

MIDTOWN ZONING

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MIDTOWN ZONING

EDWARD I. KOCH, *Mayor*
CITY OF NEW YORK



CITY PLANNING COMMISSION
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This report is designed to be read in conjunction with the Final Environmental Impact Statement issued by the Department of City Planning on March 6, 1982, the June 1980 Draft Report of the Department of City Planning Midtown Development Project and the June 1981 Final Report of the Department of City Planning Midtown Development Project (DCP Report No. 81-8).

THE NEW YORK DEPARTMENT OF CITY PLANNING
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NEW YORK, N.Y. 10007

PREFACE

The proposed Midtown regulations will help ensure the continued viability of Midtown Manhattan as the economic heart of New York City.

The Commission believes that the new Midtown zoning can provide a sound guide for the continued development and healthy functioning of this critical area through the eighties and into the turn of the century. It is the major product of an effort initiated almost three years ago by my predecessor, Deputy Mayor Robert F. Wagner, Jr.

The Midtown Development Project was undertaken in response to a growing concern that resumption of major Midtown development after the construction drought of the mid-seventies was not an unmixed blessing. Zoning had become increasingly discretionary, negotiated, unpredictable. There was widespread agreement that a major overhaul of the regulations was necessary and that it must be related to other public policies, programs and services affecting Midtown.

The Midtown Development Project has been a top priority of the Department of City Planning staff, aided by expert consultants retained through the generosity of five civic minded foundations.

From the start, when the project was urged by a group of civic and professional organizations concerned with physical planning and design which banded together as the "Presidents' Council," it has been informed by public consultation and participation. Well over 200 meetings have been held with Community Boards, professional and business organizations, civic groups, developers, architects, mortgage lenders, public officials, and interested individuals.

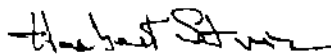
We propose to create three areas within a new Special Midtown District. In the East Midtown Stabilization Area maximum building densities would be reduced, and clear distinctions of scale preserved between avenue and midblock development. In the West Midtown Growth Area densities are increased to attract midtown development from the highly congested Stabilization Area. A discrete Preservation Area is provided to protect the unique character of certain low scale blocks and legitimate theatres.

There was a strong positive response to this overall strategy. Public hearings before three Community Boards and the Commission, together with recommendations from the American Institute of Architects, the Real Estate Board, the American Planning Association, and the Presidents' Council, among others, helped frame the specific recommendations in the final report, adopted on March 16, 1982. We believe that the proposed Midtown Zoning represents a sound approach to Midtown development.

The proposal will not satisfy everybody. There are those who think we should have gone further—or not as far—in upzoning the West Side or downzoning the East Side. We think the proposal strikes the proper balance for orderly future

This book includes the Commission's reports on the new zoning; the Special Midtown District maps; and both the official and plain English version of the new regulations.

Adoption of the Midtown zoning is an important step in safeguarding the City's economic and job growth. But we can't sit back. Our focus must include economic development outside Manhattan so that the benefits of continued growth can be enjoyed by all areas of the City.

A handwritten signature in black ink, appearing to read "Herbert Sturz". The signature is fluid and cursive, with a long horizontal stroke at the end.

Herbert Sturz, Chairman

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PRINCIPAL REPORT

CITY PLANNING COMMISSION

March 16, 1982 / Cal. No. 1

N 820253 ZRM

N 820253 ZRM (A)

Amendment of the Zoning Resolution, pursuant to Section 200 of the New York City Charter, relating to Article VIII, Chapter 1, Section 81-00, and miscellaneous changes in other sections for establishing a Special Midtown District which contains growth, stabilization and preservation areas.

The proposed amendment of the Zoning Resolution and the related amendment of the Zoning Map would establish a Special Midtown District containing growth, stabilization and preservation areas. The amendments are a response to the over-concentration of development that has become a source of deep concern to community boards, civic organizations, the development community and the general public. These amendments are intended to encourage the growth of Midtown to the west and south, and to ease development pressures on its congested, highly-developed East Side core. The major features of the amendments are summarized below.

I. SUMMARY OF MAJOR FEATURES

1. The Special Midtown District is divided into Growth, Stabilization and Preservation Areas to serve as a framework for public policy and zoning decisions.

2. In the West Side Growth Area, bounded by Sixth to Eight Avenues from 40th to 60th Streets, density on Sixth Avenue, Seventh Avenue and Broadway is increased from a floor area ratio of 15 times the lot area to a floor area ratio (FAR) of 18 times (FAR 18), subject to a six-year sunset clause. The maximum density is not increased above the present FAR 21.6. Midblocks remain at FAR 15.

3. In the East Side Stabilization Area, bounded by Sixth to Third Avenues from 40th to 60th Streets, densities would be reduced. The majority of sites could not exceed FAR 15-16 on the avenues and FAR 12-13 in the midblocks. At present most buildings can reach FAR 18 throughout Midtown and FAR 21.6 in the special Fifth Avenue district.

4. In the midblock Preservation Area, between Sixth and Fifth Avenues from the north side of 53rd Street to the north side of 56th Street, density is reduced from FAR 10-12 to FAR 8 to retain the character, scale and function of this area.

• Bulk placement FAR limits would be set below those for avenue frontages, and would serve to inhibit the transfer to air rights across zoning district lines. These controls on bulk placement would help maintain traditional midtown development patterns.

6. Planning and urban design regulations would be restructured. New buildings would be required, without bonus, to:

- Provide additional pedestrian circulation space at ground level in proportion to the building's floor area;
- Maintain street-wall and retail continuity on designated avenues and streets. This would protect the character and function of Midtown;
- Relocate adjacent subway stairs from the public sidewalk to the development lot; and
- Continue existing networks of through-block passageways which ease pedestrian movement in the long blocks west of Fifth Avenue.

7. Bonusable Amenities would be sharply reduced. Selected amenities of proven public value would be retained, but in most cases at lower bonus value. All others currently available would be eliminated.

- Plaza bonuses throughout Midtown and through-block galleries (a form of plaza bonused only in the theatre district) would be retained but could not receive a bonus greater than FAR 1, rather than the present FAR 3.
- An urban park may transfer its air rights to a non-contiguous site by special permit if the base FAR is not increased by more than 20 percent.
- A major subway connection improvement, such as opening the station mezzanine to light and air, providing improved connections, escalators or elevators, would generate a floor area bonus up to 20 percent of the base FAR by special permit.
- All other bonuses would be theatre-related, available for rehabilitation, restoration or construction of theatres.
- No combination of bonuses could increase the base FAR by more than 20 percent.

8. Special protection would be extended to existing Broadway theatres. Demolition of 44 listed theatres would be prohibited without a special permit from the Commission. Incentives for preservation would include theatre air rights transfers across zoning district lines, bonuses for rehabilitation or

SUMMARY

reconstruction, and liberalized development rights transfers for landmark theatres.

9. Construction of high-density, market-rate housing in the Special Midtown District would be encouraged by simplifying the regulations governing mixed use buildings as well as residential buildings in the FAR 10-12 range, the maximum density allowed by law.

10. New bulk regulations would insure light and air for Midtown streets while leaving the architect wide latitude for building design.

11. The cumulative effect of the above proposals would go a long way toward eliminating negotiated zoning. They would permit development to proceed on a more predictable and as-of-right basis.

This report may serve, among its other purposes, as a compilation of comments received from the public on the Special Midtown District zoning amendments since the amendments were certified for Uniform Land Use Review consideration on October 13, 1981. It is designed to be read in conjunction with the Final Environmental Impact Statement issued by the Department of City Planning on March 6, 1982, the June 1980 Draft Report of the Department of City Planning Midtown Development Project and the June 1981 Final Report of the Department of City Planning Midtown Development Project (DCP Report No. 81-8.)

II. THE CITYWIDE PLANNING FRAMEWORK

Midtown Manhattan is the economic heart of New York City. How well Midtown works is a critical City-wide issue. Its importance has grown as New York City's economy has continued to shift from production and manufacturing to finance, management, business services and tourism—components of the City's national and international headquarters function.

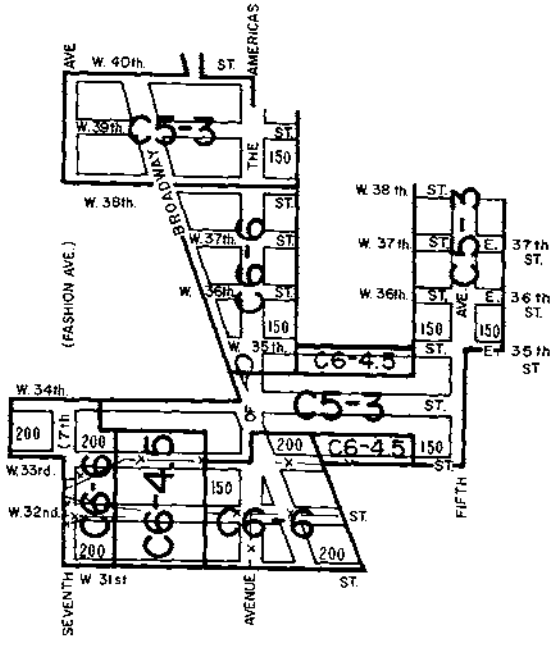
This shift from an economy and labor force dominated by production and "blue collar" jobs to one dominated by management, service and "white collar" jobs is common to all urban areas. New York is fortunate in having great strength on which to build. Its status as a world city is attested to by the growth of its international finance and management sector, the City's growing attraction for visitors, tourists, and conventions and its dominant influence in the arts, culture and entertainment.

The long-term growth that can be expected to flow from these strengths should last through the turn of the century. In the near future the challenge will be to ensure an orderly pattern of development in all areas of the City so that the benefits from this growth are enjoyed by every community.

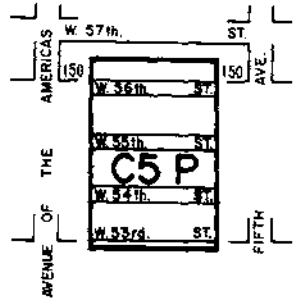
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SOUTH MIDTOWN GROWTH* AREA

*Growth incentives result from moderate upzoning of this area.



RESERVATION AREA



A. Office Development Outside Manhattan

The escalating rents and low vacancy rates in the East Midtown Stabilization Area are forcing firms with significant employment from the area. Development of the West Midtown Growth Area will provide space for many of those firms. But West Midtown cannot and should not be the only resource for future growth. The City-wide demand for office space covers a broad spectrum of space needs and costs, including many employers who could utilize multiple office locations. The City should accord the highest priority toward creating a variety of development sites for this market in order to maximize job retention and growth potential.

The Commission believes that significant opportunities exist for office development in boroughs other than Manhattan. The realization of these opportunities will require a range of policies developed and implemented through the cooperative efforts of several City agencies.

Successful office development outside Manhattan would:

- Moderate market pressures in Midtown and thereby mitigate the adverse environmental and economic impacts of congestion;
- Retain employment in the City by providing lower-cost office locations nearer the neighborhoods which are the source for much of the City's commercial and industrial labor pool; and
- Stimulate additional new investment in less developed areas as firms seek local goods and services.

1. Market Evaluation - There is evidence that Midtown office market pressures have already led to office space renovation and development at selected sites in the other boroughs. New office development should be encouraged with City incentives that lower the cost of construction and occupancy to reflect prevailing market conditions at competing sites outside the City.

The Commission is pleased that several agencies, including the Office of Economic Development, the Department of Finance, and the Departments of General Services and City Planning will be analyzing key office-space development factors including:

- The advantages of sites outside Manhattan'
- The nature of tenant needs;
- Alternatives to request-for-proposal procedures;
- Necessary development incentives;

- The structure of office rents and development costs in the boroughs; and
- The comparative features of specific sites.

This work should result in a strategy which addresses development and operating costs and City development procedures.

2. Development Costs—The promise of lower rents is the primary incentive for Midtown firms to shift to other boroughs. However, lower rents cannot be offered in new buildings without containment of construction costs. To ensure the necessary participation of banks, major institutional investors and tenants, the City must design and offer incentives which reduce development costs.

The Industrial Development Authority's (IDA) tax-exempt bonds are a potential source of reduced rate financing, and City-sponsored Urban Development Action Grants can involve other financial partners in these projects. As a first example, the City recently submitted an \$18 million UDAG application for Baychester Commons to permit development of 2 million square feet of back office space in the Bronx. UDAG funds should be targeted to similar opportunities as they arise.

Innovative sources of development financing may be available. For example, the Board of the New York City Employees Retirement System (NYCERS) is beginning to discuss the possible investment of public pension funds in New York City office construction projects which can provide investment security and economic development benefits for special areas.

3. Taxes and Operating Costs—Recent action by the Industrial and Commercial Incentive Board makes partial tax-exemption as-of-right for most of the other boroughs. The availability of tax incentives for new office development may enable sites in these areas to compete more effectively with suburban locations, but may not close the gap. Further adjustment in the level, term or availability of property tax incentives may be necessary.

The City should analyze the impact of its commercial occupancy tax on back-office locational decisions. Relief may be appropriate in areas where office construction is desired.

High utility costs can discourage the development of back office space, particularly for major computer operations. One component of high utility costs are City taxes on Con Edison. The utility company has reduced rates in certain development areas. The City and Con Edison should consider further initiatives to encourage this policy at suitable locations.

4. City Actions—The City must convey to prospective investors its commitment to reduce development costs in the other boroughs by taking ad-

ministrative actions to demonstrate its policy.

Effective packaging and marketing of sites by the City is an important element of this strategy. Coordinated efforts by all agencies engaged in this effort can ensure efficient consideration of development opportunities and facilitate the required City actions, including zoning changes, land disposition and financial incentives.

The City should be prepared to provide public improvements and amenities on specific sites as part of incentive packages. Specific transit station, street and sidewalk improvements should receive special consideration in the capital budgeting process. Exploration should continue into ways to improve public services, especially those involving security, in potential development locations.

The City's capacity to provide these incentives, as we noted in the June 1981 report, can be augmented by a development entity with powers similar to those of the Urban Development Corporation. Consideration of this initiative should be given a high priority in the preparation of a marketing strategy, together with the alternative approach of expanding the powers of the New York City Public Development Corporation (PDC). The effectiveness of PDC site assemblage, marketing and improvement programs would be enhanced by condemnation authority and the power to hold property on a tax exempt basis.

Among the most important actions the City can take are those which would redirect its own demand for office space outside of Manhattan. The Department of General Services is moving more than 400,000 square feet of Manhattan office space to downtown Brooklyn, which will reduce costs to the City and spur development in the area. More than two million square feet of City-leased space in Manhattan are due for renewal by 1986. Efforts to relocate these tenants in other borough sites would be an important indication of confidence and commitment to these areas. Plans for the relocation of State offices from the World Trade Center should be consistent with these objectives.

The skill level of technical and support employees is a critical concern of any employer with a substantial office workforce. Effective partnerships should be forged between office centers in the other boroughs and local schools. Employers can aid in the design of vocational and other skilled training curricula that are best suited to the current job market.

The Commission recognizes that the City should play an aggressive role in stimulating office development outside of Manhattan. The rezoning of Midtown recommended here should correctly be viewed as the first step to ensure diversity and balance in the city's future commercial development. Market forces have demonstrated the robustness of New York's office market over time; it has proved to be a source of strength and vitality which the Commission believes can and should fuel economic growth in all the boroughs.

III. BACKGROUND TO THE MIDTOWN DEVELOPMENT PROJECT

In its December 1913 Report to the Board of Estimate and Apportionment, the Heights of Buildings Commission recommended enabling State legislation to restrict building heights in relation to street widths. The canyon created by the Equitable Building at 120 Broadway, which rose straight up from the lot line was an example of what would happen if heights were not controlled. A system of height controls was recommended which could vary in different districts depending on the character of existing development.

The 1916 Zoning Resolution, the first in the nation, established districts based on a set of relationships among building height and setback and street width. A tower provision permitted part of a building, up to 25 percent of the lot area, to rise without setbacks if it was a specified distance from the street.

The 1961 Zoning Resolution revised the height and setback regulations partly in reaction to the "wedding cake" form of buildings constructed in accordance with the 1916 regulations. "Sky exposure planes" replaced height districts to govern setbacks on narrow and wide streets.

The 1961 Zoning Resolution introduced the concept of floor area ratio (FAR) as a limitation on building density. The 1916 height and setback regulations along with the yard, court and coverage restrictions assured access of light and air to the streets and adjoining properties, but provided unreliable control on density. The floor area ratio device was direct and reliable, and accommodated bonus provisions and transfer of development rights. The concept was subsequently used to secure public amenities on development sites, to help implement special district plans and to support the City's landmarks preservation program.

A major goal of the 1961 Zoning Resolution was to secure open space at street level. Bonus floor area was offered for a plaza, allowing a building in a FAR 15 district to reach a maximum FAR of 18. The 1961 zoning regulations were written to be self administering as much as possible, and the plaza bonus was offered as-of-right for buildings that complied with the plaza regulations.

Midtown was the scene of an unprecedented office building boom in the 1960's, marked by a procession of towers and plazas along Park and Third Avenues and the Avenue of the Americas. The first special purpose district, the Special Theatre District, was established in 1968. The special district approach was also used to maintain Fifth and upper Madison Avenue street walls. Street wall and retail continuity were mandated, and generous bonuses were offered by special permit for covered pedestrian spaces or other indoor spaces. Bonuses were cumulative in the Theatre and Fifth Avenue Districts, bringing the maximum FAR up to 21.6.

The Special Theatre District was established in response to the threat to the Broadway theatre of the westward expansion of Midtown office construction. But this movement was cut short by the construction depression of the mid-nineteen seventies. When office construction resumed, instead of continuing westward where sites were more available and the subway lines had greater transit capacity, developers sought only sites in the East Side core almost without regard to cost.

IV. THE MIDTOWN DEVELOPMENT PROJECT

The result of these development trends was serious overbuilding in the East Side core that severely reduced the light and air at street level. Predictability and certainty, the hallmark of the 1916 zoning law, had virtually disappeared, and virtually every major new building constructed through a special permit, exception, text change or variance. The incentive zoning developed to encourage plazas had become negotiated zoning to the growing concern of Community Boards, the development community, critics, the general public, civic and professional organizations, and the Planning Commission. In response, the Department of City Planning undertook a comprehensive review of midtown zoning regulations.

From the beginning of this effort it was apparent that Midtown zoning could not be examined in isolation. Zoning is essentially a tool, and should be developed in a planning framework that provides a common denominator for other public development policies, and in the perspective of related policies.

The Midtown Development Project has been carried out as an open process with widespread and continuous public participation. Its basic premises, development strategy and specific recommendations have been shaped and refined by the views, concerns, criticism, comments and recommendations of a concerned public. During the course of the Project more than 200 meetings were held with developers, architects, mortgage bankers, community boards, professional and business groups, civic organizations, public officials and interested individuals.

A 300-page draft report released for public comment in June 1980, set forth the basic premises, development strategy and preliminary recommendations of the project. Its appendices included the major reports of the Project's architectural, real estate and open-space consultants. One year later, the June 1981 report, **Midtown Development**, was published. It included specific recommendations on development strategy, special incentives, public investments and services, and zoning changes.

A Development Strategy

Our general development strategy for Midtown is to encourage the resump-

tion of its expansion westward and southward. This will help accommodate anticipated Midtown growth in the next ten to twenty years, and will relieve the pressure on the East Side core.

More specifically, the development strategy we proposed would divide Midtown into three types of areas:

Growth Areas—The West Side from Avenue of the Americas to Eighth Avenue, 40th to 60th Streets; the Fifth and Sixth Avenue corridors south of 40th Street to 34th Street; 34th Street between Fifth and Eighth; and the Penn Station-Herald Square area are designated for growth.

Stabilization Area—The East Side office core area—roughly 40th to 60th Streets between Third Avenue and Avenue of the Americas—is the stabilization area. The strategy aims to protect this area by relieving development pressures, guiding the change and development that will occur so that it respects the existing character, values and ambience, while easing congestion and overcrowding.

Preservation Areas—The midblocks between Fifth Avenue and the Avenue of the Americas in the vicinity of the Museum of Modern Art constitute an area whose quality townhouses, low-scale buildings and streetfront shops and restaurants warrant preservation. In addition, specifically listed existing Broadway theatres would be protected.

V. PUBLIC RESPONSE TO THE PROPOSED AMENDMENTS

On October 13, 1981 the City Planning Commission certified the amendment of the zoning map establishing a Special Midtown District for ULURP reviewed by the affected Community Boards and the Manhattan Borough Board (C 820214ZMM). At the same time the Commission distributed for review and comment a draft text of the proposed regulations for the Special District (N820253ZRM). The Department distributed a draft environmental impact statement on these proposals.

A. Community and Borough Board Consideration

Community Boards 4 (on December 2, 1981), 5 (on December 10, 1981), 6 (on December 16, 1981) and 8 (on December 16, 1981) held hearings on the Midtown proposed amendments following their review and consideration by appropriate committees. The Manhattan Borough Board considered the amendment at a scheduled meeting on January 26, 1982.

Community Board 4, whose district includes the Clinton area adjoining the western boundary of the proposed Special Midtown District, voted qualified

support to the proposal. It supported the zoning changes proposed in the Stabilization Area, but questioned the need for incentives of the scope proposed for the Growth Area. The Board's major concern was that conditions on the East Side not be replicated on the West Side, thus jeopardizing the existing character of Clinton. The Board recommended that densities west of Fifth Avenue not exceed FAR 15; opposed residential development east of Seventh Avenue and FAR bonuses except for theatre preservation and subway station improvements; asked for a study to evaluate the adequacy of the City services that would support development; requested a new police precinct for Midtown; and expressed the view that ICIB tax incentives should not be as-of-right. The Board also opposed inclusion of the Coliseum site in the Growth area.

Community Board 5, whose district includes the major portion of the Special Midtown District, voted in support of the proposed amendments with the following recommendations. The Board asked for a ten year sunset provision for the new daylight evaluation rules with a mandated review not later than eight years from the effective date of the new zoning. It also suggested that occasional seating for elderly and handicapped persons might be necessary along Madison Avenue; that the street wall concept be expanded to include the Avenue of the Americas growth corridor; that City Planning review the history of mixed-use buildings; and that all bonuses be subject to ULURP. The Board expressed particular support for the Preservation Area and for the downzoning of the East Side midblocks.

Community Board 6, whose East Midtown district includes the proposed Special Midtown District east of Lexington Avenue, also gave conditional support to the proposed rezoning. It favored the density differential between East and West sides; reduction of the plaza bonus; downzoning of the East Side midblocks; new daylight standards; and maintenance of street wall and retail continuity. The Board's reservations were principally concerned with protecting the residential character of Second Avenue in the forties from commercial development, permitted by current zoning; and with the need for the City Planning Commission to develop broad measures to ameliorate Midtown congestion and to deal with the movement of people and goods.

Community Board 8, which touches on the northerly boundary of the stabilization area, recommended that the Madison Avenue blockfront between 60th and 61st Streets be included in the Special Midtown District. The Commission proposal had excluded and downzoned it consistent with the zoning to the north in the Upper East Side historic district.

The Manhattan Borough Board deferred action on the proposed amendments until after the City Planning Commission Report is issued.

B. The Public Hearings

On January 20, 1982 (Cal. Nos. 23, 24 and 25), the City Planning Commission scheduled PUBLIC HEARINGS on the proposed zoning text amendment (N820253ZRM), on the proposed Special Midtown District map changes (N820214ZMM). A public hearing on the draft Environmental Impact Statement pursuant to the State Environmental Quality Review Act and regulations (SEQR) and City Environmental Quality Review (CEQR) was scheduled at the same time by the Departments of City Planning and Environmental Protection.

The public hearings on these three items were held on February 3, 1982 (Cal. Nos. 52, 53 and 54) and the hearings were continued on February 24, 1982 (Cal. Nos. 62, 63 and 64). The public hearings on the zoning text and zoning map amendments were continued on March 2, 1982 (Cal. Nos. 1 and 2). The hearing on the draft Environmental Impact Statement was closed. On February 8, 1982 (Cal. No. 1), a PUBLIC HEARING was also scheduled for March 2, 1982 on additional revisions of Sections 11-11, 81-023, 81-231, 81-233, 81-241, 81-451, 81-731 and 81-734 of the Zoning Resolution (N820253ZRM) (A). These proposed amendments, mainly brought to the attention of the Commission at the public hearing on February 3, 1982, were considered by the Commission as appropriate for inclusion in the Special Midtown District regulations.

Forty-seven speakers were heard at the February 3rd public hearing. Speaking in support of adoption of the proposed Midtown zoning were a representative of the State Assemblyman from the 66th Assembly District; the President of the Parks Council who spoke on behalf of the President's Council, an association of eight civic groups concerned with planning and design, consisting of: American Institute of Architects, New York Chapter; American Planning Association, New York Metropolitan Chapter; American Society of Landscape Architects, New York Chapter; the Architectural League; The Landmarks Conservancy; Municipal Art Society; The Parks Council; and the Regional Plan Association.

In addition the chairman of the special committee on Midtown zoning of the New York Chapter of the American Institute of Architects, a representative of the American Planning Association, the Executive Vice President of Regional Plan Association, the Executive Director of the Parks Council, the Chairman of the Urban Design and Planning Subcommittee of the Municipal Art Society of New York, and a representative of the New York Landmarks Conservancy spoke on behalf of their organizations.

So, too, did the Chairman of the Housing and Planning Committee of the Women's City Club of New York, the Chairman of the Zoning Committee of Manhattan Community Board 6, and the District Manager of Manhattan Community Board 5. Several individuals, including a developer, also spoke in favor of the proposed amendments. A representative of the Committee for the Preservation of West 54th and West 55th Streets also spoke in favor and

presented a petition with 177 signatures in support of the Midtown Zoning Proposal and especially endorsing the Preservation Area.

Many of those who supported adoption of the Midtown zoning amendments recommended modifications-- without delaying adoption of the amendments as well as areas for subsequent study. A representative of the Sierra Club who spoke about the draft EIS commended the Department of City Planning for preparing it in-house, but commented that as a programmatic EIS it should have started at the beginning of the project and been more than a "shoestring" study.

A Manhattan councilman-at-large and the councilwoman from the 3rd council district voiced reservations in their support. A representative of the Shubert Organization and the League of New York Theatres stated that the incentives to preserve theatres were not adequate. A large delegation of representatives, officials, trustees and friends of the Museum of American Folk Art, 13 of whom spoke, protested the inclusion of the north side of 53rd Street in the Preservation Area as jeopardizing expansion plans of the museum.

An attorney and a planner representing the owner of 667 Madison Avenue, and a realtor representing the owner of 660 Madison Avenue, opposed the exclusion and downzoning of Madison Avenue between 60th and 61st Streets from the Special Midtown District. The Chairwoman of the Development Committee of Community Board 8 reiterated the Board's backing of the owner's position. A representative of the owner of 680 Lexington Avenue, on the northwest corner of Lexington Avenue and 56th Street, likewise protested the proposed exclusion of that property from the Special District and its downzoning.

Those who spoke in opposition to the proposed amendments included the Councilwoman from the 4th district and representatives of the Fifth Avenue and Park Avenue Associations, the Vice President of the Real Estate Board of New York, a member of the zoning committee of Citizens Housing and Planning Council of New York, and a representative of the Metropolitan Garage Owners' Association.

Also two developers of Midtown office buildings, an attorney representing property owners, and an attorney speaking on his own behalf appeared in opposition.

A number of those who opposed the proposal requested a "grandfather" clause that would permit East Side developers to use the more generous FAR rules of the current law for some period after the effective date of the new regulations. The Real Estate Board also took the position that the 20 percent FAR differential between the East and West Sides was not sufficient by itself to spur development west; that densities, up to FAR 24, should be permitted on

large sites in designated areas; that the new zoning should be contingent on site assemblage assistance and predictable tax benefits, including as-of-right ICIB exemption and relief from the commercial occupancy tax for "pioneer" developers; that downzoning of the East Side required further economic study; and that the split-lot regulations should be eliminated and a bonus given for off-site subway improvements.

At the continued hearings on February 24th, 20 speakers appeared. An architect and the Chairman of the CHPC zoning committee spoke in general opposition. A representative of the Sierra Club who had appeared at the first hearing in favor spoke in opposition to indicate his "ambivalence" about the draft EIS. Two attorneys, one representing the Penn Central Corporation, owner of Grand Central Station's unused development rights, claimed that the zoning proposed for the Stabilization Area was diminishing landmark development rights. The attorney for the Museum of American Folk Art presented a land-use study in justification of the Museum's request to be excluded from the Preservation Area.

The Councilman from the 7th C.D. stated his strong support and urged that protection be given to Second Avenue as well. A similar position was stated by the President of the Turtle Bay Association.

The Chairperson of Community Board 4 reiterated her Board's position.

The real estate and economic advisor to the Midtown Development Project stated that the basic concept of encouraging Midtown expansion west and south was valid and in the interest of the City; that East Side congestion, already a problem, would get worse with the opening of the new Madison Avenue buildings and could adversely affect existing values; that West Side improvements such as the 42nd Street Development Project and the Portman Hotel are important to encourage West Side development; that a substantial rent differential between the West Side and East Side is also important; that the development of Fifth Avenue to 34th Street did not threaten existing department stores; and that the proposed densities are reasonable.

Others who spoke in favor of the proposal were the Chairperson of Community Board 7, who also urged elimination of the Coliseum site from the Growth Area, and representatives of the Presidents' Council, the Women's City Club, Municipal Art Society, the Committee to Preserve 54th and 55th Streets, and the Friends of Cast Iron Architecture. A common theme was the call for prompt adoption and strong opposition to any grandfather provision.

Seven speakers appeared before the Commission at the public hearing on March 2, 1982. An attorney representing the Associated Builders of New York opposed the change requiring that existing buildings in a merged zoning lot be cleared of violations before a final Certificate of Occupancy was issued for the

Zoning can, however, influence the character of current and prospective areas by prescribing the maximum size of buildings and their impact on the surrounding area. The inadequacy of existing regulations in shaping development on terms that assured a proper relationship to the City's most significant economic center led to this effort. And many observers, including the Real Estate Board, recommended an FAR differential between East and West Sides as one way to help strengthen the natural forces at work and accelerate the movement of development west.

B. Boundary Issues

1. **Madison Avenue, 60th to 61st Streets.** As previously noted representatives of property owners on this avenue frontage protested its proposed exclusion from the Special District. Community Board 8 agreed that it should be included in the Special District. After further review, based on the predominant developed character of this frontage, the Commission agrees and is simultaneously certifying for ULURP a zoning map change to include 125 feet on either side of Madison Avenue between 60th and 61st Streets within the Special Midtown District with a C5-3 designation. The midblock will be left at C5-1, consistent with its built character.

2. **Lexington Avenue, 55th to 57th Streets.** The exclusion of this area from the Special District was also protested by a property owner. The Commission in this instance believes that these blocks are related more to the predominantly mixed residential and commercial area to the north than to the high-density office towers to the south. Community Board 5 voted to support its exclusion from the Special Midtown District. However, the Commission is of the opinion that high-coverage development in the FAR 10 to 12 range would be appropriate to the needs of the area and consistent with existing development. Therefore it has asked the Department to develop within 90 days of adoption of the Midtown zoning a C5-2 "infill" proposal which would permit high coverage commercial or residential development on an as-of-right basis for this and other appropriate areas.

3. **53rd Street Preservation Area Boundary.** As previously noted, a large delegation representing the Museum of American Folk Art protested that the south boundary of the Preservation Area at 53rd Street jeopardized expansion of the Museum. They urged that the boundary be moved to midblock between 53rd and 54th Streets. Board 5 and the Committee to Preserve 54th Street recommended that it remain where it is. The Commission recognizes the importance of 53rd Street as a "museum block" and ultimately set the boundary of the Preservation Area to protect the street's character and scale, including the museum buildings. We note, moreover, that no plan or proposal for expansion of the museum has been submitted to the Commission. While recognizing the arguments made by the many persons who spoke or wrote on behalf of the

new development. He stated that it would create financing problems and be onerous for existing merger agreements.

The Executive Director of Green Guerillas called for retention of incentives for roof-top parks and gardens as presently provided in the Special Fifth Avenue District.

The Director of the Mayor's Office of Midtown Enforcement spoke in favor, stating that the time was appropriate for full development of the West Side, and thanked the Commission for including provisions suggested by his office.

The Vice President of RPA, speaking for the Presidents' Council and for RPA, and the Executive Director of the New York Chapter, AIA, thanked the Commission for including the large-site modifications of Section 81-66.

Two representatives of the Committee to Preserve West 54th and 55th Streets urged prompt action to protect the Preservation Area from inappropriate development, including a proposal for a "needle" tower on 55th Street.

The Commission has also received many written communications which it has taken into consideration, as well as the views expressed at many of the meetings on the Midtown proposals attended by members of the Commission.

VI. ISSUES AND CONSIDERATION

A. Planning Strategy

All participants in the public review and comment process appear to be in agreement with the basic development strategy of facilitating the expansion of Midtown west and south, and limiting development in the East Side core area to avoid further congestion and pressure on its overtaxed public facilities.

Questions have been raised over the extent to which public sector initiatives, particularly zoning, can actually influence the private market place. The period that led up to the Midtown Development Project indicated that zoning was primarily a restrictive regulatory tool, and that its potential as an affirmative incentive to make things happen was limited.

The Commission acknowledges that the development trends in Midtown are primarily dependent on private sector initiatives and investment decisions. Investor perception of the growing scarcity of East Side development sites and the mounting congestion of its streets and mass transit facilities will be the main forces acting to expand Midtown west and south.

museum, the Commission is not convinced that the 53rd Street boundary of the Preservation Area need now be changed.

4. Second Avenue. While we are sympathetic to the request of Community Board 6 that the residential character of Second Avenue in the forties be protected, the extension of the Special Midtown District will not accomplish this. The Chairman of the Community Board's zoning committee, in his remarks at the Public Hearing, expressed the Board's satisfaction at the Department's commitment to work closely with the Board in recommending appropriate zoning changes for Second Avenue following adoption of the proposed amendments.

5. Eighth Avenue. The inclusion of both sides of Eighth Avenue as part of the Special Midtown District Growth Area has been urged since publication of the Midtown Development final report and at the Public Hearing. The Commission agrees and notes that following consultation with Community Board 4, the Midtown Development draft report of June 1980 included both sides of the avenue within the Growth Area boundary.

The Commission did not include the west side of Eighth Avenue within the Growth Area at this time because the Department, in consultation with the Clinton community, is currently conducting a study to identify necessary revisions of the Special Clinton district. We have been informed that the revision is expected to be ready for Commission certification in the near future and that the staff is exploring a proposal that would put both sides of Eighth Avenue on an equal footing, overlapping both the Special Clinton and Midtown Districts. Bulk regulations would be either those of the Midtown District or a variation of infill housing regulations. The base density of the avenue would remain at FAR 10 (C6-4), but could achieve FAR 14.4 for bonusable amenities by special permit. Bonuses would be for major subway station improvements, for building new or preserving existing theatres, or for a revised Special Clinton District floor area bonus.

6. Coliseum. The Commission believes that the Coliseum area should remain in the Growth Area; with completion of the Convention Center, redevelopment of the Coliseum is a logical possibility. Considering its location facing Columbus Circle and on top of a network of subway lines, the proposed C6-6 zoning which permits FAR 15 bonusable to FAR 18 is appropriate and consistent with our Midtown development strategy.

7. Fifth Avenue. Some concern has been expressed that the designation of Fifth Avenue from 38th Street south to 34th Street as a Growth Area might jeopardize the character of that part of Fifth Avenue and the department stores located there. In this instance the label may be misleading. The upzoning proposed will only make this segment of the avenue consistent with the zoning of the avenue above 38th Street, which is in the Stabilization Area. Development

above FAR 15-16 is unlikely. In addition, the special design and retail use controls of the Fifth Avenue sub-district would apply. The real estate consultant to the Department has advised that such new development would strengthen the lower Fifth Avenue department stores, a judgment in which the Commission concurs. The Fifth Avenue Association agrees and supports the rezoning of this portion of the Avenue. Indeed it urges that we include Fifth Avenue down to 25th Street as well as Park Avenue South in the Growth Area. The Real Estate Board and the Park Avenue South Association concur. As indicated in the final report, we think a decision on these areas should not proceed before we have seen the effect of our policies on the area north of 84th Street.

8. Penn Station Area. We did not extend the Special Midtown District to Eighth Avenue here because of the high concentration of industrial jobs in the area. Any changes should protect existing industry and jobs, and reflect the needs arising out of the Special Convention Center Area Study now underway.

C. Density and Bulk Issues

A number of points under this heading were made at the Public Hearing. These included arguments to increase density (FAR) limits in the Growth Area, to decrease them in the Stabilization Area, to retain or do away with the distinction between midblock and avenue zoning, to modify split lot regulations and their impact on zoning lot mergers, and whether to "grandfather."

1. FAR Limits. The Commission considered a number of alternatives in arriving at its recommendations contained in the proposed amendment. The alternatives were weighed in relation to their effectiveness in implementing the Commission's basic policy of stabilizing development in the East Midtown core and encouraging growth in the West and South Midtown areas. Alternatives were similarly considered in achieving the Commission's preservation objectives.

a. East Midtown

Alternatives ranged from continuing present FAR levels with stricter enforcement of height and setback regulations and public amenities to consideration of a moratorium on further development. The mid range of considered options included the reduction of the allowable as-of-right FAR in this area in different amounts; it also included variations between avenue and midblock development.

The Commission rejected both extremes. Continuance of the present FAR levels with strict enforcement of daylight and public amenity standards was rejected because of the inherent rigidity of the present bulk regulations. It was felt that on lots of less than 40,000 square feet, which represent the great majority of developable sites, developers would invariably seek special permit and variance relief from the rigid building

envelope regulations in order to take advantage of the full FAR still accorded by the ordinance under this alternative.

At the other end of the spectrum, a moratorium for any significant period of time would raise serious constitutional and other legal questions dealing with the rights of property owners in the affected area and was therefore rejected.

The Commission considered the economic impact of the recommended downzoning on property owners. The Commission concluded that, while potentially diminishing values in some areas, on balance property values would be protected. Significant factors in reaching this conclusion were the Commission's confidence in the increased flexibility of the new daylight recommendations, which remove rigidities imposed by the present ordinance, and the adverse impact of increased congestion on existing values.

b. Preservation Area

There were a number of options for preserving the scale, quality and function of the unique midblock area between Fifth Avenue and the Avenue of the Americas in the vicinity of the Museum of Modern Art.

Alternatives ranged from removing the basic bonus applicable in the area, thereby reducing allowable floor area, to designation as a historic district with a height limitation by the Landmarks Preservation Commission. The first alternative would still have permitted FAR 10 development where study revealed that the prevailing bulk within the area approximates FAR 8. The Historic District approach was suggested to the Landmarks Preservation Commission; it has not acted on the recommendation for the area.

Based on its analysis of the area's existing character, the Commission chose the middle ground: a zoning district with maximum FAR 8. The Commission considered the economic effect of downzoning to be balanced by the preservation of the area's unique character and the reduction of potential congestion, which would work to preserve or enhance property values.

c. West Midtown

Here the Commission's policy was to encourage growth and relate zoning recommendations to this goal. While disposed to use zoning creatively in this regard, the Commission remained conscious of its responsibility to safeguard public standards of light and air, public amenities and environmental quality, including impacts on public infrastructure. The

alternatives considered ranged from allowing an unprecedented maximum 24 FAR in this area to keeping FAR levels consistent with the rest of Midtown and relying upon tax incentives and other public investment to induce development. The Commission chose an alternative which in fact grants higher FAR in this area (FAR 18-21.6) than in East Midtown but coupled this action with a number of safeguards which should prevent resulting densities from overburdening public facilities. These include a 6-year sunset provision; daylight standards; midblock treatment; theatre preservation and density-ameliorating amenities.

The basic FAR 15-18 split between the East and West Side avenue frontages was carefully chosen. It provides a twenty percent differential between East and West Sides together with a maximum limit of 21.6 on the West Side, both of which were originally recommended by the Real Estate Board and other concerned groups.

The Commission recognizes some disappointment in the private sector at not having the deep as-of-right tax incentives for "pioneer" West Side developers. But ICIB tax exemption will still be available on a case-by-case basis to help achieve a rent differential. And the commitment of more than three-quarters of a billion dollars in public funds for such projects as the Convention Center, Portman Hotel and Broadway Plaza, 42nd Street Redevelopment Project, major subway station improvements and the LIRR West Side layover yard is direct investment in upgrading the West Side.

d. South Midtown

The Commission believes that the development in this area is preferable to further concentration in the East Midtown core. The restricted density limits of FAR 10-12 imposed by the current zoning inhibit consideration of sites in this area as alternatives to core locations. Adjustments to the zoning could range up to the present FAR 21.6 maximum allowed for certain uses in the Special Fifth Avenue District, but the Commission believes that the most appropriate level is that provided for the East Midtown Stabilization Area. This classification would allow FAR 15 on the avenues and FAR 12 on the midblocks. It extends west along the 34th Street corridor and north on 6th Avenue to 42nd Street, and should provide an effective inducement to investment, while avoiding undue pressure on loft areas which house the City's important apparel industries, and maintaining the predominant scale presently found on Fifth Avenue.

2. Midblock Zoning. The lower midblock density levels prescribed throughout the proposed special Midtown District comport with the traditional development pattern in Manhattan. This feature has been encouraged since the inception of City zoning controls, which have consistently related permissible

building size to the width of streets as a reflection of the basic physical facts. A combination of greater street width and shorter blockfront on avenue frontages permits proportionately more light and air to reach the street than on side streets, and avenues are generally more accessible to both pedestrian and vehicular traffic.

Reducing midblock zoning in the Stabilization Area to base FAR 12 will reduce the size and, in all likelihood, slow the pace of construction of new midblock office towers in East Midtown. The market in that area will be most attractive to specialized commercial tenants who do not require large floor areas. Developers who have assembled midblock sites may opt for mixed commercial-residential or residential towers to tap the luxury coop and condominium market. Developers of higher density buildings seeking to attract commercial tenants with significant space needs will at the same time perceive advantages in looking to the west and south, which will greatly help in relieving pressure on the East Side. There are already clear signs that overconcentration of building leads to congestion of streets and strains on public transportation that threaten the very values that make the area so desirable.

3. Split-lot Regulations and Zoning Lot Mergers. The Commission believes that continuing the existing split-lot regulations, which basically restrict transfer of bulk across district lines, is essential to the midtown strategy, since they prevent the unrestricted transfer of air rights which has created so many problems in East Midtown. At the same time we agree that the split-lot provision should be modified for large-scale developments to allow for unique design opportunities and to permit more flexibility in the placement of plazas, and have provided a special permit procedure for such cases in Section 81-66.

4. Landmark Transfers. The existing zoning regulations encourage landmark preservation by allowing landmarks to transfer development rights to adjacent lots. Such transfers may extend through a chain of ownership to a receiving lot contiguous with or across the street from the landmark granting site. In the highest density commercial Midtown districts, an eligible receiving lot can, regardless of the existing scale of development, accept transfer of any amount of additional density from a landmark. Limits are placed only on the amount that any granting site can transfer. These provisions are all carried forward into the proposed special Midtown District regulations without change.

In Midtown the unused development rights above a landmark which may be transferred are limited by the FAR 18 maximum, consisting of a base FAR 15 plus an FAR 3 plaza bonus, available under the current zoning.

Under the proposed amendments, the limit in the Stabilization Area would be reduced on avenue frontages to FAR 16, consisting of the FAR 15 base together with the FAR 1 plaza bonus. This reduction of 2 FAR reflects Commission policy to restrain growth in a congested area of Midtown. Development west of the

Avenue of the Americas would be encouraged by an increase in the granting lot density limit on avenue frontages from FAR 18 to FAR 19, consisting of the Growth Area base FAR 18 plus the FAR 1 plaza bonus. Midblock limits on granting sites would reflect the FAR differential provided in the proposed regulations to preserve the scale and character of the affected area.

A landmark property's development rights potential will vary depending upon its location within the Special Midtown District. From the broad planning perspective of zoning, the assignment of maximum FAR classifications treats landmarks sites no differently than any other properties. All landmarks within each zoning district are treated evenhandedly, in accordance with the well-considered plan for the Midtown area as a whole.

Public comment on the proposal has included the argument that the development rights privileges enjoyed by the Grand Central Terminal Landmark zoning lot, which was upheld by the decision of the U.S. Supreme Court in *Penn Central Transportation Corp. vs. New York City*, 438 U.S. 104 (1978), are reduced under the Midtown zoning amendments. The Commission was asked to grandfather the existing potential of such landmarks. While the ceiling on granting site density is lowered from FAR 18 to FAR 16 in East Midtown under the Midtown amendments all neighboring East Midtown properties are correspondingly reduced and the relative attractiveness of the transfer privilege is thereby preserved. The greater reductions in FAR for East Midtown midblock properties eligible to receive development rights may in fact enhance the marketability of the floor area which the granting site can transfer.

The *Penn Central* decision upheld the constitutionality of the Grand Central designation because the property continued to enjoy a reasonable beneficial use. We believe that this use is assured, if not enhanced, by the comparable privileges available in the proposed Special Midtown District.

Any marginal diminution in the value of an individual landmark site's development transfer potential would, in our view, be outweighed by the far more significant planning advantages flowing from the reduction of permissible densities in the overly congested Stabilization Area and the incentives for development in the relatively less congested Growth Area. The Commission therefore does not find that selective grandfathering for landmark sites would be warranted.

5. Bulk Regulations. Some of the comments on the proposal viewed the two new alternate sets of bulk regulations—Daylight Compensation and Daylight Evaluation—as excessively complicated and difficult to use. We were encouraged, however, by the enthusiastic acceptance of the American Institute of Architects, which has extensively tested the new regulations, and whose spokesman stated:

"The performance system*to regulate bulk and insure daylight on midtown streets which the Commission is proposing here may well be the most significant zoning concept to have been introduced in New York in many years. . .and the result will be that daylight on the streets henceforth will be for the public the most vividly perceived outcome of this whole exercise."

The Commission believes that the alternate sets of bulk regulations are an important component of our effort to achieve as-of-right zoning. It is the builder and his architect's choice of two systems, both based on measurable performance standards, that offers design flexibility. To assure the certainty and predictability that zoning is intended to provide, the only exceptions to the daylighting standards permitted are for landmark transfers in the highest bulk districts.

There has been criticism that the new bulk regulations permit larger buildings on small East Side sites than the present as-of-right regulations. This criticism overlooks the fact that the rigidity of the present regulations for small sites has resulted in exceptions, waivers or variances of the regulations in the majority of cases, with unpredictable and sometimes undesirable results. The combination of the new bulk regulations with the lower densities and midblock zoning would, we believe, keep new building within predictable and acceptable limits.

The new bulk regulations and the density limits in the newly mapped zoning districts go hand in hand. Bulk regulations alone would permit development of excessive density. There would be no distinction between East Side and West Side, between avenues and midblocks. Reliance on density limits with bulk regulations waived or modified, as in recent years, would lead to buildings out of proportion to their actual sites, rising straight up from the lot line without setback and creating new canyons in Midtown. The new proposals—bulk regulations, density limits, midblock zoning protected by the split-lot rule—are an integrated system, responsive to Midtown conditions and needs.

It is important to note that the daylight standards are not applicable outside Midtown. They are based on the level of daylighting that can reasonably be expected in Midtown and reflect the historic building patterns of this densely developed area. They would not be acceptable in less dense areas.

Community Board 5 recommended that the new bulk regulations be subject to a 10-year sunset provision with a mandatory review starting no later than the eighth year. A sunset provision is not practical because there would have to be an underlying set of regulations to which they would revert, and the present regulations have proved unsatisfactory. There is merit, however, in a review of the entire system after an appropriate period of experience. Accordingly we are including a provision in the Zoning Resolution mandating Planning Commission

review and public hearing of the bulk regulations in the sixth year after adoption. This ties into the six year sunset provision for the as-of-right FAR 18 mapping in the Growth Area.

6. Selective Grandfathering. A number of developers in East Midtown came to the Commission seeking to preserve the FAR potential their sites enjoy under existing zoning. They offered to build structures that complied with the recommended daylighting standards but which, based on existing zoning, exceeded recommended floor areas by as much as 50 percent.

The Commission has considered these requests and rejected them for the following reasons:

As has been pointed out, the recommendations of lower FAR and increased daylighting cannot be separated. The daylighting regulations provide enhanced environmental protection from the disposition of building bulk; the lower FAR insures that public expectations of impacts associated with new development meet acceptable standards consistent with current conditions.

The Commission believes that the selective grandfathering proposed by these developers would take only the "carrot" of flexible bulk regulations without the "stick" of reduced FAR, and would in fact frustrate the central objectives of the proposed Special Midtown District.

