



Legislation Details (With Text)

File #:	Res 0212-2002	Version:	*	Name:	LU 112 - Zoning - Entertainment Related Uses, Manhattan (N020192(A)ZRM)
Type:	Resolution	Status:		Status:	Adopted
		In control:		In control:	Committee on Land Use
On agenda:	4/10/2002				
Enactment date:		Enactment #:			
Title:	Resolution approving with modification the decision of the City Planning Commission on Application No. N 020192 (A) ZRM, an amendment to the text of the Zoning Resolution relating to Section 81-724 (Requirements for Entertainment-related Uses) and Section 81-732 (Special Times Square Signage Requirements), Manhattan (L.U. No. 112).				
Sponsors:	Melinda R. Katz, Tony Avella				
Indexes:					
Attachments:	1. Committee Report, 2. Hearing Transcript - Stated Meeting - April 10, 2002				

Date	Ver.	Action By	Action	Result
3/21/2002	*	Committee on Land Use	Approved by Committee with Modifications and Referred to CPC	
4/10/2002	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 212

Resolution approving with modification the decision of the City Planning Commission on Application No. N 020192 (A) ZRM, an amendment to the text of the Zoning Resolution relating to Section 81-724 (Requirements for Entertainment-related Uses) and Section 81-732 (Special Times Square Signage Requirements), Manhattan (L.U. No. 112).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on February 26, 2002 its decision dated February 20, 2002 (the "Decision"), on the modified application submitted by LB 745 LLC, pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution (Application No. N 020192 (A) ZRM) (the "Application");

WHEREAS, the Application is related to a previously approved ULURP Application M 990586 (A) ZSM (L.U. No. 518; Reso. No. 990 of 1999), minor modification to a special permit;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on March 19, 2002;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration issued on November 15, 2001 and revised on February 19, 2002 (CEQR No. 02DCP021M);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision with the following modification; and

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in graytone is new, to be added;
Matter in strikeout is old, to be deleted;
Matter between "##" is defined in Section 12-10;
**** represents text for which no change is proposed;
Double-underline indicates Council's modification;
[Bracket indicates Council's deletions].

81-724

Requirements for entertainment-related uses

With the exception of a #development# or #enlargement# in which more than 50 percent of the new #floor area# is allocated to #transient hotel use#, or all of the #floor area# of the #development# or #enlargement# is allocated to #public parking garage use#, a #development# or #enlargement# on a #zoning lot# with more than 50 percent of its #zoning lot# area located within the Theater Subdistrict Core shall meet the following requirements:

(a) If the new #floor area# of the #development# or #enlargement# generated by that portion of the #zoning lot# located within the Theater Subdistrict Core exceeds 60,000 square feet, an amount of floor space on the #zoning lot# equal to five percent of the amount by which the new #floor area# generated by that portion of the #zoning lot# located within the Theater Subdistrict Core exceeds 50,000 square feet shall be allocated to #uses# listed in Section 81-725 (Entertainment-related uses) or #front lot line# ground level #uses# designated thus (***) in Section 81-722 (Use Group T) as satisfying the requirements of this Section.

Except as provided below in paragraphs (b), (f) and (g), the amount of floor space specified shall be located on the same #zoning lot# as the #development# or #enlargement# for which that floor space is provided to meet the requirements of this Section.

(b) A maximum of 75 percent of the amount of floor space specified in paragraph (a) of this Section may be located on a separate #zoning lot#, with the remainder located on the same #zoning lot# as the #development# or #enlargement#, by authorization of the City Planning Commission provided, upon examination of proposed plans, the Commission finds that:

(1) either one of the following conditions exists:

(i) more than 50 percent of the area of the separate #zoning lot# is located within the Theater Subdistrict Core; or

(ii) the separate #zoning lot# is located within the Theater Subdistrict and the floor space located on the such separate #zoning lot# is allocated in its entirety to studios (music, dancing or theatrical), a theater designed and arranged for live performances of drama, music or dance, and #uses# accessory thereto, or a combination thereof as listed in Section 81-725; and the separate #zoning lot# is located within the Theater Subdistrict; or

