

ZONING FOR ACCESSIBILITY

JULY 2021

New York City Department of City
Planning
Metropolitan Transportation
Authority, New York City Transit
Mayor's Office for People with
Disabilities



NYC

PLANNING

Mayor's Office for
People with Disabilities

PART III: System-wide Easement Provisions

1) Applicability

- Site applicability
- Enlargements
- Vesting and exemptions

2) Process and Timeline

- Initial determination
- Application review and approval process
- Easement size
- Community board notification and review

3) Relief and Requirements

- Commercial use allowances
- Additional relief for affordable housing developments
- Permitted obstructions
- Temporary uses
- Curb cut requirement
- Interaction between easement provision and bonus

4) Other Considerations

- Dedicated affordable housing unit at the MTA
- Transparency with applicability, easements and station improvements



PART III: System-wide Easement Provisions

1) Applicability

- Site applicability
- Enlargements
- Vesting and exemptions

2) Process and Timeline

- Initial determination
- Application review and approval process
- Easement size
- Community board notification and review

Item 1: Applicability

Site applicability

- *Development site (rather than zoning lot) should be the applicable site for determining the threshold for applicability*

The easement consultation process would be required for developments and enlargements (involving ground level construction) on zoning lots of **at least 5,000 sf** and **within 50 feet of a mass transit station**.

Proposed Modification

Clarify the need for an easement to provide a connection between the mass transit station and the portion of the site where new construction or enlargement is occurring.

Item 1: Applicability

Enlargements

- *Applicability must be limited to new construction and gut rehabilitation of buildings, to allow the building to take advantage of the relief as intended*
- *Clarification to enlargement and alteration permits must include significant addition of floor area at ground floor*

The proposal is intended to capture reasonable opportunities for securing easements. Under the proposed zoning text, enlargements involving ground floor level construction would be subject to the easement provisions. The text does not however specify the types of ground floor level construction that would be applicable.

Proposed Modification

Clarify that the easement provisions would only apply to ground floor level enlargements

Item 1: Applicability

Vesting and exemptions

- *Exclude any project currently filed or approved for discretionary action (through ULURP or BSA), or which has already received a building permit from the DOB*
- *Exclude sites that already have an easement*

PROPOSED MODIFICATION

Vesting

Sites with:

- Pending **DOB applications** or **building permits** received prior to date of enactment
- **Special permit or variance applications** pending before the **BSA** or permits pending before **LPC**
- **CPC special permit or authorization** referred out prior to date of enactment

Exemptions for sites with existing easements

Sites with **existing easements** that were created through other provisions in the Zoning Resolution

PART III: System-wide Easement Provisions

1) Applicability

- Site applicability
- Enlargements
- Vesting and exemptions

2) Process and Timeline

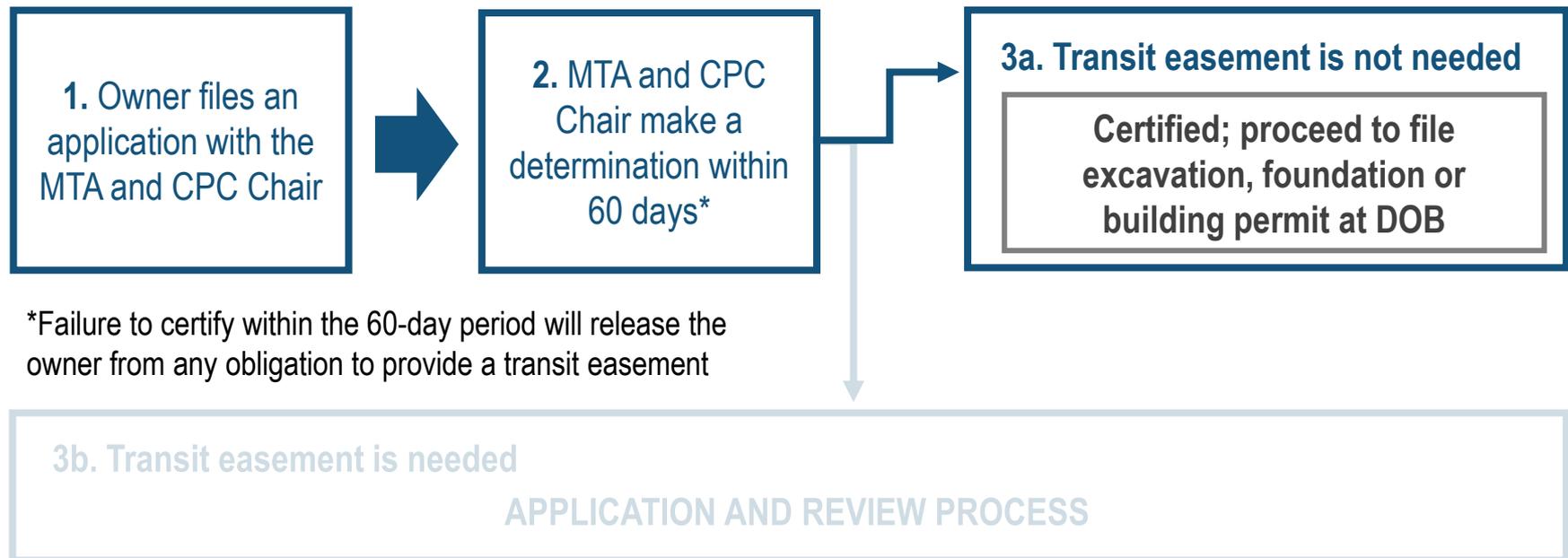
- Initial determination
- Application review and approval process
- Easement size
- Community board notification and review

