

**IN THE MATTER OF** an application submitted by the Alliance for Downtown New York, the NYC Economic Development Corporation, and the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter I (Special Lower Manhattan District) and related sections concerning arcades, plazas, and urban plazas, Borough of Manhattan, Community District 1.

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The application for an amendment to the Zoning Resolution was filed by the Alliance for Downtown New York, the NYC Economic Development Corporation, and the Department of City Planning on January 13, 2016. The proposed text amendment would modify the Special Lower Manhattan District, existing Section 91-80 of the Zoning Resolution (PUBLIC ACCESS AREAS) and related sections, to allow horizontal enlargements within existing arcades and the improvement of existing plazas and urban plazas by Chairman certification and City Planning Commission authorization; allow public events and the placement of publicly-accessible tables and chairs within arcades, plazas, and urban plazas as-of-right; and continue to allow cafes within arcades by Chairman certification. The text amendment would apply to all existing arcades, plazas, and urban plazas along and near Water Street in Lower Manhattan.

## **BACKGROUND**

The Alliance for Downtown New York (ADNY), the NYC Economic Development Corporation (EDC), and the Department of City Planning (DCP) are proposing modifications to the Special Lower Manhattan District and related sections affecting existing arcades, plazas, and urban plazas within the area generally bounded by Fulton Street, South Street, Whitehall Street, and Pearl and South William Streets in Lower Manhattan. The proposed zoning text amendment builds upon past studies and initiatives led by ADNY and the City that were intended to improve the pedestrian experience along the Water Street commercial corridor. In 2010, ADNY released a report, *Water Street: A New Approach*, that developed strategies and a vision to enhance the long-term competitiveness of the Water Street corridor and east side of Lower Manhattan. The study laid out a vision for a new Water Street, which included an engaging streetscape, increased pedestrian amenities, more and better open space, and additional retail opportunities.

In April 2011, the City Planning Commission approved a zoning text amendment to the Special Lower Manhattan District to allow cafes and publicly accessible tables and chairs within existing arcades by Chairman certification (N 110193 ZRM). The text amendment created a new Section 91-80 (PUBLIC ACCESS AREAS) and also created the “Arcades Modification Area” in Appendix A of the Special Lower Manhattan District that contains 23 blocks within an area generally defined by Pearl Street to the west, Fulton Street to the north, South Street to the east, and Whitehall Street to the south. The text amendment and resulting Chairman certifications served as one of the first measures to create opportunities for activities that could draw pedestrians to Water Street and improve its vitality.

In May 2013, the City Planning Commission approved a zoning text amendment to Section 91-80 to allow programming and temporary amenities as-of-right within existing plazas and arcades within a new “Public Space Activation Area” (an extension of the Arcades Modification Area) for the summer, fall, and holiday seasons of 2013 (N 130206(A) ZRM). The text amendment was intended to facilitate efforts by the City to revive the Water Street corridor after the damage caused by Hurricane Sandy in October 2012 by allowing temporary programmatic changes to plazas and arcades that would help activate these open space resources and attract residents, workers, and visitors. The text amendment had a sunset date of January 1, 2014, after which time the provisions of the text amendment automatically expired. The “pilot” nature of the text amendment served two goals: it allowed for the immediate programming of plazas and arcades without requiring a Chairman certification for new amenities; and it allowed the Department of City Planning to study the types of events, programs, and amenities that would be compatible with these spaces, which helped inform strategies for longer-term improvements along and around Water Street. Soon after approval of the zoning text amendment, EDC launched the *Water Street Pops!* event series, which brought public events, art, and activities to the Water Street plazas and arcades during the summer and winter months of that year.

Also in 2013, the Department of Transportation (DOT), in partnership with other City agencies, implemented a series of temporary streetscape improvements along Water Street, which included the expansion of the pedestrian plaza at Whitehall Street, closing of Gouverneur Lane between

Water and Front Streets to vehicles, closing of Coenties Slip to vehicles, installation of neckdowns at key crossings along Water Street, and widening portions of sidewalks along Water Street. Building on these short-term improvements, EDC, utilizing federal funds received from the Lower Manhattan Development Corporation (LMDC), issued a Request for Proposals in December 2013 for a consultant team to make permanent many of these streetscape improvements. The design process commenced in early 2015, and construction is expected to begin in 2017 and conclude in 2019.

In June 2013, the City released *A Stronger, More Resilient New York*, which identified actionable recommendations for rebuilding communities impacted by Hurricane Sandy and increasing the resilience of the City's infrastructure and buildings. Among the recommendations for "Southern Manhattan" (defined as the coastal areas south of 42<sup>nd</sup> Street) the report called for: temporary and permanent improvements to the Water Street streetscape (Southern Manhattan Initiative 3); temporary programming of the Water Street privately owned public spaces (Southern Manhattan Initiative 4); and a program to encourage permanent physical improvements to buildings and associated privately owned public spaces, with the goal of activating ground floor spaces, upgrading public spaces, and strengthening the flood resiliency of buildings (Southern Manhattan Initiative 5).

Although the zoning text that facilitated events and programming within the Water Street plazas and arcades (N 130206(A) ZRM) expired on January 1, 2014, EDC sought to override zoning in July 2014 to allow events within the Water Street plazas and arcades through December 31, 2015. ADNY, with assistance from EDC, sponsored an event series (*Game On! Water Street*) during the summer months of 2014 and 2015 within the Water Street plazas and arcades, as well as within the closed portions of Coenties Slip and Gouverneur Lane.

In 2014 EDC and DCP issued a report, *Transforming Water Street's Privately Owned Public Spaces*, which presented a framework for comprehensive upgrades to Water Street's building ground floors and plazas. The study examined key pedestrian pathways and nodes of activity, and identified design strategies to improve the public use and benefit of the plazas while introducing

new retail opportunities. The study also identified a demand for more diverse retail and smaller commercial spaces (less than 2,000 square feet); found that plaza improvements would most likely take place only in conjunction with other building improvements; and found that arcade infill and plaza improvements require a long-term investment by property owners, which would support an improved public image of Water Street.

### **Water Street Corridor**

Located south of the South Street Seaport and east of the financial core, Water Street once marked the eastern edge of Lower Manhattan and was lined with piers that made it a center of New York City's maritime activity. The street was widened in the 1950s to relieve congestion caused by the opening of the Hugh L. Carey Tunnel (formerly the Brooklyn Battery Tunnel), and the Lower Manhattan Plan (1966) established Water Street as an important arterial street carrying north-south vehicle and truck traffic. To the east of the area is the East River Waterfront Esplanade and the Franklin Delano Roosevelt (FDR) Drive. To the south is the tip of Manhattan and the historic Battery Park, Whitehall Ferry Terminal, and Battery Maritime Building. The area is located in the high-density C5-3, C5-5, C6-4 and C6-9 zoning districts within the Special Lower Manhattan District. These zoning districts permit commercial and residential uses as-of-right, and allow floor area bonuses through the provision of public spaces or the transfer of development rights from designated landmarks.

Many of the buildings that are located within the text amendment's boundaries were constructed between 1965 and 1987, and were generally facilitated by special permits and variances granted by the City Planning Commission and the Board of Standards and Appeals, and as-of-right floor area bonuses generated by arcades and plazas. These high density commercial buildings range in heights from 20 to 53 stories, mostly without setback, and contain floor area ratios between 15 and 21.6. While Lower Manhattan has traditionally been a commercial office district, there has been a growing residential population to the west of Water Street as older commercial office buildings have converted to residential use. The Water Street buildings were constructed with large, efficient floorplates on superblocks, and have generally retained their status as commercial office buildings since their construction, but several buildings along Wall Street have been (or are in the process

of being) converted to residential use, particularly those with smaller or more narrow floorplates. Of the 19 million square feet of office space within the area, approximately 6 million square feet of office space have leases that are set to expire by 2030, and approximately 4.5 million square feet of that amount have leases that are set to expire by the end of 2020.

While the floor area bonuses that resulted from the plazas and arcades shaped the development of the sheer-rising, high density office towers that define the Lower Manhattan skyline, the plazas and arcades at the street level are among the most defining features of the area's pedestrian experience. Plazas are public spaces that are open and exposed to the sky and may, depending on the year it was developed, contain amenities such as seating and trees. Developments were first eligible to receive floor area bonuses for plazas in 1961, the original goal for which was to encourage the provision of additional light and air in the densest areas of New York City. While this incentive zoning provision resulted in the production of large amounts of open space on the east side of Lower Manhattan, the drafters of the 1961 zoning did not fully consider how these spaces would be used by the public, and the result has been public spaces of many shapes and sizes with few to no amenities. The Water Street plazas often lack any planting and are dominated by hardscape; there are few, if any, seating opportunities; they are lined with blank walls and lobbies; the largest plazas are expansive and do not relate well to pedestrians; and the smallest plazas are too narrow to effectively serve as pedestrian circulation space. These plazas were provided at a time when no amenities were required; plazas that are provided today to generate bonus floor area are subject to improved design requirements that require many amenities such as seating, planting, lighting, public space signage, bicycle racks, drinking fountains, and retail frontages.

Arcades are continuous covered areas along a building frontage that are open to a street or other public space, and are free and clear of obstructions to provide additional pedestrian circulation space. While the Water Street arcades were intended to provide a continuous covered pathway along the street, they set the ground floors away from the sidewalk; are too deep or too narrow; are elevated or set back from the sidewalk; have columns that are too thick or too close to one another; have low levels of lighting; and often dead-end. These issues make the arcades unattractive for pedestrian use and do not contribute to improving pedestrian circulation along the

street. Furthermore, by causing the building ground floors to be set back from the sidewalk, ground floor uses have limited visibility and fail to engage passersby, thereby affecting the vitality of these commercial spaces and causing many of the ground floors to be used for lobby uses instead.

There are 20 buildings within the proposed text amendment area that, together, have provided approximately 110,000 square feet of arcades and 225,000 square feet of plazas. Individual arcade areas range between 2,000 and 15,000 square feet, and individual plaza areas range between 550 and 41,500 square feet. These arcades and plazas, together, have generated more than 2.5 million square feet of bonus floor area.

The Water Street buildings are located within flood hazard zones designated by the Federal Emergency Management Agency (FEMA) where flood waters are expected to reach heights of four to twelve feet above curb level during a storm of similar strength to Hurricane Sandy. Buildings constructed prior to 1983 were not constructed to any standard for flood resilience, and buildings constructed after 1983 may have been designed to withstand flood levels that are lower than what would be expected today. The devastation to Lower Manhattan caused by Hurricane Sandy in October 2012 only exacerbated the broader challenges facing Water Street. Many office tenants were forced to temporarily relocate, local businesses were shuttered, and many buildings sustained significant damage, most notably to their electrical and communications systems. Critical mechanical equipment may have been relocated to higher levels, but the ground floors of the Water Street buildings continue to be susceptible to significant damage during a storm.

### **Goals and Tools**

The proposed zoning text seeks to achieve four basic goals: (1) improve the street's pedestrian experience; (2) provide useful services and amenities for nearby residents and employees; (3) improve the quality of the public spaces; and (4) improve the flood resilience of each building. In order to achieve these goals, the proposed zoning text identifies a number of tools that respond to the existing configuration of the Water Street arcades and plazas, and expand upon prior land use actions for the area that have sought to improve the vitality of the street.

### *Arcade Infill and Active Retail Uses*

The proposed zoning text identifies horizontal enlargements (“infill”) into arcades as a way to improve the pedestrian experience and to provide retail and service amenities for area workers and residents. Arcades along a ground floor cause the ground floor use to be set back from the sidewalk, unlike the ground floors along other New York City streets where the use is located at the sidewalk. Furthermore, when arcade columns are too thick or too close together, the ground floor use is obstructed from most angles, making it challenging for passersby to acknowledge that any use exists on the ground floor. Water Street is dominated by arcades, and the set back ground floors of the buildings – whether behind an arcade or separated by an expansive plaza – cause the ground floor uses to be less visible and engaging. Building owners have noted that the lack of visible ground floor spaces makes it challenging to attract retailers, causing most of the ground floors to be used for lobbies. The lack of shops, restaurants, and other local services cause area residents and employees to spend little time on the street beyond normal working hours. The lack of well-lit, visible, and active ground floor uses also creates a perception that the street is unsafe for pedestrians, especially at night when there is little activity.

The goal of arcade infill would be to allow building walls to be located directly at the sidewalk to more effectively engage pedestrians and help improve the vitality of potential retail uses. Infill along plazas could promote the utilization of the public spaces, and provide active uses with increased foot traffic that could make the public spaces more inviting and safe. New building walls that provide a high level of transparency and extend for the full length and height of arcades could maintain the strong street wall condition along the street while also adding a level of visual variety to the ground floor to reduce the monumentality of the Water Street buildings. Limits on lobby frontage and requirements for service and retail establishments could ensure the provision of shops, restaurants, and services that serve the needs of area employees and residents. As a result, arcade infill could spur a reconfiguration and overhaul of existing ground floors, allowing spaces to be sized appropriately for a range of retail and community facility uses.

### *Improving Public Plazas*

Most plazas in the Water Street area were provided at a time when no specific design guidelines or criteria regarding successful public use were established. The result has been spaces that are deficient in their configuration, elevation, amenities, or other design features. Since then, much has been learned about how public spaces are used and how these urban open spaces can be designed as safe spaces for solitary users while also providing opportunities for social interaction, and these principles have been reflected in the zoning regulations for urban plazas (1975) and public plazas (2007). The proposed zoning text intends to apply those important design principles to the existing plazas in the Water Street area by requiring that they be redesigned to the standards for public plazas. The standards for public plazas, which are contained in Section 37-70, require useful amenities such as trees, planting, fixed and moveable seating, drinking fountains, lighting, public space signage, and bicycle racks. The public plaza regulations also establish standards for the continued maintenance of these spaces, for which there are none for plazas that were provided as-of-right between 1961 and 1975. While three plazas in the Water Street area were provided under the regulations for urban plazas, those particular designs are dated and do not reflect the added lessons learned about public space design and use since the establishment of the urban plaza regulations.

#### *Activating Plazas and Arcades*

Events were permitted on a temporary basis within the Water Street plazas and arcades in 2013 by a prior zoning text amendment (N 130206(A) ZRM), which expired on January 1, 2014. The events that resulted from the zoning text amendment and subsequent zoning override demonstrated that events are a useful tool to provide additional recreation and seating opportunities, keep residents and workers in the area beyond normal working hours, and help change the negative perception of the street. Examples of events and programs that took place include farmers' markets, shuffleboard, mini golf, group fitness classes, beer gardens, and music performances. The proposed zoning text intends to allow events to activate these otherwise underutilized spaces – particularly larger plazas that lend themselves to such activities.

With the temporary closure of Coenties Slip to vehicles in 2013, tables and chairs were placed within the roadbed as a means to temporarily and immediately activate this new public space.

Given the limited seating opportunities within the Water Street area's plazas, the popularity of these tables and chairs demonstrated the value of this low-cost intervention as a means to activate public space, and the proposed zoning text amendment intends to offer this tool as a means of making the Water Street plazas more useful and inviting.

Cafes are currently permitted within arcades by Chairman certification pursuant to a prior zoning text amendment (N 110193 ZRM), and could be a useful tool to activate the Water Street arcades that do not serve a useful pedestrian circulation function or are uninviting. Two buildings (55 Water Street and 75 Wall Street) have received certifications to allow cafes within arcades, but only 75 Wall Street has implemented the certification and located a café and associated public seating within the arcade. While the certification provision has been underutilized, the ability to locate a café within an arcade is still a useful tool that would benefit from the increased pedestrian activity likely to be facilitated by the other tools identified in the proposed zoning text, and would contribute to a vibrant pedestrian experience.

### *Flood Resilience*

Following Hurricane Sandy, many of the Water Street buildings relocated critical mechanical equipment and emergency generators from subgrade levels to higher floors to reduce the risk of damage to building systems during a storm of similar or greater strength. While such measures may improve the recovery of a building following a storm, they do not necessarily improve the building's ability to withstand the force of flood waters during a storm. Buildings may employ temporary flood barriers, but there is no requirement that such barriers be designed to any engineering standard. The few buildings that were constructed after the adoption of the first Flood Insurance Rate Maps (FIRMs) in 1983 were designed to withstand lower levels of flood waters than are expected during a storm of similar strength to Hurricane Sandy. As part of the comprehensive improvements to the building ground floors that are expected, the proposed text amendment intends to encourage building owners to consider long-term flood resiliency measures.

## **Existing Regulations**

### *Arcade Infill*

Existing plazas, urban plazas, and arcades for which a floor area bonus was not fully utilized may be reduced in size or eliminated by Chairman certification pursuant to Section 33-124(a) (Existing public amenities for which floor area bonuses have been received). Zoning lots that provided more plaza or arcade space than needed may seek such certification provided that the remaining bonused amenities still comply with the standards under which the original floor area bonus was granted. Existing plazas, urban plazas, and arcades for which a floor area bonus has been utilized may be reduced in size or eliminated by special permit pursuant to Section 74-761 (Elimination or reduction in size of bonused public amenities). The bonus from a plaza or arcade may have been needed at one time, but a reduction in the zoning lot's floor area ratio (i.e. through a zoning lot merger, upzoning, or increase in building's mechanical space) would allow a reduction or elimination of existing plaza or arcade areas through the special permit.

Most, if not all, of the buildings along Water Street are built to FARs in excess of 15 through the provision of bonus plazas, urban plazas, and arcades. Due to the overbuilt nature of these buildings, the bonus from the plazas and arcades are currently being utilized, so few public spaces may be reduced or eliminated in their entirety by certification pursuant to Section 33-124(a), and may instead be reduced or eliminated by special permit pursuant to Section 74-761. The elimination or reduction of bonused or non-bonused open space often results in a reduction of the maximum permitted zoning floor area, and even following a reduction in open space, it is unlikely that any new floor area may be added to a building (i.e. arcade infill).

