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Gale A. Brewer, Borough President

**Recommendation on ULURP No. C 150309 ZSM – 530 West 28<sup>th</sup> Street  
By WC 28 Realty, LLC**

**PROPOSED ACTIONS**

WC 28 Realty, L.L.C.<sup>1</sup> (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 28<sup>th</sup> 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

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<sup>1</sup> 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 28<sup>th</sup> 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 27<sup>th</sup> to West 28<sup>th</sup> 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 28<sup>th</sup> Street, completed in 2012, is a 13-story, 91 unit mixed use building. To the north of the project site, 525 West 28<sup>th</sup> Street contains two new buildings, completed in 2014, that together contain 710 apartments. One block north of the development site at 529 West 29<sup>th</sup> 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 28<sup>th</sup> 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.<sup>2</sup> 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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<sup>2</sup> In the application for an accessory parking garage at 220 West 28<sup>th</sup> 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 26<sup>th</sup> and 27<sup>th</sup> 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 Eighth Avenue, with a C and E train entrance at West 25<sup>th</sup> Street (23<sup>rd</sup> Street Station) and an A, C, and E entrance through Penn Station at West 31<sup>st</sup> Street. In addition, the new 7 train station at West 34<sup>th</sup> 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 28<sup>th</sup> Street, on the west side of Tenth Avenue at West 26<sup>th</sup> Street, and one block west at Eleventh Avenue and West 27<sup>th</sup> 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 28<sup>th</sup> Street. The development site is a through-block parcel connecting West 27<sup>th</sup> and West 28<sup>th</sup> 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 27<sup>th</sup> 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 28<sup>th</sup> 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 21<sup>st</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> Street to West 27<sup>th</sup> 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.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, slightly stylized font.

Gale A. Brewer  
Manhattan Borough President