The argument is made that imposition of the new zoning regulation creates a hardship for those who acquired their sites under different regulations and expectations, which is in fact always the case when more restrictive zoning is enacted. The usual rule upheld by the courts is that rights are not "vested" unless foundations are substantially completed when the new zoning is adopted in which case the building may go ahead under the old rules. The Commission believes that a special grandfather provision is not warranted on grounds of fairness for those who have not vested, particularly since there has been ample notice and extensive public discussion of the intent to rezone Midtown.

D. Planning and Design Flexibility

There was strong public support for the as-of-right approach taken in the proposed zoning, but there was an undercurrent of concern. A number of groups, particularly the Presidents' Council and its constituent organizations, expressed the view that the as-of-right approach might foreclose developments that present exceptional planning and design opportunities, but do not strictly conform to the new standards, particularly for larger sites.

The Commission agrees that this criticism has merit, and has accordingly included in the new regulations a special permit for larger sites – 60,000 square feet or over, or sites occupying a full block. The regulation would permit, as

suggested by the American Institute of Architects, modification or waiver of mandatory plan elements and distribution of bulk without regard to the split-lot rule upon appropriate findings by the Commission and Board of Estimate approval. It would not permit any increase in density (FAR) limits or any waiver or modification of the daylight regulations.

It was strongly urged that the Department of City Planning maintain strong planning and urban design capability. There is every intention to do so. Reducing the burden of reviewing individual building design under negotiated zoning will give the Department greater staff capability to deal with the broader issues of planning and urban design.

E. Mandatory Plan Elements

The major issues raised by the mandatory plan elements of the Special Midtown District have concerned street-wall and retail continuity and pedestrian circulation. The maintenance of Midtown's characteristic street-wall and retail continuity on designated avenues and wide crosstown streets has been criticized as unwarranted interference with individual design judgments and the workings of the private market place. The Commission believes that this view disregards the Commission's fundamental planning responsibility for protecting and strengthening the character of Midtown and the long term viability of its streets and avenues.

Those designated streets, in the opinion of our economic consultant, have the market potential to sustain retail continuity. There is no economic hardship, since retail uses bring the greatest economic return for groundfloor space. The danger to retail continuity is the corporate or institutional developer which is not concerned with economic return or with the impact of its development on the street. Major breaks in retail continuity not only adversely affect adjoining shops but displace the convenience shops relied on by Midtown's working population, and its shoppers and visitors.

There is some competition between the requirements for retail and street-wall continuity and the setbacks which serve pedestrian circulation and other environmental considerations. The Commission has weighed these concerns and in our judgment the special District regulations strike an appropriate balance when viewed in conjunction with the special permit provision for large sites and the changes in pedestrian-circulation requirements that we are making at the suggestion of the American Institute of Architects.

F. Bonusable Amenities

Issues were raised in regard to open-space amenities, theatre preservation, and off-site subway improvements.

1. Open Space. The issues raised here concern the adequacy of the FAR 1 maximum bonus as an incentive for plazas, the practicality of the urban park provisions, the retention of incentives for roof-top gardens and terraces, and the need for more discriminating, carefully targeted incentives based on an open-space plan for Midtown. The Commission proposes to downgrade the plaza bonus which, in the view of many has been much abused, but would provide a new incentive for an urban park. The proposed plaza bonus is not intended to induce a plaza that otherwise would not be provided, but to encourage the development of the open space a builder is providing in accordance with acceptable and usable standards. Nevertheless, the Commission believes there is merit in the question raised. While there is insufficient basis to change the proposed amendments, we propose to develop a Midtown open space plan in collaboration with all interested officials, groups and individuals. Such a plan could recommend changes, if necessary, in the range of bonusable open-space amenities and their requirements.

2. Theatre Preservation. The effectiveness of the means proposed to help preserve theatres was questioned. A representative of the theatre industry expressed the view that a large number of existing theatres would in effect be "land locked", foreclosed from the benefits of selling their air rights or rehabilitation bonuses because they were not adjacent or eligible receiving sites. He suggested that development rights be allowed to transfer to non-contiguous sites within the theatre district, at any distance from the sending site.

The Commission believes that floating development rights, which has also been suggested for landmarks owned or held by not-for-profit groups, raises some difficult legal and planning issues with citywide implications. These suggestions conflict with the underlying justification for any development rights transfer, which is that the added development it permits on a receiving site is compensated by the guaranteed diminution of development potential of the granting site nearby.

Moreover, we have significantly liberalized theatre air rights transfers in ways that go beyond the proposals already described. The proposal includes a new provision for a theatre rehabilitation bonus, and allows theatres to transfer unused development rights, including the new bonus, without regard to the split lot rule. In conjunction with the anticipated landmark designation of additional theatres (approximately half of the existing theatres are potentially eligible), we believe that these benefits will be available to a substantial majority of the theatres in the district.

3. Subway Improvements. A floor-area bonus is provided for a substantial subway entrance improvement adjacent to a development site. The suggestion of providing floor-area bonuses for subway improvements not adjacent or connected to the development site raises similar questions to those floating theatre or landmark transfers. An off-site subway-station improvement does not provide

any compensating reduction in density. The proposed bonus is justified because it improves direct access to the larger development. For off-site subway improvements direct financial incentives appear to be more appropriate than zoning measures.

G. Mixed-Use and Residential Provisions

There was conflicting testimony on our proposed mixed-use and residential provisions. The Presidents' Council and the American Institute of Architects urged that a special bonus be provided for mixed-use buildings in the Growth Area. Community Board #5 looked on mixed-use buildings with skepticism and asked that a special study be undertaken in view of the difficult problems they perceived in such projects. The Real Estate Board opposed them on the ground that they were uneconomic to build and operate. On the other hand the Real Estate Board applauded the simplified provisions for building residential structures up to FAR 12 in Midtown and suggested they be allowed to go higher, while others questioned the provisions permitting them to go from FAR 10 to FAR 12.

The Commission believes that the provisions allowing for mixed-use buildings combining residential and commercial occupancies, and high-density residential buildings throughout the Midtown, have a sound planning rationale. Increased housing strengthens Midtown. It makes Midtown more of a 24-hour community and it helps relieve the pressure on mass transit facilities at peak hours. It should compete with commercial development for Midtown's limited and valuable sites on a market basis, however, and not receive special benefits. Allowing residential development to readily reach FAR 12, the maximum permitted anywhere for residential construction, puts it on an equal footing with commercial buildings in the East Side midblocks but does not exceed the characteristic limits of Midtown development or the commercial densities proposed for the special district. Mixed use buildings are, of course, not required, but are offered as a developer's option.

H. City Services

Community Board #14 asked for a study of City services and questioned their adequacy to support further development. We understand their concern, but we think it puts the cart before the horse. Midtown generates an overwhelming proportion of the job growth in the City today, and represents a disproportionate amount of its tax base. We must capitalize on the City's major area of economic strength.

The continued over-concentration of Midtown development in the East Side core can, however, further strain public facilities and services in that area. That is a major reason for these rezoning proposals which are based on a prudent and rational plan to spread Midtown development. It cautiously downzones the East

Side and proposes measured growth on the West Side. We believe it will help shift the growth of the new Midtown office space which we anticipate the private sector will demand during this decade from a ratio of approximately 80:20 in favor of the East Side to approximately 60:40, a significant shift. We also note that the revised plans for Broadway Plaza include a Police substation, a specific request of Community Board #14.

I. Zoning Enforcement and Administration

Problems with enforcement of Midtown zoning relate partly to the special nature of Midtown's bonusable amenities and partly to the inherent difficulties in zoning enforcement.

In the 1960s and 1970s, incentive zoning was expanded to include covered pedestrian amenities as well as open public plazas. The public access feature justifying the grant of a bonus for these covered spaces, as featured in a number of Midtown buildings, proved difficult to enforce, in part, because of their location within the building, and the reluctance of its occupants to permit ready public circulation. Many have been characterized as mere super-lobbies, with no real opportunity for public use.

Open public plazas have had different enforcement problems. In some cases where traditional plazas were provided without a high level of positive public interest and activity, they invited security problems. Subsequently, fences appeared as an unsanctioned private solution to this problem.

One goal of the proposed zoning is to eliminate bonuses for those covered spaces which have proven difficult to enforce; a second goal is to refine the open space amenity standards to improve accessibility and usefulness to the public on a predominantly self-enforcing basis.

To expand generally resources for dealing with zoning enforcement throughout the City, the Commission recommends:

- A training program for Community Board District Managers, in cooperation with the Department of Buildings, which would prepare them for a role in monitoring the enforcement of zoning compliance. Such a role would be supportive of the Buildings Department, whose responsibility is zoning enforcement. The program could be designed and undertaken by government and interested civic groups. To the extent that this expansion of community board functions requires the adoption of legislation, the Commission is prepared to support such an initiative.

- Creation of a pro bono lawyers group to bring zoning enforcement actions on behalf of the Law Department. Such a group could be secured through the cooperation of the various Bar Associations in the City.

This initiative is aimed at the problem of continuous monitoring of violations as well as the problem of effectively prosecuting and correcting them.

Administration of zoning is much broader than simply enforcement. When there is a fundamental change in regulations, it is important that the body that writes the regulations and those that administer them work together.

In cooperation with the Commissioner of Buildings, we have worked out the following program:

- The Commission will publish a "plain English" version of the Midtown Special District to aid interpretation.
- The Daylight Evaluation Program will be computerized to permit simplified and speedy scoring by the Department of Buildings.
- The Department of City Planning will write and publish a "Midtown Zoning Operations Manual" for the use of Buildings Department examiners, architects, developers, and interested public.
- City Planning staff who developed the new regulations will be available to assist Buildings Department examiners in reviewing applications during the first year.

In addition, we have had special briefings and working sessions with the Board of Standards and Appeals and the Mayor's Office of Midtown Enforcement.

The Commission considered, at its March 2, 1982 public hearing, the addition of Section 81-023 to the proposed Midtown legislation which would make the removal of any code violation in existing buildings on merged zoning lots a condition to issuance of a certificate of occupancy within the Special Midtown District. In response to comments from a number of interested groups and individuals, we believe that the prospective benefits and impacts of this measure deserve further study before a determination is made on whether this zoning resolution amendment is appropriate. This matter will be given priority by the Commission which expects to make a determination within the near future.

VII. CHANGES IN MIDTOWN TEXT

After the Commission reviewed recommendations made at the public hearing on February 3, 1982 as well as written comments by public and private organizations, it scheduled a special public hearing for March 2, 1982 on additional amendments to the Special Midtown District developed in response to these recommendations. Following the March 2, 1982 hearing, the Commission incorporated the following provisions in the proposal.

Integration Clauses (81-024)

By their nature some Midtown district regulations are so closely integrated with others that they are not severable. Thus, the regulation provides that a zoning map modification in the Midtown District will take the property affected by this change out of the Special Midtown District. Similarly, the bulk regulations (Sections 81-20 to 81-28) are an integral unit, and the regulation provides that if a court adjudges any one provision to be invalid, the ruling will invalidate all the other related bulk regulations.

Floor Area Bonus for Urban Plazas (81-23, 81-231 and 81-233)

The standards for the location of urban plazas qualifying for a floor area bonus have been made somewhat less restrictive, and the orientation requirements have been simplified. The floor area bonus generated by the urban plaza will be usable without regard to the split-lot rule, provided that the maximum FAR limit for that portion of the lot is not exceeded.

Maximum Residential Floor Area Ratio (81-241)

The recreational space in a residential building or in the residential portion of a mixed use building that must be provided in order to achieve maximum FAR has been modified in order to avoid any adverse impact on small lots. The minimum amount of recreational space required on a single level has been reduced to 500 square feet from 2500 square feet.

Arcades (81-451)

Includes special design standards and illumination provisions for arcades located in the Theatre Subdistrict.

Large Scale Projects (81-66)

This change allows the City Planning Commission, by special permit subject to Board of Estimate approval, to modify the mandatory district plan elements of Section 81-40 and the split-lot provisions of Section 77-22 for zoning lots that are at least 60,000 square feet with a full wide street block frontage, or zoning lots occupying an entire block. The Commission must find that the design, scale and location of the new construction is compatible with the surrounding area, that adverse impact on retail continuity is minimized, and that the modification is consistent with both the purposes of the mandatory district plan elements and the basic strategy of the Special Midtown District.

Sign Regulations (81-731)

Language changes are made in this section to simplify and clarify the

regulations for signs, store windows, banners and canopies in the Theatre Subdistrict.

Central Refuse Storage (81-734)

This section has been added to require all new buildings to provide an area for central refuse storage accessible on a 24 hour basis to all users of the building and for carting purposes.

Other Changes

Subsequent to the public hearings on February 3, February 24 and March 2, 1982, the Commission made the following minor changes and clarifications:

Special Frontage Regulations (81-142 and 81-731)

The transparent glazing of ground floor street walls required by these sections has been reworded so as to clarify the area of street walls subject to the requirement.

Maximum Floor Area Ratios for Non-residential and Mixed Buildings (81-211)

The table in this section has been clarified to show in greater detail by district the maximum FAR for lots containing landmarks, the maximum development rights transferable from a landmark sending lot to a receiving lot, and the maximum amount of transferable rights that may be utilized on a receiving site; e.g., development rights amounting to 1.6 FAR may be utilized on a receiving site in the C5P District.

Special Provisions for Transfer of Development Rights from Landmark Sites (81-212)

The method for calculating the transferable development rights of a landmark sending lot in high bulk districts is clarified. The C5-2.5 and C5-4.5 districts are added to the high bulk districts in which these provisions apply.

Termination of Districts with Basic Maximum Floor Area Ratio of 18.0 (81-214)

A provision has been added to this section requiring the City Planning Commission to hold a public hearing approximately six months before the termination date to evaluate the development that has taken place in the highest bulk districts and the effectiveness of the Special Midtown District's height and setback regulations.

Standards for Urban Plazas (81-231)

The changes in this section clarify what plans and other documents must be submitted with applications to the Commission for certification, and make it clear that the covered portion of an urban plaza may not include its sides.

Height and Setback Regulations—Daylight Compensation (81-26)

Formula No. 2 in the length and height rules (Section 81-265) has been simplified.

Mandatory District Plan Elements (81-45)

Modifications of this section include adding a building entrance recess area as an element which may qualify for meeting pedestrian circulation space requirements; requiring qualifying sidewalk widenings and arcades to extend the full length of the block front on wide streets except where they match an existing widening or arcade, and to extend for a continuous length of a 100 feet on a narrow street; increasing the area of an urban plaza qualifying for pedestrian circulation space; exempting an interior lot with a frontage of less than 80 feet on a wide street from pedestrian circulation space requirements; and exempting a lot of less than 20,000 square feet from the restrictions on location of major building entrances. These changes help provide sufficient options to meet pedestrian circulation space requirements so that it should not be necessary for the building to be set back from the street line unless so desired by the architect and developer.

Subway Station Improvements (81-53)

A provision is added allowing special permit authorizations to include modifications of the street wall continuity requirements along designated streets where required for the entrance area to a major subway station improvement.

VIII. CITY ENVIRONMENTAL QUALITY REVIEW

A Draft Environmental Impact Statement (EIS) concerning the proposed zoning revisions was issued on October 12, 1981. Public hearings on the Draft EIS were held on February 3 and 24, 1982 by the Department of City Planning and the Department of Environmental Protection, as lead agencies for City Environmental Quality Review, concurrently with the Commission's hearings under the City Charter. Having considered the Draft EIS, the testimony received at the public hearings, and the Final EIS, the Commission finds that the requirements of the State Environmental Quality Review Act and regulations and City Executive Order No. 91 have been met and that:

1. consistent with social, economic and other essential considerations from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoid adverse environmental effects to the maximum extent practicable; and

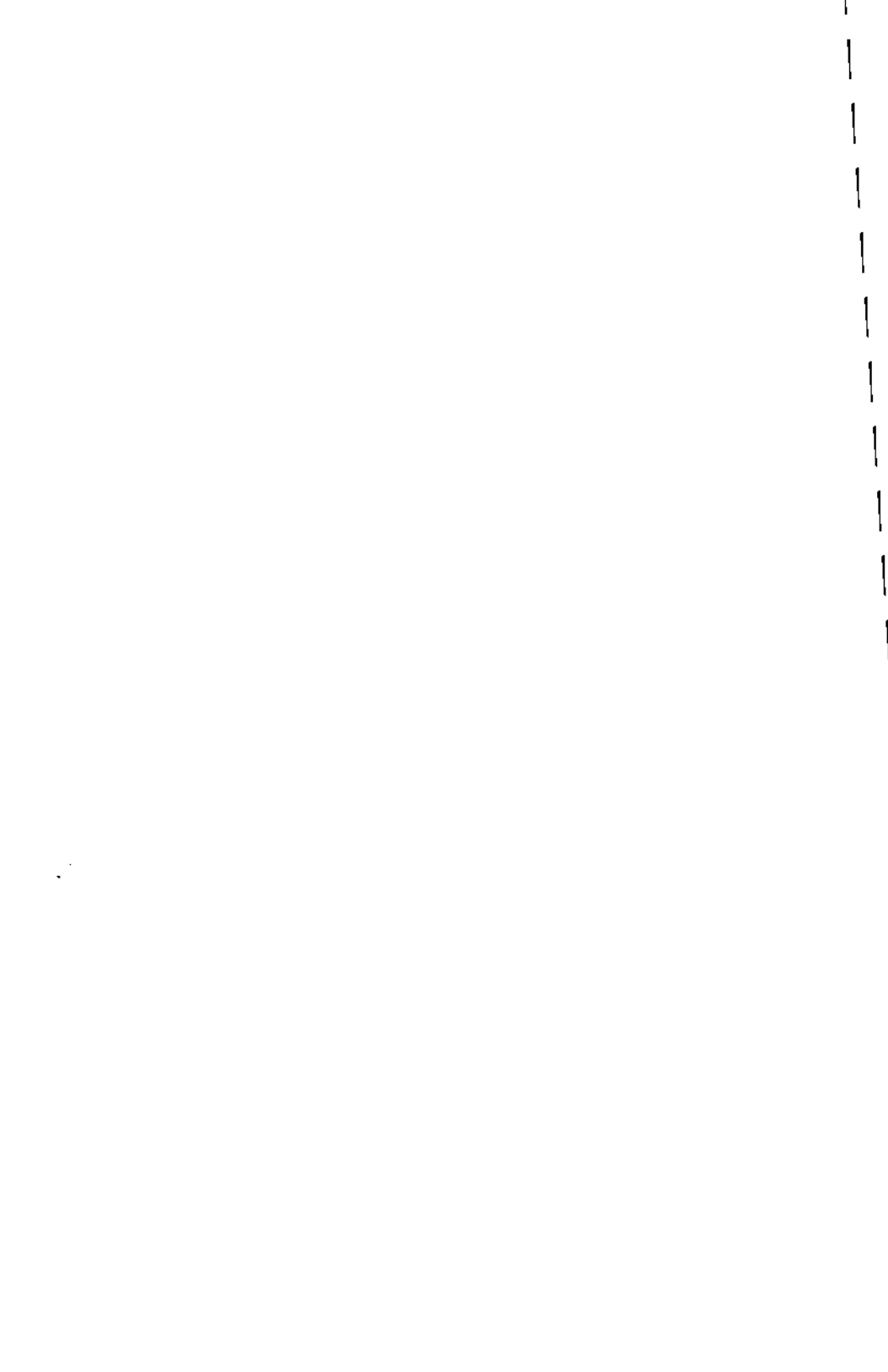
2. consistent with social, economic and other essential considerations to the maximum extent practicable, the adverse environmental impacts revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable. In addition to those mitigative measures which are part of this zoning action, the Commission has concurrently adopted a comprehensive amendment of the Zoning Resoluton which institutes zoning controls over off-street parking in Manhattan in order to achieve air quality goals (N810276ZRM).

This report, together with the Notice of Completion of Final Environmental Impact Statement issued by the Departments of City Planning and Environmental Protection, dated March 6, 1982, shall constitute the written statement of facts and conclusions relied upon in the EIS supporting the decision and indicating the social, economic, and other factors and standards which form the basis of the decision, pursuant to 6 NYCRR 617.9 (C) 3()

IX. CONCLUSION AND RESOLUTION

The Commission has determined that the amendments as modified are appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, by the City Planning Commission that the Zoning Resolution of the City of New York, effective as of December 15, 1961, and subsequently amended, is further amended by changes relating to Article VIII, Chapter 1, Section 81-00 through 81-90, the deletion of the Special Theatre District and Special Fifth Avenue District, and miscellaneous changes in other sections regarding the establishment of the Special Midtown District as modified as follows:



**MIDTOWN
ZONING
REGULATIONS**

SPECIAL MIDTOWN DISTRICT

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81-00 GENERAL PURPOSES

Sets forth public policies for the Special Midtown District.

ARTICLE VIII SPECIAL PURPOSE DISTRICTS

CHAPTER 1 SPECIAL MIDTOWN DISTRICT

81-00 GENERAL PURPOSES

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

- (a) To strengthen the business core of Midtown Manhattan by improving the working and living environments.
- (b) To stabilize the East Side of Midtown Manhattan and provide direction and incentives for expansion to the west and to the south.
- (c) To control the impact of buildings on the access of light and air to the streets and avenues of Midtown.
- (d) To link future Midtown growth and development to improved pedestrian circulation, improved pedestrian access to rapid transit facilities, and avoidance of conflicts with vehicular traffic.
- (e) To preserve the historic architectural character of development along certain streets and avenues and the pedestrian orientation of ground floor uses, and thus safeguard the quality that makes Midtown vital.
- (f) To continue the historic pattern of relatively low building bulk in midblock locations compared to avenue frontages.
- (g) To improve the quality of new development in Midtown by fostering the provision of specified public amenities in appropriate locations.
- (h) To preserve, protect and enhance the character of the Theatre Subdistrict as the location of the world's foremost concentration of legitimate theatres.
- (i) To preserve, protect and enhance the character of Fifth Avenue as the showcase of New York and national retail shopping.
- (j) To preserve the midblock area around the Museum of Modern Art for its special contribution to the historic continuity, function and ambiance of Midtown.
- (k) To provide freedom of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms without the need for special development permissions or "negotiated zoning".
- (l) To promote the most desirable use of land and building development in accordance with the district plan for Midtown and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

PLAIN ENGLISH

81-01

Definitions

Cross-reference to sections where certain terms are defined. The Special Midtown District is defined as an overlay district.

81-021

Applicability of underlying district regulations

In the Special Midtown District certain new zoning districts are established. These new districts are C5P, C5-2.5, C5-3.5, C6-4.5, C6-6.5 and C6-7.5. The regulations governing these districts are in part provided by the provisions of the Special Midtown District, and in part by the general provisions of the Zoning Resolution as indicated by the chart.

81-022

Applicability of special transit land use district regulations

Property which lies within both the Special Midtown District and the Special Transit Land Use District is generally subject to the provisions of both districts. Certain exceptions are provided, allowing waiver of the Special Transit Land Use District requirements where a developer agrees to relocate an adjacent subway stair in the sidewalk onto his property or improve a subway station. Where the Special Transit Land Use District provisions do apply, and there is no waiver, the bulk regulations are governed by the Special Midtown District provisions.

STATUTORY TEXT

81-01

Definitions

For purposes of this Chapter, matter in italics is defined in Section 12-10 (DEFINITIONS), in Section 81-261 (Definitions), or in Section 81-271 (Definitions).

Special Midtown District (repeated from Section 12-10)

The "Special Midtown District" is a Special Purpose District designated by the letters "Mid", in which special regulations set forth in Article VIII, Chapter 1 apply. The *Special Midtown District* appears on the *zoning maps* superimposed on other districts, and its regulations supplement and modify those of the districts on which it is superimposed.

81-02

General Provisions

81-021

Applicability of underlying district regulations

Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect.

The regulations of the districts set forth below are applicable in the following Midtown districts unless modified by this Chapter:

Midtown Districts	Districts Whose Regulations Apply
C5P, C5-2.5	C5-2
C5-3.5	C5-3
C6-4.5	C6-4
C6-6.5	C6-6
C6-7.5	C6-7

81-022

Applicability of Special Transit Land Use District regulations

Except as otherwise provided in paragraphs (a) and (b) of this Section, wherever the *Special Transit Land Use District* includes an area which also lies within the *Special Midtown District*, as described in paragraph (c), the requirements of the *Special Transit Land Use District* as set forth in Article IX, Chapter 5 shall apply.

- (a) However, the requirements of Article IX, Chapter 5 shall be waived where the City Planning Commission certifies, in the case of a specific *development* otherwise subject to those requirements, that:
- (1) The developer has agreed in a writing recorded against the property to implement a plan approved by the City Planning Commission and the New York City Transit Authority for off-street relocation of a subway stair entrance in accordance with the requirements of Section 81-47 (Off-Street Relocation of a Subway Stair), or
 - (2) The developer has agreed in a writing recorded against the property to implement a plan approved by the Commission and the Transit Authority for the provision of a subway station improvement in accordance with the provisions of Section 81-53 (Subway Station Improvements.)
- (b) Where the requirements of Article IX, Chapter 5 are not waived, modifications of the underlying district *bulk* regulations as set forth in this Chapter shall prevail over any inconsistent *bulk* regulations in Article IX, Chapter 5.
- (c) Within the *Special Midtown District*, the *Special Transit Land Use District* includes the area bounded by a line 100 feet west of Third Avenue, a line midway between

81-023

Integration clauses

By their nature some Midtown district regulations are so closely integrated with others that they are not severable. Thus, a judicial zoning map nullification in the Midtown District will take the property affected by this change out of the Special Midtown District. Similarly, the bulk regulations (Sections 81-20 to 81-28) are an integral unit, so that if a court adjudges any one provision of these bulk regulations to be invalid, the ruling will invalidate all the other related bulk regulations.

81-03

District Plan

Established the Special Midtown District Plan, including maps

81-04

Subdistricts

Establishes three subdistricts; with special regulations:

The Theatre Subdistrict
The Fifth Avenue Subdistrict
The Preservation Subdistrict

STATUTORY TEXT

East 53rd Street and east 54th Street, a line 160 feet east of Third Avenue (the *Special Midtown District* boundary) and a line midway between East 52nd Street and East 53rd Street.

81-023

Integration Clauses

- (a) The underlying zoning districts shall be deemed to be integral parts of the *Special Midtown District*. If the underlying zoning district of any zoning lot shall be amended or shall be nullified by any court of competent jurisdiction, such amendment or adjudication shall be construed to amend the *Special Midtown District* to remove such zoning lot from the *Special Midtown District* whereupon the regulations of the prior underlying district shall apply.
- (b) The bulk regulations contained in Sections 81-20 through 81-28 shall be deemed to be an integral unit and no modification thereof shall be permitted, except in accordance with the provisions of Section 200 of the New York City Charter. If any sentence, clause, paragraph or part of Sections 81-20 through 81-28 shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not be confined in its operation to the sentence, clause, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered, but shall also be construed to invalidate and prohibit the application of the remainder of Sections 81-20 through 81-28. However, any such judgment shall not act to invalidate any other sentence, paragraph, clause, section or chapter of the Zoning Resolution.

81-03

District Plan

The regulations of this Chapter are designed to implement the Special Midtown District Plan. The basic strategy of this District Plan is to ease the development pressure on the crowded, valuable East Side office core by helping to shift new development west and south. The District Plan partly consists of the following five maps:

- Map 1 Development Strategy
- Map 2 Special Midtown District and Subdistricts
- Map 3 Retail and Street Wall Continuity
- Map 4 Through Block Corridors
- Map 5 Subway Station Improvement Areas

The maps are located in Appendix A of this Chapter and are hereby incorporated and made a part of this Resolution, Map 1 being incorporated as it depicts the purposes of the *Special Midtown District* set forth in Section 81-00 (GENERAL PURPOSES) and Maps 2 through 5 being incorporated for the purpose of specifying locations where special regulations and requirements set forth in the text of this Chapter apply.

81-04

Subdistricts

In order to carry out the purposes and provisions of this Chapter, three special subdistricts are established within the *Special Midtown District*. In each of these subdistricts certain special regulations apply, which do not apply in the remainder of the *Special Midtown District*. The subdistricts are outlined on Map 2 (*Special Midtown District and Subdistricts*) in Appendix A.

81-10 to 81-142 USE REGULATIONS

81-11

Modification of Use Regulations in Subdistricts

Refers to the sections in the Theatre and Fifth Avenue Subdistricts in which there are modifications of the underlying districts' use regulations.

81-12

Special Retail Continuity Requirements

Refers to the section which requires frontage along certain designated streets to be allocated to retail and service uses.

81-13

Special Permit Use Modifications

No automotive service stations may be permitted on streets designated for retail continuity. Other special permit uses may be granted by the Board of Standards and Appeals or the City Planning Commission only if they are consistent with the purposes and provisions of the Special Midtown District.

81-141

Modification of sign regulations

In C5 Districts, signs in ground floor windows may not occupy more than one-third of the window area. Signs on exteriors of buildings may not be less than 10 feet above curb level. Signs which do not comply with these restrictions must be removed within one year of the date of adoption of this regulation.

STATUTORY TEXT

The subdistricts, together with the sections of this Chapter specially applying to each, are as follows:

<u>Subdistricts</u>	<u>Sections having Special Application</u>
The Theatre Subdistrict	81-70
The Fifth Avenue Subdistrict	81-80
The Preservation Subdistrict	81-90

The subdistricts are also subject to all other regulations of the *Special Midtown District*, except as otherwise specifically provided in the subdistrict regulations themselves.

81-10 USE REGULATIONS

81-11

Modification of Use Regulations in Subdistricts

The use regulations of the underlying districts are modified in the Theatre Subdistrict in accordance with the provisions of Sections 81-72 (Use Regulations Modified) and 81-73 (Special Sign and Frontage Regulations) and are modified in the Fifth Avenue Subdistrict in accordance with the provisions of Section 81-82 (Special Regulations on Permitted and Required Uses).

81-12

Special Retail Continuity Requirements

Special requirements for allocation of frontage to retail and service uses along designated streets are set forth in Section 81-42 (Retail Continuity along Designated Streets).

81-13

Special Permit Use Modifications

No special permits shall be issued by the Board of Standards and Appeals for *automotive service stations* pursuant to Section 73-21 (Automotive Service Stations) for any zoning lots with frontage on any of the streets designated in Section 81-42 (Retail Continuity along Designated Streets) or 81-43 (Street Wall Continuity along Designated Streets).

No other special permit use within the *Special Midtown District* shall be granted by the Board of Standards and Appeals pursuant to Section 73-10 (SPECIAL PERMIT USES) or by the City Planning Commission pursuant to Section 74-30 (SPECIAL PERMIT USES) without a finding that such special permit use will be consistent with the purposes and provisions of this Chapter.

81-14

Modification of Sign and Frontage Regulations in Underlying C5 Districts

81-141

Special sign regulations

For all existing and new uses in underlying C5 Districts, the aggregate surface area of all signs in ground floor windows is restricted to not more than one-third of the window area. Below a level of 10 feet above curb level, signs shall not be permitted on the exterior of any building.

Any sign which does not comply with the provisions of this Section may be continued for one year after the effective date of this Section; after the expiration of that period, such non-conforming sign shall terminate. Notwithstanding the above, a sign which the Chairman of the City Planning Commission certifies is an integral part of the building shall not be required to terminate.

81-142

Special frontage regulations

On avenue or wide crosstown street frontages in C5 Districts, at least 50 percent of a building's facade at the ground floor level must consist of window area. Not more than half of the window area may be painted.

No banners or pennants are permitted on the exterior of buildings in C5 Districts.

81-20 to 81-28 BULK REGULATIONS

81-21

Floor Area Ratio Regulations

STATUTORY TEXT

81-142

Special frontage regulations

(a) Transparency requirement

On *wide street* frontages in underlying C5 Districts, at least 50 percent of a *building's street wall* surface shall be glazed and transparent at the ground floor level, and not more than 50 percent of such transparent surface shall be painted. For the purpose of the glazing requirements, the *building's street wall* surface at the ground floor level shall be measured from the floor to the height of the ceiling or 14 feet above grade, whichever is less.

(b) Banners or pennants

The display of banners or pennants from the exterior of new or existing *buildings* in a C5 underlying district is prohibited.

81-20

BULK REGULATIONS

81-21

Floor Area Ratio Regulations

The *floor area ratio* regulations of the underlying districts are modified in accordance with the provisions of this Section or Section 81-241 (Maximum floor area ratios for a residential building or the residential portion of a mixed building).

81-211

Maximum floor area ratio for non-residential or mixed buildings

- (a) For non-*residential buildings* or *mixed buildings*, the basic maximum *floor area ratios* of the underlying districts shall apply as set forth in this Section.
- (b) In the *Special Midtown District*, the basic maximum *floor area ratio* on any *zoning lot* may be increased by bonuses or other *floor area* allowances only in accordance with the provisions of this Chapter, and the maximum *floor area ratio* with such additional *floor area* allowances shall in no event exceed the amount set forth for each underlying district in the following table:

81-211

Maximum floor area ratio for non-residential or mixed buildings

This section establishes limits on the floor area ratio of non-residential or mixed buildings. Six new underlying districts are created in addition to the six existing districts in order to establish appropriate floor area ratio limits for various parts of Midtown. The new districts have FARs of 8, 12 and 18. The new FAR 18 districts are designed generally for avenue frontages in West Midtown, and the new FAR 12 districts are designed generally for midblocks in East Midtown. In West Midtown the existing FAR 15 districts are designed for the midblocks and in East Midtown for the avenues. The FAR 8 District (C5P) is mapped only in the Preservation Subdistrict near the Museum of Modern Art.

The FAR of a building may be increased above the basic maximum in all districts except the C5P District. An increase of up to 1.0 FAR is available as of right by providing an urban plaza or, in the Theatre Subdistrict only, a through block galleria.

The FAR may also be increased by special permit of the City Planning Commission, for providing an urban park or subway station improvement, transferring development rights from a landmark to a receiving site outside the highest density commercial districts, or in the Theatre Subdistrict only, construction of a new theatre or rehabilitation of an existing theatre which is included on a list. In each case the additional FAR is limited to 20 percent of the underlying district's basic maximum FAR, except in the Theatre Subdistrict, where a 44 percent increase may be allowed in certain underlying districts for a new theatre or rehabilitation of an existing theatre.

STATUTORY TEXT

MAXIMUM FLOOR AREA ALLOWANCES FOR SPECIFIED FEATURES AND MAXIMUM FLOOR AREA RATIOS BY UNDERLYING DISTRICTS (Section 81-211)

	Maximum Floor Area Ratio (FAR)				
	C6-4	C6-5	C5-2.5	C5-3	C5-3.5
Means for Achieving Permitted FAR Levels On a Zoning Lot	C5P	M1-6	C6-4.5	C6-6	C6-6.5
	C6-7	C6-7.5			
A. Basic Maximum FAR	8.0	10.0	12.0	15.0	18.0
B. Maximum As of Right Floor Area Allowances:					
-- Urban plaza (Section 81-23)		1.0	1.0	1.0	1.0
-- Through block Galleria ¹ (Section 81-748)		1.0	1.0	1.0	1.0
C. Maximum FAR with As-of-Right Incentives	8.0	11.0	13.0	16.0	19.0
D. Maximum Special Permit Floor Area Allowances: (District-Wide Incentives)					
-- Urban park (Section 81-52)		2.0	2.4	3.0	3.6
-- Subway station improvement (Section 81-53)		2.0	2.4	3.0	3.6
E. Maximum Total FAR with District-Wide and As of Right Incentives	8.0 ²	12.0	14.4	18.0 ²	21.6 ²
F. Maximum Special Permit Floor Area Allowances in Theatre Subdistrict ¹ :					
-- New theatre (Section 81-744)		4.4		3.0	3.6
-- Rehabilitation of listed theatre (Section 81-745)		4.4		3.0	3.6
G. Maximum Total FAR with Theatre Subdistrict Incentives, District-Wide Incentives and As of Right Incentives	8.0 ²	14.4	14.4	18.0 ²	21.6 ²
H. Maximum FAR of a lot containing non-bonusable landmark (Section 74-711 as of right)	8.0	10.0	12.0	15.0	18.0
I. Maximum FAR of a lot containing bonusable landmark (Section 74-712)	--	--	--	18.0	21.6
J. Development rights (FAR) of a landmark "granting" lot for transfer purposes	8.0 ¹	10.0 ¹	13.0 ¹	16.0 ¹	19.0 ¹
K. Maximum amount of transferable development rights (FAR) that may be utilized on an "adjacent" receiving lot	1.6	2.0	2.4	No Limit	No Limit

¹Available only where underlying district is within Theatre Subdistrict.

²May be exceeded in the case of zoning lots with development rights transferred from landmark sites.

¹ Less the total floor area of existing buildings on the landmark zoning lot.

81-212

Special provisions for transfer of development rights from landmark sites

The one exception to these floor area ratio limits is provided for development rights transferred from landmark sites to receiving sites in the highest density commercial districts. To maintain a strong legal basis for landmarks preservation in Midtown and Lower Manhattan, the existing regulations of Section 74-79 place no limit on F.A.R.'s achievable with development rights transferred from landmarks to receiving lots in the highest density commercial districts. This policy is continued in the Special Midtown District by allowing this one exception to the floor area ratio limits. Accordingly, where both the landmark and the receiving site are in a commercial district with a basic maximum F.A.R. of 15 or 18, the development rights transferable from the landmark site are the maximum floor area that would be permitted on the landmark site with as of right bonus less the floor area of the landmark building. There is then no limit on how much of the transferred floor area may be placed on the receiving site subject to the findings the Planning Commission is required to make under the provisions of Section 74-79 and the Midtown District's height and setback regulations.

81-213

Development or enlargements on landmark sites

Another existing regulation provides a bonus of up to 20 percent for the preservation of a landmark on the same zoning lot as the new development if located in the highest density commercial districts. No other bonus for other amenities or features is applicable in such a case. This provision is also carried over in the Special Midtown District regulations and will apply in underlying districts with basic maximum floor area ratios of 15 and 18. It was used in the Villard Houses-Palace Hotel development.

81-214

Termination of districts with basic maximum floor area ratio of 18.0

In accordance with the intent that the new districts with basic maximum floor area ratios of 18 be established only for the limited period of time necessary to stimulate early development, a sunset clause provides for the termination of the FAR 18 regulations six years after the effective date of the Special Midtown District. The areas where these districts are mapped would then be reclassified to existing districts with basic maximum floor area ratios of 15.

STATUTORY TEXT

81-212

Special provisions for transfer of development rights from landmark sites

The provisions of Section 74-79 (Transfer of Development Rights from Landmark Sites) shall apply in the *Special Midtown District* subject to the modifications set forth in this Section and Sections 81-254 (Special permit for height and setback modifications), 81-266 (Special permit for height and setback modifications), 81-277 (Special permit for height and setback modifications) and 81-747 (Transfer of development rights from landmark theatres).

The provisions of Section 74-79 pertaining to the meaning of the term "adacent lot" in the case of lots located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts are modified to apply in the *Special Midtown District* where the "adjacent lot" is in a C5-3, C6-6, C6-7, C5-3.5, C6-6.5 or C6-7.5 District.

The provisions of paragraph 3 of Section 74-792 as applied in the *Special Midtown District* shall be subject to the restrictions set forth in the table in Section 81-211 on the development rights (FAR) of a landmark "granting" lot for transfer purposes.

Where the landmark zoning lot is located in a C5-2.5 or a C6-4.5 District, the maximum amount of floor area that may be transferred from such zoning lot shall be the maximum floor area allowed with as-of-right incentives by Section 81-211 on such landmark zoning lot, as if it were undeveloped, less the total floor area of all existing buildings on the landmark zoning lot.

Wherever there is an inconsistency between any provision in Section 74-79 and the table in Section 81-211, the table in Section 81-211 shall apply.

81-213

Development or enlargements on landmark sites

The provisions of Section 74-712 (Developments or enlargements on landmark sites in certain districts), are applicable in C5-3, C6-6, C6-7, C5-3.5, C6-6.5 and C6-7.5 Districts where such districts are located within the *Special Midtown District* and within the area bounded by 59th Street, Lexington Avenue, 40th Street and Eighth Avenue, provided, however, that any modification of the front height and setback regulations shall be permitted only in accordance with the provisions of Section 74-712 as modified by Section 81-266 (Special permit for height and setback modifications) or Section 81-277 (Special permit for height and setback modifications). Subject to the findings set forth in Section 74-712, the floor area ratio for a development or enlargement on a zoning lot to which the provisions of Section 74-712 apply may be increased in a C5-3, C6-6 or C6-7 underlying district from 15.0 to a maximum of 18.0 or in a C5-3.5, C6-6.5 or C6-7.5 underlying district from 18.0 to a maximum of 21.6. No floor area bonus provisions other than those set forth in Section 74-712 shall be applicable to the zoning lot.

81-214

Termination of districts with basic maximum floor area ratio of 18.0

Before the sixth anniversary of this amendment's effective date, the City Planning Commission will conduct a review of the development that has taken place under the regulations of the *Special Midtown District*. Special attention will be given to the impacts of development in the highest density districts—C5-3.5, C6-6.5 and C6-7.5—and to the effects of the *Special Midtown District's* height and setback regulations. The Commission will hold a public hearing on these aspects of Midtown development approximately six months before the sixth anniversary.

The purpose of the C5-3.5, C6-6.5 and C6-7.5 districts is to stimulate for a limited period the growth of intensive central commercial development in such districts. The duration of these districts is limited because of the overriding concern for the protection of central commercial areas from the congestion which could result from long-continued development at exceptionally high density. Therefore, on the sixth anniversary

81-22

Floor Area Bonus Provisions (As of Right)

81-221

Bonus provisions not applicable

In accordance with reformed Midtown standards, none of the existing provisions applicable elsewhere for as of right bonuses are applicable in the Special Midtown District.

81-222

Applicable provisions

Provisions for as of right floor area bonuses are limited to urban plazas (as redefined) and, in the Theatre Subdistrict, through block galleries.

81-23

Floor Area Bonus for Urban Plazas

For urban plazas meeting the standards in this article, bonus floor area is permitted as of right at the rate of six square feet for each square foot of urban plaza area. The maximum floor area ratio increase for an urban plaza is 1.0. The bonus is not available in the C5P District and is not available for any urban plaza within 50 feet of a street designated on Map 3 for street wall continuity.

81-231

Standards for urban plazas

The standards for urban plazas in the Midtown district are a modification of the existing standards contained in the definitions of urban open space and urban plaza in Section 12-10. The changes generally relate to specifications of design, such as the number of inches (18) a chair may count toward the linear seating requirement. There is also a new provision allowing a portion of an urban plaza to be covered with a transparent roof and a revision of the orientation standards.

sary of this amendment's effective date, the C5-3.5, C6-6.5 and C6-7.5 districts shall be terminated and the areas where these districts are mapped shall be designated C5-3, C6-6 and C6-7 districts respectively. The regulations of the newly designated districts will take effect upon revision of the *zoning maps* in accordance with the provisions of Section 75-00 (PROCEDURE FOR AMENDMENTS).

81-22

Floor Area Bonus Provisions (As of Right)

81-221

Bonus provisions not applicable

The provisions of the following chapters relating to as of right *floor area* bonuses are not applicable in the *Special Midtown District*:

- Article II, Chapters 3, 4, 6 and 7
- Article III, Chapters 3, 4, 5, 7 and 8
- Article IV, Chapter 3

81-222

Applicable provisions

As of right *floor area* bonuses for urban plazas are applicable in accordance with the provisions of Section 81-23 (Floor Area Bonus for Urban Plazas). As of right *floor area* bonuses for through *block* galleries are applicable only in the Theatre Subdistrict in accordance with the provisions of Section 81-748 (Floor area bonus for through block galleries).

81-23

Floor Area Bonus for Urban Plazas

The provisions in the definition of an *urban plaza* as set forth in Section 12-10 (DEFINITIONS) shall not apply to new urban plazas in the *Special Midtown District*. In their stead the provisions of this Section shall apply.

Except as set forth in this Section, within the *Special Midtown District*, for each square foot of an urban plaza provided on a *zoning lot*, which urban plaza meets the standards set forth in this Section, the basic maximum *floor area* permitted on that *zoning lot* under the provisions of Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings) may be increased by six square feet, provided that in no case shall such bonus *floor area* exceed a *floor area ratio* of 1.0.

This Section shall be applicable in all underlying districts throughout the entire *Special Midtown District*, except that:

1. There shall be no *floor area* bonus for an urban plaza on *zoning lots* in the C5P District within the Preservation Subdistrict.
2. No *development* or *enlargement* on a *zoning lot* shall receive a bonus for an urban plaza which is within 50 feet of a *street line* of a designated *street* on which retail or *street wall* continuity is required pursuant to Sections 81-42 (Retail Continuity along Designated Streets) or 81-43 (Street Wall Continuity along Designated Streets).

81-231

Standards for urban plazas

An "urban plaza" is a continuous open area which fronts upon a *street* or sidewalk widening and is accessible to the public at all times for the use and enjoyment of large numbers of people. Unless specifically permitted in this Chapter, no part of an urban plaza may be closed to the public.

No foundation permit shall be issued by the Department of Buildings for any *development* which includes an urban plaza without certification by the Chairman of the City Planning Commission of a detailed design plan showing all features of the proposed urban plaza required by this Chapter. An application for such certification shall be filed with the Chairman of the City Planning Commission showing the plan of the *zoning lot*; a site plan indicating the area and dimensions of the proposed urban plaza and the

PLAIN ENGLISH

The Chairman of the City Planning Commission must certify that the urban plaza meets the standards set forth in the regulations before any excavation for foundation may commence. A prerequisite for certification is the recording of a restrictive declaration binding on subsequent owners, which assures public access and maintenance of the urban plaza.

Area. The minimum area is 1,600 square feet.

Locational restrictions. Urban plazas are restricted to 33 percent of the zoning lot's frontage if located within 175 feet of an existing park or other public open space on the same or the opposite side of the street.

Orientation. The orientation requirements are designed to maximize sunlight on urban plazas. No urban plaza is permitted on a zoning lot which has only a northerly street exposure.

STATUTORY TEXT

location of the proposed *development* or *enlargement* and of all existing *buildings* temporarily or permanently occupying the *zoning lot* with accompanying documentation of conditions to be met before any temporary *buildings* may be cleared from the *zoning lot*; elevations of the *development* or *enlargement*; computation of proposed *floor area*, including *bonus floor area*; and a plan or plans showing all of the required features of the proposed urban plaza as set forth herein.

The applicant shall sign a declaration of restrictions indexed against the property and in favor of property owners and tenants within a half mile radius of the urban plaza binding the owner, his successors and assigns to improve and maintain the urban plaza and provide public access thereto in accordance with the plans to be certified by the Chairman of the City Planning Commission. The filing of such declaration in the Office of the Register of the City of New York (County of New York) shall be a precondition for the Chairman's certification.

An urban plaza shall satisfy the following requirements:

(a) Area and dimensions

An urban plaza shall contain an area of not less than 1,600 square feet. In no case may spaces between existing *buildings* remaining on the *zoning lot* qualify as urban plaza.

(b) Locational restrictions

No urban plaza or portion thereof is permitted to occupy more than 33 percent of the frontage of the *zoning lot* or portion thereof within 175 feet of an existing *plaza*, *urban plaza*, *open air concourse*, public park or urban park that occupies more than 33 percent of its *block* frontage on the same or opposite side of the same *street* and has a depth of at least 12 feet. The distance of 175 feet shall be measured along the *street* on which the existing amenity fronts.

(c) Restrictions on orientation

The following restrictions shall apply to all urban plazas:

For purposes of the orientation requirements, "north-facing", "south-facing", "east-facing", or "west-facing" "*street line*" means a *street line* facing within 27 degrees of the direction indicated. "To front on a *street*" means to be contiguous to the *street line* or to a sidewalk widening along the *street line*.

1. No urban plaza with only one *street* frontage is permitted to front on a north facing *street line* of a *zoning lot* unless such plaza is contiguous to an open area fronting on a south facing *street line* on an adjoining *zoning lot* to form a "through block plaza" meeting the requirements of this chapter. The owner of the new or enlarged *building* receiving the *bonus floor area* on the *zoning lot* containing the plaza fronting on the north facing *street line* shall be responsible for the use, operation and maintenance of the entire "through block plaza" in accordance with the requirements of this Section. A restrictive declaration assuring continuance of such use, operation and maintenance for the life of the new or enlarged *building* executed by all parties in interest on the constituent *zoning lots* shall be recorded in the City Register's office of the County of New York and filed with the Department of Buildings as part of any related application.
2. No urban plaza shall front on a west-facing *street line* or an east-facing *street line* if the *zoning lot* also has frontage on a south-facing *street line* greater than 40 feet in length.
3. An urban plaza which is located on an intersection of two *streets* must have its major portion as defined in paragraph (d) front on the south-facing *street line*; or in the case of an intersection of a north-facing *street line* with either an east- or west-facing *street line*, the major portion must front on the east- or west-facing *street line*.

