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Gale A. Brewer, Borough President

December 17, 2014

**Recommendation on ULURP Applications C 150077 ZSM
and C 150078 ZSM – 7 West 21st Street
By 7 West 21 LLC**

PROPOSED ACTION

7 West 21 LLC¹ (the “applicant”) seeks approval of two **special permits** pursuant to Section 74-712(b) and Sections 13-45 and 13-451 of the New York City Zoning Resolution (“ZR”), to permit an attended public parking garage with a maximum capacity of 200 spaces and to modify the height and setback requirements, rear setback requirements, and permitted obstructions requirements to facilitate the construction of an 18-story mixed-use development at 7 West 21st Street (Block 823, Lot 31) on a through lot located between Fifth and Sixth Avenues. The site is located in a C6-4A district within the Ladies Mile Historic District in Manhattan Community District 5.

The applicant seeks a special permit pursuant to ZR §74-712(b). In order to grant the bulk modifications of special permit § 74-712(b), the City Planning Commission (“CPC”) must find that the proposed development (1) shall not adversely affect surrounding structures or open space in terms of scale, location and access to light and air; and (2) relate harmoniously to buildings in the Historic District as evidenced by a Certificate of Appropriateness from the Landmarks Preservation Commission (“LPC”).²

The applicant also seeks a special permit pursuant to ZR § 13-45 and 13-451. 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;

¹ 7 West 21 LLC has as sole member 7 West 21 Managing Member LLC, which is managed by William C. Friedland and Richard Chapman. Rose Associates has been retained to develop and manage the property.

² The LPC issued a Certificate of Appropriateness (COFA 15-0280) on October 25, 2013. LPC’s determinations will not be re-examined in this application.

- (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.

PROJECT DESCRIPTION

The applicant proposes to construct an approximately 279,118 square foot, 18-story mixed-use building containing 300 residential units, twenty percent of which will be affordable, approximately 7,934 square feet of ground floor local retail use, and an attended public parking garage with 200 spaces. The building is split into two segments atop a one-story base. The residential units are located within these two segments on floors 2 through 18. The second floor also contains an accessory residential amenities space. The residential segments are accessed through separate lobby entrances on West 21st Street and West 22nd Street. The lobbies are connected in the midblock through an atrium space which projects into the open area provided between the two segments beginning at the top of the first floor. In addition, the ground floor contains the two retail spaces; one fronts West 22nd Street and as proposed has a larger footprint, and the other retail space fronts West 21st Street. The ground floor includes the two entrance and one exit ramps for the two-level parking garage below, as well as the entrances to the two residential accessory bike storage areas.

The building is proposed at a FAR of 11.63, below the maximum 12.0 FAR permitted with the use of the Inclusionary Housing bonus, and rises to a height of 185 feet on both street frontages. The design of the building uses stone terra cotta, metal façade materials, and metal windows in a pier grid design with cornice elements to distinguish the base and crown of the building facades. The entrances to the residential lobbies and retail spaces will be slightly recessed from the street line. The mid-block open area will be landscaped, and there is rooftop space proposed for tenant recreational use over the West 22nd Street segment.

The public parking garage will occupy approximately 42,274 gross square feet of parking area, encompassing portions of the ground floor, cellar and sub-cellar. The garage will be accessed by two entrance ramps, one on West 21st Street and one from West 22nd Street. Both streets are 60' in mapped width, defined as narrow in the ZR, and run in one direction. The parking entrance on West 21st Street is 13 feet in width, including splays. As part of the proposal, two other curb cuts

currently located in front of the development site will be eliminated from this street frontage. On West 22nd Street, the applicant proposes a 21 foot wide curb cut, including splays, which includes an entrance lane and an exit lane for the public parking garage. West 22nd Street is a one way street heading east, so once cars exit the nearest north-south route will be Fifth Avenue. This frontage currently has two curb cuts; as part of the proposal both will be eliminated and replaced with the single curb cut described above.

