**Zoning Resolution**

THE CITY OF NEW YORK
**Zohran K. Mamdani, Mayor**

CITY PLANNING COMMISSION
**Sideya Sherman, Chair**

# 93-543 - Authorization for the provision of public open areas

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## 93-543 - Authorization for the provision of public open areas

LAST AMENDED
2/2/2011

For #zoning lots# that are wholly or partially within Hell's Kitchen Subdistrict D and provide publicly accessible open areas adjacent to or over the Lincoln Tunnel Approaches or Dyer Avenue, the City Planning Commission may authorize height and setback modifications within C2-5 Districts mapped within R8A Districts and the distribution of #floor area# without regard to district boundaries, provided the Commission finds that:

(a) such publicly accessible open area provides an appropriate amenity to the surrounding area;

(b) such publicly accessible open area has appropriate access, circulation, landscaping, seating, paving and lighting;

(c) modifications to the height and setback regulations of C2-5 Districts mapped within R8A Districts result in a #building# that does not exceed a height of 180 feet and is compatible with the scale and character of the surrounding area; and

(d) all necessary approvals have been granted by the Port Authority, or adequate provision has been made for the receipt of such approvals prior to the issuance of any building permit.

In granting such authorization, the Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

Publicly accessible open areas authorized by this Section shall be accessible to the public at all times, except where the Commission has authorized a nighttime closing pursuant to Section 37-727 (Hours

of access). Furthermore, such open areas shall comply with the requirements for #public plazas# set forth in Sections 37-744 (Litter receptacles), 37-75 (Signs), 37-77 (Maintenance) and paragraph (a) of Section 37-78 (Compliance).

All plans for publicly accessible open areas, once authorized, shall be filed and duly recorded in the Borough Office of the City Register of the City of New York, indexed against the property in the form of a legal instrument providing notice of the certification of the publicly accessible open areas and setting further such provisions as necessary to ensure compliance with the requirements of this Section. Such filing and recording of the instrument, together with the grant of all necessary approvals by the Port Authority, shall be a precondition for the filing for or issuance of any building permit for any #development# or #enlargement# on the #zoning lot#. The recording information shall be included on the certificate of occupancy for any #building#, or portion thereof, on the #zoning lot# issued after the recording date.

No temporary certificate of occupancy from the Department of Buildings may be issued for any portion of any #development# or #enlargement# subject to the provisions of this Section until the Chairperson of the Commission certifies to the Department of Buildings that the public access area is substantially complete and that the public access area is open to and useable by the public. No permanent certificate of occupancy from the Department of Buildings may be issued for any portion of such #development# or #enlargement# until the Chairperson of the Commission certifies to the Department of Buildings that the public access area is complete and that all public access requirements of this Section have been met in accordance with the plans for such public access area.