#### *Plaza Design Changes and Events*

Currently, improvements may be made to existing plazas and urban plazas pursuant to Section 37-625 (Design Changes), which requires a Chairman certification to allow new amenities in plazas and urban plazas. Improvements are allowed provided that the Chairman certifies that the proposed improvements are in greater accordance with the design standards for new public plazas (Section 37-70). The provisions of Section 37-70 may be modified by special permit pursuant to Section 74-91, which may be useful when a proposed amenity would not result in greater accordance with a particular provision of Section 37-70 (i.e. providing a planter with bounding walls in excess of 18 inches permitted by Section 37-742). A separate certification is required to

allow a kiosk or open air café in an existing plaza or urban plaza (Section 37-73). Section 91-81 allows, by certification, cafes and publicly-accessible tables and chairs in existing arcades along Water Street within the area defined as the “Arcades Modification Area” (Map 8 of the Special Lower Manhattan District). Except for cafes permitted by certification, Section 37-80 requires that arcades remain free and clear of obstructions.

Events are not permitted as-of-right, but may be permitted as part of a special permit (such as at the Elevated Acre and the David Rubenstein Atrium) or through another approval that expressly permits events. Section 91-821 was established in June 2013 to allow events in the Water Street plazas and arcades on an as-of-right basis until January 1, 2014, but that zoning provision has since expired. A zoning override, which was imposed by EDC, was in place to allow events to take place within the Water Street plazas and arcades, but that override expired at the end of 2015.

### **Proposed Zoning Text**

In order to facilitate arcade infill and the associated redesign of plazas along Water Street, a zoning text amendment to Section 91-80 of the Special Lower Manhattan District, along with related sections, is being proposed. The existing provisions of Section 91-80 would be replaced with new regulations to allow for the elimination and infill of arcades by certification and authorization, while also maintaining and revising the provisions for cafes within arcades and events within plazas and arcades. The provisions of Sections 37-625 and 37-73 relating to the standards for design changes to existing plazas would also be amended as part of the proposed text amendment.

### *Creation of the Water Street Subdistrict*

Map 8 of the Special Lower Manhattan District would be modified to eliminate the existing “Public Space Activation Area” and “Arcades Modification Area” to create a single, simplified “Water Street Subdistrict.” This new area expands the Arcades Modification Area to include 85 Broad Street. The provisions of Section 91-80 would apply to this new area.

### *Events and Publicly Accessible Tables & Chairs (Sections 91-81 and 91-82)*

Events that are open to the public would be permitted as-of-right within any plaza or arcade, subject to requirements relating to storage, pedestrian access, and operations (new Section 91-81). Plazas and arcades would need to be restored to their approved condition within 24 hours of the conclusion of an event, but flexibility would be provided for the storage of equipment for longer-term events (such as a multi-day dance or music festival). Publicly-accessible tables and chairs, shade umbrellas, and heat lamps will be allowed as-of-right pursuant to new Section 91-82; Section 91-822 would set forth basic standards for seating, circulation, and storage. This section would apply to all plazas and arcades.

*Cafes within Existing Arcades (Section 91-821)*

The existing provisions for a certification to allow an outdoor café within an arcade (existing Section 91-81) would generally remain, although the text and provisions would be revised for clarity. New Section 91-821 would permit a café within an arcade by certification, and standards for seating, circulation, and operation would be set forth in new Section 91-822. A café may extend into a plaza only where it connects to a café permitted by a certification that was granted pursuant to Section 37-73. Where a café is permitted by Section 91-821, a minimum of four tables and sixteen chairs that are free and publicly accessible shall be made available within the arcade or an adjacent plaza. Of the buildings within the text amendment area, 17 have an arcade and would be allowed to seek such certification.

*Retail Infill of Arcades (Sections 91-83 and 91-841)*

In lieu of a certification pursuant to Section 33-124(a) or a special permit pursuant to Section 74-761 and the identification of additional floor area, the proposed zoning text would allow the elimination of- and a horizontal enlargement within an existing arcade through a new certification or authorization. The horizontal enlargement would be exempt from the definition of floor area and there would not be a reduction in the zoning lot's permitted floor area. Of the buildings within the text amendment area, 17 have an arcade and would be allowed to apply for infill.

*Certification (Section 91-83), Authorization (Section 91-841), and Text Map (Map 9).* The proposed zoning text will allow arcade infill by certification (new Section 91-83) and authorization

(new Section 91-841). As part of the proposed zoning text amendment, a new text map (Map 9) will be added to Appendix A of the Special Lower Manhattan District that will delineate which portions of the Water Street arcades may infill by certification (Area A), by authorization (Area B), or would not be permitted to infill by either certification or authorization (Area C). The areas permitted to infill by certification – Area A – represent arcades, and portions thereof, that are believed to no longer provide a useful pedestrian circulation purpose. Area B represents areas permitted to infill by authorization, and are areas where the usefulness for pedestrian and/or visual access requires additional study. Area C represents areas where no infill would be permitted by the proposed zoning text.

*Ground Floor Use and Design Requirements (Section 91-831).* As part of a certification or authorization for arcade infill, the use and design requirements of new Section 91-831 would need to be met. Infill that would be permitted by the zoning text amendment would extend for the full length, depth, and height of an arcade except where there is an existing parking or loading entrance. Where an arcade has frontage on multiple streets, infill may take place on only one street; however, where there is infill along multiple frontages, those arcade areas would be connected so that no residual or uninviting covered area is created. Corners or ends of arcades that are adjacent to Water Street would be permitted to remain open to facilitate pedestrian access around key corners.

The uses permitted within an arcade infill would be those uses permitted by Section 91-12 for designated retail streets within the Special Lower Manhattan District (no streets are being designated as retail streets as part of this proposed zoning text amendment). Examples of these permitted uses include restaurants, clothing stores, drug stores, bookstores, art galleries, community facilities, and lobbies accessory to residential or office uses. Uses such as offices, automobile showrooms, automobile service establishments, and wholesale establishments would not be permitted, as would any garage entrances, driveways, parking spaces, or loading berths. Building lobbies would be limited to 40 feet or 25% of the street wall length, whichever is less, except that a lobby may occupy 50 feet of frontage on Water Street. Where infill takes place along a plaza, at least 50% of the length of arcade infill would be required to be occupied by retail or service establishments, and banks would not be permitted. Transparency requirements would apply

to the area between existing columns, and new retail uses would extend for at least the depth of the arcade (which generally range from 15-20 feet, but uses are expected to extend further into the existing ground floor).

As part of extending new building walls for the full height of the arcade, a second level that may currently front on an arcade would be permitted to enlarge, which may be used for any commercial, residential, or community facility use. In addition to the infill that would take place within arcades, other building walls on the ground floor level could be “cleaned up” through small enlargements within covered areas to match the location of new building walls of an adjacent arcade infill. Other arcade-like areas that are located between an arcade that generated bonus floor area and a building wall – such as areas that may have previously been eliminated or areas that could not have qualified for generation of a floor area bonus by virtue of their location or dimensions – would also be permitted to infill to connect the arcade infill with the existing ground floor.

*Compensating Amenity (Sections 91-832, 91-833, 91-834, and 91-835).* An upgrade to all existing plazas or urban plazas on a zoning lot would be required as a compensating amenity for arcade infill permitted by certification or authorization. Whereas upgrades to existing plazas and urban plazas pursuant to Section 37-625 are currently required to be “in greater accordance” with the regulations for public plazas, each plaza upgrade that satisfies the requirement as a compensating amenity will need to fully meet the standards of Section 37-70 as modified by new Sections 91-832 and 91-833. The modifications to Section 37-70 set forth in Sections 91-832 reflect the challenges of applying the requirements for new public plazas to the existing conditions of the Water Street plazas; further modifications to Section 37-70 are provided for in Section 91-833 for narrow plazas (less than 40 feet in depth). The plaza provisions are intended to facilitate the creation of usable, quality, and safe public spaces while also recognizing the practical challenges that may be presented by existing site conditions (i.e. subsurface conditions, irregular plaza configuration, changes in elevation, etc.). Requiring full compliance with these standards instead of a greater accordance requirement will make clear to applicants and the public what is required for a plaza upgrade.

Alternatively, if no plazas exist on the zoning lot, the provision of an indoor public space (pursuant to new Section 91-834) or an off-site public amenity (pursuant to new Section 91-835) could satisfy the requirement for a compensating amenity. Of the buildings that have arcades available for infill, 7 Hanover Square, 110 Wall Street, and 175 Water Street do not have plazas or urban plazas available for upgrade. It is expected that 7 Hanover Square would provide an indoor public space within the through-block arcade to satisfy the requirement for a compensating amenity. The requirements for indoor public spaces closely follow the standards for public plazas contained in Section 37-70, but provide for additional flexibility when designing for an interior, climate-controlled space. 175 Water Street would be required to upgrade the open area on Front and John Streets that is not considered “plaza” (but functions as one) along with the portion of the John Street arcade that is located within Area C (not permitted to infill) that provides strong visual access to the East River. 110 Wall Street does not have a plaza on its zoning lot, so the compensating amenity identified in Section 91-835 is to enter into an agreement with the City to maintain the stretch of Manahatta Park on Wall Street between Front and South Streets. Although 100 Wall Street has a small plaza on Wall Street and shares the plaza with 88 Pine Street, if those two plaza areas will not be upgraded, then it is proposed to allow an alternative compensating amenity in the form of entering into an agreement with the City to maintain the stretch of Manahatta Park on Wall Street between Water and Front Streets. It is believed that a redesign of the northern plaza could compromise the design of the plaza at 88 Pine Street, and improvements to the small Wall Street plaza could possibly reduce or restrict pedestrian circulation between the 100 Wall Street building line and the planted areas at Manahatta Park; thus, identifying an alternative improvement is a necessary option for 100 Wall Street. Maintenance of Manahatta Park may also bring with it the option of performing design changes (with City consultation). The maintenance agreements would be a financial relief for both the Department of Parks and Recreation and ADNY, who assists in the maintenance of the park-like areas.

*Legal Requirements (Section 91-836).* A notice of certification that is similar to what is required for new public plazas would be required for all certifications for arcade infill and associated plaza upgrades. In order for a temporary or final certificate of occupancy to be issued for the arcade infill, the Department of City Planning must certify to the Department of Buildings that a plaza

upgrade that is required as a compensating amenity has been substantially completed. Where a compensating amenity is located on public property (i.e. maintenance of Manahatta Park), the proposed text, as referred, requires that the applicant for the certification enter into a written agreement with the City binding the building owner to the provision and maintenance of the amenity.

For the ten zoning lots that benefitted from a variance or special permit by the Board of Standards and Appeals (BSA), the application for a certification will be referred to the BSA for review and a determination of whether the proposal will affect the findings made by the BSA in the original approval.

All legal provisions and referral requirements of Section 91-836 will also apply to an application for an authorization pursuant to Section 91-841, and are restated or referenced in that particular section of the proposed zoning text.

*Additional Plaza Design Changes (Section 91-837).* When an arcade is infilled pursuant to a certification (Section 91-83) or authorization (Section 91-841), the associated plazas must be upgraded pursuant to the provisions of Section 91-832 (and 91-833 for narrow plazas). In lieu of allowing additional design changes pursuant to Section 37-625, a new section 91-837 would be created to only allow additional design changes to such improved plazas by demonstrating full compliance with the provisions of Section 91-832 (and Section 91-833, if applicable).

*Additional Authorizations (Sections 91-842 and 91-843)*

An authorization (new Section 91-842) will be written to allow modification of the ground floor use and design requirements of Section 91-831 and the design requirements for plazas and indoor public spaces of Sections 91-832, 91-833, and 91-834 provided that the City Planning Commission finds that the modifications would result in an improved urban design relationship with surrounding streets, buildings, and open areas. For those three buildings that have an alternative compensating amenity specified in Section 91-835, an authorization (new Section 91-843) allows another alternative improvement not listed in Section 91-835 provided that the City Planning

Commission finds that the new amenity better serves the propose of the Water Street Subdistrict established in the General Purposes of the Special Lower Manhattan District.

#### *Existing CPC Special Permits*

For three of the five sites that benefitted from a CPC special permit (7 Hanover Square, 32 Old Slip, and 175 Water Street), arcade infill will not require a modification of the approved special permit except where modifications to a restrictive declaration would be necessary (32 Old Slip and 175 Water Street). The proposed zoning text would not apply to the Elevated Acre at 55 Water Street, so the special permit for that plaza will be unaffected; events are already permitted at the Elevated Acre, and any redesign of the special permit plaza will continue to be subject to City Planning Commission review. These special permit provisions, however, will not apply to 85 Broad Street; changes to the arcade and plaza will require review by both the Landmarks Preservation Commission and the City Planning Commission.

#### *Flood Resilience*

As part of arcade infill, buildings would also consider new floodproofing strategies for their ground floors to ensure they are resilient against flooding and damage from storms. While the proposed zoning text would not require floodproofing of the arcade infill, the Building Code requires horizontal enlargements of any size to comply with the floodproofing requirements of Appendix G. Many buildings within the area have already relocated critical mechanical equipment and emergency generators from subgrade levels to higher floors to reduce the risk of damage to building systems during a storm. Ground floor commercial uses would likely employ temporary flood control devices that would be deployed before a storm and disassembled after the storm.

While the proposed zoning text does not need to restate any requirements of Appendix G, the ground floor use and locational requirements of Section 91-831 will permit the installation of permanent fixtures for temporary flood control devices on building columns, and would not count such fixtures as non-transparent portions of new building walls for the purposes of determining compliance with transparency requirements. Furthermore, the proposed zoning text would allow

the deployment of temporary flood control devices for a reasonable period of time before and after a storm, as determined by the Department of Buildings.

#### *Other Existing Regulations*

Owners who wish to upgrade their plazas without infilling their arcades would continue to be able to do so through the existing certification for design changes (Section 37-625). Open air cafes and kiosks within plazas would still require a certification pursuant to Section 37-73. Non-bonused open areas will continue to be permitted to be eliminated from plazas and urban plazas by certification pursuant to Sections 33-124(a) and 37-621. The proposed zoning text would not allow non-bonused arcades, or portions thereof, to be eliminated by certification pursuant to Section 33-124(a), but bonused arcades will continue to be permitted to be eliminated by special permit pursuant to Section 74-761 as an alternative to a certification pursuant to new Section 91-83 or authorization pursuant to Section 91-841.

#### **ENVIRONMENTAL REVIEW**

The application (N 160166 ZRM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission. The designated CEQR number is 16DCP084M.

After a study of the potential environmental impact of the proposed zoning text amendment, a Negative Declaration was issued on January 19, 2016. A Revised Environmental Assessment Statement (EAS), which analyzed the CPC modifications and concluded that the proposed zoning text amendment would not result in any significant adverse environmental impacts, was issued on April 22, 2016. A Revised Negative Declaration, which reflected the conclusions of the Revised EAS, was also issued on April 25, 2016.

#### **PUBLIC REVIEW**

On January 19, 2016 the application (N 160166 ZRM) was referred to Community Board 1 and the Borough President in accordance with the procedure for referring non-ULURP matters.

### **Community Board Review**

Community Board 1 held a public hearing on the application (N 160166 ZRM) on February 23, 2016, which was continued on March 22, 2016. On March 22, 2016 the Community Board, by a vote of 19 to 11 with 7 abstentions, adopted a resolution recommending approval of the application with the following conditions:

- 1) A referral mechanism is incorporated into the zoning text to require a 60-day period of Community Board review and comment, on a site-by-site basis, of any request to infill any arcade space within the Proposed Area, whether it is by certification (Area A), authorization (Area B), or by any other process or mechanism whatsoever that may be promulgated in the future;
- 2) Because building owners/landlords are potentially realizing substantial value as a result of the repurposing of these public amenities (no matter how underutilized), the community's needs for various types of facilities located within the future infilled arcades must be considered and encouraged, including but not limited to schools (including pre-kindergarten centers), libraries, senior centers, ice skating rinks and other recreation, *etc.*;
- 3) Certifications or authorizations by the City Planning Commission (CPC) or CPC Chairperson should strongly consider the community's view that small, independent retail establishments are preferred over chain stores in any such infill spaces;
- 4) Due consideration for affordability should also be taken into account (whether through rent regulation or other appropriate means) so as to avoid vacancies;
- 5) During the Community Board review for each application for the 17 buildings with arcades, the applicant must be made responsible for explaining the specific community offset and benefit that will be provided in exchange for the arcade infill;
- 6) When an arcade infill triggers a plaza upgrade, plazas must also be built to a resiliency standard that could withstand future extreme weather events;
- 7) Owners of properties similar to 200 Water Street, where the benefit to the property owner clearly outweighs the community benefit from plaza upgrades, should be required to provide benefits in addition to the plaza upgrade, such as enhancements to surrounding sidewalks and the nearby Pearl Street Playground. CB1 requests that the arcade infill at 200 Water Street not be used just to expand the existing large box retail, and prefers retail that positively activates Fulton Street;

- 8) In cases of infill where no plazas exist on the zoning lot where the provision of an indoor public space or an off-site public space could satisfy the requirement for a compensating amenity, CB1 requests that property owners also improve their sidewalks and not use public funds to do so;
- 9) ADNY, EDC and DCP shall return to CB1 after the first three projects or the first year after the zoning amendment, whichever comes first, to report on progress and assess the success of the program (with a potential for making appropriate changes as necessary based on experience with the program to date); and

The Community Board further requested the following:

- CB1 requests that particular attention is paid to the issue of lighting on Water Street. Improved lighting along Water Street will enhance safety and encourage more people to visit the area; and
- CB1 requests that ADNY, EDC and DCP work together with property owners and the NYC Department of Education and NYC School Construction Authority to create suitable locations for schools and pre-kindergarten centers within the infill spaces; and
- CB1 requests that DCP include in the zoning text language requiring (or at least encouraging) the use of environmentally friendly construction methods in connection with all arcade infill development projects.

### **Borough President Recommendation**

This application (N 160166 ZRM) was considered by the Borough President, who issued a recommendation dated March 25, 2016 to approve the application with several recommendations. The Borough President recommended that the General Purposes of the Special Lower Manhattan District be amended to state that the goal of the proposed zoning text amendment is to enliven the pedestrian experience along the street; recommended a 60-day Community Board review period for applications for certifications and authorizations; and recommended that preference be given to plants and materials that are more able to withstand a storm surge or water influx. The Borough President believed that the uses permitted by the proposed zoning text are too broad, that the use requirements of Section 91-831 should be modified to exclude Use Groups 5, 7, 9, and 10, and that requirements for multiple establishments or uses be established for longer arcade frontages. Overall, the Borough President recommends an emphasis on local retail establishments instead of larger shopping establishments.