Restrictions on shape. An urban plaza should have a central area of ample proportions and not be fragmented into unrelated parts. Thus, a major portion (at least 70 percent) of an urban plaza must have every part visible from every other part. In the case of a through block urban plaza, the minimum area of the major portion is 50 percent of the total plaza. The major portion must be at least 40 feet in length and width.

Proportional restrictions. To avoid long, narrow strips, the length of an urban plaza may not be more than three times or less than one-third its depth.

Through block urban plazas. To allow for daylight access to urban plazas extending through the block, a building wall longer than 120 feet adjoining a through block urban plaza less than 50 feet wide must be set back above a height of 90 feet.

Circulation and access. An urban plaza must be accessible to the public 24 hours, except that a covered portion of an urban plaza may be closed from 7 P.M. to 8 A.M. For at least 50 percent of its frontage an urban plaza must be directly accessible from the sidewalk or sidewalk widening which it adjoins. The urban plaza must be level with the adjoining sidewalk for a depth of at least 10 feet. Variations in surface elevation elsewhere in the urban plaza are permitted. Greater flexibility in the surface elevation is permitted in the case of urban plazas on sloping sites.

STATUTORY TEXT

(d) Restrictions on shape: major portions of urban plazas

1. All contiguous urban plaza area on a *zoning lot* shall be considered as one urban plaza.
2. The shape and dimensions of an urban plaza shall be such that for a major portion of the urban plaza, comprising at least the percentage of total area specified herein, all points within such major portion shall be visible from all other points therein. For the purpose of this regulation, points which when viewed in plan may be joined by a straight line shall be considered visible one from the other; visibility between points is not affected by permitted obstructions or by changes of grade. The major portion of an urban plaza shall be at least 70 percent of the urban plaza's total area, except that in the case of a through *block* urban plaza, as defined in paragraph (f) below, the major portion shall be at least 50 percent of such urban plaza's total area. The major portion of the urban plaza shall be subject to the proportional restrictions set forth in paragraph (e).
3. The major portion of an urban plaza shall have a minimum dimension of 40 feet. The remaining portion of the urban plaza shall have a minimum dimension of 10 feet. Dimensions shall be measured parallel and perpendicular to the *street line* on which the urban plaza fronts.
4. A major portion of an urban plaza may overlap with a sidewalk widening which may be provided to fulfill the minimum pedestrian circulation space requirements set forth in Section 81-45 (Provision of Pedestrian Circulation Space), provided that the overlapping portion of the urban plaza also conforms to the design standards of Section 81-45 for a sidewalk widening. Such sidewalk widening may be included in the major portion of an urban plaza for purposes of calculating the proportional restrictions set forth in paragraph (e).

(e) Proportional restrictions for major portions of urban plazas

1. For major portions of urban plazas with frontage on two or more intersecting *streets*, the length of the frontage along any one *street* shall not be greater than three times the average depth of the urban plaza measured perpendicular to the *street line* of said *street* from the *building wall* which faces it.
2. For major portions of urban plazas with frontage on only one *street*, at no point shall the depth from the *building wall* to the *street line* be less than one-third nor more than three times the length of the frontage along such *street line*.

(f) Regulations for through *block* urban plazas

Where an urban plaza or portion of an urban plaza extends through the *block* connecting two *streets* which are parallel or within 45 degrees of being parallel, and a *building wall* adjoins such through *block* urban plaza or through *block* portion of an urban plaza for a length greater than 120 feet, the portion of the wall in excess of 120 feet in length shall have a maximum height of 90 feet within 50 feet of the opposite side of the through *block* urban plaza.

(g) Circulation and access

1. To facilitate access to an urban plaza, within 10 feet of a *street line* or sidewalk widening, along at least 50 percent of each *street* frontage of such urban plaza, the surface of the urban plaza shall be at the same elevation as the adjoining public sidewalk. Along that portion of the *street* frontage which has direct public access from a sidewalk or sidewalk widening, comprising at least 50 percent of the length of such *street* frontage, an urban plaza shall have no obstruction of any kind for a depth of at least 20 feet from the *street line*. For the remaining 50 percent of the frontage no walls or other obstructions may be higher than 36 inches above the *curb level* within 20 feet of the *street line*.
2. The level of an urban plaza shall not at any point be more than three feet above or three feet below the *curb level* of the nearest adjoining *street*; however, an urban plaza with an area of 10,000 square feet or more may additionally have a

Prohibitions of driveways, etc. Driveways and parking spaces are not permitted on urban plazas in order to maximize pedestrian use. Trash storage facilities for the building are also prohibited, and exhaust vents are restricted.

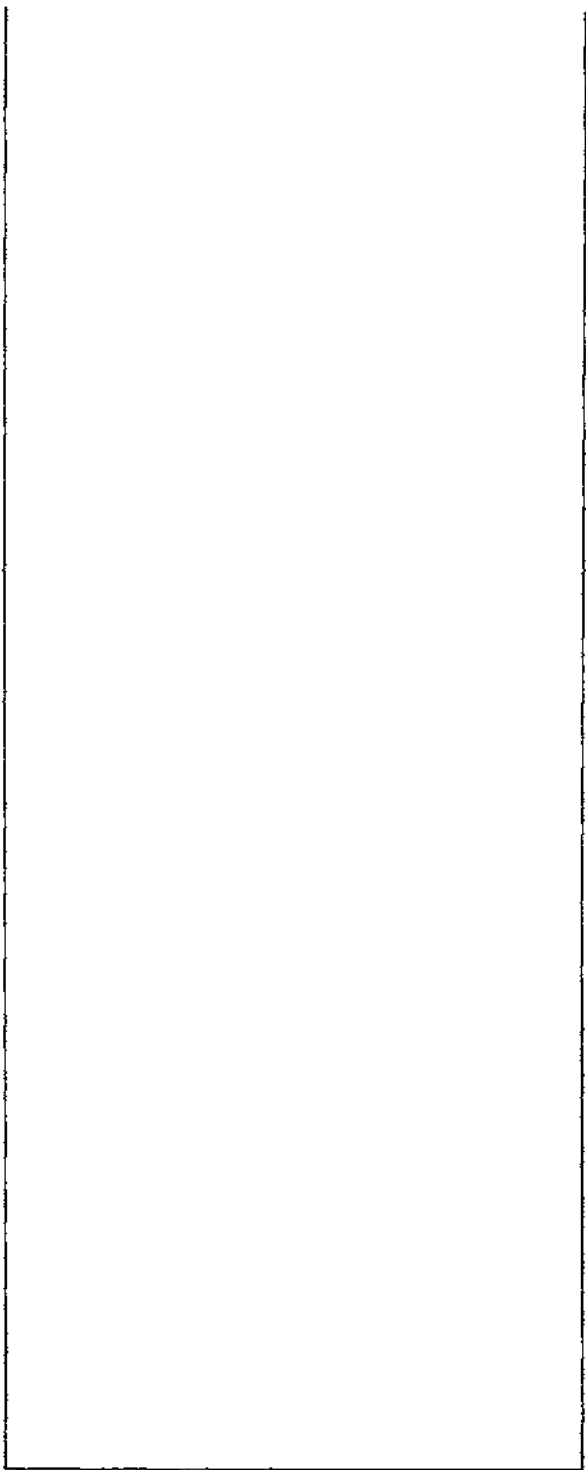
Permitted obstructions. Equipment and features normally found in public parks and playgrounds are permitted in urban plazas. In addition, certain uses which charge admission are permitted upon certification by the Chairman of the City Planning Commission and the Board of Estimate as to the appropriateness of the use and the provisions made for its maintenance. These uses include open air amphitheatres or open air ice-skating rinks, which are restricted to urban plazas with at least 10,000 square feet of area; open cafes occupying not more than 20 percent of the urban plaza's total area; and small kiosks which may house kitchen equipment for an open air cafe or such uses as newsstands, candy stands, flower stands or information booths. The aggregate area that may be occupied by permitted obstructions is limited to a percentage of the urban plaza's total area; the percentage varies with the size of the urban plaza from 38 percent for small urban plazas to 50 percent in larger urban plazas. An urban plaza may be covered by a transparent cover if the covered portion complies with special design requirements. Trees are not obstructions if planted with gratings flush to grade, but raised planting beds for trees are obstructions.

STATUTORY TEXT

maximum of 15 percent of its area at an elevation more than three feet above or three feet below, but not more than either five feet above or five feet below *curb level* of the nearest adjoining *street*.

3. Where there is a grade change of at least 2.25 feet in 100 feet along a portion of a *street* fronted upon for a distance of at least 75 feet by an urban plaza with an area of 10,000 square feet or more, the level of such urban plaza may be at any elevation which is not more than either five feet above or five feet below *curb level* of the nearest adjoining *street*. Along the length of frontage not required for access, no wall higher than three feet above the level of the urban plaza may be constructed.
 4. A covered portion of an urban plaza permitted in accordance with paragraph (r) may be closed to the public from 7:00 P.M. to 8:00 A.M.
- (h) Prohibition of driveways, parking spaces, loading berths, exhaust vents and building trash storage facilities.
1. No parking spaces, passenger dropoffs, driveways or loading berths are permitted as part of an urban plaza.
 2. No *building* trash storage facilities are permitted on any urban plaza.
 3. No exhaust vents are permitted on any urban plaza or on the *building wall* of the *development* fronting upon the urban plaza, except where such vents on the *building wall* are more than eight feet six inches above the level of the urban plaza.
- (i) Permitted obstructions:
1. An urban plaza shall be unobstructed from its lowest level to the sky except for any features, equipment, and appurtenances normally found in public parks and playgrounds, such as fountains and reflecting pools, waterfalls, sculptures and other works of art, arbors, trellises, benches, seats, trees, planting beds, litter receptacles, drinking fountains and bicycle racks; open air cafes; kiosks; outdoor furniture; lights and lighting stanchions; flag poles; public telephones; temporary exhibitions; awnings; canopies; bollards; and subway station entrances, which may include escalators.
 2. Kiosks, open air cafes, open air amphitheaters or open air ice-skating rinks which charge admission may be placed within the area of an urban plaza upon certification by the Chairman of the City Planning Commission and the Board of Estimate to the Commissioner of Buildings that:
 - a. Such *use* promotes public use and enjoyment of the urban plaza.
 - b. Such *use* complements and stabilizes desirable *uses* in the surrounding area.
 - c. Such *use* is in conformance with the applicable requirements of this Section.
 - d. The owners of such *use* will maintain such *use* in accordance with the provisions of paragraph (s) (Maintenance).

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



STATUTORY TEXT

Such certification shall be effective for a period of three years, but upon application may be renewed for a similar period by the Chairman of the City Planning Commission and the Board of Estimate.

3. Permitted obstructions may occupy in the aggregate not more than the following percentages of total urban plaza area;

For urban plazas less than 5,000 square feet in area	38%
For urban plazas 5,000 square feet to 9,999 square feet in area	40%
For urban plazas 10,000 square feet or more in area	50%

The area of permitted obstructions shall be measured by outside dimensions. Obstructions that are non-permanent or moveable, such as moveable chairs or open air cafes, shall be confined to areas designated on the site plan, and not measured as individual pieces of furniture.

4. Trees do not count as obstructions for the purpose of calculating total area occupied by permitted obstructions. Planting beds and their retaining walls for trees count as obstructions.
5. Where a kiosk is provided, it shall be a one-story structure, predominantly of light colored materials, such as metal, glass, plastic or fabric as approved by the Department of Buildings in conformance with the Building Code, which, including roofed areas, does not occupy an area in excess of 150 square feet; however, where the urban plaza has an area of less than 5,000 square feet, the aggregate area of the kiosks shall not exceed 100 square feet measured by exterior dimensions. The aggregate area occupied by kiosks in an urban plaza larger than 5,000 square feet shall not exceed 150 square feet or 1.5 percent of the total area of the urban plaza, whichever is greater, provided that no one kiosk occupies an area of more than 150 square feet. A kiosk may be freestanding or may be attached on only one side to a wall of the *building* of the *development* or a *building* on the adjacent *zoning lot*. Any area occupied by a kiosk shall be excluded from the definition of *floor area*, and may be only occupied by news or magazing stands, food stands, flower stands or information booths.
6. Where an open air cafe is provided, it shall be a permanently unenclosed restaurant or eating or drinking place, permitted by applicable district regulations, which may have waiter or table service, and shall be open to the sky except that it may have a temporary fabric roof in conformance with the Building Code. An open air cafe must be accessible from all sides where there is a boundary with the remainder of the urban plaza.

An open air cafe may occupy an aggregate area not more than 20 percent of the total area of an urban plaza.

No kitchen equipment shall be installed within an open air cafe. Kitchen equipment may be contained in a kiosk adjoining the open air cafe.

An open air cafe qualifying as a permitted obstruction shall be excluded from the definition of *floor area*.

7. Notwithstanding the provisions of Section 32-41 (Enclosure Within Buildings), outdoor eating services or *uses* occupying kiosks may serve customers on an urban plaza through open windows. In all cases only uses permitted by the applicable district regulations may occupy or front on an urban plaza.
8. For wheelchair users, where drinking fountains are placed in an urban plaza, at least one fountain shall be 30" high, be hand and foot operated, and display the International Symbol of Access.
9. In addition to the obstructions permitted above, urban plazas having an area of 10,000 square feet or more may include an open air amphitheater or an outdoor ice-skating rink. However, area occupied in aggregate by such per-

Seating. One linear foot of seating is required for each 30 square feet of urban plaza area, or one for each 40 square feet in the case of a through block urban plaza or an urban plaza with a steep slope. Minimum dimensions for seating are established. Moveable seats are permitted but must be 50 percent or less of total seating capacity. Tops of certain walls may also be used for seating. At least five percent of required seating must have backs for the benefit of handicapped persons.

Lighting and electric power. A minimum level of lighting is established.

Plaque. As a means for informing the public of the features of the urban plaza, a plaque is required to be displayed listing the features and giving the name, address and phone number of the person charged with maintenance.

mitted obstruction shall not exceed the maximum percentage cited in subparagraph 3. An open air amphitheater shall provide access and seating positions for wheelchair users.

10. A transparent cover above an urban plaza shall not be counted as an obstruction, provided that such structure complies with the special design requirements for a covered portion of an urban plaza set forth in paragraph (r) below.

(j) Seating

There shall be a minimum of one linear foot of seating for each 30 square feet of urban plaza area, except that for urban plazas fronting upon a *street* having a grade change of at least 2.25 feet in 100 feet or for through block urban plazas there shall be a minimum of one linear foot of seating for each 40 square feet or urban plaza area.

Not more than 50 percent of the linear seating capacity may be in moveable seats which may be stored between the hours of 7:00 P.M. and 8:00 A.M. Seating shall be in accordance with the standards set forth below:

1. Seating shall have a minimum depth of 16 inches; however, seating with backs at least 12 inches high shall have a minimum depth of 14 inches. Seating 30 inches or more in depth shall count double provided there is access to both sides.
2. Seating higher than 36 inches and lower than 12 inches above the level of the adjacent walking surface shall not count toward meeting the seating requirements.
3. The tops of walls including but not limited to those which bound planting beds, fountains and pools may be counted as seating when they conform to the dimensional standards in subparagraphs (1) and (2) above.
4. Moveable seating or chairs, excluding seating of open air cafes may be credited as 18 inches of linear seating per chair.
5. Steps, seats in outdoor amphitheatres and seating of open air cafes do not count toward meeting the seating requirements.
6. Seating for any use within an urban plaza is subject to applicable articles and amendments of the New York City Building Code.
7. For the benefit of handicapped persons, a minimum of 5 percent of the required seating shall have backs.

(k) Lighting and electrical power

Except as provided in paragraph (r) for covered portions of urban plazas, an urban plaza shall be illuminated throughout with an overall minimum average level of illumination of not less than two horizontal foot candles (lumens per foot). Such level of illumination shall be maintained throughout the hours of darkness. Electrical power shall be supplied by one or more outlets furnishing a total of at least 1,200 watts of power for every 4,000 square feet, or fraction thereof, of an urban plaza.

(l) Plaque

A plaque or other permanent *sign* with a *surface area* not less than two nor more than four square feet shall be displayed in a prominent location on any urban plaza for which a bonus is granted. Such *sign* shall indicate the following:

1. The number of trees required on the urban plaza and *street* trees required on the *street* sidewalk area.
2. The number of moveable chairs required on or adjacent to the urban plaza.

PLAIN ENGLISH

Planting and trees. Trees are required to be planted in the street sidewalk along frontages of zoning lots containing an urban plaza. A minimum number of trees is also required to be planted in the urban plaza, the number depending on the urban plaza's area. Trees must be four inches in diameter at time of planting.

Paving. Paving in the urban plaza must be decorative and durable and must be the same as, or compatible with, the paving of the adjacent street sidewalk.

Accessibility for the handicapped. Special standards are set for paths to afford access by handicapped persons to the major portion of the urban plaza, to all uses on or adjacent to the urban plaza and to any building lobby with access to the urban plaza.

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3. The name of the owner and the person he has designated to maintain the urban plaza and that person's address and a telephone number where he can be reached between the hours of 8:00 A.M. to 7:00 P.M..
4. The symbol for a City Planning Commission certified urban plaza.
5. The International Symbol of Access and the statement: "This urban plaza is accessible to the physically handicapped."
6. The statement: "To ensure compliance with requirements regarding this urban plaza, a bond has been posted with the Comptroller of the City of New York."

(m) Planting and trees

1. Street trees

Except where the Commissioner of Buildings determines that the following tree planting is infeasible, such as where it is precluded by a subway tunnel or other subsurface conditions, trees are required to be planted in the *street* sidewalk area adjacent to a *zoning lot* which contains bonus *floor area* for an urban plaza. At least one tree of 4" caliper or more shall be planted for each 25 feet of the entire *street* frontage of the *zoning lot*. They shall be planted with gratings flush to grade in at least 200 cubic feet of soil per tree, with a depth of soil at least 3'-6". Species shall be selected, located and maintained in accordance with the specifications established by the Manhattan Street Tree Planting Division of the Department of Parks and the Department of Highways. No trees may be planted within a sidewalk widening.

2. Trees within an urban plaza

Where trees are planted within an urban plaza, they shall measure at least 4" in caliper at the time of planting. They shall be planted in at least 200 cubic feet of soil with a depth of soil of at least 3'-6", and be planted either with gratings flush to grade, or in a planting bed with a continuous area of at least 75 square feet exclusive of bounding walls, and at a maximum spacing of 25 feet apart.

3. Planting

When planting beds are provided, they shall have a soil depth of at least two feet for grass or other ground cover and three feet for shrubs.

4. Density of planting

For an urban plaza of 1,600 square feet or more in area, four trees are required. For an urban plaza 5,000 square feet or more in area, six trees are required. For an urban plaza 12,000 square feet or more in area, one tree is required for every 2,000 square feet, or fraction thereof, of urban plaza area.

(n) Paving

The paving of the urban plaza shall be of decorative and durable materials and shall be partly or all of the same or compatible materials and colors as the paving of the *street* sidewalk area adjacent to the *development*, creating sympathetic design patterns. Any change of paving materials within the public right-of-way shall require review by the Department of Highways and where the Commissioner of Highways reports that such paving of the sidewalk is not feasible, the Commissioner of Buildings may waive the requirements of this paragraph.

(o) Standards of accessibility for the handicapped

1. There shall be at least one path of travel conforming to the standards set forth in subparagraph (2) and providing access to each of the following:

- (a) the major portion of the urban plaza;

Signs: Accessory business signs for uses within the urban plaza or adjoining it are permitted - but not general advertising signs.

Special requirements for covered portion of an urban plaza. A portion of an urban plaza may be covered by a transparent material. The area of the covered portion must be at least the size of the major portion of the urban plaza, but not more than 80 percent of the urban plaza's total area. The covered portion must be set back at least 10 feet from the street line. It may not be located within or under a building and may not be enclosed on any side except by the wall of an adjoining building. The cover must be at least 30 feet from the ground. Special planting requirements apply, and there are minimum illumination requirements. The covered portion may be closed to the public overnight from 7 P.M. to 8 A.M.

STATUTORY TEXT

- (b) any *building* lobby accessible to the urban plaza; and
 - (c) any *use* that may be present on or adjacent to the urban plaza.
2. The following standards shall apply to assure access for handicapped persons:
- (a) Such paths shall have a minimum width of five feet, except where specific provisions require a greater width, free and clear of all obstructions.
 - (b) Ramps are to be provided alongside any stairs or steps for such paths. Ramps shall have a minimum width of 36 inches, a slope of not greater than 1 in 12, a non-skid surface and, for open-edged ramps, a 2 inch high safety curb. At each end of a ramp there shall be a level area, which may be a public sidewalk, at least five feet long.
 - (c) All stairs or ramps within such paths shall provide handrails. Handrails shall be 32 inches high, have a midrail 22 inches high and shall extend at least 18 inches beyond the stair or ramp ends.
 - (d) Where stairs are used to effect changes of grade for such paths, they shall have closed risers, no projecting nosings, a maximum riser height of 7½ inches and a minimum tread width of 11 inches.

(p) *Signs*

An urban plaza shall be treated as a *street* for the purpose of the applicable *sign* regulations. Except for the plaque required by paragraph (i), *signs* are permitted only where they are *accessory* to *uses* permitted within the urban plaza or *uses* adjoining the urban plaza and are regulated by the applicable district regulations in Section 32-60 (SIGN REGULATIONS) except as modified by Section 81-73 (Special Sign and Frontage Regulations).

(q) Mandatory allocation of frontages for permitted uses

At least 50 percent of the total frontage of *building* walls of the *development* facing on an urban plaza, exclusive of such frontage occupied by vertical circulation elements, *building* lobbies, and frontage used for subway access, shall be allocated for occupancy by retail or service *uses* permitted by the applicable district regulations; however, such *uses* shall not include banks, loan offices, travel agencies or airline offices. In addition, libraries, museums and art galleries shall be permitted. All such *uses* shall be directly accessible from the urban plaza.

Frontage on the urban plaza that is occupied by a *building* lobby shall not exceed 75 feet or 40 percent of the total frontage of the *development's* *building* walls on the urban plaza, whichever is less.

(r) Special requirements for a covered portion of an urban plaza

A portion of an urban plaza may be covered by a predominantly transparent material. If an urban plaza contains a covered portion, the planting requirements for an urban plaza are inapplicable. Such covered portion shall conform to the following standards:

1. Location:

A covered portion of an urban plaza shall not be located within 10 feet of a *street line* or within or under a *building*.

2. The covered portion of an urban plaza shall comprise an area equal to or greater than the area of the major portion of such urban plaza, provided; however, that no more than 80 percent of an urban plaza may be covered.

3. A covering of an urban plaza shall be of clear, untinted and uncoated transparent material and shall have a minimum height of 30 feet. The covered portion shall be unenclosed on its sides below a height of 30 feet, ex-

Maintenance. The building owner is responsible for planting of trees, their care and replacement, the provision and maintenance of seats and litter receptacles, litter control and all other maintenance of the urban plaza. To ensure proper maintenance the owner is required to post a performance bond with the City Comptroller. The value of the bond is geared to the number of trees, number of moveable seats and the area of the urban plaza.

STATUTORY TEXT

cept for any side on which the covered portion is bounded by an exterior wall of a *building*. No drapes, blinds or curtains of any form may be installed.

4. A minimum of 150 square feet per 1,000 square feet of urban plaza shall be provided for planters or planting beds with seasonal flowers, shrubs, ivy or other plants. The soil of such planting areas may be elevated above the level of the floor within the covered plaza area, but in no event shall such soil surface be more than five feet above *curb level* or two feet above the adjacent floor of the urban plaza.
5. A covered portion of an urban plaza shall maintain a minimum average level of illumination of not less than five horizontal foot candles between the hours of 8:00 A.M. and 7:00 P.M. and two horizontal foot candles throughout the hours of darkness.

(s) Maintenance

1. The building owner shall be responsible for the maintenance of the urban plaza, including, but not limited to, the confinement of permitted obstruction, litter control, and the care and replacement of vegetation within the *zoning lot* and in the *street* sidewalk area adjacent to the *zoning lot*.
2. Litter receptacles shall be provided with a minimum capacity of one cubic foot for each 2,000 square feet of urban plaza area excluding the area of any sidewalk widening. An additional capacity of one cubic foot of litter receptacle shall be provided for each 2,000 square feet of urban plaza in connection with outdoor eating services or other *uses* permitted on urban plazas which generate litter.
3. Location of urban plaza *uses* and furniture shall be confined within areas designated on *building* plans as available for occupancy by such *uses*. Encroachment of an urban plaza *use* outside an area so designated shall be a valid ground for complaint and removal.
4. Performance Bond

Prior to obtaining any certificate of occupancy from the Department of Buildings, the building owner shall post with the Comptroller of the City of New York, a performance bond, City securities or fixed income securities, at the Comptroller's discretion, to ensure the mandatory tree planting, moveable seating exclusive of any seating for open air cafes, and the litter-free maintenance of the urban plaza including the replacement of such trees and moveable furniture during the life of the *development*.

In the event of a failure in the required performance, the Chairman of the City Planning Commission shall notify the building owner in writing of such failure and shall stipulate the period of time in which the building owner has to correct the failure. If the failure is not corrected in the stipulated time the Chairman may declare the building owner in default in the required performance, and the City may enforce the obligation by whatever means may be appropriate to the situation, including letting contracts for doing any required planting, installation or maintenance and paying all labor, material and other costs connected with such work from the bond or City securities the building owner is required to provide.

In the event that the City enforces the aforesaid obligation as provided for in this paragraph, the *building* owner shall, within 90 days of such enforcement, provide the City with an additional bond or City securities in an amount not less than that which was expended to cure the default.

The value of the bond or City securities if tendered prior to January 1, 1983 shall be at a rate of \$300 per required tree, \$100 per moveable chair and \$100 per 1,000 square feet of urban plaza for litter removal as set forth in this Section.

Penalties for violations. Failure to comply with the conditions for an urban plaza bonus may result in the denial or revocation of a building permit or certificate of occupancy or in other penalties.

81-232

Existing plazas or other public amenities

Existing plazas or other public amenities for which bonus floor area was received prior to the adoption of the Midtown zoning amendment may not be eliminated or reduced except by special permit. For any reduction in size of such an existing public amenity there must be a corresponding reduction in the building's floor area or the substitution of equivalent complying area for the amenity elsewhere on the lot.

In the West Midtown districts which permit maximum F.A.R.'s of 18.0 to 21.6 an existing plaza or urban open space may be upgraded to meet the standards and requirements of the Special Midtown District for urban plazas. The building on the site of this urban plaza will be eligible for a floor area bonus at the rate of six square feet per square foot of urban plaza subject to a limit of 1.0 F.A.R.

81-24

Floor Area, Density and Building Spacing Regulations for Residential Uses

The relatively high bulk of existing buildings in Midtown and the area's predominant character as a high density employment center render improvements, such as residential plazas, which would enhance the environment in a high density residential district or in residential enclaves within other major commercial centers, inappropriate in the Special Midtown District. For this reason no floor area bonus is available for residential plazas, and the Housing Quality Provisions are inapplicable. The regulations of these sections are designed specially for Midtown conditions.

STATUTORY TEXT

Effective January 1, 1983 and at five year intervals thereafter, the City Planning Commission with the approval of the Board of Estimate shall establish new rates for the mandatory tree planting, moveable seating and litter free maintenance of the urban plaza.

(t) Penalties for Violations

Failure to comply with the conditions or restrictions of the bonused urban plaza shall constitute a violation of this resolution and shall constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

81-232

Existing plazas or other public amenities

No existing *plaza*, *urban open space*, or other public amenity open or enclosed for which a *floor area* bonus has been received pursuant to regulations antedating the effective date of this amendment shall be eliminated or reduced in size anywhere within the *Special Midtown District* without a corresponding reduction in the *floor area* of the *building* or the substitution of equivalent complying area for such amenity elsewhere on the *zoning lot*. Any elimination or reduction in size of such an existing public amenity shall be permitted in the *Special Midtown District* only by special permit of the City Planning Commission subject to Board of Estimate action and to a finding by the Commission that the proposed change will provide a greater public benefit in the light of the public amenity's purpose and the purposes of the *Special Midtown District*.

In the *Special Midtown District*, on *zoning lots* in a C5-3.5, C6-6.5 or C6-7.5 underlying district, where an existing *plaza* or an existing *urban open space* satisfied the requirements of Section 81-231 (Standards for urban plazas), such *plaza* shall be eligible for a *floor area* bonus at the rate set forth in Section 81-23 for urban plazas but in no event exceeding a *floor area ratio* of 1.0, provided that the total *development or enlargement* on such *zoning lot* complies with the applicable provisions of this Chapter and no degree of *non-compliance* is created on the *zoning lot*.

81-233

Special provisions for zoning lots divided by district boundaries

Where an urban plaza is located on a *zoning lot* divided by a district boundary, the *floor area* bonus for such urban plaza may be credited to either portion of the *zoning lot* regardless of the urban plaza's location or the date when the *zoning lot* was created, provided that the amount of such bonus permitted on either portion of the *zoning lot* shall not exceed the maximum amount that would be permitted on such portion if it were a separate *zoning lot* and subject to all other applicable provisions of Article VII, Chapter 7.

81-24

Floor Area, Density and Building Spacing Regulations for Residential Uses

Maximum floor area ratios for a residential building or the residential portion of a mixed building

Floor area ratio limits for residential buildings or residential portions of mixed buildings are as follows:

C5P — 8.0

All other underlying districts — 10.0 with additional floor area up to a maximum of 12.0 F.A.R. possible under the following conditions.

In all districts except C5P, C6-4 and C6-5, the provision of recreation space, open or partially enclosed, at any level is the only available option for reaching a residential F.A.R. 12.0. Location and design standards are the same as presently provided for mixed buildings in districts with a CR suffix.

In C6-4 and C6-5 districts within the Theatre Subdistrict, a residential F.A.R. above 10.0 and not more than 12.0 can be achieved only by earning bonus floor area for the construction of a new theatre or the rehabilitation of an existing theatre or by utilizing development rights transferred from a landmark theatre or across a district boundary from a listed theatre on the same zoning lot as the development. In any C6-4 District outside the Theatre Subdistrict no residential floor area above F.A.R. 10 can be earned.

81-242

Density regulations for residential and mixed buildings

A floor area per room requirement replaces the lot area per room requirement for residential and mixed buildings. This eliminates the usual density penalty for mixed buildings. The new requirement is 300 square feet of floor area for every room.

STATUTORY TEXT

81-241

Maximum floor area ratios for a residential building or the residential portion of a mixed building

For *residential buildings* or *residential portions of mixed buildings* in the *Special Midtown District*, the maximum *floor area ratio* for each underlying district is as follows:

- (a) In the C5P district the maximum *floor area ratio* is 8.0, and no additional *floor area* shall be allowed above this limit.
- (b) In all underlying districts other than the C5P District, except as provided in paragraph (c) below, the maximum *residential floor area ratio* is 10.0.
- (c) A *residential building* or the *residential* portion of a *mixed building* in any underlying district other than a C5P, C6-4 or C6-5 District shall qualify for a maximum *residential floor area ratio* of 12.0 if the *building* includes recreational space for the *residential* occupants in an amount not less than 6.5 square feet for each *room*. The recreational space may be located at any level including a roof. Such recreational space shall:
 - (1) be restricted to *residential* occupants of the *building* and their guests for whom no admission or membership fees may be charged;
 - (2) be directly accessible from a lobby or other public area served by the *residential* elevators;
 - (3) be landscaped including trees or shrubbery, except where covered or developed with recreational facilities and seating areas;
 - (4) contain not less than 500 square feet of continuous area on a single level with no dimension of less than 15 feet;
 - (5) have not less than 50 percent of the area open from its lowest level to the sky. The remaining portion may be roofed and up to 50 percent of its perimeter may be enclosed. In no event may more than 25 percent of the required recreational space be fully enclosed. All enclosures shall be transparent except when located within the *building*. Covered areas shall contain recreational facilities or seating areas.

A copy of requirements (1) through (5) set forth in this paragraph shall be permanently posted in a conspicuous place within the recreational space.

- (d) A *residential building* or the *residential* portion of a *mixed building* in a C6-4 or C6-5 underlying district within the Theatre Subdistrict may qualify for bonus *floor area* or other *floor area* allowances in accordance with the provisions of Section 81-741 (General provisions), provided that the *residential floor area ratio* with such *floor area* allowances shall not exceed 12.0.
- (e) The applicable maximum *floor area ratio* for a *residential building* or the *residential* portion of a *mixed building* shall not be increased by any bonuses or other *floor area* allowances except as provided in paragraph (c) or (d) above.

81-242

Density regulations for residential and mixed buildings

- (a) Inapplicability of certain sections

In the *Special Midtown District*, the *lot area* requirements of Section 23-30 (DENSITY REGULATIONS - REQUIRED LOT AREA PER DWELLING UNIT, LOT AREA PER ROOM, OR FLOOR AREA PER ROOM) and Section 35-41 (Lot Area Requirements for Non-Residential Portions of Mixed Buildings) and the provisions of Section 35-42 (Density or Lot Area Bonus in Mixed Buildings) shall not apply to any *residential* or *mixed building development*.

81-243**Regulations on minimum spacing between buildings**

The requirement of minimum spacing between a residential building and another building on the same zoning lot is not applicable in the Special Midtown District. The minimum required distance of 30 feet from a window in a residential building to a wall of the same or another building or to a lot line remains in effect.

81-25 to 81-254**General Provisions**

Except in the Preservation Subdistrict the height and setback regulations of the underlying districts are completely superseded by two alternate sets of regulations:

1. Height and Setback Regulations — Daylight Compensation (Section 81-26)
2. Alternate Height and Setback Regulations — Daylight Evaluation (Section 81-27)

The two sets of regulations have certain provisions in common:

- They have a common purpose — to offer maximum design flexibility while setting reasonable but firm standards for daylight access at street level. The standards are based on principles and criteria evolved by actual Midtown development under the 1916 and 1961 zoning regulations.

STATUTORY TEXT

(b) *Floor Area per Room*

For every 300 square feet of new *residential floor area* provided within a *residential or mixed building*, there shall be no more than one *room*.

81-243

Regulations on minimum spacing between buildings

In addition, when a *building* containing *residential uses* is located on the same *zoning lot* as another *building*, the provisions of Section 23-70 (Minimum Required Distance between Two or more Buildings on a Single Zoning Lot) shall not apply.

81-25

General Provisions Relating to Height and Setback of Buildings

For all *buildings* in the *Special Midtown District*, except as provided in Section 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT), the height and setback regulations of the underlying districts, including tower regulations, are superseded by the provisions of this Section and by the two alternate sets of regulations controlling the height and setback of *buildings* as set forth in Sections 81-26 and 81-27 respectively.

An applicant for plan approval by the Department of Buildings may elect to be governed by the provisions of either Section 81-26 (Height and Setback Regulations — Daylight Compensation) or Section 81-27 (Alternate Height and Setback Regulations — Daylight Evaluation) in addition to the provisions of this Section.

This Section sets forth the provisions which are common to both sets of regulations.

81-251

Purpose of height and setback regulations

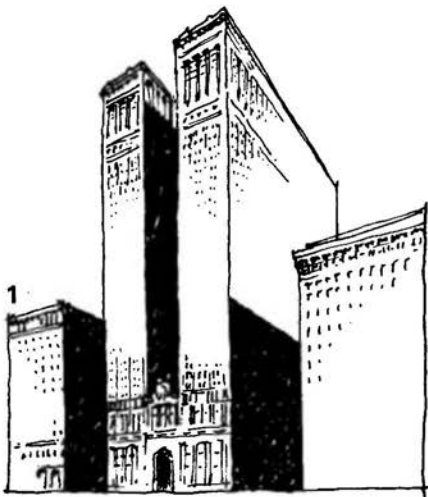
The common purpose of these two sets of regulations is to offer maximum design flexibility while setting reasonable but firm standards to protect access of light and air to public streets and adjacent buildings.

This purpose is implemented by the two alternate sets of regulations, which are based on two distinct approaches. Both sets are concerned with daylight at street level.

The daylight compensation regulations require buildings generally to be built within a sky exposure curve which relates required setbacks to building heights. Within limits, the buildings may encroach outside the curve but only if extra setbacks or recesses provided elsewhere on the zoning lot compensate for the encroachment. In the regulations, the sky exposure curve for three street width categories is represented in each case by a table of required setbacks related to building heights.

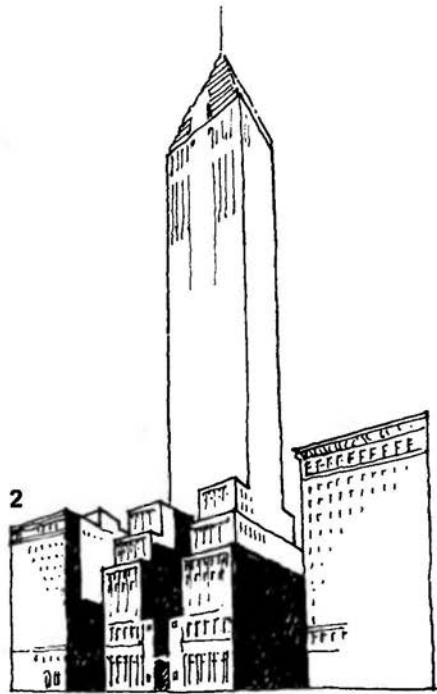
The daylight evaluation regulations measure and evaluate portions of sky blocked by a building as viewed from specified vantage points in the street. The building is plotted on daylight evaluation charts representing the zoning lot's available daylight from specified vantage points, measured in daylight squares as defined in paragraph (b) of Section 81-272. Daylight blockage by the building is then measured to determine the building's score on each frontage and the average score for the building as a whole. The regulations specify the minimum passing scores for compliance.

Text continues, page 90



1. New York City's pioneering 1916 zoning resolution, the first in the nation, was in large part a response to such new buildings as the Equitable Building, 120 Broadway, which rose 540 feet straight up from its lot line without setback.

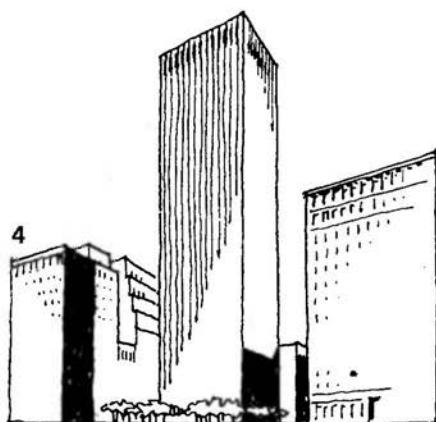
2. To protect the streets and avenues from being turned into dark canyons, the 1916 regulations established height districts. These limited the height a building could rise, in proportion to the width of the street it front-



ed on, until it had to set back. For each foot it set back it could rise "x" additional feet, the ratio depending on its height district. The two most commonly mapped height districts in Midtown had rise-to-setback ratios of $2\frac{1}{2}:1$ and $3:1$, equal to sky angle planes of 68.3° and 71.6° or an average of 70° . A tower rule permitted a portion of the building, up to 25 percent of the lot area, to rise without setbacks provided it was a distance from the street. There were no other limitations on height or bulk.



3. In reaction to the "wedding cake" shape of much of New York's skyline built to the 1916 zoning envelope, and to meet other needs, zoning was completely revised in 1961. A "sky exposure plane" replaced height districts to govern setbacks. To meet the need for larger office floors, the tower that could penetrate the plane was increased from 25 to 40 percent. A new tool to govern bulk was



introduced, the floor area ratio (FAR). The basic floor area for the largest office building was set at 15 times the lot area, or FAR 15.

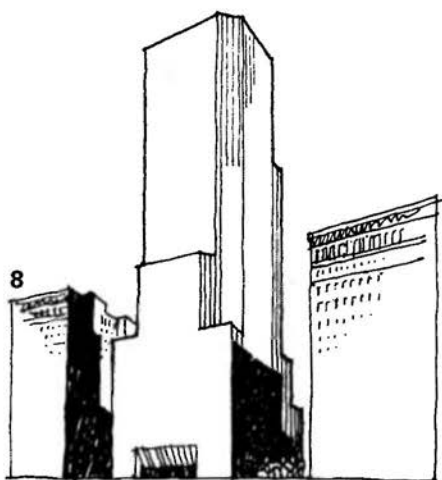
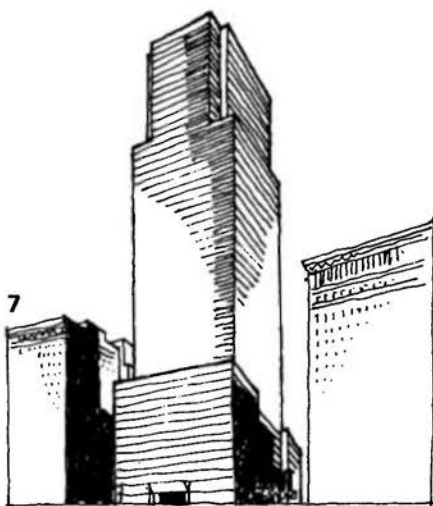
4. and 5. Another major goal of the 1961 zoning was to get more open space around new buildings. The "tower in a plaza" epitomized by the elegant new Seagram Building—actually a 25 percent tower conforming



to the 1916 regulations—was the model. A 20 percent floor area bonus was offered to a building with a plaza, raising the largest building to FAR 18. It was the start of incentive zoning.

6. To meet other needs and to keep the continuity and vitality of avenues like Fifth and Madison from being destroyed by plazas, the

incentive system was expanded. Bonuses were offered for interior spaces and sometimes compounded, bringing FAR up to 21.6. Combined with the restrictions of the tower regulations on the smaller lots left in the core area and the increasing use of “air rights,” these interior bonuses put great pressure on regulations meant to protect the openness of the streets.



7 and 8. To return to zoning's basic principles, our architectural consultants examined how Midtown had developed under more than a half century of zoning. It is that actual development which defines the public expectation of daylight and helps set the standards for the new regulations. The 1916 and 1961 regulations recognized that the farther a building's mass sets back from the street the higher it can go; they allowed towers to pierce the sky exposure plane. But the plane and

regulations still tended to prescribe a fixed building envelope. The new regulations are based on an actual standard of daylight and openness for the streets of Midtown, measured either against a daylight curve (first tier) or the percentage of unblocked sky (second tier). Both are derived from actual conditions resulting from Midtown's historic development. They give great flexibility in building design so long as the daylight standard is achieved.

- Permitted obstructions are the same. Of those permitted in the underlying districts, only balconies as presently regulated will remain as permitted obstructions in Midtown.
- Both sets of regulations are supplemented and modified by the street wall continuity requirements and the special provisions of the Fifth Avenue Subdistrict.
- Neither set of regulations is subject to modification by special permit of the Board of Standards and Appeals or the City Planning Commission except where required to preserve a landmark on the same zoning lot or to allow full utilization of development rights transferred from a landmark site.

81-26

Height and Setback Regulations — Daylight Compensation

These regulations establish height limits at the street line and above those limits require front wall setbacks, which increase with the building's height. These restrictions are direct and simple. However, in the interests of design flexibility a building may encroach beyond the setback line if there is compensation for the encroachment in the form of equal areas of recess behind the setback line. The setback line and the half setback line (halfway between the setback line and the street line) in that case became reference lines for measuring encroachments and compensating recesses. A building may not encroach beyond the half setback line unless it complies with special rules limiting the length, height and depth of encroachments.

STATUTORY TEXT

81-252

Permitted obstructions

With the exception of unenclosed balconies conforming to the provisions of Section 23-13 (Balconies), the structures which under the provisions of Section 33-42 (Permitted Obstructions), Section 43-42 (Permitted Obstructions), Section 34-11 (General Provisions) or Section 35-11 (General Provisions) are permitted to penetrate a maximum height limit or a *sky exposure plane* shall not be permitted as exceptions to the height limitations, setback requirements or rules for the measurement of *encroachments* or *compensating recesses* set forth in Section 81-26 (Height and Setback Regulations), nor shall they be excluded in determining daylight blockage pursuant to the provisions of Section 81-27 (Alternate Height and Setback Regulations).

81-253

Special provisions for Fifth Avenue and Preservation Subdistricts

The provisions of Section 81-26 (Height and Setback Regulations) and 81-27 (Alternate Height and Setback Regulations) are supplemented and modified by special provisions applying in the Fifth Avenue Subdistrict, as set forth in Section 81-81 (General Provisions) and Section 81-83 (Special Street Wall Requirements).

The provisions of Sections 81-26 and 81-27 are not applicable in the Preservation Subdistrict, where front wall heights and setbacks are regulated by the provisions of Section 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT).

81-254

Special permit for height and setback modifications

In the *Special Midtown District*, the City Planning Commission's powers to modify the front height and setback regulations pursuant to any provisions in Article VII are not applicable except pursuant to the provisions of Section 74-71 (Landmark Preservation) as modified by the provisions of Section 81-266 (Special permit for height and setback modifications) or Section 81-277 (Special permit for height and setback modifications), or where development rights are transferred from a landmark site to an adjacent lot in a C5-3, C6-6, C6-7, C5-3.5, C6-6.5 or C6-7.5 District in accordance with the provisions of Section 74-79 (Transfer of Development Rights from Landmark Sites) as modified by Section 81-212 and the total *floor area* on the adjacent lot resulting from such transfer exceeds the basic maximum *floor area ratio* by more than 20 percent. In such exceptional cases, the granting of a special permit by the Commission for height and setback modifications shall be in accordance with the provisions of Section 81-266 (Special permit for height and setback modifications) or Section 81-277 (Special permit for height and setback modifications).

81-26

Height and Setback Regulations—Daylight Compensation

81-261**Definitions**

Various terms are defined which relate to encroachments and compensating recess areas. These terms are used mainly in Section 81-263 (Standard Setback Requirements) and Section 81-264 (Encroachments and compensating recesses).

Definitions

Compensating recess

A portion of a *zoning lot* which, at the *building height* selected for determining compliance with the provisions of Section 81-26 (Height and Setback Regulations), lies in the *free zone* (*Zone A* on the *encroachment grid*), is not covered by any portion of a *building* or *other structure* and qualifies as compensating for *building encroachments* beyond the *free zone* under the provisions of Section 81-264 (Encroachments and compensating recesses). (See Illustration of *Compensating Recess* and *Encroachment*.)

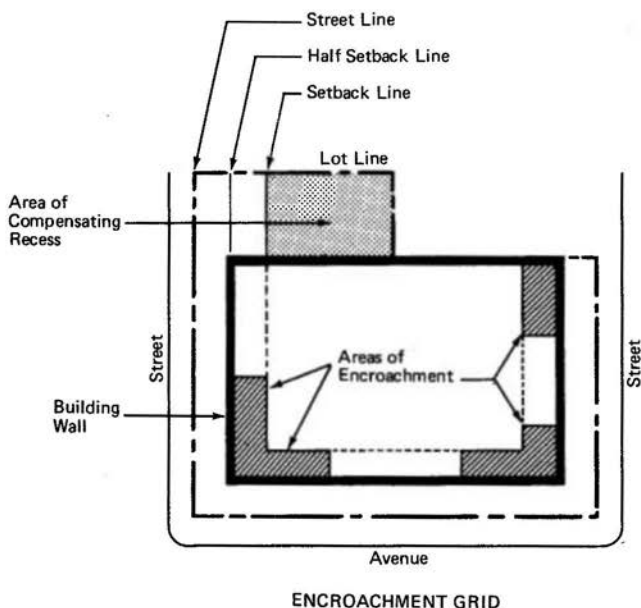


Illustration of Compensating Recess and Encroachment

Encroachment

A projection beyond the *setback line*, the *free zone*, the *half-setback line* or the *ten foot setback line* by any portion of a *building* or *other structure* that exceeds the maximum height permitted at the *street line*. (See Illustration of *Compensating Recess* and *Encroachment*.)

PLAIN ENGLISH

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STATUTORY TEXT

Encroachment grid

A plan drawing of the *zoning lot* at any given height above *curb level* selected to determine compliance with the provisions of Section 81-26 (Height and Setback Regulations) and showing, for that height, *street lines*, *setback lines*, *half-setback lines*, *Zone A* (the *free zone*), *Zones B and C* (*encroachment zones*) and, where applicable, the *ten foot setback line*. The *encroachment grid* serves as a device for measuring areas of *encroachment* beyond the *free zone* and areas of *compensating recess* within the *free zone*. (See Illustration of *Encroachment Grid*.)

