CITY PLANNING COMMISSION

October 21, 2015/Calendar No. 1 C 150309 ZSM

IN THE MATTER OF an application submitted by WC 28 Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-45 (Special Permits for additional parking spaces) and Section 13-451 (Additional parking spaces for residential growth) of the Zoning Resolution to allow an automated, accessory off-street parking garage with a maximum capacity of 39 spaces on portions of the ground floor and sub-cellar of a proposed mixed-use building on property located at 530 West 28th Street (Block 699, Lot 49), in a C6-3 District, within the Special West Chelsea District, Borough of Manhattan, Community District 4.

The application for a special permit was filed by WC 28 Realty, LLC on March 24, 2015. The requested special permit would facilitate the establishment of a 39-space automated accessory parking facility within a mixed-use development at 530 West 28th Street in the West Chelsea neighborhood of Manhattan.

BACKGROUND

530 West 28th Street (the "Development Site") is a 19,256 square-foot through lot (Block 699, Lot 49) located on the block bounded by West 28th Street to the north, Eleventh Avenue to the west, West 27th Street to the south and Tenth Avenue to the east in the West Chelsea neighborhood of Manhattan. The Development Site has 100 linear feet of frontage on West 28th Street and 95 linear feet of frontage on West 27th Street and is 197.5 feet deep. The Development Site had been developed with a four-story building occupied by a sign and display manufacturing company (Use Group 17) on the ground floor and a cabaret-style eating and drinking establishment (Use Group 12A) on the upper levels. The building has been demolished and the Development Site is currently under construction with an as-of-right, 11-story, 96,223 square-foot, residential development with ground floor retail space and 36 dwelling units on the upper floors.

The site is located in a C6-3 zoning district within Subarea B of the Special West Chelsea District, and is an Inclusionary Housing Designated Area (ZR Section 98-26). The zoning district allows a base FAR of 5.0. The Special District (ZR Section 98-22) allows the FAR of the zoning lot to be increased to 7.5 through a transfer of development rights from the High Line Transfer Corridor (ZR Section 98-30; the "HLTC"), or through a mix of a transfer of development rights from the

HLTC and an Inclusionary Housing bonus. However, the proposed development will not include any bonused floor area or HLTC development rights.

The High Line traverses the subject block, and is approximately 175 feet to the east of the development site. Building heights in the area generally range from one to ten stories. Manufacturing zoning districts were retained in many mid-blocks in an effort to preserve galleries and existing light industrial uses and to encourage new commercial uses. Over the past decade, the surrounding area has experienced a notable amount of residential growth with much of the construction taking place on an as-of-right basis.

The proposed action will facilitate the establishment of a 39-space automated accessory parking facility within a building that is currently under construction. The development will contain 36 market-rate residential units, ground floor retail, and an automated accessory parking garage on the ground floor and sub-cellar levels. Access to the parking garage would be provided from West 27th Street by a new 12-foot wide curb cut, and egress from the garage would be provided on West 28th Street by a new 12-foot curb cut. Connecting the two curb cuts is a one-way, enclosed driveway located along the eastern end of the ground floor that provides access to both the garage entrance and the main residential entrance. The driveway is 11 feet wide and is flanked by a sidewalk measuring three feet, four inches in width that provides pedestrian access to the residential entrance from both West 27th and West 28th streets. The garage entrance will contain an elevator lift and an electronic kiosk that allows motorists to park and retrieve their vehicle. The garage will provide reservoir spaces for ten vehicles, in excess of the two reservoir spaces required by ZR Section 13-25; nine will be located along the driveway and the lift itself will serve as one reservoir space, as permitted by ZR Section 13-25(b). An illuminated electronic bollard will be located at the West 28th Street exit to prevent vehicles from accidentally entering the garage from West 28th Street. The sub-cellar level will contain parking spaces for 39 vehicles and will be fully automated.