[(iii) the separate #zoning lot# is located within an area bounded by 42nd Street, 6th Avenue, 57th Street and a line 175 feet west of 9th Avenue and the floor space located on such separate #zoning lot# is allocated in its entirety to studios (music, dancing, or theatrical), a theater designed and arranged for live performances of drama, music or dance, or a combination thereof, and any support spaces related thereto, not including administrative office space, where such floor space occupies no less than 25,000 square feet;]

(iii) the separate #zoning lot# is located within an area bounded by West 42nd Street, 6th Avenue, West 57th Street, a line 175 feet west of 9th Avenue, West 52nd Street, and a line 150 feet west of 8th Avenue and the floor space located on such separate #zoning lot# is allocated in its entirety to studios (music, dancing, or theatrical), a theater designed and arranged for live performances of drama, music or dance, or a combination thereof, and any support spaces related thereto, not including administrative office space, where such floor space occupies no less than 25,000 square feet;

(2) the floor space located on the separate #zoning lot# is in addition to any floor space provided to meet the requirements of this Section for any other #development# or #enlargement#;

(3) the floor space located on the separate #zoning lot# is constructed or renovated specifically for the purpose of meeting the requirements of this Section and has not been utilized for any of the #uses# listed in Section 81-725 at any time during the two year period immediately prior to the date on which this authorization, as described in paragraph (b) of this Section, is granted; and

(4) the #use# located on the separate #zoning lot# achieves a reasonable distribution of entertainment-related #uses# and locations of such #uses#.

(c) Except as provided below in this paragraph, (c), floor space allocated to entertainment-related uses# listed in Section 81-725 accommodating any number of occupants shall be classified under Sections 27-254 to 27-258 (Title 27, Chapter 1, Subchapter 3, Article 8 -

Occupancy Group F-Assembly), of the Administrative Code and shall meet all relevant requirements of Sections 27-522 to 27-549 (Title 27, Chapter 1, Subchapter 8-Places of Assembly) of that Code.

Alternatively, where floor space in an existing #building# is allocated to #uses# listed in Section 81-725 in order to meet the requirements of this Section, the City Planning Commission may, by authorization, modify or waive the above Code requirements of this paragraph, (c), if, upon examination of proposed plans, it finds that:

- (1) the existing #building# does not otherwise require structural alteration to accommodate the entertainment-related #uses#; and
- (2) two plaques will be provided prior to the issuance of any certificate of occupancy for the floor space so allocated to be affixed as follows:
 - (i) -the first affixed in a prominently visible location either to the exterior wall of the #building# at ground level adjacent to the main entry or in the main lobby, stating that floor space in the #building# is provided to meet the requirements of this Section;; and
 - (ii) the second affixed either on or immediately adjacent to the corridor or lobby side of the main door to the space itself, stating that such floor space is located within that part of the #building#.

Each plaque shall indicate, in letters not less than one inch high, the amount of entertainment-related floor space in square feet, the floor or floors on which it is located, the category of #use# under Section 81-725 to which it is dedicated, and the name and street address of the #development# or #enlargement# for which it partially fulfills the requirements of this Section.

- (d) The certificate of occupancy for the #development# or #enlargement# shall record and specifically describe all floor space allocated to meet the requirements of this Section and shall require the permanent reservation of this space for such purposes as a condition of the certificate of occupancy.

If a portion of the amount of the specified floor space specified above is located on a separate #zoning lot#, no certificate of occupancy for the #development# or #enlargement# shall be issued until a certificate of occupancy has been issued for that floor space provided on the separate #zoning lot# and all other floor space allocated to fulfill the requirements of this Section.

The certificate of occupancy for the #development# or #enlargement# shall identify the amount and location of such specified floor space specified above provided on the separate #zoning lot#. The certificate of occupancy of the separate #zoning lot# shall identify the #development# or #enlargement# for which the specified floor space specified above is provided and the amount and location of that floor space on the separate #zoning lot#. Both certificates of occupancy shall require the permanent reservation of the floor space provided on the separate #zoning lot# for #uses# which meet the requirements of this Section.