In discussions with the Borough President's Office, it was disclosed that the applicant plans to breakdown the unit size in the following manner: 58 studio units (46 market, 12 affordable), 70 1-bedroom units (36 market, 34 affordable), 58 2-bedroom units (45 market, 12 affordable, including the super unit), and 4 3-bedroom units, one of which will be affordable. These units will be permanently affordable up to 50 percent AMI. In addition, the units are proposed to be equally distributed throughout the two building segments, up to 85 percent of the height of the building, and that the fixtures and furnishing materials of the affordable units will be of a comparable quality to the market rate units. Furthermore, all building amenities, except for the parking, will be available to all tenants, and that any cost or fee for access will be prorated for the affordable units' residents. Lastly, it was also disclosed that six electric car charging stations are proposed for the garage, and that ten spaces will be devoted to a car share operator.

Area Context

The project site is located in a C6-4A zoning district in the Ladies Mile Historic District in Community Board 5, Manhattan. Two blocks north is Madison Square Park, which is becoming the center of a burgeoning residential neighborhood. Along Fifth Avenue is a C6-4M District which expands to a "T" along 22nd and 23rd Streets. C6-2A is mapped along Avenue of the Americas to the west of the site, and there are manufacturing district pockets two blocks east (M1-5M) and two blocks north of the project site (M1-6).

The site is well served by public transit. The F and M lines stop at West 23rd Street and Avenue of the Americas, a block and a half to the north and west of the site, and the N and R lines stop at East 23rd and Broadway, less than a full block away to the east and north. In addition, the site is within easy walking distance to the 23rd Street and 18th Street stations for the 1 line at Seventh Avenue, and the 23rd Street PATH station on Sixth Avenue. Nine bus lines also serve the immediate area.

The Ladies' Mile Historic District gets its name from the stretch of Broadway from East 9th Street to East 23rd Street that was famous for shopping in the late 19th Century. It now consists of a mix of low and mid-rise buildings, some loft buildings originally built for manufacturing or as warehouses, tall buildings on large lots, and taller thin buildings on small lots. Many of the loft buildings in the district were built prior to the 1916 Zoning Resolution and are characterized by high street walls and no setbacks.

The area within 600 feet is generally commercial office, industrial, and mixed-use development. There are three significant residential developments with retail on 6th Ave between West 26th Street and West 23rd Street, and commercial office buildings along Broadway and Fifth Avenue. Throughout the neighborhood ground floor retail is a prevailing trend, significantly along Fifth

Avenue and Avenue of the Americas. There have been recent rezonings (1995, 1998, and 2006) in the area that have also increased the number of residential units through new construction and conversion.

In addition to Madison Square Park, other neighborhood markers include a number of Individual Landmarks such as the Flatiron Building, the Scribner Building (now the United States Synagogue), Church of the Holy Communion Complex, the Gorham Manufacturing Company Building, and the Lord & Taylor Store. There are three other nearby Historic Districts as well; to the north, Madison Square North Historic District, and to the east, Gramercy Park and Stuyvesant Square historic districts.

Site Description

The Project Site is a vacant surface parking lot at 7 West 21st Street (Block 823, Lot 31) in a C6-4A district within the Ladies Mile Historic District in Manhattan Community District 5. The site is an irregularly shaped through-block parcel with frontages on West 21st Street and West 22nd Street, between Fifth Avenue and Avenue of the Americas. In the ULURP application, the site was stated to be operational and licensed by the Department of Consumer Affairs (“DCA”) for a maximum capacity of 256 spaces. In discussions with Borough President staff, it was disclosed that the site is currently undergoing brownfield remediation.

