Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

81-68 - Additional Provisions for Qualifying Sites

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81-68 - Additional Provisions for Qualifying Sites

LAST AMENDED
8/9/2017

81-681 - Mandatory requirements for qualifying sites

LAST AMENDED
5/8/2019

(a) Building energy design requirements for #buildings# on #qualifying sites#

To ensure advancement of goals for the reduction of greenhouse gas emissions, #buildings# on #qualifying sites# shall either:

(1) utilize a district steam system for the #building's# heating and hot water systems; or

(2) the core and shell of such #building# shall exceed the standards of the chosen commercial building energy-efficiency compliance path within the 2016 New York City Energy Conservation Code (NYCECC), by three percent.

Compliance with the provisions of this Section shall be demonstrated to the Department of Buildings at the time of issuance of a new building permit for a #development# or, where permitted, an #enlargement# on a #qualifying site#.

The City Planning Commission may, by rule, modify the standards of this Section, as necessary, to ensure that the environmental standards established herein, meet or exceed the current best practices in reducing greenhouse gas emissions.

(b) Mandatory publicly accessible space requirements for qualifying sites

A #qualifying site# shall provide a publicly accessible space, open or enclosed, as defined herein, in accordance with the size provisions of paragraph (b)(1) of this Section and the design requirements of paragraph (b)(2). Each publicly accessible space shall require a certification by the Chairperson of the City Planning Commission, pursuant to Section 37-78 (Compliance), as modified herein.

For the purposes of this Chapter on a #qualifying site#, a "publicly accessible space" shall be defined as an open or enclosed area provided for public use and enjoyment on the #zoning lot#. An "open publicly accessible space" shall be defined as a publicly accessible space, that is open to the sky on a #qualifying site#, and an "enclosed publicly accessible space" shall be defined as a fully enclosed, climate-controlled publicly accessible space on a #qualifying site#. The design standards contained in paragraph (b)(2)(ii) of this Section for an enclosed publicly accessible space are intended to serve the same purposes outlined for #public plazas# in Section 37-70.

(1) Type and minimum size

(i) A #qualifying site# with a #lot area# of at least 30,000 square feet but less than 45,000 square feet shall provide a publicly accessible space, open or enclosed, with an area of not less than 10 percent of the #lot area# of the #zoning lot#.

(ii) A #qualifying site# with a #lot area# of 45,000 square feet but less than 65,000 square feet shall provide an open publicly accessible space with an area of not less than 10 percent of the #lot area# of the #zoning lot#, except that where the provisions of Sections 81-40 (MANDATORY DISTRICT PLAN ELEMENTS), inclusive, and 81-67 (Special Mandatory District Plan Element Requirements), inclusive, are applicable to the #qualifying site# and preclude an open publicly accessible space from being provided on the #qualifying site#, an enclosed publicly accessible space shall be provided in the proposed #building#.

In addition to complying with paragraphs (a) through (d) of Section 37-78, each application for an enclosed publicly accessible space shall demonstrate which of the applicable provisions of Sections 81-40 and 81-67, inclusive, conflict with the design requirements set forth in 37-70, inclusive, and that they necessitate the provision of the enclosed publicly accessible space in lieu of an open publicly accessible space.

(iii) A #qualifying site# with a #lot area# of 65,000 square feet or greater shall provide an open publicly accessible space with an area of not less than 10,000 square feet. Where such #qualifying site# has a #through lot# portion, such #qualifying site# shall provide an open publicly accessible space across the #through lot# portion.

However, for a #qualifying site# with a #lot area# of 80,000 square feet or greater that includes an existing entrance to a rail mass-transit facility located outside the #through lot# portion of the #zoning lot# existing on May 8, 2019, such open publicly accessible space may be located so as to include the entrance to a rail mass-transit facility, provided that such open publicly accessible space adjoins a #street# or a required sidewalk widening, as

applicable.