Pursuant to ZR Section 13-11, accessory off-street parking is permitted for 20% of dwelling units in residential developments in Manhattan Community District 4. The proposed development

would have 36 dwelling units and 6,540 square feet of retail use (11,358 square feet gross), which would be, permitted an accessory parking facility containing seven residential parking spaces and three commercial parking spaces as-of-right. The proposed special permit is requested to increase the number of permitted accessory residential parking spaces by 29 spaces, so that an automated accessory parking facility with 36 residential spaces and three commercial spaces on the ground floor and sub-cellar levels of the building would be allowed.

ENVIRONMENTAL REVIEW

This application (C 150309 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 15DCP132M. The lead is the City Planning Commission.

On April 14, 2015, the application (C 150309 ZSM) was determined to be a Type II action pursuant to 62 RCNY § 5-05(c)(13), which requires no further environmental review.

UNIFORM LAND USE REVIEW

This application (C 150309 ZSM) was certified as complete by the Department of City Planning (DCP) on June 1, 2015, and was duly referred to Community Board 4 and the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 4 held a public hearing on this application (C 150309 ZSM) on July 22, 2015, and on that date, by a vote of 27 to 3 with 0 abstentions, adopted a resolution recommending disapproval of the application. The Community Board noted that DCP's methodology for calculating the net change in residential parking spaces attributes 30 percent of lost DCA parking spaces as residential. They believe this is inaccurate and causes the applicant to overstate the loss of residential spaces in their analysis. The Board further highlighted that the applicant's request to provide one accessory parking space per dwelling unit exceeds the ratio of spaces provided in

many comparable developments in the Surrounding Area. Their recommendation states that:

> The Board believes that the applicant has shown that the project complies with findings that address pedestrian traffic, street functioning, traffic congestion, etc… [but] finds that the number of proposed off-street parking spaces is not reasonable and is excessive in relation to recent trends in close proximity.

Borough President Recommendation

This application (C 150309 ZSM) was considered by the Borough President, who issued a recommendation on September 9, 2015 to approve the application with comments concerning the guidelines and findings for special permits made pursuant to Section 13-451.

City Planning Commission Public Hearing

On September 9, 2015 (Calendar No. 1), the City Planning Commission scheduled September 22, 2015 for a public hearing on this application (C 150309 ZSM). The hearing was duly held on September 22, 2015 (Calendar No. 8). There were five speakers in favor of the application and one in opposition.

The applicant, speaking in favor, described the proposed development and surrounding area, detailing its transition from a nightlife-oriented area known colloquially as "club row" to a gallery and residential district. The applicant also discussed the proposed building's design concept, stating that the dwelling units would average approximately 2,000 square feet per unit and would be marketed largely to families who were expected to own cars. The applicant also stated that parking spaces would be licensed to dwelling unit owners on a long-term basis and would be transferred only to subsequent unit owners.

Also speaking in favor, the applicant's land use attorneys provided further overview of the as-of-right development and proposed garage, describing how the findings laid out in ZR Sections 13-45 and 13-451 are proposed to have been met. They discussed the rationale for providing one parking space per dwelling unit, citing that the nearest subway station, 34th Street Hudson Yards, is nearly one-half mile away. The representatives also reiterated the applicant's position that the dwelling units are particularly large and will be marketed to family households that are likely to

own cars. The applicant's architect, speaking in favor, described the garage's operations, design and relationship to the existing streetscape.

A representative for the Manhattan Borough President's Office reiterated the Borough President's favorable recommendation. She encouraged DCP to consider in their analysis guidelines, both the supply of parking prior to the study period and the rate of utilization for parking facilities. She also encouraged DCP to incorporate findings that evaluate the facility's design in relation to the pedestrian realm. She highlighted that the application would still likely meet the findings of ZR Section 13-451 even if they were made more robust.

The Chair of Manhattan Community Board 4 testified in opposition to the proposed special permit. She reiterated the Community Board's concerns regarding the methodology for meeting the findings of ZR Section 13-451. In particular, she stated that the proposed provision of one parking space per dwelling unit was excessive in relation to recent developments within the parking analysis study area.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a special permit is appropriate.

