



CITY PLANNING COMMISSION

April 22, 2008 | Calendar No. 17

N 090165 ZRM

IN THE MATTER OF an application submitted by Maz Mezcal Restaurant pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article I, Chapter 4 (Sidewalk Café Regulations), relating to Section 14-43 to permit small sidewalk cafes on the south side of East 86th Street from First Avenue to a line 125 feet east of Second Avenue, Community District 8, Borough of Manhattan.

The application for an amendment of the Zoning Resolution was filed by Maz Mezcal Restaurant on October 29, 2008, to modify the regulations pertaining to small sidewalk cafes in order to permit small sidewalk cafes along the south side of East 86th Street from a line 125 feet east of Second Avenue to First Avenue. The proposed amendment would allow Maz Mezcal Restaurant to apply for a revocable consent and license for small sidewalk café.

BACKGROUND

Existing Zoning Regulations

The Zoning Resolution regulates where sidewalk cafes are permitted and defines two primary types of sidewalk cafes: unenclosed and enclosed. In 2004, the City Planning Commission and the City Counsel approved a Department-sponsored zoning text amendment (N 040197 ZRY) that designated the “small sidewalk café” as a defined sub-type of the unenclosed sidewalk café and expanded the areas where unenclosed cafes are permitted.

The 2004 text amendment allowed small sidewalk cafes along certain streets where unenclosed sidewalk cafes were previously prohibited. Allowing such cafes would complement existing uses, enhance streetscape and not inhibit pedestrian circulation. Portions south of Midtown,

Midtown and north of 60th Street—including selected streets in the Upper East Side were added as permitted areas.

Small sidewalk cafes may extend a maximum of 4 ½ feet from the property line and are restricted to a single row of tables and chairs. This maximum size for small sidewalk cafes serves to ensure uninhibited pedestrian circulation and visually attractive amenities on streets. Additionally, small sidewalk cafés must be open to the sky and are not permitted to use barriers to physically separate the café space.

The 2004 text amendment (N 040197 ZRY) as originally referred for public review, included the portion of East 86th Street from the Third Avenue to the East River as appropriate for small sidewalk cafes. Manhattan Community Board 8 (CB 8) recommended the continued prohibition of small sidewalk cafes along East 86th Street from Fifth Avenue to the East River due to a proposed streetscape improvement plan for the East 86th Street corridor. However, CB 8 commented that the café location prohibition could be revisited at a later time. Based on that recommendation, the Commission adopted the text without allowing small cafes on East 86th Street.

East 86th Street

East 86th Street is a major thoroughfare that runs through the Carnegie Hill and Yorkville neighborhoods of Manhattan Community District 8. The street is predominantly zoned for

residential and mixed commercial/residential use. The street varies in character from Fifth Avenue to the East River: the westernmost segment is residential without ground floor retail; the central portion between Lexington and Second avenues is an active retail corridor; the area between Second and First avenues is comprised of medium- to high-density residential multi-family apartment buildings with neighborhood retail uses at the ground floor and the easternmost portion of East 86th Street contains residential uses with no ground floor retail. The portion of East 86th Street between Second and First Avenues is zoned C2-8A and allows for high density contextual residential buildings with a maximum permitted residential FAR of 10.0 and maximum commercial FAR of 2.0.

The north side on the portion of East 86th Street between Second and First avenues is primarily occupied by two 21-story buildings which setback from the street line, and four 5-story apartment buildings with few ground floor retail uses. The subject south side of East 86th Street contains street wall buildings, most of which are 3- to 6-story row houses. The remaining buildings include a single-story supermarket, and two apartment buildings nine-stories or higher. The block front contains continuous ground floor neighborhood retail uses including dry cleaners, grocery stores, and seven restaurants. East 86th Street is a wide street with a 20-foot wide sidewalk at the subject location.

The applicant owns a restaurant on the south side of East 86th Street between First and Second avenues and wishes to locate a small sidewalk café in front of the restaurant. The proposed text

amendment would permit small sidewalk cafes to locate on the south side of East 86th Street from a line 125 feet east of Second Avenue to First Avenue, where currently small sidewalk cafes are prohibited. The text amendment would allow the applicant, to apply to the Department of Consumer Affairs for a revocable consent and license for a small sidewalk café.

ENVIRONMENTAL REVIEW

This application (N 090165 ZRM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 5.03 and 5.05. and the Rules of Procedure for City Environmental Quality Review (CEQR) as adopted June 26, 1991. The designated CEQR number is 08DCP046M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued December 15, 2008.

PUBLIC REVIEW

This application (N 090165 ZRM) was duly referred on December 15, 2008 to Community Board 8 and the Borough President, in accordance with the procedure for referring non-ULURP matters.

Community Board Review

On January 21, 2009, Community Board 8 adopted a resolution recommending approval of the application by a vote of 36 in favor, 1 opposed.

Borough President Review

The Borough President did not submit a recommendation on this application.

City Planning Commission Public Hearing

On March 4, 2009 (Calendar No. 4) the City Planning Commission scheduled March 18, 2009 for a public hearing on this application (N 090165 ZRM). The hearing was duly held on March 18, 2009 (Calendar No. 20). There were two speakers in favor of the application and none in opposition.

The Chair of Community Board 8 spoke in favor of the application and stated that the proposed text amendment would unlikely, by itself, lead to development of new restaurants or other uses that might entail sidewalk cafes. The counsel for the applicant also spoke in favor of the application.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for the zoning text amendment (N 090165 ZRY) is appropriate.