(2) Design requirements for publicly accessible spaces

(i) Open publicly accessible space

For open publicly accessible space, the provisions of Section 37-70, inclusive, shall apply, except that the provisions of Section 37-713 (Locational restrictions) shall not apply. In addition, the following modifications or waivers may be applied under certain circumstances:

(a) For #qualifying sites# where an open publicly accessible space is permitted to adjoin a #street# or a required sidewalk widening to accommodate an entrance to a rail mass-transit facility in accordance with paragraph (b)(1)(iii) of this Section, and the majority of the subsurface area of such #qualifying site# is occupied by a railroad right-of-way, thus imposing practical difficulty in configuring the #building# or required publicly accessible space:

(1) the provisions of Sections 81-42 (Retail Continuity Along Designated Streets), 81-43 (Street Wall Continuity Along Designated Streets) and 81-671 (Special street wall requirements), paragraph (d) of Section 37-715 (Requirements for major portions of public plazas) need not apply;

(2) where #street wall# requirements are not applied, the provisions of paragraphs (a) and (b) of Section 37-726

(Permitted obstructions) may be modified to allow a portion of an open publicly accessible space to be covered by a #building or other structure#, provided that there is an average separation of at least 50 feet between the level of such open publicly accessible space and any portion of #building# above, and further provided that any such portion shall be located no lower than 40 feet above the level of such open publicly accessible space. In addition, such #building or other structure# shall not obstruct more than 60 percent of the area of such open publicly accessible space;

(3) the provisions of paragraphs (a) and (c) of Section 37-76 (Mandatory Allocation of Frontages for Permitted Uses) need not apply, where at least one food service kiosk shall abut or be included within such open publicly accessible space. The size limitations of paragraph (a), and the certification requirements of paragraph (c) of Section 37-73 shall not apply to such kiosk; and

(4) where the provisions of paragraph (d) of Section 37-715 are not applied, the provisions of paragraph (a) of Section 37-721 (Sidewalk frontage) may be modified to require no more than 40 percent of the area within 15 feet of any such #street line# to be free of obstructions and the provisions of Section 37-741 (Seating), may be modified to exclude the length of any such #street line# from the calculation of the amount of seating required within 15 feet of such #street line#.

(b) For #qualifying sites# where an open publicly accessible space is permitted to adjoin a #street# or a required sidewalk widening to accommodate an entrance to a rail mass-transit facility in accordance with paragraph (b)(1)(iii) of this Section, the Chairperson of the City Planning Commission shall permit modifications to the remaining design provisions of Section 37-70, inclusive, upon certification to the Department of Buildings that such modifications are limited to those that directly address practical difficulties resulting from the presence of the entrance to a rail mass-transit facility within the open publicly accessible space. Any application shall include materials demonstrating the extent of modifications necessary. The Chairperson, in consultation with the Metropolitan Transportation Authority, shall determine the appropriate amount of above-grade pedestrian circulation space into and around the entrance to such rail mass-transit facility.

(ii) Enclosed publicly accessible space

For enclosed publicly accessible spaces, the following shall apply:

(a) An enclosed publicly accessible space shall have a minimum height of 30 feet or the height of the ground floor level, whichever is greater, and a minimum width and depth, at any point, of 30 feet. Such enclosed publicly accessible space shall be located on the ground floor level of the #building# and shall be directly accessible from an adjoining #street# or #publicly accessible open area# that the area fronts. A minimum of one entrance to the enclosed publicly accessible space shall be provided from the adjoining #street# on which it fronts; however, if it fronts on more than one #street#, such entrance shall be

from the #street# with the longer frontage. The aggregate width of doorways accessing such enclosed publicly accessible space shall not be less than 10 feet in width.

(b) All ground floor level #street walls# enclosing the enclosed publicly accessible space shall be treated with clear, untinted, transparent materials. Such transparent materials shall occupy at least 70 percent of the surface area of such ground floor level #street wall# between a height of two feet and 30 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Such enclosed publicly accessible space shall be heated or air-conditioned, and the standards for heating, ventilating and air-conditioning shall be at least equal to those of the lobby for the principal #use# of the #building#.

(c) Public access to the enclosed publicly accessible space shall be provided, at a minimum, from 7:00 a.m. to 10:00 p.m. However, if a cafe or kiosk, pursuant to Section 37-73 (Kiosks and Open Air Cafes), is provided within, such enclosed publicly accessible space shall remain open to the public during the hours of operation of the cafe or kiosk, if such hours are longer than otherwise required by this Section.

The hours of access shall be included on all required entry plaques and information plaques in accordance with the provisions of Section 37-751 (Public space signage systems) and for through #block# enclosed publicly accessible spaces, an information plaque shall be provided in accordance with paragraph (h)(2)(viii) of Section 37-53 (Design standards for Pedestrian Circulation Spaces).

