CITY PLANNING COMMISSION

March 30, 2015, Calendar No. 8 C 140405 ZSM

IN THE MATTER OF an application submitted by 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 13-45 (Special Permits for additional parking spaces) and 13-451 (Additional parking spaces for residential growth) of the Zoning Resolution to allow an automated accessory parking facility with a maximum capacity of 50 spaces on portions of the ground floor and sub-cellar of a proposed mixed-use building on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20, 60 and 1001-1005) in an M1-6 District, Community District 5, Borough of Manhattan.

This application for a special permit was filed by 39 West 23rd Street, LLC on May 21, 2014 to facilitate the development of an approximately 105,615 square foot, 278 foot tall residential building with a 50-space automated accessory parking garage on a through block site in the Ladies Mile Historic District.

RELATED ACTIONS

In addition to the 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 application, which is being considered concurrently with this application:

C 140404 ZSM	Special permit pursuant to Section 74-711 of the Zoning Resolution to modify: the use regulations of Section 42-00 to allow residential uses (Use Group 2 uses) on portions of the ground floor, cellar and sub-cellar, and on the 2nd – 24th floors; and the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-313 (For zoning lots with multiple rear lot lines), and Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks)

BACKGROUND

A full background discussion and description of this application appears in the related report for a special permit application (C 140404 ZSM).

ENVIRONMENTAL REVIEW

This application (C 140404 ZSM) in conjunction with the applications for the related action C 140405 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 14DCP167M. The lead is the City Planning Commission.

On March 27, 2015, a Revised Environmental Assessment Statement (EAS) was issued which describes and analyzes changes to the Proposed Project. The Revised EAS concluded that the proposed changes to the project as proposed would not result in any new or different significant adverse environmental impacts not previously analyzed under the conclusions of the October 2014 EAS. A Revised Negative Declaration was issued on March 30, 2015. The Revised Negative Declaration reflects the modified application.

UNIFORM LAND USE REVIEW

This application, along with the related ULURP application (C 140404 ZSM), was certified as complete by the Department of City Planning on October 20, 2014, and duly referred to Manhattan Community Board 5 and the Manhattan 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 5 held a public hearing on this and related actions on November 5, 2014 and, on December 11, 2014, by a vote of 18 in favor, 15 opposed, and 1 abstaining, adopted a resolution recommending approval of the parking special permit.

A summary of the recommendations of Community Board 5 appears in the report on the related special permit application (C 140404 ZSM).

Borough President Recommendation

This application (C 140405 ZSM) and the related action were considered by the Manhattan Borough President, who issued a recommendation on January 27, 2015 disapproving this special permit application (C 140405 ZSM).

A summary of the recommendations of the Borough President appears in the related report for a text amendment application (N 140404 ZRM).

City Planning Commission Public Hearing

On January 21, 2015 (Calendar No. 5) the City Planning Commission scheduled February 4, 2015 for a public hearing on this application (C 140405 ZSM). The hearing was duly held on January 21, 2015 (Calendar No. 21) in conjunction with the public hearings on the application for the related action (C 140404 ZSM).

There were a number of appearances, as described in the related report for a special permit (C 140404 ZSM) and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit (C 140405 ZSM) is appropriate. A full consideration and analysis of the issues, and the reasons for approving this application appear in the report on the related special permit application (C 140404 ZSM).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 13-45 (Special Permits for Additional Parking Spaces) of the Zoning Resolution:

(1) the location of the vehicular entrances and exits to such parking facility will not unduly interrupt the flow of pedestrian traffic associated with #uses# or public facilities, including access points to mass transit facilities in close proximity thereto, or result in any undue conflict between pedestrian and vehicular movements, due to the entering and leaving movement of vehicles;

(2) the location of the vehicular entrances and exits to such parking facility will not interfere with the efficient functioning of #streets#, including any lanes designated for specific types of users or vehicles, due to the entering and leaving movement of vehicles;

(3) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;

(4) for #public parking garages#, 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; and

(5) such parking facility will not be inconsistent with the character of the existing streetscape.

The City Planning Commission hereby makes the following findings pursuant to Section 13-451 (Additional parking spaces for residential growth) of the Zoning Resolution:

(a) the number of off-street parking spaces in such proposed parking facility is reasonable and not excessive in relation to recent trends in close proximity to the proposed facility with regard to:

(1) the increase in the number of #dwelling units#; and

(2) the number of both public and #accessory# off-street parking spaces, taking into account both the construction, if any, of new off-street parking facilities and the reduction, if any, in the number of such spaces in existing parking facilities. In making this determination, the Commission may take into account off-street parking facilities for which building permits have been granted, or which have obtained City Planning Commission special permits pursuant to Section 13-45.

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 submitted by 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 13-45 (Special Permits for additional parking spaces) and 13-451 (Additional parking spaces for residential growth) of the Zoning Resolution to allow an automated accessory parking facility with a maximum capacity of 50 spaces on portions of the ground floor and sub-cellar of a proposed mixed-use building on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20, 60 and 1001-1005) in an M1-6 District, within the Ladies' Mile Historic District, Borough of Manhattan, Community District 5, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 140405 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 Cook Fox

Architects, LLP, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
A-400	Ground Floor Plan	9/5/14
A-401	Floor Plan – Sub Cellar	9/5/14
A-402	Enlarged Building Section	9/5/14

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. 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.

5. 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.

6. 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, duly adopted by the City Planning Commission on March 30, 2015 (Calendar No. 8), 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.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, *Esq., Vice-Chairman*
RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, BOMEE JUNG, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ, Commissioners