to grant the Special Permit, the City Planning Commission ("Commission") must find that the garage will have a minimal impact on surrounding uses, will not contribute to congestion or inhibit pedestrian flow, will not direct traffic through local streets, contains an adequate number of reservoir spaces, is surrounded by streets that are adequate for generated traffic, and 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.

PROJECT DESCRIPTION

The proposed 194-space attended public parking garage would be located in the base and cellar of an as-of-right, new residential building, currently under construction, at the southwest corner of Broadway and West 76th Street. The site has approximately 128 feet of frontage on Broadway and 182 feet of frontage on West 76th Street. Previous uses on the site included a six-story pubic parking garage with 300 parking spaces and a five-story building containing a car rental facility with 270 automobiles, a drugstore, and a bar. There were a total of nine vehicle entrances and approximately 140 feet of near continuous curb cuts along West 76th Street.

¹ The LLC's principal owners are an affiliate of Stahl Real Estate Company.

² Also known as 208-216 West 76th Street.

The proposed new residential development will contain a total of 76 residential condominium units with a total floor area of 231,425 square feet³. The development will also include an as-of-right 91-space car rental facility⁴, ground-floor retail, and residential amenity space. The surrounding neighborhood contains a mix of uses including residential, ground-floor retail, commercial offices, hotels, institutions, and community facilities.

The proposed garage consists of approximately 26,184 square feet (including access ramps) and would include 46 stackers. The garage will contain ten reservoir spaces along the garage's entry ramp, and an attendant's booth would be located in the cellar. Garage users would access the proposed garage via a 22-foot curb cut on the eastern most edge of the site on West 76th Street. A separate 22-foot curb cut, located 16 feet west of the public parking garage entrance also on West 76th Street, would be provided for the as-of-right car rental facility. Pedestrians would be able to access the public parking garage using either the garage's ramp or the building's main entrance lobby on West 76th Street. The sub-cellar would be accessed by attendants via two vehicle elevators.

An automated barrier bar would be installed on West 76th Street to stop vehicles prior to exiting onto public streets, and an audible/visual pedestrian warning system would alert pedestrians on nearby sidewalks of exiting vehicles. The garage will also include 291 gross square feet of space to accommodate 19 bicycle parking spaces as required by the recent bicycle parking zoning text amendment approved by the City.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on September 8, 2009, Manhattan Community Board 7 recommended <u>approval</u> of the application by a vote of 28 in favor, 8 opposed, 5 in abstention, and 0 present but not voting.

The Board applauded the developer for replacing the rental-car spaces on site and urged "City Planning to reexamine the counterintuitive and counterproductive limitation on rental-car space." The Board further requested that the developer "provide a safe environment for pedestrians with adequate signage and sound and light signals at the garage entrance/exit." Finally the Board requested that the applicant commit that "no cars, including rental cars, will be parked or driven on the sidewalk or parked illegally on West 76th Street."

BOROUGH PRESIDENT'S COMMENTS

The public purpose of Section 13 of the Zoning Resolution is to control traffic congestion and ensure compliance with environmental standards by requiring a Special Permit for certain parking facilities, including public garages, in the Manhattan core. With increasing public concern about traffic congestion and pollution and recent City initiatives to discourage automobile use in the core, this policy has never been more relevant.

³ The proposed development has received a 1.99 FAR bonus for providing 9,608 square feet of newly constructed, off-site affordable housing located at 210 West 102nd Street pursuant to the Inclusionary Housing Program.

⁴ While the site is currently under construction, the car rental facility space has been leased by Avis.

Case law establishes that applicants for a Special Permit are generally entitled to favorable consideration of their applications if they have demonstrated that they have met the specific findings identified in statute. However, given the important public purpose behind the Special Permit requirement and the importance of encouraging transit-based development instead of automobile use in Manhattan, applicants should satisfy the findings under as strict an interpretation as is reasonable.

The proposed garage use is compatible with the surrounding mixed use neighborhood. The garage includes an adequate amount of reservoir spaces, and nearby streets, some of which are major City arterials, can adequately handle traffic generated by the garage. The proposed garage, therefore, meets the most of required findings for the Special Permit based on its location and design.

In order for the application to meet the remaining findings—that the facility will not create or contribute to serious traffic congestion and will draw a minimum of vehicular traffic to and through local streets— the applicant must demonstrate that the garage would have minimal adverse impact on the environment. The analysis found within the Environmental Assessment Statement ("EAS") supports that the garage meets the remaining findings, which warranted the Commission to issue a negative declaration. However, the conclusion in the EAS is premised on whether the garage is actually operated as it was studied.

The EAS for the project assumes that a portion of the garage will be accessory to the new residential development and that a portion of the garage will be used by monthly overnight parkers.⁵ The applicant has committed as part of the application to operating the garage with a minimum of 95 accessory and/or monthly parking spaces. Therefore, the garage will operate as it was studied.

Further, in order to meet community concerns relating to safety, the applicant has committed to take certain safety measures, such as installing an automated barrier bar. The barrier bar will force vehicles to stop prior to entering the public street system, thereby reducing the likelihood of pedestrian-vehicular conflicts. This safety method, along with an audible/visual warning systems, will create a safe environment for pedestrians.

Finally, the car rental facility that previously operated on the site commonly parked cars on the adjacent sidewalks. This practice is illegal, inhibited pedestrian flow, and created an unsafe condition. While the new rental car facility proposed at the site is allowed as of right and beyond the scope of this application, the community is right to suggest that measures be taken to prevent illegal sidewalk parking around the new facility.

The applicant has responded by incorporating a provision in the lease that specifically prohibits illegal sidewalk parking. Since both the vehicular entrances and main building entrance are both located on West 76th Street, any illegal sidewalk parking would directly impact the residents of the new building and the applicant will have incentive to strictly enforce the no parking on the sidewalk provision of the lease. The applicant has, therefore, met this valid community concern.

⁵ The 2148 Broadway Public Parking Garage, Environmental Assessment Statement, page C-3, Table C-2, demonstrates that the total number of monthly and accessory parkers will be 95 spaces.

BOROUGH PRESIDENT'S RECOMMENDATION

The garage meets the required findings for the requested Special Permit, in part due to the applicant's commitment to operate the garage as studied. Further, the applicant has been responsive to community concerns relating to safety and illegal sidewalk parking.

Therefore, the Manhattan Borough President recommends <u>approval</u> of ULURP Application No. C 090478 ZSM, due to the applicant's responsiveness to community concerns and its commitment to reserve 95 spaces for accessory users of the new development and monthly parkers.

Scott M. Stringer

Manhattan Borough President