The Commission believes that the 39-space accessory parking facility will not create serious traffic congestion or unduly interrupt the flow of pedestrian traffic in the area. The provision of eight reservoir spaces, in addition to the two required by ZR Section 13-25, and the automated facility's ability to park an incoming vehicle in an average of 90 seconds, as described by the applicant, will allow for the efficient movement of vehicles off the street. The Commission notes that the facility is accessory to the uses within the building, and located one block from the West Side Highway. The facility will introduce comparatively few drivers to the surrounding area, and these drivers are likely to use the arterial thoroughfare instead of local streets for most journeys. As a result, the Commission believes that the proposed facility will not create or contribute to serious traffic

congestion. The Commission also observes that many building ground floors along West 27th and West 28th streets contain curb cuts for parking and loading entrances. The Commission therefore believes that the location of the parking entrance on West 27th Street and exit on West 28th Street would not be inconsistent with the character of the existing streetscape.

The Commission acknowledges the concerns expressed by the Community Board and comments made by the Borough President. The Commission notes, however, that the methodology is informed by DCP's 2011 Manhattan Core Public Parking study, and that each application's parking analysis is supported by the best available data. The Commission believes that this analysis produces a methodologically reproducible study that helps the Commission approach each application pursuant to this Section with a level of consistency and comparability, while also allowing for some flexibility where there is data to support any changes.

The applicant undertook a parking study to document the net change in the number of residential units and off-street parking spaces within one-third of a mile from the development site between 2004 and 2014, and up to the project's expected build year of 2016 to demonstrate that the request for an increase of 29 additional accessory parking spaces is reasonable and not excessive in regard to recent trends in residential development and the provision of parking. 36 of the proposed 39 spaces, including all of the 29 requested spaces, would be accessory to the proposed development's 36 dwelling units. The dwelling units will average approximately 2,000 square feet per unit and, according to the applicant, would be marketed primarily to families who were expected to own cars. Using data from the Department of Buildings, the Department of Consumer Affairs, and additional research by the applicant, the study found that between 2004 and 2016, the ratio of the change in off-street parking spaces to the change in residential units is 4%. With the proposed 39 accessory parking spaces and 36 residential units, that ratio would increase to 5%. The Commission notes that the ratio is well-below 20%, DCP's expected growth ratio of new off-street parking spaces to new residential units for Manhattan Community District 4.

The Commission therefore believes that the ratio of new off-street parking spaces to new residential units with the proposed project demonstrates that the request for 29 additional accessory

parking spaces is reasonable and not excessive in regard to recent trends in residential development and the provision of parking.

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, 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 WC 28 Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-45 (Special Permits for additional parking spaces) and Section 13-451 (Additional parking spaces for residential growth) of the Zoning Resolution to allow an increase of 29 spaces in an automated accessory off-street parking garage on portions of the ground floor, cellar and sub-cellar levels of a proposed mixed-use building on property located at 530 West 28th Street (Block 699, Lot 49), in a C6-3 district within the Special West Chelsea District, Borough of Manhattan, Community District 4, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 150309 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 David B. Nicholson, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z-005	Zoning Information - Site/First Floor Proposed Plan	05/11/2015
Z-006	Zoning Information - Proposed Sub-cellar Plan	05/11/2015

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, sublessee or occupant.

5. Upon 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's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 150309 ZSM), duly adopted by the City Planning Commission on October 21, 2015 (Calendar No. 1), 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
RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, *III*,
MICHELLE DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, ANNA HAYES LEVIN, Commissioners

LARISA ORTIZ, Commissioner, Abstained

CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

JESSE R. BODINE
District Manager

August 10, 2015

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: ULURP Application No. C 150309 ZSM
Special Permit for a 39-Space Accessory Parking Garage

Dear Chair Weisbrod:

At its regularly scheduled full Board meeting on July 22, 2015, Manhattan Community Board 4 (CB4), voted 27 in favor, 3 opposed, 0 abstaining and 0 present but not eligible to vote to recommend denial of the Application for a special permit under ZR 13-45 and ZR 13-451 for an increase in the number of parking spaces in an automated parking facility at 530 W28th Street to 39. The Board's recommendation is based on the belief that the test determining eligibility for the special permit is deeply flawed and inapplicable in this situation, and that the availability of nearby public transportation makes the additional spaces unnecessary. This recommendation reflects the consensus of its Chelsea Land Use Committee at its July 13th meeting which did not have a quorum.

