



**IN THE MATTER OF** an application submitted by 42nd and 8th Owner 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 signage regulations for zoning lots in the Eighth Avenue Corridor of the Theater Subdistrict in Article VIII, Chapter 1 (Special Midtown District), Borough of Manhattan, Community District 4.

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This application for an amendment of the Zoning Resolution was filed by 42nd & 8th Owner LLC on May 19, 2017. The proposed text amendment to Section 81-73 of Article VIII, Chapter 1 would modify signage provisions to allow C6-7 signage rules to apply within the western portion of the Eighth Avenue Corridor of the Theater Subdistrict of the Special Midtown District in Manhattan Community District 4.

### **BACKGROUND**

The applicant is proposing an amendment to the text of the Zoning Resolution to allow the C6-7 signage rules to apply within the western portion of the Eighth Avenue Corridor of the Theater Subdistrict of the Special Midtown District. The Theater District was established in 1967 (CP 20000) in response to the threat to Broadway theaters from the westward expansion of Midtown office construction.

The text amendment would affect sites west of Eighth Avenue, for a depth of 150 feet, between West 42nd Street and West 45th Street that are bounded by two wide streets. West 42nd Street and Eighth Avenue are wide (75 feet or more) and West 43rd, West 44th and West 45th Streets are narrow (less than 75 feet wide). The proposed amendment could affect the property located at 661 Eighth Avenue (Block 1033, Lot 29). However, if 661 Eighth Avenue were to merge with the adjacent property at 669 Eighth Avenue (Block 1033, Lot 32), the text could be applicable to the corner lot formed by both 661 Eighth Avenue and 669 Eighth Avenue. At this time, the applicant does not have control over 669 Eighth Avenue.

661 Eighth Avenue is both within the Theater Subdistrict of the Special Midtown District and the

Special Clinton District. The Special Clinton District was established in 1974 (CP 22758) to preserve the residential core of the Clinton community due to the development pressures caused by the construction of the Convention Center and promote development on the perimeters of the neighborhood. The site is a corner lot at the north-west intersection of West 42nd Street and Eighth Avenue, within a C6-4 zoning district, located just north of Port Authority and just west of Times Square. The surrounding area is characterized by mid- to high-rise office, and mixed office and residential buildings.

661 Eighth Avenue is a 6,035-square-foot corner lot improved with a two-story retail building with accessory non-illuminated signage. 669 Eighth Avenue is a 4,000-square-foot interior, L-shaped lot improved with a 12-story mixed-use building. There is existing non-illuminated advertising signage on portions of the east and south facades of the 12-story mixed-use building located at 669 Eighth Avenue.

C6-4 zones allow a maximum surface area for non-illuminated and illuminated or flashing signs of five times the street frontage of the zoning lots or 500 square feet, whichever is less. No signs may exceed a height of 40 feet from the curb level, and signs may not project across a street line more than 18 inches for double- or multi-faceted signs, or 12 inches for all other signs. Advertising signage is not permitted in districts zoned C6-4.

The applicant seeks an amendment to Section 81-73 (Special Sign and Frontage Regulations) of the Zoning Resolution to create a new Section 81-734 (Special signage regulations for portions of the west side of Eighth Avenue) to allow C6-7 signage rules to apply in the Eighth Avenue Corridor of the Theater Subdistrict on corner lot sites (those within 100 feet of the intersection) bounded by two wide streets on the west side of Eighth Avenue. 661 Eighth Avenue is currently the only corner lot affected by these regulations without a zoning lot merger.

C6-7 zoning districts have no surface area size restrictions or height restrictions for non-illuminated, illuminated or flashing signs. All signs may project up to eight feet across a street line. Advertising and accessory signage is permitted in C6-7 zoning districts. The proposed text

amendment would facilitate the installation of illuminated advertising signage on the roof of an existing two-story retail building located at 661 Eighth Avenue. The proposed signage would face southeast into Times Square. Additional restrictions to the C6-7 signage regulations have been included to ensure that the proposed signage does not negatively affect the residential Clinton neighborhood:

- a) No signage shall function with sound; and
- b) Illuminated signs may face both wide, or be parallel to the street line of one wide street.

### **ENVIRONMENTAL REVIEW**

The subject application (N 170433 ZRM) was reviewed pursuant 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 (NYCRR), Section 617.00 et seq. and the New York City Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 17DCP189M. The lead agency is the Department of City Planning (DCP).