(d) The provisions of Sections 37-718 (Paving), 37-722 (Level of plaza), 37-728 (Standards of accessibility for persons with disabilities), 37-744 (Litter receptacles), 37-745 (Bicycle parking), 37-746 (Drinking fountains), 37-748 (Additional amenities), 37-752 (Prohibition signs), 37-753 (Accessory signs) and 37-77 (Maintenance) shall apply to enclosed publicly accessible spaces.

(e) The provisions of Section 37-723 (Circulation paths) shall apply to enclosed publicly accessible spaces. In addition, for enclosed publicly accessible spaces provided in conjunction with subway entrances and/or designed to provide connection to above- and/or below-grade improvements, an unobstructed pedestrian circulation path shall be provided from at least one entrance of the enclosed publicly accessible space to such subway entrance and to such above- and/or below-grade improvements.

(f) The provisions of paragraphs (a) and (b) of Section 37-726 (Permitted obstructions) shall apply to enclosed publicly accessible spaces and are modified as follows:

(1) structural columns shall be considered permitted obstructions. The area occupied by such structural columns shall be excluded from the area calculations for the enclosed publicly accessible space. In addition, interior structural columns shall have an aggregate area of no more than two percent of the total enclosed publicly accessible space. Such columns shall not be considered permitted obstructions in any circulation path; and

(2) a cafe or kiosk permitted by certification pursuant to Section 37-73 (Kiosks and Open Air Cafes) shall be considered a permitted obstruction within an enclosed publicly accessible space and may not occupy more than 20 percent of the enclosed publicly accessible space.

(g) The provisions of Section 37-741 for seating shall apply to enclosed publicly accessible spaces, except that such provisions are modified as follows:

(1) the requirements of seating within 15 feet of a #street line# shall not apply;

(2) all of the linear seating capacity may be in moveable seats. All such moveable seats must remain in the enclosed publicly accessible space during the hours of operation; and

(3) the requirement that seats facing walls be located a minimum of six feet from such wall shall only apply to fixed seating.

(h) The requirements of Section 37-742 for planting and trees shall apply to enclosed publicly accessible spaces, except that the surface area of any vertical planting may be included in the calculation of the total area of planting beds that are provided, and trees shall not be required.

(i) All enclosed publicly accessible spaces shall be illuminated with a minimum level of illumination of not less than five horizontal foot candles (lumens per foot) throughout the space. The requirements of Section 37-743 for a lighting schedule, a diagram of light level distribution and electrical power shall apply.

(j) At least 50 percent of the total frontage of all #building# walls fronting on an enclosed publicly accessible space, excluding such frontage occupied by #street walls#, #building# lobbies or #building# walls #abutting# #lot lines#, shall be limited to retail, personal service or amusement #uses# permitted by the underlying zoning district regulations, but not including #uses# in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 and 12D or banks, automobile showrooms or plumbing, heating or ventilating equipment showrooms. For such #building# walls, the transparency provisions of paragraph (c) of Section 37-76 shall apply.

(k) The area of the enclosed publicly accessible space shall be exempt from calculations for #floor area# as defined in Section 12-10 (DEFINITIONS).

In addition, a maximum of 30 percent of the area of the publicly accessible space, whether open or enclosed, may be counted towards meeting the pedestrian circulation space requirement, up to a maximum of 3,000 square feet.

81-682 - Priority Improvement List for qualifying sites

LAST AMENDED

In accordance with the provisions of Section 81-641 (Additional floor area for transit improvements on qualifying sites), any applicant for a #development# or #enlargement# on a #qualifying site# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, shall select a transit improvement, or combination thereof, to be completed in accordance with the provisions of this Section.

(a) Selecting an Improvement

An applicant shall select a transit improvement from the Priority Improvement List in paragraph (b) of this Section based on the #floor area# such improvement generates relative to the minimum #floor area# required and maximum #floor area# permitted for completion of such improvement pursuant to Section 81-641, and based on the following geographical and technical considerations:

(1) First, the applicant shall select a transit improvement in the same Subarea of the East Midtown Subdistrict as the proposed #development# or #enlargement# on a #qualifying site#;

(2) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraph (a)(1) of this Section, the applicant shall select a transit improvement on a transit route that passes through, and has stations or other facilities in the same Subarea of the East Midtown Subdistrict as the proposed #development# or #enlargement# on a #qualifying site#;

(3) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraphs (a)(1) or (a)(2) of this Section, the applicant shall select from any remaining improvement on the list.