Background

The proposed development at 530 West 28th Street is an as-of-right mixed use building occupying Block 699 Lot 49 in a C6-3 district in Subarea B of the Special West Chelsea District. The development will have 36 residential units, and 6,540 square feet of commercial space on the ground floor and 4,855 square feet of commercial space in the cellar. Under ZR 13-11(a) the site is permitted seven accessory parking spaces for the residential units and three accessory parking spaces for the commercial square footage.

The proposed garage will be an unattended, automated facility where vehicles will be stored and retrieved by automated guided vehicles - battery-powered robotic devices - moving between the garage entry area and storage spaces in the two levels below.

The applicant is seeking approval for 39 spaces in the proposed garage, all of which are intended to be accessory parking spaces used only by the tenants of the proposed development.

Analysis

The Board believes that the applicant has shown that the project complies with findings that address pedestrian traffic, street functioning, traffic congestion, etc. ZR 13-45(d) requires compliance with the additional finding set out in ZR 13-451, that "the number of off-street parking spaces in the proposed parking facility is reasonable and not excessive in relation to recent trends in close proximity to the proposed facility..."

The Department of City Planning (DCP) addressed the issue of reasonableness by developing methodology to calculate a "parking ratio." The calculation of the parking ratio requires consideration of new residential dwelling units and new and lost parking spaces during a ten year look-back period through the completion of the proposed facility. The application guidelines also state, "Additionally, the City Planning Commission…may take into account levels of vacancy in existing parking facilities within the area of the proposed parking facility."

The Board finds that the number of proposed off-street parking spaces is not reasonable and is excessive in relation to recent trends in close proximity.

The Board has written in response to an earlier application that it believes that the DCP methodology is not appropriate for the West Chelsea area. At the beginning of the mandated ten year look-back period, the West Chelsea area was a manufacturing district with a large over-supply of off-street parking caused by warehousing vacant lots as parking pending favorable economic and social conditions for development of the lots. These parking spaces were not fully utilized except on special occasions, such as events at Madison Square Garden. There also were few residences within the one-third mile study area of the proposed development, and even fewer legal ones. Thus, these parking spaces largely accommodated transient users, not residential users.

Specifically, the analysis for the proposed increase in parking spaces raises the following issues:

- The proposed ratio of 100 percent of residential parking spaces is five times larger than the average ratio in residential buildings constructed in the last ten years. Thus the requested ratio is excessive in relation to recent trends. The numbers provided by the applicant show that all previous and similar residential developments in close proximity in the last ten years have a ratio of 14 percent parking spaces.

- Since this building's residents will have exclusive use of the proposed garage spaces, the proposed increase in parking spaces will not alleviate the alleged loss of parking spaces in the vicinity. The assumption that parking is a shared resource is inapplicable to this case.

- It is unreasonable to attribute 30 percent of the lost parking spaces to residential spaces in West Chelsea. The presumed decrease of 719 residential parking spaces calculated as 30

percent of the lost 1,267 DCA-licensed spaces greatly overstates the actual loss of residential spaces; it does not accurately reflect what has happened in West Chelsea.

- There is no analysis of the type of usage in 2003 to demonstrate that all the spaces were utilized and how many spaces were used by residents. It is likely that parking spaces were not fully utilized. The loss of residential parking should be reduced significantly.

- The applicant may have exaggerated the loss of residential parking. The loss of parking spaces in a residential building are counted as 100 percent residential loss, even though these garages are registered with DCA for the purpose of accepting transient traffic, so a portion of that parking capacity should be considered transient. In this application the loss of spaces is inflated to 164 spaces.