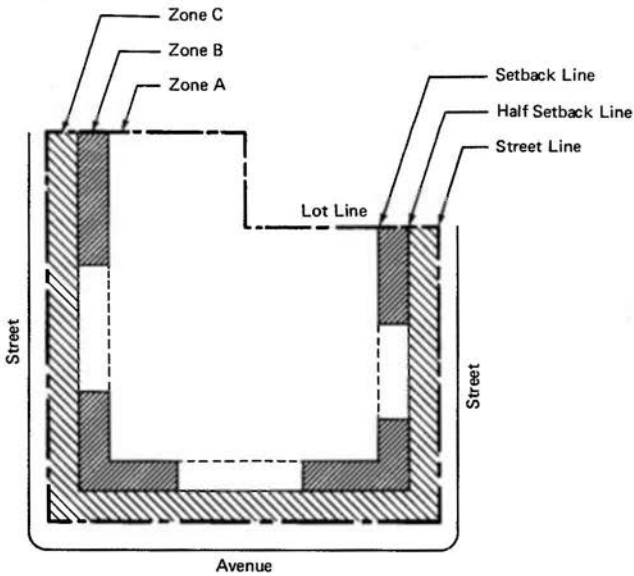
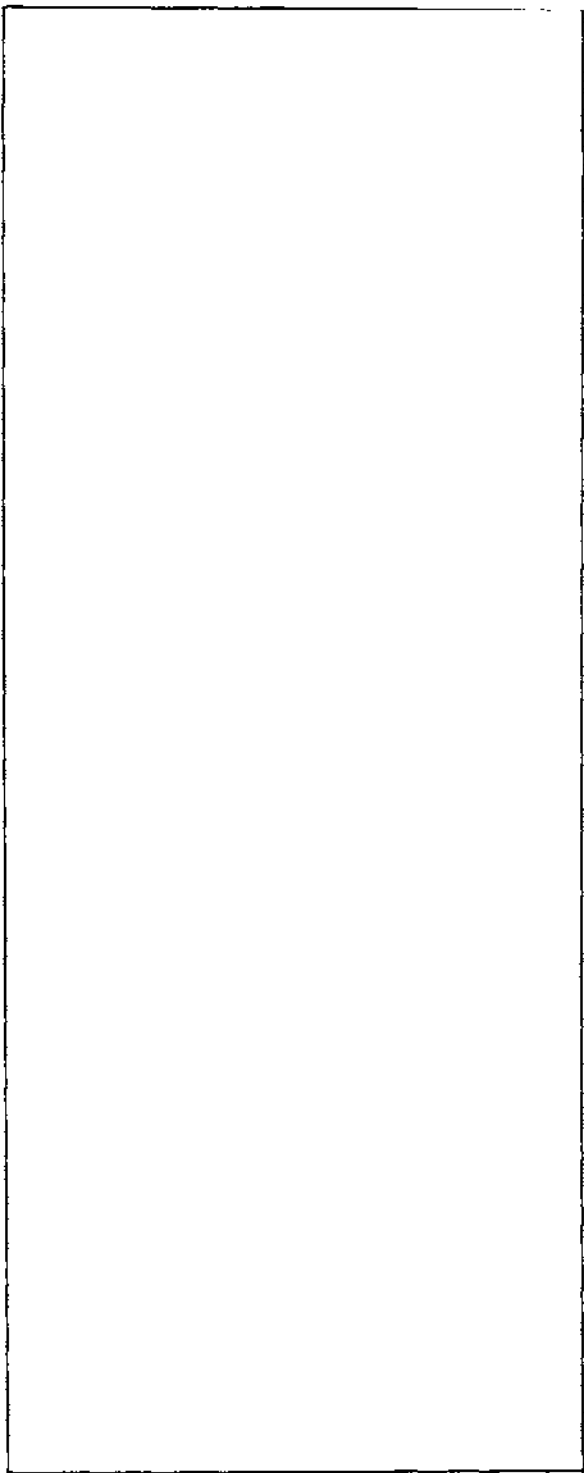


Illustration of Encroachment Grid

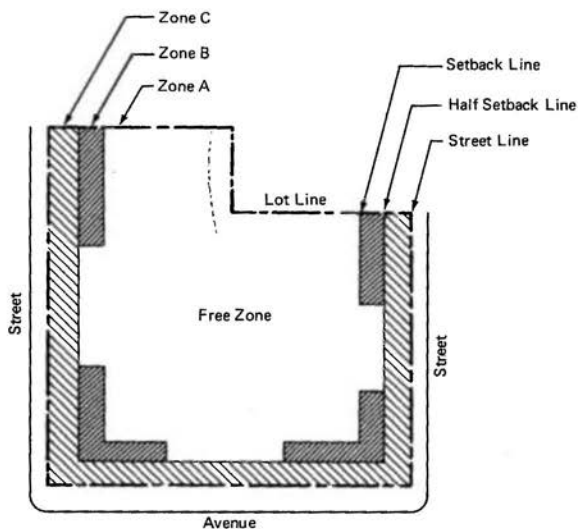
Free zone

That portion of a *zoning lot*, at any given height, which may be covered by a *building* without coverage constituting an *encroachment* that requires daylight compensation.

In addition to the area that lies behind a *setback line* or *lines*, the *free zone* shall include areas between the *setback line* and the *half-setback line* and which qualify as *free zone* areas under the *middle one-third rule*. The *free zone* is referred to as *Zone A* on the *encroachment grid*.



STATUTORY TEXT



ENCROACHMENT GRID

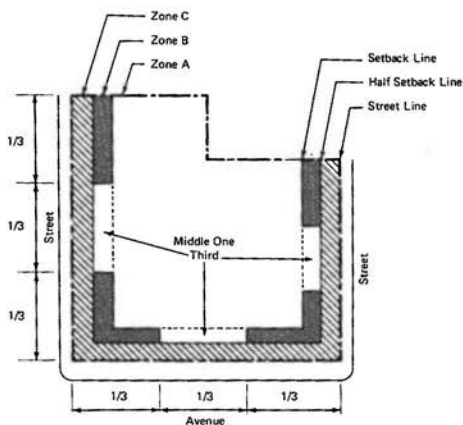
Illustration of Free Zone

Half-setback line

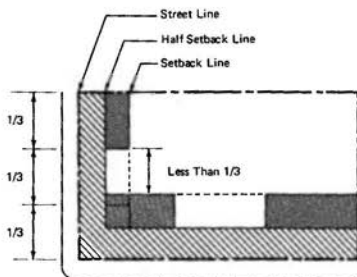
A line drawn parallel to a *street line* and halfway between the *street line* and the *setback line*. (See Illustration of *Setback and Half-Setback Lines*.)

Middle one-third rule

The rule under which, for the middle one-third of the *front lot line* length, the *free zone* includes area between the *setback line* and the *half-setback line*. However, on a *corner lot* the *free zone* does not extend beyond the *setback line* along an intersecting *street*. (See Illustration of *Middle One-Third Rule*.)

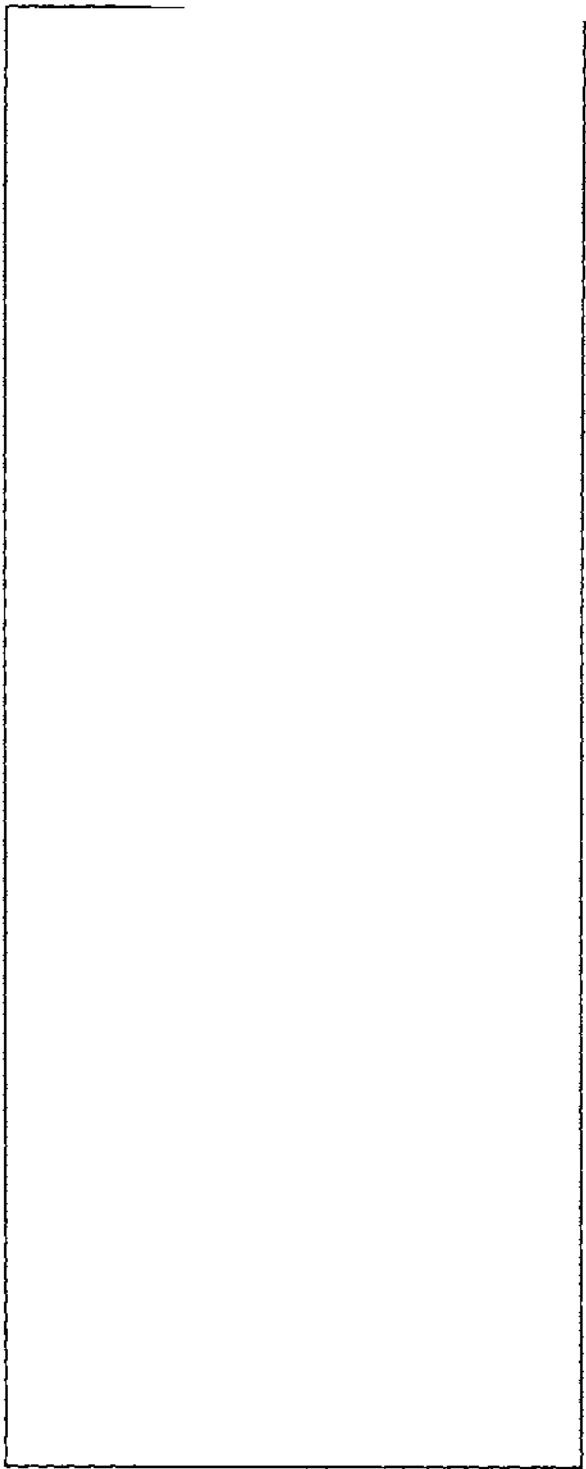


ENCROACHMENT GRID



ENCROACHMENT GRID

Illustration of Middle One-third Rule



STATUTORY TEXT

Setback line

A line drawn in plan parallel to a *street line* and showing for a given *building height* the minimum depth to which a *building's* front wall is required to be set back from the *street line* by the applicable depth to height chart in Section 81-263 (Standard setback requirements). Required setbacks established by the chart increase with the *building's* height. (See Illustration of *Setback* and *Half-Setback Lines*.)

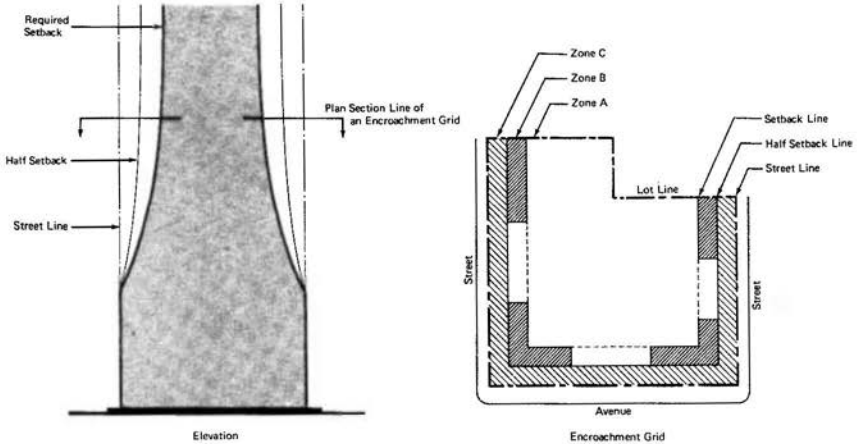


Illustration of Setback and Half-Setback Lines

Ten foot setback line

A line which is parallel to the *street line* at a distance of 10 feet therefrom and which, except as provided in Section 81-265 (Encroachment limitations by length and height rules), represents the minimum distance any portion of a *building's* front wall exceeding the maximum height at the *street line* is required to be set back from the *street line*. A greater setback distance may be required by a *setback line* or a *half-setback line* depending upon the *building height* for which such *setback line* or *half-setback line* is established.

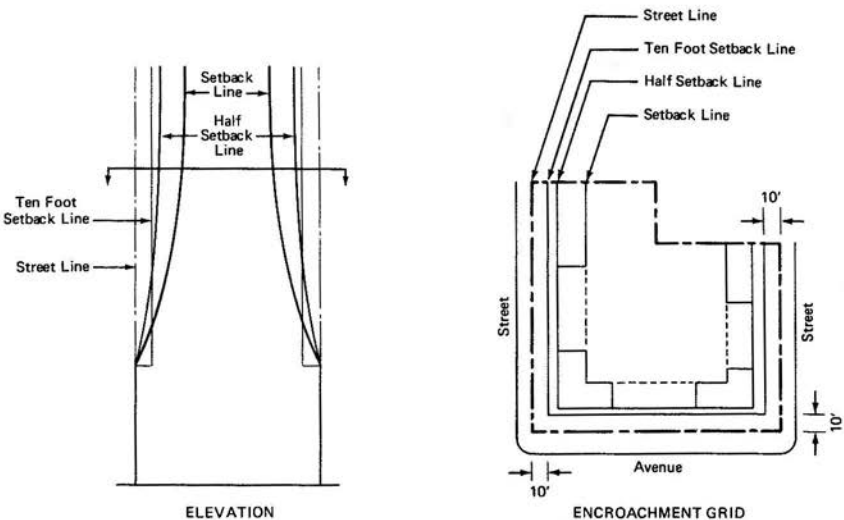


Illustration of Ten foot setback line on an encroachment grid

81-262

Maximum height of front wall at the street line

(a) As stated in statutory text.

(b) For corner lots special provisions permit the height limit on a wider street to "wrap around" on a narrower street for a distance of 100 feet from the intersection, or permit the average of the wrap around and narrower street height limits, weighted by their street frontage lengths, to be the maximum height limit on the narrower street.

STATUTORY TEXT

Zone A, Zone B, Zone C

"Zone A", "Zone B" and "Zone C" are zones on an *encroachment grid* defined as follows:

- (a) *Zone A* is the *free zone*
- (b) *Zone B*, an *encroachment zone*, is the zone, exclusive of any area in *Zone A* which lies between the *setback line* and the *half-setback line*.
- (c) *Zone C*, an *encroachment zone* and *penalty zone*, is the zone which lies between the *half-setback line* and the *street line*.

81-262

Maximum height of front wall at the street line

(a) General Provisions

The front wall of a *building* at the *street line* shall not exceed the height limit applying along the *street* on which it fronts. Maximum front wall heights at the *street line* vary with the width of the *street* on which the wall fronts, as follows:

<u>Street Width (feet)</u>	<u>Maximum Front Wall Height at Street Line (feet)</u>
60 or less	90
75 or 80	120
100 or more	150

(b) Special provisions for *corner lots*

For a *corner lot* with frontage on *streets* of different widths, the maximum front wall height at the *street line* of the narrower *street* may be increased above that indicated in paragraph (a) in accordance with either one of the following rules:

Rule 1: The maximum front wall height at the *street line* for the wider *street* may extend up to 100 feet from the corner along the *street line* of the narrower *street*, or

Rule 2: For any length of frontage from the corner along the narrower *street*, a maximum height for such length of frontage may apply, which shall be the weighted average of (1) the height permitted under Rule 1 for the first 100 feet from the corner and (2) the standard height limit for front walls on the narrower *street* for the remainder of the frontage.

(See Illustration of Special Rules for *Corner lots*.)

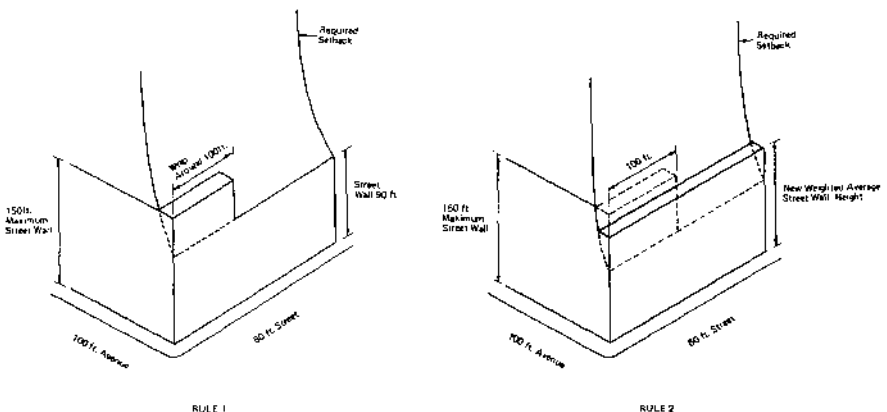


Illustration of Special Rules for Corner Lots

Standard setback requirements

Above the maximum height at the street line, a building's front wall is required to be set back. The greater the building height, the more the building must set back. There is a minimum setback of 10 feet. Three charts establish the depth of the setback line at given heights. The charts are formulated for each of the three street width classifications: 60, 75 or 80, and 100 or more feet in width. Setback depths increase with height more rapidly on the narrower streets than on the wider streets. The setbacks in the charts are derived from sky exposure curves for each of the three street width classes. The curves themselves were derived from Midtown's historic development under the 1916 and 1961 zoning regulations.

STATUTORY TEXT

81-263

Standard setback requirements

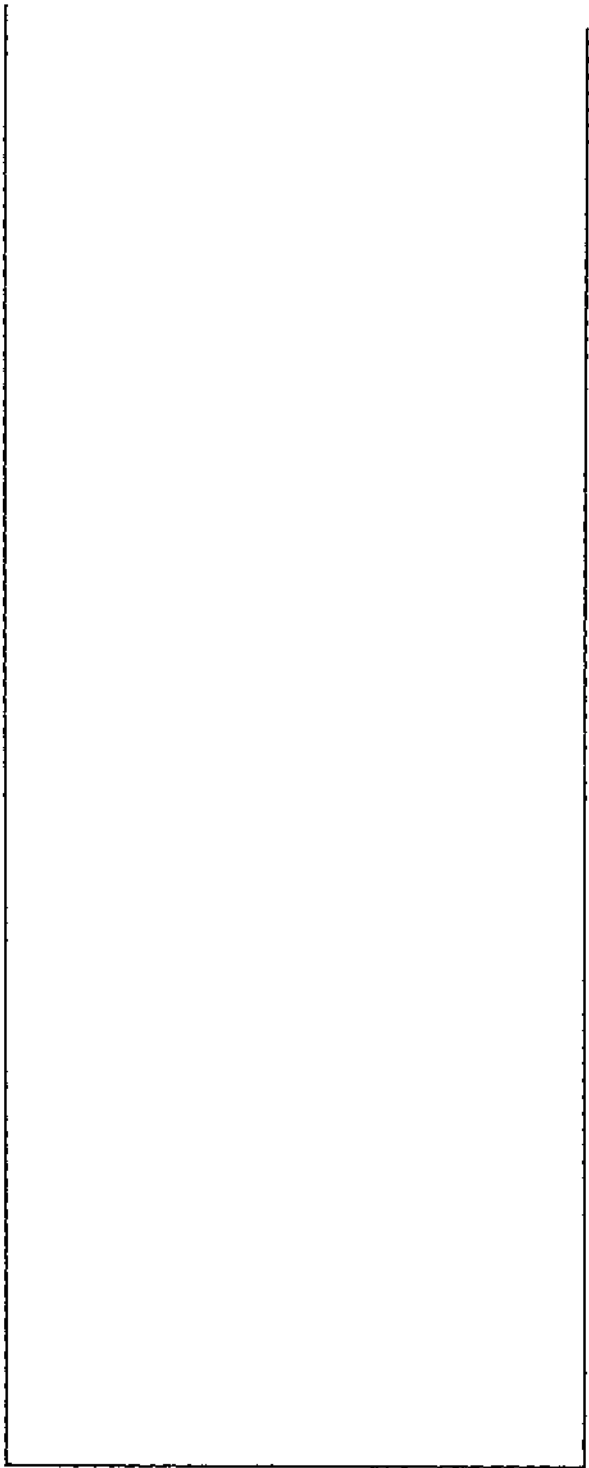
If a *building* complies with the regulations of this Section, it will be in compliance with the height and setback regulations.

(a) Ten foot setback requirement

Above the maximum height permitted at the *street line* pursuant to the provisions of Section 81-262, every portion of a *building's* front wall shall be set back at least 10 feet from the *street line*. Exceptions to this provision along a particular *street* frontage are permitted only if the *building* complies with the provisions of Section 81-265 (Encroachment limitations by length and height rules).

(b) General setback provisions; depth to height charts

Above the maximum height permitted at the *street line*, *building* walls, in addition to meeting the requirements of paragraph (a), are required to be set back behind the applicable *setback line*, the depth of the *setback line* at any point depending upon the height of the wall at that point in accordance with the requirements of the applicable Chart A, B or C presenting required setbacks from *streets* 60 feet or less, 75 or 80 feet, or 100 or more feet in width, respectively.



STATUTORY TEXT

CHART A

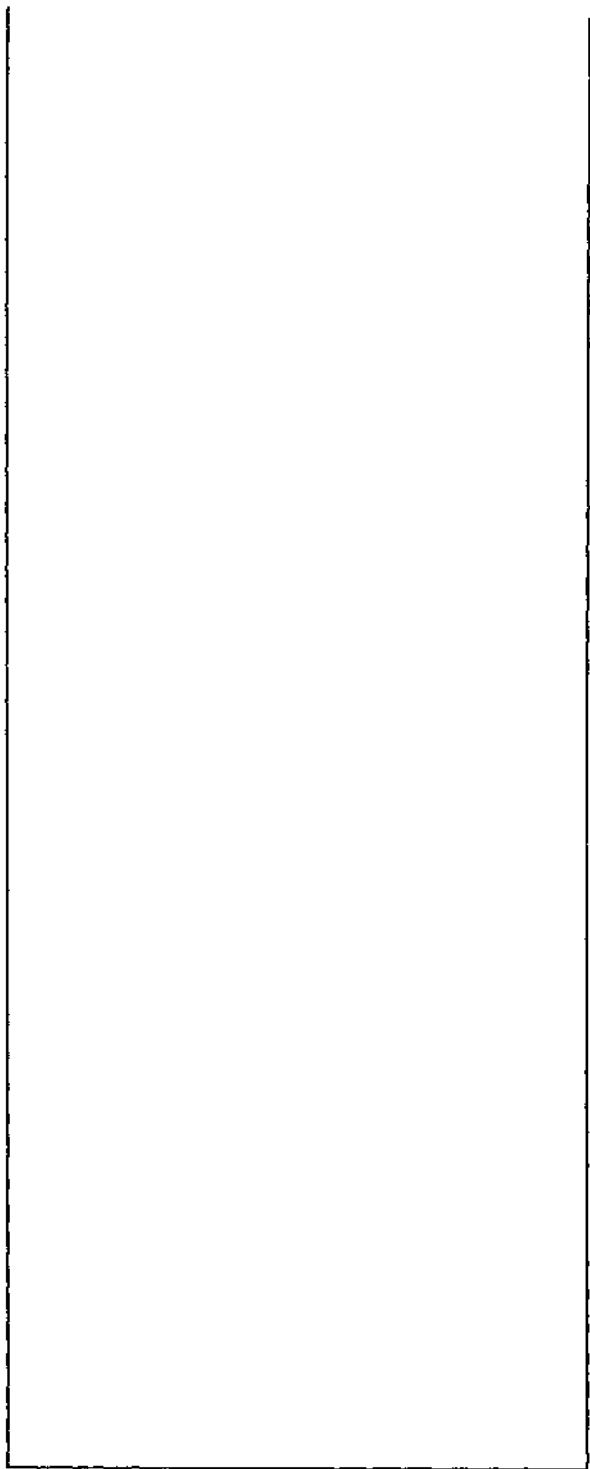
Setback Requirements

On *Streets* 60 Feet or Less in Width

Depth of *Setback Line*
from *Street Line* at Stated
Heights above *Curb Level*

<u>Height</u>	<u>Depth of Setback Line</u>	<u>Height</u>	<u>Depth of Setback Line</u>
90	0.00		
100	2.00	400	40.25
110	4.00	410	41.00
120	6.00	420	41.75
130	8.00	430	42.25
140	10.00	440	43.00
150	12.00	450	43.50
160	13.75	460	44.25
170	15.25	470	44.75
180	16.75	480	45.50
190	18.50	490	46.00
200	20.00	500	46.50
210	21.25	510	47.00
220	22.50	520	47.50
230	24.00	530	48.00
240	25.25	540	48.50
250	26.50	550	49.00
260	27.50	560	49.50
270	28.75	570	50.00
280	30.00	580	50.50
290	30.75	590	51.00
300	31.75	600	51.50
310	32.75	610	52.00
320	33.75	620	52.25
330	34.75	630	52.75
340	35.50	640	53.00
350	36.25	650	53.50
360	37.25	660	53.75
370	38.00	670	54.25
380	38.75	680	54.50
390	39.50	690	55.00
		700	55.25
		710	55.75
	Above	710	*

*for every 10 feet of height above 710 feet the depth shall increase by 1 foot



STATUTORY TEXT

CHART B

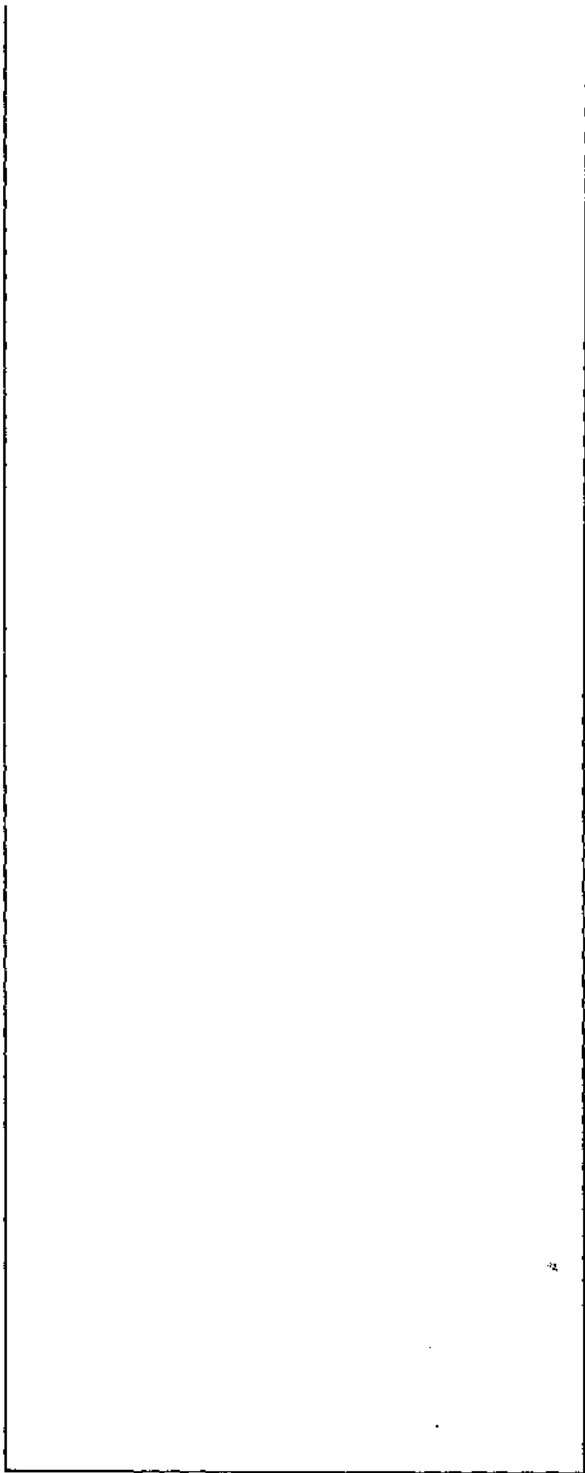
Setback Requirements

On Streets 75 Feet or 80 Feet Wide

Depth of *Setback Line*
from *Street Line* at Stated
Heights above *Curb Level*

<u>Height</u>	<u>Depth of <i>Setback Line</i></u>	<u>Height</u>	<u>Depth of <i>Setback Line</i></u>
		400	36.25
		410	37.00
120	0.00	420	37.75
130	1.50	430	38.25
140	3.50	440	39.00
150	5.50	450	39.75
160	7.50	460	40.50
170	9.25	470	41.00
180	11.00	480	41.75
190	12.75	490	42.50
200	14.25	500	43.00
210	15.75	510	43.50
220	17.25	520	44.00
230	18.75	530	44.75
240	20.00	540	45.25
250	21.25	550	45.75
260	22.50	560	46.25
270	23.75	570	46.75
280	24.75	580	47.25
290	26.00	590	47.75
300	27.00	600	48.25
310	28.00	610	48.75
320	29.00	620	49.00
330	30.00	630	49.50
340	31.00	640	50.00
350	32.00	650	50.50
360	32.75	660	50.75
370	33.75	670	51.25
380	34.50	680	51.75
390	35.50	690	52.00
		700	52.50
		710	53.00
		Above 710	*

*for every 10 feet of height above 710 feet the depth shall increase by 1 foot



2

STATUTORY TEXT

CHART C

Setback Requirements

On *Streets* at least 100 Feet Wide

Depth of *Setback Line*
from *Street Line* at Stated
Heights above *Curb Level*

Height	Depth of <i>Setback Line</i>	Height	Depth of <i>Setback Line</i>
		400	32.00
		410	33.00
		420	33.75
		430	34.50
		440	35.25
150	0.00	450	36.00
160	1.50	460	36.75
170	3.00	470	37.25
180	5.00	480	38.00
190	6.75	490	38.75
200	8.50	500	39.25
210	10.25	510	40.00 ✓
220	11.75	520	40.50
230	13.25	530	41.25
240	14.75	540	41.75
250	16.00	550	42.25
260	17.25	560	42.75
270	18.75	570	43.50
280	20.00	580	44.00
290	21.00	590	44.50 ✓
300	22.25	600	45.00 ✓
310	23.50	610	45.50
320	24.50	620	46.00
330	25.50	630	46.50
340	26.50	640	47.00
350	27.50	650	47.50 ✓
360	28.50	660	47.75
370	29.50	670	48.25
380	30.25	680	48.75
390	31.25	690	49.25
		700	49.50
		710	50.00 ✓
		Above 710	*

*for every 10 feet of height above 710 feet the depth shall increase by 1 foot

(c) Use of charts

To comply with the setback requirements of this Section a *building* at any height shall be set back at least to the depth of the *setback line* indicated on the applicable chart.

For heights between those shown on the chart, the depth of the *setback line* shall be interpolated.

Required depths of *setback lines* shall be rounded off to the next highest half foot.

The setback requirements apply only to portions of *buildings* above the maximum height permitted at the *street line*, so that required setbacks on the narrower *street* frontage of a *corner lot* shall apply only to heights above the maximum front wall heights permitted by the *corner lot* provisions of paragraph (b) of Section 81.262 (Maximum height of front wall at the street line).

For the middle one-third of the zoning lot's frontage, a building wall may penetrate beyond the setback line at a given height without any requirement of compensating recess, as long as it does not encroach beyond the 10 foot setback line or the half setback line (halfway between the setback line and the street line). The "middle one-third rule," by allowing the middle portion of a building's facade to be set closer to the street line without being considered as an encroachment, discourages such projections at the ends of the facade, where the impact on adjacent property or intersecting streets would be more serious.

81-264

Encroachments and compensating recesses

At any building height the aggregate area of encroachments must at least be equalled by the aggregate area of compensating recesses.

(a) Rules for measuring encroachments and recesses

An encroachment grid is used to measure the areas of encroachments and compensating recesses at a particular height. The encroachment grid is a plan drawing of the zoning lot showing for that height the setback line, half setback line and street line. If the half setback line is less than 10 feet from the street line, the 10 foot setback line is also shown on the encroachment grid. Zone A, also known as the free zone, is the area behind the setback line, and for the middle third of the zoning lot's frontage it also includes the area between the setback and half setback lines. Zone B, an encroachment zone, is the area between the setback and half setback lines except for the middle one-third of the frontage, which is in Zone A. Zone C, also an encroachment zone, is the area between the half setback line and the street line.

The outline of the building as it would appear in plan at the particular height is located on the encroachment grid to measure the areas of encroachment and of compensating recess.

STATUTORY TEXT

(d) *Middle one-third rule*

A *building wall* may penetrate beyond the *setback line* at any height if the penetration is confined to the middle third of the *front lot line* length and complies in all respects with the *middle one-third rule* as defined in Section 81-261 (Definitions).

81-264

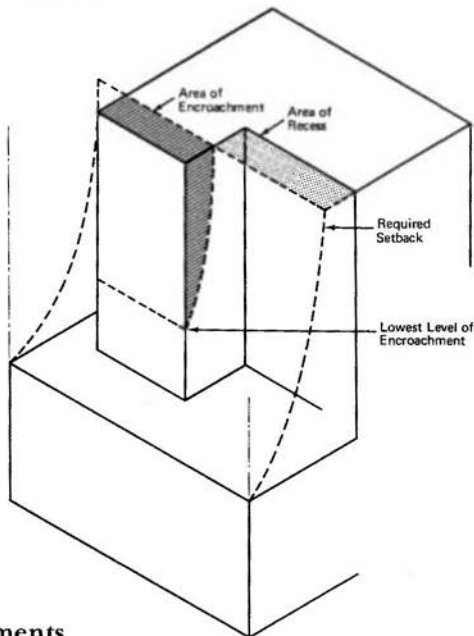
Encroachments and compensating recesses

A *development* will be in compliance with the height and setback regulations of this Chapter if it does not at any height encroach beyond a *half-setback line* or a *ten foot setback line* and at no level has an aggregate area of *encroachment* beyond the *setback line*, other than in any *free zones*, greater than the aggregate area of *compensating recess* at such level.

The requirement that aggregate area of *compensating recess* at least equal the aggregate area of *encroachment* as set forth in this Section shall also apply to any *development* which encroaches beyond a *half-setback line* or a *ten foot setback line* and which is therefore subject to the provisions of Section 81-265 (Encroachment limitations by length and height rules). (See Illustration of *Encroachments and Compensating Recesses*.)

(a) Rules for measuring *encroachments* and *recesses*

Areas of *encroachment* and *compensating recess* shall be measured in plan on one or more *encroachment grids* showing for the *zoning lot* at a given height level the *street line*, the *setback line*, the *half-setback line*, *Zones A, B and C* and, where applicable, the *ten foot setback line*.



**Illustration of Encroachments
and Compensating Recesses**

(b) Limits of encroachment

The areas in Zones B and C which are covered by the building are measured and totaled. These encroachment areas are subject to the requirement of equal areas of compensating recess. An encroachment into Zone C is subject not only to the requirement of compensating recess area but also to limitation by the length and height rules of Section 81-265. An encroachment beyond the 10 foot setback line is treated the same as an encroachment into Zone C.

(c) Limitations on compensating recess

Portions of the free zone (Zone A) which are not covered by the building can be counted as compensating recess areas subject to certain limitations set forth in paragraph (c).

STATUTORY TEXT

The scale of the *encroachment grid* shall be not more than 20 feet to the inch. All *buildings or other structures*, existing and proposed, shall be located accurately on the *grid* in plan at the height level selected to demonstrate compliance. The areas of the *building's encroachment* in *Zones B* and *C* or beyond the *ten foot setback line* and the *compensating recess* areas not covered by any *building* in *Zone A* shall be measured on the *encroachment grid*.

(b) Limits of encroachment

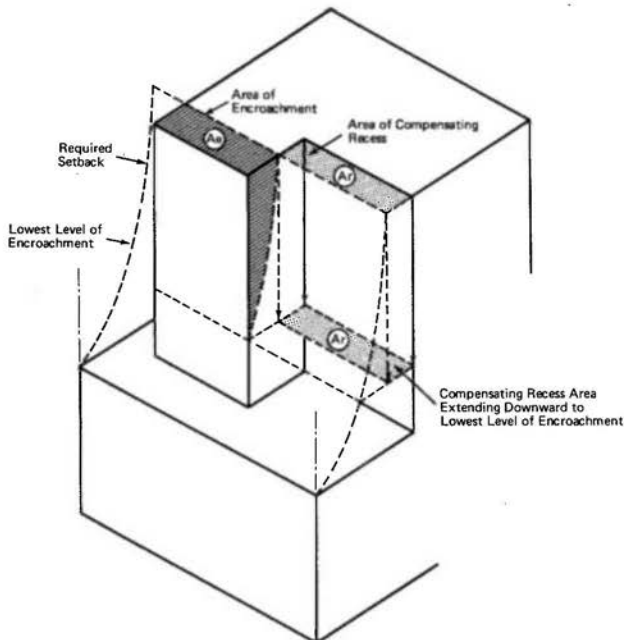
Except as provided in paragraph (d) below for existing *buildings* below specified heights, *encroachment* is limited as follows:

1. At every height above the maximum front wall height at the *street line*, the area within *Zone A* which is not covered by a *building* and qualifies as *compensating recess* area shall, in the aggregate, equal or exceed the aggregate area in *Zones B* and *C* or beyond the *ten foot setback line* that is encroached upon by a *building* at such height.
2. No part of a *building* shall encroach into *Zone C* unless it complies with the provisions of Section 81-265 (Encroachment limitations by length and height rules).
3. On *corner lots*, the projection of a *building's* front wall beyond the *setback*, *half-setback* or *ten-foot setback line* on the narrower street shall not count as an *encroachment* except at heights above the maximum height permitted at the *street line* by the *corner lot* provisions in paragraph (b) of Section 81-262 (Maximum height of front wall at the street line).

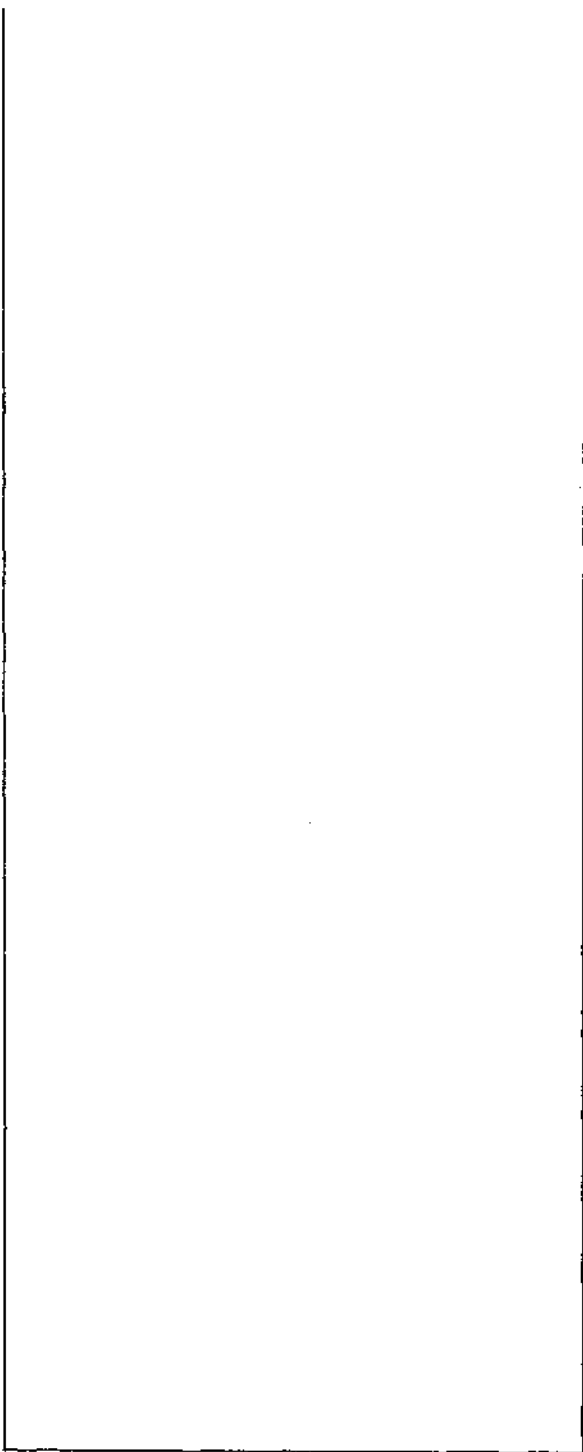
(c) Limitations on compensating recess

Compensating recess areas are subject to the following limitations:

1. Any required *compensating recess* area shall extend without diminution of dimensions downward at least to the lowest level at which any *encroachment* into *Zone B* or *C* or beyond the *ten foot setback line* occurs and upward to the sky. (See Illustration of Extension Downward of *Compensating Recess* Area.)



**Illustration of Extension Downward
of Compensating Recess Area**



STATUTORY TEXT

2. *Compensating recess* area shall be visible when viewed from at least one adjacent *street* along a line that intersects the *front lot line* of the *zoning lot* at right angles. (See Illustration of Visibility of Recess Area.)

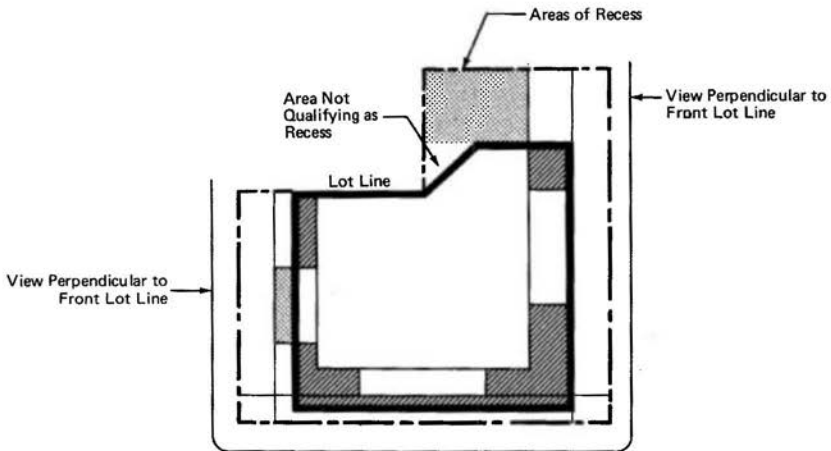


Illustration of Visibility of Compensating Recess Area.

3. The minimum length of a *compensating recess*, measured parallel to the *street line*, and behind the *setback line*, is 30 feet, except for any uncovered portion of an area that qualifies as *Zone A* under the *middle one-third rule* or an uncovered area located behind two intersecting *setback lines*. An uncovered area between the *setback* and *half-setback lines* that qualifies as *Zone A* under the *middle one-third rule* is not subject to the minimum length requirement. (See Illustration of Minimum Length of Recess.)

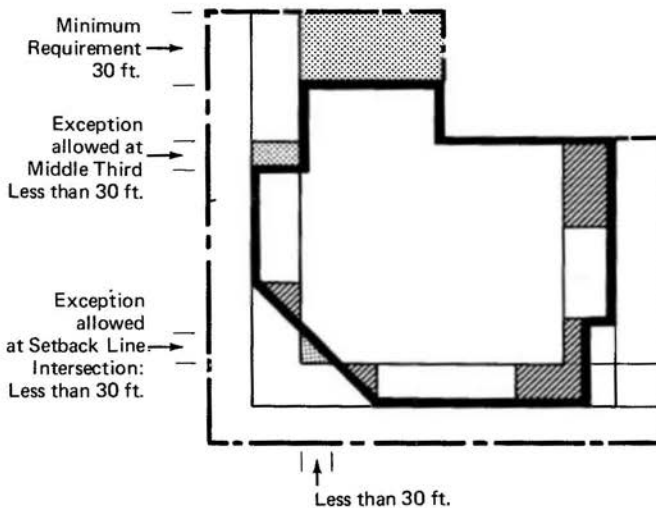


Illustration of Minimum length of Compensating Recess

(d) Existing buildings on the zoning lot

Special rules apply in the case of new buildings or enlargements erected on zoning lots where existing buildings remain on the lot and encroach into Zone B or Zone C.

STATUTORY TEXT

4. *Compensating recess* area shall be within 100 feet of a *front lot line*.

(d) Existing *buildings* on the *zoning lot*

Where a *zoning lot* contains an existing *building* which exceeds a height limit, an *enlargement* or *development* on such *zoning lot* shall comply with the following provisions:

1. If the existing *building* is not more than 120 feet in height at any point and encroaches into *Zone B* or *Zone C* or beyond the *ten foot setback line* along the frontage of a *street* 60 feet wide, or if the existing *building* is not more than 150 feet in height at any point and encroaches into *Zone B* or *Zone C* or beyond the *ten foot setback line* along the frontage of a *street* 75 or 80 feet wide, the new *building* or *enlargement* is not required to compensate for such *encroachment* by the provision of *compensating recess* areas. *Encroachment* by such an existing *building* into *Zone C* or beyond the *ten foot setback line* will not subject the new *building* or *enlargement* to the provisions of Section 81-265 (Encroachment limitations by length and height rules) unless the new *building* or *enlargement* also encroaches into *Zone C* or beyond the *ten foot setback line*.
2. Space above such existing *building* and within *Zone A* on the *encroachment grid* may count as *compensating recess* area for the new *building* or *enlargement* provided that such space is at or below the lowest level of any compensable *encroachment* by the new *building* or *enlargement* and that it qualifies in all respects under the provisions of paragraph (c) of this Section (Limitations on compensating recess).
3. If an existing *building* more than 120 feet in height at any point encroaches into *Zone B* or *Zone C* or beyond the *ten foot setback line* along the frontage of a *street* 60 feet wide, or if an existing *building* more than 150 feet in height at any point encroaches into *Zone B* or *Zone C* or beyond the *ten foot setback line* along the frontage of a *street* 75 or more feet in width, the *encroachment* of such *building* into *Zone B* or *Zone C* or beyond the *ten foot setback line* at any height shall be subject to the requirements for *compensating recess* areas set forth in paragraph (b)(1), as if it were a new *building*. Where such an existing *building* encroaches into *Zone C* or beyond the *ten foot setback line* the provisions of paragraph (g)(2) in Section 81-265 (Encroachment limitations by length and height rules) shall apply. (See Illustration of Existing Buildings on the Zoning Lot.)

81-265

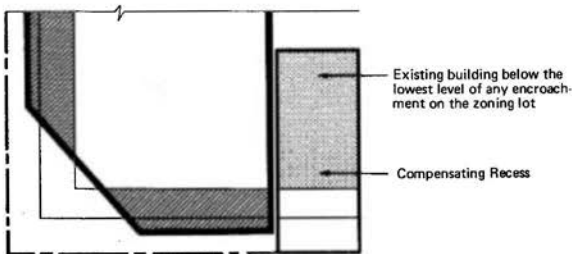
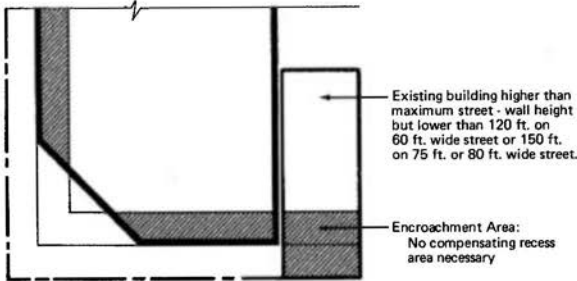
Encroachment limitations by length and height rules

Above the maximum height limit at the street line, any encroachment by a building into Zone C or beyond the ten foot setback line is subject to limitations on the length and the height or the encroachment.

(a) Special limitation

Along street frontages on streets less than 75 feet wide (narrow streets) there is an absolute prohibition of any encroachment into Zone C or beyond the ten-foot setback line within 30 feet of a side lot line. This is for the protection of adjacent properties, which when located on narrow streets are particularly vulnerable to the obstruction of light and air.

STATUTORY TEXT



Illustrations of Existing Buildings on the Zoning Lot

81-265

Encroachment limitations by length and height rules

Above the maximum height of a front wall at the *street line* as set forth in Section 81-262 (Maximum height of front wall at the street line), a *building* may only encroach beyond the *half-setback line* or the *ten foot setback line* if it complies with the provisions of this Section and if the area of *compensating recess* equals or exceeds the area of *encroachment* in *Zones B and C* or beyond the *ten foot setback line* in accordance with the provisions of Section 81-264 (Encroachments and compensating recesses).

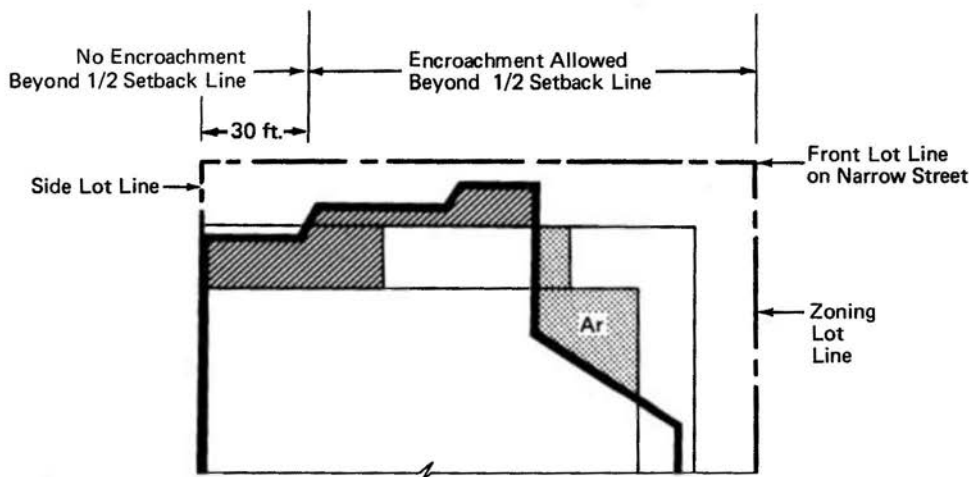
(a) Special limitations

No *encroachment* beyond the *half-setback line* or *ten foot setback line* along a *narrow street* shall be within 30 feet of a *side lot line*. (See Illustration of Prohibited and Allowed *Encroachment* beyond *Half-Setback Line*.)