### **City Planning Commission Public Hearing**

On March 9, 2016 (Supplemental Calendar No. 1), the City Planning Commission scheduled March 30, 2016 for a public hearing on this application (N 160166 ZRM). The hearing was duly held on March 30, 2016 (Calendar No. 17).

There were seven speakers in favor and two opposed.

The President of the Alliance for Downtown New York described the goals of the proposed zoning text, noting that the street lacks vitality beyond normal working hours and that the existing configuration of ground floor uses fails to engage pedestrians. She noted that the demand for neighborhood-focused retail has been identified by area workers and residents alike, and such uses would help encourage the night and weekend activity that is currently lacking. She acknowledged the high cost of plaza and building improvements, and that such long-term investments would likely be phased in over time along the corridor.

The Senior Vice President for Planning at the NYC Economic Development Corporation described the organization's role in supporting the revitalization of Lower Manhattan, and described the prior visions and land use actions for Water Street. He noted that EDC is managing the permanent streetscape improvements that will complement the improvements that would be facilitated by the proposed text amendment.

The Director for Planning at Manhattan Community Board 1 reiterated the Community Board's support for the project and reviewed the conditions outlined in the Community Board's recommendation. She also expressed the Community Board's support for the recommendation and comments submitted by the Borough President.

A downtown resident and architect spoke in opposition to the project, expressing concern with the elimination of sheltered public space, the size and type of retail establishments that may be provided within arcade infill, and the level of plaza improvements required by the proposed zoning text.

A representative of the New Yorkers for a Human-scale City spoke in opposition to the project and recommended that a portion of revenues from uses located within arcade infill be used to support public space improvements throughout Lower Manhattan.

A representative of the Municipal Art Society of New York spoke in favor of the project and supported the goals of improving the public spaces in the area, but requested that an economic analysis be undertaken to ensure that the improvements that the proposed zoning text will facilitate are commensurate with the financial benefit to the building owner. She also recommended that the provisions of the proposed zoning text be used to inform improvements to other underperforming plazas and arcades throughout the City.

A representative of Rockrose Development Corporation, the owner of 200 Water Street, spoke in favor of the project and described the current challenges of attracting retail tenants on Water Street, and explained that the improvements that would be facilitated by the proposed text amendment will require long-term investment. He explained the building's plans to locate multiple retailers and a restaurant within the arcade and to improve the plazas, and noted that the plaza improvements would have a pronounced impact on the neighborhood.

A representative of the Office of the Manhattan Borough President reiterated the Borough President's support and concerns that uses permitted by the proposed zoning text are too broad and should instead focus on local retail needs.

A representative of the Alliance for Downtown New York spoke in favor of the project and described the organization's role in engaging other civic-minded organizations in the development of the vision plan for Water Street.

The Commission also received letters of support from the owner of 75 Wall Street and the Design Trust for Public Space.

There were no other speakers and the hearing was closed.

### **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY**

This application (N 160166 ZRM) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 *et seq.*). The designated WRP number is 15-035.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

### **CONSIDERATION**

The Commission believes that this application for a zoning text amendment (N 160166 ZRM), as modified, is appropriate.

The Commission believes that the proposed zoning text amendment represents a thoughtful framework to transform the pedestrian experience along Water Street. The Commission has, in its consideration of prior land use actions affecting Water Street, recognized that the concentration of plazas and arcades along Water Street, their particular designs, and lack of amenities have failed to support a lively and active pedestrian environment along the corridor. The plazas and arcades which define the street level experience in the Water Street corridor are privately owned public spaces that are regulated by zoning regulations requiring their continued provision for the purposes of allowing and maintaining floor area bonuses. Given such status, the Commission believes that zoning is an appropriate tool to guide and shape the design and configuration of such spaces, which will have a profound effect on the transformation of the street level experience.

Water Street is an important economic corridor for Lower Manhattan and remains predominantly commercial, and while most residential uses are located to the west and north of Water Street, there

has increasingly been a presence of residential uses and activity on and around Water Street. Many commercial office leases in the Water Street corridor are set to expire in the next five to fifteen years. With efforts by Lower Manhattan building owners, the Alliance for Downtown New York, and the City to attract and maintain commercial office tenants and to support a growing residential population, retail and service amenities are necessary to meet the overlapping and unique needs of workers and residents to support a vibrant mixed use community.

The Commission believes that the pedestrian experience along Water Street is challenging. Water Street is a wide street with two lanes of traffic and a parking lane in both directions, and is an efficient mover of vehicles, trucks, and buses. There are few ground floor uses located at the building line, and most ground floors are dedicated to lobby uses. The Commission believes that the design and treatment of building ground floors could have a profound effect on the street level experience, and that the lower levels of the Water Street buildings currently do not exhibit many urban design features and amenities that help pedestrians feel comfortable and safe.

The original goal of arcades was to provide public space for pedestrian circulation. The Commission believes that the Water Street arcades are sparsely used, and that pedestrians instead use the sidewalks, which are generally 15 feet in width along the street. Where arcades are elevated or set back from the sidewalk by a large plaza, they do not supplement circulation along the sidewalk because they are not directly connected to it. Arcades that dead end do not connect to anything except for building entrances, and arcades that are obstructed limit pedestrian circulation. When columns are too thick or too close together, pedestrians may not know that there is circulation space beyond, or the tendency may be to continue straight along the sidewalk. When the clear width of an arcade is too narrow, pedestrians may instead choose to use the wider sidewalk. When open areas that are adjacent to arcades, such as Manahatta Park, are already successful in providing sufficient pedestrian circulation space, the usefulness of the adjacent arcade for circulation is lessened. Low levels of lighting within an arcade, along with limited activity within the adjacent ground floor use, causes pedestrians to perceive these spaces as unsafe. And while arcades may be used as shelter from the rain or snow, the configuration of the spaces do not create or contribute to as meaningful an experience as a well-designed plaza would. For these

reasons, the Commission believes that many of the Water Street arcades do not serve a useful circulation function.

The Commission has long supported amendments to the Zoning Resolution to encourage the improved design of bonused public plazas. The Water Street plazas were provided at a time when no amenities were required, and their designs and configurations are not representative of the current standards for public plazas contained in Section 37-70. The Commission is aware of successful redesigns of older plazas following the provisions of Section 37-70 – including the provision of planting, seating, public space signage, and active retail and lobby uses – and intends encourage the substantial improvement of the Water Street plazas so that they become resources for area workers and residents.

The proposed zoning text identifies a number of tools that, when implemented, are intended to contribute to an improved pedestrian experience: arcade infill, plaza improvements, the free placement of tables and chairs, cafes, and events. The Commission believes that the tools that are proposed are appropriate for the unique configuration of the Water Street arcades, plazas, and ground floor uses. Arcade infill will help provide needed amenities by improving the presence of ground floor uses along the street, making such spaces tenantable. When ground floor spaces cannot be successfully tenanted because they are not visible from the sidewalk, the public loses access to the uses they need or want. Locating ground floor uses closer to the sidewalk will help engage pedestrians, visually reduce the width of the street, and generally improve the pedestrian experience. The Commission has observed the impact of events in improving pedestrian activity and the public perception of Water Street, and believes it is appropriate to allow events to take place on an as-of-right basis. The Commission understands that a limited number of certifications for cafes within arcades have been pursued, but is hopeful that the pedestrian activity and active street life that would be facilitated by the other tools made available by the text amendment will support more cafes.

The Water Street buildings provided arcades on an as-of-right basis in exchange for floor area bonuses, and that there are approximately 110,000 square feet of arcades across 17 buildings in the

area affected by the proposed text amendment. The Commission is aware that the Zoning Resolution establishes a lower bonus ratio for arcades than for plazas, and that the bonus floor area generated by the arcades represents 15% or less of the total bonus floor area generated by the plazas, arcades, and other required amenities within the area.

The Commission believes that is appropriate to exempt horizontal enlargements within arcades (infill) from the definition of floor area. Such provision will provide an incentive for building owners to contribute to the goals set forth by this proposed text amendment. The Commission acknowledges that the existing special permit pursuant to Section 74-761 is available for the elimination of arcades, but the overbuilt nature of the Water Street buildings would likely preclude any owner from identifying additional floor area to infill an arcade. Furthermore, if eliminated, there are no standards for the treatment of the eliminated arcade and its relationship to adjacent sidewalks and open areas. The proposed zoning text establishes standards for the treatment and use of any potential arcade infill to ensure a quality urban design relationship between new building walls and adjacent sidewalks and open areas.

The Commission believes that the proposed standards and requirements for arcade infill are appropriate. New building walls would be required to extend for the full height, depth, and length of an arcade frontage to ensure that leftover, unusable spaces are not created. The Commission finds it appropriate to require building walls to be located anywhere between the inside and outside column faces to allow flexibility and architectural variety. The uses permitted within infill will provide that unengaging uses such as offices would not be located on the ground floor, and will provide sufficient flexibility for the size and type of ground floor uses to evolve over time as Water Street and Lower Manhattan continue to grow and transform. The text would establish limitations on lobby frontages, and requires additional retail or service establishments when fifty percent or more of an enlargement is dedicated to lobby use. When infill takes place on a plaza, at least fifty percent of the frontage must be dedicated to retail or service establishments. The Commission believes that is appropriate to not allow banks within infill that fronts on a plaza; building frontages that are set back from the sidewalk by a plaza would benefit from more active uses to encourage activity within the space.

The proposed text would establish a 70% transparency requirement that would only apply to the area between columns, and the Commission finds it appropriate to only apply such transparency requirement to new building walls and to not unnecessarily penalize buildings with thick columns that are existing. The high level of transparency is appropriate given that a goal is to make these new ground floor uses visible and bright, and the text should not encourage many more non-transparent portions of building walls. In order to allow flexibility for the different types of flood control devices that would be considered by building owners, permanent tracks or fixtures that obstruct a transparent building wall would appropriately not be considered as part of the transparency calculations. It is the intent that these fixtures would have minimal depth and would be appropriately screened and decorated to complement the color and material of new and existing building walls.

The Commission acknowledges that no arcade infill may take place without the improvement of any and all plazas on the zoning lot to the standards for new public plazas. The Commission recognizes that it may be challenging to fully apply the standards for public plazas contained in Section 37-70 to existing plazas, particularly where subsurface conditions, dimensions, elevations, and other existing conditions would lead to non-compliances with the current regulations. The Commission believes that the modifications to the public plaza regulations appropriately do not force owners to undertake additional significant capital improvements to comply with every provision of the public plaza regulations, which were intended for new spaces, and provides sufficient relief to encourage and require owners to meet the text amendment's goals for high quality public space design. The added modifications for more narrow plazas appropriately reflect the added challenges of applying the public plaza standards to spaces with limited depth. The Commission believes that it is appropriate to require full compliance with the public plaza regulations, as modified by the proposed zoning text, instead of establishing a greater accordancy requirement, so that each plaza redesign is subject to the same standards for the provision of amenities. The Commission also notes that maintenance requirements would be established for the plaza improvements, and such obligations would be recorded against the property in the form of a notice of certification.

The Commission finds it appropriate to identify other improvements to accompany arcade infill when plazas are not available for upgrade. The requirement for 100 and 110 Wall Street to maintain Manahatta Park would provide a financial relief to the City and ADNY. It is expected that 7 Hanover Square would provide an indoor public space within the existing through block arcade, and the Commission believes that the provision of such climate-controlled space would be a welcome amenity for nearby residents and workers. The remaining open areas at 175 Water Street function as plaza areas, and the Commission finds it appropriate to require those areas to be redesigned as such.

The proposed zoning text allows a modification of all design requirements for infill and plaza upgrades by Commission authorization. While the zoning text's modifications to the public plaza regulations reflect the Department's experience reviewing applications for plaza redesigns, additional modifications of the plaza regulations may be necessary to reflect the added uniqueness of a particular site or to facilitate a particular design, and so the Commission finds the proposed authorization and its findings appropriate.

The Commission has carefully considered the recommendations of the Community Board and the Borough President. The Commission believes that the comment to incorporate a mechanism for Community Board referral is appropriate, but believes that a 45-day review period is suitable and is consistent with the referral procedures for other land use actions, and therefore has modified the proposed text accordingly for applications for certifications to infill arcades within Area A. The Commission notes that it is the practice of the Department to refer applications for Commission authorizations to affected Community Boards for 45 days, and thus does not find it necessary to establish a referral mechanism for applications for authorizations to infill arcades within Area B. The Commission feels that a 45-day review period will afford the Community Board sufficient time to review and comment on an application, and the modified text would explicitly not allow the Chairman to issue a certification during the Community Board review period unless comments are received sooner.

The Commission notes that the Community Board and Borough President requested that plaza amenities be able to withstand storms and high flood levels. The Commission notes that the maintenance requirements for plaza improvements would likely encourage owners to provide amenities that could withstand the force of waves, and notes that resilient planting may not be able to retain much water given the high flood levels that are expected during a storm. The Commission agrees with the Community Board that improved lighting will enhance safety and encourage more people to visit Water Street and the area, and notes that the lighting requirements for plaza improvements and the location of ground floor uses closer to the sidewalk will help improve the lighting and safety of the area. The Commission also agrees with the Community Board that new construction should take place in an environmentally-friendly manner, but does not find it appropriate to modify the proposed text to state such preference.

The Community Board requested that the Alliance for Downtown New York, the NYC Economic Corporation, and the Department of City Planning report on the progress of improvements that would be facilitated by the proposed text a year after its adoption or after the first three projects are implemented, whichever is sooner. The Commission understands that all three applicants have agreed to return to the Community Board in the requested timeframe to review the proposed text's implementation.

The Community Board requested that the community's needs for various types of community facilities – such as pre-kindergarten centers, libraries, and senior centers – be considered and encouraged within arcade infill. The Commission understands that community facility uses are permitted by the proposed text on the ground floor, and believes that such uses would also contribute to the active street life that the proposed text intends to encourage. The Commission also understands that while the resulting ground floor spaces may likely be below 10,000 square feet, the Alliance for Downtown New York is in conversation with the NYC Department of Education and the NYC School Construction Authority to understand their operational and space standards for new schools.

The Borough President recommended that the uses permitted by the proposed text emphasize local retail, and specifically recommended that Use Groups 5, 7, 9, and 10 be excluded from the permitted uses within arcade infill. The Commission also heard testimony regarding the challenges facing existing Water Street buildings in attracting retail tenants, and the desire to create and sustain pedestrian activity along the street. In regards to Use Group 10, the Commission believes that given the size of the arcades and existing ground floors, and the expected desire for a lobby presence on the street, it is unlikely that many retail establishments would be larger than 10,000 square feet. An important goal of the proposed text is to establish a good urban design relationship between new building walls and adjacent sidewalks and open areas, and the Commission does not intend to discourage a retail use that may be larger than 10,000 square feet but very successfully activates the streetscape or serves a particular demand identified by residents and workers. The Commission understands that flexibility in determining the size of an establishment will help attract new retailers along and around Water Street. However, in addressing the Borough President's comment and furthering the shared goal for retail variety, the Commission is modifying the proposed text to expand the requirement for multiple establishments along the longest frontage of an enlargement to all arcades affected by the proposed text. The Commission is also modifying the proposed text to exclude Use Group 5A (hotel rooms), but still finds it appropriate to locate hotel lobbies (Use Group 5B) on the ground floor. The Commission does not, however, find it necessary to exclude Use Groups 7 and 9.

The Commission heard testimony that an economic analysis be undertaken to ensure that the improvements that the proposed zoning text will facilitate are commensurate with the financial benefit to the building owner, and received recommendation from the Community Board indicating that benefits to the building owner may outweigh the community benefit from plaza upgrades. The Commission acknowledges that the proposed text explicitly describes plaza upgrades as a "compensating amenity," but also believes that retail infill in itself is also a compensating amenity. The Commission, in considering this proposal, believes that the public benefit of the plaza upgrades and retail infill exceed the limited public benefit of the arcades in their current configuration. The Commission believes that the proposed text will result in improved public spaces with more useful public amenities; safer and brighter public spaces and streets; more

restaurants, shops, and other local amenities for area residents and employees; visual variety on the ground floor that will help reduce the monumentality of the area buildings; and clear requirements for the design and use of ground floors and the improvement and maintenance of public spaces. Comparing these benefits to the loss of arcades that do not serve a useful pedestrian circulation function, the Commission believes that the public benefit is greatly improved by the improvements that will be facilitated by the provisions and requirements of this proposed text.

The Commission also heard testimony that provisions of the proposed text be used to inform improvements to other underperforming plazas and arcades throughout the City. The Commission understands, and agrees, that this proposal is specific to the configuration, concentration, and design of the Water Street plazas and arcades and their role in defining and shaping the street life experience on and around Water Street. Any application of the lessons learned from the implementation of this proposed text to other plazas and arcades outside of the Water Street area would require further land use actions and public review.

The Commission heard testimony that the City's cultural and civic-minded organizations supporting public space were not informed of the proposed text amendment. The Commission notes that testimony was heard from the Municipal Art Society of New York, and that letters were received from the Design Trust for Public Space and the American Institute of Architects New York Chapter.

The Commission received written recommendations from the Design Trust for Public Space to: establish design guidelines to achieve ground floor spaces that can accommodate a variety of retail and community facility uses; require 20% of the arcade infill to be set aside for a diverse set of uses; establish quality parameters to improve the public realm with amenities such as benches, bicycle racks, drinking fountains, trees, and planters; and create measures for a sustainable revenue model for long-term maintenance of public space improvements. The Commission believes that the requested modifications are already addressed by the proposed text, as modified, which provides sufficient flexibility in its requirements for ground floor uses, requires multiple

establishments on the longest frontages, and establishes clear and robust requirements for the design and maintenance of plazas.

The Commission notes that concurrently with the proposed text amendment, the NYC Economic Development Corporation is managing the design and construction of permanent streetscape improvements along Water Street. Such improvements include making permanent the expansion of the Whitehall Street plaza, the Coenties Slip plaza, and the widening of the northern sidewalk from Broad Street to Hanover Square. The Commission believes that these capital improvements will complement the improvements that will be facilitated by the proposed text, and encourages the further study and improvement of the sidewalks and crossings along the entire street.

