



CITY PLANNING COMMISSION

August 24, 2005/Calendar No. 14

C 040489 ZSM

IN THE MATTER OF an application submitted by Witkoff York 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 100 spaces on portions of the first floor and the cellar and subcellar of a proposed 26-story mixed building on property located at 1129-1133 York Avenue (Block 1456, Lot 21), in a C1-9 District, Borough of Manhattan, Community District 8.

The application for the special permit was filed by Witkoff York LLC on May 28, 2004 to allow an attended public parking garage with a maximum capacity of 100 spaces in a proposed 26-story mixed use (residential/retail) building located at 1129-1133 York Avenue in a proposed C1-9 District.

RELATED ACTION

In addition to the Special Permit 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 040488 ZMM Zoning Map Amendment to an area bounded by East 62nd Street, York Avenue, East 61st Street and a line 100 feet westerly of York Avenue from a C8-4 District to a C1-9 District.

BACKGROUND

This special permit would facilitate the construction of an 100-space public parking garage on the cellar and sub-cellar of a proposed 26-story mixed use (residential/retail) building to be

located on the northwest corner of the East 61st Street and York Avenue (a.k.a.1129-1133 York Avenue).

A full background discussion and description of this report appears in the related application for a zoning map amendment (C 040488 ZMM).

ENVIRONMENTAL REVIEW

This application (C 040489 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 04DCP056M. The lead is the City Planning Commission.

A summary of the environmental review appears in the report on the related application for a zoning map amendment (C 040488 ZMM).

UNIFORM LAND USE REVIEW

This application (C 040489 ZSM), in conjunction with the application for the related action (C 040488 ZMM), was certified as complete by the Department of City Planning on April 11, 2005, and was duly referred to Community Board 8 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 8 held a public hearing on this application on June 8, 2005, and on that date, by a vote of 28 to one with one abstentions, adopted a resolution recommending approval of the application with conditions.

A summary of the recommendations of Community Board 8 appears on the related application for a zoning map amendment (C 040488 ZMM).

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on July 12, 2005 with conditions.

A summary of the Borough President's recommendation appears in the report on the related application for a zoning map amendment (C 040488 ZMM).

City Planning Commission Public Hearing

On July 13, 2005 (Calendar No. 6), the City Planning Commission scheduled July 27, 2005, for a public hearing on this application (C 040489 ZSM). The hearing was duly held on July 27, 2005 (Calendar No. 30) in conjunction with the public hearing on the application for related action (C 040488 ZMM)

There were a number of appearances, as described in the report on the related application for a

zoning map amendment (C 040488 ZMM).

CONSIDERATION

The Commission believes that the grant of this the special permit is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appears in the report on the related application for a zoning map amendment (C 040488 ZMM).

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 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) Not applicable; and
- (g) Not applicable.

RESOLUTION

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 Witkoff York LLC 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 100 spaces on portions of the first floor and the cellar and sub-cellar of a proposed 26-story mixed building on property located at 1129-1133 York Avenue (Block 1456, Lot 21), in a C1-9 District, Borough of Manhattan, Community District 8, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 040489 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 Schuman Lichtenstein

2. Claman Efron Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
1	First Floor Plan	November 24, 2004
2	Cellar Floor Plan	November 24, 2004
3	Subcellar Floor Plan	November 24, 2004

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 040489 ZSM), duly adopted by the City Planning Commission on August 24, 2005 (Calendar No.14), 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, AICP, Chair
KENNETH J. KNUCKLES, ESQ., Vice Chairman
ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
RICHARD W. EADDY, JANE D. GOL, LISA A. GOMEZ, CHRISTOPHER KUI, JOHN
MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners