Legislation Details (With Text)

File #:	Res 0053-2022	**Version:** *	**Name:**	LU 12 - Zoning, Open Restaurants Text Amendment, Citywide (N 210434 ZRY)
Type:	Resolution		**Status:**	Adopted
			In control:	Committee on Land Use
On agenda:	2/24/2022			
Enactment date:			**Enactment #:**	

Title: Resolution approving with modifications the decision of the City Planning Commission on Application No. N 210434 ZRY, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 12).

Sponsors:

Indexes:

Attachments: 1. Calendar of the Subcommittee Meetings - February 8 and 9, 2022, 2. Hearing Testimony 2/8/22, 3. Calendar of the Subcommittee Meetings and Land Use Meeting - February 16 and 17, 2022, 4. February 10, 2022 - Stated Meeting Agenda, 5. Hearing Transcript - Stated Meeting 2-10-22, 6. Minutes of the Stated Meeting - February 10, 2022, 7. February 24, 2022 - Stated Meeting Agenda, 8. Hearing Transcript - Stated Meeting 2-24-22, 9. Minutes of the Stated Meeting - February 24, 2022, 10. City Planning Commission Approval Letter, 11. Committee Report, 12. Res. No. 53

Date	Ver.	Action By	Action	Result
2/17/2022	*	Committee on Land Use	Approved by Committee with Modifications and Referred to CPC	
2/24/2022	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 53

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 210434 ZRY, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 12).

By Council Members Salamanca and Riley

WHEREAS, the New York City Department of Transportation and the New York City Department of City Planning, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, removing Article I, Chapter 4 (Sidewalk Cafe Regulations) and modifying related Sections, which would remove from the ZR Sidewalk Cafe Regulations, which restrict the location of sidewalk cafes. Implementation of the proposed text amendment would support the creation of a Permanent Open Restaurants (POR) program, Citywide (ULURP No. N 210434 ZRY) (the "Application");

WHEREAS, the City Planning Commission filed with the Council on December 30, 2021, its decision dated November 15, 2021 (the "Decision"), on the Application;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on February 8, 2022;

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, including the Negative Declaration issued June 18th, 2021 (CEQR No. 21DOT016Y) (the "Negative Declaration").

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 210434 ZRY, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission, with the following modifications:

Matter underlined is new, to be added; Matter ~~struck out~~
is to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution.
Matter double struck out is old, deleted by the City Council;
Matter double-underlined is new, added by the City Council

ARTICLE I
GENERAL PROVISIONS

Chapter 4
Sidewalk Cafe Regulations

* * *

14-01
General Provisions

The provisions of this Chapter shall be in effect only until the adoption of initial rules governing the Permanent Open Restaurants program by an authorized agency the Department of Transportation following authorizing legislation by the City Council.

In conjunction with the termination of this Chapter, the following provisions shall also be terminated:

a. defined terms in Section 12-10 (DEFINITIONS):

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#Enclosed sidewalk cafe#;

#Sidewalk cafe#;

#Small sidewalk cafe#; and

#Unenclosed sidewalk cafe#;

b. provisions in Section 22-00 (GENERAL PROVISIONS) regarding #sidewalk cafes# in R10H Districts;

c. provisions regarding #sidewalk cafes# in the #Special 125th Street District#, as set forth in Sections 97-03 (District Pan and Maps), 97-13 (Permitted Sidewalk Cafe Locations), and Map 2 (Permitted Sidewalk Cafe Locations) in Appendix A of Article IX, Chapter 7; and

d. provisions regarding #sidewalk cafes# in the #Special Long Island City Mixed Use District#, as set forth in Sections 117-03 (District Plan and Maps), 117-05 (Permitted Sidewalk Cafe Locations), and on the Permitted Sidewalk Cafe Locations map in Appendix A of Article XI, Chapter 7.

In harmony with the general purpose and intent of this Resolution, and the general purposes of the #sidewalk cafe# regulations, certain specified regulations concerning area eligibility, sidewalk locational criteria and physical criteria for #sidewalk cafes#, in general, and specifically for #enclosed sidewalk cafes#, are herein established.