In addition to the modifications establishing a Community Board referral, expanding the requirement for multiple establishments, and excluding Use Group 5A from locating within an enlargement, the Commission is modifying the proposed text to incorporate minor clarifying edits to language throughout the proposal. The Commission is also clarifying the legal requirements for certifications and authorizations, the types of residential uses permitted on the ground floor, the compliance reporting requirements for plazas, and the signage requirements for indoor public spaces.

The Commission believes that the proposed text, as modified, will guide the transformation of the street life experience on and around Water Street, and appropriately fulfills the initiatives of *A Stronger, More Resilient New York* identified for Water Street.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, the City Coastal Commission finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

## **Article III - Commercial District Regulations**

### **Chapter 7**

#### **Special Urban Design Regulations**

\* \* \*

#### **37-625**

##### **Design changes**

Except as otherwise provided in Sections 74-41 (Arenas, Auditoriums, Stadiums or Trade Expositions), 91-83 (Retail Uses Within Existing Arcades) and 91-841 (Authorization for retail uses within existing arcades), design changes to existing #plazas#, #residential plazas# or #urban plazas# may be made only upon certification by the Chairperson of the City Planning Commission that such changes would result in a #plaza#, #residential plaza# or #urban plaza# that is in greater accordance with the standards set forth in Section 37-70 (PUBLIC PLAZAS), inclusive. The provisions of Section 37-78 (Compliance), other than paragraph (e) (Special regulations for an #urban plaza# in the #Special Lower Manhattan District#), shall be made applicable to such #plaza#, #residential plaza# or #urban plaza#.

\* \* \*

#### **37-73**

##### **Kiosks and Open Air Cafes**

Kiosks and open air cafes may be placed within a #publicly accessible open area# upon certification, pursuant to this Section. Such features shall be treated as permitted obstructions. Only #uses# permitted by the applicable district regulations may occupy #publicly accessible open areas# or front on #publicly accessible open areas#.

\* \* \*

(c) Certification

Kiosks and open air cafes may be placed within the area of a #publicly accessible open area# upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings, that:

- (1) such #use# promotes public use and enjoyment of the #publicly accessible open area#;
- (2) such #use# complements desirable #uses# in the surrounding area;
- (3) the owner of such #use# or the #building# owner shall be responsible for the maintenance of such kiosk or open air cafe, which shall be located within areas designated on building plans as available for occupancy by such #uses# and no encroachment by a kiosk or open air cafe outside an area so designated shall be permitted;
- (4) such #use# does not adversely impact visual and physical access to and throughout the #publicly accessible open area#;
- (5) such #use#, when located within a #public plaza#, is provided in accordance with all the requirements set forth in this Section;
- (6) for kiosks and open air cafes located within an existing #publicly accessible open area#, such #use# is proposed as part of a general improvement of the #publicly accessible open area# where necessary, including as much landscaping and public seating as is feasible, in accordance with the standards for #public plazas#;
- (7) a #sign# shall be provided in public view within the cafe area indicating the days and hours of operation of such cafe; and
- (8) for kiosks that are in operation less than 225 days per year, an off-season plan has been submitted to the Chairperson showing that such kiosks will be completely removed from the #publicly accessible open area# when not in operation, that the

area previously occupied by the kiosk is returned to public use and such area is in compliance with the applicable #publicly accessible open area# design standards.

\* \* \*

(d) Process

An application for certification shall be filed with the Chairperson of the City Planning Commission, and the Chairperson shall furnish a copy of the application for such certification to the affected Community Board at the earliest possible stage. The Chairperson will give due consideration to the Community Board's opinion as to the appropriateness of such a facility in the area and shall respond to such application for certification within 60 days of the application's receipt.

The Chairperson shall file any such certification with the City Council. The Council, within 20 days of such filing, may resolve by majority vote to review such certification. If the Council so resolves, within 50 days of the filing of the Chairperson's certification, the Council shall hold a public hearing and may approve or disapprove such certification. If, within the time periods provided for in this Section, the Council fails to act on the Chairperson's certification, the Council shall be deemed to have approved such certification.

Such certification shall be effective for a period of three years.

All applications for the placement of kiosks or open air cafes shall include a detailed site plan or plans indicating compliance with the provisions of this Section, including the layout and number of tables, chairs, restaurant equipment and heating lamps, as well as the storage location for periods when the kiosk or open air cafe is closed. Where a kiosk or open air cafe is to be located within an existing #publicly accessible open area#, each kiosk or open air cafe application must be accompanied by a compliance report in accordance with the requirements of Section 37-78, paragraph (c).

Where design changes to #publicly accessible open areas# are necessary in order to accommodate such kiosk or open air cafe, or to comply with paragraph (c)(6) of this Section, a certification pursuant to Section 37-625 (Design changes) shall be required, except that within the #Special Lower Manhattan District#, design changes to a #publicly accessible open area# pursuant to the provisions of Section 91-832 (Plaza improvements) as part of a certification pursuant to Section 91-83 (Retail Uses Within Existing Arcades), an authorization pursuant to Section 91-841 (Authorization for retail uses within existing

arcades), or a certification pursuant to Section 91-837 (Additional design changes) may satisfy the requirements in paragraph (c)(6) of this Section.

All such plans for kiosks or open air cafes, once certified, 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 for the kiosk or open air cafe, pursuant to this Section. The form and contents of the legal instrument shall be satisfactory to the Chairperson, and the filing and recording of such instrument shall be a precondition for the placement of the kiosk or open air cafe within the #publicly accessible open area#.

\* \* \*

## **Article IX - Special Purpose Districts**

### **Chapter 1**

#### **Special Lower Manhattan District**

\* \* \*

#### **91-00**

#### **GENERAL PURPOSES**

The "Special Lower Manhattan District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) encourage development of a 24-hour community through the conversion of older commercial buildings to residential use;
- (b) facilitate maximum design flexibility of buildings and enhance the distinctive skyline and streetscape of Lower Manhattan;
- (c) improve public use and enjoyment of the East River waterfront by creating a better physical and visual relationship between development along the East River and the waterfront area, public access areas and the adjoining upland community;
- (d) enhance the pedestrian environment by relieving sidewalk congestion and providing pedestrian amenities;
- (e) restore, preserve and assure the use of the South Street Seaport Subdistrict as an area of

small historic and restored buildings, open to the waterfront and having a high proportion of public spaces and amenities, including a South Street Seaport Environmental Museum, with associated cultural, recreational and retail activities;

- (f) establish the Historic and Commercial Core to protect the existing character of this landmarked area by promoting development that is harmonious with the existing scale and street configuration; ~~and~~
- (g) establish the Water Street Subdistrict to improve the urban design relationship between existing buildings and open areas by promoting retail activities and the enhancement of existing public spaces with new amenities in this area; and
- (h) promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City's tax revenues.

\* \* \*

### 91-03

#### District Maps

District maps are located in Appendix A of this Chapter and are hereby incorporated and made an integral part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements, as set forth in the text of this Chapter, apply.

- Map 1. Special Lower Manhattan District
- Map 2. Street Wall Continuity Types 1, 2A, 2B & 3
- Map 3. Street Wall Continuity Types 4 & 5
- Map 4. Designated Retail Streets
- Map 5. Curb Cut Prohibitions
- Map 6. South Street Seaport Subdistrict (Section 91-63)
- Map 7. Subway Station Improvement Areas
- Map 8. Public Access Modification Areas-

\*       \*       \*

**91-80**

**PUBLIC ACCESS AREAS**

**[ALL NEW TEXT (91-80 THROUGH 91-843) FOLLOWS –  
DELETED TEXT (91-81 THROUGH 91-821)  
IS LOCATED AFTER APPENDIX MAPS]**

The following regulations shall apply to arcades and #publicly accessible open areas# existing on [effective date of amendment] located within the Water Street Subdistrict as shown on Map 8 in Appendix A of this Chapter except for the #plaza# that was the subject of special permit application CP-20518, approved by the City Planning Commission on November 27, 1968.

For the purposes of this Section, inclusive, “arcade” shall refer to an #arcade# or #through block arcade# provided in accordance with the provisions of Sections 12-10 (DEFINITIONS) and 37-80 (ARCADES), or any other arcade that generated a #floor area# bonus as evidenced by plans approved by the Department of Buildings.

A horizontal #enlargement# permitted by Section 91-83 (Retail Uses Within Existing Arcades) or Section 91-841 (Authorization for retail uses within existing arcades) shall not be included as #floor area#, and such additional area shall not result in a reduction of the permitted floor area.

No arcade may be eliminated or reduced in size pursuant to paragraph (a) of Section 33-124 (Existing public amenities for which floor area bonuses have been received). In lieu thereof, the provisions of Sections 91-83 and 91-841 shall apply. The provisions of paragraph (d) of Section 33-124 shall be modified to also permit the reduction or elimination of an arcade for which a #floor area# bonus has been utilized pursuant to the provisions of Sections 91-83 or 91-841.

For any #zoning lot# that was the subject of application C810325ZSM, C810506ZSM or C841070ZSM, a certification pursuant to Section 91-83 or an authorization pursuant to Section 91-841 shall not result in a departure from the findings and conditions specified in the applicable special permit, and such certification or authorization shall not require modification of the applicable special permit unless such a modification is required pursuant to a related restrictive declaration. For the #zoning lot# that was the subject of application C810325ZSM, the existing #through block arcade# shall not be eliminated, but may be modified in size and configuration provided that the standards for #through block arcades# set forth in Section 12-10 are met.

Public events may take place within a #publicly accessible open area# or arcade pursuant to the provisions of Section 91-81 (Events Within Public Access Areas). Publicly accessible tables, chairs, shade umbrellas and heating lamps may be located within a #publicly accessible open area# or arcade pursuant to the provisions of Section 91-82 (Amenities Within Public Access Areas). An outdoor cafe may be located within an arcade pursuant to Section 91-821 (Certification for outdoor cafes within arcades). A horizontal #enlargement# of the ground floor and second floor levels may be permitted within arcades, or portions thereof, located within Area A in Map 9 of Appendix A of this Chapter pursuant to the provisions of Section 91-83, and within Area B pursuant to the provisions of Section 91-841. In no event shall an #enlargement# be permitted within arcades, or portions thereof, located within Area C on Map 9 in Appendix A of this Chapter.

### **91-81**

#### **Events Within Public Access Areas**

The provisions of Article III, Chapter 7 restricting the temporary placement or storage of event-related amenities or equipment within a #publicly accessible open area# or arcade shall be modified by the provisions of this Section. The temporary placement or storage of event-related equipment or amenities in accordance with the provisions of this Section shall not constitute a design change pursuant to the provisions of Sections 37-625 (Design changes) or 91-837 (Additional design changes).

Events including, but not limited to, farmers' markets, holiday markets, concerts and performances, art and cultural exhibitions and festivals are permitted within all #publicly accessible open areas# and arcades. The utilization of a #publicly accessible open area# or arcade for the promotion of products or services shall not itself qualify as an event permitted under this Section.

Events shall be open to the public, provide free and unticketed admission and only be permitted to use amplified sound between the hours of 9:00 a.m. and 10:00 p.m. All #publicly accessible open areas# and arcades shall continue to be publicly accessible at all times. Event-related amenities and equipment shall be considered temporary permitted obstructions provided that sufficient circulation space connecting all #streets# and #building# entrances exists. All #publicly accessible open areas# and arcades shall be restored to their approved condition within 24 hours of the conclusion of an event.

The storage of equipment or materials outside of an event's scheduled hours, excluding time required for set up and clean up, shall not be permitted within a #publicly accessible open area# or arcade, except that for events taking place over multiple days or weeks, large temporary equipment

that requires assembly and will be actively used during the event, such as stages, kiosks and sound and video entertainment systems, may remain in the #publicly accessible open area# or arcade outside of the event's scheduled hours.

## **91-82**

### **Amenities Within Public Access Areas**

The provisions of Article III, Chapter 7 restricting the placement of tables, chairs, shade umbrellas and heating lamps within a #publicly accessible open area# or arcade shall be modified by the provisions of this Section. The placement of tables, chairs, shade umbrellas or heating lamps in accordance with the provisions of this Section, inclusive, shall not constitute a design change pursuant to the provisions of Sections 37-625 (Design changes) or 91-837 (Additional design changes).

Publicly accessible tables and chairs, as well as shade umbrellas and heating lamps, shall be permitted obstructions within a #publicly accessible open area# or arcade, provided that such obstructions comply with the provisions of Section 91-822 (Requirements for furnishings), as applicable. Tables, chairs, shade umbrellas and heating lamps provided pursuant to this Section may be used by the public without restriction. Outdoor cafes may be placed within an arcade by certification pursuant to Section 91-821 (Certification for outdoor cafes within arcades).

## **91-821**

### **Certification for outdoor cafes within arcades**

An outdoor cafe may be permitted within an arcade upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that, in addition to the provisions of this Section, the provisions of Section 91-822 (Requirements for furnishings) are met. An outdoor cafe that is permitted by this Section shall be a permanently unenclosed restaurant or eating or drinking place, which may have waiter or table service.

No portion of an outdoor cafe that is permitted by this Section may extend into a #publicly accessible open area# except where an open air cafe has been permitted by a certification pursuant to Section 37-73 (Kiosks and Open Air Cafes).

In order to certify that the proposed modification to an existing arcade is consistent with the provisions of this Section, the applicant shall submit to the Chairperson a site plan and other detailed plans demonstrating that the proposed obstructions within the existing arcade and, where applicable, pursuant to paragraph (a)(2) of Section 91-822, the adjacent #publicly accessible open area#, will comply with the provisions of this Section. The placement of publicly accessible tables

and chairs within a #publicly accessible open area# pursuant to paragraph (a)(2) of Section 91-822 shall not constitute a design change pursuant to the provisions of Section 37-625 (Design changes).

All plans for arcades or other #publicly accessible open areas# that are the subject of a certification pursuant to this Section shall be filed and duly recorded in the Office of the City Register of the City of New York, indexed against the property in the form of a legal instrument, in a form satisfactory to the Chairperson, providing notice of the certification of the arcade, pursuant to this Section. The filing and recording of such instrument shall be a precondition to certification. The filing and 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.

## **91-822**

### **Requirements for furnishings**

The following provisions shall apply to all furnishings, including tables, chairs, shade umbrellas and heating lamps, permitted by Section 91-82 (Amenities Within Public Access Areas) and Section 91-821 (Certification for outdoor cafes within arcades).

#### (a) Size, location and other requirements

##### (1) Requirements for all furnishings

All furnishings shall be moveable. Permanent fixtures may be installed in the ground of a #publicly accessible open area# or arcade for the purposes of supporting shade umbrellas or heating lamps provided that such fixtures are flush-to-grade.

No furnishings shall be permitted within five feet of any #building# entrance, nor shall they be permitted within any required circulation paths.

##### (2) Additional requirements for outdoor cafes located within arcades

Where an outdoor cafe is provided pursuant to Section 91-821, a minimum of four tables and 16 chairs shall be provided and made available to the public without restriction, which may be located within an arcade or within a #publicly accessible open area# and shall be outside of the permitted cafe boundary.

Outdoor cafes shall be located at the same elevation as the adjoining sidewalk area or #publicly accessible open area#, except that they may be located no more than six inches below or on a platform no more than six inches above such adjoining

sidewalk area or #publicly accessible open area#. The border of the outdoor cafe shall be permanently marked in accordance with the applicable standards for open air cafes set forth in paragraph (b) of Section 37-73.

Fences, planters, walls, fabric dividers or other barriers that separate outdoor cafe areas from other portions of the arcade, adjacent sidewalks or #publicly accessible open areas# shall be prohibited. No kitchen equipment shall be installed within an outdoor cafe.

Litter receptacles shall be provided in accordance with the standards for #public plazas# set forth in Section 37-744 (Litter receptacles).

(3) Circulation requirements for outdoor cafes located within arcades

For arcades with a depth of ten feet or less, as measured from the column face furthest from the #street line# or #publicly accessible open area# to the #building# wall fronting on such #street line# or #publicly accessible open area# , an unobstructed path not less than three feet wide shall be provided. For arcades with a depth greater than ten feet, as measured from the column face furthest from the #street line# or #publicly accessible open area# to the #building# wall fronting on such #street line# or #publicly accessible open area#, such unobstructed pedestrian way shall be increased to at least six feet. For #through block arcades#, an unobstructed pedestrian way, except for approved doorways, of at least eight feet shall be provided connecting each #street# on which the #through block arcade# fronts.

(b) Operation

(1) Requirements for all tables and chairs

Except as otherwise provided in paragraph (b)(2) of this Section, tables, chairs, shade umbrellas and heating lamps may be stored or secured within an arcade between the hours of 9:00 p.m. and 7:00 a.m., but may not be stored or secured within a #publicly accessible open area#.

(2) Additional requirements for outdoor cafes located within arcades

Publicly accessible tables and chairs that are required by paragraph (a)(2) of this Section may not be removed or secured while the cafe is in active use.

All furnishings within the boundary of an outdoor cafe, including tables, chairs, shade umbrellas, bussing stations and heating lamps, shall be completely removed from the arcade when the outdoor cafe is not in active use, except that tables and chairs may remain in such arcade if they are unsecured and may be used by the public without restriction.

## **91-83**

### **Retail Uses Within Existing Arcades**

A horizontal #enlargement# of the ground floor and second floor levels within an arcade located within Area A on Map 9 in Appendix A of this Chapter may be permitted upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that such #enlargement# complies with the provisions of this Section, and the following conditions are met:

- (a) the horizontal #enlargement# meets the requirements of Section 91-831 (Ground floor requirements);
- (b) a compensating amenity is provided pursuant to the provisions of Section 91-832 for plaza improvements, Section 91-834 for indoor public spaces, or Section 91-835 for alternative improvements; and
- (c) the additional requirements of Section 91-836, as applicable.

For #zoning lots# with one or more #publicly accessible open area#, unless an alternative improvement has been identified in Section 91-835, an improvement to all #publicly accessible open areas# pursuant to the provisions of Section 91-832 shall be required as the compensating amenity required by condition (b) of this Section, and a certification for design changes pursuant to Section 37-625 (Design changes) shall not be required. Where a #publicly accessible open area# was improved and is fully compliant with a prior certification pursuant to Section 37-625 that was granted before January 19, 2016, the further improvement of such #publicly accessible open area# shall not be required.