In addition, applicants shall consult with the applicable City or State agencies with jurisdiction over and control of the proposed improvement to ensure that the selected improvement will meet the operational and long-term planning needs of the station or transit route, including any phasing requirements, and compliance with the Americans with Disabilities Act (ADA).

(b) The Priority Improvement List

The Priority Improvement List (the "Improvement List"), set forth in the tables below, details physical improvements to subway stations and other rail mass transit facilities in, or adjacent to, the East Midtown Subdistrict, that an applicant for a #development# or, where permitted, an #enlargement# on a #qualifying site# may complete to obtain additional #floor area#.

Three levels of improvements are available for completion, which, accordingly, generate three different amounts of additional #floor area#:

(1) Type 1 Improvements generate 40,000 square feet of #floor area#, and include new or expanded on-street station entrances, new or expanded off-street station entrances, new or expanded accessible routes for persons with physical disabilities between two levels of a station, and four or fewer new or reconfigured station stairs.

(2) Type 2 Improvements generate 80,000 square feet of #floor area#, and include new or expanded station escalators, new or expanded accessible routes for persons with physical disabilities between three or more station levels, new or expanded paid areas of a station, including widened platforms or mezzanine levels, and more than four new or reconfigured station stairs.

(3) Type 3 Improvements generate 120,000 square feet of #floor area#, and include large-scale renovations that significantly improve the environment of stations, and new

connections between two or more stations.

In consultation with the Metropolitan Transportation Authority, the City Planning Commission may, by rule, modify the Improvement List to reflect new improvements needed in the transit network.

PRIORITY IMPROVEMENT LIST

TYPE 1 IMPROVEMENTS		
Location	Type of Improvement	Transit Line
Lexington Avenue/ 53rd – 51st Street station	Replace escalator and stair connecting downtown Lexington platform to underpass with widened stair	Lexington Avenue Line/53rd Street Line
Lexington Avenue/ 53rd – 51st Street station	Provide new street entrance to uptown Lexington platform from 50th Street	Lexington Avenue Line/53rd Street Line
42 St - Bryant Park /5th Ave station	Provide ADA elevator between Flushing platform and mezzanine level	Flushing Line/6th Avenue Line
42 St - Bryant Park /5th Ave station	Provide new street entrance from north side of West 42nd street	Flushing Line/6th Avenue Line

42 St - Bryant Park /5th Ave station	Provide ADA elevator between Sixth Avenue northbound platform and mezzanine level	Flushing Line/6th Avenue Line
42 St - Bryant Park /5th Ave station	Provide ADA elevator between Sixth Avenue southbound platform and mezzanine level	Flushing Line/6th Avenue Line
Lexington Av - 59th Street station	Provide new street stair capacity at northeast and northwest corners of East 60th Street and Lexington Avenue	Lexington Avenue Line/Broadway-60th Street Line
Lexington Av - 59th Street station	Provide ADA elevator between local IRT platform and street level	Lexington Avenue Line/Broadway-60th Street Line
Lexington Av - 59th Street station	Provide ADA elevator between 60th Street (BMT) line platform and mezzanine level	Lexington Avenue Line/Broadway-60th Street Line
Lexington Av - 59th Street station	Provide new platform stair and widen existing stairs between 60th Street (BMT) line platform and mezzanine level	Lexington Avenue Line/Broadway-60th Street Line

Fifth Avenue/53rd Street station	Provide new street entrance on East 53rd Street west of Madison Avenue	53rd Street Line
Grand Central/42nd Street station	Widen platform stair at east end of Flushing platform	Flushing Line
Grand Central/42nd Street station	Widen two stairs between uptown Lexington platform and Flushing and Lexington platforms	Flushing Line
TYPE 2 IMPROVEMENTS		
Location	Type of Improvement	Transit Line
Lexington Avenue/ 53rd–51st Street station	Provide widened escalator between 53rd Street platform and mezzanine	Lexington Avenue Line/53rd Street Line
Lexington Av-59th Street station	Provide ADA elevator between northbound local Lexington Avenue Line platform, northbound express Lexington Ave Line platform, and the 60th Street (BMT) line mezzanine	Lexington Avenue Line/Broadway-60th Street Line

