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Mark D. Levine, Borough President

September 29, 2022

**Recommendation on Non-ULURP Application No. N220457ZCM
Ambassador Theater
By Ambassador Theatre LLC**

PROPOSED ACTION

Ambassador Theatre LLC, the owner of the Ambassador Theatre, located at 219 West 49th Street, Manhattan, Block 1021, Lot 15 (the “Granting Site”) and 726 Eighth LLC, the owner of the property located at 740 Eighth Avenue, Manhattan, Block 1017, Lot 1 (the “Development Site”) (the “Applicants”) are seeking approval for the transfer of development rights from the Ambassador Theatre to the site at 740 Eighth Avenue.

The Applicants propose to transfer 81,407.02 square feet of floor area from the Granting Site, which is a 101-year-old theatre listed as an eligible theatre in Section 81-72 of the Zoning Resolution. The transfer of floor area would be used to facilitate the construction of a hotel on the Development Site. The action would result in a \$2,006,682.55 contribution to the Theater Subdistrict Fund. Additionally, as part of this application’s requirements, the Ambassador Theatre has submitted a long-term maintenance plan for the preservation of its building.

Section 81-744 of the Zoning Resolution outlines a list of requirements that must be met in accordance with the certification of the transfer of development rights from listed theaters¹:

- (1) the maximum amount of floor area transferred from a “granting site” is the basic maximum floor area ratio established pursuant to Sections 81-211 (Maximum floor area ratio for non-residential or mixed buildings) or 81-213 (Special provisions for transfer of development rights from listed theaters within the Special Clinton District), as applicable, for such “granting site” as if it were undeveloped, less the total floor area of all existing buildings or portions of buildings on the “granting site” and floor area attributed to the “granting site” that has been previously used or transferred;
- (2) each transfer, once completed, irrevocably reduces the amount of floor area that may be developed or enlarged on the zoning lot containing the “granting site” by the amount of floor area transferred;
- (3) the maximum amount of floor area transferred to a “receiving site” shall not exceed the basic maximum floor area ratio established pursuant to Section 81-211 for such “receiving site” by more than 20 percent;

¹[ZR-81-744](#) Last amended February 2, 2011.

- (4) the provisions of Section 81-743 (Required assurances for continuance of legitimate theater use) are met; and
- (5) appropriate legal documents are executed ensuring that a contribution in an amount equal to 10 dollars per square foot of transferred floor area be deposited in the Theater Subdistrict Fund established pursuant to paragraph (i) of Section 81-741 (General provisions) at the earlier of either the time of closing on the transfer of development rights pursuant to this Section or the filing for any building permit for any development or enlargement that anticipates using such development rights.

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 roughly 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 the first special district to be established pursuant to the New York City Zoning Resolution with the goal of supporting the entertainment industry in the area – particularly as midtown office development loomed westward. The Subdistrict was created to ensure the “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 West 42nd and West 56th Streets including use and bulk controls.”³ In 1982 the Theater Subdistrict was included within the Special Midtown District.

The Theater Subdistrict is mapped between West 57th and West 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 be able to transfer their development rights within the subdistrict in 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 for the purpose of the “continuance of legitimate theater use” and in exchange for 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

² City Planning Commission. N 820253 ZRM. March 16, 1982.

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

- ZR § 81-747, which allows landmarked theaters to transfer development rights in exchange for preserving the theater and adoption of a continuing maintenance plan.

The Theater Subdistrict Fund (Section 81-71) 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, 20 transfers of development rights have taken place from 13 theaters pursuant to ZR § 81-744, which have transferred their development rights to 13 different development sites. These transactions total 596,698 square feet and have resulted in a \$9,616,801 contribution to the Theater Subdistrict Fund.⁵

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 2021-2022 season attracted over 6 million attendees, which was 10 weeks shorter due to the Covid-19 pandemic.⁶ Broadway theaters have been reopened since September 2021, following a year-and-a-half closure due to the COVID-19 pandemic.