Item 2: Process and Timeline

Initial determination

- *60 days is not an acceptable time frame to receive the initial easement request from the MTA*
- *If no easement is required by the MTA, the process should only involve a letter from MTA to DOB without DCP involvement*

Initial Determination as Referred Out



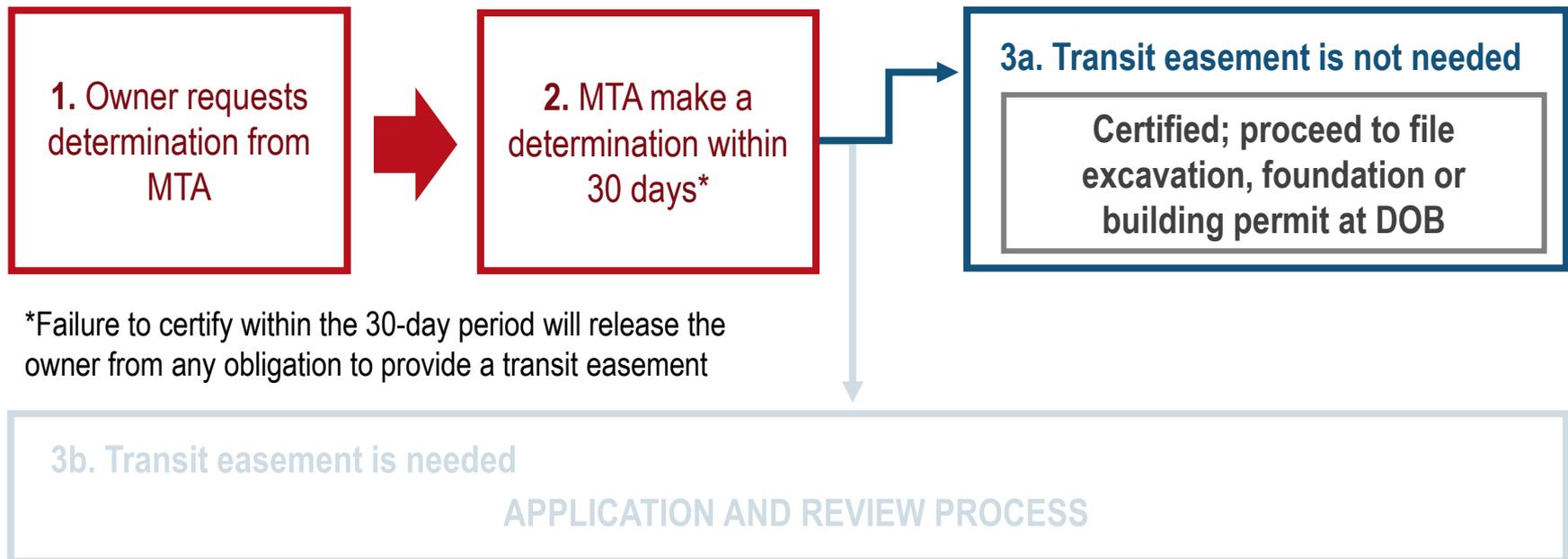
*Failure to certify within the 60-day period will release the owner from any obligation to provide a transit easement

Item 2: Process and Timeline

Initial determination

Proposed Modification

- Reduce initial determination phase from 60 days to **30 days**
- Make MTA as sole determinant during initial determination



