



Legislation Text

File #: Res 1559-2021, Version: *

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1559**

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 200124 ZRM, for an amendment of the text of the Zoning Resolution (L.U. No. 713).

By Council Members Salamanca and Moya

WHEREAS, Cort Theatre LLC and Clarity 47 LLC 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, modifying Article VIII Chapter 1 (Special Midtown District) for the purpose of amending the provisions of a special permit regulating theater rehabilitation bonuses, which in conjunction with the related action would facilitate the renovation of the Cort Theatre, located at 138 West 48th Street (Block 1000, Lot 49), as well as the development of a new hotel on the same zoning lot, located at 145 West 47th Street (Block 1000, Lot 11) in the Theater District neighborhood of Manhattan Community Board 5 (Application No. N 200124 ZRM) (the “Application”);

WHEREAS, the City Planning Commission filed with the Council on January 4, 2021, its decision dated January 4, 2021 (the “Decision”), on the Application;

WHEREAS, the Application is related to application C 200123 ZSM (L.U. No. 712), a zoning special permit pursuant to Zoning Resolution Section 81-745 to authorize the granting of bonus floor area in exchange for the substantial rehabilitation of the Cort Theatre, a listed theater as defined in Zoning Resolution Section 81-742;

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 January 7, 2021;

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 August 3rd, 2020 (CEQR No. 20DCP003M) which include an (E) designation to avoid the potential for significant adverse impacts related to air quality and noise (E-572) (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 (E) Designation (E-572) and 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 200124 ZRM, 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 double struck out is old, deleted by the City Council;
Matter double-underlined is new, added by the City Council

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

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ARTICLE VIII

SPECIAL PURPOSE DISTRICTS

* * *

Chapter 1

Special Midtown District

* * *

81-70

SPECIAL REGULATIONS FOR THEATER SUBDISTRICT

* * *

81-74

Special Incentives and Controls in the Theater Subdistrict

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81-745

Floor area bonus for rehabilitation of existing listed theaters

The City Planning Commission by special permit may authorize bonus #floor area# for substantial

rehabilitation or restoration of any theater listed as a “listed theater” in Section 81-742 (Listed theaters), in accordance with the provisions of this Section.

(a) Conditions for rehabilitation bonus

As a condition for the issuance of a special permit under the provisions of this Section, the following requirements shall be satisfied:

(1) Location of #development#

The #development# or #enlargement# for which a theater rehabilitation bonus is granted is located on the same #zoning lot# as the “listed theater.”

(2) Qualification of substantial rehabilitation

Substantial rehabilitation work qualifying for a #floor area# bonus shall consist of major ~~interior~~ structural changes for the purpose of improving a theater’s design and its commercial viability for legitimate theater #use#, or historic restoration of the interior of a theater designated as an interior landmark.

Substantial rehabilitation may include, without limitations, such work as expanding stage wings, re-raking the orchestra, increasing rehearsal, dressing room or lobby and ancillary spaces, improving accessibility beyond applicable legal requirements, or historic restoration. It may also include reconversion to legitimate theater #use# of an original legitimate theater currently in other #use#. Substantial rehabilitation does not mean normal theater maintenance, painting or improvements to mechanical systems alone.

(3) Timing and commitment

- (i) there shall be a contractual commitment or commitments for the construction work involved in the substantial rehabilitation;
- (ii) the requirements of Section 81-743 (Required assurances for continuance of legitimate theater use) shall be satisfied; and
- (iii) a rehabilitation bonus shall not be granted for a substantial rehabilitation completed before May 13, 1982.

(b) Amount of rehabilitation bonus

The amount of bonus #floor area# granted for a qualifying theater rehabilitation shall be at the discretion of the Commission after consideration of the following findings:

- (1) how and to what extent the proposed rehabilitation will improve the theater's suitability for #use# as a legitimate theater;
- (2) how the proposed rehabilitation will contribute toward satisfying the needs of the Theater

Subdistrict;

- (3) whether the bonus #floor area# will unduly increase the #bulk# of any #development# or #enlargement#, density of population or intensity of #use# on any #block# to the detriment of occupants of #buildings# on the #block# or the surrounding area; and
- (4) whether the distribution and location of such #floor area# bonus will adversely affect the surrounding area by restricting light and air or otherwise impair the essential character or future development of the surrounding area.

Such bonus #floor area# shall not exceed 20 percent of the basic maximum #floor area# permitted on the #zoning lot# containing the #development# or #enlargement# by the regulations of the underlying district, except that in the case of an underlying C6-4, C6-5 or M1-6 District, the bonus #floor area# shall not exceed 44 percent of the basic maximum #floor area# permitted in such underlying district, and except that in the case of a #zoning lot# located wholly or partially in a C6-5.5 District and partially in a C6-7T District, the Commission may allow bonus #floor area# to be utilized anywhere on the #zoning lot#.

For purposes of applying the provisions of Section 11-42 (Lapse of Authorization or Special Permit by the City Planning Commission Pursuant to the 1961 Zoning Resolution) to a special permit granted pursuant to this Section, “substantial construction” shall mean substantial rehabilitation, as described in paragraph (b) of this Section, of the subject theater for which a #floor area# bonus has been granted to a related #development# or #enlargement#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding areas.

* * *

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 February 25, 2021, on file in this office.

City Clerk, Clerk of The Council