



November 4, 2020/ Calendar No. 10

N 200078 ZRM

IN THE MATTER OF an application submitted by Mansion Restaurant Inc, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Article I, Chapter 4 (Sidewalk Cafe Regulations).

This application (N 200078 ZRM) for an amendment to the Zoning Resolution (ZR) was filed by Mansion Restaurant Inc. on August 27, 2019 to modify the Sidewalk Café regulations of ZR Sections 14-41 (Locations Where Sidewalk Cafes Are Not Permitted) and 14-42 (Locations Where Enclosed Sidewalk Cafes Are Not Permitted), on a 125-foot portion of East 86th Street at York Avenue. The proposed amendment would allow the Mansion Restaurant to apply for a revocable consent and license to operate an unenclosed sidewalk café adjacent to the restaurant’s East 86th Street frontage, at 1634 York Avenue in the Yorkville neighborhood of Manhattan, Community District 8.

BACKGROUND

In 2004, a Department-sponsored zoning text amendment (N 040197 ZRY) was approved by the City Planning Commission (CPC) and City Council that designated the “small sidewalk café” as a defined sub-type of ‘unenclosed sidewalk café’ and expanded the areas where sidewalk cafes are permitted. ‘Small sidewalk cafes’ were defined by their adherence to specific design standards in ZR Section 14-30. Conversely, ‘unenclosed sidewalk café’ standards are subject to the licensing process with the New York City Department of Consumer and Worker Protection (DCWP), to be determined based on the unique characteristics of each sidewalk café license being requested.

Under the draft provisions of the 2004 text amendment (N 040197 ZRY), sidewalk cafes were to be allowed on most streets, including along East 86th Street, within 125 feet of the avenue, contiguous with the commercial overlay. The amendment aimed to encourage use of the sidewalk as an amenity that would contribute to the vitality of street life. Prior to approving the

project, the CPC removed East 86th Street at the recommendation of Manhattan Community Board 8 (CB 8). CB 8 made this recommendation based on a proposed streetscape improvement plan for the East 86th Street corridor. The plan proposed various streetscape improvements to the corridor including the addition of bus boarding bulbs, neck downs at intersections, landscaping and street furniture. The Department of Transportation implemented many of these improvements in 2015, in association with the M86 SBS bus service. CB 8 stated in its resolution dated February 11, 2004, that “this prohibition may be revisited at some future time.” The amendment resulted in ‘East 86th Street from the East River to Fifth Avenue’, being added to those streets listed in ZR Section 14-41 (Locations Where Certain Sidewalk Cafes Are Not Permitted).

In 2008, this prohibition on sidewalk cafes was revisited when the CPC approved an application by Maz Mezcal restaurant (N 090165 ZRM) for a zoning text amendment to ZR Section 14-43 (Locations Where Only ‘Small Sidewalk Cafes’ Are Permitted). The amendment allows a ‘small sidewalk café’ to be operated in conjunction with the restaurant located on East 86th Street, between First and Second avenues. The proposal added the southern side of East 86th Street from First Avenue to a line 125 feet east of Second Avenue to the list of geographies permitted to host ‘small sidewalk cafes’ only. This action allowed Maz Mezcal to apply for a revocable consent and license for a ‘small sidewalk café’ from DCWP. CB 8 recommended approval of this application during public review.

Open Restaurants Program

On June 18, 2020, in response to widespread hardship faced by the restaurant industry following forced closures due to the COVID-19 pandemic, the Mayor signed Emergency Executive Order 126, which gives temporary permission for restaurants to utilize the sidewalk and the parking lane where adjacent the premises, for outdoor seating under the Open Restaurants Program. While the Executive Order 126 remains in place, its provisions supersede those outlined in Article 1, Chapter 4 (Sidewalk Café Regulations) of the Zoning Resolution.

The Mayor later announced on September 25, 2020, the City’s intent to make the Open Restaurants Program permanent, following expressions of support for the initiative from

representatives including the Speaker of the City Council, the Manhattan Borough President and the general public. This decision also stemmed from the positive repercussions of the program in bringing activity and vitality to neighborhoods, as well as ongoing recovery opportunities to support the restaurant industry.

Project Area

The project area (Block 1583, p/o Lot 1) comprises 125 feet of the East 86th Street sidewalk, running east from York Avenue and contiguous with the boundary of the C1-5 commercial overlay. The project area corresponds to the 75-foot long frontage of the Mansion Restaurant located at 1634 York Avenue. The remaining 50 feet within Lot 1 correspond to the frontage of the easterly neighbor at 511 East 86th Street, which comprises a recently-constructed 22-story mixed use development with ground floor retail.