- The applicant's analysis does not take into account the number of non-DCA parking lots open during the 10-year look back period.

CB4 appreciates the applicant's commitment that all of the proposed spaces will remain accessory parking spaces, but is concerned by the proposed 1:1 ratio of parking spaces to residential units. Since city living increasingly means going without an automobile, we believe it is likely that one or more parking spaces would go unused by residential tenants of the building and thus be available for transient parking, which we oppose.

The Board also notes that there is increasing access to public transportation in the vicinity of 530 West 28th Street. In addition to improved bus service, the final stop on the No. 7 subway line will be less than a quarter mile from the proposed garage.

The Board is concerned by the increasing traffic created by new residential developments in West Chelsea, and by buses bringing tourists to the High Line, art galleries and the new Whitney Museum. Encouraging additional traffic by increasing residential parking will exacerbate traffic congestion.

Conclusions and Recommendation

The Board believes that the technical justification for the additional parking spaces is flawed for the West Chelsea area, that based on the development of new residential units and new parking spaces the parking ratio is greater than 20 percent both with and without the proposed development, that residents of the proposed development will have good access to public transportation when the building is completed, as noted by the applicant, and that the requested additional spaces are not necessary for the success of the development.

CB4 believes that the number of accessory parking spaces should be restricted to those available as-of-right and recommends that the application for a special permit be denied.

Sincerely,

Christine Berthet Chair	J. Lee Compton Co-Chair Chelsea Land Use Committee	Betty Mackintosh Co-Chair Chelsea Land Use Committee

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Gale A. Brewer, Borough President

Recommendation on ULURP No. C 150309 ZSM – 530 West 28th Street
By WC 28 Realty, LLC

PROPOSED ACTIONS

WC 28 Realty, L.L.C.[1] (the applicant) seeks a special permit pursuant to Sections 13-45 and 13-451 of the Zoning Resolution ("ZR") to allow an automated accessory parking garage with a maximum capacity of 39 spaces on portions of the ground floor and sub-cellar of an under-construction residential building at 530 West 28th Street (Block 699, Lot 49) in the West Chelsea neighborhood of Manhattan Community District 4.

The special permit requires that all of the applicable conditions of ZR § 13-20 (SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES) be met and that the findings of §13-45 and 13-451 have been met. These findings are as follows:

(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;
(5) such parking facility will not be inconsistent with the character of the existing streetscape; and
(6) 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:
    (a) the increase in the number of dwelling units; and

[1] WC 28 Realty, L.L.C. is a subsidiary of Centaur Properties, which is managed by Harlan Berger, Founder and Chief Executive Officer

(b) 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.

PROJECT DESCRIPTION

The applicant requests a special permit to allow an on-site accessory parking facility with 39 spaces on the ground floor and sub-cellar of an as-of-right mixed use, through block building currently under construction at 520 West 28th Street. When completed, the building will contain 36 apartments over 11 stories, with commercial retail uses on the ground floor. The garage entrance will be located within an 11 foot wide driveway running from West 27th to West 28th Street through the base of the building. The building's residential lobby will be located at the center of the development site and will also be accessed by the driveway, which will have a three-foot sidewalk.

Area Context

The project site sits in the northern portion of the West Chelsea neighborhood, a former industrial area that has, since the adoption of the Special West Chelsea District ("WCh") in 2005, become more of a vibrant mixed-use neighborhood with a large residential population. Immediately to the east of the project site is the High Line Park, and generally to the south and west of the site is the West Chelsea Historic District. Due west is Hudson River Park.

Prior to the development of the High Line as a park and the enactment of the WCh, the neighborhood around the project included significant amounts of public parking which was primarily used by transient parkers, rather than neighborhood residents. In the blocks surrounding the project there have been several new apartment buildings constructed pursuant to the Special West Chelsea District, many of which displaced parking uses. On the project block, 540 West 28th Street, completed in 2012, is a 13-story, 91 unit mixed use building. To the north of the project site, 525 West 28th Street contains two new buildings, completed in 2014, that together contain 710 apartments. One block north of the development site at 529 West 29th Street, a 15-story residential building with 139 apartments was completed last year. Two blocks north within the study area is a 343 unit, 33-story residential building. In addition, immediately adjacent to the site, a parking garage for 29 spaces at 520 West 28th Street was recently approved by the City Planning Commission.