The provision of a compensating amenity as part of a prior certification pursuant to this Section or a prior authorization pursuant to Section 91-841 (Authorization for retail uses within existing arcades) may satisfy the requirements of condition (b) of this Section for a compensating amenity.

As part of the certification, a horizontal #enlargement# of the ground floor level may be permitted

within the area between a #street wall# and an arcade that did not generate a #floor area# bonus prior to [effective date of amendment]. The provisions of Section 91-831 (Ground floor requirements) shall not apply to such portion of the horizontal #enlargement#.

As part of the certification, a horizontal #enlargement# of the ground floor level may be permitted along existing #building# walls that do not face an arcade. The locational requirements of paragraph (a)(1) of Section 91-831 and the frontage prohibitions of paragraph (b)(1)(ii) of Section 91-831 shall apply to such #enlargement#. Where an #enlargement# is located adjacent to a #publicly accessible open area#, the #use# and transparency requirements of Section 91-831 for new #building# walls facing a #publicly accessible open area# shall apply.

## **91-831**

### **Ground floor requirements**

The provisions of this Section shall apply to the #street wall# of the ground floor and second floor level #enlargement#. For the purposes of this Section, a #building# wall that faces a #publicly accessible open area# or #through block arcade# shall also be considered a #street wall#, and the provisions of this Section for new #building# walls fronting on a #publicly accessible open area# shall also apply to new #building# walls fronting on a #through block arcade#, except as otherwise specified. The City Planning Commission may authorize a modification of the provisions of this Section pursuant to Section 91-842 (Authorization to modify design requirements).

#### (a) Location of #enlargement#

##### (1) Location of new #building# walls

All new #building# walls shall extend to the full height of the arcade. New #building# walls may only be located between the column face closest to an existing #street wall# and the column face furthest from an existing #street wall# or the #street wall# location of the floor above, except that new #building# walls within an existing #through block arcade# that do not face a #street# may extend past the column face furthest from the existing #street wall# provided that the standards for #through block arcades# set forth in Section 12-10 (DEFINITIONS) and all other provisions of this Section are met. New #building# walls within an existing #through block arcade# that do not face a #street# shall not be required to extend for the full height of the #through block arcade#.

##### (2) Length of new #building# walls

An #enlargement# shall extend for the full length of the #street wall#, except for the locations specified on Map 9 in Appendix A of this Chapter and except if a corner arcade that adjoins the Water Street #street line# and another #street line# or #publicly accessible open area# is provided in accordance with the provisions of paragraph (c) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces) which may provide a clear path ten feet wide. However, an #enlargement# shall not be required along the length of the #street wall# occupied by an existing parking or loading entrance. Where an #enlargement# within an arcade extends along two or more #street walls#, the #enlargement# shall also include the area where the arcade areas intersect, except as otherwise provided in this Section, and the location of new #building# walls in such area shall be subject to the provisions of paragraph (a)(1) of this Section.

(b) Permitted #uses# within an #enlargement#

(1) Requirements for all frontages

(i) Retail #uses#

The #street# frontage or frontage along a #publicly accessible open area# of the #enlarged# portion of the ground floor level shall be allocated exclusively to the #uses# permitted by Section 91-12 (Uses on Designated Retail Streets), except that Use Group 5A shall not be permitted, or to indoor public spaces that are provided in accordance with the provisions of Section 91-834. #Residential uses# shall be limited to lobbies permitted by paragraph (c)(2) of this Section.

All #uses# permitted by this paragraph shall occupy a height no less than that of the ground floor level, and shall occupy a depth no less than that of the #enlargement#.

(ii) Parking, loading and mechanical equipment

No garage entrances, driveways, parking spaces or loading berths shall be permitted within an #enlargement#. No exhaust vents or mechanical equipment shall be permitted on any new #building# wall unless such exhaust vents are more than 15 feet above the level of the curb.

(2) Additional #use# requirement for a #publicly accessible open area# or #through block arcade#

At least 50 percent of the total frontage of all new #building# walls fronting on a #publicly accessible open area# or #through block arcade#, excluding such frontage occupied by #building# lobbies, shall be occupied by retail or service establishments permitted by paragraph (b)(1) of this Section. As an alternative, the amount of frontage required by this paragraph for occupancy by retail or service establishments may be partially or fully located along existing #building# walls fronting on the #publicly accessible open area# or #through block arcade# and the transparency requirements of paragraph (c)(3) of this Section shall apply to such frontage.

Libraries, museums and art galleries are permitted #uses# that may front on a #publicly accessible open area#. Banks shall not be a permitted #use# on any #publicly accessible open area# or #through block arcade#. #Uses# required by this paragraph shall be directly accessible from the #publicly accessible open area# or #through block arcade#.

(c) Frontage

(1) Number of establishments

Along the longest #street wall# of the ground floor level #enlargement#, at least two establishments permitted by paragraph (b) of this Section shall be provided on the ground floor level. Frontage that is solely dedicated to access a #use# on a level other than the ground floor level shall not constitute an establishment for the purposes of this paragraph.

(2) Access, entrances and lobbies

The #street wall# frontage of an #enlarged# portion of the ground floor level may be occupied by the #primary entrance# for the principal #use# of the #building#, provided that such #primary entrance# shall not exceed a #street wall# width of 50 feet along Water Street, or, along other #streets#, a #street wall# width of 40 feet, or 25 percent of the #aggregate width of street wall# along such #street# frontage, whichever is less.

For a #primary entrance# that fronts on a #publicly accessible open area#, such entrance shall occupy a minimum frontage length of 20 feet or a length equal to the distance between the two closest columns adjacent to the #publicly accessible open area#, whichever is less. A #primary entrance# for the principal #use# of the #building# may be located along a #through block arcade# or indoor public space provided in accordance with Section 91-834 (Indoor public spaces), but may only occupy a maximum frontage length of 25 feet.

Where more than 50 percent of the length of the #enlargement# is occupied by a #primary entrance# permitted by this paragraph, retail or service establishments with an aggregate frontage length equal to at least 50 percent of the length of the #enlargement# shall be required along new or existing #building# walls along the same #street# frontage as the #enlargement#, and the transparency requirements of paragraph (c)(3) of this Section shall apply to such frontage along existing #building# walls.

(3) Transparency and flood resilience

The ground floor level #street wall# between existing columns shall be glazed with transparent materials, which may include #show windows#, transom windows or glazed portions of doors, except for certain #uses# set forth in Section 37-31 (Applicability). Such transparent materials shall occupy at least 70 percent of the surface area of such ground floor level #street wall# between a height above grade of two feet and 14 feet or the height of the ground floor ceiling, whichever is lower.

Permanent fixtures for temporary flood control devices and associated emergency egress systems that are assembled prior to a storm and removed thereafter and are affixed to a column may obstruct any transparent portion of a new #building# wall. Such permanent fixtures may be considered a transparent portion of a new #building# wall. Additionally, such permanent fixtures shall be encased in a decorative material. Temporary flood control devices and associated emergency egress systems shall be permitted in front of any new #building# wall for a reasonable period of time prior to and after a storm event, as determined by the Department of Buildings.

## Plaza improvements

A #publicly accessible open area# shall be improved in full accordance with the provisions of Section 37-70 (PUBLIC PLAZAS) as modified by this Section, and as further modified by Section 91-833 (Special regulations for plazas less than 40 feet in depth) for #publicly accessible open areas# with a maximum depth of less than 40 feet, as measured perpendicular to any #street line#. Subsequent design changes to any #publicly accessible open area# improved pursuant to the provisions of such Sections may only be permitted pursuant to Section 91-837 (Additional design changes). The City Planning Commission may authorize a modification of the provisions of this Section and Section 91-833 pursuant to Section 91-842 (Authorization to modify design requirements).

- (a) For the purposes of applying the provisions of this Section, any portion of the #publicly accessible open area# occupied by a garage entrance, driveway, loading berth or gratings for electrical vaults may be excluded from the calculation of the total area or total #street# frontage of the #publicly accessible open area#. Such area shall remain open and accessible to the public at all times.
- (b) The area dimension requirements of Section 37-712, the locational restrictions of Section 37-713, the orientation restrictions of Section 37-714 and the requirements for major and minor portions of #public plazas# set forth in Sections 37-715 and 37-716, respectively, shall not apply.
- (c) The #through block public plaza# provisions of Section 37-717 that require a setback along any #building# wall or walls that adjoin a #through block public plaza# or through #block# portion of a #publicly accessible open area# shall not apply.
- (d) The sidewalk frontage provisions of Section 37-721 shall be modified as follows:
  - (1) The requirements of paragraph (a) may be reduced to the minimum extent necessary to allow existing walls or structures within such area to remain, provided that such walls or structures do not increase in height or length along the #street# frontage, and all portions of the #publicly accessible open area# are accessible from a #street#, arcade or other portion of the #publicly accessible open area#.
  - (2) Paragraph (b) shall be modified to allow planters with bounding walls that exceed a height of two feet that are permitted by paragraph (g) of this Section to be located in such area.

- (3) For #corner public plazas#, where there is a change in elevation permitted by paragraph (e) of this Section 91-832 for the area within 15 feet of the intersection of any two or more #streets# on which the #publicly accessible open area# fronts, such area shall not be required to be at the same elevation as the adjoining public sidewalk, but must be free of obstructions except as may otherwise be provided in paragraph (d)(1) of this Section.
- (e) The provisions of Section 37-722 (Level of plaza) shall be modified to permit any elevation of the #publicly accessible open area# existing on [effective date of amendment] to remain.
- (f) The provisions of Section 37-726 (Permitted obstructions) shall be modified as follows:
- (1) Paragraph (c) shall allow awnings above retail and service establishments that do not project into the #publicly accessible open area# more than three feet when measured perpendicular to the #building# facade. There shall be no limitation on the area or height of an awning, but in no event shall an awning for a retail or service establishment contain vertical supports.
- (2) Paragraph (d) shall allow garage entrances, driveways or loading berths fronting on a #publicly accessible open area# and existing on [effective date of amendment] to remain, provided that they are separated from the remainder of the #publicly accessible open area# by a barrier sufficient to substantially conceal these facilities and any vehicles therein when viewed from any point in the #publicly accessible open area#. A #building# trash storage facility may be accessed or serviced through the portion of a #publicly accessible open area# that is occupied by a garage entrance, driveway or loading berth.
- (g) The provisions of Section 37-742 (Planting and trees) may be modified where the Chairperson of the City Planning Commission has been furnished with materials sufficient to establish that subsurface conditions do not allow the required soil depth for shrubs or trees to be provided below grade or within a planter with bounding walls no higher than 18 inches in height above an adjacent walking surface or the highest adjacent surface where the bounding wall of such planter adjoins two or more walking surfaces with different elevations. A raised planter may be provided with bounding walls up to three feet for shrubs, or three feet six inches for trees, provided that fixed seating with backs is integrated into the planter for at least 50 percent of the perimeter of the planter that is adjacent to a walking surface. If such planter, or any portion thereof, is located within ten feet of a #street line#, fixed seating with backs shall be integrated into at least 75 percent of the perimeter of the planter that is adjacent to a walking surface. Where it is demonstrated that no

required trees can be planted flush-to-grade or planted at grade within planting beds with no raised curbs or railings, the Chairperson may allow all trees to be planted within raised planters.

- (h) The calculation of the minimum number of entry plaques required by paragraph (a) of Section 37-751 (Public space signage systems) may be modified for #publicly accessible open areas# that occupy more than one #street# frontage to alternatively require a minimum of one entry plaque at each #street# frontage of the #publicly accessible open area#, and to further require one additional entry plaque at each #street# frontage that measures 80 feet or more in length.
- (i) The provisions of paragraphs (a) and (d) of Section 37-753 (Accessory signs) shall not apply. Each establishment fronting on the #publicly accessible open area# shall be permitted to have one or more #signs# with an aggregate area not to exceed the product of 12 square feet and the length of the establishment along the #publicly accessible open area# in linear feet, divided by 40 linear feet. In no event shall a #sign# exceed 16 square feet in area. #Signs# may be affixed to the #building# wall or to awnings, or may project no more than 18 inches when measured perpendicular to the #building# façade, provided that such #sign# is located a minimum of ten feet above the level of the #publicly accessible open area#.
- (j) The provisions of paragraphs (a) and (b) of Section 37-76 (Mandatory Allocation of Frontages for Permitted Uses) shall not apply. The provisions of Section 91-831 (Ground floor requirements) shall apply to all new #building# walls fronting on the #publicly accessible open area#, and the following shall also apply:
  - (1) The #use# requirements of paragraph (b)(1) of Section 91-831 shall apply to all new establishments located along existing #building# walls fronting on a #publicly accessible open area#; and
  - (2) The provisions of paragraph (c) of Section 37-76 for existing #building# walls that are non-transparent shall apply except for frontage occupied by active loading and parking entrances.
- (k) The provisions of paragraphs (a) and (b) of Section 37-78 (Compliance) shall not apply.

### **91-833**

#### **Special regulations for plazas less than 40 feet in depth**

A #publicly accessible open area# with a maximum depth less than 40 feet measured perpendicular to any #street line# shall be improved in full accordance with the provisions of Section 37-70 (PUBLIC PLAZAS) as modified by Section 91-832 (Plaza improvements) and as further modified by this Section. Where a #publicly accessible open area# may be considered a #corner public plaza#, the maximum depth shall be measured from a #street line# to a #street wall#. The City Planning Commission may authorize a modification of the provisions of this Section pursuant to Section 91-842 (Authorization to modify design requirements).

(a) The provisions of Section 37-721 (Sidewalk frontage) shall not apply. In lieu thereof, the provisions of this paragraph (a) shall apply to the area of the #publicly accessible open area# located within ten feet of a #street line# or sidewalk widening line:

(1) At least 40 percent of such area shall be free of obstructions, and, in addition:

(i) to facilitate pedestrian access at least 40 percent of the frontage along each #street line# or sidewalk widening line of the #publicly accessible open area# shall be free of obstructions; and

(ii) such unobstructed access area shall extend to a depth of ten feet measured perpendicular to the #street line#. The width of such access area need not be contiguous provided that no portion of such area shall have a width of less than five feet measured parallel to the #street line#, and at least one portion of such area shall have a width of at least eight feet measured parallel to the #street line#.

The requirement of this paragraph for unobstructed access may be reduced to the minimum extent necessary to allow existing walls or structures within such area to remain provided that such walls or structures do not increase in height or length along the #street# frontage, and all portions of the #publicly accessible open area# are accessible from a #street#, arcade or other portion of the #publicly accessible open area#.

(2) In the remaining 60 percent or more of such area, the provisions of paragraph (b) of Section 37-721 shall apply, except that no more than 40 continuous linear feet of any #street# frontage occupied by a #publicly accessible open area# may be obstructed. Furthermore, planters with bounding walls that exceed a height of two feet that are permitted by paragraph (g) of Section 91-832 may be located in such area.

- (3) For #corner public plazas#, the requirements of this paragraph (a) shall apply separately to each #street# frontage, and the area within ten feet of the intersection of any #street# and Water Street or Wall Street shall be at the same elevation as the adjoining public sidewalk, except where there is a change in elevation permitted by paragraph (e) of Section 91-832, and such area shall be free of obstructions except as may otherwise be provided in paragraph (a)(1) of this Section.
- (b) The provisions of Section 37-723 (Circulation paths) shall be modified so that the required circulation path of at least eight feet clear width shall be located adjacent to the #street wall# and shall extend for at least 80 percent of the length of such #street wall#. Where there are multiple #street walls#, the provisions of this paragraph shall apply separately to each frontage. In addition to the obstructions that are permitted within circulation paths, moveable tables and chairs, fixed seating and planting beds not exceeding six inches above any adjacent walking surface shall also be considered permitted obstructions provided that an unobstructed path of at least five feet wide is provided.
- Where an open air cafe pursuant to Section 37-73 (Kiosks and Open Air Cafes) is provided adjacent to a #building# wall, such open air cafe may occupy a portion of the required circulation path provided that there is an unobstructed clear path of at least six feet wide between the #building# wall and any furnishings of the open air cafe. The unobstructed path shall be included in the calculation of the area occupied by the open air cafe.
- (c) The provisions of Section 37-741 (Seating) that require seating within 15 feet of the #street line# shall not apply to #street# frontages that measure less than 40 feet in length.
- (d) The provisions of Section 37-742 (Planting and trees) shall be further modified as follows:
- (1) For #publicly accessible open areas# with an area less than 2,000 square feet, the number of required trees shall be reduced to two, and only one tree shall be required to be planted flush-to-grade or planted at grade within planting beds with no raised curbs or railings, except as may be modified by paragraph (g) of Section 91-832.
- (2) The total area of required planting beds may not be concentrated within one continuous planter or planting bed, except when a #publicly accessible open area# has an area of 1,000 square feet or less.
- (e) The provisions of Section 37-746 (Drinking fountains) shall be modified to require only #publicly accessible open areas# containing an area of 2,000 square feet or more to provide

a minimum of one drinking fountain.

## **91-834**

### **Indoor public spaces**

Indoor public spaces are enclosed, climate-controlled areas on a #zoning lot# intended for public use and enjoyment. The standards contained within this Section are intended to serve the same purposes outlined for #public plazas# in Section 37-70. The City Planning Commission may authorize a modification of the provisions of this Section pursuant to Section 91-842 (Authorization to modify design requirements).

- (a) Indoor public spaces shall contain an area of not less than 2,000 square feet and have a minimum width and depth, at any point, of 20 feet. Indoor public spaces shall be located on the ground floor level, shall be directly accessible from all #streets# or #publicly accessible open areas# that the space fronts, and shall extend, at a minimum, for the full height of the ground floor level.
- (b) Indoor public spaces shall be fully enclosed, and the transparency requirements of paragraph (c) of Section 91-831 (Ground floor requirements) shall apply to all #street walls# or #building# walls facing a #publicly accessible open area#. The 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 indoor public space shall be provided, at a minimum, between the hours of 6:00 a.m. to 12:00 a.m. 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 paragraph (i) of this Section.
- (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.
- (e) The provisions of Section 37-723 (Circulation paths) for #through block public plazas# shall apply to #through block arcades# except as otherwise provided in Section 91-821 (Certification for outdoor cafes within arcades) when a cafe is provided. Trees planted flush-to-grade that measure less than four caliper inches at the time of planting, as permitted by paragraph (h) of this Section, shall not be considered permitted obstructions

within circulation paths.

