Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

81-743 - Required assurances for continuance of legitimate theater use

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LAST AMENDED
10/7/2021

Prior to the issuance of any special permit under the provisions of Sections 81-745 (Floor area bonus for rehabilitation of existing listed theaters) or 81-747 (Transfer of development rights from landmarks), or the issuance of a certification, authorization or special permit under the provisions of Sections 66-51 (Additional Floor Area for Mass Transit Station Improvements), 81-744 (Transfer of development rights from listed theaters), or 81-746 (Additional provisions for zoning lots divided by district or subdistrict core boundaries) the following conditions shall exist:

(a) a signed lease from a prospective theater operator, or a written commitment from the owner of the theater if such owner is also the operator, for occupancy of the theater and its operation as a legitimate theater for a period of not less than five years;

(b) a licensed engineer's and/or architect's report certifying either that the theater is physically and operationally sound so as to permit its use as a legitimate theater or, if it is determined that the theater is not physically or operationally sound, a plan and program for the upgrade of the theater to put it in condition of physical and operational soundness. For the purposes of this Section, physical and operational soundness shall include the structural integrity of the exterior and interior elements of the #building# to the extent that they relate to the theater, compliance with applicable electrical and fire safety codes, and compliance with applicable building code standards.

In the event that the theater has been designated as a landmark or an interior landmark by the Landmarks Preservation Commission, physical and operational soundness shall include preserving the integrity of existing significant architectural features identified in the Landmarks Preservation Commission designation report. In such case, a licensed engineer

and/or architect with knowledge of historic preservation and credentials acceptable to the Landmarks Preservation Commission shall prepare a report documenting the condition of such significant architectural features and, if determined to be necessary, a plan and program to preserve such significant features in a state of good physical repair and sound proper condition. Any certification report regarding a landmark or interior landmark theater shall be submitted concurrently to the Landmarks Preservation Commission and the Chairperson of the City Planning Commission;

(c) A plan and program shall be accompanied by written commitment from such owner of the financial resources available to ensure timely completion of the identified scope of work;

(d) a legal commitment providing for inspection and ongoing maintenance of the theater to ensure its continued availability for theater use. Such inspection shall be conducted every five years by a licensed engineer and/or architect or by the Theater Subdistrict Council, and a report issued to the Chairperson of the City Planning Commission and notice of such report shall be published in the City Record. Such report shall also be issued to the Theater Subdistrict Council unless the Theater Subdistrict Council has performed such inspection, and, in the event the theater has been designated a landmark or an interior landmark, such report shall also be issued to the Landmarks Preservation Commission and notice of such report shall be published in the City Record. Such reports shall describe the condition of the theater and identify any maintenance or repair work necessary to ensure the physical and operational soundness of the theater and to maintain the condition of any landmark architectural features and establish a plan and program for such work, including providing that adequate resources be made available to ensure timely completion of such maintenance or repair work; and

(e) a legal commitment for continuance of its #use# as a legitimate theater for the life of the related #development# or #enlargement#.

Such legal commitments shall be in the form of a declaration of restrictions, filed and duly recorded in the Borough Office of the Register of the City of New York, binding upon the owner, lessee of the theater and their successors and assigns, a certified copy of which shall be submitted to the City

Planning Commission. The filing of such declaration and the posting of any bond or other security required by the declaration and receipt of such certified copy shall be preconditions to issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# on the receiving site.