(b) General provisions regarding encroachment limitations by length and height rules

The elements analyzed in the length and height rules are in all cases measurements of encroachments related to some standard. Thus, the length of the encroachment is related to the length of the lot line, the depth of the encroachment to the depth of the setback line and the height of the encroachment (above curb level) to the length of the lot line. Length of encroachment is also related to length of recess and area of encroachment to area of recess. The main purpose of the length and height rules is to ensure that the closer an encroachment comes to the street line, the less will be its length, its height or both. Each street frontage is analyzed separately. The rules controlling depth, length and height of encroachments beyond the half setback or ten foot setback line are contained in two formulas and two charts. An applicant may elect to be governed by either the two formulas or the two charts. The charts are derived from the formulas. The formulas offer slightly more flexibility. The applicant must demonstrate that his building complies at every point either with the formulas or with the charts.

STATUTORY TEXT

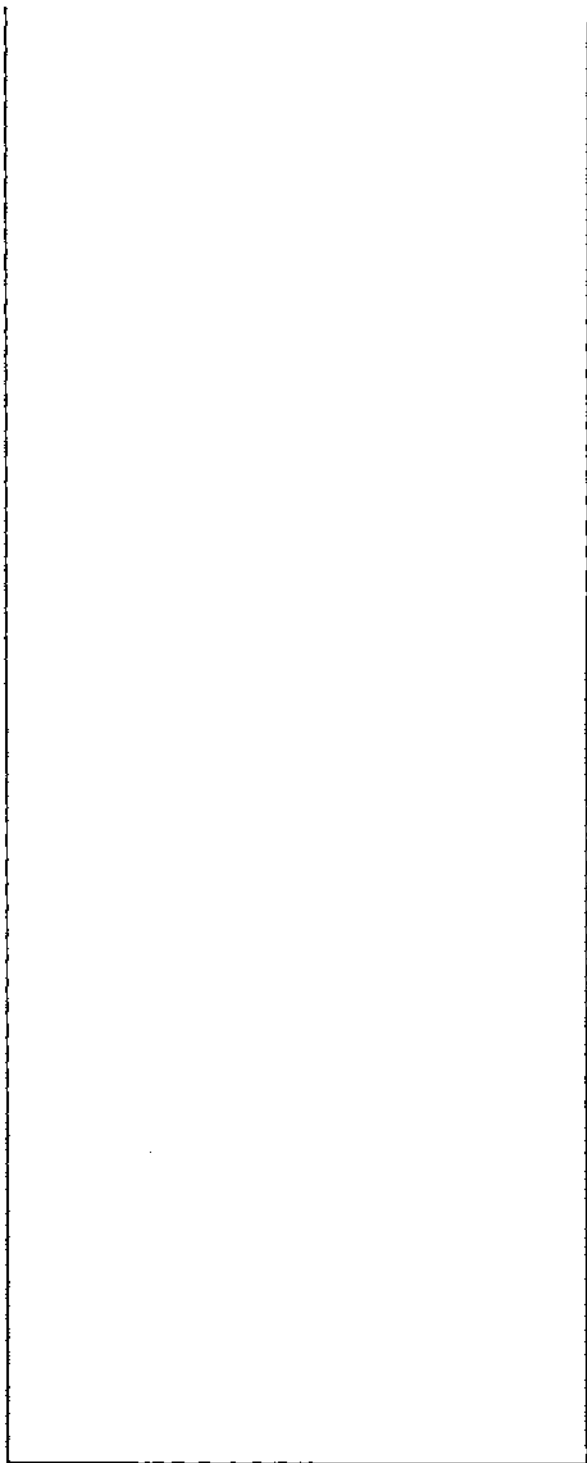


**Illustration of Prohibited and Allowed Encroachment
beyond Half-Setback Line**

(b) General provisions

The length, depth, height and area of *encroachments* along any *street* frontage all contribute to a *building's* impact on daylight access. In order to determine whether the depth of a *building's* *encroachment* into *Zone C* or beyond the *ten foot setback line* is justified, the length of the *encroachment*, measured parallel to the *street line*, and its height above *curb level* must also be evaluated. The extent of *encroachment* also must be considered in relation to the extent of the area of *compensating recess* along the *street* frontage. The purpose of the length and height rule is to ensure, in the case of *encroachments* beyond the *half-setback line* or the *ten foot setback line*, that the closer a *building* comes to the *street line*, the less will be the length of its *encroachment*, its height or both. (See Illustration of Elements Analyzed.)

The elements comprising this analysis are represented by symbols and are as follows:



STATUTORY TEXT

1. $\frac{de}{d} = \frac{\text{depth of } \textit{encroachment}}{\text{depth of } \textit{setback line}}$

de (depth of *encroachment*) means depth of *encroachment* beyond the *setback line* or the *ten foot setback line*, whichever line is the greater distance from the *street line*. Depth of *encroachment* is measured perpendicularly to the *setback line* or *ten foot setback line*.

d (depth of *setback line*) means depth of *setback line* from the *street line* or depth of *ten foot setback line* from the *street line* whichever depth is greater.
2. $\frac{le}{L} = \frac{\text{length of } \textit{encroachment}}{\text{Length of } \textit{front lot line}}$

le (Length of *encroachment*) means total length of *encroachment* outside the *half-setback line* or the *ten foot setback line*, whichever line is the greater distance from the *street line*. Length of *encroachment* is measured as the total length of the *encroachment's* projections on the *street line*.

L (length of *front lot line*) means the length of the *front lot line* along the particular *street*. However, the length of the *front lot line* for the purposes of this Section shall not exceed 300 feet, irrespective of the actual *lot line* length.
3. $\frac{le}{ir} = \frac{\text{length of } \textit{encroachment}}{\text{length of recess}}$

le (length of *encroachment*) as defined in subparagraph 2 above.

ir (length of recess) means total length of *setback line* not encroached upon by a *building*.
4. $\frac{H}{L} = \frac{\text{height of } \textit{encroachment}}{\text{length of } \textit{front lot line}}$

H (height of *encroachment*) means the height of the *encroachment* above *curb level*.

L (length of *front lot line*) as defined in subparagraph 2 above.
5. $\frac{Ar}{Ae} = \frac{\text{area of } \textit{compensating recess}}{\text{area of } \textit{encroachment}}$

Ar (area of *compensating recess*) means area of *compensating recess* along the particular *street* frontage. Area of *compensating recess* is calculated to a depth of 100 feet from the *street line*.

Ae (area of *encroachment*) means area of *encroachment* beyond the *setback line*. Area of *encroachment* is calculated to a depth of 100 feet from the *street line*.

Values for the above elements 1 through 5 shall be found for each *street* frontage on which there is any *encroachment* beyond the *half-setback line* or *ten foot setback line*.

(c) Encroachment limitations by Formulas 1 and 2

Formula 1 states the maximum allowable combination of height, depth and length of encroachment. If one of these elements is fixed as key to the architect's design or program needs, he can find the range of combinations that would be permitted for the other two. Or if two are fixed, the formula would determine the maximum value for the third. For any frontage less than 200 feet in length or where there is a large area of compensating recess compared to the area of encroachment, the allowable dimensions of the encroachment under Formula 1 may be increased by specified factors.

Formula 2 sets a limit on the length of the encroachment in relation to the length of compensating recess.

STATUTORY TEXT

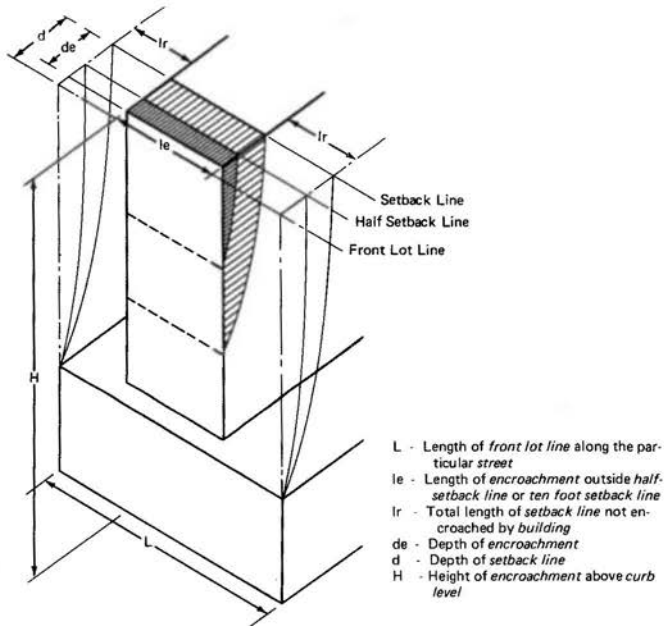


Illustration of Elements Analyzed.

The elements, weighted according to their effects on daylight access, are represented in the formulas and charts that control the depth, length and height of *encroachments*, as set forth in paragraph (c) (Encroachment limitations by formulas 1 and 2) and paragraph (d) (Encroachment limitations by charts 1 and 2). Applicants may elect to have their *buildings* regulated by either the formulas or the charts, but not by a combination of the two.

Encroachments of proposed *buildings* or *enlargements* beyond the *half-setback line* or *ten foot setback line* are permitted only if in compliance at every point with the formulas in paragraph (c) or the charts in paragraph (d) of this Section. Aside from this general requirement, specified points at which the length, depth, height and area rules shall be applied are presented in paragraph (e) (Measurement of encroachments) and paragraph (f) (Heights and depths at which formulas or charts are applied).

(c) *Encroachment* limitations by Formulas 1 and 2

Where applicants elect to have their *buildings* regulated by the formulas, *buildings* shall comply with both Formula 1 and Formula 2 as set forth in this paragraph. Elements of the formulas and the symbols by which they are represented are as set forth in paragraph (b) above.

$$\text{FORMULA 1: Maximum } \frac{H}{L} = 5.5 - 4\left(\frac{de}{d}\right) - 2.5\left(\frac{le}{L}\right)$$

$$\text{FORMULA 2: Maximum } \frac{le}{lr} = \frac{3.5}{L}$$

The maximum height of *encroachment* (H) allowed by Formula 1 may be modified for certain conditions, as follows:

**(d) Encroachment limitations by
Charts 1 and 2**

Charts 1 and 2 provide a simple methodology for determining permissible dimensions of encroachments. No modifications are provided for in cases of short street frontages or large areas of compensating recess.

STATUTORY TEXT

1. For short frontages

For any frontage less than 200 feet in length, the maximum $\frac{H}{L}$ found by applying Formula 1 may be increased by the following multiplier:

$$2 - \frac{L}{200}$$

2. For large areas of *compensating recess*

To the extent that the aggregate area of *compensating recess* (A_r) exceeds the aggregate area of *encroachment* (A_e), the maximum $\frac{H}{L}$ found by applying Formula 1 may be increased by the following multiplier:

$$1 + \frac{.067A_r}{A_e}$$

For the purposes of this modification, the measurement of the area of *compensating recess* (A_r) and the area of *encroachment* (A_e) along the particular *street* frontage shall be made on the *encroachment grid* at the height level for which *encroachments* beyond the *half-setback line* or *ten foot setback line* are checked. A_r shall include all areas of *compensating recess* along the particular *street* frontage, whether or not connected, and A_e shall include all *encroachments* in both *Zone B* and *Zone C* or beyond the *ten foot setback line* along the same *street* frontage, whether or not such *encroachments* are connected.

(d) *Encroachment* limitations by Charts 1 and 2

Where applicants elect to have their *buildings* regulated by the charts, *buildings* shall comply with both Charts 1 and 2 as set forth in this paragraph. The elements represented by the symbols on the charts are defined in paragraph (b) (above).

CHART 1

MAXIMUM $\frac{H}{L}$
RELATED TO $\frac{de}{d}$ AND $\frac{le}{L}$
 le/L

de/d	0-.10	.11-.20	.21-.30	.31-.40	.41-.50	.51-.60	.61-.70
.01-1.00	1.25	1.00	0	0	0	0	0
.81-.90	1.50	1.25	1.00	1.00	1.00	0	0
.71-.80	2.00	1.75	1.50	1.25	1.00	0	0
.61-.70	2.50	2.25	2.00	1.75	1.50	1.25	1.00
.51-.60	3.27	3.00	2.75	2.50	2.25	2.00	1.75

CHART 2

MAXIMUM $\frac{le}{lr}$
RELATED TO $\frac{le}{L}$

le/L	Maximum le/lr
0-.10	.25
.11-.20	.50
.21-.30	1.00
.31-.40	1.25
.41-.50	1.50
.51-.60	2.00
.61 and above	2.50

(e) **Measurement of encroachment**

Encroachments along a single street frontage that are not connected within Zone C are measured separately. In such cases the length of encroachment for use in the formulas or charts is the sum of lengths of the individual encroachments.

(f) **Heights and depths at which formulas or charts are applied**

Encroachments are independently checked for each street frontage of the zoning lot and must not exceed at any point the limits imposed by the formulas or charts on any frontage. Checking for compliance must be done at specified points.

The regulations specify where to check. They must be followed in all cases. However, compliance at these points is not necessarily conclusive evidence that the encroachments comply at all points with the length and height rules.

There are two separate sets of regulations. For encroachments whose length is uniform for

STATUTORY TEXT

(e) Measurement of *encroachments*

The points at which the formulas or charts are applied will depend upon the shape and dimensions of the *encroachments* beyond the *half-setback line* or *ten foot setback line* and shall be in accordance with the provisions of this paragraph and paragraph (f).

Where the *encroachments* along a single *street* frontage are not connected outside the *half-setback line* or *ten foot setback line*, each *encroachment* shall be measured separately in accordance with the provisions of paragraph (f). However, at any given height, where such noncontiguous *encroachments* occur, the *encroachments* shall be examined together, and the length of *encroachment* (le) shall be the total of the le 's for the individual *encroachments*. (See Illustration of Noncontiguous *Encroachments*.)

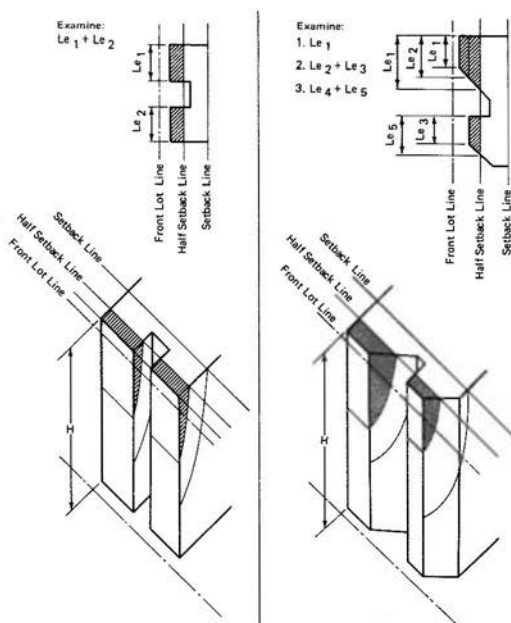


Illustration of Noncontiguous Encroachments

(f) Heights and depths at which formulas or charts are applied

Heights and depths at which the formulas or charts shall be applied are set forth in this paragraph. In addition to meeting the requirements of subparagraphs 1 and 2, the applicant shall demonstrate that there is no height at which the proposed *building* or *enlargement* fails to comply with the formulas in paragraph (c) or the charts in paragraph (d) of this Section.

(1) Standard requirement where length of *encroachment* is uniform

Where the length of the *encroachment* (le) is uniform for the entire height of the *encroachment* (H) and the entire depth (de) at every height, the length, depth and height rules expressed in the formulas or charts shall be applied only at the height where de/d is greatest and at the outermost edge of the *encroachment*. (See Illustration of Uniform Length of *Encroachment*.)

their entire height and depth, the formulas or charts are applied where the depth of encroachment is greatest. Where the length of encroachment is not uniform the rules are applied at the height where the length of encroachment is greatest and also at the height where the depth of encroachment is greatest. In this latter category of cases the standard requirements also specify the depths at which the rules must be applied at each height level where checking is done.

STATUTORY TEXT

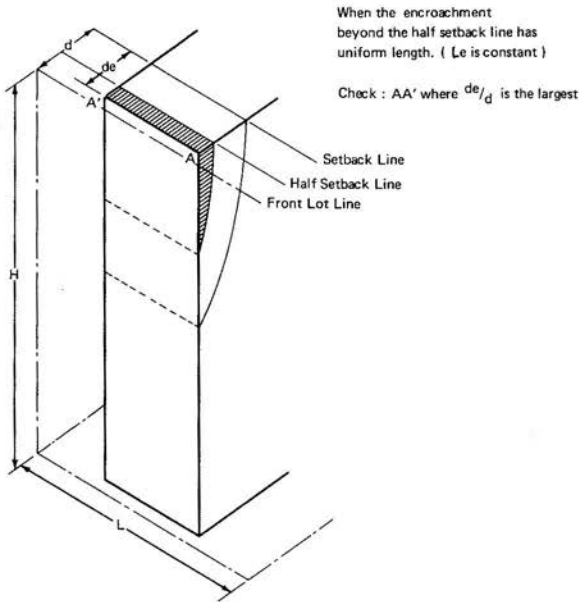


Illustration of Uniform Length of Encroachment

- (2) Standard requirement where length of *encroachment* is not uniform

Where the length of the *encroachment* (l_e) is not uniform, the rules shall be applied at the height level where d_e/d is greatest and also at the height level where the length of *encroachment* (l_e) is greatest. If the greatest length of *encroachment* is uniform for part of the *building's* height, the rules shall be applied at the highest level at which such greatest length of *encroachment* occurs. (See Illustration Where Length of *Encroachment* is Not Uniform.)

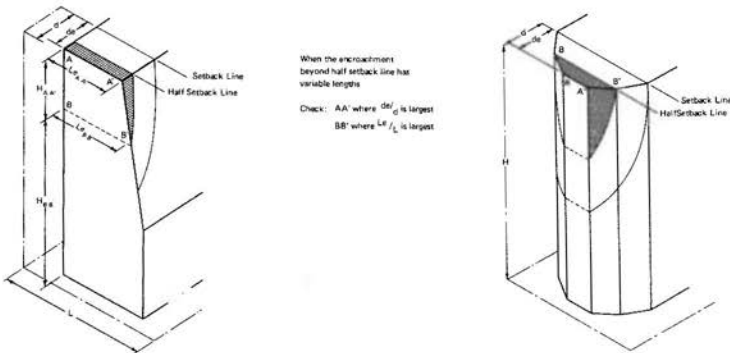
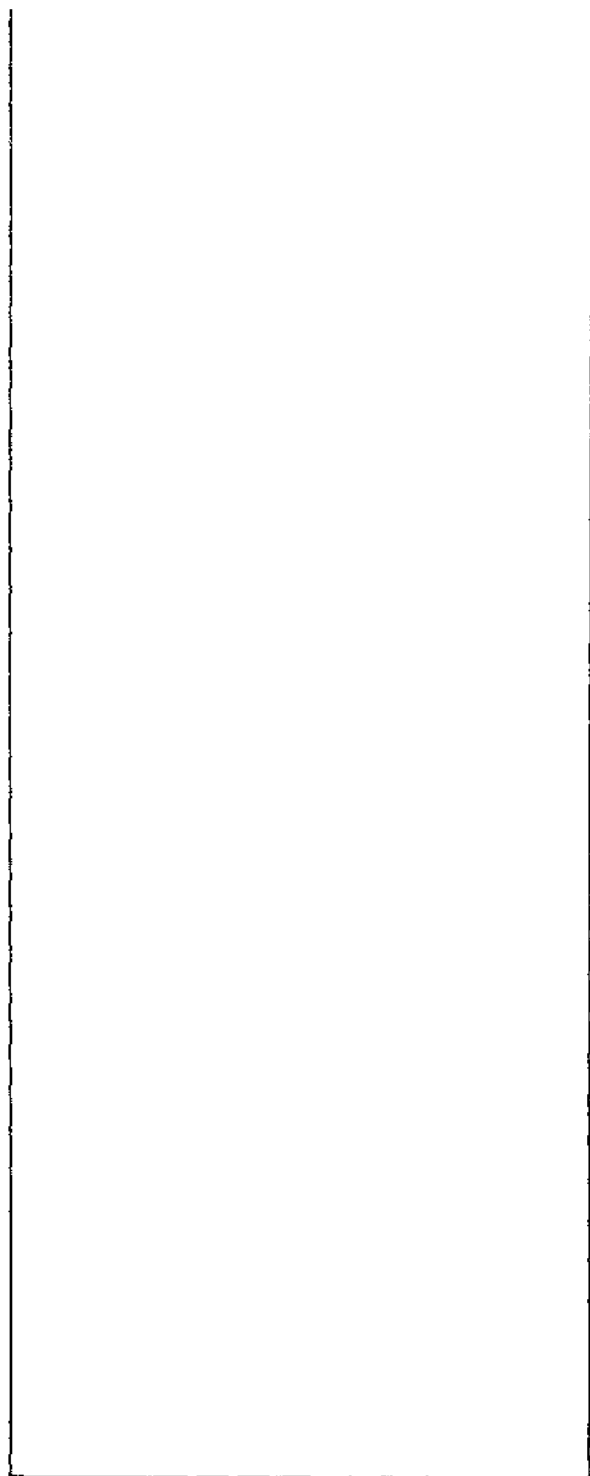


Illustration Where Length of Encroachment is not Uniform



STATUTORY TEXT

For each height level at which the formulas or charts are applied in accordance with the provisions of this subparagraph, the length and depth of *encroachment* (le and de) shall be measured at the depths indicated in the following table:

	Depth at which <i>Encroachment</i> is Measured
Where $\frac{de}{d}$ does not exceed .70	<ol style="list-style-type: none"> 1. Outermost edge of <i>encroachment</i> 2. <i>Half-setback line</i> or <i>ten foot setback line</i>, whichever line is the greater distance from the <i>street line</i>.
Where $\frac{de}{d}$ exceeds .70	<ol style="list-style-type: none"> 1. Outermost edge of <i>encroachment</i> 2. <i>Half-setback line</i> or <i>ten foot setback line</i>, whichever line is the greater distance from the <i>street line</i>. 3. The point midway between 1 and 2.

(See Illustration of Depth at Which *Encroachment* is Measured.)

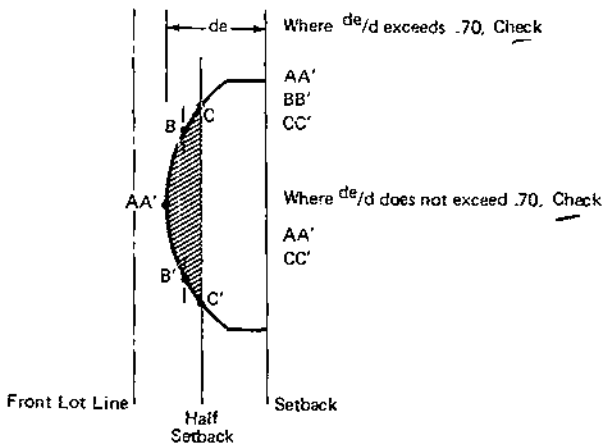


Illustration of Depth at which Encroachment is measured

(g) *Encroachments* by existing buildings

Where a *zoning lot* contains an existing *building* which encroaches beyond a *half-setback line* or a *ten foot setback line*, an *enlargement* or *development* on such *zoning lot* shall comply with the following provisions:

1. Existing *buildings* below specified heights
 - (a) Except as provided in subparagraph (b), an existing *building* less than 120 feet in height shall not be considered in applying the length and

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Special permit for height and setback modifications

The height and setback regulations (both daylight compensation and daylight evaluation alternatives) have been thoroughly tested and found to be so much more liberal and flexible than the existing regulations that there is not generally any need or reason to provide for their modification by special permit (as now provided in Section 74-72 and other sections). However, without some additional flexibility it may not be possible in some cases to successfully apply certain regulations designed to protect and preserve landmark buildings. Two types of cases are covered by Section 81-266: one where a new development or enlargement is proposed on a zoning lot containing a landmark (Section 74-712) and the other where development rights are transferred from a landmark site to the zoning lot of a development and the utilization of those rights will result in a floor area ratio more than 20 percent above the basic maximum F.A.R. (Section 74-79). Therefore, in these types of cases the height and setback regulations may be modified if necessary by special permit of the City Planning Commission. Modifications are permitted only on zoning lots in districts with a basic maximum F.A.R. of 15.0 or 18.0 and are subject to demonstration by the applicant that a feasible design which complies with the regulations of Sections 81-261 to 81-265 is not possible and to findings by the Commission that the surrounding area and the setting for the landmark are adequately protected.

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height rules even though a portion of such *building* encroaches beyond the *half-setback line* or *ten foot setback line* along a 60 foot wide *street* and an existing *building* less than 150 feet in height shall not be considered in applying the length and height rules even though a portion of such *building* encroaches beyond the *half-setback line* or *ten foot setback line* along a 75 foot wide *street* or an 80 foot wide *street*.

- (b) However, the area occupied by the existing *building* shall be included in the calculation of Ar/Ae for the modification of Formula 1 allowed in the case of large areas of *compensating recess*, as set forth in paragraph (c), subparagraph 2 of this Section.

2. Existing *buildings* above specified heights

Where an existing *building* 120 feet or more in height encroaches beyond the *half-setback line* or *ten foot setback line* along a 60 foot wide *street* or where an existing *building* 150 feet or more in height encroaches beyond the *half-setback line* or *ten foot setback line* along a 75 foot wide *street* or an 80 foot wide *street*, the following provisions shall apply:

- (a) No new construction on the *zoning lot* shall encroach beyond the *half-setback line* or *ten foot setback line* along such *street*, and
- (b) The length and height rules of this Section shall not apply.

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Special permit for height and setback modifications

In C5-3, C6-6, C6-7, C5-3.5, C6-6.5 or C6-7.5 Districts, where a special permit application is made pursuant to Section 74-712 (Developments or enlargements on landmark sites in certain districts) for modification of *bulk* regulations on a *zoning lot* containing a landmark, or where a special permit application is made pursuant to Section 74-79 (Transfer of Development Rights from Landmark Sites) for transfer of development rights from a landmark site and the *floor area* represented by such transferred development rights exceeds 20 percent of the basic maximum *floor area* permitted on the *zoning lot* receiving the development rights, such application may include a request for modification of the height and setback regulations set forth in Sections 81-261 to 81-265, inclusive, relating to Height and Setback Regulations Daylight Compensation. The City Planning Commission may authorize such height and setback modifications subject to the following conditions:

- (a) The applicant shall demonstrate to the satisfaction of the Commission that a feasible design for the proposed *development* or *enlargement* which accommodates the permitted *floor area* is not possible under the provisions of Sections 81-261 to 81-265, inclusive, and shall further indicate for the proposed design where and to what extent deficiencies of *compensating recess* are necessary or compliance with the length and height rules is not possible. Scale drawings shall be used in presenting the analyses required herein, and
- (b) The Commission shall make the following findings in addition to any required under the applicable provisions of Section 74-712 or Section 74-79:
 - 1. That the requested departure from the height and setback regulations is the minimum amount necessary to achieve a feasible *building* design.
 - 2. That the disadvantages to the surrounding area resulting from reduced light and air access will be more than offset by the advantages of the landmark's preservation to the local community and the City as a whole.
 - 3. That where the landmark is located on the *zoning lot* proposed for *development* or *enlargement* or on a lot contiguous thereto or directly across a *street* therefrom, the modification of height and setback regulations will adequately protect the setting for the landmark.

**Alternate Height and Setback Regulations –
Daylight Evaluation**

This set of regulations does not contain height limits at the street line or setback lines. Instead, a building is scored by means of an objective measurement of the amount of sky it will obstruct and the amount it will leave open as viewed from a vantage point in the street, 250 feet distant from the zoning lot's far lot line. To make this measurement the building is plotted on a daylight evaluation chart representing the sky as viewed from the vantage point. When the building is plotted on this chart, the amount of unobstructed sky or "daylight remaining" is related to the amount available without any structure on the lot. This gives the score for the building on one street frontage as viewed in one direction. The street score is the average of the scores for the building as viewed from at least two vantage points along one street frontage. The overall score is the weighted average of the street scores on each frontage. The building must have a passing score of at least 75 percent.

81-271**Definitions**

Certain terms are defined in this section. They relate mainly to the daylight evaluation chart, the location of zoning lot lines on the chart, and the location of vantage points from which views of the proposed building are represented on the chart.

STATUTORY TEXT

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Alternate Height and Setback Regulations — Daylight Evaluation

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Definitions

Center Line of Street (bounding a *zoning lot*)

A line equidistant from and parallel or nearly parallel to the *street lines* on both sides of the *street*. However:

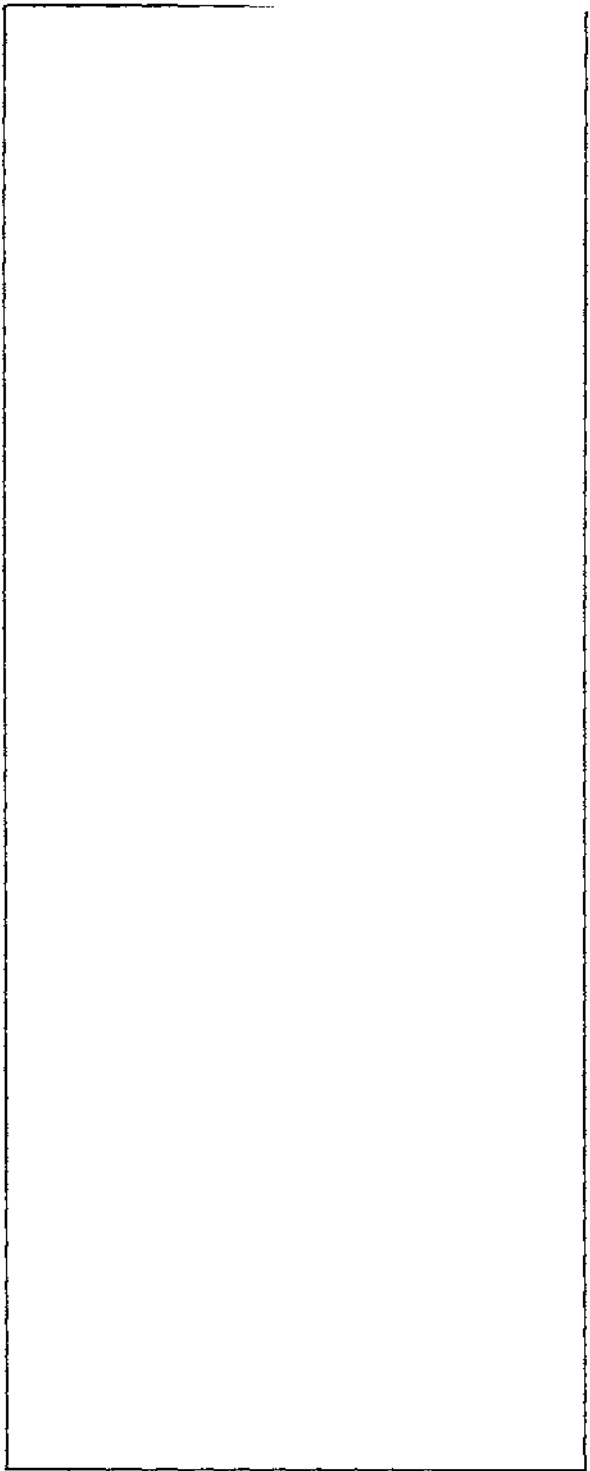
- (a) For the purposes of daylight evaluation, on a *street* 75 feet in width, the *center line of the street* shall be considered to be a line 40 feet from and parallel to the *front line* of the *zoning lot*.
- (b) For the purposes of daylight evaluation, on a *street* more than 100 feet in width, the *center line of the street* shall be considered to be a line 50 feet from and parallel to the *front lot line* of the *zoning lot*.

Daylight Evaluation Chart (DEC)

A graphic tool which permits objective measurements of portions of sky blocked by a *building* when it is viewed from a *vantage point*. There are three *daylight evaluation charts* for use with *street* widths of 60 feet, 75 to 80 feet and 100 feet and over, respectively. Proposed *buildings* or *enlargements* are drawn on the appropriate *daylight evaluation chart* to evaluate their compliance with the regulations of Section 81-27 (Alternate Height and Setback Regulations). The three *daylight evaluation charts* are presented in Appendix A.

Far Lot Line

A *lot line* intersecting the *street line* of the *vantage street* such that, when viewed from the *vantage point*, the *zoning lot* does not contain any *lot area* which is on the far side of and immediately adjoining the *lot line* at its intersection with the *street line*. (See Illustration of *Far Lot Line* and *Vantage Point*.)



STATUTORY TEXT

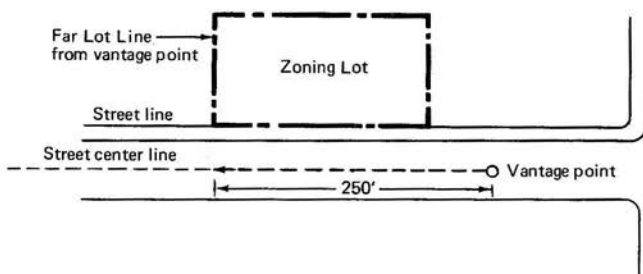


Illustration of Far Lot Line and Vantage Point

Near Lot Line

A *lot line*, other than the *far lot line*, which intersects the *street line* of the *vantage street* and which defines the extent of the *zoning lot's* continuous frontage along the *vantage street* from the *far lot line*.

Profile Curve

A curved line on the *daylight evaluation chart* rising from the intersection of the curved line representing an elevation angle of 72 degrees with the vertical line at the *far lot line*. The *profile curve* is used to evaluate a *building's* obstruction of the sky as seen in profile from the *vantage point*.

Profile Encroachment

The space on the *daylight evaluation chart* which, when viewed from the *vantage point*, is on the far side of the *profile curve* and which is blocked by the projection of the *building* on the *daylight evaluation chart*. (See *Illustration of Profile Encroachment*.)

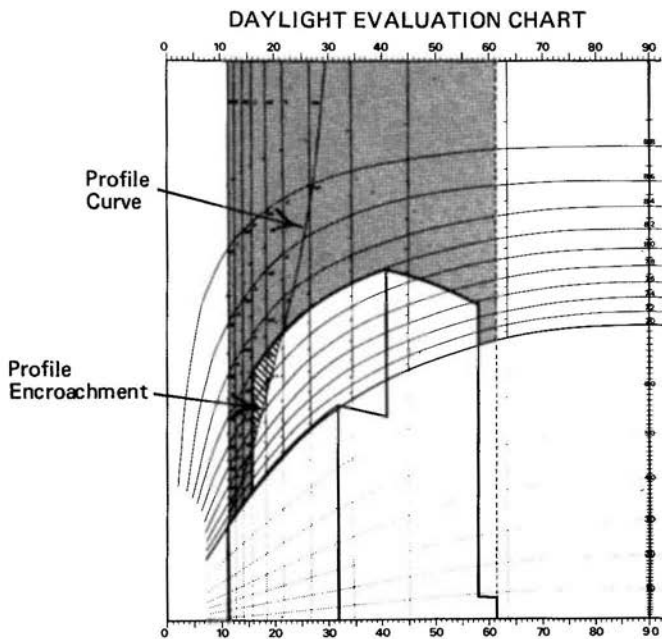


Illustration of Profile Encroachment

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Features of the daylight evaluation chart

Each lot line of a zoning lot which intersects a street line will serve as the far lot line for a separate view of the building. The view is always from a vantage point located on the center line of the street 250 feet distant from the far lot line.

For each view of a building from a vantage point a daylight evaluation chart provides a framework for plotting and scoring a building. The width of the adjoining street is one of the determinants of height and setback requirements. Therefore, there are three daylight evaluation charts for street widths of 60 feet, 75 or 80 feet, and 100 or more feet, respectively.

This section describes the features of the daylight evaluation chart. The curved horizontal lines which intersect the vertical axis represent lines of equal elevation from the center of the vantage street. The vertical lines which intersect the horizontal axis at the bottom of the chart rise from points 25 feet apart on the front lot line of the zoning lot. These horizontal and vertical lines form a grid dividing the chart into what are called daylight squares for measuring daylight blockage by a building. The curved horizontal lines represent degrees of elevation and are spaced two degrees apart above the 70 degree line and 10 degrees apart below it. For plotting and scoring precision the daylight squares are subdivided by intermediate horizontal lines at one degree intervals and by vertical lines dividing each 25 feet of front lot line length into five foot lengths.

STATUTORY TEXT

Vantage Point

A point on the *center line* of a *street* bounding the *zoning lot* for a proposed *development* or *enlargement* and located 250 feet from the intersection of the extension of the *zoning lot's far lot line* with the *center line of the street*. (See Illustration of *Far Lot Line* and *Vantage Point*.)

Vantage Street

A *street* bounding the *zoning lot* for a proposed *development* or *enlargement* and on the *center line* of which a *vantage point* is located.

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Features of the Daylight Evaluation Chart

The *daylight evaluation chart (DEC)* is a graphic representation of a pedestrian's field of view as he looks down a *street* and sweeps his view 90 degrees to the left or to the right.

Under special conditions, this view can be extended to 180 degrees horizontally as specified in Section 81-275 (Special conditions).

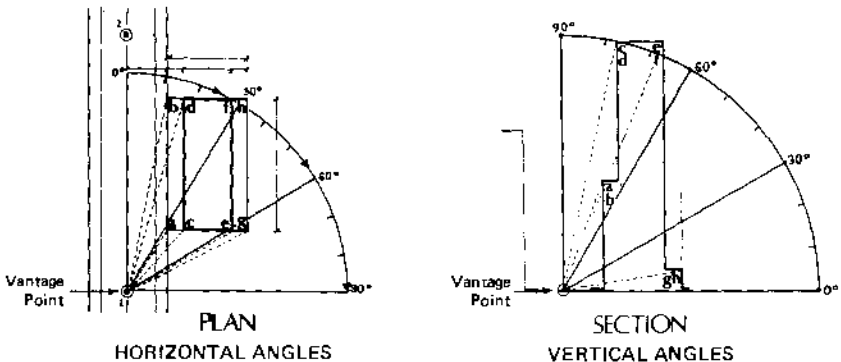
This pedestrian view is based on a *vantage point* located 250 feet from the intersection of the *zoning lot's far lot line* with the *center line of the street*.

There are three *daylight evaluation charts* for use with different Midtown *street* widths. They include a chart for 60 foot wide *streets* (for most east-west crosstown *streets*) as well as a chart for 75 foot or 80 foot wide *streets* and a chart for *streets* 100 feet or more in width (for *avenues* and major crosstown *streets*). All of these charts have the following features:

(a) Horizontal and Vertical Axes

The *daylight evaluation chart* has both a horizontal and vertical component, encompassing a view sweeping both 90 degrees horizontally and 90 degrees vertically. (See Illustration of Horizontal and Vertical Angles of View.)

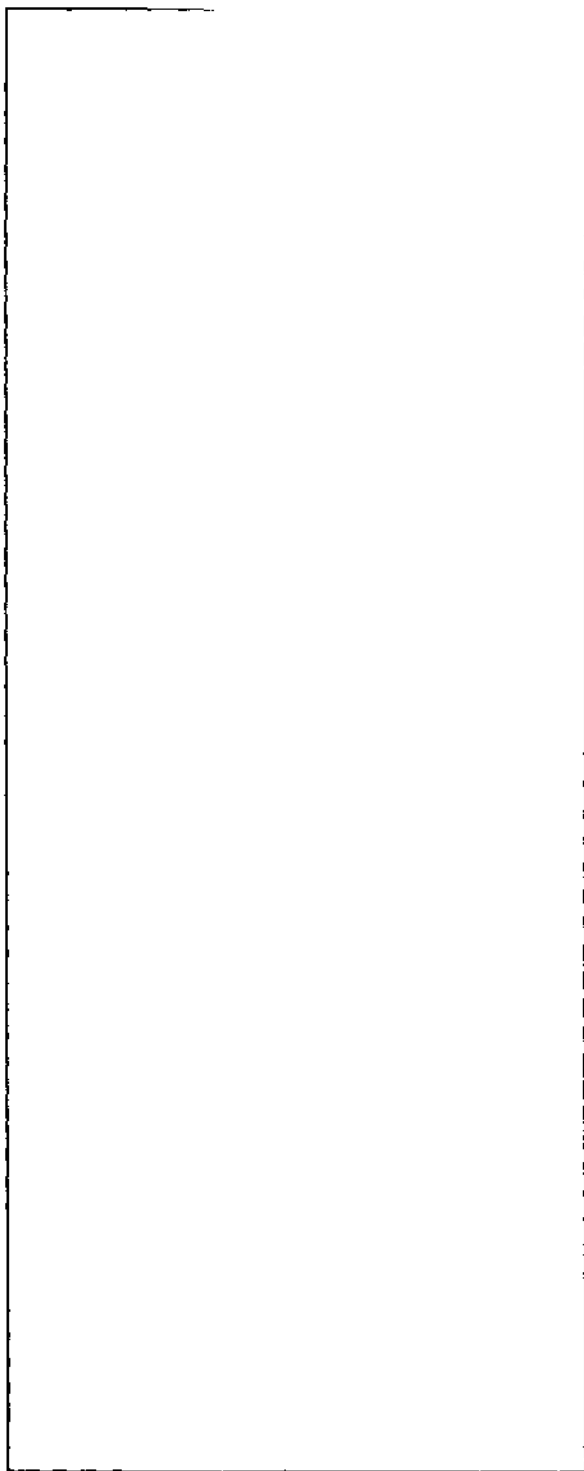
Under special conditions, this view can be extended to 180 degrees horizontally as specified in Section 81-275 (Special Conditions).



**Illustration of Horizontal
and Vertical Angles of View**

The horizontal axis of the *daylight evaluation chart* is measured in degrees of arc from zero degrees to 90 degrees starting from the *vantage point* along the *center line of the vantage street* and sweeping toward the *building*.

The horizontal axis is intersected by vertical lines corresponding to lines of sight from the *vantage point* to points 25 feet apart on the *front lot line* along the *van-*



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tage street measured from the intersection of the *far lot line* with the *vantage street line*.

The vertical axis of the *daylight evaluation chart* is measured in degrees of arc from zero degrees to 90 degrees starting from the *center line of the vantage street* at *curb level* and sweeping upward.

The vertical axis is intersected by curved elevation lines representing elevation angles from the *center line of the street* at ten degree intervals from zero degrees to 70 degrees and at two degree intervals from 70 degrees to 90 degrees. (See Illustration of Horizontal and Vertical Axes.)

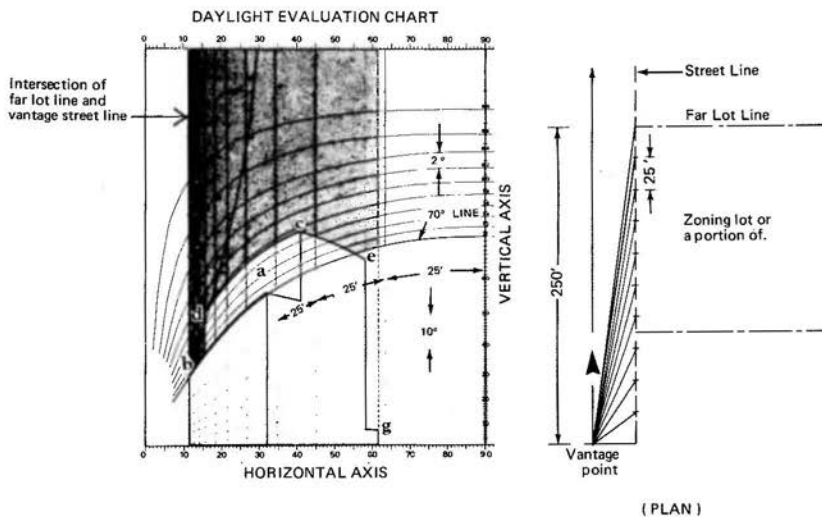
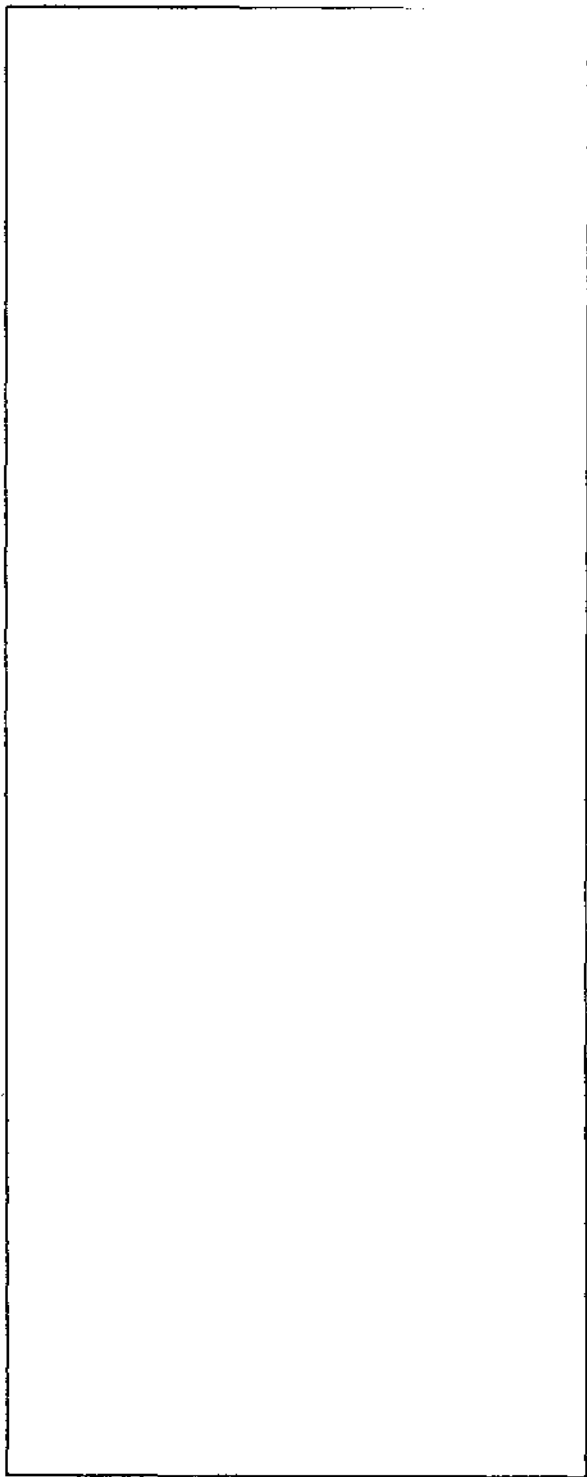


Illustration of Horizontal and Vertical Axes.

(b) Daylight Squares

The horizontal and vertical lines form a curvilinear grid dividing the *daylight evaluation chart* into areas called daylight squares. Above the 70 degree line, the grid is divided into 100 daylight squares starting from the vertical line rising from the intersection of the *far lot line* with the *street line* of the *vantage street* and ending at the vertical line representing 90 degrees along the horizontal axis. Each of these 100 squares represents 25 feet of lot frontage on the *vantage street* and two degrees of elevation angle from the *center line of the vantage street*.

Below 70 degrees, the grid is divided into 70 daylight squares starting from the vertical line rising from the intersection of the *far lot line* with the *street line* of the *vantage street* and ending at the vertical line rising at 90 degrees along the horizontal axis. Each of these 70 squares represents 25 feet of lot frontage on the *vantage street* and 10 degrees of elevation angle from the *center line of the street*. (See Illustration of Daylight Squares.)



STATUTORY TEXT
DAYLIGHT EVALUATION CHART

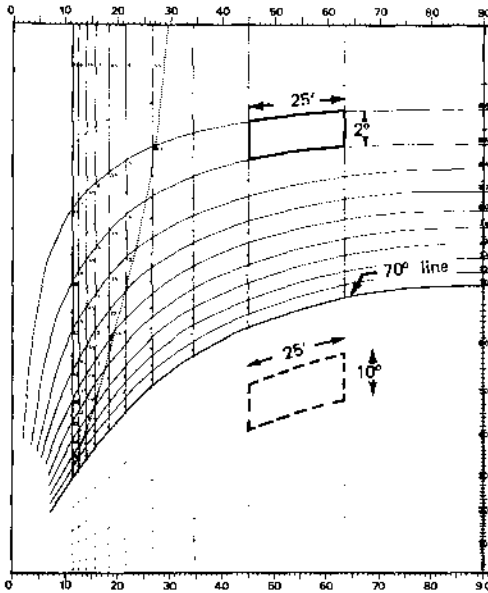
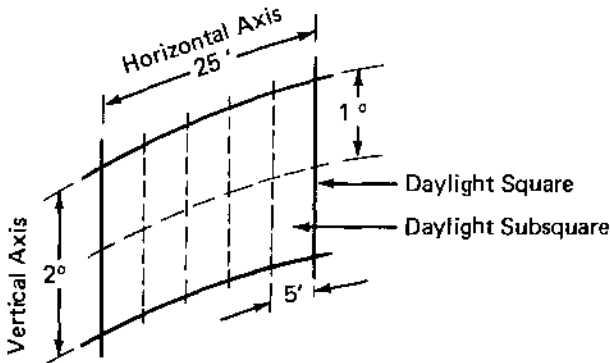


Illustration of Daylight Squares

(c) Daylight Subsquares

For greater plotting and scoring precision, the horizontal axis of the grid is further subdivided by vertical lines at points five feet apart on the *front lot line* as seen from the *vantage point*. The vertical axis is further subdivided by curved lines representing lines of equal elevation at one degree intervals from 70 degrees to 90 degrees. Therefore, each daylight square is subdivided into ten subsquares, each representing five feet of lot frontage on the *vantage street* and one degree of elevation angle from the *center line of the vantage street*. (See Illustration of Daylight Square and Subsquares Above 70 Degrees.)