Lexington Av-59th Street station	Provide ADA elevator between southbound local Lexington Avenue Line platform, southbound express Lexington Avenue Line platform, and the 60th Street (BMT) line mezzanine	Lexington Avenue Line/Broadway-60th Street Line
47th/50th Streets Rockefeller Ctr station	Provide two new platform stairs and widen seven platform stairs	6th Avenue Line
Fifth Av/53rd Street station	Provide a new stair from mezzanine level to upper platform, and a new stair from upper platform to lower platform	53rd Street Line
Fifth Av/53rd Street station	Provide ADA elevator from mezzanine to upper platform, and to lower platform	53rd Street Line
Fifth Av/53rd Street station	Provide two escalators from mezzanine to upper platform	53rd Street Line
Fifth Av/53rd Street station	Provide new mezzanine area under East 53rd Street with fare control to accommodate street entrance and new access core	53rd Street Line

Fifth Av/53rd Street station	Provide new access core between platforms and street level to accommodate escalators, elevator, and stairs	53rd Street Line
Grand Central/42nd Street station	Provide new Flushing platform stair and expand transfer passageway to accommodate the addition of the stair	Flushing Line
TYPE 3 IMPROVEMENTS		
Location	Type of Improvement	Transit Line
Grand Central/42nd Street station	Renovate to contemporary standards the south end of the Grand Central Lexington Subway mezzanine from the Shuttle Passageway and 125 Park Avenue entrances to join the renovated areas on the north end of the mezzanine	Flushing Line/Lexington Avenue Line

81-683 - Criteria for improvements in the Public Realm Improvement Concept Plan

LAST AMENDED

The #Public Realm Improvement Fund Governing Group# shall select priority improvements for the Public Realm Improvement Concept Plan (the "Concept Plan") in accordance with the provisions of this Section.

All improvements in the Concept Plan, which may be funded through contributions to the #Public Realm Improvement Fund#, shall:

(a) be within the East Midtown Subdistrict, a location immediately adjacent thereto, or in a subway or rail mass transit facility in the Borough of Manhattan which has significant ridership into and out of the Subdistrict;

(b) have a City or State agency as a project sponsor;

(c) meet the definition of a capital project under Section 210 of the New York City Charter; and

(d) consist of either:

(1) above-grade public realm improvements, including, but not limited to, pedestrian plazas that provide opportunities for passive recreation, or improvements along a street accommodating both vehicular and pedestrian access that may include pedestrian amenities, or streetscape, sidewalk, crosswalk and median enhancements; or

(2) below-grade public realm improvements, including, but not limited to widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network, additional vertical circulation, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, improved or new disabled access, or providing daylight access, or enhancements to

noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways, within the East Midtown Subdistrict, a location immediately adjacent thereto, or in a subway or rail mass transit facility identified on the Priority Improvement List in Section 81-682 (Priority Improvement List for qualifying sites).

The Governing Group shall first consider the funding of the public realm improvements set forth in the table in this Section prior to consideration and selection of other above- or below-grade public realm improvements.

PUBLIC REALM IMPROVEMENTS

PEDESTRIAN PLAZAS
Pershing Square East
East side of Park Avenue between East 40th Street and East 41st Street
West side of Park Avenue between East 40th Street and East 41st Street
SHARED STREETS
East 41st Street between 5th Avenue and Lexington Avenue
Vanderbilt Avenue between East 43rd Street and East 47th Street
East 43rd Street between Lexington Avenue and 3rd Avenue
East 44th Street between Lexington Avenue and 3rd Avenue

MEDIAN WIDENINGS
Expansion of Park Avenue medians between East 46th Street and East 57th Street
THOROUGHFARE IMPROVEMENTS
Five blocks of East 53rd Street between 2nd Avenue and 5th Avenue

81-684 - Authorization for qualifying sites

LAST AMENDED
8/9/2017

(a) Authorization to allow enlargements on qualifying sites

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may authorize modifications to the requirement in the definition of #qualifying site# in Section 81-613 to allow #enlargements# on #qualifying sites# to an existing #building# with frontage along a #wide street#. The Commission may also waive the requirement that such #qualifying site# provide publicly accessible space in accordance with the provisions of paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites). In order to permit such modifications, the Commission shall find that such #enlargement# includes significant renovations to the existing #building# that will bring it up to contemporary space standards.

