



## **CITY PLANNING COMMISSION**

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December 19, 2012 / Calendar No. 5

C 120398 ZSM

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**IN THE MATTER OF** an application submitted by Durst Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an enclosed attended accessory parking garage with a maximum capacity of 285 spaces on portions of the ground floor and mezzanine level of a proposed mixed-use building on the westerly portion of property bounded by West 58<sup>th</sup> Street, Eleventh Avenue, West 57<sup>th</sup> Street, and Twelfth Avenue (Block 1105, Lots 1, 5, 14, 19, 29, 36, and 43), within a Large-Scale General Development, in C4-7 and C6-2 Districts, within the Special Clinton District (Other Areas (Northern Subarea C1)), Community District 4, Borough of Manhattan.

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This application for the grant of a special permit was filed by the applicant on June 6, 2012. The proposed special permit, along with its related actions, would facilitate the development of a proposed, mixed-use development on the block bounded by Eleventh Avenue, Twelfth Avenue, West 57<sup>th</sup> Street and West 58<sup>th</sup> Street, in the Special Clinton District, in Manhattan Community District 4.

### **RELATED ACTIONS**

In addition to the proposed zoning special permit (C 120398 ZSM), 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:

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|-----------------|---|
| C 120396 ZMM    | Amendment to the Zoning Map changing an M1-5 zoning district to a C6-2 zoning district within the Special Clinton District  |
| C 120397 ZSM    | Special Permit, to modify the bulk regulations within a Large-Scale General Development.  |
| M 010151(B) ZSM | Modification of the Large-Scale General Development site plan associated with the original special permit (C 010151 ZSM) to reflect the proposed changes to the site plan |

M 010148(A) ZMM Modification of an existing Restrictive Declaration (D-145, C 010148 ZMM), approved in connection with a previously approved zoning map amendment

## **BACKGROUND**

A full background discussion and description of this application appears in the related report for a special permit application (C 120397 ZSM).

## **ENVIRONMENTAL REVIEW**

This application (C 120398 ZSM), in conjunction with the application for the related actions (C 120396 ZMM, C 120397 ZSM, M010148(A)ZMM, M 010151(B) 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 12DCP020M.

The lead is the City Planning Commission.

A summary of the environmental review and the Final Supplemental Environmental Impact Statement appears in the related report for a special permit application (C 120228 ZSM).

## **UNIFORM LAND USE REVIEW**

This application (C 120398 ZSM), in conjunction with the applications for the related actions (C 120396 ZMM, and C 120397 ZSM), was certified as complete by the Department of City Planning on July 11, 2012, and was duly referred to Community Board 4 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 application (use same boilerplate from other edits)

## **Community Board Public Hearing**

Community Board 4 held a public hearing on this and related actions on September 5, 2012, and on that date, by a vote of 38 in favor, 0 opposed and 3 present not voting, adopted a resolution recommending disapproval of the applications, with conditions.

A summary of the recommendations of Community Board 4 appears in the related report for a special permit application (C 120397 ZSM).

### **Borough President Recommendation**

This application (C 120398 ZSM), in conjunction with the related actions, was considered by the President of the Borough of Manhattan, who issued a recommendation on October 19, 2012 for approval of the applications, with conditions.

A summary of the recommendations of the Borough President appears in the related report for a special permit application (C 120397 ZSM).

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

On October 17, 2012, (Cal. No. 4), the City Planning Commission scheduled October 31, 2012 for a public hearing on this application. Due to Hurricane Sandy, the October 31, 2012 scheduled hearing was continued to November 14, 2012 (Calendar No. 15), in conjunction with the public hearings on the applications for the related actions (C 120396 ZMM and C 120397 ZSM).

There were a number of appearances, as described in the related report for a special permit application (C 120397 ZSM), and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the special permit (C 120398 ZSM), in conjunction with the related applications for a large-scale general development special permit (C 120397 ZSM, as modified), a zoning map amendment (C 120396 ZMM), modification of a previously approved Large-Scale General Development special permit (M 010151(B) ZSM) , and the modification and termination of the previously recorded restrictive declaration (M 010148(A) ZMM) is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the related report for a special permit application (C 120397 ZSM).

### **FINDINGS**

The City Planning 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, except that car sharing vehicles may occupy accessory off-street parking spaces; however, the

- number of spaces so occupied shall not exceed five spaces or 20 percent of all such parking spaces, whichever is greater;
- (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 residential streets; and
  - (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 Supplemental Environmental Impact Statement (FSEIS), for which a Notice of Completion was issued on December 7, 2012, with respect to this application (CEQR No. 12DCP020M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action [or “the actions to be approved”] adopted herein 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, 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, constitutes 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 and findings described in this report, the application submitted by Durst Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an enclosed attended accessory parking garage with a maximum capacity of 285 spaces on portions of the ground floor and mezzanine level of a proposed mixed-use building on the westerly portion of property bounded by West 58<sup>th</sup> Street, Eleventh Avenue, West 57<sup>th</sup> Street, and Twelfth Avenue (Block 1105, Lots 1, 5, 14, 19, 29, 36, and 43), within a Large-Scale General Development, in C4-7 and C6-2\* Districts, within the Special Clinton District (Other Areas (Northern Subarea C1)), is approved subject to the following conditions:

1. The development that is the subject of this application (C 120397 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 SLCE Architects & Planners LLP, filed with this application and incorporated in this resolution, and in accordance with the provisions and procedures set forth in the Restrictive Declaration:

Dwg. No.	Title	Date
Z-020	Accessory.Garage 1 <sup>st</sup> .Floor – Parking.Plan	12/14/2012
Z-021	Accessory.Garage Mezzanine – Parking.Plan	12/14/2012

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 restrictive declaration attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register, New York County.

Such restrictive declaration shall be deemed incorporated herein as a condition 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.

7. 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 120398 ZSM), duly adopted by the City Planning Commission on December 19, 2012 (Calendar No. 5), 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.,**  
**BETTY Y. CHEN, MARIA M. DEL TORO, JOSEPH I. DOUEK, ANNA HAYES LEVIN,**  
**ORLANDO MARÍN, Commissioners**

Commissioners **ALFRED C. CERULLO and RICHARD W. EADDY**: Recused

Commissioner **MICHELLE R. de la UZ**, voting NO