- (f) The provisions of paragraphs (a) and (b) of Section 37-726 (Permitted obstructions) shall apply. A kiosk shall be a permitted obstruction provided that the requirements of paragraph (a) of Section 37-73 (Kiosks and Open Air Cafes) are met. A certification pursuant to Section 37-73 shall not be required to locate a kiosk within an indoor public space. A cafe permitted by certification pursuant to Section 91-821 shall be considered a permitted obstruction within an indoor public space and may not occupy more than 20 percent of the indoor public space area.
- (g) The provisions of Section 37-741 for seating shall apply, except as modified as follows:
  - (1) The requirements for seating within 15 feet of a #street line# shall not apply.
  - (2) All of the linear seating capacity may be in moveable seats. Any moveable seats that are provided must remain in the indoor public space during the hours of operation.
  - (3) The requirement that seats that face walls must be 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, 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) Public space signage shall be provided in accordance with the provisions of Section 37-751, except as modified as follows:
  - (1) An information plaque shall be provided at each point of pedestrian entry to the indoor public space. Information plaques for #through block arcades# shall also include lettering stating "PUBLIC ACCESS TO \_\_\_\_\_ STREET" indicating the opposite #street# to which the through #block# connection passes and which lettering shall not be less than three inches in height and located not more than three inches away from the public space symbol. Furthermore, a minimum of one additional information plaque shall be provided within the indoor public space.
  - (2) Paragraph (c) shall not apply.
- (j) All indoor public 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.

(k) The #use# requirements of paragraph (b) and the lobby requirements of paragraph (c)(2) of Section 91-831 shall apply to all #building# walls fronting on an indoor public space that do not face a #street# or #publicly accessible open area#. The provisions of paragraph (c) of Section 37-76 for new or existing #building# walls that are non-transparent shall apply.

(l) The provisions of paragraphs (a) and (b) of Section 37-78 (Compliance) shall not apply.

Subsequent design changes to any indoor public space that was subject to the provisions of this Section may only be permitted pursuant to Section 91-837 (Additional design changes).

### **91-835**

#### **Alternative improvements**

A permanent amenity other than the improvement of an existing #publicly accessible open area# pursuant to the provisions of Section 91-832 or the provision of an indoor public space pursuant to the provisions of Section 91-834 may be provided for the properties listed in this Section. The City Planning Commission may authorize an improvement not listed in this Section pursuant to Section 91-843 (Authorization to modify requirements for alternative improvements).

<b><u>Building Address</u></b>	<b><u>Required Alternative Improvement</u></b>
<u>175 Water Street</u>	<u>Area C on Map 9 in Appendix A of this Chapter, the open area along John Street and the open area along Front Street with a minimum depth of 15 feet measured perpendicular to the Front Street #street line# shall be improved in accordance with the provisions of Sections 91-832 and 91-833. Such open area and remaining arcade area shall be considered one contiguous public space and shall be accessible to the public at all times.</u>
<u>100 Wall Street</u>	<u>Maintenance of Manahatta Park between Water Street and Front Street for the life of</u>

---

110 Wall Street

the #building#.

Maintenance of Manahatta Park between  
Front Street and South Street for the life of  
the #building#.

## **91-836**

### **Additional requirements**

(a) Legal requirements

All plans for arcades, #publicly accessible open areas#, required open areas, and indoor public spaces that are the subject of a certification pursuant to Section 91-83 (Retail Uses Within Existing Arcades) shall be filed and duly recorded in the New York County Office of the City Register of the City of New York, indexed against the property in the form of a legal instrument, in a form satisfactory to the Chairperson of the City Planning Commission, providing notice of the certification pursuant to Section 91-83. The filing and recording of such instrument shall be a precondition to certification. 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. Where compensating amenity required by condition (b) of Section 91-83 is located on the same #zoning lot# as an #enlargement#, no temporary or final certificate of occupancy shall be issued for such #enlargement# until the compensating amenity has been substantially completed in accordance with the approved plans, as certified by the Department of City Planning to the Department of Buildings.

Where a compensating amenity is located within a #street# or #public park# pursuant to Section 91-835 (Alternative improvements), the commitment to provide or maintain such compensating amenity shall be duly recorded in the form of a signed declaration of restrictions, including a maintenance agreement with the Department of Parks and Recreation or other relevant agency, indexed against the #zoning lot#, binding the owners, successors and assigns. Such declaration or maintenance agreement may require security in the form of a bond or letter of credit to ensure that the compensating amenity is maintained in accordance with the declaration or maintenance agreement. The form and content of the legal instrument shall be satisfactory to the Chairperson, and the filing of such instrument in the New York County Office of the City Register shall be a precondition to certification. 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.

Modifications to the declaration required by this paragraph may only be allowed upon approval by the Chairperson.

(b) Existing approvals by the Board of Standards and Appeals

Where a #zoning lot# is subject to a variance or special permit that was granted by the Board of Standards and Appeals, the application pursuant to Section 91-83 shall be referred for thirty (30) days to the Board of Standards and Appeals who shall certify to the Department of City Planning whether such application would not result in a departure from the findings and conditions specified in the original approval.

(c) Community Board review

No earlier than the date on which the application for certification pursuant to Section 91-83 is filed, a copy of the application shall be submitted by the applicant to the affected Community Board, which shall have 45 days to review said application. The Chairperson shall not issue a certification for an application during the Community Board review period, unless the Community Board has submitted to the Chairperson comments regarding such proposal or informed the Chairperson that the Community Board has no comments.

**91-837**

**Additional design changes**

Design changes to any #publicly accessible open area#, required open area or indoor public space improved pursuant to the provisions of Sections 91-832 (Plaza improvements) or 91-834 (Indoor public spaces) may only be made upon certification by the Chairperson of the City Planning Commission that such changes would result in a #publicly accessible open area# or indoor public space that is compliant with the Section under which it was previously approved. As part of the certification, a horizontal #enlargement# on the ground floor level may be permitted along existing #building# walls that face the #publicly accessible open area# and do not face an arcade. The locational requirements of paragraph (a)(1) of Section 91-831 (Ground floor requirements) and the #use# and transparency requirements of Section 91-831 for new #building# walls facing a #publicly accessible open area# shall apply. The legal requirements of paragraph (a) of Section 91-836 shall apply.

**91-84**

**Authorizations**

## **91-841**

### **Authorization for retail uses within existing arcades**

The City Planning Commission may authorize a horizontal #enlargement# of the ground floor and second floor levels within an arcade located within Area B on Map 9 in Appendix A of this Chapter. In order to grant an authorization, the Commission shall find that:

- (a) the requirements of Section 91-831 (Ground floor requirements) are met;
- (b) a compensating amenity is provided pursuant to the provisions of Section 91-832 for plazas, Section 91-834 for indoor public spaces or Section 91-835 for alternative improvements;
- (c) sufficient unobstructed space exists adjacent to the proposed #enlargement# to facilitate pedestrian circulation; and
- (d) the #enlargement# will maintain a visual or physical connection to Water Street from another #street#, #public park# or #publicly accessible open area#.

As part of the authorization, the Commission may modify the requirements for the location of new #building# walls of paragraph (a) of Section 91-831 (Ground floor requirements).

For #zoning lots# with one or more #publicly accessible open area#, unless an alternative improvement has been identified in Section 91-835, an improvement to all #publicly accessible open areas# pursuant to the provisions of Section 91-832 shall be required as the compensating amenity required by finding (b) of this Section, and a certification for design changes pursuant to Section 37-625 (Design changes) shall not be required. Where a #publicly accessible open area# was improved and is fully compliant with a prior certification pursuant to Section 37-625 that was granted before January 19, 2016, the further improvement of such #publicly accessible open area# shall not be required.

The provision of a compensating amenity as part of a prior certification pursuant to Section 91-83 (Retail Uses Within Existing Arcades) or a prior authorization pursuant to this Section may satisfy the requirement of finding (b) of this Section for a compensating amenity.

As part of the authorization, a horizontal #enlargement# of the ground floor level may be permitted within the area between a #street wall# and an arcade that did not generate a #floor area# bonus prior to [effective date of amendment]. The provisions of Section 91-831 (Ground floor

requirements) shall not apply to such portion of the horizontal #enlargement#.

As part of the authorization, a horizontal #enlargement# of the ground floor level may be permitted along existing #building# walls that do not face an arcade. The locational requirements of paragraph (a)(1) of Section 91-831 and the frontage prohibitions of paragraph (b)(1)(ii) of Section 91-831 shall apply to such #enlargement#. Where the #enlargement# is located adjacent to a #publicly accessible open area#, the #use# and transparency requirements of Section 91-831 for new #building# walls facing a #publicly accessible open area# shall apply.

All plans for arcades, #publicly accessible open areas#, required open areas and indoor public spaces, 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, in a form satisfactory to the Commission, providing notice of the authorization pursuant to this Section. The filing and recording of such instrument shall be a precondition to the issuance of a building permit. 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. Where a compensating amenity required by condition (b) of Section 91-83 is located on the same #zoning lot# as an #enlargement#, no temporary or final certificate of occupancy shall be issued for any #enlargement# unless and until the compensating amenity has been substantially completed in accordance with the approved plans, as verified by the Department of City Planning to the Department of Buildings.

Where a compensating amenity is located within a #street# or #public park# pursuant to Section 91-835 (Alternative improvements), the applicable legal requirements of Section 91-836 (Additional requirements) shall apply.

Where a #zoning lot# is subject to a variance or special permit that was granted by the Board of Standards and Appeals, the requirements of paragraph (b) Section 91-836 shall apply.

The Commission may prescribe appropriate conditions and safeguards in connection with the grant of such authorization.

## **91-842**

### **Authorization to modify design requirements**

The City Planning Commission may authorize a modification of the requirements of Section 91-831 (Ground floor requirements), the provisions of Sections 91-832 (Plaza improvements) and 91-833 (Special regulations for plazas less than 40 feet in depth) for #publicly accessible open areas# and the provisions of Section 91-834 for indoor public spaces. In no event shall an #enlargement#

be permitted within a #publicly accessible open area# or other required open area unless specified on Map 9 of Appendix A of this Chapter.

In order to grant such authorization, the Commission shall find:

- (a) the location, #use#, access, size, and treatment of the #enlargement# would result in a superior urban design relationship with the surrounding #streets#, #buildings# and open areas; and
- (b) the usefulness and attractiveness of the #publicly accessible open area#, required open area or indoor public space will be assured by the proposed layout and design, and that such modification will result in a superior urban design relationship with surrounding #streets#, #buildings# and open areas.

The Commission may prescribe appropriate conditions and controls to enhance the relationship between the #enlargement#, #publicly accessible open area#, required open area or indoor public space and the surrounding #streets#, #buildings# and open areas.

### **91-843**

#### **Authorization to modify requirements for alternative improvements**

The City Planning Commission may authorize an alternative improvement not listed in Section 91-835 provided that the Commission finds that the new amenity will better serve the purpose of the Water Street Subdistrict described in Section 91-00 (GENERAL PURPOSES).

As a condition of the authorization, for a compensating amenity that is located within a #street# or #public park#, the commitment to provide or maintain such compensating amenity shall be duly recorded in the form of a signed declaration of restrictions, including a maintenance agreement with the Department of Parks and Recreation or other relevant agency, indexed against the #zoning lot#, binding the owners, successors and assigns. Such declaration or maintenance agreement may require security in the form of a bond or letter of credit to ensure that the compensating amenity is maintained in accordance with the declaration or maintenance agreement. The form and content of the legal instrument shall be satisfactory to the Commission, and the filing of such instrument in the New York County Office of the City Register shall be a precondition to the issuance of a building permit. 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.

The Commission may prescribe appropriate conditions and safeguards in connection with the grant

of such authorization.

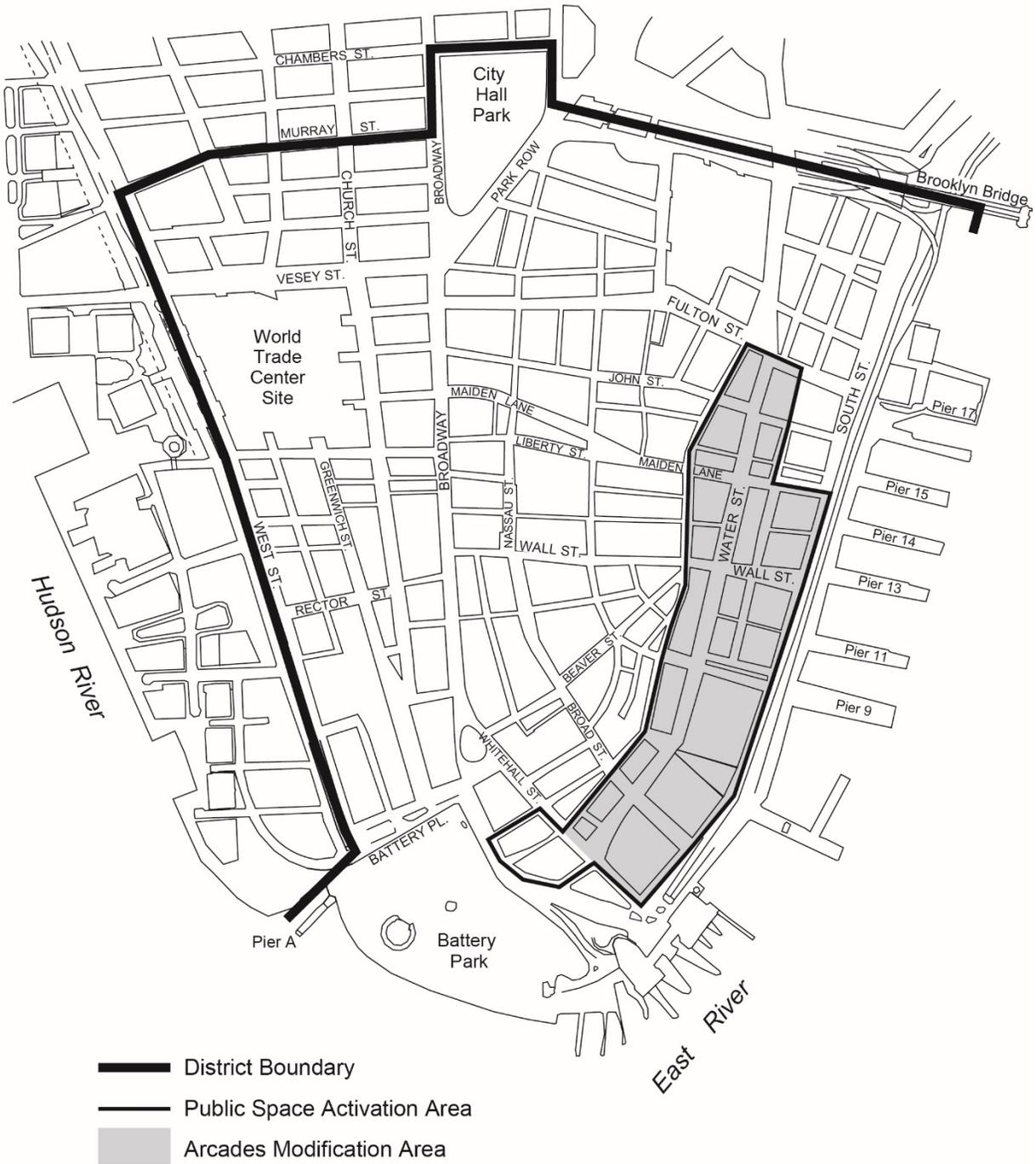
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**Appendix A**  
**Lower Manhattan District Plan Maps**

\* \* \*

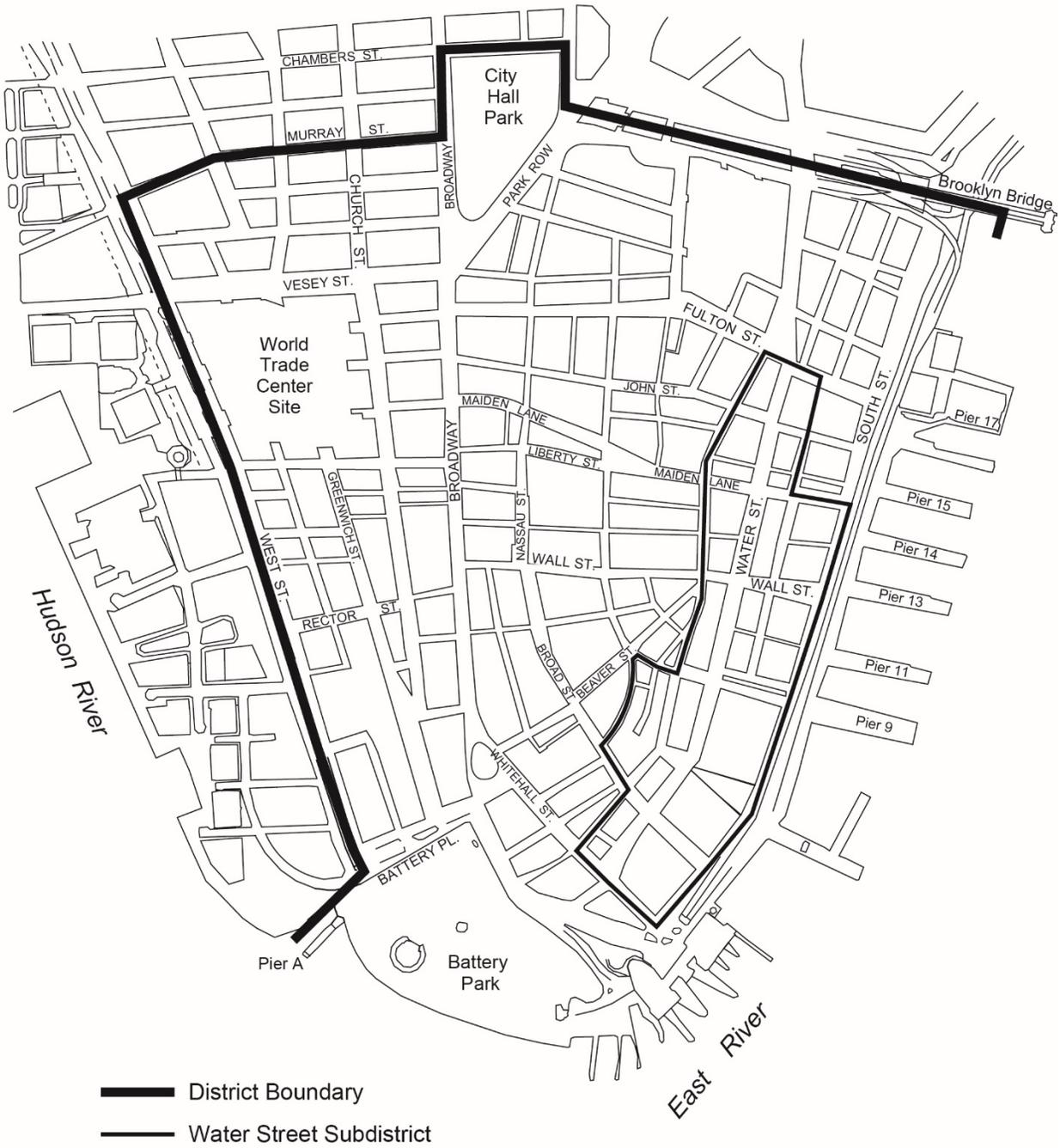
# Map 8. Public Access Modification Areas

