



OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

November 12, 2020

**Recommendation on ULURP Application No. N200124ZRM
Cort Theater
By Cort Theater LLC and Clarity Hotel LLC**

PROPOSED ACTIONS

Cort Theatre LLC (the “Applicant”) is seeking approval for the following land use actions:

- Special permit pursuant to Section 81-745 of the Zoning Resolution (ZR § 81-745) to allow a floor area bonus in exchange for a substantial rehabilitation of a listed theater; and
- Amendment to ZR § 81-745 that will:
 - Allow the bonus floor area to be used within the boundaries of a zoning lot, if that zoning lot is partially located in a C6-5.5 zoning district; and
 - Allow exterior work to qualify as rehabilitation work.

The applicant proposes to renovate the Cort Theatre, a 107-year-old theater located at 138 West 48th Street. The floor area bonus generated by the rehabilitation work would be used by a development site located at 145 West 47th Street, a proposed 49 story, 650 key hotel.

Section 81-745 of the Zoning Resolution outlines a list of requirements that must be met in accordance with the floor area bonus special permit¹:

(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.

¹ [ZR 81-745](#). Last amended February 2, 2011.

Substantial rehabilitation may include, without limitations, such work as expanding stage wings, re-raking the orchestra, increasing rehearsal, dressing room or lobby space, 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.

BACKGROUND

Special Midtown District (1982)

The Special Midtown District was created in 1982 “to encourage the growth of Midtown to the west and south, and to ease development pressures on its congested, highly-developed East Side core.”²

The District generally extends from East/West 31st Street to East/West 60th Street between Third and Eighth Avenues. It includes a Preservation Area located in the midblock from West 53rd Street to West 57th Street between Fifth Avenue and Avenue of the Americas.

Theater Subdistrict (1967)

In 1967, the Theater Subdistrict was established with the goal of supporting the entertainment industry in the area—particularly as midtown office development loomed westward. The Subdistrict was created to ensure “long term preservation of Broadway theaters and... development that would support Broadway theaters and complement the scale and character of the Subdistrict ...[and] provide a framework for the orderly growth and development of Eighth Avenue between 42nd and 56th Streets.”³ In 1982 the Theater Subdistrict was included within the Special Midtown District.

The Theater Subdistrict is mapped between West 57th and 40th Streets, between Avenue of the Americas and 150 feet west of Eighth Avenue. In 1998, a zoning text amendment introduced a provision for “listed” theaters to transfer their development rights within the subdistrict in

² [City Planning Commission. N 820253 ZRM. March 16, 1982.](#)

³ [City Planning Commission. N 980271 ZRM. June 3, 1998.](#)

exchange for preserving their theater building. Today, the Subdistrict offers the following provisions for “listed” and landmarked theaters:

- ZR § 81-744, which allows listed theaters to transfer development rights across the Subdistrict in exchange for preservation a theater, “continuance of legitimate theater use” and a contribution to the Theater Subdistrict Fund.
- ZR § 81-745, which allows listed theaters to generate a floor area bonus in exchange for “substantial rehabilitation” of the theater; and
- ZR § 81-747, which allows landmarked theaters to transfer development rights in exchange for preserving the theater and adoption of a continuing maintenance plan.

Theater Subdistrict Fund was established in 1998 with the goal of preserving and promoting the theaters in the area. There are currently 46 listed theaters in the subdistrict.⁴ To date, 13 theaters transferred development rights pursuant to ZR § 81-744 and have transferred their development right to 13 different development sites. These transactions total 596,698 square feet and have resulted in \$9,616,801 for the Theater Subdistrict Fund.⁵ Additionally, there have been two theaters that have generated floor area bonuses pursuant to ZR § 81-745.

Certificate of Appropriateness

In 2018, the Cort Theatre received a Certificate for Appropriateness for its proposed rehabilitation, including a five story annex.

Other Zoning Controls

The Zoning Resolution does not allow floor area bonuses to be transferred across zoning district boundaries.

PROPOSED DEVELOPMENT

Area Context

The Midtown Special District is characterized by high rise office development. The area, which sees millions of tourists every year, plays an integral role in the economy of the New York metropolitan area. The Theater Subdistrict is distinct with its many theater buildings, which in the 2018-2019 season attracted over 14 million audience members—the majority of whom went to musicals.⁶ Broadway theaters have been closed since March 2020 due to the COVID-19 pandemic.

The area is well served by public transit. The site is less than a block away from the 47-50 Streets Rockefeller Center Subway station, which offers service to the B, D, F, and M lines. The 49th Street Subway station, also less than a block away, offers service to the N, Q, R, and W lines, while an entrance to the Times Square – 42nd Street Subway station is four blocks to the

⁴ <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/theater-subdistrict/presentation-032816.pdf>

⁵ [NYC DCP: Completed Theater Subdistrict Transfers](#)

⁶ [The Broadway League.](#)

south and offers service to the A, C, E, N, Q, R, W, 1, 2, 3, 7, and the crosstown shuttle train. Bus service is also available, including north and south bound service via the M5 and M7 buses. Crosstown bus service is available via the M50 and M42 buses.

