



Legislation Text

File #: Res 0727-2015, Version: *

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 727**

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 150130 (A) ZSM (L.U. No. 201), for the grant of a special permit pursuant to Section 81-642 of the Zoning Resolution to modify, in conjunction with the special permit pursuant to Section 81-641 (Additional floor area for the provisional of public realm improvements); 1) the street wall requirements of Sections 81-43 (Street Wall Continuity along Designated Streets) and 81-621 (Special street wall requirements), 2) the height and setback requirements of Sections 81-26 (Height and Setback Regulations - Daylight Compensation), 81-27 (Alternative Height and Setback Regulations - Daylight Evaluation), and 81-622 (Special height and setback requirements), and 3) the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-45 (Pedestrian Circulation Space) and the requirements of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), 81-47 (Major Building Entrances), 81-623 (Building lobby entrance requirements), and 81-624 (Curb cut restrictions and loading requirements); to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict); in Community Districts 5 and 6, Borough of Manhattan.

By Council Members Greenfield and Weprin

WHEREAS, the City Planning Commission filed with the Council on March 30, 2015 its decision dated March 30, 2015 (the "Decision"), on the application submitted by Green 317 Madison LLC and Green 110 East 42nd LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 81-642 of the Zoning Resolution to modify, in conjunction with the special permit pursuant to Section 81-641 (Additional floor area for the provisional of public realm improvements); 1) the street wall requirements of Sections 81-43 (Street Wall Continuity along Designated Streets) and 81-621 (Special street wall requirements), 2) the height and setback requirements of Sections 81-26 (Height and Setback Regulations - Daylight Compensation), 81-27 (Alternative Height and Setback Regulations - Daylight Evaluation), and 81-622 (Special height and setback requirements), and 3) the mandatory district plan elements of Sections 81-42 (Retail Continuity along Designated Streets), 81-45 (Pedestrian Circulation Space) and the requirements of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), 81-47 (Major Building Entrances), 81-623 (Building lobby entrance requirements), and 81-624 (Curb cut restrictions and loading requirements); to facilitate the development of a commercial building on property bounded by 42nd Street, Madison Avenue, 43rd Street, and Vanderbilt Avenue (Block 1277, Lots 20, 27, 46, and 52), in a C5-3 District, within the Special Midtown District (Grand Central Subdistrict), (ULURP No. C 150130 (A) ZSM), Community Districts 5 and 6, Borough of Manhattan (the "Application");

WHEREAS, the application is related to Applications N 150127 ZRM (L.U. No. 197), a Zoning Text Amendment, by the Department of City Planning, to the Special Midtown District to establish the Vanderbilt Corridor; C 140440 MMM (L.U. No. 198), an amendment to the City Map, by the Department of City

Planning, involving the elimination, discontinuance and closing of Vanderbilt Avenue between East 42nd Street and East 43rd Street; the establishment of Public Place above a lower limiting plane; and the adjustment of grades necessitated thereby; C150128 ZSM (L.U. No. 199), a Zoning Special Permit pursuant to Section 81-635 to transfer development rights from the New York City Landmark Bowery Savings Bank building; and C 150129 ZSM (L.U. No. 200), a Zoning Special Permit pursuant to proposed Section 81-641 granting additional floor area for the provision of public realm improvements;

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 81-642 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 April 13, 2015;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (“FEIS”), for which a Notice of Completion was issued on March 20, 2015 (CEQR No. 14DCP188M), the CEQR Technical Memoranda dated March 27, 2015 and May 15, 2015 (the “CEQR Technical Memoranda”);

RESOLVED:

Having considered the FEIS and the CEQR Technical Memoranda with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Modified Ground Floor Alternative, as modified with the modifications adopted herein and as analyzed in Chapter 17, “Alternatives to the Proposed Actions,” of the FEIS and in the CEQR Technical Memoranda (the “Modified Proposed Action”) is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts identified in the Modified Proposed Action will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by the New York City Council as of May 7, 2015, those mitigation measures that were identified as practicable, and the placement of (E) designations (E-357) for Hazardous Materials, Air Quality, and Noise (as set forth in Exhibit B to the CPC Decision (C 150129 ZSM)), which form part of the action; and
- (4) The Decision, together with the FEIS and the CEQR Technical Memoranda, constitute the

written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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 150130 (A) ZSM, incorporated by reference herein, the Council approves the Decision subject to the following conditions:

Matter in double strikeout is old, deleted by the Council;
Matter in double-underline is new, added by the Council;