[MAP TO BE DELETED]



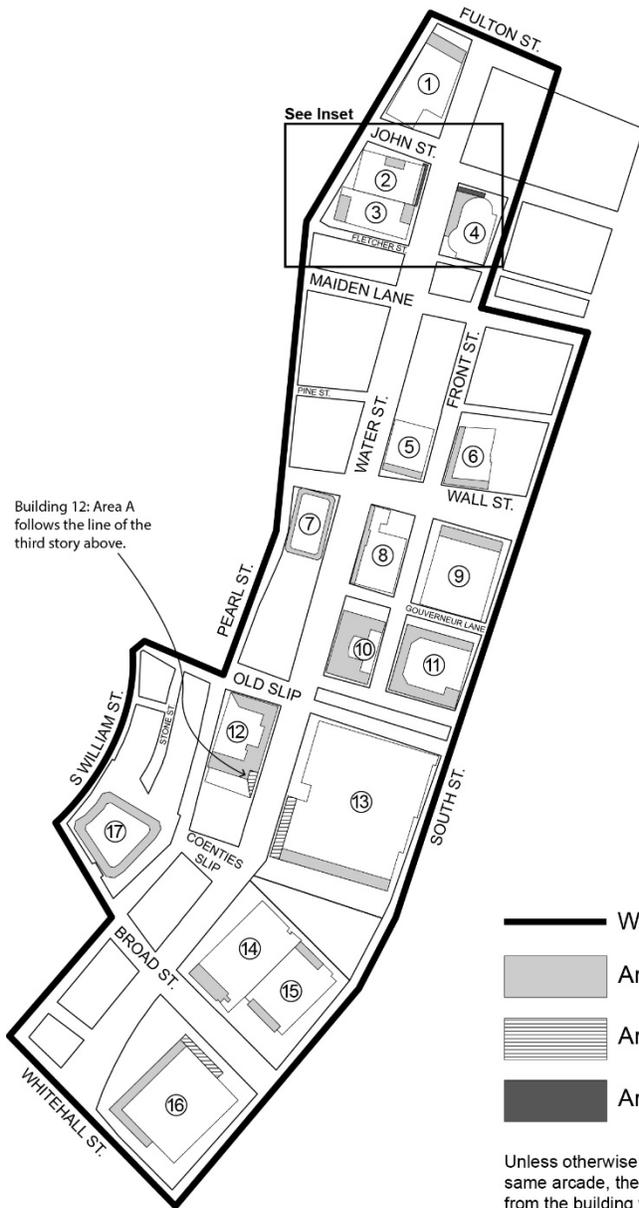
# Map 8. Public Access Modification Areas

[MAP TO BE ADDED]

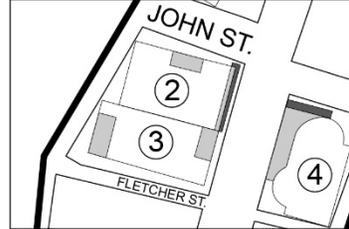


# Map 9. Water Street Subdistrict

[MAP TO BE ADDED]



Inset



Building 2: Area C follows the portion of the arcade that is open to the sky.  
 Building 4: Area A extends to the column faces closest to John Street.

Building	Address
1	200 Water Street
2	180 Water Street
3	160 Water Street
4	175 Water Street
5	100 Wall Street
6	110 Wall Street
7	75 Wall Street
8	95 Wall Street
9	111 Wall Street
10	77 Water Street
11	32 Old Slip
12	7 Hanover Square
13	55 Water Street
14	4 New York Plaza
15	2 New York Plaza
16	1 New York Plaza
17	85 Broad Street

- Water Street Subdistrict (Map 8)
- Area A (Section 91-83)
- Area B (Section 91-841)
- Area C

Unless otherwise noted, where two Areas are located within the same arcade, the line separating them shall be one extending from the building wall to which it is drawn.

*End Text*

**91-80**

**PUBLIC ACCESS AREAS**

**91-81**

**Certification to Modify Existing Arcades in Certain Areas**

For the purposes of this Section, “arcade” shall refer to an ~~#arcade#~~ or ~~#through block arcade#~~ provided in accordance with the provisions of Sections 12-10 (DEFINITIONS) and 37-80 (ARCADES); or an arcade provided in accordance with paragraph (a) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces); or an open space provided on a ~~#zoning lot#~~ between the ~~#building street wall#~~ and the ~~#street line#~~ where tables and chairs would otherwise not be allowed as permitted obstructions.

The provisions of this Section shall apply to existing ~~#buildings#~~ providing an arcade within the boundary designated by Map 8 in Appendix A of this Chapter.

Any underlying provisions restricting the placement of tables and chairs within such arcades may be modified where the Chairperson of the City Planning Commission certifies to the Commissioner of Buildings that such modifications are consistent with the provisions of this Section, as follows:

(a) — Tables and chairs

— Publicly accessible tables and chairs and outdoor cafes, as well as shade umbrellas and other furnishings, shall be permitted obstructions within an arcade, provided that such obstructions comply with the provisions listed in paragraphs (a) and (b) of this Section, as applicable.

— Tables or chairs provided within an arcade shall be moveable and shall not contain any plastic material.

— Where an outdoor cafe is provided, it shall be a permanently unenclosed establishment and may have waiter or table service.

(1) — Number and size of tables and chairs

— A minimum of four tables and sixteen chairs shall be provided within an arcade.

(i) — Publicly accessible tables and chairs

~~Publicly accessible tables, and related chairs, shall constitute a minimum of 40 percent of the total number of tables provided within an arcade. Fractions equal to or greater than one half resulting from such calculation shall result in one additional table. Every publicly accessible table required by such calculation shall be required to have four chairs.~~

~~All tables shall have a minimum diameter of two feet. All publicly accessible chairs shall have seat backs, and the seats shall have a minimum depth of 12 inches and a maximum depth of 20 inches.~~

~~(ii) Outdoor cafe~~

~~Outdoor cafe tables, and related chairs, shall constitute a maximum of 60 percent of the total number of tables provided within an arcade. Fractions equal to or greater than one half resulting from such calculation shall result in one additional table.~~

~~(2) Location restrictions and other prohibitions~~

~~Tables or chairs shall not be permitted within five feet of any #building# entrance. For arcades with a depth of ten feet or less, as measured from the column face furthest from the #street line# to the #street wall#, a clear pedestrian circulation pathway not less than three feet shall be provided. For arcades with a depth greater than ten feet, such required clear pedestrian pathway shall be increased to at least six feet. In addition, for #through block arcades#, a continuous clear path of ten feet shall be provided, connecting each #street# on which the public access area fronts.~~

~~(i) Publicly accessible tables and chairs~~

~~For arcades located on a #zoning lot# with frontage along Water Street, at least half of all publicly accessible tables and chairs shall be located within 25 feet of the Water Street #street line#.~~

~~(ii) Outdoor cafe~~

~~Outdoor cafes shall be located at the same elevation as the adjoining sidewalk area or #publicly accessible open area#, except that platforms~~

~~that do not exceed a height of six inches may be provided.~~

~~Fences, planters, walls, fabric dividers or other barriers that separate outdoor cafe areas from other portions of the arcade or adjacent sidewalks or #publicly accessible open areas# shall be prohibited. No kitchen equipment shall be installed within an outdoor cafe.~~

~~(3) Hours of operation~~

~~(i) Publicly accessible tables and chairs~~

~~Tables and chairs shall not be chained, fixed or otherwise secured during the hours of 7:00 am to 9:00 pm. However, during the hours of 9:00 pm to 7:00 am, such tables and chairs may be removed or secured within the arcade.~~

~~Where publicly accessible tables and chairs and outdoor cafes are provided within an arcade, such publicly accessible tables and chairs shall be subject to the hours of operation of an outdoor cafe, as set forth in paragraph (a)(3)(ii) of this Section.~~

~~(ii) Outdoor cafe~~

~~Outdoor cafes must be in operation and provide service a minimum of 225 days per year.~~

~~All furnishings of an outdoor cafe, including tables, chairs, bussing stations and heating lamps, shall be completely removed from the arcade when the outdoor cafe is not in active use, except that tables and chairs may remain in such arcade if they are unsecured and may be used by the public without restriction.~~

~~(4) Locating publicly accessible tables and chairs within an adjacent #publicly accessible open area#~~

~~Where tables and chairs are provided in an arcade located on the same #zoning lot# as an existing #publicly accessible open area# that fronts upon Water Street, the Chairperson of the City Planning Commission may certify that publicly accessible tables and chairs, provided pursuant to paragraph (a)(2)(i) of this~~

~~Section, may be located within such a #publicly accessible open area#.~~

~~— The area within such #publicly accessible open area# occupied by publicly accessible tables and chairs provided pursuant to this paragraph, (a)(4), shall not be included in calculating the maximum #lot coverage# which permitted obstructions may occupy within such #publicly accessible open area#, where applicable.~~

~~— Such publicly accessible tables and chairs shall not constitute a design change pursuant to the provisions of Section 37-62 (Changes to Existing Publicly Accessible Open Areas), provided the Chairperson finds that:~~

~~(i) — no more than 50 percent of the publicly accessible tables and chairs required to be within 25 feet of the Water Street #street line#, pursuant to paragraph (a)(2)(i), shall be located within such #publicly accessible open area#. However, where the entirety of an arcade is located beyond 25 feet of the Water Street #street line#, the entirety of the publicly accessible tables and chairs required to be within 25 feet of such #street line#, pursuant to paragraph (a)(2)(i), may be located within such #publicly accessible open area#;~~

~~(ii) — such publicly accessible tables and chairs shall in no event constitute required seating for such existing #publicly accessible open area#; and~~

~~(iii) — such publicly accessible tables and chairs comply with the hours of operation provisions of paragraph (a)(3) of this Section.~~

~~Any proposed design change to an existing #publicly accessible open area# beyond the findings permitted in this Section shall be subject to the requirements of Section 37-62.~~

(b) — Litter receptacles

~~Litter receptacles shall be permitted obstructions within an arcade pursuant to the provisions set forth in Section 37-744.~~

~~In order to certify that the proposed modification to an existing arcade is consistent with the provisions of this Section, the applicant shall submit, to the Chairperson, a site plan demonstrating the proposed obstructions within the existing arcade and, where applicable, the~~

~~adjacent #publicly accessible open area#, and a detailed seating plan illustrating compliance with paragraph (a) of this Section.~~

~~All plans for arcades or other #publicly accessible open areas# that are the subject of a certification pursuant to this Section shall be filed and duly recorded in the Office of the City Register of the City of New York, indexed against the property in the form of a legal instrument, in a form satisfactory to the Chairperson, providing notice of the certification of the arcade, pursuant to this Section. Such filing and recording of such instrument shall be a precondition to certification. 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.~~

## **91-82**

### **Existing Publicly Accessible Open Areas**

~~The purpose of this Section is to facilitate temporary programmatic changes to existing public spaces to:~~

~~(a) — help address the short-term challenges facing the Water Street corridor as a result of Hurricane Sandy by encouraging increased economic activity, reinforcing community connections, creating a lively and engaging experience and improving the corridor’s pedestrian environment; and~~

~~(b) explore new types of #uses# and amenities within public spaces intended to draw residents, workers and visitors, thereby increasing the utilization and activation of the existing public spaces.~~

~~This Section, inclusive, shall be effective until January 1, 2014, at which time the provisions of this Section shall automatically expire and all #publicly accessible open areas#, as defined in Section 91-821, shall be returned to their compliant state and all temporary obstructions shall be removed.~~

## **91-821**

### **Special provisions for publicly accessible open areas**

~~For the purposes of this Section, the definition of #publicly accessible open area# shall also include any #arcade#, #through block arcade#, or other public amenity, open or enclosed, for which a #floor area# bonus has been granted.~~

~~The provisions of this Section shall apply to all #publicly accessible open areas# existing on June 12, 2013, within the area designated as a public space activation area on Map 8 (Public Access Modification Areas) in Appendix A of this Chapter.~~

~~Any underlying provisions, including Section 91-81 of this Chapter, restricting the placement of obstructions within #publicly accessible open areas# or restricting their use for events may be modified, as follows:~~

~~(a) Temporary permitted obstructions~~

~~\_\_\_\_\_ Amenities that shall be considered temporary permitted obstructions for cultural, entertainment and #commercial uses# including, but not limited to, tables, chairs, moveable planters, stages, kiosks, food trucks, artwork, and shade structures are allowed, provided that they:~~

- ~~(1) \_\_\_\_\_ are not permanently affixed to the ground and do not cause damage to any surface of the #publicly accessible open area#;~~
- ~~(2) \_\_\_\_\_ are not located within five feet of any #building# entrance; and~~
- ~~(3) \_\_\_\_\_ do not, in combination, occupy more than 60 percent of the #publicly accessible open area#.~~

~~(b) Events~~

~~\_\_\_\_\_ Events including, but not limited to, farmers markets, holiday markets, concerts and performances, art and cultural exhibitions, and festivals are permitted. Such events may be sponsored by non-profit or for-profit entities, without limitation, and may include the sale of food, refreshments and other event-related items, for the benefit or enjoyment of event participants. The use of a #publicly accessible open area# for the promotion of products or services shall not itself qualify as an event permitted under this Section. Such events shall:~~

- ~~(1) be open to the public; and~~
- ~~(2) only be permitted to use amplified sound between the hours of 9:00 am and 10:00 pm.~~

~~Nothing herein shall authorize the use of city #streets# or sidewalks in connection with an event permitted under this Section, and any such use shall be subject to all applicable provisions of law and regulation governing the use of city #streets# or sidewalks including, where applicable, the requirement to obtain a street activity permit from the Street Activity Permit Office of the Office of Citywide Events Coordination and Management. No event shall be permitted pursuant to this Section unless, no later than fourteen (14) days prior to the scheduled date, the sponsor notifies the Street Activity Permit Office of the nature, size and location of the event upon a form prescribed by the Street Activity Permit Office for such purpose.~~

The above resolution, duly adopted by the City Planning Commission on April 25, 2016 (Calendar No. 6), is filed with the Office of the Speaker, City Council in accordance with the requirements of Section 195 of the New York City Charter.

**CARL WEISBROD**, Chairman

**KENNETH J. KNUCKLES, ESQ.**, Vice Chairman

**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**

**JOSEPH DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON,**

**HOPE KNIGHT, ORLANDO MARIN, LARISA ORTIZ** Commissioners

**MICHELLE R. DE LA UZ**, Commissioner, abstaining

COMMUNITY BOARD #1 – MANHATTAN  
RESOLUTION

DATE: MARCH 22, 2016

COMMITTEE OF ORIGIN: PLANNING

COMMITTEE VOTE: 15 In Favor 0 Opposed 1 Abstained 1 Recused  
BOARD VOTE: 19 In Favor 11 Opposed 7 Abstained 1 Recused

RE: Water Street Upgrades Text Amendment N 160166 ZRM

WHEREAS: The Alliance for Downtown New York (ADNY), the New York City Economic Development Corporation (NYCEDC) and the New York City Department of City Planning (DCP) are proposing a zoning text amendment to the Special Lower Manhattan District of the New York City Zoning Resolution to allow the infill of existing arcades for retail use and the improvement of existing plazas by certification and authorization along and near Water Street (the “Proposed Action”); and

WHEREAS: The proposed text amendment would also allow as-of-right public events and programs and the placement of publicly accessible tables and chairs within plazas and arcades, and would continue to allow cafes within arcades by certification; and

WHEREAS: The amendment is intended to enhance the pedestrian experience along a street that is characterized by limited ground floor retail and a high concentration of privately owned public spaces (POPS) lacking in amenities, and to implement one of the resiliency initiatives identified for Southern Manhattan in *A Stronger, More Resilient New York*; and

WHEREAS: The plazas (POPS) affected by this proposal were built with their corresponding buildings primarily in the 1960s and 1970s. At that time, the design requirements for POPS were minimal. Today’s zoning has much improved design requirements for POPS, and the existing POPS built according to previous design guidelines are non-compliant. Not much has changed in the past five decades and building owners have not chosen to improve the plazas on their own initiative; and

WHEREAS: Community Board 1 (CB1) has been supportive of past initiatives and zoning text amendments to improve the pedestrian and plaza environments on Water Street, such as:

- Participating in ADNY’s Water Street study group in 2009;
- Adopting a resolution supporting ADNY’s ‘Water Street: A New Approach’ report in 2010;
- Adopting a resolution in support of the April 2011 zoning text amendment to allow cafes, tables and chairs in existing arcades

- Adopting a resolution in support of the May 2013 zoning text amendment to allow temporary programming and amenities in plazas for the summer, fall and holiday seasons of 2013
- Adopting a resolution to support EDC’s permanent streetscape design project in 2015; and

WHEREAS: In the past few years the NYC Department of Transportation (DOT), in partnership with other City agencies, has been working to implement streetscape improvements along Water Street; and