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Environmental Assessment Statement, dated June 16, 2017, prepared in connection with the ULURP Application (N 170433 ZRM). The City Planning Commission has determined that the Proposed Action will have no significant effect on the quality of the environment, which would require an Environmental Impact Statement. DCP issued a Negative Declaration on June 19, 2017.

### **PUBLIC REVIEW**

On June 19, 2017, this application (N 170433 ZRM) was referred for information and review to Community Board 4 and the Borough President in accordance with the procedures for referring non-ULURP matters.

### **Community Board Review**

Community Board 4 held a public hearing on this application (N 170433 ZRM) on July 26, 2017, and on that date, by a vote of 32 in favor, one opposed, none abstaining and none present but not eligible, adopted a resolution recommending approval of the proposed action.

Community Board 4 expressed concern that the proposed signage could negatively impact the Special Clinton District. The Board requests that the applicant correct any future light intrusion into the Clinton neighborhood when contacted by the Board. Additionally, the Board requests that the applicant explore the option of positioning the signage so that it only faces east across Eighth Avenue, instead of an angle facing diagonally into the intersection.

### **Borough President Recommendation**

This application (N 170433 ZRM) was considered by the Manhattan Borough President. On August 14, 2017, the Borough President issued a recommendation approving the proposed action.

### **City Planning Commission Public Hearing**

On August 9, 2017, (Calendar No. 13), the City Planning Commission scheduled August 23, 2017, for a public hearing on this application (N 170433 ZRM). The hearing was duly held on August 23, 2017 (Calendar No. 31). There were five speakers in favor of the application and none in opposition.

The speakers in favor of the application described the action, the background of the proposed text amendment and the proposed signage at the project site. Three of the speakers represented the applicant, one speaker represented Manhattan Community Board 4, and one speaker represented the Manhattan Borough President's Office.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the proposed zoning text amendment (N 170433 ZRM) is appropriate.

The text amendment would affect the property located at the corner of the intersection of 42nd Street and Eighth Avenue, across the street from the Port Authority bus terminal and just west of Times Square. All three of the other corners (except for the north-west corner) at this intersection have C6-7 underlying zoning and each of these corners is improved with large illuminated advertising signage facing into the intersection. The Commission believes that the proposed C6-7 signage regulations are appropriate, as they are consistent with the existing signage occupying the other three corners of the intersection and the commercial district east of Eighth Avenue.

The Commission recognizes that additional provisions have been included in the proposed text amendment to minimize any negative impact that the new signage regulations would have on the primarily residential Clinton neighborhood. Any new signage in the area affected by the proposed text may face both wide streets, or be parallel to one of the wide streets, to ensure that any illumination or signage cannot face into the Clinton neighborhood to the north and west. Additionally, any new signage is prohibited from operating with sound.

## **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 VIII:  
SPECIAL PURPOSE DISTRICTS**

**Chapter 1:  
Special Midtown District**

\* \* \*

**81-70  
SPECIAL REGULATIONS FOR THEATER SUBDISTRICT**

\* \* \*

**81-73  
Special Sign and Frontage Regulations**

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**81-733  
Special provisions for central refuse storage area**

\* \* \*

**81-734  
Special signage regulations for portions of the west side of Eighth Avenue**

For a #corner lot#, or portions thereof, bounded by two #wide streets# on the west side of Eighth Avenue within the Eighth Avenue Corridor of the Theater Subdistrict, the #sign# provisions for C6-7 Districts pursuant to Section 32-60 (SIGN REGULATIONS) shall apply, with the following modifications:

- (a) no #sign# shall function with sound; and
- (b) #illuminated signs# may face both #wide streets#, or be parallel to the #street line# of one #wide street#.

**81-74**

**Special Incentives and Controls in the Theater Subdistrict**

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The above resolution (N 170433 ZRM), duly adopted by the City Planning Commission on September 19, 2017 (Calendar No. 11), 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*

**RAYANN BESSER, ALFRED C. CERULLO, III,**

**MICHELLE R. DE LA UZ, JOSEPH I. DOUEK,**

**CHERYL COHEN EFFRON, ANNA HAYES LEVIN,**

**ORLANDO MARIN**, *Commissioners*

**HOPE KNIGHT**, *Commissioner, recused*