*Failure to certify within the 30-day period will release the owner from any obligation to provide a transit easement

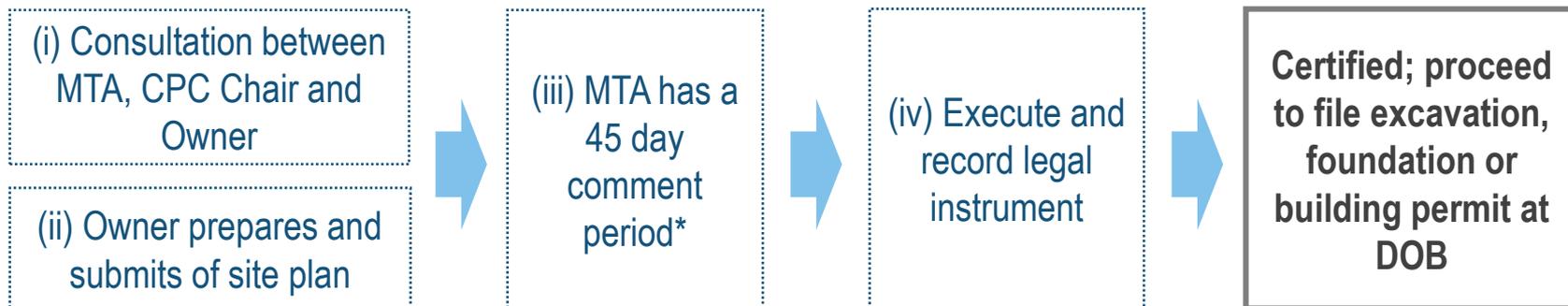
Item 2: Process and Timeline

Application review and approval process

- *The overall process needs aggressive deadlines built in to insert certainty and prevent delays and address back-and-forth between the development team and the MTA.*
- *There needs to be a timeframe for the receipt of the easement volume agreement and make clear what work can proceed while that is negotiated*

Review Process as Referred Out

3b. Transit easement is needed



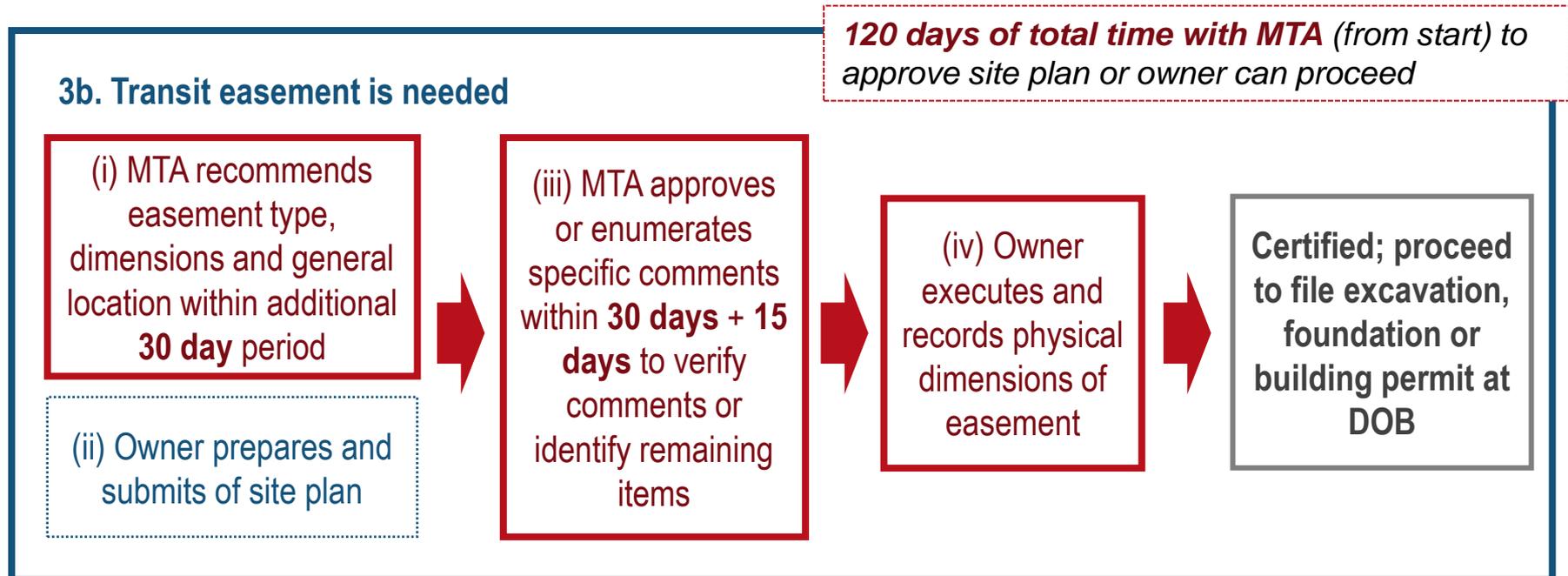
*Following the expiration of the 45-day comment period, excavation permit may be granted