WHEREAS: The Project Area is located along Water Street and is generally bounded by Fulton Street to the north, South Street to the east, Whitehall Street to the south, and Pearl Street and South William Street to the west. Water Street spans more than one-half-mile from Whitehall Street to Fulton Street; and

WHEREAS: The affected properties in the Project Area house both plazas and arcades. Arcades are continuous covered areas set back to the street or a plaza. Plazas are open, uncovered areas accessible to the public at all times; and

WHEREAS: The Proposed Action would allow horizontal enlargements (“infill”) within underperforming arcades for retail and lobby uses as part of comprehensive upgrades to building ground floors; and

WHEREAS: Permitted uses for developments located within arcade infill would be restricted to retail uses typical of streets such as Fulton Street and Broadway, but intended primarily to serve nearby residents and employees. Restaurants, clothing stores, drug stores, and art galleries are among the various types of permitted uses that could be located within arcade infill; and

WHEREAS: The average size of the arcades eligible for infill is approximately 5,000 square feet, which would be appropriate for small business owners, which we encourage; and

WHEREAS: There are successful precedents for arcade infill in New York City, such as the Sony Building at 550 Madison Avenue; and

WHEREAS: As a condition to allowing arcade infill, the Proposed Action would require property owners to make significant improvements to existing plazas, either adjacent to the arcade or located [elsewhere/nearby]. Plazas would be upgraded to a standard aimed at meeting current design standards for new public plazas. Useful public amenities such as trees, planting, fixed and moveable seating, drinking fountains, lighting, public space signage and bicycle racks would all be potential elements of such upgrades; and

WHEREAS: As a condition to *allowing* building owners across 20 affected properties to infill approximately 100,000 square feet of currently underperforming public arcade space, the Proposed Action would *require* owners to significantly upgrade approximately 250,000 square feet of plaza space that would permanently remain as publicly accessible amenities. The attached chart details each affected property and its respective arcade infill and plaza areas; and

WHEREAS: The Proposed Action would facilitate more activity in plazas and arcades along Water Street by allowing free, non-ticketed events as-of-right, and would allow moveable public seating to be placed within the plazas and arcades as-of-right; and

WHEREAS: To facilitate the Proposed Action, the Zoning Map of the Special Lower Manhattan District would be modified to eliminate the existing “Public Space Activation Area” and “Arcades Modification Area” to create a single, simplified “Water Street Subdistrict;” and

WHEREAS: The proposed zoning text will allow arcade infill by City Planning certification and authorization. A new text map will be added to Appendix A of the special district that will delineate which portions of the Water Street arcades may infill by certification (Area A), those that may infill by authorization (Area B), and those that would not be permitted to infill by either certification or authorization (Area C); and

WHEREAS: If no plazas exist on the zoning lot, the provision of an indoor public space or an off-site public space could satisfy the requirement for a compensating amenity (e.g., 7 Hanover Square, 110 Wall Street, and 175 Water Street do not have plazas or urban plazas available for upgrade); and

WHEREAS: As a condition to permitting the arcade infill, the Proposed Action would also require buildings to implement new flood-proofing strategies for their ground floors to ensure they are resilient against flooding and damage from storms; and

WHEREAS: As the fourth anniversary of Superstorm Sandy approaches, there are still plazas along Water Street that remain in disrepair and blocked off after suffering damage from that storm; and

WHEREAS: While arcade infills would allow owners to use underutilized arcades to build smaller retail spaces, those retail spaces would still be required to meet all other rules, codes, ordinances and laws (e.g., the retail spaces could not be used for banks, as banks are not permitted to face plazas); and

WHEREAS: No changes would be permitted to the use of any plazas without a full permitting process that includes Community Board review procedures; and

WHEREAS: DCP referred the proposed text amendment on January 19, 2016 and the 60-day review period for zoning text amendments under the City Charter began to run on that date, now

THEREFORE  
BE IT  
RESOLVED

THAT: CB1 supports Water Street Upgrades Text Amendment N 160166 ZRM, provided that:

- 1) A referral mechanism is incorporated into the zoning text to require a 60-day period of Community Board review and comment, on a site-by-site basis, of any request to infill any arcade space within the Proposed Area, whether it is

- by certification (Area A), authorization (Area B), or by any other process or mechanism whatsoever that may be promulgated in the future;
- 2) Because building owners/landlords are potentially realizing substantial value as a result of the repurposing of these public amenities (no matter how underutilized), the community's needs for various types of facilities located within the future infilled arcades must be considered and encouraged, including but not limited to schools (including pre-kindergarten centers), libraries, senior centers, ice skating rinks and other recreation, *etc.*;
  - 3) Certifications or authorizations by the City Planning Commission (CPC) or CPC Chairperson should strongly consider the community's view that small, independent retail establishments are preferred over chain stores in any such infill spaces;
  - 4) Due consideration for affordability should also be taken into account (whether through rent regulation or other appropriate means) so as to avoid vacancies;
  - 5) During the Community Board review for each application for the 17 buildings with arcades, the applicant must be made responsible for explaining the specific community offset and benefit that will be provided in exchange for the arcade infill;
  - 6) When an arcade infill triggers a plaza upgrade, plazas must also be built to a resiliency standard that could withstand future extreme weather events;
  - 7) Owners of properties similar to 200 Water Street, where the benefit to the property owner clearly outweighs the community benefit from plaza upgrades, should be required to provide benefits in addition to the plaza upgrade, such as enhancements to surrounding sidewalks and the nearby Pearl Street Playground. CB1 requests that the arcade infill at 200 Water Street not be used just to expand the existing large box retail, and prefers retail that positively activates Fulton Street;
  - 8) In cases of infill where no plazas exist on the zoning lot where the provision of an indoor public space or an off-site public space could satisfy the requirement for a compensating amenity, CB1 requests that property owners also improve their sidewalks and not use public funds to do so;
  - 9) ADNY, EDC and DCP shall return to CB1 after the first three projects or the first year after the zoning amendment, whichever comes first, to report on progress and assess the success of the program (with a potential for making appropriate changes as necessary based on experience with the program to date); and

BE IT  
FURTHER  
RESOLVED

THAT: CB1 requests that particular attention is paid to the issue of lighting on Water Street. Improved lighting along Water Street will enhance safety and encourage more people to visit the area; and

BE IT  
FURTHER  
RESOLVED

THAT: CB1 requests that ADNY, EDC and DCP work together with property owners and the NYC Department of Education and NYC School Construction Authority to create suitable locations for schools and pre-kindergarten centers within the infill spaces; and

BE IT  
FURTHER  
RESOLVED

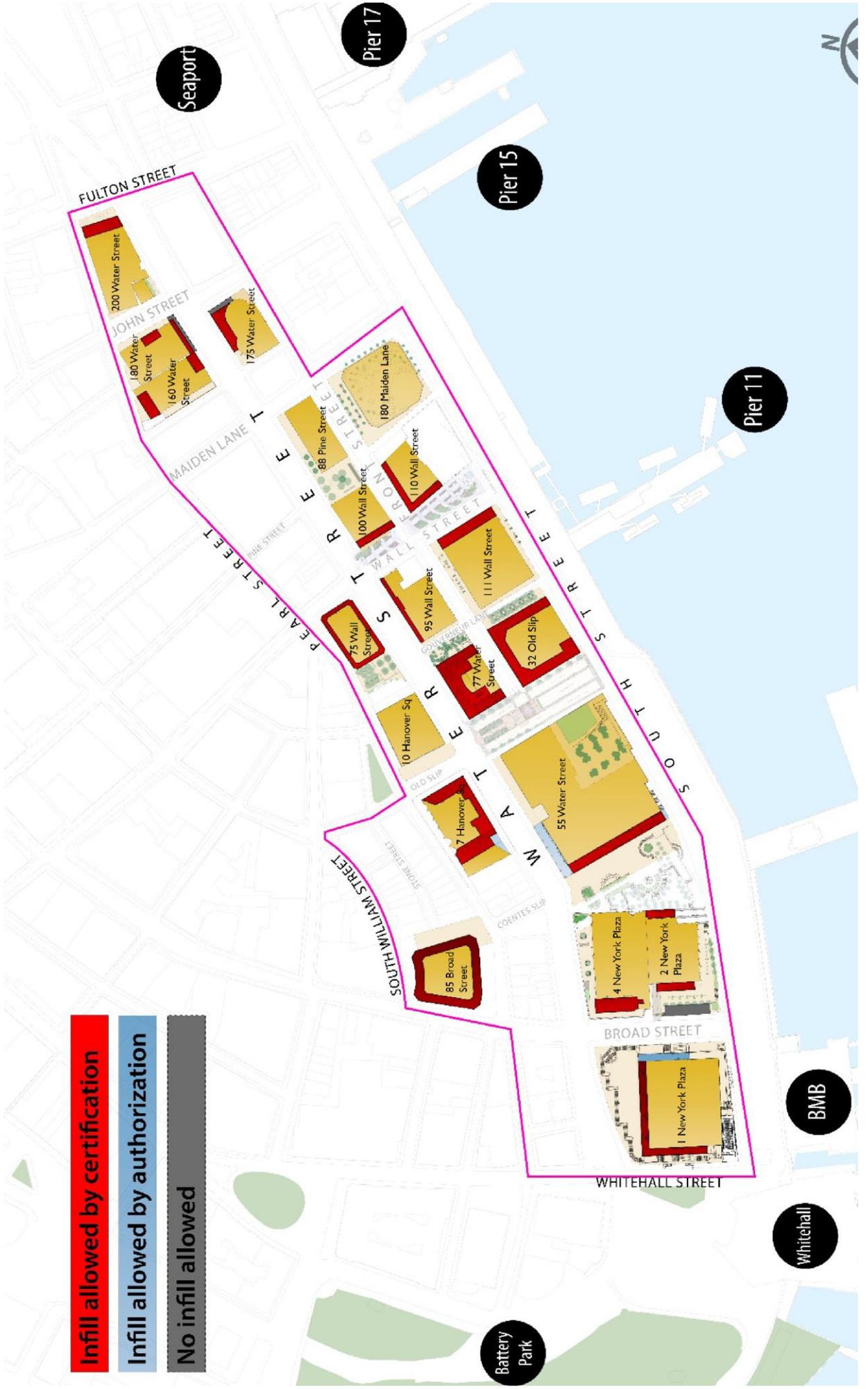
THAT: CB1 requests that DCP include in the zoning text language requiring (or at least encouraging) the use of environmentally friendly construction methods in connection with all arcade infill development projects.

**WATER STREET ZONING TEXT AMENDMENT N160166ZRM  
WATER STREET SUBDISTRICT - AFFECTED PROPERTIES**

Building Address	Arcade Infill (Certification + Authorization)	Total Plaza Area	Other Required Open Areas	Total Plaza/Open Area
1 New York Plaza	11,180.00	40,839.00		40,839.00
2 New York Plaza	3,656.00	21,009.00		21,009.00
4 New York Plaza	3,124.00	7,573.00		7,573.00
7 Hanover Square	12,816.19	-		-
55 Water Street	13,794.00	74,793.00		74,793.00
86 Water Street / 10 Hanover Square	-	3,416.00		3,416.00
77 Water Street	14,986.00	4,956.00		4,956.00
32 Old Slip	12,004.00	5,887.00	1,406.00	7,293.00
111 Wall Street	4,589.00	10,883.00		10,883.00
95 Wall Street	2,446.00	1,963.00		1,963.00
75 Wall Street	5,179.25	7,017.50		7,017.50
110 Wall Street	3,163.00	-		-
100 Wall Street	2,518.00	5,933.20		5,933.20
88 Pine Street	-	9,907.00		9,907.00
175 Water Street	3,242.00	4,974.00	1,143.00	6,117.00
180 Water Street	1,630.00	3,949.00	785.00	4,734.00
160 Water Street	2,575.00	3,658.74		3,658.74
200 Water Street	3,222.00	4,010.00		4,010.00
85 Broad Street	12,930.00	9,630.00	3,600.00	13,230.00
<b>TOTAL</b>	<b>113,054.44</b>	<b>220,398.44</b>	<b>6,934.00</b>	<b>227,332.44</b>
180 Maiden Lane*	-	36,276.80		36,276.80
<b>TOTAL + 180 Maiden Lane</b>	<b>113,054.44</b>	<b>256,675.24</b>		<b>263,609.24</b>

# Retail Infill of Arcades

- Infill allowed by certification**
- Infill allowed by authorization**
- No infill allowed**





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

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**Gale A. Brewer, Borough President**

March 25, 2016

Carl Weisbrod, Chair  
City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: Water Street Upgrades Text Amendment – N 160166 ZRM**

Dear Chair Weisbrod:

I write in regard to the application by the Alliance for Downtown New York (ADNY), New York City Economic Development Corporation (EDC), and the Department of City Planning (DCP) to amend the provisions of Section 91-80 (PUBLIC ACCESS AREAS) of the Special Lower Manhattan District and related sections of the New York City Zoning Resolution. These changes would allow along Water Street, following either Chairperson or Commission review, for the infill of existing arcades for retail use and the improvement of existing proximate plazas or POPS (privately owned public spaces). The proposed text would also allow for programming and placement of moveable tables and chairs within those arcades and plazas as-of-right, and would continue to allow cafes within arcades by Chairperson Certification.

The proposed text amendment will create a Water Street Subdistrict within the Special Lower Manhattan District to facilitate arcade infill and associated plaza redesign and upgrades within the Water Street Corridor, centered on Water Street and generally bounded by Whitehall, South William Street, Pearl Street, John Street, Front Street, and South Street. The goals of the proposal are to improve the street's pedestrian experience, provide useful services and amenities for nearby residents and employees, improve the quality of the public spaces, and improve the flood resilience of each building. The text amendment will allow infill of arcades in conjunction with the upgrade of plazas to current design standards, require service and retail establishments, limit lobby uses on ground floors, permit free programming as-of-right, and require that arcade infill comply with the flood-resistant construction requirements of Appendix G of the New York City Building Code.

The Community Board has issued a number of favorable resolutions since 2010 supporting past initiatives and zoning text amendments. The text amendments in 2011 (N 110193 ZRM) and 2013 (N 130206A ZRM) also sought to improve the pedestrian experience and plaza environments on the Water Street corridor. At the Full Board Meeting on March 22, 2016, Community Board 1 voted with 19 in favor, 11 opposed, 7 abstentions, and 1 recused to pass a resolution in favor of the adoption of the Water Street Upgrades Text Amendments with modifications.

During the community referral for this text amendment, my office heard a number of concerns centered around whether this text was actually a give-away to developers, what the trade-offs were for the neighborhood, and whether there was a better use for these spaces other than retail infill. I share these concerns every time we consider our city land and publicly accessible spaces, but believe the proposed text goals are laudable and the text is seeking to make the best out of a set of very challenging circumstances. Lower Manhattan has seen exponential residential growth in the last decade, and that growth is densest in the Financial District due to the high rate of commercial to residential conversion in the area. Despite the high rate of conversion, the area retains over twenty percent of the office space for Lower Manhattan. This is a twenty-four hour community. The arcades in question were for the most part designed under a very different set of urban design principles than that to which the city ascribes today, and we would not likely choose to build now these arcades in a mixed residential and commercial neighborhood. They do not serve as circulation space or public gathering spaces for all users. Many of the plazas have little to no design or public amenities, and many remain damaged following Superstorm Sandy with broken paving and are devoid of plant life.

Zoning text is a tool that we should employ carefully and adjust when warranted given neighborhood needs, context, and constraints. The existing zoning text for design changes for POPS does not require resiliency measures or a minimum standard of amenities, and changes involve a subjective assessment by the Chairperson of the City Planning Commission. That approach may make sense when for individual plazas or arcades. However, here in Community Board 1 along Water Street we are looking at a concentration of, by today's robust standards, poorly designed POPS. So a more holistic plan for bringing these up to our standards today also makes sense.

I find the goals of this text to be wholly appropriate for the vibrancy and vitality of Lower Manhattan as long as the text is modified to reflect those goals more explicitly and address, where possible, the concerns of the community board. First, in the General Purposes section of the special district rules that establishes the Water Street Subdistrict, language should be added that makes explicit, as did the applicant presentations and materials did, that the goal of this text is to enliven the pedestrian experience along the street. Secondly, the 60-day referral timeframe requested by the Community Board is reasonable given the individual complexities and legislative history at many of these sites and that should be incorporated. In addition, preference during design review should go to plants and materials more able to withstand a storm surge or water influx. These sites should not again lay fallow for years after such an event.

Lastly, the application materials identify that the "the corridor lacks small commercial spaces (<2,000 sf) appropriate for the unique retail, food, and other uses that could cater to the residents and workers in the area." However the text as drafted would allow commercial uses in C1, C2, C4, C5, C6 and C8 categories, within Use Groups 5, 6, 7, 9, and 10. That is too broad. I recommend that the ground floor requirements of Section 91-831 be modified to exclude Use Groups 5, 7, 9, and 10. These changes will still allow for residential and community facility use such as pre-K seats, and provide plenty of flexibility for the retail programming ADNY and the neighborhood residents say they want here.

Furthermore, for longer arcade frontages, it may also be appropriate to require a minimum number of lobby uses or establishments, whether retail, residential, or commercial. For example, allowing the retail footprint at 200 Water to be expanded in conjunction with arcade infill will not achieve the text goals of variety and vibrancy as the ground floor already houses a large retail establishment. The text should also be more specific for frontage requirements in the arcades, in addition to the rules already included for frontages on plazas, since not all potential arcade infill sites front on plazas. This corridor already has Duane Reade, banks, and there will soon be more 10,000 sf or larger shopping establishments at Pier 17. What residents need, and both those in favor of and against the text at the community meetings made clear that they want, is local retail. Therefore, I strongly recommend that the text amendment be modified to emphasize this local need. While flexibility is important, we should not incentivize larger retail footprints. If possible, however, an exemption should be carved out for food stores as that was a need highlighted in the meetings.

Thank you for your and the Commission's consideration of the Community Board's and my comments on this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Gale A. Brewer". The signature is written in a cursive, somewhat stylized font. The first name "Gale" is written in a larger, more prominent script, while "A. Brewer" follows in a similar but slightly smaller style. The signature is positioned to the right of the word "Sincerely,".

Gale A. Brewer