



IN THE MATTER OF an application submitted by Cort Theater LLC, 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 VIII Chapter 1 (Special Midtown District) for the purpose of amending the provisions of a special permit regulating theater rehabilitation bonuses.

This application for a zoning text amendment was filed by Cort Theatre LLC and Clarity 47 LLC on October 8, 2019. This application, in conjunction with the related special permit (C 200123 ZSM), would facilitate the renovation of the Cort Theater, 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.

RELATED ACTIONS

In addition to the zoning text amendment that is the subject of this report (N 200124 ZRM), implementation of the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

C 200123 ZSM Zoning special permit pursuant to 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 81-742.

BACKGROUND

A full background discussion and description of this application appears in the report for the related special permit (C 200123 ZSM).

ENVIRONMENTAL REVIEW

The application (N 200124 ZRM), in conjunction with the application for the related action (C 200123 ZSM) 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 20DCP003M. The lead is the City Planning Commission.

A summary of the environmental review appears in the report for the related special permit application (C 200123 ZSM).

PUBLIC REVIEW

This application (N 200124 ZRM) was duly referred on September 14, 2020, to Community Board 5 and the Manhattan Borough President, in accordance with the procedures for non-ULURP matters, along with the related action (C 200123 ZSM), which was certified as complete by the Department of City Planning and duly referred in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Recommendation

Community Board 5 held a public hearing on this application (N 200124 ZRM) on October 9, 2020, and, on that date, by a vote of 39 in favor, none opposed, and two abstaining, adopted a resolution recommending approval of the application with conditions. A summary of the Community Board's recommendations appears in the report for the related special permit (C 200123 ZSM).

Borough President Recommendation

This application (N 200124 ZRM) was considered by the Manhattan Borough President, who, on November 12, 2020, issued a recommendation to approve the application with conditions. A summary of the Borough President's recommendations appears in the report for the related special permit (C 200123 ZSM).

City Planning Commission Public Hearing

On November 4, 2020 (Calendar No. 2), the City Planning Commission scheduled November 18, 2020 for a public hearing on this application (N 200124 ZRM) and the related application (C 200123 ZSM). The hearing was duly held on November 18, 2020 (Calendar No. 13), in conjunction with the public hearing on the application for the related action.

There were a number of speakers, as described in the report on the related special permit application (C 200123 ZSM), and the hearing was closed.

CONSIDERATION

The Commission believes that the zoning text amendment (N 200124 ZRM), along with the related action (C 200123 ZSM), is appropriate. A full consideration and discussion of the issues appears in the report on the related special application (C 200123 ZSM).

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, **RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 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 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

* * *

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, 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.

* * *

The above resolution (N 200124 ZRM), duly adopted by the City Planning Commission on January 4, 2021 (Calendar No. 2), is filed with the Office of the Speaker, City Council, and the Borough President 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 J. BURNEY, ALLEN P. CAPPELLI, ALFRED C. CERULLO, III, MICHELLE R. de la UZ, JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD,
Commissioners