* * *

ARTICLE III
COMMERCIAL DISTRICT REGULATIONS

Chapter 2
Use Regulations

* * *

32-41
Enclosure Within Buildings

* * *

32-411
In C1, C5, C6-5 or C6-7 Districts
C1 C5 C6-5 C6-7

In the districts indicated, all such #uses# shall be located within #completely enclosed buildings# except for store fronts or store windows, associated with eating and drinking establishments, which may be opened to serve customers outside the #building# upon the adoption of initial rules governing the Permanent Open Restaurants program by an authorized agency following authorizing legislation by the City Council.

32-412
In other Commercial Districts
C2 C3 C4 C6-1 C6-2 C6-3 C6-4 C6-6 C6-8 C6-9 C8

In the districts indicated, all such #uses# shall be located within #completely enclosed buildings# or within #buildings# which are #completely enclosed# except for store fronts or store windows which may be opened to serve customers outside the #building#.

* * *

Chapter 3
Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

33-00
APPLICABILITY, DEFINITIONS AND GENERAL PROVISIONS

* * *

33-05
Outdoor Table Service Areas

Notwithstanding any other provisions of this Resolution, outdoor table service areas, associated with eating and drinking establishments, meeting all requirements set forth in legislation by the City Council and any subsequent rulemaking by an authorized agency by the Department of Transportation shall be permitted within any required sidewalk widening areas.

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ARTICLE IV
MANUFACTURING DISTRICT REGULATIONS

Chapter 3
Bulk Regulations

43-00
APPLICABILITY AND GENERAL PROVISIONS

* * *

43-03
Outdoor Table Service Areas

Notwithstanding any other provisions of this Resolution, outdoor table service areas, associated with eating and drinking establishments, meeting all requirements set forth in legislation by the City Council and any subsequent rulemaking by an authorized agency by the Department of Transportation shall be permitted within any required sidewalk widening areas.

* * *

ARTICLE V
NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

Chapter 2
Non-Conforming Uses

* * *

52-30
CHANGE OF NON-CONFORMING USE

* * *

52-34
Commercial Uses in Residence Districts

In all #Residence Districts#, a #non-conforming use# listed in Use Group 6, 7, 8, 9, 10, 11B, 12, 13, 14 or 15 may be changed, initially or in any subsequent change, only to a conforming #use# or to a #use# listed in Use Group 6. In the case of any such change, the limitation on #floor area# set forth in Section 32-15 (Use Group 6) shall not apply. Eating or drinking ~~places,~~ establishments with musical entertainment, but not dancing, thus permitted as a change of #use#, shall be ~~limited exclusively to the sale of food or drink for on-premises consumption by seated patrons within a #completely enclosed building#~~ subject to the enclosure provisions of Section 32-411.

* * *

ARTICLE VII
ADMINISTRATION

Chapter 3
Special Permits by the Board of Standards and Appeals

* * *

73-24
Eating or Drinking Places

* * *

73-243
In C1-1, C1-2 and C1-3 Districts

In C1-1, C1-2 and C1-3 Districts, (except in Special Purpose Districts) the Board of Standards and Appeals may permit eating or drinking places (including those which provide musical entertainment but not dancing, with a capacity of 200 persons or less, and those which provide outdoor table service) with #accessory# drive-through facilities for a term not to exceed five years, provided that the following findings are made:

* * *

(d) that in C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C5, M1-5A and M1-5B Districts, such #use# shall ~~take place in a #completely enclosed building#~~ be subject to the enclosure provisions of Section 32-411; and

* * *

~~In connection therewith, the Board may modify the requirement of Section 32-411 (In C1, C5, C6-5 or C6-7 Districts) insofar as it relates to the #accessory# drive-through facility.~~ The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

Article VIII - Special Purpose Districts

Chapter 3
Special Limited Commercial District

* * *

83-00
GENERAL PURPOSES

* * *

(10/9/69)

83-05
Enclosure of Uses

All permitted #uses# shall be ~~located within #completely enclosed buildings#~~ be subject to the enclosure provisions of Section 32-411.

* * *

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 _____, 2022, on file in this office.

.....
City Clerk, Clerk of The Council