CITY PLANNING COMMISSION

September 7, 2016/Calendar No. 16 C 160148 ZSM

IN THE MATTER OF an application submitted by 221 W29 Residential 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 attended accessory off-street parking garage with a maximum capacity of 45 spaces on portions of the ground floor and sub-cellar of a proposed mixed-use building on property located at 217 West 29th Street (Block 779, Lots 27 and 28), in an M1-6D District, Borough of Manhattan, Community District 5.

The application for a special permit, in conjunction with the related actions, was filed by 221 W29 Residential LLC on December 23, 2015. The requested special permit, in conjunction with the related actions, would facilitate the provision of 45 accessory residential parking spaces within a mixed-use development at 217-221 West 29th Street in the Chelsea neighborhood of Manhattan.

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:

N 160047 ZRM	Amendment to the Zoning Resolution establishing a new Section 42-486 relating to streetscape provisions in M1-6D districts
N 160149 ZAM	Authorization pursuant to Section 42-486 to allow a reduction in the required frontage and depth of commercial use on the ground floor of a proposed mixed-use building at 217-221 West 29th Street

BACKGROUND

A full background discussion and description of this application appears in the related report for a zoning text amendment (N 160147 ZRM).

ENVIRONMENTAL REVIEW

This application (C 160148 ZSM), in conjunction with the related applications (N 160147 ZRM

and N 160149 ZAM), 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 16DCP091M. The lead is the City Planning Commission.

A summary of the environmental review and the Negative Declaration for this application appears in the related report for a zoning text amendment (N 160147 ZRM).

UNIFORM LAND USE REVIEW

This application (C 160148 ZSM) was certified as complete by the Department of City Planning on April 11, 2016, and was duly referred to Community Board 5 and the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 5 held a public hearing on this application (C 160148 ZSM) on June 9, 2016, and on that date, by a vote of 21 to 20 with 1 abstention, adopted a resolution recommending approval the application.

Borough President Recommendation

This application (C 160148 ZSM) was considered by the Borough President, who issued a recommendation on July 18, 2016 to disapprove the application.

A summary of the recommendations of the Borough President appears in the related report for a zoning text amendment (N 160147 ZRM).

City Planning Commission Public Hearing

On July 13, 2016 (Calendar No. 4), the City Planning Commission scheduled July 27, 2016 for a public hearing on this application (C 160148 ZSM). The hearing was duly held on July 27, 2016

(Calendar No. 34), in conjunction with the public hearing on the application for the related action (N 160147 ZRM).

There were a number of appearances, as described in the related report for a zoning text amendment (N 160147 ZRM) and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a special permit pursuant to Sections 13-45 and 13-451(a) of the Zoning Resolution, in conjunction with the applications for the related actions, is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the related report for a zoning text amendment (C 160147 ZRM).

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 221 W29 Residential LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Zoning Resolution Section 13-45 (Special Permits for additional parking spaces) and 13-451 (Additional parking spaces for residential growth) to allow an attended accessory off-street parking garage with a maximum capacity of 45 spaces on portions of the ground floor and sub-cellar of a

proposed mixed-use building on property located at 217 West 29th Street (Block 779, Lots 27 and 28), in an M1-6D 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 160148 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 Goldstein, Hill & West Architects, LLP, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z-3a	Subcellar Floor Plan Surface Parking Special Permit Drawings	12/21/15
Z-3b	Subcellar Floor Plan Lifted Trays Special Permit Drawings	12/21/15
Z-4a	Ground Floor Plan Parking Layout Special Permit Drawings	03/09/16

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 160148 ZSM), duly adopted by the City Planning Commission on September 7, 2016 (Calendar No. 16), 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 DOUEK, CHERYL COHEN EFFRON,
ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners

LARISA ORTIZ, Commissioner, abstaining

Manhattan Community Board Five

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

June 10, 2016

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: Application # C 160148 ZSM - 217-221 West 29th Street, application by 221 W29 Residential LLC for Special Permit to permit an attended accessory 45 space parking garage on the sub-cellar and ground floors of a new residential building;

Dear Chair Weisbrod:

At the regularly scheduled monthly Community Board Five meeting on Thursday, June 9th, 2016, the following resolution passed with a vote of 21 in favor; 20 opposed; 1 abstaining:

WHEREAS, The applicant 221 W29 Residential LLC seeks a special permit to allow an attended 45 space accessory parking facility on a portion of the ground floor and in the sub-cellar of a newly constructed 210' tall, 21-story apartment building with ground floor retail at 217-221 West 29th Street; and