**Illustration of a Daylight Square
and Subsquares above 70 Degrees**

The average elevation angle of the cornice lines of existing Midtown buildings is 70 degrees. Below this elevation angle, most daylight is blocked by existing Midtown buildings. The daylight evaluation standards are concerned with the amount of blocked sky above 70 degrees. Below 70 degrees, buildings are given credit for any unblocked daylight.

The daylight evaluation chart contains a "profile curve" rising at the far lot line where it intersects the elevation angle of 72 degrees and curving upwards. The encroachment by a building beyond this profile curve represents a perceptual squeezing of the street space. Therefore, such encroachments are discouraged by assigning additional weighted values to the squares they block.

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Rules for plotting buildings on the daylight evaluation chart

This section sets forth and explains the rules for plotting buildings on a daylight evaluation chart. The rules are illustrated by an example.

In preparation for plotting the building, the first step is to draw the building in plan and section, showing how it relates to the vantage street on which it fronts, to the street center line and to the vantage point. Every corner of the building is then located and labeled on the plan and section drawings.

STATUTORY TEXT

(d) The Seventy Degree Line

Research shows that, as an average, 70 degrees is the elevation angle at which Midtown's *buildings* are set back from the *street line*. Most of the daylight below 70 degrees is blocked by Midtown *buildings*. Slabs, towers or other setback portions of *buildings* rise to block an average of 25 percent of the available daylight squares above 70 degrees.

In building evaluation, the *DEC* measures the blocked sky above 70 degrees. Below 70 degrees, *buildings* are given credit for unblocked daylight.

(e) The Profile Curve

The grid is traversed by the *profile curve*, which rises from the intersection of the curved line representing an elevation angle of 72 degrees with the vertical line at the *far lot line*. The *profile curve* is derived from the predominant built character of developed Midtown *streets* as seen in profile. Encroachment across the *profile curve* is penalized to discourage canyon-like Midtown *streets* and to protect neighboring *buildings*.

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Rules for plotting buildings on the daylight evaluation chart

Evaluation of a proposed *development* or *enlargement* requires drawing the proposed *development* or *enlargement* (including new *buildings*, remaining *buildings*, and open spaces) on the appropriate *daylight evaluation chart* as viewed from each required *vantage point* and then scoring the *development* or *enlargement*. The rules for plotting *buildings* on the *DEC* are set forth in the following paragraphs of this Section and illustrated by an example of a *building* which fronts on a 100 foot wide *street* and occupies a site 170 feet long by 100 feet deep.

(a) Draw the *Building*

Draw the *building* in plan showing all *street frontages* of the *zoning lot*. Draw the *building* in section perpendicular to each *street* on which the *zoning lot* fronts. On both plan and section drawings label all corners of the *building*. In the example they are labeled corners (a) through (h). (See Illustration of Example *Building* Drawings.)

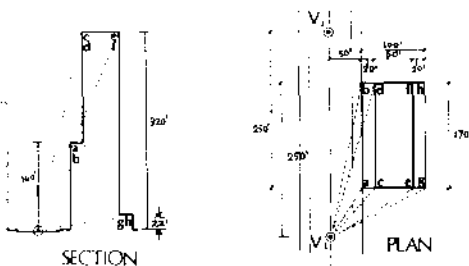


Illustration of Example
Building Drawings

In order to locate the corners on the daylight evaluation chart, the plan angle and section angle for each corner must be calculated by the method described in paragraph (d). A coordinate chart, such as that exemplified in paragraph (d), can be helpful in making and recording these calculations. The plan angle is the angle between the street center line and the line of sight from the vantage point to the corner. The section angle is an angle formed on the section drawing by a line from the street center line to the corner and a line at grade from the street center line to the building.

STATUTORY TEXT

(b) Establish *Vantage Points*

Establish on the plan all the *vantage points* from which views must be taken. *Vantage points* shall be established on the *center line of the vantage street* 250 feet from the intersection of the *zoning lot's far lot line* and the *center line of the street*. For each *vantage street* there are at least two *vantage points*. In the example, they are V_1 and V_2 . For each *vantage point* there shall be a separate *daylight evaluation chart*. The example will use *vantage point one*.

(c) Record Plan and Section Dimensions

Record on a coordinate chart for each corner of the *building* the following dimensions:

(1) Dimensions in plan:

The distance (S) between the corner and the *center line of the street* as measured along a line that intersects the *center line of the street* at right angles. In the example distance (S) of corner (b) = 50'.

The distance (D) measured along the *center line of the street* from the *vantage point* to the point where the *street center line* is intersected by the perpendicular line from the corner. In the example, distance (D) of corner (b) = 250'.

(2) Dimension in section:

The height (H) of the corner above *curb level*. In the example, height (H) of corner (b) = 140'.

(d) Calculate Plan and Section Angles

Determine the plan and section angles for each corner of the *building* as viewed from the *vantage point*.

(1) A plan angle is an angle on the plan formed at the *vantage point* by the line of sight to a corner of the *building* and the *center line of the vantage street*. The plan angle is found by calculating the tangent. The tangent is the quotient found by dividing the distance (S) by the distance (D). The plan angle for the resulting tangent is found in a tangent table and is then entered on the coordinate chart in the column marked "plan angles".

(2) The section angle is an angle formed by a line representing the distance in section from a corner of the *building* to the *center line of the vantage street* and a line representing the distance in plan (S) between the corner and the *center line of the street*. The section angle is found by calculating its tangent. The tangent is the quotient obtained by dividing the height of the corner (H) by its horizontal distance (S) from the *center line of the street*. The section angle for the resulting tangent is found in a tangent table and is then entered on the coordinate chart in the column marked "section angles".

For each corner the plan angle is located on the horizontal axis of the daylight evaluation chart. The vertical line rising from this point on the horizontal axis is one coordinate for locating a corner. The section angle is located on the vertical axis of the daylight evaluation chart. From this point on the vertical axis a curved horizontal line is extended along or parallel to the curved lines on the daylight evaluation chart. This is the other coordinate for locating the corner. The corner is located at the point where the two coordinates intersect. When all the corners have been located on the daylight evaluation chart they are then connected by lines as described in paragraph (e).

STATUTORY TEXT

EXAMPLE OF COORDINATE CHARTS

PLAN ANGLES

Point	Distance (S) from <i>Street</i> <i>Centerline</i>	Distance (D) from <i>Vantage</i> <i>Point 1</i>	Tangent ($\frac{S}{D}$) of Angle	Angle
a	50'	80'	$50/80 = 0.63$	32.0°
b	50'	250'	$50/250 = 0.20$	11.3°
c	70'	80'	$70/80 = 0.87$	41.2°
d	70'	250'	$70/250 = 0.28$	15.6°
e	130'	80'	$130/80 = 1.63$	58.4°
f	130'	250'	$130/250 = 0.52$	27.5°
g	150'	80'	$150/80 = 1.88$	61.9°
h	150'	250'	$150/250 = 0.60$	31.0°

SECTION ANGLES

Point	Height (H) above <i>curb</i> <i>Level</i>	Distance (S) from <i>Street</i> <i>Centerline</i>	Tangent ($\frac{H}{S}$) of Angle	Angle
a & b	140'	50'	$140/50 = 2.80$	70.3°
c & d	320'	70'	$320/70 = 4.57$	77.7°
e & f	320'	130'	$320/130 = 2.46$	67.9°
g & h	23'	150'	$23/150 = 0.15$	8.7°

(e) Plot Corner Coordinates

Plot each corner of the *building* onto the *daylight evaluation chart* at the point where the coordinates for that corner intersect. The plan angle coordinates are found on the horizontal axis of the chart and the section angle coordinates are found on the vertical axis. The points plotted are then connected to represent the edges of the *building* as shown on the plan and section drawings. A connecting line parallel to the *vantage street line* is drawn as a curve parallel to the closest elevation line. A connecting line perpendicular to the *vantage street line* is drawn parallel to the closest dotted elevation line, which is perpendicular to the *street*. A connecting line which is neither parallel nor perpendicular to the *vantage street* is approximated on the chart by (1) establishing points along the line in plan at ten foot intervals, (2) finding the coordinates of the points and plotting them on the *chart* and (3) connecting the resulting points. The connecting lines produce a curvilinear perspective drawing of the *building* as seen from the *vantage point* projected onto the *daylight evaluation chart*. Since in the example *vantage point* one is on a 100 foot wide *street*, corner coordinates are plotted on a *daylight evaluation chart* for 100 foot wide *streets*. In the example, corner (b) is at the intersection of plan angle 11.3° and section angle 70.3° . (See Illustration of *Building* as Drawn on the *Daylight Evaluation Chart*.)

To determine how well a building scores, the daylight it blocks must be related to the area of the sky available on a cleared zoning lot (available daylight). The boundaries of this sky area are determined by the lot lines of the zoning lot visible from the vantage point.

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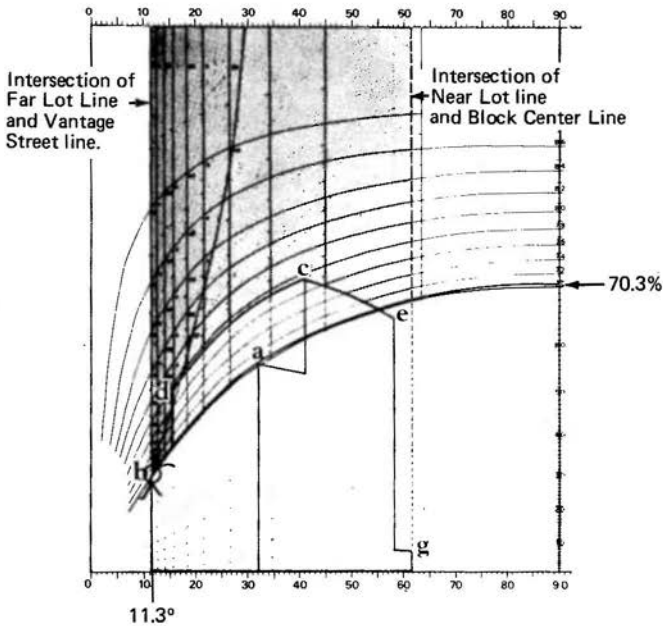
Rules for determining the daylight evaluation score

The score for a building from the given vantage point is the daylight remaining as a percentage of the daylight available to the site above the 70 degree line.

Daylight remaining is calculated as follows:

1. From the total daylight squares available, the squares and subsquares above the 70 degree line which are blocked are counted and subtracted. A subsquare is one tenth of a square.
2. Squares and subsquares on the far side of the profile curve are assigned weighted values. The greater the elevation of a square and the closer it is to the far lot line, the greater is the weighted value. The additional weighted values of the blocked squares and subsquares

STATUTORY TEXT



**Illustration of Building as drawn
on the Daylight Evaluation Chart**

(f) Determine Daylight Boundaries

Draw a vertical line on the *chart* rising from the intersection of the *near lot line* of the *zoning lot* with the center line of the *block* or with a line 100 feet distant from and parallel to the *front lot line* on the *vantage street*, whichever line is closer to the *vantage street*. This line and the *far lot line* represent the boundaries of the potential sky area that the *building* could block. (See *Illustration of Building as Drawn on the Daylight Evaluation Chart.*)

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Rules for determining the daylight evaluation score

A *building* is scored by determining the number and the value of the daylight squares it blocks when viewed from the *vantage point*, compared to the total number of daylight squares available within the daylight boundaries as determined in paragraph (f) of Section 81-273 (Rules for plotting buildings on the daylight evaluation chart) and above an elevation angle of 70 degrees.

(a) Assign Daylight Values

The daylight squares on the *daylight evaluation chart* are each assigned a value.

- (1) Except along *vantage streets* designated for *street wall continuity* (see Section 81-43), each unblocked daylight square below the curved line representing an elevation of 70 degrees has a positive value of 0.3.
- (2) Each blocked daylight square above the curved line representing an elevation of 70 degrees has a negative value of 1.0.
- (3) Where a *building* blocks any portion of a subsquare the *building* is charged with blocking the entire subsquare in computing the daylight evaluation score. Each blocked subsquare has a negative value of 1.0/10 or 0.1.

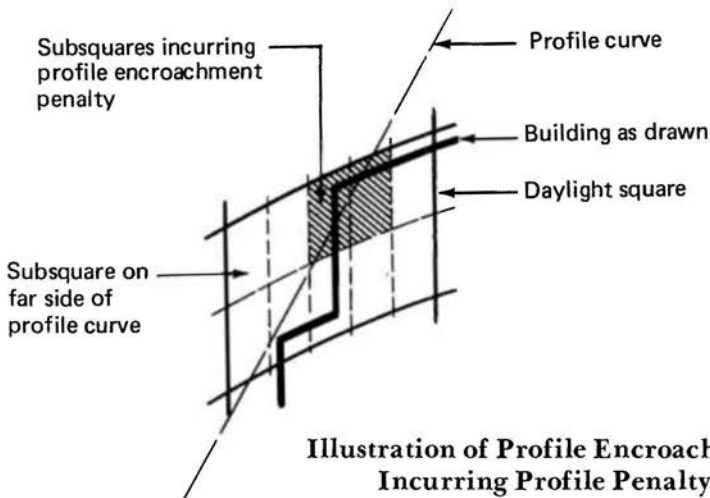
on the far side of the profile curve are then subtracted from the available daylight squares.

3. The subtractions are offset by credits for any unblocked daylight squares below the 70 degree line. An unblocked square, however, is given a credit of only three tenths of a square since daylight below the 70 degree line is less valuable than above the line.
4. The net result of the subtractions and credits are the daylight remaining.

STATUTORY TEXT

- (4) The daylight squares and subsquares which are on the far side of the *profile curve* are assigned additional weighted values set forth on the chart below. (See Illustration of Profile Encroachment Incurring Profile Penalty.)

Degrees of Elevation	DISTANCE FROM FAR LOT LINE						
	First 25 Feet	Second 25 Feet	Third 25 Feet	Fourth 25 Feet	Fifth 25 Feet	Sixth 25 Feet	Seventh 25 Feet
88° - 90°	8.5	8.0	7.5	7.0	6.5	6.0	5.5
86° - 88°	7.5	7.0	6.5	6.0	5.5	5.0	4.5
84° - 86°	6.5	6.0	5.5	5.0	4.5	4.0	
82° - 84°	5.5	5.0	4.5	4.0	3.5	3.0	
80° - 82°	4.5	4.0	3.5	3.0	2.5		
78° - 80°	3.5	3.0	2.5	2.0	1.5		
76° - 78°	2.5	2.0	1.5	1.0			
74° - 76°	1.5	1.0	.5				
72° - 74°	.5						



- (5) If the *building* encroaches beyond the *profile curve*, the entire subsquare in which the encroachment is located is given an additional weighted value. The total penalty is the additional weighted value of the daylight square multiplied by the negative value of the subsquare. The penalty is applied even if the subsquare does not lie entirely beyond the *curve*.
- (b) Calculate Daylight Blockage
- (c) Calculate Unblocked Daylight Credit

Count the number of blocked daylight squares and subsquares which are above the curved line representing an elevation of 70 degrees. A negative sign is to be given to this number. Total value of daylight blockage in the example is - 20.5.

Count the number of unblocked daylight squares which are below the curved line representing an elevation of 70 degrees and within the area defined by the intersection of the *far lot line* with the *vantage street line* and the intersection of the *near lot line* with the *vantage street line*. The total is given a positive value and multiplied by 0.3, the value of these daylight squares. This provision is not applicable where the *vantage street* is a designated *street* on which *street wall continuity* is required by the provisions of Section 81-43 (Street Wall Continuity along

Daylight remaining, when related as a percentage to the available daylight above the 70 degree line, is the daylight score for the building from the particular vantage point.

The street score is obtained by taking the average of the scores from the two or more vantage points along the particular street.

The overall score for the building is the average of the street scores weighted by the length of their respective street frontages. Where there is only one street frontage, the street score is the overall score.

An overall score of at least 75 percent is required with no single street frontage having a score of less than 66 percent. The overall score of 75 percent is about average for existing Midtown buildings built as-of-right under the 1916 and 1961 Zoning Resolutions. A street score of 66 percent represents the lowest score possible for a Midtown building built under the 1916 zoning regulations on an interior lot in a two times height district.

STATUTORY TEXT

Designated Streets). In the example, the number and value of squares unblocked below 70 degrees = +0.0.

(d) Calculate Profile Daylight Blockage

Count the number of blocked daylight squares which are entirely on the far side of the *profile curve* when viewed from the *vantage point* and the number of blocked or partially blocked subsquares which are on the far side of the *profile curve*. All of these daylight squares and subsquares are given a negative sign, multiplied by their respective weighted values in the table in paragraph (a) (4) above and the products added. Subsquares are counted as one tenth of a daylight square. In the example, the total value of profile daylight blockage = -0.45.

(e) Calculate Available Daylight

Count the number of daylight squares available to the site. This is the total number of daylight squares and subsquares, calculated to the nearest tenth, which are above the curved line representing an elevation of 70 degrees and within the boundaries of the potential sky area available to the site, said boundaries being delineated in accordance with the provisions of paragraph (f) of Section 81-273 (Rules for plotting buildings on the daylight evaluation chart). Available daylight in the example is 89.9.

(f) Calculate Daylight Remaining

Calculate the remaining or unblocked daylight by adding the results of paragraphs (b) through (e). Daylight remaining in the example is $(-20.5) + (0.0) + (-0.45) + (89.9) = 68.95$.

(g) Calculate Daylight Score

Compute the remaining daylight score from (f), as a percentage of the available daylight from (e). The percentage is the daylight score for the proposed *building* from that *vantage point*. In the example, the daylight score is $68.95/89.9 = 76.70\%$ for *vantage point* one.

(h) Calculate Overall Daylight Score

(1) The street score is the arithmetic mean of all the scores from all *vantage points* along a *vantage street*. When a *zoning lot* fronts on only one *street*, the street score is also the overall score.

(2) Where a *zoning lot* fronts on more than one *street*, the overall score is the average of the street scores, weighted by the length of their respective *vantage street* frontages.

(i) The Passing Score

To be in compliance with these regulations, a *development* or *enlargement* must have an overall score of not less than 75 percent, with no single *street* frontage having a score of less than 66 percent. If a *development* or *enlargement* fronts only on one *street*, a daylight evaluation score of not less than 75 percent is required for that *street* frontage. If a street score is less than 66 percent, or if the overall daylight score is less than the passing score of 75 percent, a modest improvement in either the street score or the overall score may be obtained by scoring the relative reflectivity of the *building's* surface as specified in Section 81-276 (Modification of score for reflectivity). The passing daylight score of 75 percent is equivalent to the average daylight levels of Midtown *buildings* built as-of-right under the 1916 and 1961 Zoning Resolutions. The minimum requirement of 66 percent on one frontage is equivalent to the daylight level of any *interior lot building* built in Midtown under the 1916 Zoning Regulations in a two-times height district. However, if any one frontage is less than 75 percent, other frontages must be greater than 75 percent to reach the passing overall daylight score. This allows flexibility in *building* design while maintaining daylight standards within the levels established by *buildings* built as-of-right under the 1916 and 1961 Zoning Resolutions. (See Illustration of Daylight Evaluation Score Results.)

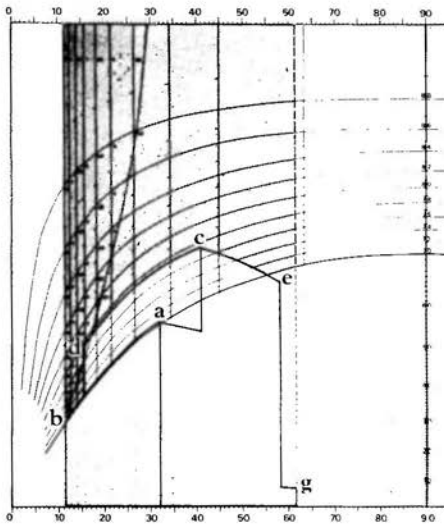
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Special conditions

This section sets forth special rules for plotting and scoring buildings on zoning lots with street frontages exceeding 250 feet or on zoning lots with interrupted street frontages or whose front lot lines are curved or broken, such as along Broadway.

STATUTORY TEXT

DAYLIGHT EVALUATION CHART



SCORING SUMMARY (Vantage point one)

Section No.		Score
81-274(b)	Squares above 70° blocked	-20.5
81-274(c)	Squares below 70° open	+ 0.0
81-274(d)	Profile encroachment penalty	
	.1 x 1.5 =	.15
	.3 x 1 =	.45
	Total blockage	-20.95
81-274(e)	Available daylight squares	<u>89.9</u>
81-274(f)	Remaining daylight	68.95
81-274(g)	DAYLIGHT SCORE	
	$\frac{68.95}{89.9} = .7670$	<u>76.70%</u>

Illustration of Daylight Evaluation Score Results

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Special conditions

Notwithstanding the provisions of Sections 81-271 to 81-274, inclusive, relating to Alternate Height and Setback Regulations — Daylight Evaluation, the provisions of this Section shall apply under special conditions, as follows:

(a) For zoning lots with street frontages exceeding 250 feet

- (1) Where the length of the street frontage is more than 250 feet but not more than 500 feet, the building as viewed from each vantage point shall be plotted on a daylight evaluation chart that extends in both directions from the 90 degree line on the horizontal axis. In each case, the number of available daylight squares for daylight evaluation shall be the number of squares between the far lot line and the near lot line.
- (2) Where the length of the street frontage is more than 500 feet, daylight evaluations shall be made from three vantage points, as follows: vantage points one and two, each 250 feet distant from a far lot line extended to the center line of the street, and vantage point three, on the center line of the street, half-way between the other two vantage points. The daylight evaluation charts for the first two vantage points shall in each case encompass a view extending from the far lot line to the 90 degree line on the horizontal axis and the number of available daylight squares shall be the number of squares between the far lot line and the 90 degree line and above the curved line representing an elevation angle of 70 degrees. The daylight evaluation chart for the third vantage point shall extend in both directions from the 90 degree line on the horizontal axis to the vertical lines representing the points on the front lot line directly opposite vantage points one and two. The number of available daylight squares for daylight evaluation shall be the number of daylight squares between such vertical lines and above the curved line representing an elevation angle of 70 degrees.

81-276**Modification of score for reflectivity**

The amount of daylight on a Midtown street is determined partly by daylight reflected from buildings facing it. Buildings with a light face obviously reflect more daylight than buildings with a dark face. Therefore, provision is made in the daylight evaluation regulations for a modest improvement in the daylight score for buildings which reflect more light than a medium gray or glass building. The use of these provisions is not necessary, but it offers somewhat more design flexibility to a light colored building than a dark one.

Reflectivity has two components: the reflectance of the surface material and the orientation of the surface to the sun.

Reflectance. Most common building materials have a reflectance rating certified by a manufacturer or institute of standards. These reflectance ratings indicate how much light on a range of 0 to 1.0 is reflected from a surface. Reflectance values of materials are established by the Department of Buildings from sources available to it. The examples of building materials and their reflectance values contained in Section 81-276 are for illustrative purposes only and are not intended for use in administering these regulations.

In order to be included in the reflectivity score of a building, the material must reflect more light than a medium gray or glass building, whose reflectance value is .15. In reflectivity scoring, therefore, the value in excess of .15 is used. This is called the relative reflectance.

STATUTORY TEXT

(h) For *zoning lots* with interrupted *street* frontages

Where a *zoning lot* has two or more *front lot lines* on the same *street* which are separated by frontage of an intervening *zoning lot*, there shall be two daylight evaluations for each such *front lot line*. Each *lot line* of the *zoning lot* that intersects the *street line* shall be treated as a *far lot line* for the purposes of daylight evaluation from a *vantage point*.

(c) Where *front lot lines* are curved or broken

If the *front lot line* of the *zoning lot* is curved or bent, the extremities of such *front lot line* shall be connected by a straight line, which shall be considered the *front lot line*.

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Modification of score for reflectivity

Where *buildings* have utilized the *daylight evaluation chart* but a street score along one frontage is less than 66 percent or the overall score is less than 75 percent, a modest improvement in either the street score or the overall score of a *building* which reflects more light than a medium gray or glass *building* may be obtained by scoring the relative reflectivity of the *building's* surface. The use of reflectivity is optional and not necessary if a passing score can be obtained under subsection 81-274 (Rules for determining the daylight evaluation score). Reflectivity scoring permits greater design flexibility for a light colored *building* than a dark one.

Because the greatest reflectivity comes from the upper portions of *buildings*, the value of reflected light is credited against the amount of daylight blocked by the portions of the *building* above an elevation angle of 70 degrees from the *center line of the street*.

Reflectivity has two components: the reflectance of the surface material and the orientation of the material to the sun.

(a) Reflectance

Reflectance values of materials will be determined by the Department of Buildings.

1. Mixed reflectance

A *building* of several surface materials will have a reflectance value determined by multiplying each material's reflectance value by its percentage of the total wall surface and adding the products. For example, a *building* that is 60 percent limestone and 40 percent clear glass would have a reflectance of $.60 \times .45$ (the reflectance of limestone) plus $.40 \times .15$ (the reflectance of clear glass) or an overall reflectance of .33.

2. Relative reflectance

In order to be included in the reflectivity score of a *building*, the material must reflect more light than a medium gray or glass *building*. The reflectance value of a medium gray or glass *building* in Midtown is .15 so that the *building* with an overall reflectance of .33 given in the example above would be increasing the expected reflectance by $.33 \text{ minus } .15$ which equals .18.

Examples of potential reflectance values for different types of surface finishes are shown on the chart below.

Orientation Value. Building reflectivity is greatest facing true south, and diminishes to about one tenth of that value facing true north. Orientation values to be used in reflectivity scoring are set forth in the chart in Section 81-276.

STATUTORY TEXT

REFLECTANCE VALUES -- EXAMPLES OF BUILDING MATERIALS

White plaster or paint or glaze	.80 to .90
Aluminum paint	.55
Green paint	.50
Red paint	.26
Light gray paint	.25
Flat black paint	.06
Polished aluminum, stainless steel	.85
Polished light marble	.40 to .50
Light granite, limestone	.45
Copper, brass, lead	.60 to .80
Smooth concrete	.45 †
Rough concrete	.40
Asbestos cement	.31
Light buff brick	.48
Dark buff brick	.40
Light red brick	.45
Dark red glazed brick	.30
Dark red brick	.12
Slate	.11
Wood	.22 †
Glass: double glazing with reflective coating*	
Solarcool † bronze or gray	.35 to .36
Solarban † clear	.36 to .44
Solarban † bronze	.18
Solarban † gray	.14
Glass: tinted double glazing	
Gray	.08
Bronze	.09
Solex † (green or blue)	.12
Glass: clear double glazing	.15
Glass: clear single glazing	.08

*Reflectance varies accordingly to which layer the reflective coating is placed on, but can be precisely determined for each position.

Sources: Anderson, Bruce *Solar Energy: Fundamentals in Building Design*, (McGraw Hill, New York, 1977)
 Callender, John Hancock *Time Saver Standards: A Handbook of Architectural Design*, (McGraw Hill, New York, 4th Edition, 1964).
 PPG Industries, Inc., *Architectural Glass Products (G 702)*, PPG, Pittsburgh, PA., 1977.

(b) Facade orientation

Orientation of the facade of the *building* is the second component required for measurement of reflectivity. Because reflectivity varies according to the orientation of the facade, the orientation value for a particular surface from the chart below is multiplied by the reflectance of the surface to ascertain the amount of daylight reflectivity.

The orientation values are shown on the following reflectivity chart.

In general, the greatest reflectivity comes from the upper portions of buildings, so that the value of reflected light is credited against the amount of daylight blocked by the portions of the building above the 70 degree line. The reflectivity score for each view of the building is calculated as follows:

1. On the daylight evaluation chart, for every orientation of each facade there is a count of daylight squares and subsquares which are blocked by the building above an elevation angle of 70 degrees.
2. For this orientation the number of blocked squares is multiplied by the relative reflectance of that portion of the building and by the orientation value, giving a reflectivity score for that orientation.
3. The reflectivity scores for the several orientations are then added together to give the reflectivity score for the building as a whole as viewed from the vantage point.
4. This reflectivity score is added to the daylight remaining after accounting for daylight blockage (see (Section 81-274)).
5. The daylight remaining increased to take account of reflectivity is then related as a percentage to the available daylight squares to give the adjusted daylight score for the building as seen from the vantage point.
6. Adjusted daylight scores are calculated in the same manner from all vantage points along the vantage street and averaged together to produced an adjusted street score.
7. The process is repeated for every street frontage. The overall score is the average of the street scores weighted by the length of the respective street frontages.

STATUTORY TEXT

ORIENTATION BASED ON TRUE NORTH	ORIENTATION VALUE
(N)	0° .09
	22.5° .15
	45.0° .22
	67.5° .40
(E)	90.0° .57
	112.5° .72
	135.0° .87
	157.5° .93
(S)	180.0° 1.00
	157.5° .93
	135.0° .87
	112.5° .72
(W)	90.0° .57
	67.5° .40
	45.0° .22
	22.5° .15

(c) Reflectivity Score

In order to obtain the reflectivity score for each view of the *building*, first count the daylight squares and subsquares which are blocked by the *building* on the *daylight evaluation chart* above an elevation angle of 70 degrees. This number shall be calculated separately for every orientation of each facade and multiplied by the relative reflectance of that portion of the *building* and the orientation value.

Reflectance = (% material A x reflectance material A) + (% material B x reflectance material B)

Relative reflectance/RR/ = reflectance minus .15

Reflectivity score = RR x facade orientation value x daylight squares blocked above 70°.

The reflectivity scores for the several orientations are then added together to give the reflectivity score for that view of the *building* as a whole from the *vantage point* represented on the *daylight evaluation chart*.

The reflectivity score is added to the daylight remaining after accounting for daylight blockage as calculated in paragraph (f) of Section 81-274 (Rules for determining the daylight evaluation score).

The sum is then calculated as a percentage of the available daylight squares calculated in paragraph (e) of Section 81-274 to give the adjusted daylight score for the *building* from the *vantage point* represented on the *daylight evaluation chart*.

The adjusted street score along a particular *vantage street* is obtained by calculating the mean average of the adjusted daylight scores from all *vantage points* along the *vantage street*.

The adjusted overall score for the *building* is obtained by calculating the average of the adjusted street scores weighted by the lengths of their respective *vantage street* frontages.

improvements in scores by accounting for reflectivity are limited to 6 percentage points in the case of both the overall score and each individual street score. Thus, for example, a building whose street score would be less than 60 without reflectivity scoring cannot be raised to a passing score of 66.

Reflectivity scoring cannot be used to achieve passing scores both overall and for individual street frontages. If used to achieve a passing street score, the overall score must be at least 75 percent without accounting for reflectivity. If used to achieve a passing overall score, the individual street scores must be at least 66 percent without accounting for reflectivity.

81-277

Special permit for height and setback modifications

The height and setback regulations (both daylight compensation and daylight evaluation alternatives) have been thoroughly tested and found to be so much more liberal and flexible than the existing regulations that there is not generally any need or reason to provide for their modification by special permit (as now provided in Section 74-72 and other sections). However, without some additional flexibility it may not be possible in some cases to successfully apply certain regulations designed to protect and preserve landmark buildings. Two types of cases are covered by Section 81-277: one where a new development or enlargement is proposed on a zoning lot containing a landmark (Section 74-712) and the other where development rights are transferred from a landmark site to the zoning lot of a development and the utilization of those rights will result in a floor area ratio more than 20 percent above the basic maximum F.A.R. (Section 74-79). Therefore, in these types of cases the height and setback regulations may be modified if necessary by special permit of the City Planning Commission. Modifications are permitted only on zoning lots in districts with a basic maximum F.A. R. of 15.0 or 18.0 and are subject to demonstration by the applicant that a feasible design which complies with the regulations of Sections 81-271 to 81-276 is not possible and to findings by the Commission that the surrounding area and the setting for the landmark are adequately protected.

STATUTORY TEXT

(d) Limits on adjusted scores

1. Adjusted street score

The adjusted street score shall not be more than six percentage points higher than the street score not adjusted for reflectivity.

If reflectivity scoring is used to bring the adjusted overall score for the *building* above 75 percent (the passing overall score), the street score for each *street* frontage without adjustment for reflectivity shall be not less than 66 percent.

2. Adjusted overall score

The adjusted overall score shall not be more than six percentage points higher than the overall score not adjusted for reflectivity.

If the reflectivity scores for any single *street* frontage are used to bring the adjusted street score for that frontage above 66 percent (the passing score for a single *street* frontage), the *building's* overall score without adjustment for reflectivity shall be not less than 75 percent.

81-277

Special permit for height and setback modifications

In C5-3, C6-6, C6-7, C5-3.5, C6-6.5 or C6-7.5 Districts, where a special permit application is made pursuant to Section 74-712 (Developments or enlargements on landmark sites in certain districts) for modification of *bulk* regulations on a *zoning lot* containing a landmark, or where a special permit application is made pursuant to Section 74-79 (Transfer of Development Rights from Landmark Sites) for transfer of development rights from a landmark site and the *floor area* represented by such transferred development rights exceeds 20 percent of the basic maximum *floor area* permitted on the *zoning lot* receiving the development rights, such application may include a request for modification of the height and setback regulations set forth in Sections 81-271 to 81-276, inclusive, relating to Alternate Height and Setback Regulation Daylight Compensation. The City Planning Commission may authorize such height and setback modifications subject to the following conditions:

- (a) The applicant shall demonstrate to the satisfaction of the Commission that a feasible design for the proposed *development* or *enlargement* which accommodates the permitted *floor area* is not possible under the provisions of Sections 81-271 to 81-276 inclusive, and shall further present for the proposed design a complete daylight evaluation with an explanation of street score or overall daylight score deficiencies.
- (b) The Commission shall make the following findings in addition to any required under the applicable provisions of Section 74-712 or Section 74-79.
 1. That requested departure from the alternate height and setback regulations is the minimum amount necessary to achieve a feasible building design.
 2. That the disadvantages to the surrounding area resulting from reduced light and air access will be more than offset by the advantages of the landmark's preservation to the local community and the City as a whole.
 3. That where the landmark is located on the *zoning lot* proposed for *development* or *enlargement* or on a lot contiguous thereto or directly across a *street* therefrom, the modification of the alternate height and setback regulations will adequately protect the setting for the landmark.

Minimum Distance Between Buildings

This section provides that if two buildings on a zoning lot, whether residential or nonresidential, are detached from one another they must be spaced not less than eight feet apart.

81-30 OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS**81-31 to 81-312****General Provisions**

This section provides that the off-street parking and off-street loading regulations applicable in the underlying districts shall apply in the Special Midtown District. In case of conflict, the more restrictive provisions shall apply. Curb cut restrictions may be waived only in accordance with the provisions in the Special Midtown District.

81-40 MANDATORY DISTRICT PLAN ELEMENTS**81-41****General Provisions**

This section specifies mandatory planning and urban design features to be provided in connection with new developments or enlargements. It establishes both general requirements which apply throughout the Special Midtown District and requirements which are tied to specific locations.

STATUTORY TEXT

81-28

Minimum Distance between Buildings

On any single *zoning lot* within the *Special Midtown District*, if a *development* or *enlargement* results in two or more *buildings* or portions of *buildings* detached from one another at any level, such *buildings* or portions of *buildings* shall at no point be less than eight feet apart.

81-30 OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

81-31

General Provisions

The regulations of Article 1, Chapter 3 (COMPREHENSIVE OFF-STREET PARKING REGULATIONS IN COMMUNITY DISTRICTS 1, 2, 3, 4, 5, 6, 7 and 8 IN THE BOROUGH OF MANHATTAN) and the applicable underlying district regulations of Article III, Chapter 6, or Article IV, Chapter 4, relating to Off-Street Loading Regulations, shall apply throughout the *Special Midtown District* except as otherwise provided in this Section.

81-311

Applicability of more restrictive provisions

In the event of a conflict between the provisions in this Chapter and those contained in Article I, Chapter 3, the more restrictive provisions shall apply. For the purpose herein, the more restrictive provisions shall be considered those which permit the:

- a) fewer number of parking spaces;
- b) more exclusive use of parking spaces;
- c) more limited location of curb cuts.

81-312

Prohibitions of off-street parking or off-street loading facilities

Notwithstanding the provisions of Article I, Chapter 3, prohibitions of off-street parking facilities or *accessory* off-street loading berths or restrictions as to their location or access, as provided in Section 81-44 (Curb Cut Restrictions) or Section 81-84 (Mandatory Regulations and Prohibitions), may be waived only in accordance with the applicable provisions of Section 81-44 or Section 81-84.

81-40 MANDATORY DISTRICT PLAN ELEMENTS

81-41

General Provisions

The provisions of Section 81-40 (MANDATORY DISTRICT PLAN ELEMENTS) specify mandatory planning and urban design features to be provided in connection with new *developments* or *enlargements*. Requirements which apply generally or with minor specified exceptions throughout the *Special Midtown District* are fully set forth in the provisions of Section 81-40. For requirements which are not generally applicable but tied to specific locations within the district, the locations where these requirements apply are shown on Map 3 (Retail and Street Wall Continuity) or Map 4 (Through Block Corridors) or Map 5 (Subway Station Improvement Areas).

Special district plan requirements for the Theatre Subdistrict are set forth in Section 81-70 (Special Regulations for Theatre Subdistrict) and for the Fifth Avenue Subdistrict in Section 81-80 (Special Regulations for Fifth Avenue Subdistrict).

The provisions of Section 81-40 (MANDATORY DISTRICT PLAN ELEMENTS) are all primarily oriented toward the accommodation and well-being of pedestrians. The re-

81-42

Retail Continuity along Designated Streets

The vitality of retail commercial streets depends upon a continuous row of retail establishments which can draw pedestrian shoppers along the length of the street. Areas occupied by open space or non-retail uses can interrupt the flow of shopping pedestrians and impair retail activity along nearby frontages. The provisions of this section are designed to protect the retail activity along designated streets by restricting ground floor occupancy to those commercial uses which will enhance the existing retail character.

STATUTORY TEXT

requirements pertain to a number of elements which are interrelated and complement one another but are set forth in different sections because they can be treated separately. Sections 81-42 (Retail Continuity along Designated Streets), 81-43 (Street Wall Continuity along Designated Streets) and 81-44 (Curb Cut Restrictions) are a group of sections with closely related purposes concerned with amenity and the well-being and safety of pedestrians. Sections 81-45 to 81-48, inclusive, are all concerned primarily with pedestrian traffic circulation. Major *building* entrances are focal points of heavy pedestrian traffic, so that controls on the locations of these entrances as set forth in Section 81-48 are closely related to the pedestrian circulation space requirements.

81-411

Maintenance of pedestrian circulation spaces

Owners of property on which pedestrian circulation spaces are provided shall be responsible for their maintenance unless in the case of relocated subway stairs the Transit Authority has agreed in writing to such maintenance responsibility.

81-412

Directional signs

Directional *signs* are required to call attention to relocated subway stairs and through *block* connections and announce their accessibility to the public.

81-413

Provisions for handicapped

All mandatory district plan elements required by the provisions of Section 81-45 (Provision of Pedestrian Circulation Space) or Section 81-46 (Through Block Connection) shall be accessible to the handicapped, meeting the standards set forth in Section 81-231 (Standards for urban plazas), paragraph (o), subparagraph (2).

81-42

Retail Continuity along Designated Streets

On designated retail *streets* (see Map 3), for any *developments* or *enlargements* fronting on such *streets*, *uses* located on the ground floor level or within 5 feet of *curb level* shall be limited to retail, personal service or amusement *uses* permitted by the underlying zoning district regulations but not including *uses* in Use Groups 6-B, 6-E, 7-C, 7-D, 8-C, 8-D, 9-B, 10-B, 11 and 12-D or automobile showrooms or plumbing, heating or ventilating equipment showrooms. Museums and libraries shall be permitted. A *building's street* frontage shall be allocated exclusively to such *uses* except for lobby space or entrance space, entrance areas to subway station improvements for which bonus *floor area* is granted and *street wall* continuity restrictions waived pursuant to the provisions of Section 81-53, or one or more of the following pedestrian circulation spaces subject to the *street wall* continuity requirements of Section 81-43: relocated subway stairs conforming to the requirements and standards of Section 81-47, corner circulation spaces, corner arcades or building entrance recess areas conforming to the requirements and design standards of Section 81-45, or through block connections conforming to the provisions of Section 81-46, paragraph (b).

In no event shall the amount of *street* frontage occupied by lobby space or entrance space or a *building* entrance recess exceed 40 feet or 25 percent of the *building's total street* frontage exclusive of any frontage occupied by a relocated subway stair, a corner circulation space, a corner arcade, a through block connection, or the entrance area to a bonus subway station improvement.

Store fronts for the permitted ground floor *uses* shall be not more than 10 feet from the *street line* or, where an arcade is provided with supporting columns at the *street line*, not more than 10 feet from the supporting columns.

81-43**Street Wall Continuity along Designated Streets**

The provisions of Section 81-43 are intended to maintain the strongly defined street line which has traditionally characterized the Midtown streetscape and still exists along several avenues and wide crosstown streets. Along most of the designated avenues and wide streets, the street wall may be located at or within 10 feet of the street line. This permits sidewalk widenings and arcades to satisfy the pedestrian circulation space requirements of Section 81-45. However, on 57th Street, 42nd Street, 34th Street and Fifth Avenue, the street wall must be built to the street line.

STATUTORY TEXT

Developments or enlargements on designated retail streets located within the boundaries of the Theatre Subdistrict or the Fifth Avenue Subdistrict shall be subject to the respective subdistrict retail requirements (Section 81-72 and Section 81-82).

81-43

Street Wall Continuity along Designated Streets

On designated *streets* where *street wall* continuity is required (see Map 3), the vertical surface of the *street wall* of a new *development* or *enlargement*, for the minimum length and height set forth in this Section, shall be within 10 feet of the *street line* or within 10 feet of a permitted arcade's supporting columns at the *street line*, except that on 57th Street, 42nd Street, 34th Street and Fifth Avenue, no *street wall* setback below a height of 85 feet is permitted. The length of the *street wall* subject to setback restrictions shall be at least 80 percent of the length of the *front lot line* along the specified *street*.

The minimum height of a *street wall* subject to the setback restriction shall be as follows:

Length of Zoning Lot Frontage	Minimum Height of a <i>Street Wall</i> Subject to the Setback Restrictions
For <i>zoning lots</i> with frontages of 50 feet or less on the designated <i>street</i>	Four <i>stories</i> or 50 feet above <i>curb level</i> , whichever is less
For <i>zoning lots</i> with frontage of more than 50 feet on the designated <i>street</i>	Six <i>stories</i> or 85 feet above <i>curb level</i> , whichever is less.

Developments which are in their entirety no more than two *stories* in height shall be exempt from the minimum *street wall* height requirements.

Pedestrian circulation spaces may be provided to meet the requirements of Section 81-45, 81-46 or 81-47 subject to the setback restrictions of this Section and to the minimum length of the *street wall* subject to such setback restrictions. However, the City Planning Commission may waive such restrictions for a subway entrance area which is part of a subway station improvement for which bonus *floor area* is granted, in accordance with the provisions of Section 81-53 (Subway Station Improvements).

Below the minimum height of a *street wall* subject to the setback restriction, no recesses of greater than 10 feet in depth are permitted. Recesses of between two feet and 10 feet in depth shall be limited in their aggregate area to no more than 30 percent of the area of the *street wall* below the minimum required *street wall* height. The aggregate area of recesses of up to two feet in depth shall not exceed 50 percent of the area of the *street wall*. The restrictions on recesses shall not apply to arcades, corner arcades, subway stairs relocated within the *building*, through block connections within the *building*, or *building* entrance recess areas within the *building*, where such spaces are provided in accordance with the requirements and design standards of Section 81-45, 81-46 or 81-47 and provided that such spaces shall be subject to a maximum height limit of 30 feet. Any recesses in the *residential* portion of a *building* shall comply with the *outer court* regulations of Section 23-84 (Outer Court Regulations).

No arcades, sidewalk widenings or urban plazas shall be permitted on Fifth Avenue, 42nd Street, 34th Street or 57th Street frontages. On the remaining streets designated for *street wall* continuity, arcades, if provided, shall be not less than 10 feet in depth and not more than 30 feet high. Arcades shall not be counted towards the recess allowances.

On Fifth Avenue, the minimum required *street wall* height without setback shall be 85 feet and the maximum allowable *street wall* height without setback shall be 125 feet. Above the maximum *street wall* height, a setback of at least 10 feet shall be required. (See Section 81-83)

For all *developments* or *enlargements* located on *zoning lots* with frontage along Broadway, that portion of the *street wall* subject to setback restriction shall be located so that its average distance from the Broadway *street line* is not more than ten feet.

Existing *buildings* on a *zoning lot* shall be included in measurements of the *street wall*.

81-44**Curb Cut Restrictions**

The provisions of this section prohibit curb cuts for driveways along all Midtown avenues and certain crosstown streets. The restriction is intended to minimize the disruptive and potentially dangerous conflicts at the sidewalk between pedestrians and vehicles.

81-45**Provision of Pedestrian Circulation Space**

In order to improve pedestrian traffic flow in Midtown, Section 81-45 requires new developments to provide additional pedestrian circulation space proportionate to the building's floor area. The pedestrian circulation space may consist of sidewalk widenings, arcades, corner arcades, corner circulation space, building entrance recess areas, through-block connections or the relocation of subway stair entrances within the property line of a development.

STATUTORY TEXT

No existing *building* shall be altered such that a *non-compliance* with the provisions of this Section is created, nor shall an existing degree of *non-compliance* with these provisions be increased.

81-44

Curb Cut Restrictions

Along all avenues in Midtown and along 57th, 53rd, 42nd and 34th Streets, no driveway curb cuts for parking facilities or loading berths shall be permitted. Exceptions may be made by the Department of Buildings where there are no alternative means of access to off-street loading berths from other *streets* bounding the *zoning lot*. In the case of such exceptions, the maximum width of the curb cuts shall be 20 feet. No exceptions shall be permitted on Fifth Avenue. These curb cut requirements shall be in addition to any other applicable City rules or regulations concerning driveway curb cuts.

81-45

Provision of Pedestrian Circulation Space

Within the boundaries of the *Special Midtown District*, except as provided in Section 81-453 (Exemptions from the pedestrian circulation space requirements), all new *developments or enlargements* on *zoning lots* of 5,000 square feet or larger and providing more than 70,000 square feet of new *floor area*, shall provide a minimum amount of pedestrian circulation space at the rate provided in Table 1.

TABLE 1
Minimum Pedestrian Circulation Space Requirements

<u>Lot Size in Square Feet</u>	<u>Minimum Area of Pedestrian Circulation Space</u>
5,000 to 20,000	1 square foot per 350 square feet of new <i>floor area</i>
Above 20,000	1 square foot per 300 square feet of new <i>floor area</i>

The pedestrian circulation space provided shall be of one or more of the following types: sidewalk widening, arcade, corner arcade, corner circulation space, through *block* connection or subway stair relocation.

Each *zoning lot* shall be categorized as either a *corner lot*, *through-lot* or *interior lot*, and pedestrian circulation space shall be provided on each *zoning lot* in at least one of the applicable types or combinations of types outlined in Table 2 (*next page*).

Such pedestrian circulation spaces shall meet the requirements set forth in Section 81-451 (Design standards for pedestrian circulation spaces), Section 81-46 (Through Block Connection) or Section 81-47 (Off-Street Relocation of a Subway Stair). Sidewalk widenings, arcades and corner arcades shall not be subject to the standards set forth in Section 12-10 (DEFINITIONS).

In addition, certain amenities for which bonuses are granted may count toward the minimum area of pedestrian circulation space in accordance with the provisions of Section 81-452 (Bonused amenities qualifying as pedestrian circulation spaces).

Any area of permitted overlap between pedestrian circulation spaces or amenities shall be counted only once toward the minimum area of pedestrian circulation space. Unobstructed access shall be provided between overlapping spaces.

81-451

Design standards for pedestrian circulation spaces

The design standards for each type of pedestrian circulation space are specified.

- (a) A sidewalk widening is an open paved area in front of a building which effectively widens the sidewalk for pedestrians by at least five feet.