According to the residential parking study submitted by the applicant, there has been a net increase of 2,599 residential units within one-third of a mile of the site since 2003.[2] These new residential units have coincided with a loss of 719 licensed off-street parking spaces. However, many of the new residential buildings constructed in the immediate vicinity have come with accessory parking facilities of their own, and in aggregate within the prescribed study area has resulted in a net increase of 110 residential parking spaces.

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[2] In the application for an accessory parking garage at 220 West 28th Street (C 150147 ZSM), immediately adjacent to the project site, 2,890 new residential units were identified in the study area. A favorable report on that application was issued by the CPC on July 7, 2015. The sites have overlapping but not coincident study areas.

While this residential development has occurred to the north of the site, a significant portion of West Chelsea has continued to develop into an arts district, with a large concentration of galleries to the south of the site on West 26th and 27th Streets. The majority of these galleries have adaptively reused former industrial and warehouse buildings.

The nearest subway station stops are located two avenues east, on Eight Avenue, with a C and E train entrance at West 25th Street (23rd Street Station) and an A, C, and E entrance through Penn Station at West 31st Street. In addition, the new 7 train station at West 34th Street, set to open later this summer, will be located approximately a quarter mile from the development site. The M11 bus provides northbound service along Tenth Avenue and southbound service along Ninth Avenue. The M12 bus similarly operates along Eleventh and Twelfth Avenues. There are three CitiBike docks in the immediate vicinity of the project site: across Tenth Avenue at West 28th Street, on the west side of Tenth Avenue at West 26th Street, and one block west at Eleventh Avenue and West 27th Street.

Project Site

The proposed accessory parking facility will be a part of an under-construction residential building, with ground floor commercial space, at 530 West 28th Street. The development site is a through-block parcel connecting West 27th and West 28th Streets, located about half way between Tenth and Eleventh Avenues. The existing building, which formerly housed a night club, on the project site has been demolished to facilitate construction of the proposed project. The site is located within a C6-3 District within Subarea B of the WCh which has special height controls, limiting the maximum height of the building to 135 feet. The underlying use requirements remain, and residential, community facility, and a wide range of commercial uses are permitted as of right.

Proposed Project

The proposed accessory garage will be an automated parking facility with 39 spaces. The proposed garage would contain 36 spaces accessory to the residential uses in the development (one per apartment) and three spaces accessory to the retail uses. Access to the garage would be made via an 11 foot wide, one-way enclosed driveway running the length of the east side of the ground floor. Drivers would enter via a 12 foot wide curb cut on West 27th Street, a westbound one-way street. A roughly three and a half foot sidewalk would flank the west side of the driveway to provide pedestrian access to the building's lobby, which is to be located in the midblock, accessed only through the driveway. Adjacent to the building lobby, the driveway will widen to provide a ten foot layby lane for drop offs.

To park a vehicle, drivers will travel approximately 165 feet through the covered driveway and stop at a stop sign and signal which would indicate when it is safe to turn the vehicle into the parking entrance area. Vehicles would then turn left into the vehicle elevator, exit the vehicle, and walk to an adjacent kiosk to activate the automated parking system. Sensors will detect that all individuals have exited the vehicle and that the entrance area is clear, and then the vehicle elevator will bring the vehicle to the subcellar level where it will be parked by one of three

automated guided vehicles. Audio and visual devices will be provided at the West 28th Street exit to alert pedestrians of any outgoing vehicles.