An amount of floor space allocated in an existing #building# to meet the requirements of this Section may be reallocated to another location, except that no floor space allocated in an existing #building# located within the Theater Subdistrict may be reallocated to another location outside the Theater Subdistrict. Such reallocation shall be made provided that the City Planning Commission finds, by authorization, that all of the requirements of this Section are still met, and that the Commission has received sufficient assurances that the certificates of occupancy of the #development# or #enlargement# and the #building# to which the floor space has been reallocated, will be amended within a period of time after the date of such authorization specified therein to accord with the provisions of this Section.

- (e) A written declaration shall be recorded against the #zoning lot# of the #development# or #enlargement# and against the separate #zoning lot#, which contains an agreement that the floor space provided on the separate #zoning lot# shall be used solely for entertainment-related #uses# for the life of the #development# or #enlargement#.

If floor space allocated to entertainment-related #uses# on the separate #zoning lot# is reallocated in accordance with the provisions of paragraph (d) of this Section, the agreement contained in the written declaration shall be amended so that the #zoning lot# on which the newly allocated floor space is located complies with paragraph (d).

- (f) All #uses# satisfying the requirements of this Section shall be subject to the locational requirements of Section 81-72 (Use Regulations Modified). (moved to paragraph (i))

(f) If a certificate of occupancy for floor space to be located on a separate #zoning lot#, pursuant to the provisions of paragraph (b) of this Section, is not reasonably anticipated to be issued prior to the date upon which the #development# or #enlargement# would otherwise be eligible for issuance of a certificate of occupancy, the City Planning Commission may also authorize the waiver of any or all of the provisions of paragraphs (b)(3), (d) and (e) of this Section, provided that:

- (1) the owner or lessee of the #development# or #enlargement#, or an affiliate thereof, will make or cause to be made a financial contribution, through payment or repayment of the costs thereof, which will facilitate the #development# on such separate #zoning lot# of a #building# that will consist predominantly of either entertainment-related #uses# and #uses# accessory thereto or #community facility# #uses# where at least 25,000 square feet of such floor space allocated to meet the requirements of this Section shall be allocated in its entirety to studios (music, dancing, or theatrical), a theater designed and arranged for live performances of drama, music or dance, or a combination thereof, and any support spaces related thereto not including administrative office space.
- (2) the Department of City Planning has received a fully-executed copy of a written declaration against such separate #zoning lot#, requiring that the floor space allocated to meet the requirements of this Section and located on the separate #zoning lot# shall be used solely for entertainment-related #uses# and #uses accessory# thereto for the life of the #development# or #enlargement#. Prior to the the release of the financial contribution pursuant to paragraph (f)(3) of this Section, such declaration shall be filed and duly recorded in the borough office of

the City Register of the City of New York, indexed against the property in the form of a legal instrument providing notice of the authorization pursuant to this Section;

(3) such financial contribution will be deposited in a trust and agency account, to be released upon a determination made in writing by the Chairperson of the City Planning Commission, made in consultation with the Commissioner of Buildings, that all work on foundations has been completed for such #building#; and

(4) the prospective operator of the entertainment-related #uses# in the #building# on such separate #zoning lot#:

(i) has made substantial financial and construction-related commitments towards the #development# of the #building#, including, at a minimum, commitments for site acquisition, such as a purchase agreement, deed or ground lease, and architectural agreements for the design of the floor space; and

(ii) has secured, or has implemented a fund-raising plan to secure, the funding necessary for the #development# of the #building#, other than the financial contribution by the owner or lessee of the #development# or #enlargement#.

Where the City Planning Commission makes the findings set forth in paragraphs (f)(1) through (f)(4), inclusive, a certificate of occupancy may be issued for the #development# or #enlargement# requiring the provision of such floor space, notwithstanding that no certificate of occupancy has been issued with respect to the floor space located on the separate #zoning lot#.

(g) In the event that all work on foundations of the #building# on the separate #zoning lot# has not been completed within three years of the grant of an authorization provided under the provisions of paragraph (f) of this Section, the owner or lessee of the #development# or #enlargement# shall, in accordance with the terms of the written declaration recorded against the #development# or #enlargement# at the time of the grant of such authorization, apply to the City Planning Commission for:

(1) an extension of the authorization for up to one additional year for good cause shown; or

(2) a new authorization under paragraph (b) of this Section, for alternative floor space consisting of entertainment-related #uses# to be located on a separate #zoning lot# as necessary to meet the requirements of this Section.