Where the existing #building# includes #non-complying# #floor area#, a contribution shall be deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be an amount equal to 20 percent of the #Public Realm Improvement Fund Development Rights Valuation# multiplied by the amount of such pre-existing #non-complying# #floor area#. For the purposes of such calculation, the amount of existing #non-complying# #floor area# shall not include any bonus #floor area# associated with a #publicly accessible open area# to remain on the #zoning lot#. The payment of the non-refundable contribution to the #Public Realm Improvement Fund#, shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing the #enlargement# on a #qualifying site#.

For such #enlargements# to #buildings# with #non-complying# #floor area#, the proposed #floor area# beyond the amount contained in the pre-existing #non-complying# #building# shall be obtained by utilizing the applicable provisions of Section 81-64. For the purposes of applying the provisions of such Section, the reconstructed #floor area ratio# shall be considered the basic maximum #floor area ratio#. However, the maximum #floor area ratios# of Row E and Row H shall continue to apply.

However, an alteration of an existing #building# resulting in both the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any amount of #floor area#, shall be considered a #development#.

Applications for authorizations shall be referred to the affected Community Board for a period of at least 30 days for comment. The Commission shall grant, in whole or in part, or deny the application within 60 days of the completion of the Community Board review period.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse

effects on the character of the surrounding area.

(b) Authorization for a #qualifying site# providing publicly accessible space

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# on a #qualifying site# set forth in Section 81-64 and providing publicly accessible space, open or enclosed, pursuant to paragraph (b) of Section 81-681, the Commission may authorize the waiver of the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Retail Streets) and 81-671 (Special street wall requirements), requirements of Sections 81-42 (Retail Continuity Along Designated Streets) and 81-674 (Ground floor use provisions), the curb cut location restriction of paragraph (b) of Section 81-675 (Curb cut restrictions and loading berth requirements), and the design requirements for publicly accessible space, open or enclosed, set forth in paragraph (b)(2) of Section 81-681.

In order to grant such authorization, the Commission shall find that such proposed waivers will result in a superior urban design relationship with surrounding #streets#, #buildings#, and other open areas, and;

(1) for waiver of #street wall# regulations:

(i) such waiver is necessary due to constraints or conditions of the configuration of the site; and

(ii) such waiver will not unduly obstruct the access to light and air of surrounding #buildings# and open spaces;

(2) for waivers of retail continuity and ground floor #use# provisions, such waivers are minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any publicly accessible space, open or enclosed;

(3) for waiver of the curb cut location restriction of paragraph (b) of Section 81-675, for a #qualifying site# on 47th Street between Park Avenue and Vanderbilt Avenue, that the proposed curb cut location will not unduly interrupt the flow of pedestrian traffic or result in any undue conflict between pedestrian and vehicular movement; and

(4) for modifications of the design requirements for a publicly accessible space, open or enclosed:

(i) the publicly accessible space and proposed #building# on the #qualifying site# are designed in a manner that results in a cohesive and harmonious site plan,

(ii) the publicly accessible space is superior in design and quality of amenities;

(iii) the publicly accessible space provides connections to pedestrian circulation spaces in the immediate vicinity;

(iv) the pedestrian network of the surrounding area is enhanced by the publicly accessible space; and

(v) such waiver is the minimum waiver necessary to afford relief. No modifications to the required amount of publicly accessible space set forth in paragraph (b) of Section 81-681 shall be permitted.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member, and the Manhattan Borough President. No authorization shall be granted prior to 60 days after such referral.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

81-685 - Special permit to modify qualifying site provisions

LAST AMENDED
8/9/2017

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may permit modifications to certain #qualifying site# criteria, as well as height and setback regulations and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

(a) The Commission may modify the following, whether singly or in any combination:

(1) the following #qualifying site# criteria:

(i) the requirement for minimum #wide street# frontage, including the requirement that no existing #buildings# will remain on such #wide street# frontage, set forth in paragraphs (b) and (c) of the definition of a #qualifying site# in Section 81-613 (Definitions);

(ii) the #building# performance and publicly accessible space requirements in paragraph (f) of the definition of a #qualifying site# and Section 81-681 (Mandatory requirements for qualifying sites);

(iii) the requirement that the additional #floor area# permitted through the provisions of Section 81-64 be achieved exclusively through a #development#;