Proposed Actions

The applicant seeks a special permit pursuant to ZR §§ 13-45 and 13-451 to permit an accessory parking garage with 39 spaces. The development site is subject to the "Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core," which pursuant to ZR § 13-11(a) limit the number of accessory parking spaces for a building to no more than 20 percent of the number of dwelling units in the building. This would allow seven accessory residential spaces as of right. ZR § 13-12(C) allows the site an additional three parking spaces accessory to the ground-floor retail facility. The special permit pursuant to ZR § 13-451 allows additional accessory spaces pursuant to the above-mentioned findings.

The final finding of the special permit requires the CPC to determine that the number of parking spaces is:

> "reasonable and not excessive in relation to recent trends in close proximity to the proposed facility with regard to the increase in the number of dwelling units and 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.

The Department of City Planning has created application guidelines that require a residential growth study to accompany an application in order to show the ratio of new residential units to the change in the number of residential parking spaces. The applicant's parking study shows an increase of 2,599 dwelling units and a 110 net increase in parking spaces over the past ten years, meaning a parking ratio of 4.22 percent (or 5.53 percent including the proposed garage). Over the same period, however, the applicant finds a loss of approximately 216 residential parking spaces, which means that the ratio of new parking spaces to new residential units over the past ten years is 4.2 percent.

COMMUNITY BOARD RECOMMENDATION

At its Full Board Meeting on July 22, 2015, Manhattan Community Board 4 ("CB4") voted 27 in favor, 3 opposed, and 0 abstaining on a resolution recommending denial of the application. While the Board in its resolution notes that the applicant has met the findings for the proposed special permit, it contends that the applicant's analysis is based on the flawed premises of the residential growth study. The Board states that the ten-year look-back period of the study fails to account for the oversupply of parking in the neighborhood prior to the study period. It notes that there were few residential units in the study area prior to the look-back period, and thus concludes that parking spaces in the study area that were lost were largely used by transient users, who were often in the neighborhood only for special events. The Board also noted that there will soon be an increase in public transit serving the development site, as the new 7 train station will be less than a quarter mile from the proposed garage.

BOROUGH PRESIDENT COMMENTS

Over the past year there have been a number of special permits for additional parking pursuant to the new Manhattan Core rules, and each unique case has highlighted the strengths and weaknesses of the new regulations. In the heavily congested Manhattan Core, where access to public transit is the most prevalent in the city, every effort should be made to reduce car trips. In Manhattan, where public space is limited and valuable, reduction of private vehicular trips allows roadway to be reclaimed by other public purposes like plazas, expanded sidewalks, or increased vegetation. It is through this lens that applications for additional parking, which makes car trips easier and more likely, should be evaluated. The requirement of a special permit in and of itself has likely greatly reduced the number of new parking spaces in the past two years, and this itself should be viewed as an achievement. But the mere cost and length of the public review process cannot be the only limitation on new parking facilities. The review process itself needs to be robust enough to fully evaluate new parking. To date the Department of City Planning has been responsive to concerns that have been raised, and has already made some changes to the application guidelines for these special permits. But, as the number of applications increases, it may be time to go further in ensuring the goals and spirit of the parking text in Manhattan.

In the first parking application reviewed by this office, 42 Crosby (C 140204 ZSM), the Borough President noted that the methodology required by the Department of City Planning to evaluate new parking spaces had a number of significant gaps. Notably among these concerns was that the study area framework did not fully account for overlapping study areas which could allow multiple new parking garages to claim the same residential growth. In response to these concerns, the Department of City Planning updated its application guidelines to require each application to peg its additional parking spaces to a specific residential growth site in close proximity. In addition, DCP has posted the available parking data from the Department of Consumer Affairs and the relevant residential growth data from the Department of Buildings on its website along with all previous residential growth analyses. This new transparency, developed through conversations with the Borough President's office, allows community groups and elected officials to conduct their own parking analysis alongside that of the applicant.

In the recommendation on the 7 West 21st Street application (C 150077 ZSM et al), the Borough President noted that, despite these methodological improvements, the required residential growth analysis continues to have limitations that prevent a full evaluation of proposed parking garages. That recommendation comments that:

> "The residential study that accompanies the application lays out the argument for parking: that over the past ten years, far more residential units have been created than new parking spaces. However, the study has as the underlying assumption that there was an appropriate parking supply at the start of this timeframe. The study parameters further assume that a ratio of parking spaces of 20 percent of all residential units is appropriate throughout the Manhattan Core, not taking into account neighborhood differences or the availability of transit. These nuances are worth considering."