WHEREAS, In 2013 the applicant entered into a 99-year ground lease for the development site from 29 Park LLC, which operated a 48-space parking lot from the 1960's up until 2014, and subsequently entered into an agreement in which 29 Park LLC would continue as operator of a new 45-space lot on the proposed facility; and

WHEREAS, The requested 45 parking spaces exceeds the 19 spaces permitted as-of-right under the Zoning Resolution; and

WHEREAS, The requested 45 parking spaces are less than the previous amount of parking spaces that have existed on site for decades; and,

WHEREAS, The project site is located in one of the most transit-accessible parts of Manhattan, one block 154 from the 28th 1 line stop; two blocks south of Penn Station, with service to the A,C,E and 1,2,3 subway lines, 155 Long Island Railroad, New Jersey Transit and Amtrak; five blocks from Herald Square, with access to the D, 156 F, N, Q, R, B, and M subway lines, as well as access to multiple MTA bus lines; and

WHEREAS, While Community Board Five has ongoing concerns about traffic congestion in the district and believes tradeoffs need to be carefully considered when increasing the amount of off-street parking permitted, this proposed action would result in a reduction of parking spaces as compared with what currently exists on the site; and,

WHEREAS, There are members of the community who desire to keep such parking facilities available for use in the neighborhood as their presence serves a need for destination-based car storage as opposed to daily use; and,

WHEREAS, The net reduction of 3 spaces on the existing site resulting in the operation of 45 parking spaces, although in excess of as-or-right amount, is viewed as favorable to the neighborhood; therefore be it

RESOLVED, Community Board Five **recommends approval** of the application by 221 W29 Residential LLC for a special permit to allow an attended 45 space accessory parking facility at 217-221 West 29th Street.

Thank you for the opportunity to comment on this matter.

Sincerely,

Vikki Barbero
Chair

Eric Stern
Chair, Land Use, Housing and Zoning Committee

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THE CITY OF NEW YORK

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Gale A. Brewer, Borough President

July 18, 2016

Recommendation on
ULURP Application Nos. N 160147 ZRM, C 160148 ZSM, and N 160149 ZAM –
217 West 29th Street
by 221 W29 Residential LLC

PROPOSED ACTIONS

221 W29 Residential LLC (the "applicant") seeks approval of a special permit pursuant to Section 13-45 and Section 13-451 of the Zoning Resolution (ZR) to allow an attended accessory off-street parking garage with a maximum capacity of 45 spaces on portions of the ground floor and sub-cellar of a proposed mixed-use building at 217 West 29th Street (Block 779, Lots 27 and 28), in a M1-6D District in Manhattan Community District 5. The applicant also seeks a related text amendment to add a new ZR Section 42-486 to allow for an authorization to modify the dimensions of frontage and depth requirements for ground floor commercial uses, and an authorization pursuant to the amended text.

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
   (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.

In evaluating the proposed text amendment to add a new Section 42-486 to the City of New York's Zoning Resolution, this office must consider whether the proposed language meets the underlying premise of the Zoning Resolution of promoting the general health, safety and welfare of the city and whether the proposals it will facilitate will be appropriate to the neighborhood.

The authorization the applicant requests for streetscape modifications requires that the following findings are met: (a) such modifications are the minimum extent necessary to provide sufficient space for access to off-street parking or loading facilities and (b) will not adversely affect the streetscape experience or impact the viability of such uses, and the resulting ground floor frontages will effectively contribute to a vibrant mixed-use district.

PROJECT DESCRIPTION

The project site is comprised of Tax Lots 27 and 28 on Block 779, which is bounded by West 30th Street to the north, Seventh Avenue to the east, West 29th Street to the south, and Eighth Avenue to the west. The applicant is seeking a special permit pursuant to ZR § 13-45 and 13-451 to build an accessory parking garage with a maximum of 45 spaces in a proposed mixed-use building. The applicant is also seeking a text amendment and related authorization by the City Planning Commission ("CPC") to modify streetscape provisions in order to facilitate the construction of the building and garage. The project site was being used as a 48-space public parking lot.

Background

In 2011, the project site was rezoned from an M1-5 district to an M1-6D district (C 100063 ZMM and N 110285 ZRY). The rezoning, which encompassed the midblocks beyond 100 feet form 7th and 8th avenues, and between the north side of 28th Street to the south side of 30th Street, was intended to preserve the neighborhood's character while allowing for residential growth and the creation of affordable housing through the Inclusionary Housing program.