East 86th Street is a major thoroughfare that runs east-west through the Carnegie Hill and Yorkville neighborhoods of Manhattan. The street is predominantly zoned for mixed commercial and residential, with some midblocks for residential use only. The street varies in character from Fifth Avenue to the East River. The westernmost segment is zoned for residential use 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 multifamily apartment buildings with neighborhood retail uses at the ground floor, and the easternmost portion of East 86th Street contains residential uses without ground floor retail.

The portion of East 86th Street at York Avenue is zoned R10A with a C1-5 commercial overlay. The overlay extends 125 feet along East 86th Street in east and west directions in anticipation of retail activation for this length, before becoming fully residential in the midblock.

Proposed Zoning Text Amendment

The Zoning Resolution regulates where sidewalk cafes are permitted and defines three primary types of sidewalk cafe: enclosed (14-10), unenclosed (14-20) and small sidewalk cafes (14-30).

Where the text allows a particular type of sidewalk café, an applicant may seek a license and revocable consent, including layout and operational endorsement from DCWP.

Within ZR Section 14-41, the length of East 86th Street from the East River to Fifth Avenue is identified as a location where certain sidewalk cafes are not permitted. In order to permit an unenclosed sidewalk cafe in the project area, the proposed text amendment would first define the southern side of East 86th Street from the East River to Fifth Ave as a location where certain sidewalk cafes are not permitted. The text amendment would then add the northern side of East 86th Street from the East River to 125 feet east of York Avenue and from York Avenue to Fifth Avenue. The combination of these actions would have the effect of excising the project area from this prohibition.

In order to address the potential for the amendment to ZR Section 14-41 described above to allow for an enclosed sidewalk café to be permitted in the project area, the proposed text amendment would also amend ZR Section 14-42 (Locations Where Enclosed Sidewalk Cafes Are Not Permitted), to clarify that ‘enclosed sidewalk cafes’ are not permitted on East 86th Street, from the East River to Fifth Avenue.

ENVIRONMENTAL REVIEW

The application (N 200078 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 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission. The designated CEQR number is 20DCP027M.

After a study of the potential environmental impact of the proposed action, a Negative Declaration for the original application was issued on January 21, 2020.

PUBLIC REVIEW

In response to the COVID-19 pandemic, the Mayor issued Emergency Executive Order No. 100 on March 16, 2020 that suspended certain time requirements relating to the Uniform Land Use Review Procedure (ULURP) and other land use processes as of March 12, 2020. The suspension included portions of sections 195, 197-c and 197-d of the New York City Charter, as well as sections of the Administrative Code and the Rules of the City of New York, pertaining to time limitations. The CPC ceased meeting immediately after issuance of the Executive Order until August 3, 2020, when the regular schedule of meetings was resumed. The ULURP time requirements suspended by Emergency Executive Order No. 100 began running on September 14, 2020.

The application (N 200078 ZRM) was referred into public review on January 21, 2020 for information and review to Community Board 8 and the Borough President of Manhattan, in accordance with the procedures for referring non-ULURP matters.

Community Board Public Hearing

Manhattan Community Board 8 held a public hearing on this application (N 200078 ZRM) at its Land Use Committee Meeting on March 11, 2020. On that date, by a vote of 20 in favor, 12 opposed and two abstaining, the board adopted a resolution recommending approval.

Borough President Recommendation

The application (N 200078 ZRM) was considered by the Manhattan Borough President. The Borough President provided a recommendation of support for the application on February 12, 2020 and again on October 10, 2020.

City Planning Commission Public Hearing

On September 16, 2020 (Calendar No. 9), the City Planning Commission scheduled October 7, 2020, for a public hearing on the application (N 200078 ZRM). The hearing was duly held on October 7, 2020 (Calendar No. 16). There were no speakers from the public in support or opposition to the application.

The applicant's land use attorney provided a summary of the proposed text amendment and the interest in adding outdoor seating. The representative noted that the applicant intends to utilize the text amendment by applying to DCWP for a license and revocable consent that would accommodate 10 tables and 36 chairs, removable railing and retractable awning in the project area.

The applicant team noted that the business has been complying with the regulations of the Open Restaurants Program, operating with 60 seats, placed on a combination of the sidewalk and in the parking lane. The applicant acknowledged the City's intention to make the Open Restaurant Program permanent, however, stated that the application has progressed to such a stage that the applicant prefers to finalize the action.