In granting such authorization for alternative floor space, the Commission may waive the provisions of paragraph (b)(3), provided the floor space was not utilized for any of the #uses# listed in Section 81-725 at any time during the two-year period immediately prior to the date on which the authorization was originally granted under paragraph (b) of this Section.

(h) Floor space allocated in an existing building on a separate #zoning lot# pursuant to an authorization granted under paragraph (f) of this Section may be reallocated to another location, provided that the City Planning Commission finds, by authorization, that all applicable requirements of this Section are met, except that no floor space allocated in an existing #building# located within the Theater Subdistrict may be reallocated to another location outside the Theater Subdistrict.

(f)(i) All #uses# satisfying the requirements of this Section shall be subject to the locational requirements of Section 81-72 (Use Regulations Modified).

* * * * *

81-732

Special Times Square signage requirements

The provisions of this Section shall apply to all #developments# and #enlargements# on #zoning lots# between 43rd and 50th Streets with #street# frontage on Seventh Avenue and/or Broadway in the Theater Subdistrict.

No building permit shall be issued by the Department of Buildings for any portion or all of a #development# or #enlargement# on a #zoning lot# between 43rd and 50th Streets with #street# frontage on Seventh Avenue and/or Broadway without prior submission of drawings showing that the #sign# requirements related to #surface area#, location and number of #signs# set forth in paragraphs (a), (b) and (c) of this Section have been met and that electrical power is provided in amounts and locations sufficient to illuminate all such required #signs# to the illumination levels specified herein. Such drawings shall include, at a scale of 1/16 inch equals one foot, a plan, elevations of #narrow streets# and Seventh Avenue and/or Broadway and cross-sections showing setbacks on Seventh Avenue, Broadway and #narrow streets#. These drawings shall show for all the #signs# required under this Section their number and for each, its #surface area# and location and shall list each requirement and the actual dimensions or areas achieved in the design.

Temporary certificates of occupancy for #floor area# of the #development# or #enlargement# comprising in aggregate more than 50 percent of the total #floor area# of the #development# or #enlargement# shall not be issued by the Department of Buildings until 50 percent of the aggregate #surface area# of #signs# required under paragraph (a)(3) of this Section has been installed and put in operation in accordance with all of the requirements and standards as set forth in paragraphs (a)(3) and (a)(7) of this Section.

Temporary certificates of occupancy for #floor area# of the #development# or #enlargement# comprising in aggregate more than 90 percent of the total #floor area# of the #development# or #enlargement# shall not be issued by the Department of Buildings until 90 percent of the aggregate #surface area# of #signs# required under paragraph (a)(3) of this Section has been installed and put in operation in accordance with all of the requirements and standards as set forth in paragraphs (a)(3) and (a)(7) of this Section.

Neither temporary certificates of occupancy for #floor area# of the #development# or #enlargement# comprising in aggregate 100 percent of

the total #floor area# of the #development# or #enlargement# nor a first permanent certificate of occupancy for the #development# or #enlargement# shall be issued by the Department of Buildings until all of the #signs# required under this Section have been installed and put in operation in accordance with all of the requirements and standards as set forth in paragraphs (a)(3) and (a)(7) of this Section.

Notwithstanding the foregoing requirements relating to the granting of certificates of occupancy, the City Planning Commission may, prior to January 1, 2003, certify to the Commissioner of Buildings that compelling circumstances warrant the waiver of any or all such provisions. In granting any such waiver, the Commission shall establish a completion schedule, not to exceed one year from the date of such certification, for the installation and operation of all requisite #signs# in accordance with all of the requirements and standards as set forth in paragraphs (a)(3) and (a)(7) of this Section; the Commission, as it deems appropriate, shall also require security for performance under the schedule and may prescribe other conditions to address the delay in installation and operation of requisite #signs#.

* * *

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on April 10, 2002, on file in this office.

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City Clerk, Clerk of the Council

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