In 2013, the applicant entered into a 99-year ground lease for the project site from 29 Park LLC, the owner and operator of the site as a 48-space at grade parking lot. As "Little Man Parking," they have been in business since 1999 and have experience managing 22 garages throughout New York City and northern New Jersey, and would continue as operator of the proposed garage within the new building.

Proposed Development

The applicant proposes to construct a new 21-story apartment building with ground floor retail and 45 accessory residential parking spaces on the ground floor and sub-cellar. The building would have 95 rental apartment units, including 19 affordable units at 60 percent of Area Median Income (AMI) for the first 35 years of the building's life. After 35 years, the 19 units will remain permanently affordable at 80 percent of AMI.

The building would have a street wall along West 29th Street which would rise to a height of 125 feet, be set back 15 feet as per the M1-6D district regulations, and then continue to rise to the maximum permitted height of 210 feet. The building would contain 79,105.9 square feet (11.47 FAR), slightly less than the maximum 82,752 (12.0 FAR) permitted on the zoning lot with the provision of affordable housing.

The special permit would allow for a 45-space attended accessory residential parking garage. The maximum number of accessory parking spaces permitted as-of-right for 95 dwelling units is 19. The proposed parking garage would be 11,444.7 square feet, with 7,829.4 square feet and 42 spaces in the sub-cellar and 3,615.3 square feet and 3 spaces on the ground floor. The garage would be accessible via a 20-foot-wide curb cut, including splays, on West 29th Street.

The building's frontage along West 29th Street would be 69.84 feet, and the proposed ground floor retail space would be 721 square feet. The retail space would have a depth of 18.89 square feet at its shallowest and 27.38 feet at its deepest, and a width of 25.96 feet. ZR § 42-485 provides that the project site shall have a minimum depth of 30 feet and a minimum width of 34.92 feet.

Area Context

The project site is located in a M1-6D zoning district in Manhattan Community District 5 on the north side of West 29th Street between 7th and 8th Avenues. The predominant zoning around the project site are M1-6 and M1-5. The Special Hudson Yards District is located about 600 feet north of the project site and includes C6-4 and C6-6 zoning districts.

Buildings in the area range in height and type, although early 20th Century loft architecture is common. Adjacent to the project site on the east side is a 7-story residential building with catering use on the ground floor, and to the west is a 2-story building used as a fur/leather showroom. Across the street is a 16-story commercial office/wholesale building, and next to it a 14-story commercial office building with a health center. To the immediate north of the project site are two 2-story buildings containing a fur wholesaler and a music store. To the west of the project site and across 29th Street is the "Edison Site," where two new 20-story residential buildings with ground floor retail, office use, and 350 parking spaces have been proposed.

The area is served by mass transit for local, regional, and national lines, as Penn Station is two blocks north on 31st Street. This provides access to the A-C-E and 1-2-3 subway lines, along with regional and national rail access by the Long Island Rail Road, New Jersey Transit, and Amtrak, respectively. The project site is also proximately located to the 28th Street station on Broadway of the 1 train, while the M20 bus route runs north along 8th Avenue and south along 7th Avenue.

In addition, to the northeast, .4 miles away, or less than a 10 minute walk, the MTA Herald Square station is situated with access to the N, Q, R, B, D, M, and F lines, along with a connection to the PATH train.

Proposed Actions

In order to facilitate the construction of a 21-story apartment building with a 45-space accessory parking garage, the applicant seeks:

(1) A Parking Special Permit (C 160148 ZSM) pursuant to ZR § 13-45 and 13-451 to allow additional accessory parking spaces for residential growth in order to construct a 45-space accessory residential parking garage. Only 19 spaces are permitted as-of-right for a 95 dwelling unit building.

(2) A Zoning Text Amendment (N 160147 ZRM) to add a new Section 45-486 to the Zoning Resolution, which would allow the City Planning Commission to modify, by authorization, the dimension of the minimum frontage and depth of the required ground floor commercial use of Section 42-485 (Streetscape provisions) for zoning lots that have a street frontage of more than the base of 50 feet but less than 75 feet. The proposed project does not meet the current requirement of 50 percent retail frontage and 30 feet minimum depth.