STATUTORY TEXT

TABLE 2

Lot Type Where Circulation Space May be Provided

Type of Circulation Space (Section 81-45)	<i>Corner Lot</i>	<i>Through Lot</i>	<i>Interior Lot</i>
Sidewalk Widening	X	X	X
Corner Circulation Space	X		
Arcade	X	X	X
Corner Arcade	X		
<i>Building</i> Entrance			
Recess Area	X	X	X
Through <i>Block</i> Connection	X	X	
Subway Stair Relocation	X	X	X

No arcades or sidewalk widenings shall be permitted on Fifth Avenue, 42nd Street, 34th Street, or 57th Street frontages. Special dimensional requirements for arcades along designated *streets* are set forth in Section 81-43 (Street Wall Continuity along Designated Streets).

81-451

Design standards for pedestrian circulation spaces

(a) Sidewalk Widening

A sidewalk widening is a continuous paved open area along the *front lot line* of a *zoning lot* at the same elevation as the adjoining sidewalk and directly accessible to the public at all times. A sidewalk widening shall meet the following requirements.

- (1) Dimensions: A sidewalk widening shall have a width no less than 5 feet nor greater than 10 feet measured perpendicular to the *street line*, and shall be contiguous along its entire length to a sidewalk. Except for the permitted interruptions, as set forth in subparagraph (2), a sidewalk widening is permitted on a *narrow street* only if it has a length of at least 100 feet and extends along the full length of the *front lot line* except along any portion of such *front lot line* on which an existing *building* is located, and a sidewalk widening is permitted on a *wide street* only if it extends along the full length of the *street line* between intersecting *streets*, except where an existing sidewalk widening with which the new sidewalk widening connects is already provided on an adjacent *zoning lot* and the width of the new sidewalk widening matches that of the existing sidewalk widening and the new and existing sidewalk widenings together extend along the full length of the *street line* between intersecting *streets*.
- (2) Permitted interruptions: Only under the following conditions shall any interruptions of the continuity of a qualifying sidewalk widening be permitted:
 - (a) A sidewalk widening may be interrupted by an arcade which has a width equal to or greater than the width of the sidewalk widening and which is directly connected to the sidewalk widening.
 - (b) A sidewalk widening may be overlapped by a corner circulation space or a *building* entrance recess area which permits uninterrupted pedestrian flow.
 - (c) A sidewalk widening may be overlapped by an urban plaza (see Section 81-23) provided that the overlapping portion of such urban plaza conforms to the design standards of a sidewalk widening.

(b) A corner circulation space is an open paved area at a street corner, allowing pedestrians additional space where the pedestrian congestion is greatest.

STATUTORY TEXT

- (d) An off-street subway entrance may interrupt a sidewalk widening provided such an entrance is located at a *side lot line* or is located at the intersection of two *street* lines.
- (e) A sidewalk widening may be overlapped by the queuing space of a relocated subway entrance provided that the queuing space for the entrance leaves a five foot uninterrupted width of sidewalk widening along the entire length of the queuing space.
- (f) A sidewalk widening may be interrupted by a driveway which is located at a *side lot line*; however, where the *zoning lot* has a through *block* connection, or a through *block* urban plaza, or a through *block* Galleria at such a *side lot line*, the location of its driveway is not restricted. The area occupied by the driveway, up to the width of the sidewalk widening, may be counted towards meeting the pedestrian circulation space requirement, provided that there shall be no change of grade within the area of the sidewalk widening.

(3) Permitted obstructions

A sidewalk widening shall be unobstructed from its lowest level to the sky except for temporary elements of weather protection, such as awnings or canopies, provided that the total area (measured on the plan) of such elements does not exceed 20 percent of the sidewalk widening area, and that such elements and any attachments thereto are at least eight feet above the *curb level*, and that any post or other support for such element or any attachment to the support has a maximum horizontal dimension of six inches.

(4) Specific prohibitions

No street trees are permitted on a sidewalk widening. No vehicle storage, parking or trash storage is permitted on a sidewalk widening. Gratings may not occupy more than 50 percent of the sidewalk widening area nor be wider than one half the width of the sidewalk widening.

(5) Special design treatment

When one end of the sidewalk widening abuts an existing *building* on the *zoning lot* or an existing *building* on the *side lot line* of the adjacent *zoning lot*, design treatment of the termination of the sidewalk widening is required to smooth pedestrian flow. The portion of the sidewalk widening subject to design treatment, hereinafter called the transition area shall not extend more than ten feet along the sidewalk widening from its termination. The transition area shall be landscaped and the paved portion shall have a curved or diagonal edge effecting a gradual reduction of its width over the length of the transition area to no width at the point of the sidewalk widening's termination. The unpaved portion of such landscaped treatment shall not exceed 50 percent of the transition area and shall be considered a permitted obstruction.

(b) Corner Circulation Space

A corner circulation space is a small open space on the *zoning lot* of a *development* or *enlargement*, adjoining the intersection of two *streets*, at the same elevation as the adjoining sidewalk or sidewalk widening and directly accessible to the public at all times. A corner circulation space shall meet the following requirements.

- (1) Dimensions: A corner circulation space shall have a minimum area of 200 square feet, a minimum depth of 15 feet measured along a line bisecting the angle of intersecting *street lines*, and shall extend along both *street lines* for at least 15 feet but not more than 40 feet from the intersection of the two *street lines*.
- (2) Obstructions: A corner circulation space shall be completely open to the sky

(c) An arcade is a covered widening of the public sidewalk.

STATUTORY TEXT

from its lowest level, except for temporary elements of weather protection, such as awnings or canopies; provided that the total area of such elements does not exceed 20 percent of the corner circulation space area; that such elements and any attachments thereto are at least eight feet above *curb level*; and that any post or other support for such element or any attachment to the support (such as banners, flags or signs) has a maximum horizontal dimension of six inches. A corner circulation space shall be clear of all other obstructions, including without limitation door swings, *building* columns, street trees, planters, vehicle storage, parking or trash storage. No gratings except for drainage are permitted.

- (3) *Building* entrances: Entrances to ground level *uses* are permitted from a corner circulation space. An entrance to a *building* lobby is permitted from a corner circulation space, provided that the entrance is at no point within 20 feet of the intersection of the two *street lines* which bound the corner circulation space.
- (4) Permitted overlap: A corner circulation space may overlap with a sidewalk widening.

(c) Arcade

An arcade is a continuous covered space which adjoins and extends along a *front lot line*, is at the same elevation as the adjoining sidewalk, is open for its entire length to the sidewalk except for columns and is accessible to the public at all times. An arcade shall meet the following requirements:

- (1) Dimensions: An arcade with columns shall have a minimum clear width of 10 feet exclusive of all columns and a maximum width of 15 feet. An arcade shall have a clear height of not less than 12 feet.

On an *interior lot* or a *through lot* fronting on a *narrow street*, an arcade is permitted only if it has a length of at least 100 feet and extends along the full length of the *front lot line* except along any portion of such *front lot line* on which an existing *building* is located. On a *narrow street* frontage of a *corner lot*, an arcade is permitted only if it extends for the full length of the *street* frontage or provides unobstructed pedestrian flow along such entire frontage in combination with one or more of the following other spaces with which it connects at one or both ends: an intersecting *street*, or an intersecting sidewalk widening, a corner arcade, a *plaza*, an urban plaza, a through *block* connection, a through *block* galleria or a relocated subway entrance.

On a *wide street*, an arcade is permitted only if:

- a. the arcade extends along the full length of the *street line* between the intersecting *streets* or
 - b. in the case of a *building* that occupies less than the entire *street* frontage between intersecting *streets*, unobstructed pedestrian flow along such entire frontage is provided on the *zoning lot* by the arcade in combination with one or more of the following open spaces with which the arcade connects at one or both ends: an intersecting sidewalk widening, a corner circulation space, a *plaza* or an urban plaza, or
 - c. in the case of a *building* whose *zoning lot* occupies less than the entire *street* frontage between intersecting *streets*, the arcade connects with an existing arcade of matching width and alignment, a *plaza* or an urban plaza on an adjacent *zoning lot*, so that unobstructed pedestrian flow along the entire *block* front is provided by the arcade in combination with such existing spaces.
- (2) Full block front arcade: When a *zoning lot* occupies a full *block* front, both ends of the arcade on that *street* frontage shall be open and accessible directly from the sidewalk of the intersecting *street* or any other qualifying pedestrian circulation space.

(d) A corner arcade is a covered corner circulation space.

(e) A building entrance recess area is an open or covered paved area adjoining a sidewalk or sidewalk widening and providing extra width for pedestrian circulation at the entrance to a building.

STATUTORY TEXT

- (3) Permitted obstructions: Except for *building* columns, an arcade shall be completely free from obstructions of any kind.
- (4) Specific prohibitions: No vehicular driveways, parking spaces, passenger drop-offs, loading berths or trash storage facilities are permitted within an arcade, nor shall such facilities be permitted immediately adjacent to an arcade.
- (5) In the Theatre Subdistrict, where a new *building* or enlarged portion of an existing *building* provides an arcade, no obstructions, including columns, are permitted within such arcade, and the height and width of such arcade shall be limited to a maximum of 20 feet and 10 feet respectively.
- (6) All existing and new arcades shall maintain a minimum level of illumination of not less than five horizontal foot candles between the hours of 5:00 P.M. and 7:00 A.M.

(d) Corner Arcade

A corner arcade is a small covered space adjoining the intersection of two *streets* at the same elevation as the adjoining sidewalk or sidewalk widening, and directly accessible to the public at all times. A corner arcade shall meet the following requirements:

- (1) Dimensions: A corner arcade shall have the same minimum dimensions as a corner circulation space and in addition shall have a height of not less than 12 feet and shall provide a clear path at least 12 feet wide from one *street line* to another *street line*.
- (2) Permitted obstructions: Except for *building* columns a corner arcade shall be free of obstructions of any kind.
- (3) Specific prohibitions: Same as for an arcade.
- (4) Permitted overlap: A corner arcade may overlap with an arcade; however, the area of overlap may only be counted once toward the fulfillment of the required minimum area of pedestrian circulation space.

(e) Building Entrance Recess Area

A *building* entrance recess area is a space which adjoins and is open to a sidewalk or sidewalk widening for its entire length and provides unobstructed access to the *building's* lobby entrance. A *building* entrance recess area shall meet the following requirements:

- (1) Dimensions: A *building* entrance recess area shall have a minimum length of 15 feet and a maximum length of 40 feet measured parallel to the *street line*. It shall have a maximum depth of 15 feet measured from the *street line*, and if it adjoins a sidewalk widening shall have a minimum depth of 10 feet measured from the *street line*.
- (2) Obstructions: A *building* entrance recess area shall either be completely open to the sky or completely under an overhanging portion of the *building*, with a minimum clear height of 15 feet. It shall be free of obstructions except for *building* columns, between any two of which there shall be a clear space of at least 15 feet measured parallel to the *street line*. Between a *building* column and a wall of the *building*, there shall be a clear path at least five feet in width.
- (3) Permitted overlap: A *building* entrance recess area may overlap with a sidewalk widening, an arcade, a corner arcade, or a corner circulation space.

(f) Through Block Connection

The design standards for a through *block* connection are set forth in Section 81.46 (Through Block Connection).

81-452

Bonus amenities qualifying as pedestrian circulation spaces

Within limits a through block galleria, an urban plaza or a subway station improvement may be counted towards fulfilling the pedestrian circulation space requirement.

81-453

Exemptions from the pedestrian circulation space requirements

Pedestrian circulation space is not required for one-story buildings or in specified situations where its provision would not be practical.

81-46

Through Block Connection

A through block connection between two east-west streets may count toward the pedestrian circulation space requirement if located at least 100 feet from an avenue. In the long blocks west of Fifth Avenue parts of a system of north-south passageways presently exist in the form of through block lobbies, arcades and plazas. For new developments in these blocks through block connections are mandated if locational criteria can be met. Expansion of this through block network by adding presently missing links will help to reduce the congestion of pedestrian traffic in this area.

STATUTORY TEXT

(g) Off-Street Relocation of a Subway Stair

The design standards for a relocated subway stair are set forth in Section 81-47 (Off-Street Relocation of a Subway Stair).

81-452

Bonused amenities qualifying as pedestrian circulation spaces

A portion of the following amenities, for which bonuses are granted pursuant to this Chapter, may be counted toward the minimum pedestrian circulation space requirements:

- (a) Through *block* galleries: (see Section 81-748) up to a maximum of 3,000 square feet.
- (b) Through *block* urban plaza (see Section 81-23) up to a maximum of 3,000 square feet.
- (c) Urban plaza (see Section 81-23)
 1. For an urban plaza which faces a *street* intersection or provides access to a major *building* entrance: 30 percent of the urban plaza's area.
 2. For other urban plazas: the first 10 feet of depth from the *street line*, provided that it conforms to the design standards of a sidewalk widening.
- (d) Subway station improvement (see Section 81-53) up to a maximum of 3,000 square feet.

81-453

Exemptions from the pedestrian circulation space requirements

Under any of the following conditions a *development* or *enlargement* shall not be required to provide pedestrian circulation space:

- (a) The *zoning lot* is entirely occupied by a *building* of no more than one *story* in a height.
- (b) The *zoning lot* is an *interior lot* fronting on a *wide street* with frontage length less than 80 feet.
- (c) The *zoning lot* is an *interior lot* fronting only on a *wide street* where no arcade, sidewalk widening or urban plaza is permitted, i.e., Fifth Avenue, 42nd Street, 34th Street and 57th Street.
- (d) The *zoning lot* is an *interior lot* fronting on either Fifth Avenue, 42nd Street, 34th Street or 57th Street, with another interior frontage of lesser length on any other *street*.
- (e) The *zoning lot* is a *through lot* with both frontages less than 25 feet in length.

81-46

Through Block Connection

(a) Mandatory Provision in Mapped Areas

In mapped through *block* corridors (see Map 4), a through *block* connection is required for all *developments* or *enlargements* on *zoning lots* with an area of greater than 5,000 square feet and having frontage on two east-west *streets* within the mapped corridors, subject to the conditions set forth in Section 81-461 (Locational standards). In the case of a *development* or *enlargement* with an existing *building* on the same *zoning lot*, the location of the existing *building* shall not affect the applicability of the requirements of this Section. All qualifying through *block* connections shall meet the standards set forth below in Section 81-461 (Locational standards) and Section 81-462 (Design standards for a through block connection).

81-461

Locational standards

This section sets forth locational requirements for mandatory through block connections. Midblock developments on through lots must provide through block connections that overlap with existing connections in adjacent blocks. Where no connection exists in an adjacent block, or where it exists but is not opposite the new development site, a development located in a designated block center band (Map 4) will be required to provide a through block connection within this band.

STATUTORY TEXT

(b) As Pedestrian Circulation Space

A through *block* connection between two parallel or nearly parallel east-west *streets* may be provided on any *through lot* or *through lot* portion of a *corner lot* and may count toward the pedestrian circulation space requirements of Section 81-45 (Provision of Pedestrian Circulation Space) provided that it shall be located at least 100 feet from a north-south *street* and shall meet the design standards set forth in Section 81-462.

81-461

Locational standards

For the purposes of this Section the following terms shall be interpreted as follows:

- **Mapped corridor** - the corridor area is the area shown on Map 4 between two *wide streets* running north and south and not less than 100 feet distant from both such *streets*.
- **Block center line** - the center line running north and south and dividing the *block* into equal portions east and west. The *block* center line does not apply in the case of trapezoidal-shaped *blocks*.
- **Block center band** - an area along the center line of a designated *block* which has the following dimensions:

<u>Block Length</u>	<u>Block Center Band Width</u>
greater than 600 feet	extends 150 feet on both sides of the <i>block</i> center line
600 feet or less	extends 100 feet on both sides of the <i>block</i> center line

In the case of trapezoidal-shaped *blocks*, the *block* center band is located as shown on Map 4.

On *zoning lots* located within through *block* corridors, through *block* connections shall meet the locational requirements outlined below:

- Where the *zoning lot* or a portion thereof is directly across a *street* from and opposite to an existing through *block* connection on an adjacent *block* to the north or south, the alignment of the new through *block* connection shall overlap with that of the existing connection. Such existing connection may also be a *through block arcade*, *through block plaza*, *through block galleria*, *through block urban plaza* or any through *block* circulation area with a minimum width of 12 feet, which is located within a *building*.
- Where such an alignment as set forth in paragraph (a) is not possible due to the *zoning lot's* location or configuration, the new through *block* connection shall be located within the *block* center band if the *zoning lot* has a through *block* portion with a *street* frontage of at least 25 feet on both *streets* within the *block* center band.
- Where there is no existing through *block* connection on either of the adjacent *blocks*, the through *block* connection shall be entirely located within the *block* center band if the *zoning lot* has a through *block* portion with a *street* frontage of at least 25 feet on both *streets* within the *block* center band.
- Where there is an existing through *block* connection, a new through *block* connection on the same *block* shall be required only if the new connection aligns with an existing through *block* connection on an adjacent *block*.
- Where there are already two through *block* connections located on the same *block*, a new through *block* connection is not required, but construction of a new through *block* connection is not prohibited.

81-462

Design standards for a through block connection

A through block connection must be at least 15 feet wide and may be open or enclosed.

81-47

Off-Street Relocation of a Subway Stair

When a development site adjoins a subway stair entrance which is located in the public sidewalk, the development is required to relocate the subway stair within the development lot. This requirement will help ease pedestrian movement by moving from the public sidewalk a major obstacle and source of conflicting pedestrian traffic.

81-471

Standards for location and design

The new subway stair entrance must meet the locational standards of this section and design standards of the New York City Transit Authority.

STATUTORY TEXT

- (f) Notwithstanding the provisions of paragraphs (a) to (e) inclusive, no through *block* connections shall be required or permitted on any portion of a *zoning lot* occupied by a landmark or interior landmark so designated by the Landmarks Preservation Commission or occupied by a *building* whose designation as a landmark or interior landmark has been calendared for public hearing and is pending before the Landmarks Preservation Commission.

81-462

Design standards for a through block connection

A through *block* connection is a paved open or enclosed space connecting, in a straight continuous unobstructed path, two parallel or nearly parallel *streets*. A through *block* connection shall meet the following requirements:

- (a) A through *block* connection shall provide a straight continuous unobstructed path at least 15 feet wide.

If covered, the clear unobstructed height of a through *block* connection shall not be less than 15 feet.

- (b) At no point shall the level of a through *block* connection be more than five feet above or below *curb level*.

- (c) A through *block* connection may be located inside or outside of a *building*. The area of a through *block* connection located within a *building* shall be counted as *floor area*.

- (d) A through *block* connection may be part of a bonused urban plaza or through *block* galleria, provided it also meets the design standards of those spaces, as set forth in Section 81-231 (Standards for urban plazas) or Section 81-748 (Floor area bonus for through block gallerias).

- (e) A through *block* connection shall be accessible to the public from 8:00 A.M. to 7:00 P.M. on the days the *building* or *development* is open for business.

81-47

Off-Street Relocation of a Subway Stair

Where a *development* or *enlargement* is constructed on a *zoning lot* which fronts on a sidewalk containing a stairway entrance or entrances into a subway and such *zoning lot* contains 5,000 square feet or more of *lot area*, such *development* or *enlargement* shall relocate the stairway entrance or entrances to the subway onto the *zoning lot* in accordance with the provisions of this Section. These provisions are in accordance with New York City Transit Authority's Station Planning Guidelines (Revised, 1975 and as may subsequently be revised).

81-471

Standards for location and design

- (a) Location

The relocated entrance shall be immediately adjacent to, and accessible without any obstruction from a public sidewalk or at least one of the following public spaces, which shall have a minimum horizontal dimension equal to the width of the relocated stairs:

sidewalk widening	(Section 81-45)
corner circulation space	(Section 81-45)
arcade	(Section 81-45)
corner arcade	(Section 81-45)
building entrance recess area	(Section 81-45)
urban plaza	(Section 81-23)

81-472

Relocated subway stair as pedestrian circulation space

The relocated subway stair entrance may be counted towards satisfying the pedestrian circulation space requirement of Section 81-45.

STATUTORY TEXT

The relocated entrance may be provided within a *building* but shall not be enclosed by any doors. The area occupied by a relocated entrance within a *building* shall not be counted toward the *floor area* of the *development* or *enlargement*.

(b) Design Standards

The following standards are taken from the New York City Transit Authority's Station Planning Guidelines (Revised, 1975).

The relocated entrance shall have a stair width of at least eight feet for each run.

No stairway shall have more than 14 risers without a landing, and each landing shall have a minimum width equal to the width of the stairs, and a minimum length of five feet.

Throughout the entire stairway entrance, including passageways, the minimum clear, unobstructed height shall be at least seven feet six inches from finished floor to finished ceiling, including all lighting fixtures and *signs*.

The relocated stairway entrance shall meet Transit Authority standards and requirements for all of the following: riser and tread relationship, handrails, passageways, ramps, lighting, finish material, ventilation, information signage, and (where provided) weather protection.

In addition, the following standards shall apply: The relocated entrance shall have a queuing space at the top and bottom of the stairs at least eight feet wide and 15 feet long. The queuing space may overlap with a sidewalk widening, or an arcade, or an urban plaza.

Where two or more existing stairway entrances are being relocated as part of the same *development*, the new entrance or entrances shall have a total stair width or widths equal to or greater than the sum of the stair widths of the stairway entrances being relocated. The entire entrance area, including passageways, shall be free of obstructions of any kind, except for projecting information signage.

The relocated entrance may be located within an urban plaza, provided that the minimum width of the stairs is 10 feet and the queuing area of the relocated entrance is unobstructed and contiguous to a sidewalk or a sidewalk widening. A relocated entrance within an urban plaza is a permitted obstruction, but shall not be subject to the percentage limit on permitted obstructions for an urban plaza.

The relocated entrance shall connect to an existing or proposed subway passageway, or shall connect, via an underground passageway, to a mezzanine area of the subway station.

The below-grade portion of a relocated entrance may be constructed within the *street*.

(c) Hours of Public Accessibility

The relocated entrance shall be accessible to the public during the hours when the connected mezzanine area is open to the public or as otherwise approved by the Transit Authority.

81-472

Relocated subway stair as pedestrian circulation space

One and a half times the area of the existing stair entrance measured at *street* level shall count toward the minimum area of pedestrian circulation space set forth in Section 81-45 (Provision of Pedestrian Circulation Space).

Administrative procedure for subway stair relocation

This section sets forth the administrative procedure required for certification of a relocated subway stair.

81-48

Major Building Entrances

In order to minimize pedestrian traffic congestion, new developments located on zoning lots which are corner lots or block front lots or which open onto an urban plaza or a through block connection, must locate the major entrance to the building according to the standards established in this section.

STATUTORY TEXT

81-473

Administrative procedure for subway stair relocation

- (a) Except as otherwise provided in paragraph (b), no plan shall be approved by the Department of Buildings and no excavation permit or building permit shall be issued for any *development* or *enlargement* which is subject to the requirements for the relocation of a subway stair entrance, unless:
 - (1) Such plan includes a stair relocated plan and the related documents which bind the developer to:
 - a. construct the new stair entrance in accordance with such plan;
 - b. demolish above ground elements of the existing entrance;
 - c. seal the existing entrance at the sidewalk level.
 - (2) Such plan and related documents bear the Transit Authority's approval.
 - (3) Such plan is accompanied by a certified copy of an agreement, as recorded, between the Transit Authority and the owner for an easement on the *zoning lot* for subway related use of the new stair entrance and for public access via such entrance to the subway station, which agreement has been recorded against the *zoning lot* in the Office of the Register of the City of New York (County of New York) and is accompanied by the Register's receipt of recordation.
- (b) In the event that major construction problems render the stair relocation infeasible or that operating design considerations make it undesirable, the Transit Authority and the City Planning Commission by joint certification may release the developer from the requirement. In such event, the stair relocation requirement shall be satisfied by retention of the existing stair and provision on the *zoning lot* of a pedestrian circulation space qualifying under the provisions of Section 81-45 (Pedestrian Circulation Space) and which accommodates pedestrian traffic passing the existing stair entrance. Such space shall have a width equal to at least one and one half times the width of the existing stair entrance and shall extend along the full length of the stair entrance.
- (c) No certificate of occupancy shall be issued for any *development* or *enlargement* subject to the subway stair relocation requirement unless and until the required construction and the sealing of the replaced entrance or entrances has been completed.

81-48

Major Building Entrances

For the purpose of limiting pedestrian traffic congestion, on *zoning lots* with at least 20,000 square feet of *lot area* the following restrictions apply to *developments* described in paragraphs (a) and (b), except as provided in paragraph (c).

- (a) When the *zoning lot* contains an urban plaza or an open through *block* connection located entirely outside of the *building*, the major entrance to the *building* shall open on the urban plaza or the open through *block* connection.
- (b) Where there is no urban plaza or open through *block* connection on the *zoning lot*, the following restrictions on major entrances shall apply to *corner lots* or *block front lots*:
 - (1) *Corner lots*

On a *corner lot* with frontage on no more than one *narrow street*, the major entrance shall be located on the *narrow street*.
On a *corner lot* with frontages on two *wide streets*, the major entrance shall be located on either *wide street*.
 - (2) *Block front lots*

On a full *block front lot* with one or more *narrow street* frontages, a major entrance shall be located on at least one *narrow street*, except that this re-

81-50 INCENTIVES BY SPECIAL PERMIT FOR PROVISIONS OF PUBLIC AMENITIES

81-51

General Provisions and Procedures

This section establishes general limitations on the floor area allowances that may be granted by special permit for urban parks and subway improvements.

In the Theatre Subdistrict floor area allowances may be granted for these public amenities only after prior certification by the City Planning Commission that either:

- (a) alternative opportunities for earning bonus floor area by construction of new theatres or rehabilitation or preservation of existing theatres are not available; or
- (b) that the urban park or subway station improvement is of such importance to the surrounding area that it would have priority over any theatre related improvement.

Floor area allowances for urban parks or subway improvements are limited to 20 percent of the underlying district's basic maximum floor area ratio.

The consequence for failure to comply with the conditions or restrictions of the special permit may be revocation of building permit or certificate of occupancy.

81-52

Urban Park

The City Planning Commission may permit development rights to be transferred from an urban park to a development site. Urban parks are intended to provide landscaped retreats in midblock locations away from the bustling activity of the avenue frontages. They differ very significantly from on site urban plazas, which by their nature are normally designed to provide the prestigious forecourt or entrance to a large office building. Paley Park and Greenacre are generally considered good examples of what an urban park should be.

STATUTORY TEXT

quirement shall not apply if the *zoning lot* contains a permitted sidewalk widening with a width of 10 feet along a *wide street*.

(c) **Exceptions to requirements**

Under the following conditions *developments* shall not be subject to the locational requirements of this section:

- (1) Where the location of an existing *building* on the *zoning lot* precludes compliance with the regulations of this section, or
- (2) Where the *zoning lot* is located on a *block* where the distance between two intersections of *street lines* is less than 150 feet.

81-50 INCENTIVES BY SPECIAL PERMIT FOR PROVISIONS OF PUBLIC AMENITIES

81-51

General Provisions and Procedures

Except in the Preservation Subdistrict, the City Planning Commission, by special permit after public notice and hearing and subject to Board of Estimate action, may grant special permits authorizing, for non-*residential* or *mixed buildings*, *floor area* bonuses or the transfer of development rights in accordance with the provisions of Section 81-52 (Urban Park) or Section 81-53 (Subway Station Improvements). However, in the Theatre Subdistrict, no special permit shall be issued pursuant to the provisions of Section 81-52 or Section 81-53 without prior certification by the City Planning Commission that either:

- (a) There is not available to the applicant any feasible alternative involving the preservation or rehabilitation of an existing theatre or the construction of a new theatre for which bonus *floor area* or transfer of development rights may be authorized by special permit or certification, or
- (b) The amenity for which the special permit is requested, because of its importance to the surrounding area, has priority over any feasible alternative involving the preservation or rehabilitation of an existing theatre or the construction of a new theatre.

The total additional *floor area* permitted on the *zoning lot* by such special permit shall in no event exceed the amount permitted in the underlying district by the provisions of Section 81-211 (Maximum floor area ratio for non-*residential* or *mixed buildings*).

Within the *Special Midtown District* certain special permit provisions of Article VII, Chapters 3, 4, 8 and 9 are inapplicable or subject to modification, as set forth in Section 81-60 (APPLICABILITY OF ARTICLE VII PROVISIONS).

Failure to comply with the conditions or restrictions of the bonused amenity shall constitute a violation of this resolution and shall constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

81-52

Urban Park

Within the *Special Midtown District*, except in the Preservation Subdistrict, the City Planning Commission by special permit after public notice and hearing and subject to Board of Estimate action may authorize development rights to be transferred from an urban park to the *zoning lot* on which a non-*residential* or *mixed building development* or *enlargement* is to be located, hereafter called the receiving site, in accordance with the provisions of this Section.

An urban park is an open space designed for public use and enjoyment and fronting on one or two *narrow streets*.

The purpose of these regulations relating to urban parks is to provide landscaped retreats in midblock locations removed from the busy activity associated with the intensively developed frontages of the avenues and wide cross-town *streets*.

81-521**Requirements for urban park sites**

This section specifies the location and size requirements and other provisions bearing on the eligibility of an urban park. It must be located not less than 50 feet nor more than 1,000 feet from the development site. It must front on the north side of a narrow street at least 150 feet from the nearest intersecting wide street. Frontage on the north side of the narrow street is for the purpose of ensuring access to sunlight. The minimum area of an urban park is 4,000 square feet.

Regulations on the prior use of urban park sites are necessary to prevent demolition of midblock buildings. An urban park site must have been vacant or occupied by low buildings (two stories or less) as of June 1, 1981.

81-522**Limits on transferrable development rights**

The incentive for creating an urban park is derived from development rights that may be transferred from the urban park to a development site. The development rights that may be transferred may not exceed either the basic maximum floor area ratio permitted on the zoning lot of the urban park or 20 percent of the basic maximum floor area ratio on the receiving site to be developed.

81-523**Standards for urban parks**

Perimeter enclosure is required on all sides except the street frontage, using walls or dense planting.

An urban park must be open for public access for not less than 6 days a week, 8 A.M. to 7 P.M. It must be accessible along at least 50 percent of its frontage and the floor elevation cannot vary by more than three feet above or three feet below the curb level. At least 60 percent of the urban park's area must be accessible to the handicapped. Drive-

STATUTORY TEXT

81-521

Requirements for urban park sites

(a) Location

An urban park shall front on the north side of a *narrow street* and be located at least 150 feet from an intersecting *wide street* and 100 feet from a parallel *wide street*. The park in its entirety shall be located not less than 50 feet nor more than 1,000 feet from the nearest *lot line* of the receiving site. An open space amenity on a site contiguous to a *development* may qualify only as an urban plaza subject to the provisions of this Chapter. There shall be adequate access of sunlight, satisfying the criteria set forth in Section 81-524 (Commission review of plans), paragraph (a).

(b) Size

The minimum area of an urban park shall be 4,000 square feet, the minimum width 40 feet and the minimum depth 60 feet.

(c) Prior use of urban park site:

The *zoning lot* for an urban park shall have been, as of June 1, 1981, vacant or occupied by a *building* or *buildings* not more than two *stories* in height, and shall have continued vacant or so occupied up to the date of the application.

(d) *Zoning lot* for an urban park

The *zoning lot* for an urban park as developed pursuant to the provisions of this Section shall be used and occupied exclusively for an urban park.

(e) Existing parks not eligible

Existing open spaces serving the purpose of an urban park are not eligible for development rights transfer under the provisions of this Section.

81-522

Limits on transferable development rights

Development rights may not be transferred from an urban park to more than one receiving site. Both the urban park and its receiving site must be within the *Special Midtown District*.

Transferable development rights shall be limited as follows:

- (a) They shall not exceed the *floor area* allowed by the basic maximum *floor area ratio* applicable to the *zoning lot* of the urban park, and
- (b) The *floor area ratio* on the receiving site shall not exceed the applicable basic maximum *floor area ratio* set forth in Section 81-211 (Maximum floor area ratios for non-residential or mixed buildings) by more than 20 percent.

81-523

Standards for urban parks

(a) Perimeter enclosure

On all boundaries except the *street* frontage an urban park shall be enclosed by walls or dense planting. The walls or planting shall have a height of at least 10 feet above grade.

(b) Access and circulation

- (1) An urban park shall be open for public access and use not less than six days a week, from 8:00 A.M. to 7:00 P.M.
- (2) The park shall be accessible along at least 50 percent of its frontage and

ways, parking spaces and loading berths are prohibited.

An outdoor eating service is required, but no waiter service is permitted.

Ample sitting areas are required.

Obstructions are permitted up to 66 percent of the urban park's area. These may take the forms of fountains, sculptures or other works of art, arbors, trellises, drinking fountains, bicycle racks, open air cafes, etc.

Planting of trees and ground cover is required and tree planting is encouraged, since trees planted with gratings flush to grade are not counted as obstructions.

81-524

Commission review of plans

Special permit applications for transfer of development rights from urban parks to development sites must be accompanied by plans prepared by a registered landscape architect for the design of the urban park.

Before a special permit is granted, the Commission must make certain findings. These findings relate to:

1. The site itself; whether there is a need for an urban park to serve the surrounding area, whether there will be adequate sunlight and whether the park will relate harmoniously to the adjacent streets and properties.
2. The park's design; how well it achieves the purpose of an urban park and how well it accommodates the required facilities.

STATUTORY TEXT

along such portion shall have no obstructions for a depth of at least 20 feet from the *street line*.

- (3) The floor elevation of the park shall be not higher than three feet above, nor lower than three feet below, the adjacent *curb level*.
- (4) At least 60 percent of the area of the urban park shall be accessible to the handicapped. To effect changes in grade for wheelchair users, ramps shall be provided at least three feet wide and with a maximum grade of one to twelve.
- (5) The paving materials of the adjacent sidewalk shall be the same as those of the park in the area immediately adjacent to the sidewalk.
- (6) No driveways, parking spaces or loading berths are permitted within the park area.

(c) *Uses*

An outdoor eating service is required in the urban park and may be located in a kiosk, notwithstanding provisions of Section 32-41 (Enclosure Within Buildings). Waiter service is not permitted. A drinking water fountain shall be provided.

(d) *Sitting areas*

Sitting areas shall be provided with benches or other seating arrangements ample for public enjoyment of the park and relaxation.

(e) *Permitted obstructions*

Permitted obstructions, as follows, may occupy up to 66 percent of the urban park's area: fountains, reflecting pools, sculptures or other works of art, arbors, trellises, benches, seats, planting beds, trash receptacles, public telephones, drinking fountains, bicycle racks, open air cafe tables and chairs, lighting stanchions, flagpoles, awnings, canopies, displays and exhibitions, steps, ramps and kiosks not more than 300 square feet in area. Trees planted with gratings flush to grade are not counted as obstructions.

(f) *Planting*

Planting of trees, shrubs and ground cover is required to enhance the aesthetic quality of the park. Most of the trees should be deciduous so as to afford shade in summer and sunlight in winter.

81-524

Commission review of plans

Applications for approval of an urban park as an amenity warranting transfer of development rights to a receiving site shall be accompanied by plans prepared by a registered landscape architect and all the information necessary to demonstrate compliance with the provisions of the foregoing sections and allow the City Planning Commission to make all of the following determinations:

(a) *About the site itself*

- (1) The Commission shall find that there is a need for an urban park to serve the surrounding area, a need not satisfied by any existing open space.
- (2) The Commission shall consider the orientation of the site and its relationship to existing and future potential surrounding development in order to determine whether there will be adequate access of sunlight throughout the year. The amount of sunlight penetration shall be graphically specified in the application and accompanied by documentation as necessary.
- (3) The Commission shall determine whether the park site is harmoniously related to adjacent *streets* and surrounding properties.

8. The park's maintenance, through a satisfactory maintenance program has been submitted with adequate guarantees for its execution. The applicant must grant the City the right to perform the maintenance if the applicant fails to do so, with payment for the maintenance secured by a lien running in favor of the City.

81-525

Certificate of Occupancy for receiving site development

Restrictions are placed on a certificate of occupancy for development on the receiving site until the urban park's development has been completed. A certificate of occupancy is also subject to revocation for failure to maintain the urban park.

81-526

Duration of urban park

An urban park must continue in existence and be properly maintained throughout the life of the building erected on the receiving site which utilizes the urban park's development rights.

81-53

Subway Station Improvements

Floor area bonuses may be granted by special permit of the City Planning Commission and Board of Estimate for a development which provides a major improvement to an adjacent subway station.

81-531

Midtown subway stations

This sections lists the subway stations in Midtown where the subway improvement floor area bonus provisions apply.

STATUTORY TEXT

(b) About the park's design

In evaluating the park's design, the Commission shall consider whether the open space is adequately defined and enclosed by perimeter walls and planting and how well the design fulfills the purpose of an urban park and accommodates the required facilities.

(c) About maintenance of the park

No application shall be granted without the Commission's approval of a maintenance program submitted by the applicant, the provision by the applicant of a guarantee of its satisfactory execution and the grant by the applicant of the right of the City to perform the maintenance with payment for such maintenance by the City to be secured by a lien running in favor of the City.

81-525

Certificate of occupancy for receiving site development

Until development of the urban park has been completed in accordance with plans approved by the City Planning Commission and the Board of Estimate, a certificate of occupancy for the *development or enlargement* on the receiving site shall be restricted to that portion of the *building* comprising the amount of *floor area* that may be built without the transferred development rights. Similarly, where violations occur in the maintenance of the urban park, the related certificate of occupancy shall be subject to revocation.

81-526

Duration of urban park

Any urban park from which development rights are transferred to a receiving site and utilized thereon in accordance with the provisions of Section 81-52 (Urban Park) shall be subject to deed restrictions recorded in the Office of the Register of the City of New York (County of New York), binding the owner of the urban park's *zoning lot*, and his heirs and assigns to maintain the site as an urban park throughout the life of the *building* erected on the receiving site.

81-53

Subway Station Improvements

The City Planning Commission, by special permit after public notice and hearing and subject to Board of Estimate action, may grant *floor area* bonuses and waive or modify *street wall* continuity provisions for *developments or enlargements* which provide major improvements for adjacent subway stations in accordance with the provisions of this Section. The subway stations where such improvements may be constructed are listed in Section 81-53¹ (Midtown subway stations) and located as shown on Map 5 (Subway Station Improvement Areas). The *zoning lot* for the *development or enlargement* on which such a *floor area* bonus is requested shall be adjacent to the mezzanine or concourse of the subway station for which the improvement is proposed or an existing connecting passageway to the station.

81-531

Midtown subway stations

59th Street - Eighth Avenue - Columbus Circle	IRT, IND
50th Street - Eighth Avenue	IND
42nd Street - Eighth Avenue	IND
34th Street - Seventh Avenue Penn Station	IRT
42nd Street - Times Square	BMT, IRT, IRT (Flushing)
50th Street - Broadway	IRT
49th Street - Seventh Avenue	BMT
57th Street - Seventh Avenue	BMT

81-532**Selection of improvements**

The Metropolitan Transportation Authority, the New York City Transit Authority and the Department of City Planning will identify the desired improvements of subway stations in Midtown.

81-533**Compliance with Transit Authority design standards**

The improvements are subject to the Station Planning Guidelines of the New York City Transit Authority.

81-534**Procedure**

Prior to application a concept plan for the proposed improvement must be submitted to the MTA, TA and the CPC.

After the three public agencies have reviewed and agreed on the concept, the applicant must submit documents conforming with the Transit Authority's requirements outlined in the "Guidelines for Submission and Approval for Outside Projects." The Guidelines relate to specification of the work to be done and the definition of rights and responsibilities. If the submission is approved, the Transit Authority provides a letter to the Planning Commission containing their conceptual approval of the improvement and a statement of any special considerations regarding the Transit Authority's future operation of the improvement, such as the hours that token booths will be manned and the public will have access to the approved facilities.

A special permit application to the Planning Commission may then be filed, which shall include such information as the Commission will need for evaluating the improvement and determining the appropriate amount of the bonus floor area.

The City Planning Commission may certify an application under the Uniform Land Use Review Procedure only after the letter from the Transit Authority has been received and incorporated in

STATUTORY TEXT

34th Street - Sixth Avenue - Herald Square	BMT, IND
42nd Street - Sixth Avenue - Fifth Avenue	IND, IRT (Flushing)
47th - 50th Streets - Sixth Avenue	IND
57th Street - Sixth Avenue	IND
Seventh Avenue - 53rd Street	IND
Fifth Avenue - Madison Avenue - 53rd Street	IND
Lexington Avenue - Third Avenue - 53rd Street	IND
42nd Street - Grand Central Terminal	IRT, IRT (Flushing)
51st Street - Lexington Avenue	IRT

81-532

Selection of Improvements

Pending the completion of a joint project of the Metropolitan Transportation Authority, the New York City Transit Authority and the Department of City Planning, for the identification of desired improvements to subway stations in Midtown, the selection of improvements shall be on a case-by-case basis and shall be subject to the approval of the Metropolitan Transportation Authority, the New York City Transit Authority and the City Planning Commission.

81-533

Compliance with Transit Authority design standards

The subway station improvement shall comply with all applicable design standards of the New York City Transit Authority's "Station Planning Guidelines" (Revised 1975 and as may be subsequently revised).

81-534

Procedure

(a) Pre-application

The applicant shall submit schematic or concept plans for the proposed improvement to the Metropolitan Transportation Authority, the New York City Transit Authority and the City Planning Commission.

(b) Application - Pre-certification

After review and agreement on concept by the Metropolitan Transportation Authority, New York City Transit Authority and the City Planning Commission, the applicant shall submit necessary documentation in conformance with New York City Transit Authority "Guidelines for Submission and Approval of Outside Projects." Prior to certification by the City Planning Commission, the New York City Transit Authority shall provide a letter to the Commission containing a conceptual approval of the improvement, a statement of any special considerations regarding the New York City Transit Authority's future operation of the improvement and a statement that the applicant's submission conforms with the guidelines cited above.

(c) The special permit application to the Planning Commission shall include information and justification sufficient to provide the Commission with a basis for evaluating the benefits to the City from the proposed improvement and determining the appropriate amount of bonus *floor area* and, where applicable, assessing the advantages and disadvantages of waiving or modifying the *street wall* continuity provisions of Section 81-43 (Street Wall Continuing along Designated Streets).

(d) Uniform Land Use Review Procedure - Certification

The City Planning Commission shall not certify an application under the Uniform Land Use Review Procedure until the requisite letter from the Transit Authority

the special permit application.

Before any special permit is granted, the City Planning Commission must be in receipt of a letter of final approval from the Transit Authority. In addition, the applicant may be required to provide prior to the special permit a declaration of restrictions defining the obligations of the owner for the construction and maintenance of the improvement accompanied by a performance bond for its timely completion.

81-535

Floor area bonus

The amount of the floor area bonus subject to a 20 percent maximum over basic FAR will be in the City Planning Commission's discretion and will depend on findings made by the Commission that relate to the benefits the public will derive from the improvement.

81-536

Waiver or modification of street wall continuity provisions

Street wall continuity requirements in Section 81-43 can be modified by special permit where setback of the building is desirable to allow access of daylight and air to the subway station.

STATUTORY TEXT

has been received and is incorporated in the application. Such letter by the Transit Authority may be subject to subsequent execution of a final agreement with the developer.

- (e) Prior to the granting of a special permit
 - (1) The Transit Authority shall transmit a letter of final approval to the City Planning Commission. The letter shall identify the developer's plans as finally approved and note any matters, yet to be finalized, that should be a condition of the special permit.
 - (2) The applicant shall sign a declaration of any restrictions, containing complete drawings of the proposed subway station improvement, setting forth the obligations of the owner and developer, their successors and assigns, to construct and maintain the subway station improvement, establishing a construction schedule and providing a performance bond for completion of the improvement.
- (f) Any written declaration of restrictions and any instrument creating a transit easement on the *zoning lot* shall be recorded against the *zoning lot* in the Office of the Register of the City of New York (County of New York), and a certified copy of the instrument shall be submitted to both the City Planning Commission and the New York City Transit Authority.

81-535

Floor area bonus

The amount of the *floor area* bonus shall be in the discretion of the City Planning Commission and may range from no bonus *floor area* to the maximum amount allowable by special permit, as set forth in Section 81-211 (Maximum floor area ratios for non-residential or mixed buildings). In determining the precise amount of *floor area* bonus, the Commission shall make findings on the following:

- (a) the degree to which the station's general accessibility, rider orientation and safety will be improved by the provision of new connections, additions to circulation space or easing of circulation bottlenecks;
- (b) improvements in the station's environment by provision for daylight access, better orientation of riders, or improvements to noise control, air quality, lighting or other architectural treatments;
- (c) provision of escalators where justified by traffic or depth of mezzanine or platform below *street* level;
- (d) convenience and spaciousness of *street* level entrance and compatible relationship to the *development's* or the *enlargement's* ground floor uses.

81-536

Waiver or modification of street wall continuity provisions

As a condition for waiving or modifying the *street wall* continuity provisions of Section 81-43 (Street Wall Continuity along Designated Streets), the Commission shall find that the waiver or modifications will permit the proposed design to provide for access of daylight and air to the subway platform, mezzanine or concourse and that the advantages of such access outweigh the disadvantages incurred by the interruption of *street wall* continuity and retail continuity.

The Commission in granting such waiver or modification shall specify the depth of the setback permitted and the amount by which the required length of *street wall* subject to setback restrictions is reduced.

81-537**Certificate of Occupancy**

No certificate of occupancy for the development receiving the bonus will be issued prior to certification by the Transit Authority that the improvement has been completed in accordance with the approved plans.

81-60 APPLICABILITY OF ARTICLE VII PROVISIONS**81-61****Applicability of Chapter 3 of Article VII**

The provisions of Sections 73-62, 73-63 and 73-64, under which the Board of Standards and Appeals may grant special permits to allow enlargements of existing buildings to exceed within limits the maximum F.A.R. or not to comply with certain other bulk regulations, will not apply within the Special Midtown District, since the new Midtown height and setback regulations afford ample flexibility.

The provisions of Sections 73-16, 73-28, 73-36, 73-51 and 73-52, relating to special permit uses and modifications of supplementary use regulations or split lot provisions by special permit of the Board of Standards and Appeals, will be applicable in Midtown only subject to the provisions of the Special Midtown District.

81-62**Applicability of Chapter 4 of Article VII**

Various provisions allowing the City Planning Commission to grant special permits will not be applicable to developments in Midtown, since they would not further the goals of the Special Midtown District.

Certain of these provisions, such as those of Section 74-72, Section 74-74 and 74-852, allow design flexibility for new developments. The need for these provisions in Midtown has been obviated by the flexibility of the new Midtown height and setback regulations.

STATUTORY TEXT

81-537

Certificate of occupancy

No certificate of occupancy for the *development* or *enlargement* shall be issued by the Department of Buildings until the construction of the subway station improvement has been completed in accordance with the approved plans and has been so certified by the Transit Authority.

81-60

APPLICABILITY OF ARTICLE VII PROVISIONS

81-61

Applicability of Chapter 3 of Article VII

Within the *Special Midtown District*, the following provisions regarding special permits by the Board of Standards and Appeals for *non-complying buildings* shall not be applicable:

- | | |
|---------------|---|
| Section 73-62 | (Enlargement, Extension or Conversion of Buildings Containing Residential Uses) |
| Section 73-63 | (Enlargement of Non-Residential Buildings) |
| Section 73-64 | (Modifications for Community Facility Uses) |

Within the *Special Midtown District*, the following provisions regarding special permits by the Board of Standards and Appeals shall only be applicable as modified below:

- | | |
|---------------|--|
| Section 73-16 | (Public Transit, Railroad or Electrical Utility Substations) shall be applicable subject to the provisions of the <i>Special Midtown District</i> . |
| Section 73-28 | (Newspaper Publishing) shall be applicable subject to the provisions of the <i>Special Midtown District</i> . |
| Section 73-36 | (Physical culture or health establishments) shall be applicable subject to the locational restriction of the <i>Special Midtown District</i> . |
| Section 73-51 | (Modification of Supplementary Use Regulations) shall be applicable subject to the height and setback or alternate height and setback regulations of the <i>Special Midtown District</i> . |
| Section 73-52 | (Modification for Zoning Lots Divided by District Boundaries) shall be applicable subject to the height and setback or alternate height and setback regulations of the <i>Special Midtown District</i> . |

81-62

Applicability of Chapter 4 of Article VII

Within the *Special Midtown District*, the following provisions regarding special permits by the City Planning Commission shall not be applicable:

- | | |
|---------------|--|
| Section 74-72 | (Bulk Modification) |
| Section 74-74 | (Commercial Developments Extending into More than One Block) |
| Section 74-75 | (Educational Construction Fund Projects) |
| Section 74-82 | (Through Block Arcades) |
| Section 74-83 | (Court Houses) |

Other provisions such as those of Section 74-82 (Through Block Arcades), Section 74-87 (Covered Pedestrian Space) and Section 74-91 (Urban Plaza) encourage the provision of amenities which have been found unsuitable for Midtown. These regulations will not apply in the Special Midtown District. The more restrictive Midtown regulations will help to ensure that the urban amenities which are provided are appropriate to their location and will not conflict with provisions for retail and street wall continuity.