C6-4A Districts permit a maximum floor area ratio (FAR) of 10.0 for residential uses and 10.0 FAR for commercial uses. The site is also located within an Inclusionary Housing designated area, which allows for maximum FAR bonus of 2.0 if twenty percent of the floor area of the development is allocated for affordable housing. The maximum residential FAR with inclusionary housing is 12.0. In this district, the minimum base height along the street wall is 60 feet, and the maximum base height is 125 feet, at which point a 15 foot setback is required since the building fronts on narrow streets. The maximum permitted building height is 185 feet. Within this district, if the site is also located within a historic district, then when the base height of an adjacent building is higher than the maximum base height allowed, the permitted maximum base height is 150 feet instead of 125 feet.

Proposed Actions

The applicant proposes two special permits to facilitate the mixed-use development at 7 West 21st Street:

- 1) A special permit (C 150078 ZSM) pursuant to ZR § 74-712(b) for three waivers or modifications of the bulk requirements in order to facilitate the development of an 18-story mixed use building. The first waiver is to allow the building street wall to rise to a height of 185 feet without setback on both street frontages. This requires a waiver of the height and setback requirements of ZR § 35-24 which in summary states that a setback is required above the maximum street wall base height of 150 feet. The second waiver would permit an encroachment into the required rear yard setback for a portion of the 15th Floor in both building segments. Pursuant to ZR § 23-633, there is a requirement at this site for a 10 foot rear setback above the permitted 150 foot maximum base height. The

third request is to modify the permitted obstructions requirements of ZR § 23-44. Since the site is a through lot, a 60 foot rear yard equivalent must be provided, and there is a limit to the obstructions that can be placed in this yard. The vents for the garage and the atrium structure are not permitted obstructions and therefore require a modification to this section.

- 2) A special permit (C 150077 ZSM) pursuant to Sections 13-45 and 13-451 to permit an attended public parking garage on portions of the ground floor, cellar and sub-cellar with a maximum capacity of 200 spaces. 60 accessory residential spaces would be permitted as-of-right by the Zoning Resolution.

The Building will conform to all other applicable height, setback and floor area regulations.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on November 13, 2014, Manhattan Community Board 5 voted to recommend the approval of the application by a vote of 36 in favor, 3 opposed, 1 abstaining. The recommendation was submitted to the Department of City Planning on November 17, 2014.

BOROUGH PRESIDENT'S COMMENTS

The applicant is requesting two special permits; one for a public parking garage with a maximum capacity of 200 spaces and one for bulk waivers to facilitate the construction of a mixed-use building. What characterizes Ladies Mile is the range of height within the mid-block which reflects the district's two distinct periods of significant development: first as a premiere residential neighborhood and secondly as an area for department stores and destination shopping. The front setback waivers, by maintaining a consistent street wall height, seek to ensure that this character is maintained. The special permit of ZR § 74-712 is a tool to encourage the development of vacant or underutilized parcels within a historic district, with the underlying understanding that since landmarking adds additional requirements to development there should be some relief from the zoning regulations. The relief offered should be commensurate with the benefits the development owner will reap. Historic Districts provide real and tangible benefits in terms of stabilizing and increasing property values, of providing a sense of place and architectural markers, and in general being places people want to visit and live.

The proposed building itself is well-designed and is in keeping with the massing, street wall continuity, and overall architectural rhythm of the taller buildings in the district. As noted in the Certificate of Appropriateness issued by the LPC, "the careful massing of the building into two distinct, but architecturally related parts allows the facades to relate successfully to the streetscape on both West 21st Street and West 22nd Street." In addition, the design of the proposed building echoes the strongly articulated base, shaft, and crown design of its compatriots in the district.

In addition to helping to create a contextually appropriate building, the bulk waivers will facilitate the inclusion of the bonus floor area generated by the inclusion of affordable housing

units. Because this bonus and the associated bulk waivers are permanent, the affordable housing should be held to the highest standard of quality and inclusiveness. The proposed development includes two connected buildings, so the affordable units must be spread evenly between the two segments. Furthermore, the affordable units should be spread on as many floors of the building as possible, rather than the minimum 65 percent of floors mandated by the ZR. The fixtures and furnishings in the affordable units should be of a comparable quality to the market rate units, and the amenities provided within the building, save the parking, should be accessible to the affordable tenants at a reduced cost. In discussions with the Borough President's office, the applicant indicated that these requests would be features of the project, but has not yet adjusted the application to reflect this information. The Borough President is not comfortable approving the waivers without explicit confirmation that these units will not only remain affordable but that they will be distributed throughout both building segments and comparable in all respects.