The area is well served by public transit. The Granting Site is less than a block away from two subway stations at 50th Street, which offer service to the A, C, E, and 1 lines. The nearby 49th Street subway station offers service to the N, Q, R, and W lines, while an entrance to the Times Square – 42nd Street subway station is seven blocks to the south and offers service to the A, C, E, N, Q, R, W, 1, 2, 3, 7, and the crosstown S train. Bus service is also available, including north- and south-bound service via the M5, M20, M104 and M7 buses. Crosstown bus service is available via the M50 and M42 buses.

Site Description

The Ambassador Theatre is located on West 49th Street, between Eighth Avenue and Broadway, and the proposed hotel that would benefit from the floor area transfer is located on Eighth Avenue between West 45th and 46th Streets. The Development Site is proposed to be a 42-story mixed hotel and retail building containing up to 639,498 square feet of floor area, which is expected to be completed in 2026 and would be built as-of-right. In 2018, the zoning lot on which the granting site is located was merged into a larger zoning lot with the property at Block 1021, Lot 19. No floor area was transferred from the Granting Site to Lot 19. The Granting Site is located in two different zoning districts: a C6-7T district, which allows base FAR of 14.0 and a bonus FAR of 16.8, and a C6-5 district, which allows a base FAR of 10.0. The proposed hotel that would receive the floor area bonus that is the subject of this application is located within C6-5 and C6-4 districts.

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

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

⁶ [Deadline](#).

Ambassador Theatre Maintenance

The development right transfer will assist in ensuring the continued maintenance of the Ambassador Theatre, which has been designated an Interior New York City Landmark since 1985. A 2020 survey of the theater found it to be in good condition, with the majority of the originally designed features intact and well maintained. The survey found that no requirements or plans are needed for upgrade, and also noted that “all buildings of this age require routine maintenance, such as roofing, drains, waterproofing, masonry, cleaning, painting exposed steel, etc.”⁷

Proposed Hotel

The proposed hotel at 740 Eighth Avenue will contain approximately 639,498 square feet of zoning floor area. The site is currently vacant. Approximately 81,407 of those square feet will be generated from the rehabilitation of Ambassador Theatre. The hotel would rise to 42 stories and would reportedly include 1,350 keys⁸.

740 Eighth Avenue – Currently Permitted and Proposed Square Footage⁹

	Permitted		Proposed with Development Rights	
	C6-4 MiD (Eighth Ave. Corridor)	C6-5 MiD (Theater Core Subdistrict)	C6-4 MiD (Eighth Ave. Corridor)	C6-5 MiD (Theater Core Subdistrict)
Residential	640,503.90 SF		0	
Commercial	640,503.90 SF		721,910.90	
Community Facility	640,503.90 SF		0	
Max. for Zoning Lot	640,503.90 SF		721,910.90	

COMMUNITY BOARD RESOLUTION

Manhattan Community Board 5 held a hearing on the application on August 24, 2022. During the hearing, Board members expressed support for the certification to approve the transfer of floor area from the Ambassador Theatre to the Receiving Site, due to the public benefits of ensuring the continued use and maintenance of the theatre and contribution to the Theater Subdistrict Fund. Members voted unanimously to approve the certification and transfer of 81,407 square feet from the Granting Site to the Development Site, while also urging the applicant and owner of 426 Eighth LLC to present the design of their proposed hotel to the land use committee for review and comment.¹⁰

⁷ Document is available at <https://zap.planning.nyc.gov/projects/2022M0264>

⁸ <https://therealdeal.com/2022/01/13/extell-plans-theater-district-hotel-avoiding-special-permit/>

⁹ Document is available at <https://zap.planning.nyc.gov/projects/2022M0264>

¹⁰ https://www.cb5.org/cb5m/resolutions/2022-september/resolution_2/

BOROUGH PRESIDENT’S COMMENTS

As acknowledged by Community Board 5, this application abides by the requirements of the Special Theatre Subdistrict certification and will be an important contribution to the Theater Subdistrict Fund as the industry recovers from the Covid-19 pandemic. In addition, this proposed action ensures the continued use of the Ambassador Theatre as well as the proper maintenance of this cultural asset.

BOROUGH PRESIDENT’S RECOMMENDATION

I therefore recommend **approval of the application.**

Mark Levine

A handwritten signature in blue ink, appearing to read "Mark Levine". The signature is fluid and cursive, with the first name "Mark" being more prominent than the last name "Levine".

Manhattan Borough President