1. The property that is the subject of this application (C 150130 (A) 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 Kohn Pedersen Fox Associates, P.C. and Stantec Consulting Ltd., filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Received Date</u>
Z-102	Zoning Calculations	January 23, 2015 <u>05/18/15</u>
Z-103	Zoning Calculations	January 16, 2015 <u>05/18/15</u>
Z-104	Zoning Lot Site Plan	March 25, 2015 <u>05/18/15</u>
Z-105	Ground Floor Plan	March 25, 2015 <u>05/18/15</u>
Z-200	Retail Continuity - South/East 42 nd Street	March 25, 2015 <u>05/18/15</u>
Z-201	Retail Continuity - West/Madison Avenue	January 16, 2015 <u>05/18/15</u>
Z-202	Street Wall and Waivers - Sections	October 20, 2014
Z-203	Street Wall and Waivers - Section	October 20, 2014
Z-204	Street Wall and Waivers - Section	October 20, 2014
Z-205	Street Wall and Waivers - Axons	October 20, 2014
Z-206	Pedestrian Circulation and Waivers	March 25, 2015 <u>05/18/15</u>
Z-207	Building Entrance Recess and Retail Continuity Waivers	March 25, 2015 <u>05/18/15</u>
Z-300	Daylight Compensation Analyses	October 20, 2014
Z-301	Daylight Compensation Analyses	October 20, 2014
Z-302	Daylight Compensation Analysis	October 20, 2014
Z-303	Daylight Compensation Analyses	October 20, 2014
Z-304	Daylight Compensation Analyses	October 20, 2014
Z-305	Daylight Evaluation Analyses	October 20, 2014
Z-306	Daylight Evaluation Analyses - VP1	October 20, 2014
Z-307	Daylight Evaluation Analyses - VP2	October 20, 2014
Z-308	Daylight Evaluation Analyses - VP3	October 20, 2014
Z-309	Daylight Evaluation Analyses - VP4	October 20, 2014
Z-310	Daylight Evaluation Analyses - VP5	October 20, 2014
Z-311	Daylight Evaluation Analyses - VP6	October 20, 2014
Z-312	Daylight Evaluation Analyses - VP7	October 20, 2014
Z-313	Daylight Evaluation Analyses - VP8	October 20, 2014
Z-400	Transit Hall - Plan	March 25, 2015 <u>05/18/15</u>

Z-401	Transit Hall - Sections	March 25, 2015	<u>05/18/15</u>
Z-402	Transit Hall - Details	March 25, 2015	
Z-503	Zoning Envelope - Building Elevations and Sections	March 25, 2015	<u>05/18/15</u>
KP-1	On-site/Key Plan/Ground Level	March 25, 2015	<u>05/18/15</u>
KP-2	On-site/Key Plan/B1 Level	January 16, 2015	<u>05/18/15</u>
KP-3	On-site/Key Plan/B2 Level	October 15, 2014	<u>05/18/15</u>
KP-4	On-site/Key Plan/ESA Level	October 15, 2014	<u>05/18/15</u>
PV-1	On-site/Ground Level	March 25, 2015	<u>05/18/15</u>
PV-2	On-site/B1 Level	January 16, 2015	<u>05/18/15</u>
PV-3	On-site/B2 Level	October 15, 2014	<u>05/18/15</u>
PV-4	On-site/ESA Level	October 15, 2014	<u>05/18/15</u>
PV-5	On-site/Longitudinal Section 1	October 15, 2014	<u>05/18/15</u>
PV-6	On-site/Longitudinal Section 2	January 16, 2015	<u>05/18/15</u>
PV-7	On-site /Transverse Section 3	January 16, 2015	<u>05/18/15</u>
KP-1	Off-site/Key Plan/Ground Level	October 15, 2014	
KP-2	Off-site/Key Plan/Mezzanine Level	October 15, 2014	
KP-3	Off-site/Key Plan/Platform Level	October 15, 2014	
PN-1	Off-site/North End/Ground Level	October 15, 2014	
PN-2	Off-site/North End/Mezzanine Level	October 15, 2014	
PN-3	Off-site/North End/Platform Level	October 15, 2014	
PS-1	Off-site/South End/Mezzanine Level	October 15, 2014	
PS-2	Off-site/South End/Platform Level	October 15, 2014	
PM-1	Off-site/Mobile Passageway/Ground Level	October 15, 2014	
PM-2	Off-site/Mobile Passageway/Mezzanine Level	October 15, 2014	

2. 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.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration dated March 30, 2015, executed by 317 Madison LLC, 51E42 Owner LLC, SLG 48E43 LLC and SGL 331 Madison LLC, as modified by the New York City Council as of May 7, 2015, shall have been recorded in the Office of the Register of the City of New York, County of New York. Such Restrictive Declaration shall be deemed incorporated herein as a condition of this resolution.
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 May 27, 2015, on file in this office.

City Clerk, Clerk of The Council