Of broader concern is that the affordable units, which already generate a permanent floor area bonus, are being cross-subsidized by potentially multiple state bond and tax programs. This office has stated previously that this "double-dipping" should be uncoupled – we should be getting more for our investment. Given the value of real estate in Manhattan, projects should provide additional affordable units when a developer is utilizing and receiving multiple benefits. Lastly, while the developer stated in discussions with this office that the affordable units would be distributed in both building segments, there is no proactive regulatory requirement that they do so. The only way to guarantee that there is no two-door building and that the city is receiving an amount of affordable units commiserate with all benefits is to modify the zoning text that governs the voluntary Inclusionary Housing Program.

In addition, the request for a public parking garage raises a few concerns. Given the adjacent availability and density of mass transit options, and the central location of this site within the borough, we have to question whether the number of proposed parking spaces is truly appropriate, regardless of the the loss of spaces and influx of residential units. 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.

Furthermore, the entrances to this garage are not located on or immediately near major cross-borough access routes. While no CEQR thresholds have been triggered warranting further analysis or impact, this office does not concur that there will no adverse impact. Although the previous use of the site was an at-grade parking lot, which also had such impact, a negative impact in the past should not be justification for continuing such impact into the future. When evaluating this application, the City Planning Commission should take all of these additional factors into account. If the Commission does find that the size of the garage is appropriate, it should mandate the inclusion of spaces for a car share service to help discourage private car ownership in Manhattan. In discussions with the Borough President's staff, the applicant has indicated that 10 car share spaces will be included in the garage. The Commission should ensure that this verbal commitment is made real. Furthermore, the applicant indicated the six electric

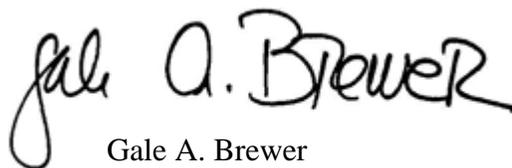
charging stations will be included in the garage. Prior to approval, the building plans should be updated to show the location of these spaces.

The proposed project, if modified to ensure the true inclusion of the affordable units, will be an appropriate addition to the Ladies Mile Historic District. One of the elements that distinguish this district was the use of innovative building technology at the time of its development. In order to continue this element of the district, the proposal should be further modified to include sustainable building elements, including a green roof over the midblock atrium for which the building is receiving a rear yard waiver.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends disapproval of ULURP Application Nos. C 150077 ZSM and C 150078 ZSM, unless:

- 1. The approved parking plans are revised to show the location of 6 electric car charging stations to ensure that they are accessible and the inclusion of 10 car share spaces;**
- 2. A written commitment is made that the regulatory agreement will reflect:**
 - a. the equal distribution of the affordable units throughout both building segments;**
 - b. that such distribution will occur at all levels up to 85 % of the total height of the building;**
 - c. comparable quality of fixtures and furnishings for the affordable units; and that**
 - d. all amenities, such as the children's room, gym, lounge, game room, and the rooftop recreational area will be accessible to all tenants and that the rates for such, if applicable, will be prorated to be affordable to all tenants;**
- 3. The regulatory agreement will include language to ensure that even if the amenities are changed in the future, that all amenities will remain affordable to all of the occupants; and**
- 4. The approved waiver plans will be revised to include a note stating that the atrium roof will be a green roof, and that a note is added clarifying that the green roofs on the atrium and the 21st Street segment will be vegetated roofs that would meet the requirements of the most current version of the LEED rating system of the United States Green Building Council.**



Gale A. Brewer
Manhattan Borough President