Item 2: Process and Timeline

Application review and approval process

Proposed Modification

- **30 days** to provide guidance on easement dimensions and location
- **30 days** to approve or issue comments on site plan and **15 days** to verify revisions
- **120 days** of total time with MTA (from start of initial determination) to approve site plan or owner can proceed to DOB
- Maintenance and operation agreement to be completed by TCO



Item 2: Process and Timeline

Size limit for easements

- The easement cannot be more than 20% of the linear frontage*

Under the proposed text, easement dimensions are not prescribed. Given the wide variety of stations and accessibility needs, the text is intended to provide as much flexibility for developers and the MTA to establish the most appropriate easement type, size and location on site.

Proposed Modification

Establish a maximum linear frontage threshold of 25% at the ground floor street level.



PART III: System-wide Easement Provisions

1) Applicability

- Site applicability
- Enlargements
- Vesting and exemptions

2) Process and Timeline

- Initial determination
- Application review and approval process
- Easement size
- Community board notification and review

3) Relief and Requirements

- Commercial use allowances
- Additional relief for affordable housing developments
- Permitted obstructions
- Temporary uses
- Curb cut requirement
- Interaction between easement provision and bonus

4) Other Considerations

- Dedicated affordable housing unit at the MTA
- Transparency with applicability, easements and station improvements

Item 3: Relief and Requirements

Temporary uses

- *A two-year notice should be provided for use of the easement so that owners are encouraged to lease these spaces and can compete with other like spaces along a retail corridor.*

Temporary uses would be permitted to activate easement volumes until such volume is improved with a new transit access point. Under the proposed text a six months notice by the transit agency would be given to the building owner to vacate the easement volume.

Proposed Modification

To facilitate reasonable lease agreements for temporary uses, require a minimum notice of **twelve months** by the transit agency to the building owner to vacate the easement volume.

Item 3: Relief and Requirements

Curb cut requirement

- *General impacts on prime development space and construction cost*

To reduce conflict between transit users entering and leaving station entrances and vehicular traffic, curb cuts would be restricted within 30 feet of an easement under the referred out text. In many instances however, this restriction could create design and programmatic issues for locating parking and loading on site.

Proposed Modification

Remove requirement that curb cuts must be located at least 30 feet from an easement.

Item 3: Relief and Requirements

Interaction between easement provisions and bonus

- *Clarification on how easement and density bonus provisions would work together and whether height increases can be stacked.*

For sites providing an easement volume under the easement provisions and improving such volume under the bonus program, relief offered through the easement framework would apply. Further zoning modifications would be available through the proposed authorization or special permit for additional zoning relief.

Proposed Modification

Clarification that where a bonus site is also subject to easement provisions, the **Temporary Certificate of Occupancy requirements** under the bonus provisions would apply.

3) Relief and Requirements

- Commercial use allowances
- Additional relief for affordable housing developments
- Permitted obstructions
- Temporary uses
- Curb cut requirement
- Interaction between easement provision and bonus

4) Other Considerations

- Dedicated affordable housing unit at the MTA
- Transparency with applicability, easements and station improvements

Item 4: Other Considerations

Transparency with applicability, easements and station improvements

- *Affected tax lots should be shared with DOB and posted in a publicly available manner*
- *MTA should identify and make available accessibility-barren stations and pre-identify improvements and sites for easements when at all possible*
- *Easements should be tied to capital cycle or MTA should provide assurance to owner plans and timeframe for utilizing these spaces*
- *Include an interactive updated map or database that identifies all certified easement volume locations*

Further steps are being considered to increase inter-agency coordination, transparency and accountability:

- Applicability maps posted on project web page (list of affected sites to be shared with DOB)
- Availability of easement would help inform future Capital Programs and self reporting of unused easements to maintain accountability would be considered
- Future easement map or database to be considered