(iv) the requirement that a #qualifying site# be comprised of a single #zoning lot#, provided that the two or more #zoning lots# constituting such #qualifying site# are contiguous and include the #zoning lot# occupied by Grand Central Terminal. All #bulk# regulations of this Chapter shall apply to such modified #qualifying site# without regard to #zoning lot lines#; or

(v) the requirement that a #development# or #enlargement# exceed the basic maximum #floor area ratio# set forth in Row A of the table in Section 81-64 as a pre-condition to an increase in #floor area# pursuant to such table, where a #qualifying site# includes the #zoning lot# occupied by Grand Central Terminal;

(2) the provisions for #zoning lots# divided by district boundaries set forth in Sections 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions) or 77-22 (Floor Area Ratio), and the provisions of Section 81-612 (Applicability along district boundaries) requiring that #zoning lots# divided by Subarea boundaries utilize the provisions of Article VII, Chapter 7;

(3) for #qualifying sites# modified pursuant to paragraph (a)(1)(iv) and paragraph (a)(1)(v) of this Section:

(i) the pre-condition of achieving the maximum as-of-right #floor area ratio# for #qualifying sites# set forth in Row E of the table in Section 81-64 prior to, or in conjunction with, the special permits set forth in Sections 81-644 (Special permit for transit improvements) and 81-645 (Special permit for a public concourse), provided that, prior to obtaining a new building permit for a #development# utilizing bonus #floor area# granted pursuant to Sections 81-644 or 81-645, a contribution is made to the #Public Realm Improvement Fund# in an amount that is commensurate with what the provisions of Section 81-642 (Transfer of development rights from landmarks to qualifying sites) would require if the #zoning lot# occupied by Grand Central Terminal were a #granting lot# and the #development# site were a #receiving lot#; and

(ii) the permitted #floor area ratio# attributable to the combination of the special permits set forth in Row F and Row G of the table in Section 81-64, from 3.0 to 6.0;

(4) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets) or 81-671 (Special street wall requirements), inclusive;

(5) the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, 81-27 (Alternate Height and Setback Regulations –Daylight Evaluation), inclusive, or 81-66 (Special Height and Setback Requirements);

(6) the mandatory district plan elements of Sections 81-42 (Retail Continuity Along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), 81-674 (Ground floor use provisions), 81-675 (Curb cut restrictions and loading berth requirements), 81-676 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted; or

(7) for #qualifying sites# modified pursuant to paragraph (a)(1)(iv) or paragraph (a)(1)(v) of this Section, the time period for substantial construction to be completed prior to the lapse of any special permit granted for such #qualifying site#, as set forth in Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution), provided that such time period does not exceed 10 years.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

(1) drawings, including but not limited to, plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43, or as such provisions are modified pursuant to Section 81-671, as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26 or 81-27, or as such provisions are modified pursuant to Section 81-66, as applicable;

(2) where applicable, formulas showing the degree to which such proposed #building# will not comply with the length and height rules of Section 81-26, or as such provisions are modified pursuant to Section 81-66;

(3) where applicable, #daylight evaluation charts# and the resulting daylight evaluation score showing the degree to which such proposed #building# will not comply with the provisions of Section 81-27 or as such provisions are modified pursuant to Section 81-66; and

(4) for any #development# or #enlargement# on a #qualifying site# that includes Grand Central Terminal, a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or, where permitted, #enlargement# to Grand Central Terminal.

(c) Findings

The Commission shall find that such proposed modifications:

(1) to the definition of #qualifying site# are the minimum extent necessary, and are harmonious with the Subdistrict objective to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers;

(2) to the requirement for #wide street# frontage in the definition of #qualifying sites# will not unduly concentrate #bulk# towards the middle of the #block# to the detriment of the surrounding area;

(3) to the #building# performance requirements in the definition of #qualifying sites# and paragraph (a) of Section 81-681:

(i) are necessary due to the presence of existing #buildings# on the site; and

(ii) will not detract from the incorporation of innovative sustainable design measures;

(4) to the publicly accessible space requirements in the definition of #qualifying sites# and paragraph (b) of Section 81-681:

(i) are the minimum necessary to accommodate the proposed #building#; and

(ii) that any reduction or waiver will result in a better site plan and will not detract from a lively streetscape and pedestrian experience;

(5) to regulations pertaining to #zoning lots# divided by district boundaries will result in better site planning;