Site Description

The Cort Theater and the proposed hotel that will benefit from the floor area bonus are located between West 47th and West 48th Streets and 6th and 7th Avenues. The two are located on a single zoning lot that also includes a proposed 34 story, 974 key hotel that is being built as-of-right at 150 West 48th Street and an existing nine story, 200 key hotel at 157 West 47th Street.

The zoning lot as it exists today was merged in 2019. It is located in two different zoning districts: a C6-7T district which allows base FAR of 14.0 and a bonused FAR of 16.8; and a C6-5.5 district, which allows a base FAR of 12.0 and a bonused FAR of 14.4. The proposed hotel that would receive the floor area bonus that is the subject of this application is located solely within the C6-5.5 district.

Cort Theatre Improvements

The theater rehabilitation will include improvement to the front of house as well as back of house. These improvements will allow the theater, which was initially constructed only to show plays, to properly accommodate music productions. A five story annex is proposed to the west of the theater and will increase the amount of space, allowing for better circulation and improved amenities for audiences. The renovated theater will also include ADA restrooms, which are not currently available to audience members.

Proposed Hotel

The proposed hotel at 145 West 47th Street will contain approximately 263,903 square feet of zoning floor area. Approximately 119,298 of those square feet will be generated from the rehabilitation of Cort Theater. The hotel will include 650 rooms and will rise to 49 stories and approximately 530 feet. The base of the building will be approximately 78 feet in height.

COMMUNITY BOARD RESOLUTION

Manhattan Community Board 5 held two hearings on the application. The first hearing took place on September 2, 2020, and the second on September 30, 2020. During the hearings, Board members expressed overall support for the project and the planned improvements for the Cort Theater. However, the Board also noted concerns about the applicability of the proposed zoning text amendment. In particular, members were concerned that the text might not be restrictive enough to ensure that another project would not be able to transfer floor area bonus across zoning district boundaries. Members also argued that the removal of the word “interior” in the rehabilitation work clause was not necessary, and that the proposed annex could qualify as a “major interior structural change”.

At the September 30, 2020 hearing, a representative from the Hotel Trades Council testified in opposition to the application, noting that RIU Hotels elected not to hire union labor for the construction or operation of their proposed hotel.

On October 9, 2020, the Community Board submitted a recommendation in support of the application but conditioned its approval on the Applicant satisfying the following requests:

- Modify the proposed zoning text amendment so that the floor area bonus can be applied to a zoning lot that is located in a C6-5.5 *and* a C6-7T district;⁷
- Modify the proposed zoning text amendment so that rehabilitation work, as defined in the zoning provision, *only* include “major interior structural changes”; and
- That the hotel agrees to hire union workers for both the construction and operation of their building.

BOROUGH PRESIDENT’S COMMENTS

This ULURP application is the first one that my office has evaluated since the ULURP pipeline was paused due to the COVID-19 pandemic. Since that time, the economic fallout has resulted in wage losses for nearly half of New York City workers. 1.3-1.4 million city residents receive unemployment benefits, and as of September 2020, employment in the city was still down more than 600,000 jobs from a year before, according to the NYS Labor Department.

New York City had tried to insulate itself from major downturns by shifting from tying its fortunes to the rise and fall of Wall Street. A thriving tech sector, a booming real estate industry, being globally oriented, and waves of tourists had helped Broadway, hotels and restaurants prosper. But now that tourists are staying away and office workers have not returned in great numbers, the effort that made the city prosper has led to a recovery that may be slower than that of the nation.

I believe, however, that this project has the potential to contribute significantly to a continuing revival of the construction industry and the city’s desire to attract tourism through the enhancement of the theater industry.

The renovation of the Cort Theatre will bring much welcomed improvements that will ensure its financial viability. I also believe that the improvements that are proposed as part of this application meet the findings outlined in the Zoning Resolution concerning substantial rehabilitation and continuance of the Cort Theatre as a “legitimate theater”. Furthermore, while I am certain that the applicant will benefit from new, modern interiors, I have recommended that the Shubert Organization honor the history of the Cort by providing a public display of historic photographs of the original interior and exterior, as well as memorabilia of historic performances or artists who graced the stage of the Cort.

⁷ The proposed zoning text amendment only applies to zoning lots located in C6-5.5 districts.

While I have concerns about additional hotel development in an area that already has many others, the developer, RIU, will be serving as its operator, increasing the likelihood that the hotel goes online as soon as construction is completed. I am, however, concerned about the absence of union jobs provided as part of the construction and operation of the building.

The density of the proposed hotel is contextual with the buildings in the area. While some theaters are lower scale, there are many high rise buildings, including a 440-foot office building at 1211 6th Avenue and another office tower at 701 7th Avenue that is 516 feet in height.

The proposed text amendment would apply to 5 other theaters within the Theater Subdistrict. However, they are all either overbuilt or currently under renovation:

- The Palace Theatre, which is currently under renovation;
- Lyceum Theatre, which is substantially overbuilt;
- Hudson Theatre, which is substantially overbuilt;
- Belasco Theatre, which is substantially overbuilt; and
- Stephen Sondheim Theatre which is also substantially overbuilt.

BOROUGH PRESIDENT'S RECOMMENDATION

I therefore recommend **approval of the application with the following conditions:**

- That the applicant agree to the requests made by Manhattan Community Board 5.



Gale A. Brewer
Manhattan Borough President