(3) An Authorization (N 160149 ZRM) pursuant to the proposed Section 45-486 which would allow CPC to modify the streetscape provisions of Section 42-485. Under Section 42-485 for 50 percent of street frontage to be occupied by retail use, the retail space would need to be 34.2 feet in length; the applicant proposes 25.96. Section 42-485 also requires such retail space to have a minimum depth of 30 feet from the streetwall; the applicant requests a waiver of this requirement as the proposed retail depth will range from 18.89 to 27.38 feet.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on June 9, 2016, Manhattan Community Board 5 (CB5) approved a resolution recommending **approval** of the application for a special permit to allow a 45-space accessory parking garage, by a vote of 21 in favor; 20 opposed; and 1 abstaining. CB5 cited the 48 parking spaces that had existed on the site for decades, and members of the community expressed a desire to keep such parking facilities for destination-based car storage as opposed to daily use.

However, CB5 also recommended **denial** of the text amendment to allow authorization to modify streetscape requirements in M1-6D districts. CB5 raised the relatively recent rezoning of the project site in 2011, and sees insufficient rationale to change streetscape requirements from only five years ago.

BOROUGH PRESIDENT'S COMMENTS

Recommendations from the Borough President on prior parking special permits have continued to call on the Department of City Planning and the City Planning Commission to consider a more robust set of factors aside from the parking methodology analysis, including the absolute availability of parking, the supply of parking prior to the ten-year look-back and the current capacity and utilization rate of parking facilities in the neighborhood, and access to mass transit.

In light of these concerns with the parking study methodology, and following a discussion with this office, it is appreciated that the applicant has provided us with recent and historical parking utilization data for two sites within the immediate area. The existing parking lot on the project site and the one nearby on the same street have enjoyed high utilization rates, and nearly 50 percent of spaces on the two lots have been occupied by monthly users. Thus, the data supports the assumption of the parking study, and also shows that a significant share of customers are local rather than transient users.

However, the project site is also two short blocks away from Penn Station -- the heart of the entire New York regional transportation system. Not only does it provide great access to multiple lines of the New York City subway system, it also has connections to the Long Island Rail Road, New Jersey Transit, and Amtrak, giving residents expansive access to the greater New York metropolitan area and beyond. With the upcoming West Side Access project to Penn Station, the surrounding area would also connect to the Metro-North Railroad. With the proximate location of Herald Square, the site has access to all but a few lines in the entire transit system. In terms of mass transit, it is perhaps the most incredibly well-served area in all of North America.

Members of the community raise a valid point that there are different profiles for car users, and that parking spaces can serve as storage for destination-based car usage as opposed to everyday commuting. But unlike other transit-oriented locations that might only have access to the subway, the Penn Station area provides the full range of transit options in the region. We believe that in such a case, there is much less need for destination-based car storage for residents, as there are ready alternatives to car travel.

The applicant might very well meet the individual findings for a special permit pursuant to ZR §13-45 and 13-451. However, our office believes that these findings are too narrowly focused and do not take into account the very important factor of access to mass transit. Excessive car congestion certainly has adverse effects on the character of Midtown Manhattan. It is within the Commission's powers to act in order to minimize adverse effects on the character of the surrounding area, and we recommend denial of this special permit application in such a transit-rich area.

In regard to the applications for a text amendment to modify streetscape requirements and for an authorization pursuant to that text amendment, we believe they are appropriate for the project site and its context. Our office has consistently expressed the importance of having appropriate spaces for the small-scale commercial tenants that are crucial to our neighborhoods. This text amendment and authorization would provide more flexibility in the length and depth of retail

spaces on narrow lots. Furthermore, according to information from the applicant, there are 57 ground floor commercial spaces with frontages of no more than 26 feet in the mapped M1-6D district. We do not believe that the proposed retail frontage will be out of context in its surroundings.

We also recognize the Community Board's concern about modifying the requirements of a relatively recent rezoning. Our office is also generally wary of such modifications. However, in conversations with the staff of the Department of City Planning, it was acknowledged that were these changes raised at the time of the original rezoning, they would have been considered appropriate by the Department. We believe that these changes will ultimately allow for more flexibility and a higher-quality streetscape experience in the district.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends **denial** of ULURP Application No. C 160148 ZSM for a 45-space parking garage, and **approval** of ULURP Application Nos. N 160147 ZRM creating a new CPC authorization and N 160149 ZAM for modifications to the streetscape provisions.

Gale A. Brewer
Manhattan Borough President