(6) to #floor area ratio# requirements will facilitate significant improvements to transit infrastructure and the public realm in and around Grand Central Terminal;

(7) to the mandatory district plan elements:

(i) will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions);

(ii) any adverse impact on retail continuity is minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any open or enclosed public areas within the #zoning lot#;

(8) to the #street wall# or height and setback regulations:

(i) are necessary due to constraints or conditions of the #development# or #enlargement# and conditions imposed by the configuration of the site;

(ii) will not unduly obstruct the access of light and air to surrounding properties;

(iii) will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations); and

(iv) the overall design of the #building# demonstrates an integrated and well-considered facade, taking into account factors such as #street wall# articulation, and fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area and constitutes a distinctive addition to the Midtown Manhattan skyline; and

(9) to the time period for substantial construction to be completed prior to the lapse of any special permit granted for such #qualifying site# are necessary due to the complexity of demolition and construction on the site.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

81-686 - Contribution in-kind for certain public realm improvements

LAST AMENDED
8/9/2017

The Chairperson of the City Planning Commission shall allow, by certification, in conjunction with a certification pursuant to Sections 81-642 (Transfer of development rights from landmarks to qualifying sites) or, where applicable, 81-643 (Special provisions for retaining non-complying floor area in commercial buildings), the applicant for a #development# or, where permitted, #enlargement# on a #qualifying site# that is immediately adjacent to a sidewalk improvement identified in the Public Realm Improvement Concept Plan to undertake such improvement, and to deduct the cost of such improvement from their contribution to the #Public Realm Improvement Fund#, provided that the

provisions of this Section are met.

(a) The following requirements shall be completed prior to application for certification by the Chairperson:

(1) the applicant shall submit preliminary plans for the proposed improvement to the Chairperson, the Department of Transportation (DOT), and the #Public Realm Improvement Fund Governing Group# (the "Governing Group");

(2) DOT shall provide a letter to the Chairperson and the Governing Group containing a conceptual approval of the proposed improvement including a statement of any considerations regarding the construction and operation of the improvement;

(3) construction documents and cost estimates shall be prepared for such proposed improvements by a professional engineer, and submitted to the Chairperson, the DOT and the Governing Group;

(4) upon review, the DOT and the Governing Group shall either approve such construction documents and costs estimates or detail discrepancies to be resolved by the applicant; and

(5) upon approval of the construction documents and cost estimates by the DOT and Governing Group, and prior to the issuance of a building permit as set forth in Section 81-642 and in this Section, the applicant shall execute agreements and legally enforceable instruments running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to design and construct the improvement in accordance with the requirements of the DOT. A certified copy of such legal instruments shall be sent to the Chairperson.

(b) Upon submittal of all the items in paragraph (a) of this Section, along with drawings indicating the portion of the #building# utilizing transferred #floor area# pursuant to the provisions of Section 81-642 or, where applicable, 81-643, the Chairperson shall certify that a #development# or, where permitted, #enlargement# on a #qualifying site# may undertake an improvement to an adjoining sidewalk.

The execution and recording of legal instruments in accordance with paragraph (a) of this Section shall be a precondition to the issuance of any foundation permit or new building permit or alteration permit by the Department of Buildings allowing a #development# or, where permitted, #enlargement# on a #qualifying site# undertaking a contribution-in-kind pursuant to this Section.

(c) Upon certification by the Chairperson, monies equal to such agreed upon cost estimate between the applicant, DOT and the Governing Group shall be deposited by the applicant into an escrow account or other similar account established by the Governing Group, which shall not be commingled with the #Public Realm Improvement Fund# ("the Improvement Fund").

(d) No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing transferred #floor area# pursuant to Section 81-642 until the Chairperson of the City Planning Commission, acting in consultation with the DOT and the Governing Group, has certified that the improvements are substantially complete and usable by the public. No permanent certificate of occupancy shall be granted by the Department of Buildings until the improvements have finally been completed in accordance with the approved plans and such final completion has been approved by the Chairperson, the DOT and the Governing Group.

(e) Upon completion of the sidewalk improvement, the monies secured in the escrow account or other similar account established by the Governing Group shall be released to the applicant.

(f) In the event that an applicant utilizing the provisions of this Section has not completed the sidewalk improvements within five years of obtaining a new building permit or alteration permit from the Department of Buildings, the Governing Group shall release the monies in the escrow account or other similar account to the Improvement Fund.