The Commission notes that the south side of East 86th Street between First and Second avenues is typified by residential buildings with ground floor neighborhood retail uses, including seven restaurants. The Commission further notes that the original proposal for small sidewalk cafés in 2004 would have permitted small sidewalk cafes on East 86th street, but, based on CB 8's recommendation, the adopted proposal did not. With the current approval by CB8, the Commission believes that the subject portion of East 86th Street is appropriate for small sidewalk cafes.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, 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 underline is new, to be added;
Matter in ~~strikeout~~ is old, to be deleted;
Matter within # # is defined in Section 12-10;

14-43

Locations Where Only Small Sidewalk Cafes Are Permitted

#Small sidewalk cafes# may be located wherever #sidewalk cafes# are permitted, pursuant to Section 14-011 (Sidewalk cafe locations). In addition, only #small sidewalk cafes# shall be allowed on the following #streets#, subject to the underlying zoning.

Manhattan:

Orchard Street - from Canal Street to Houston Street
Delancey Street - from Norfolk Street to the Bowery
Centre Street - from Canal Street to Spring Street
Lafayette Street - from Canal Street to Houston Street
Sixth Avenue - from Canal Street to a line 100 feet south of Spring Street
Special Union Square Special District*
14th Street - from Second Avenue to Irving Place
14th Street - from a line 100 feet west of University Place to Eighth Avenue
23rd Street - from the East River to Eighth Avenue
31st Street - from Fifth Avenue to a line 200 feet east of Broadway
34th Street - from the East River to Fifth Avenue
35th Street - from a line 150 feet east of Fifth Avenue to a line 150 feet east of Sixth Avenue
36th Street - from a line 150 feet east of Fifth Avenue to a line 150 feet west of Fifth Avenue
37th Street - from a line 150 feet east of Fifth Avenue to a line 150 feet west of Fifth Avenue
37th Street - from a line 150 feet east of Sixth Avenue to Broadway
38th Street - from Third Avenue to Seventh Avenue
39th Street - from Exit Street to Seventh Avenue
40th Street - from a line 100 feet east of Exit Street to Broadway
41st Street - from a line 100 feet east of Exit Street to Third Avenue
42nd Street - from First Avenue to Third Avenue
42nd Street - from Fifth Avenue to a line 275 feet east of Sixth Avenue
All #streets# bounded by 43rd Street on the south, 46th Street on the north, a line 200 feet east of Third Avenue on the east and Third Avenue on the west
43rd Street - from Fifth Avenue to Sixth Avenue
44th Street - from Fifth Avenue to Sixth Avenue
45th Street - from Fifth Avenue to Sixth Avenue
46th Street - from Fifth Avenue to Sixth Avenue
47th Street - from a line 200 feet east of Third Avenue to Third Avenue
48th Street - from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west
49th Street - from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west
50th Street - from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west
51st Street - from a line 150 feet east of Third Avenue to Eighth Avenue
52nd Street - from a line 160 feet east of Third Avenue to Eighth Avenue
53rd Street - from a line 160 feet east of Third Avenue to Eighth Avenue
54st Street - from a line 150 feet east of Third Avenue to Eighth Avenue

55th Street - from a line 100 feet west of Second Avenue to Eighth Avenue
 56th Street - from a line 100 feet west of Second Avenue to Eighth Avenue
 57th Street - from the East River to Eighth Avenue
 58th Street - from the East River to Eighth Avenue
 59th Street - from the East River to Second Avenue
 59th Street (Central Park South) - from Sixth Avenue to Columbus Circle
 60th Street - from Lexington Avenue to Fifth Avenue
 61st Street - from Third Avenue to Fifth Avenue
 62nd Street - from Second Avenue to Fifth Avenue
 63rd Street - from Second Avenue to Fifth Avenue
86th Street - from First Avenue to a line 125 feet east of Second Avenue, south side only
 116th Street - from Malcolm X Boulevard to Frederick Douglass Boulevard
 First Avenue - from 48th Street to 56th Street
 Third Avenue - from 38th Street to 62nd Street
 Lexington Avenue - from a line 100 feet south of 23rd Street to a line 100 feet north of 34th Street
 Lexington Avenue - the entire length from a line 100 feet north of 96th Street, northward
 Park Avenue - from 38th Street to 40th Street
 Park Avenue - from 48th Street to 60th Street
 Park Avenue - the entire length from a line 100 feet north of 96th Street, northward
 Madison Avenue - from 23rd Street to 38th Street
 Madison Avenue - from 59th Street to 61st Street
 Special Madison Avenue Preservation District**
 Madison Avenue - the entire length from a line 100 feet north of 96th Street, northward
 Fifth Avenue - from 12th Street to 33rd Street
 Fifth Avenue - from 59th Street to 61st Street
 Sixth Avenue - from 36th Street to 42nd Street
 Sixth Avenue - from a line 150 feet north of 42nd Street to 48th Street
 Sixth Avenue - from 50th Street to Central Park South
 Seventh Avenue - from 50th Street to Central Park South
 Broadway - from 36th Street to 40th Street
 Broadway - from 50th Street to Columbus Circle
 Columbus Circle - from Eighth Avenue, westward, to Broadway.

* #Small sidewalk cafes# are not allowed on 14th Street

** #Small sidewalk cafes# are not allowed on 86th Street within the Special Madison Avenue District

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