The 2012 Manhattan Core Parking Study that informed the new Manhattan Core parking rules found that 30 percent of public parking spaces in Community District 4 were occupied by residential parkers. However, as previously noted in the Borough President Recommendation for the adjacent garage at 520 West 28th Street:

> "Community District 4, however, encompasses multiple neighborhoods which all have distinctly different areas within them. While the entirety of the neighborhood may have had 30 percent residential parkers, this says nothing about the rate of parking within this particular study area prior to the ten year look-back period. CB4 contends that the parking garages that were lost in this study area as a result of residential growth were primarily transient parking spaces and that there was an oversupply of parking prior to the look-back period."

Again in this application, the residential growth analysis does not account for the absolute availability of parking, and provides nothing to refute this claim.

As previously commented upon, DCP should continue its encouraging work of improving the special permit application guidelines for these special permits to take into account a more robust set of factors such as the supply of parking prior to the ten-year look-back and the current capacity and utilization rate of parking facilities in the neighborhood. Furthermore, the CPC should evaluate whether additional findings are needed in order to ensure that these factors, as well as access to mass transit and distance from arterial roadways, can be considered when evaluating parking special permits. Notably, the special permit pursuant to ZR § 13-454 requires an applicant to show that, where a deficit of parking is created by a large scale development, the availability of off-street parking in the vicinity is insufficient. This requires applicants to look at the capacity of parking in the neighborhood and its utilization. Further, that special permit requires the CPC to find that reasonable measures have been taken to minimize parking demand.

A new concern which this particular proposal brings to the fore is whether the design of the garage should also be evaluated through the lens of the pedestrian realm. The findings of the special permit clearly speak to whether the garage use will inhibit pedestrian flow, and ask whether the parking facility will be in keeping with the neighborhood character. The number of reservoir spaces and estimated trip traffic ensures minimal impact to the flow of vehicles or people, and the area is punctuated by former auto uses, driveways, and garage entrances. While these particular findings are met by this garage, it is obvious to this office that the design of this garage favors the vehicular experience over the pedestrian experience at street level. The driveway's large ground floor façade openings create a gaping hole to highlight the interior driveway. Coupled with the soft lighting, the relatively narrow pedestrian path connecting West 28th Street to West 27th Street and the mid-building opening to the lobby space, these design elements clearly elevate the car over the people. This is certainly not the intention of the text, yet there is no language or guidance to ensure primacy of the pedestrian experience.

All of these considerations, however, pertain to the wider issue of how to evaluate parking special permits, and not to the particulars of this application. Were we to apply these more robust set of conditions to this application, it is likely that it would still be considered appropriate. First, the proposed parking garage is only one block away from the West Side Highway, which means

that parkers at the facility would be unlikely to add to local congestion in the neighborhood. Additionally, the proposed facility is small in size. While technically the garage operator could lease spaces to motorists who do not reside in the building, the complicated nature of the garage makes its use as a public parking facility unlikely. The garage is going into a luxury residential development of 36 units. While the 36 residential spaces are well above 20 percent of the units, given the size of the condo units and general trends in car ownership, those buying in this building are highly likely to be car owners who will want to keep their cars in their building.

The design of the interior drive-thru, provision of reservoir spaces, and automated system will prevent the garage from adding congestion to the local street system. Lastly, given the current structure of the special permit and adherence to the recommended methodology set forth by the Department of City Planning, it is believed that the applicant has completed due diligence in proving this proposal meets the findings for additional parking spaces at this location.

BOROUGH PRESIDENT RECOMMENDATION

In consideration of the above, the Manhattan Borough President recommends approval of ULURP No. C 150309 ZSM.

Gale A. Brewer
Manhattan Borough President