The applicant noted that the business has been in operation since 1945 and development surrounding the restaurant has added to the population density in the area. As such, additional seating on the sidewalk would assist with the accommodation of a larger volume of customers.

CONSIDERATION

The Commission believes that the proposed zoning text amendment (N 200078 ZRM) is appropriate.

The project area is located within an active retail corridor on York Avenue, as reflected by the existing C1-5 commercial overlay. Both the project area and the overlay extend 125 feet east of York Avenue along East 86th Street, encouraging active ground floor uses that interact with the proposed active use of the sidewalk. This correlation of the ground floor commercial uses and potential sidewalk café use will ensure that these uses continue to complement one another, without compromising the integrity of the residential midblock. The Commission also notes that the area has a trend of sidewalk café permissibility extending 125 feet toward the midblock.

The Commission notes that the circumstances of the 2004 restriction placed on sidewalk cafes along East 86th Street, prompted upon request of CB8, have since changed. In 2008, the Maz Mezcalt application prompted additional review of existing regulations, ultimately receiving a

favorable vote from CB 8 to enable a small sidewalk café on East 86th Street. The Commission also notes that the streetscape improvement plan, upon which CB 8's initial concerns were based, has been implemented by DOT. The improvements do not present a conflict with the use of the project area for unenclosed sidewalk cafés. During the public review process of the current application, CB 8 has expressed support by voting in favor and issuing a recommendation to approve. The Commission also notes the support from the Manhattan Borough President, who cited benefits in supporting multi-generational family businesses in the city that act as social and cultural anchors.

The Commission heard testimony from the applicant team indicating that the business has been participating in the Open Restaurants Program since June of 2020 as a result of the Mayoral Executive Order. In the summer months, the restaurant accommodated 60 outdoor seats based on the permissions granted by the Executive Order. The current action anticipates fewer seats within the sidewalk adjacent to the premises on East 86th Street only, subject to the licensing standards set by DCWP. Despite the City's intent to make the Open Restaurants Program permanent, the restaurant owner wishes to complete the process associated with the action, given the substantial progression of the current application prior to the Executive Order. Completing the action will also provide short term certainty while the City progresses in its efforts to make the Open Restaurants Program permanent.

The Commission acknowledges that the text amendment will provide the applicant with eligibility to apply for a license through DCWP. Through the licensing process, DCWP will apply its design and operational standards to plans the applicant will be required to submit before a license and revocable consent can be issued to operate.

The Commission believes that the text amendment will help facilitate vitality in the streetscape, while preserving sufficient pedestrian circulation space on this portion of the East 86th Street sidewalk. The action also aligns with the administration's ongoing efforts to support the restaurant industry and local businesses by providing safe options to continue their operations and serve their communities, following an ongoing period of hardship endured due to the COVID-19 pandemic.

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 the 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 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.

**ARTICLE I
GENERAL PROVISIONS**

**Chapter 4
Sidewalk Cafe Regulations**

* * *

**14-41
Locations Where Certain Sidewalk Cafes Are Not Permitted**

No #enclosed# or #unenclosed sidewalk cafes# shall be permitted on any of the following #streets#, portions of #streets# and areas, except that #small sidewalk cafes# may be permitted pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

* * *

Manhattan:

* * *

79th Street — from the East River to Fifth Avenue

86th Street — from the East River to Fifth Avenue, south side only

86th Street — from the East River to 125 feet east of York Avenue, north side only, and from York Avenue to Fifth Avenue, north side only

116th Street — from Malcolm X Boulevard to Frederick Douglass Boulevard

* * *

14-42

Locations Where Enclosed Sidewalk Cafes Are Not Permitted

No #enclosed sidewalk cafe# shall be permitted on any of the following #streets#.

Manhattan:

Bleecker Street — from Bank Street to Mercer Street

Central Park South — from Fifth Avenue to Sixth Avenue

Park Avenue South and Park Avenue — from 31st Street to 38th Street

86th Street — from the East River to Fifth Avenue

* * *

The above resolution (N 200078 ZRM), duly adopted by the City Planning Commission on November 4, 2020 (Calendar No. 10), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*

KENNETH J. KNUCKLES, ESQ., *Vice Chairman*

DAVID BURNEY, ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO, III,

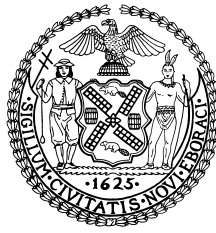
MICHELLE DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY,

HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,

RAJ RAMPERSHAD *Commissioners*

Alida Camp
Chair

Will Brightbill
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The City of New York
Community Board 8 Manhattan

March 16, 2020

Marisa Lago, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

RE: Application for a Zoning Text Amendment (N 200078ZRM) for Mansion Restaurant (1634 York Avenue) to operate an unenclosed outdoor sidewalk cafe on East 86th Street from York Avenue to 125 feet east of York

Dear Chair Lago,

At the Land Use meeting of Community Board 8 Manhattan held on March 11, 2020, the board approved the following resolution by a vote of 20 in favor, 12 opposed, 2 abstentions, and 0 not voting for cause.

WHEREAS, this an application for a text amendment to amend the provisions of Sections 14-41 and 14-42 of Article I, Chapter 4 (Sidewalk Café Regulations) of the New York City Zoning Resolution; and

WHEREAS, the proposed text amendment would enable unenclosed outdoor café use on the northern sidewalk on East 86th Street, for the length of 125 east of York Avenue;

THEREFORE, BE IT RESOLVED THAT Community Board 8 approves the application for a text amendment as presented.

Sincerely,

A handwritten signature in black ink that reads "Alida Camp".

Alida Camp, Chair

cc: Honorable Bill de Blasio, Mayor of the City of New York
Honorable Carolyn Maloney, 12th Congressional District Representative
Honorable Gale Brewer, Manhattan Borough President
Honorable Liz Krueger, NYS Senator, 28th Senatorial District
Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
Honorable Rebecca Seawright, NYS Assembly Member 76th Assembly District
Honorable Ben Kallos, NYC Council Member, 5th Council District
Honorable Keith Powers, NYC Council Member, 4th Council District



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Gale A. Brewer, Borough President

February 12, 2020

City Planning Commission
Calendar Information Office
120 Broadway, 31st Floor
New York, NY 10271

Re: N 200078 ZRM -- Mansion Restaurant Sidewalk Café Text Amendment

To the City Planning Commission:

On January 22, 2020 I received the above-referenced application to amend the provisions of Sections 14-41 and 14-42 of Article 1, Chapter 4 (Sidewalk Café Regulations) of the New York City Zoning Resolution. This amendment would allow for an unenclosed sidewalk café for The Mansion Restaurant located at 1634 York Avenue at the corner of of East 86th Street and York Avenue in Manhattan Community District 8.

I have inspected the site, and fully support this application to amend the zoning resolution for an unenclosed sidewalk café because its configuration will not impede pedestrian traffic. The Mansion Restaurant has been run and operated by the Philips family since 1945, and has been a welcome and responsible neighborhood presence in Yorkville throughout the past 75 years. Family-owned, multi-generational businesses like The Mansion Restaurant act as social and cultural anchors in a rapidly changing borough. In light of the restaurant's long dedication the community, its good-neighbor practices, and the absence of any significant reduction in pedestrian safety stemming from this proposal, I recommend approval of this application.

Thank you for your time on this matter.

Sincerely,

Gale A. Brewer
Manhattan Borough President



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THE CITY OF NEW YORK

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Gale A. Brewer, Borough President

October 10, 2020

City Planning Commission
Calendar Information Office
120 Broadway, 31st Floor
New York, NY 10271

Re: N 200078 ZRM -- Mansion Restaurant Sidewalk Café Text Amendment

To the City Planning Commission:

On February 12, 2020 I sent a letter to the City Planning Commission regarding the above-referenced application to amend the provisions of Sections 14-41 and 14-42 of Article 1, Chapter 4 (Sidewalk Café Regulations) of the New York City Zoning Resolution. This amendment would allow for an unenclosed sidewalk café for The Mansion Restaurant located at 1634 York Avenue at the corner of East 86th Street and York Avenue in Manhattan Community District 8.

I fully supported the original application to amend the zoning resolution for an unenclosed sidewalk café because its configuration will not impede pedestrian traffic and this revised application includes 36 instead of the original 48 seats. With the 60 seats currently added under the Open Restaurants program, the total number of seats after approval of this application would be 96, the same number of seats the restaurant had inside before the pandemic. The Mansion Restaurant has been run and operated by the Philips family since 1945, and has been a welcome and responsible neighborhood presence in Yorkville throughout the past 75 years and I support this change to help maintain business in a challenging time for restaurants across the city.

Thank you for your time on this matter.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, slightly slanted style.

Gale A. Brewer
Manhattan Borough President