



Legislation Text

File #: Res 1889-2013, **Version:** *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1889

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 130140 ZSM (L.U. No. 849), for the grant of a special permit pursuant to Section 93-171 of the Zoning Resolution to modify the applicable provisions of Section 32-63 (Permitted Advertising Signs) to allow advertising signs, to modify the applicable provisions of Section 32-64 (Surface Area and Illumination Provisions) to allow an increase in surface area, and to modify the applicable provisions of Section 32-65 (Permitted Projection or Height of Signs) to allow signs above the maximum permitted height, for a proposed arena permitted pursuant to Section 74-41, on property located at 3-10 Penn Plaza (Block 781, Lots 1, 2 and 10), in C6-4 and C6-6 Districts, partially within the Special Hudson Yards District (Pennsylvania Station Subarea B4) and partially within the Special Midtown District, Borough of Manhattan.

By Council Members Comrie and Weprin

WHEREAS, the City Planning Commission filed with the Council on May 28, 2013 its decision dated May 22, 2013 (the "Decision"), on the application submitted by MSG Holdings, L.P., pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 93-171 of the Zoning Resolution to modify the applicable provisions of Section 32-63 (Permitted Advertising Signs) to allow advertising signs, to modify the applicable provisions of Section 32-64 (Surface Area and Illumination Provisions) to allow an increase in surface area, and to modify the applicable provisions of Section 32-65 (Permitted Projection or Height of Signs) to allow signs above the maximum permitted height, for a proposed arena permitted pursuant to Section 74-41 and 74-31(a), on property located at 3-10 Penn Plaza (Block 781, Lots 1, 2 and 10), in C6-4 and C6-6 Districts, partially within the Special Hudson Yards District (Pennsylvania Station Subarea B4) and partially within the Special Midtown District (ULURP No. C 130140 ZSM), Community District 5, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Applications N 130137 ZRM (L.U. No. 847), a zoning text amendment to Sections 37-625 and 74-41 regarding pedestrian-accessible open areas, and Section 93-17 to create a special permit pursuant to new Section 93-171 by which sign regulations applicable within Pennsylvania Station Subarea B4 of the Special Hudson Yards District may be modified; and N 130139 ZSM (L.U. No. 848), a special permit pursuant to Section 74-41, to allow an arena, auditorium, stadium or trade exposition facility with a capacity in excess of 2,500 seats;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 93-171 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on

June 19, 2013;

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 revised negative declaration (CEQR No. 13DCP053M) dated May 22, 2013 and further revised as of July 3, 2013 (the "Revised Negative Declaration") and the CEQR Technical Memorandum dated July 2, 2013 (the "CEQR Technical Memorandum");

RESOLVED:

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

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 this report, C 130140 ZSM, and incorporated by reference herein, the Council approves the Decision with modifications and subject to the following conditions:

Matter in ~~strikeout~~ is deleted by the City Council;
Matter in **bold double underlined** is added by the City Council.

1. The property that is the subject of this application (C 130140 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Brisbin Brook Beynon, Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
SG.1	8th Avenue Façade Proposed Signage <u>Proposed Signage Site Plan</u>	May 22, 2013 <u>June 25, 2013</u>
SG.2	8th Avenue Façade Proposed Signage <u>Proposed Signage Elevations</u>	May 22, 2013 <u>June 25, 2013</u>

2. No sign permit may be granted for the MSG signs on Tower B and Tower C shown on Drawing SG.2, and such signs may not be installed, unless Penn Station / Railroad signage has been installed within the areas above the existing canopy which are both 58 feet wide by 11.5 feet high, beginning 15.5 feet above the curb line (the "Additional Penn Station Sign Areas"). Notwithstanding the foregoing, such MSG signs may be installed and the dimensions thereof increased to include the Additional Penn Station Sign Areas, provided that: (a) AMTRAK has consented thereto and, pursuant to an agreement between MSG and AMTRAK, all sign copy or display with the portions of the MSG signs located within the Additional Penn Station Sign Areas is for the purposes of Penn Station identification, AMTRAK, or the other Railroads operating at Penn Station; (b) a copy of such agreement is provided to the Chair; and (c) the Chair certifies to the Department of Buildings that such signs may be installed in accordance with this provision. **Signs installed above a height of 12 feet above curb level may display advertising content, limited to the advertising of the businesses, brands, products,**

assets and services (collectively, "Business") of the arena owner or operator, its subsidiaries and affiliates (collectively, "Owner"), and the Business of any Sponsor. For purposes of the preceding sentence, a "Sponsor" is defined as an entity that has a contractual sponsorship relationship with the Owner. A Sponsor does not include unrelated third parties without such a relationship. No other advertising signs shall be permitted.

In advance of Owner utilizing any signs for the Business of Sponsors, Owner shall provide the "Designated Parties" (as defined below) with a list of all Sponsors that Owner anticipates may be promoted on the signs during the coming year (the "Sponsorship List"). Owner shall provide to the Designated Parties an updated Sponsorship List each January 15 thereafter. Owner, upon request of DOB, shall provide to DOB evidence of the contractual sponsorship relationship with Owner with respect to any Sponsor that is promoted on the signs and is not yet listed on the Sponsorship List.

The "Designated Parties" shall be the New York City Department of Buildings, the local NYC Councilmember, Community Board 5 and Community Board 4.

3. 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.

4. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

5. 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, sub-lessee or occupant.

6. Upon the 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.

7. 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.

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 July 24, 2013, on file in this office.

City Clerk, Clerk of The Council