Essentially consistent with Midtown District goals, and therefore retained, are special permit provisions of Section 74-71 (Landmark Preservation) and Section 74-79 (Transfer of Development Rights from Landmark Sites) as modified by the new Midtown height and setback controls and the special regulations for transferring development rights from landmark theatrea.

81-63

Regulations for Developments or Enlargements on Lots Divided by District Boundaries, Within or Partially Within the Theatre Subdistrict

The general regulations governing zoning lots divided by district boundaries are modified in the Theatre subdistrict to further Midtown Theatre preservation goals.

81-64 and 81-65

Large-Scale Developments

The provisions of Article VII, Chapters 8 and 9, which permit the City Planning Commission to modify the height and setback requirements for large-scale residential or large-scale community facility developments are not applicable in the Midtown Special District because the Midtown height and setback regulations afford ample flexibility for large-scale developments.

81-66

Special Permit Modifications of Section 81-40 and Section 77-00

To provide special design flexibility for a large site, over 60,000 square feet, the City Planning Commission can grant a special permit to modify the requirements of the mandatory district plan elements (Section 81-40) and the provisions for

STATUTORY TEXT

- Section 74-841 (Developments in Certain Commercial Districts)
- Section 74-852 (Height and Setback Regulations for Developments on Lots Divided by District Boundaries)
- Section 74-87 (Covered Pedestrian Space)
- Section 74-91 (Urban Plaza)
- Section 74-95 (Housing Quality Developments)

Within the *Special Midtown District*, the following provisions regarding special permits by the City Planning Commission shall only be applicable as modified below:

- Section 74-71 (Landmark Preservation) shall be applicable subject to modification of the provisions in Section 74-712 relating to height and setback modifications (see Sections 81-254, 81-266 and 81-277).
- Section 74-79 (Transfer of Development Rights from Landmark Sites) shall be applicable subject to modifications of the conditions and limitations on transfer of *floor area* (see Sections 81-212 and 81-747), the meaning of the term "adjacent lot" (see Section 81-747) and the provisions relating to height and setback variations (see Sections 81-254, 81-266 and 81-277).

81-63

Regulations for Developments or Enlargements on Lots Divided by District Boundaries, Within or Partially Within the Theatre Subdistrict

Within the Theatre Subdistrict of the *Special Midtown District*, the provisions of Chapter 7 of Article VII (Special Provisions for Zoning Lots Divided by District Boundaries) are modified in part by the provisions of Section 81-746 (Special modification of provisions for zoning lots divided by district boundaries).

81-64

Inapplicability of Provisions for Height and Setback Modifications in Large-Scale Residential Developments

Within the *Special Midtown District*, the provisions of Chapter 8 of Article VII (Special Regulations Applying to Large-Scale Residential Developments) permitting the City Planning Commission to authorize the location of *buildings* without regard for height and setback regulations shall be inapplicable.

81-65

Inapplicability of Provisions for Height and Setback Modifications in Large-Scale Community Facility Developments

Within the *Special Midtown District*, the provisions of Chapter 9 of Article VII (Special Regulations Applying to Large-Scale Community Facility Developments) permitting the City Planning Commission to authorize the location of *buildings* without regard for height and setback regulations shall be inapplicable.

81-66

Special Permit Modifications of Section 81-40 and Section 77-00

On application, the City Planning Commission by special permit, after public notice and hearing and subject to Board of Estimate action, may permit modification of the mandatory district plan elements of Section 81-40 and the allocation of *floor area* without regard to the provisions of Section 77-22 irrespective of the date when the *zoning lot* was created, subject to the following:

distribution of floor area when a zoning lot is divided by a district boundary (Section 77-22). Any such modifications must be consistent with the basic strategy of the Special Midtown District and the purposes of the mandatory district plan elements.

The section is intended to provide a special opportunity for an exceptional development that would only be possible on a large cleared site. Thus, the occasional interruption of street wall and retail continuity may be desirable in order to create a single large open space. However, repetitious of large open spaces every few blocks would be contrary to the purposes of the retail and street wall continuity provisions and would therefore be ruled out.

The section is also intended to allow flexibility in the distribution of bulk on large sites divided by district boundaries. However, any modification of the Article VII, Chapter 7 regulations on allocation of floor area both sides of a district boundary must be consistent with the basic strategy of the Special Midtown District.

Since the primary purpose of the mandatory pedestrian circulation space requirements, subway stair relocation requirements and restrictions on major building entrance locations is to prevent or relieve sidewalk congestion, any modification of these requirements would have to deal more effectively with sidewalk congestion than the regulations themselves.

The purpose of this provision is to enable a large development to take full advantage of an exceptional design opportunity by providing a major design feature such as the large public open space provided by the Citicorp building on Lexington Avenue. The Commission must make certain findings to grant the special permit.

1. A substantial majority of the land must be vacant prior to the beginning of the ULURP review, and the modified regulations must result in a better arrangement of required facilities or a better site plan.
2. Siting of the building must be compatible with the character of surrounding development.
3. Any adverse impact on retail continuity must be minimized by the site plan.
4. The modifications must be consistent with the basic strategy of the Special Midtown District and the purposes of the mandatory district plan elements.

81-70 SPECIAL REGULATIONS FOR THEATRE SUBDISTRICT

STATUTORY TEXT

(a) The *lot area* of the *zoning lot* shall be at least 60,000 square feet and shall contain complete *wide street block* frontage, or such *zoning lot* shall occupy an entire *block*.

(b) The Commission shall make the following findings:

1. That the modifications of mandatory plan elements or *floor area* allocation result in a better arrangement of required facilities or in better site planning on a uniquely large *zoning lot*, a substantial majority of which is vacant at the time of certification for review pursuant to Section 197-c of the New York City Charter.
2. That the cleared portion of the *zoning lot* is of sufficient size to ensure that the design, scale and location of the new *buildings* or *enlarged buildings* is compatible with the character of the surrounding area and existing *buildings* to remain on the *zoning lot*.
3. That any adverse impact on retail continuity is minimized by a site plan which requires pedestrian-oriented *uses* along the boundaries of any open or enclosed public areas within the *development*.
4. That such modifications of mandatory plan elements or *floor area* allocation are consistent with the basic strategy of the *Special Midtown District* and the purposes of the Mandatory District Plan Elements.

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

No exception to the *street wall* or retail continuity requirements shall be permitted on Fifth Avenue or within 50 feet of Fifth Avenue within the *Special Midtown District*.

General Provisions

The regulations of the Special Midtown District are supplemented by special regulations applicable in the Theatre Subdistrict, which is the area bounded by West 57th Street, Avenue of the Americas, West 40th Street and Eighth Avenue. The purpose of these special regulations is to preserve the character of the Theatre District.

81-72 to 81-723**Use Regulations Modified**

In the portion of the Theatre Subdistrict south of 51st Street, special use regulations apply. In the rest of the subdistrict (north of West 51st Street) the use regulations of the underlying districts and the retail requirements of Section 81-42 apply.

81-721**Restrictions on ground floor uses**

Ground floor uses are limited to those specifically listed and permitted in the next section (Use Group T).

81-723**Use Group T**

This section lists permitted ground floor uses. Differences between the retail and service characteristics of wide and narrow streets are reflected in the list. A single asterisk identified uses which are restricted to narrow street frontages — generally service uses or community facilities. In addition, banks and travel bureaus are limited to not more than 15 percent of a zoning lot's wide street frontage. Uses permitted only on floors other than the ground floor are marked with double asterisks.

STATUTORY TEXT

81-71

General Provisions

The regulations of Sections 81-72 to 81-74, inclusive, relating to Special Regulations for the Theatre Subdistrict are applicable only in the Theatre Subdistrict, whose boundaries are shown on Map No. 2 (Special Midtown District and Subdistricts). They supplement or modify the regulations of this Chapter applying generally to the *Special Midtown District* of which the Subdistrict is a part.

In order to preserve and protect the character of the Theatre Subdistrict as a cultural and theatrical showcase as well as to help insure a secure basis for the useful cluster of shops, restaurants and related amusement activities, special incentives and controls are provided for the preservation and rehabilitation of existing theatres and the addition of new theatres, and special restrictions are placed on ground floor uses and signage within the Subdistrict.

81-72

Use Regulations Modified

Within that portion of the Theatre Subdistrict bounded by West 40th Street, Eighth Avenue, West 51st Street and Avenue of the Americas, *uses* which are created by new *development*, or which are *enlarged* or *extended*, or which result from a change of *use*, shall be subject to the provisions of this Section.

81-721

Restriction of ground floor uses

Uses located on the ground floor or entered by stairs from a sidewalk entry, except for lobby space or *uses* with no *street* frontage and accessible only through a lobby, shall be limited to *uses* listed in Use Group T.

81-722

Use Group T

The following *uses* are subject to the limitations on location and *floor area* of the underlying zoning district.

Uses marked with an asterisk (*) are allowed only on *narrow street* frontages.

Uses marked with double asterisks (**) are allowed only on floors other than the ground floor.

Use

Antique Stores

Apartment hotels - lobby space is limited to 20% of total *zoning lot* frontage on *wide streets*

*Appliance, repair shops - not permitted in C5 districts

Appliances, sales

Art galleries, *commercial*

*Art galleries, *non-commercial*

Art metal craft shops

Art needle work

Artists' supply stores

Athletic goods stores

*Automobile rental establishments - not permitted in C5 Districts

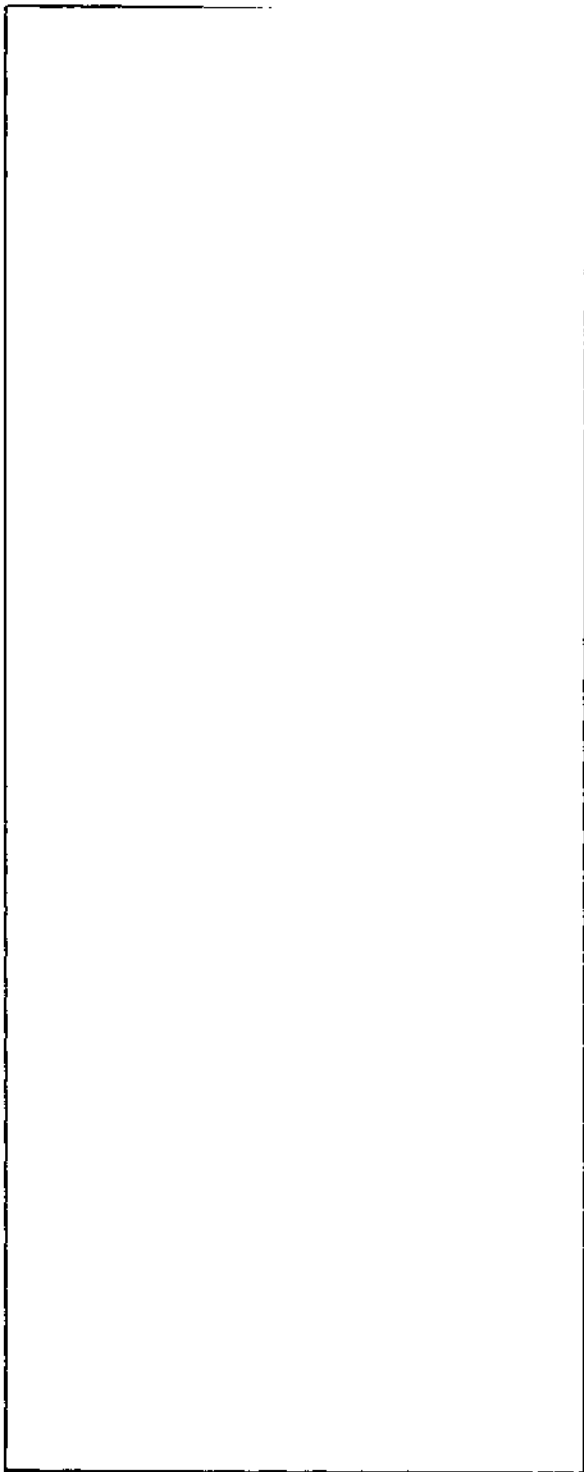
Bakeries

Banks - limited to 15% of total *zoning lot* frontage on *wide street*

*Banquet halls

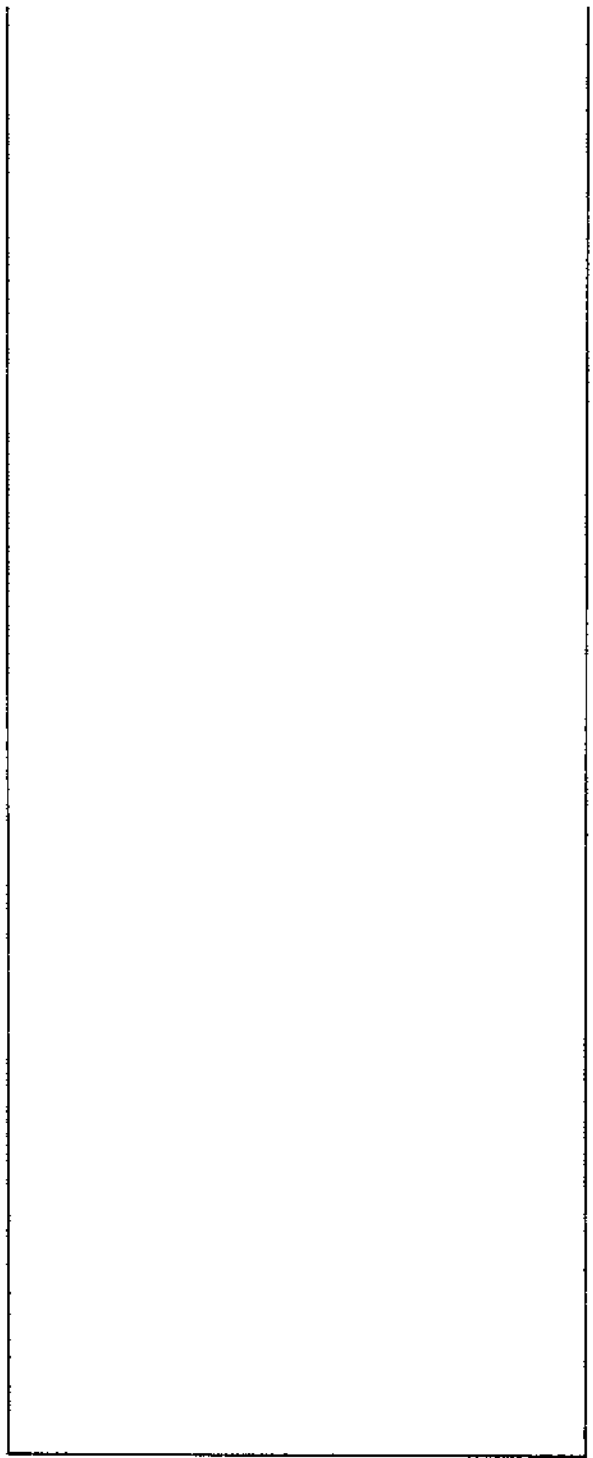
**Barber shops

**Beauty parlors



STATUTORY TEXT

- Bicycle stores, rental or repair, not permitted in C5 Districts
- Bicycle stores, sales
- *Blue printing establishments
- *Boarding houses
- Book stores or card stores
- *Bowling alleys— not permitted in C5 Districts
- **Business machines, small shops, rental, repairs, sales
- **Business schools or colleges
- Candy stores
- Carpet, rug, linoleum or other floor covering stores
- *Catering establishments
- *Churches
- Cigar stores
- Clock or watch stores or repair shops
- Clothing rental establishments
- Clothing stores
- *Clubs, non-commercial
- Coin stores
- *Colleges or universities
- *Community centers
- *Convents
- Costume rental establishments
- **Dance halls, public— not permitted in C5 Districts
- Delicatessen stores
- Dressmaking shops, custom
- Drug stores
- *Dry cleaning establishments
- Dry goods or fabric stores
- Eating or drinking places— with restrictions on entertainment or dancing in C5 Districts; without restrictions in C6 or M1 Districts
- *Fire stations
- Fishing tackle or equipment, stores or rental establishments
- Florist shops
- Food stores, including supermarkets, grocery stores, markets or delicatessen stores
- Furniture stores
- Furrier shops, custom
- Gift shops
- *Gymnasiums
- Hair products for headwear
- Hardware stores
- *Health centers
- Historical exhibits— not permitted in C5 Districts
- Hotels— lobby space limited to 20% of total zoning lot frontage on wide streets
- *Household appliance repair shops— not permitted in C5 Districts
- Ice cream stores
- *Institutions, philanthropic or non-profit
- Interior decorating establishments
- Jewelry shops
- Leather goods or luggage stores
- *Libraries
- Locksmith shops
- Luggage stores
- *Medical offices or group medical centers
- *Meeting halls
- Millinery shops
- *Motion picture production studios
- *Museums
- Music stores
- *Musical instruments, repair
- Newstands, enclosed
- Office or business machine stores, sales or rental



STATUTORY TEXT

- Offices—only lobby space is permitted at grade on *wide street* frontages; lobby is limited to 20% of total *zoning lot* frontage on *wide streets*
- Optician or optometrist establishments
- Orthopedic stores
- Paint stores
- *Parish houses
- *Parks, public or private
- **Parking* lots, *public*; *parking garages, public*, subject to the provisions of Section 81-30 (OFF-STREET PARKING AND OFF-STREET LOADING RESTRICTIONS)
- Pet shops
- *Phonographic repair shops— not permitted in C5 Districts
- Photographic developing or printing establishments
- Photographic equipment stores
- Photographic studios
- Photographic supply stores
- *Photostating establishments
- Picture framing stores
- *Police stations
- *Post offices
- *Printing establishments
- *Radio appliance repair— not permitted in C5 Districts
- Record stores
- *Recreation centers, non-commercial
- *Rectories
- Residences*—only lobby space is permitted at grade on *wide streets*; lobby space is limited to 20% of total *zoning lot* frontage on *wide streets*
- *Rooming houses
- *Schools
- *Settlement houses
- Sewing machine stores, selling household machines
- *Shoe repair shops
- Shoe stores
- *Sign painting shops— not permitted in C5 Districts
- *Skating rinks, indoor— not permitted in C5 Districts
- *Skating rinks, outdoor ice
- Sporting goods stores
- Stamp stores
- Stationery stores
- *Studios, music, dancing or theatrical
- *Studios, radio, or television
- *Table tennis halls— not permitted in C5 Districts
- Tailor shops, custom
- Telegraph offices
- *Television repair shops— not permitted in C5 Districts
- Theatre— A new motion picture theatre in a new or existing *building* shall provide a minimum of 4 square feet of waiting area within the *zoning lot* for each seat in such theatre. The required waiting space shall be either in an enclosed lobby or open area that is covered or protected during inclement weather and shall not include space occupied by stairs or space within 10 feet of a refreshment stand or entrance to a public toilet— not permitted in C5 Districts.
- Ticket sales
- Tobacco stores
- Tour operator
- Toy stores
- **Trade or other schools for adults
- *Trade expositions— not permitted in C5 Districts
- Travel bureau— limited to 15% of total *zoning lot* frontage on *wide streets*
- Typewriter stores
- *Typewriter or other small business machine repair stores
- Variety stores

81-723**Required use allocation on wide street frontages**

At least 80 percent of a lot's ground level frontage on a wide street must be allocated to uses indicated in Use Group T. The remaining 20 percent may be used for lobby space. Individual uses must have at least 10 feet of frontage and, except for theatres, not more than 40 feet.

81-73 - 81-733**Special Sign and Frontage Regulations and Off-Street Refuse Storage****81-731****Special regulations for signs, transparency, banners and canopies**

The portion of the Theatre Subdistrict south of West 51st Street is subject to special sign and frontage regulations on wide street frontages. At least 50 percent of every store front's area must be clear glass. This should encourage sidewalk activity and promote street security. The hostile effect of painted glass and the unsightly clutter of excessive window signs will be reduced by providing that not more than half of the window area may be painted or obstructed with signs. Signs attached to the exterior of a building must be not less than 10 feet above curb level, and outside display of banners or pennants is prohibited. Existing signs that do not conform to these regulations must be terminated within a year of the adoption of this regulation. Canopies on new buildings are not permitted. All these regulations are aimed at improving the appearance of store fronts on wide streets.

81-732**Special Times Square signage requirements**

The concentration of large advertising signs including illuminated and animated signs, is a key element in Times Square. To preserve this element, new developments and enlargements fronting on Times Square will be required to provide large signs with a minimum area related to the amount

STATUTORY TEXT

- Wallpaper stores
- *Wholesale establishments
- *Wholesale offices or showrooms

81-723

Required use allocation on wide street frontages

On any *wide street*, at least 80 percent of the ground level frontage on the *wide street* shall be allocated to *uses* indicated in Section 81-722 (Use Group T). Banks and travel bureaus, however, shall not constitute more than 15 percent of the *wide street* frontage of the *zoning lot*.

No single establishment shall have a *wide street* frontage of less than 10 feet or, except in the case of theatres, greater than 40 feet.

Lobby space is permitted on *wide street* frontages provided it does not comprise more than 20 percent of a development's *wide street* frontage. In addition to the 20 percent frontage limitation, a lobby frontage on a *wide street* shall not exceed 40 feet, but need not be less than 15 feet. *Uses* with no *street* frontage and which are accessible only through a lobby shall not be restricted to Use Group T *uses*.

81-73

Special Sign and Frontage Regulations

81-731

Special regulations for signs, transparency, banners and canopies

The following provisions apply along *wide street* frontages within that area of the Theatre Subdistrict whose boundaries are described in Section 81-72 (Use Regulations Modified):

- (a) At least 50 percent of the *street wall* surface of a *development* shall be glazed at the ground floor level with transparent material and not more than 50 percent of such transparent surface shall be painted or obstructed with *signs*. For the purpose of the glazing requirements, the *building's street wall* surface at the ground floor level shall be measured from the floor to the height of the ceiling or 14 feet above grade, whichever is less.
- (b) Below a level of 10 feet above *curb level*, *signs* shall not be permitted on the exterior of any establishment with the exception of theatres.
- (c) The display of banners or pennants from the exterior of new or existing *buildings* is prohibited.
- (d) Canopies (as defined in Section 692-f 6.0 of the Administrative Code) shall not be permitted on the exterior of any *development*.

For the purposes of this Section, any *signs*, including banners or pennants, which do not comply with the above regulations may be continued for one year after the effective date of this Section, provided that after the expiration of that period such *non-conforming sign* shall terminate; a *sign* which the Chairman of the City Planning Commission certified as an integral part of the *building* shall not be required to terminate.

81-732

Special Times Square signage requirements

- (a) All new *developments* located on *zoning lots* with frontage on Seventh Avenue or Broadway, from 42nd to 48th Streets, shall provide advertising or business signage consisting of one or more *signs* meeting the following requirements:

of frontage occupied by the development or enlargement. The signage is to be located between 20 and 150 feet above curb level. These signs must be illuminated between dusk and 1:00 A.M.

81-733

Special provisions for central refuse storage

A storage area for refuse must be provided within every new or enlarged building throughout the Theatre Subdistrict. The size of the storage area is related to the size of the zoning lot.

81-74

Special Incentives and Controls in Theatre Subdistrict

STATUTORY TEXT

- (1) The signage shall have a minimum aggregate *surface area* of 50 square feet for each linear foot of frontage on Broadway or Seventh Avenue and on intersecting crosstown *streets* up to the first 25 linear feet of frontage from either Broadway or Seventh Avenue, provided, however, that if the majority of the signage area is illuminated from within the *sign* itself and contains illuminated flashing words or a flashing product image, the minimum aggregate *surface area* shall be 35 square feet per linear foot of such frontage. If the *zoning lot* has frontage on both Broadway and Seventh Avenue and a third frontage on Times Square, the required minimum *surface area* shall be based on the total length of such three *street* frontages of the *zoning lot*.
 - (2) *Signs* shall have a lower limit of 20 feet and an upper limit of 150 feet above *curb level*. *Signs* may be located above the level of 150 feet but shall not count towards meeting the minimum *surface area* requirement.
 - (3) The *signage* shall provide a minimum aggregate illumination level on the entire *signage* surface of 35 foot candles per square foot from dusk until 1:00 a.m. daily.
- (b) For *enlargements* which add *floor area* amounting to a *floor area ratio* of at least 1.0, the *sign* requirements of this Section shall apply as follows:
- (1) If the *enlargement* adds *floor area* on top of an existing *building*, the minimum aggregate *surface area* of the required signage shall be determined in the same manner as for new *developments* on the basis of the length of the *zoning lot's* frontage as set forth in paragraph (a)(1).
 - (2) For an *enlargement* which adds to the *lot coverage* of an existing *building*, the minimum aggregate *surface area* of the required signage shall be determined in the same manner as for new *developments*, except that the *surface area* shall be based on the length of the frontage of the enlarged portion of the *building* on the *streets* as set forth in paragraph (a)(1).
 - (3) Location requirements and minimum illumination level of *signs* required for *enlargements* shall be as provided for new *developments* in paragraphs (a)(2) and (a)(3).
 - (4) Notwithstanding the provisions of subparagraphs (1), (2) or (3), on application, the Chairman of the City Planning Commission may authorize by certification a modification or waiver of such signage requirements for *enlargements* upon the applicant's showing of compelling necessity.

81-733

Special provisions for central refuse storage area

For all new *buildings* or enlarged portions of existing *buildings* located within the Theater Subdistrict, facilities shall be provided for central refuse storage within the *building*, and no refuse shall be stored outside the *building*.

In all cases there shall be an area for central refuse storage provided at the rate of 75 square feet for non-compressed refuse or 50 square feet for compressed refuse for each 10,000 square feet of lot area. Such area shall be ventilated.

For carting purposes, such central storage area shall be directly accessible on a 24-hour basis to loading berths, where provided, or to the exterior of the *building*. Furthermore, the central storage area shall be accessible at all times to all *uses* occupying space within the *building*.

Such area shall be exempt from calculation for *floor area* as defined in Section 12-10 (Floor Area—definition).

81-74

Special Incentives and Controls in Theatre Subdistrict

General Provisions

This section indicates the special permits and certifications available within the Theatre Subdistrict, and sets forth the limits on total bonus floor area. Bonuses may be for theatre related or non-theatre related features. The additional floor area from any bonus is limited to 20 percent of the basic maximum floor area ratio in the FAR 15 and 18 districts. In order to encourage theatre related amenities in the C6-4, C6-5 and M1-6 districts, the maximum bonus for such amenities is 44 percent of the basic maximum floor area ratio for commercial buildings. For providing non-theatre related features, the bonus in the C6-4, C6-5 and M1-6 districts is limited to 20 percent of the basic maximum floor area ratio, i.e. 2 F.A.R. In addition, in C6-4 and C6-5 districts, residential buildings or the residential portions of mixed buildings are limited to a floor area ratio of 10, unless theatre related features are provided, in which case they can reach a maximum of 12 FAR. For non-residential uses floor area allowances for urban parks or subway station improvements may be granted in the Theatre Subdistrict only after special certification by the Chairman of the City Planning Commission that alternative opportunities for theatre rehabilitation, preservation or new theatre construction are not available, or that, if available, the overriding public need is for the proposed urban park or subway station improvement.

STATUTORY TEXT

81-741

General provisions

(a) Special permits by the City Planning Commission

In the Theatre Subdistrict, the City Planning Commission, after public notice and hearing and subject to Board of Estimate action, may grant special permits:

- (1) authorizing *floor area* bonuses for new theatres in accordance with the provisions of Section 81-744;
- (2) authorizing *floor area* bonuses for rehabilitation of existing theatres in accordance with the provisions of Section 81-745;
- (3) authorizing transfer of development rights from *zoning lots* occupied by theatres which are designated landmarks in accordance with the provisions of Section 81-747;
- (4) authorizing *floor area* bonuses for through *block* galleries in accordance with the provisions of Section 81-748; or
- (5) authorizing demolition of theatres where permissible under the provisions of Section 81-742.

(b) Certification by the Chairman of the City Planning Commission

By certification of the Chairman of the City Planning Commission, the Special Provisions for *Zoning Lots Divided by District Boundaries* (Article VII, Chapter 7) may be modified in the case of *zoning lots* partly occupied by a listed theatre in accordance with the provisions of Section 81-746.

(c) Required assurances

All such authorizations by special permit or certification and involving new theatres or preservation of existing theatres shall be subject to the provisions of Section 81-743 (Required assurances for continuance of legitimate theatre use).

(d) Limits on total additional floor area

Except as otherwise provided in Section 81-212 (Special provisions for transfer of development rights from landmark sites), the total additional *floor area* permitted on the *zoning lot* by such special permit or certification, together with all bonus *floor area* or *floor area* derived from transferred development rights under other provisions of this Chapter, shall in no event exceed the maximum amount permitted by special permit as set forth in Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings).

(e) Limitations on non-theatre related bonuses in C6-4, C6-5 or M1-6 Districts

For *zoning lots* or portions thereof in C6-4, C6-5 or M1-6 Districts, the total amount of *floor area* derived from non-theatre related bonuses or other special *floor area* allowances pursuant to provisions of this Chapter other than those in Sections 81-744, 81-745, 81-746 or 81-747 relating to new theatres or the preservation of existing theatres shall not exceed a *floor area ratio* of 2.0.

(f) Theatre-related bonus floor area for residences in C6-4 and C6-5 Districts

For *zoning lots* or portions thereof in C6-4 or C6-5 Districts, some or all of the bonus *floor area* or other special *floor area* allowances permitted pursuant to the provisions of Sections 81-744, 81-745, 81-746 or 81-747 relating to the provision of new theatres or the preservation or rehabilitation of existing theatres may be allocated to a *residential building* or the *residential* portion of a *mixed building*, provided that the total *residential floor area ratio* with such *floor area* allowances shall not exceed 12.0.

81-742

Restrictions on demolition of theatres

The 44 theatres listed in this section may not be demolished unless they are unsafe or the City Planning Commission grants a special permit to allow demolition. In order to grant the special permit the Commission must find:

1. Demolition of the theatres will not harm the entertainment sector of the City's economy, and
2. The theatre needs substantial rehabilitation but is not eligible for tax abatement or other public assistance, and
3. The theatre is not capable of providing a reasonable return, and
4. There is a plan for new development on the zoning lot which development will include a new theatre or theatre supportive uses. A bond must be posted to ensure that construction begins within twelve months.

STATUTORY TEXT

(g) Certification for urban parks or subway station improvements

Within the Theatre Subdistrict, any application for a special permit pursuant to the provisions of Section 81-52 (Urban Parks) or Section 81-53 (Subway Station Improvements) shall be subject to prior certification by the City Planning Commission in accordance with Section 81-51 (General Provisions).

81-742

Restrictions on demolition of theatres

No demolition permit shall be issued by the Department of Buildings for any theatre listed in this Section as a "listed theatre," unless it is an unsafe *building* and demolition is required pursuant to the provisions of Chapter 26, Title C, Part I, Article 8 of the New York City Administrative Code. The theatres to which the provisions of this Section apply are predominantly free standing theatres with full stage and wings and are identified as listed theatres in Table 1 below.

TABLE 1
Listed Theatres
(Section 81-742)

<u>Theatre Name</u>	<u>Address</u>	<u>Block Number</u>	<u>Lot Number</u>
Alvin	250 West 52nd Street	1023	54
Ambassador	215 West 49th Street	1021	15
ANTA	245 West 52nd Street	1024	7
Barymore	243 West 47th Street	1019	12
Belasco	111 West 44th Street	997	23
Biltmore	261 West 47th Street	1019	5
Booth	222 West 45th Street	1016	15
Broadhurst	235 West 44th Street	1016	11
Broadway	1681 Broadway	1024	46
Brooks Atkinson	256 West 47th Street	1018	57
City Center	131 West 55th Street	1008	15
Cort	138 West 48th Street	1000	49
Ed Sullivan	1697 Broadway	1025	43
Eugene O'Neill	230 West 49th Street	1020	53
Forty-Sixth Street	226 West 46th Street	1017	48
Golden	252 West 45th Street	1016	58
Harris	226 West 42nd Street	1013	45
Henry W. Miller	124 West 43rd Street	995	45
Hudson	189 West 44th Street	997	15
Imperial	249 West 45th Street	1017	10
Liberty	234 West 42nd Street	1013	49
Little	240 West 44th Street	1015	51
Longacre	220 West 48th Street	1019	50
Lunt-Fontanne	205 West 46th Street	1018	20
Lyceum	149 West 45th Street	998	8
Lyric	213 West 42nd Street	1014	39
Majestic	245 West 44th Street	1016	5
Mark Hellinger	237 West 51st Street	1023	11
Music Box	239 West 45th Street	1017	11
Nederlander	208 West 41st Street	1012	30
New Amsterdam	214 West 42nd Street	1013	39
New Amsterdam Roof Garden	214 West 42nd Street	1013	39
New Apollo	234 West 43rd Street	1014	20
Palace	1564 Broadway	999	63
Plymouth	236 West 45th Street	1016	51
R. F. K.	225 West 48th Street	1020	14

81-743

Required assurance for continuance of legitimate theatre use

Floor area bonuses for the provision of new theatres or the rehabilitation or preservation of existing theatres are conditioned upon the existence of a signed lease from a prospective theatre operator, a binding commitment by the owner or a lessee for continued use as a legitimate theatre, and an approved maintenance plan.

81-744

Floor area bonus for new theatres

Additional floor area may be obtained by providing a new theatre on the zoning lot. In order to

STATUTORY TEXT

Royalce	242 West 45th Street	1016	55
St. James	246 West 44th Street	1015	54
Selwyn	229 West 42nd Street	1014	17
Shubert	225 West 44th Street	1016	15
Studio 54	254 West 54th Street	1025	58
Times Square	219 West 42nd Street	1014	20
Victory	209 West 42nd Street	1014	25
Winter Garden	1634 Broadway	1022	2

However, the City Planning Commission, by special permit after public notice and hearing and subject to Board of Estimate action, may permit demolition of a listed theatre provided that, in the case of a landmark theatre, such demolition is also authorized by the Landmarks Preservation Commission, and provided further that the City Planning Commission makes the following findings:

- (a) That loss of the theatre will not harm the entertainment sector of the City's economy, and
- (b) That the theatre is in need of substantial rehabilitation but is not eligible for assistance under any tax abatement or other publicly aided program, and
- (c) That the theatre is not capable of providing a reasonable return, and
- (d) That an acceptable program for new *development* of the *zoning lot* is submitted to the Commission, which indicates that the *zoning lot* as redeveloped will include either a new theatre or a *use* which will directly support neighborhood theatre business, such as, but not limited to, rehearsal space, recording facilities or theatre costume rentals, and that construction of the new *development* will commence within a period of 12 months from the completion of demolition, as evidenced by posting of a bond or other security payable to the City of New York and approved by the Corporation Counsel sufficient in amount to cover the cost of building a new theatre.

In the case of an existing legitimate theatre for whose construction bonus *floor area* was granted pursuant to regulations in effect prior to the effective date of this amendment, no provision of this amendment shall be construed as changing any previously existing responsibility of the owner or lessee of such theatre for continuance of its *use* as a legitimate theatre.

81-743

Required assurances for continuance of legitimate theatre use

As a condition for the issuance of any special permit under the provisions of Section 81-744 (Floor area bonus for new theatres), Section 81-745 (Floor area bonus for rehabilitation of existing listed theatres), or Section 81-747 (Transfer of development rights from landmark theatres), or the issuance of a certification under the provisions of Section 81-746 (Modification of special provisions for zoning lots divided by district boundaries), there shall exist:

- (a) a signed lease from a prospective theatre operator with credentials acceptable to the City Planning Commission for occupancy of the theatre and its operation; and
- (b) a legal commitment binding upon the owner and lessee of the theatre for continuance of its *use* as a legitimate theatre for the life of the related *development*; and
- (c) a plan and program for continuing maintenance approved by the Commission.

81-744

Floor area bonus for new theatres

The Commission by special permit may authorize bonus *floor area* for any new

grant this special permit the City Planning Commission must find: that if an existing theatre is destroyed, the development must result in a net increase in the number of theatres and theatre seats. Subject to the maximum F.A.R. for the district, the amount of the floor area bonus is at the discretion of the Commission after consideration of the type and size of the theatre related to the district's needs; any additional facilities to be provided, such as restaurants or rehearsal space; and provision for pedestrian circulation and automobile traffic. In determinations of this kind, both in this section and in other sections of the Theatre Subdistrict regulations, the Commission intends to rely on the advice of the Theatre District Advisory Board as it has in the past.

81-745

Floor area bonus for rehabilitation of existing listed theatres

Bonus floor area may be authorized by special permit of the City Planning Commission for the substantial rehabilitation of a listed theatre which is on the same zoning lot as the development. In order to qualify as substantial, the rehabilitation work must involve major interior structural changes so as to improve the theatre's design and commercial viability or constitute an historic restoration of the theatre's interior.

Bonus floor area may not exceed the maximum for the district, and the actual amount of bonus floor area granted by the Commission shall be in the Commission's discretion after consideration of the size and type of theatre, the cost of the rehabilitation, the degree of improvement achieved, and how much it contributes towards satisfying the needs of the Theatre Subdistrict.

STATUTORY TEXT

building that contains a new legitimate theatre or theatres, provided that the clearance and *development* of the *zoning lot* result in a net increase in the number of theatres and the number of theatre seats occupying the *zoning lot*.

The amount of the bonus *floor area* granted will be at the discretion of the Commission and after consideration of the following findings by the Commission:

- (a) whether the legitimate theatre or theatres are of a size and type which the Commission deems appropriate, under the circumstances pertaining at the time of the application, to achieve a balance of facilities responsive to the needs of the Subdistrict; and
- (b) whether the *development* includes facilities to support legitimate theatre operations such as rehearsal, studio or storage space; and
- (c) whether adequate special provision is made for pedestrian circulation beyond the provisions required by Section 81-45 (Provision of Pedestrian Circulation Space); and
- (d) whether adequate special provision is made for the circulation of vehicles in the area; and
- (e) whether the *development* includes restaurant facilities or other amenities useful to the Theatre Subdistrict.

Such bonus *floor area* shall not exceed 20 percent of the basic maximum *floor area* permitted on the *development's zoning lot* by the regulations of the underlying District, except that in the case of a C6-4, C6-5 or M1-6 underlying District, the bonus *floor area* shall not exceed 44 percent of the basic maximum *floor area* permitted in such underlying District.

The Commission may prescribe appropriate conditions and safeguards to enhance the character of the surrounding area.

Compliance with the provisions of Section 81-743 (Required assurances for continuance of legitimate theatre use) shall be a condition for issuance of a special permit under the provisions of this Section.

81-745

Floor area bonus for rehabilitation of existing listed theatres

The Commission by special permit may authorize bonus *floor area* for substantial rehabilitation or restoration of any theatre which is listed in Section 81-742 (Restrictions on demolition of theatres), in accordance with the provisions of this Section.

(a) Conditions for rehabilitation bonus

As a condition for the issuance of a special permit under the provisions of this Section, the following requirements shall be satisfied:

1. Location of Development

The *development* for which a theatre rehabilitation bonus is granted shall be located on the same *zoning lot* as the listed theatre.

2. Qualification of Substantial Rehabilitation

Substantial rehabilitation work qualifying for a *floor area* bonus shall consist of major interior structural changes for the purpose of improving a theatre's design and its commercial viability for legitimate theatre use, or historic restoration of the interior of a theatre which has been designated as an interior landmark. Substantial rehabilitation may include, without limitation, such work as expanding stage wings, raking the orchestra, increasing rehearsal, dressing room or lobby space, or historic restoration. It may also include reconversion to legitimate theatre use of an original legitimate

81-746

Modification of special provisions for zoning lots divided by district boundaries

An exception to the usual provisions applying to lots divided by district boundaries is made in the case of such a lot that includes an existing listed theatre to remain. Floor area permitted but not utilized on the theatre side of the district boundary may be transferred across the boundary to the development site. The amount of floor area that may be transferred to the development side of the district boundary is limited to 20 percent of the basic maximum floor area ratio that would be permitted on the new development side of the boundary.

To implement these provisions, a certification by the Chairman of the City Planning Commission is required. This will include a statement of the floor area on each side of the boundary and the amount to be transferred from one to the other side.

Restrictions upon further development of each portion of the zoning lot must be recorded against the zoning lot in the Office of the Register.

STATUTORY TEXT

theatre currently in other use. Substantial rehabilitation does not mean normal theatre maintenance, painting or improvements to mechanical systems alone.

3. Timing and commitment

- a. There shall be a contractual commitment or commitments for the construction work involved in the substantial rehabilitation;
- b. The requirements of Section 81-743 (Required assurances for continuance of legitimate theatre use) shall be satisfied;
- c. A rehabilitation bonus shall not be granted for a substantial rehabilitation completed before the effective date of this amendment.

(b) Amount of rehabilitation bonus

The amount of bonus *floor area* granted for a theatre rehabilitation shall be at the discretion of the City Planning Commission after consideration of the following findings by the Commission:

1. how and to what extent the proposed rehabilitation will improve the theatre's design and its commercial viability;
2. the size and type of theatre which is being rehabilitated;
3. the cost of the proposed rehabilitation; and
4. how the proposed rehabilitation will contribute toward satisfying the needs of the Theatre Subdistrict.

Such bonus *floor area* shall not exceed 20 percent of the basic maximum *floor area* permitted on the *development's zoning lot* by the regulations of the underlying district, except that in the case of a C6-4, C6-5 or M1-6 underlying District, the bonus *floor area* shall not exceed 44 percent of the basic maximum *floor area* permitted in such underlying District.

81-746

Modification of special provisions for zoning lots divided by district boundaries

For any *zoning lot* which includes a listed theatre as set forth in Section 81-742 (Restrictions on demolition of theatres) and which is divided by a boundary between districts with different *bulk* regulations, the Chairman of the City Planning Commission, by certification, may authorize modifications of the provisions of Section 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), Section 77-21 (General Provisions), Section 77-22 (Floor Area Ratio) and Section 77-25 (Lot Area or Floor Area Requirements), as follows:

For any *zoning lot*, whether or not it existed at the effective date of this zoning resolution or any applicable subsequent amendment thereto, *floor area* or *rooms* permitted by the applicable district regulations on that side of the district boundary occupied by the theatre may be located on the other side of the district boundary subject to the following conditions:

- (a) The amount of such *floor area* to be located on the other side of the district boundary shall not exceed 20 percent of the basic maximum *floor area ratio* of the district in which it is to be located.
- (b) The number of such *rooms*, if any, to be located on the other side of the district boundary shall not exceed the number permitted by the *floor area per room* requirements as set forth in Section 81-242 (Density regulations for residential and mixed buildings).
- (c) Compliance with the provisions of Section 81-743 (Required assurances for continuance of legitimate theatre use).

81-747

Transfer of development rights from landmark theatres

Section 74-79 allows development rights to be transferred from landmark sites to development sites by special permit of the City Planning Commission. Those regulations are modified in the Special Midtown District (Section 81-212), and there are additional modifications which apply in the Theatre Subdistrict to transfers of development rights from landmark theatres:

1. The unlimited utilization of development rights transferred from landmark sites, presently permitted in the FAR 15 districts, is extended under Section 81-212 to the new FAR 18 districts.
2. Development rights may be transferred from buildings which contain interior landmarks as well as from buildings which are themselves landmarks.
3. Throughout the Theatre Subdistrict, development rights may be transferred to a development site which is across the street from the landmark lot, or is linked to the landmark lot by a chain of zoning lots contiguous thereto or across the street therefrom, all in common ownership. Outside the Theatre Subdistrict such chain link transfers are only permitted in FAR 15 or 18 districts.
4. Development rights may be transferred to either a non-residential or a mixed building development.

All other existing provisions in Section 74-79 remain in effect as presently written. These include provisions for maintenance of the landmark and restrictions on further development for both the landmark site and the receiving site.

STATUTORY TEXT

The Chairman's certification approving modification of the provisions for *zoning lots* divided by district boundaries shall state the total amount of *floor area*, including *floor area* of the existing theatre, to be provided on the *zoning lot* as a whole, the portion thereof to be located in each district, and the amount authorized herein to be located across the district boundary from the district in which the theatre is located.

Notice of the restrictions upon further *development* of each portion of the *zoning lot* shall be recorded by the owner against the *zoning lot* in the Office of the Register of the City of New York (County of New York) and a certified copy shall be submitted to the Commission.

81-747

Transfer of development rights from landmark theatres

The City Planning Commission by special permit by authorize *development* rights to be transferred from *zoning lots* occupied by landmark *buildings* to other *zoning lots* proposed for new *developments* or *enlargements* in accordance with the provisions of Section 74-79 (Transfer of Development Rights from Landmark Sites), as modified by this Section and by Section 81-212 (Special provisions for transfer of development rights from landmark sites).

The limitations on development rights transferred to *development* sites from landmark sites, including sites of landmark theatres, are set forth in Section 81-212.

In the case of landmarks which are theatres and which are located in the Theatre Subdistrict, in addition to the modifications set forth in Section 81-212, the provisions of Section 74-79 are modified as follows:

- (a) "Landmark buildings" shall include *buildings* which contain interior landmarks as well as *buildings* which are themselves landmarks.
- (b) In all underlying districts throughout the Theatre Subdistrict, "adjacent lots" to which landmark theatre's development rights may be transferred shall be construed to include a contiguous lot or one which is across a *street* and opposite to another lot or lots, which except for the intervention of *streets* or *street* intersections, form a series extending to the lot occupied by the landmark *building*, all such lots being in the same ownership-fee ownership or ownership as defined under *zoning lot* in Section 12-10 (DEFINITIONS).
- (c) The provisions of paragraph 3 of Section 74-792 are further modified to provide that in any underlying district within the Theatre Subdistrict, the "adjacent lot" may be developed with either a *commercial* or a *mixed building*.

Where development rights are proposed to be transferred and exercised in accordance with the provisions of Section 74-79, as modified by this Section, the Commission, in addition to the findings required in paragraph 5 of Section 74-792, shall find that:

1. The series of intervening lots in common ownership leading to the "adjacent lot" include lots, identified by the Commission, which are occupied by listed theatres or by *uses* which directly support neighborhood theatre business, such as, but not limited to, rehearsal space, recording facilities or theatre costume rental facilities and that such *uses* will be continued or replaced by other legitimate theatres or theatre supportive *uses* as evidenced by covenants binding the owners of such lots, their successors and assigns to provide for such continuation or replacement; or
2. Useful circulation improvements or other public facilities will be provided and maintained on one or more of the lots comprising the series of intervening lots to accommodate pedestrian or vehicular traffic generated by legitimate theatres.

The Commission shall require the owner of any intervening lot on which special use restrictions are applicable or on which circulation improvements or other public facilities are to be provided and maintained to sign a written declaration of restrictions

81-748**Floor area bonus for through block galleries**

Bonus floor area is allowed as-of-right for through block galleries at the rate of six square feet per square foot of gallery area. The through block gallery must meet the locational restrictions and design standards of this section. Total bonus floor area is limited to FAR 1.0. The City Planning Commission must certify that the requirements of this section have been met.

Locational Restrictions

The through block gallery must connect two east/west streets in a through block corridor within the Theatre Subdistrict. It may only be located where a through block connection would be required by Section 81-46. It may be counted toward meeting the minimum pedestrian circulation space requirements in Section 81-45 up to a maximum, of 3,000 square feet.

Design Standards

A through block gallery is a covered pedestrian passageway between two streets. At each end it must be open and must connect to, and be level with, a sidewalk, sidewalk widening or urban plaza. The minimum height and width of the gallery vary with its length. There must be a clear pedestrian path at least 15 feet wide. Planters, art works, kiosks, tables and chairs, and similar amenities are permitted outside the minimum clear path. Skylights are required lighting at least 50 percent of the gallery. Seating is required for large galleries. Areas accessible to the public are required along the sides of the gallery.

STATUTORY TEXT

setting forth the obligations of the owner, his successors and assigns and providing a performance bond for the completion of any required improvements. The declaration of restrictions shall be recorded in the Office of the Register of the City of New York (County of New York) and the Commission shall be provided with a certified copy.

The provision of Section 74-79 empowering the Commission to grant variations in the front height and setback regulations is modified by the provisions of Section 81-266 (*Special permit for height and setback modifications*) or Section 81-277 (*Special permit for height and setback modifications*).

Compliance with the provisions of Section 81-743 (Required assurances for continuance of legitimate theatre use) shall be a condition for issuance of a special permit under the provisions of this Section.

81-748

Floor area bonus for through block galleries

Upon certification by the City Planning Commission that the requirements of this Section are satisfied, a *development* in the Theatre Subdistrict which provides a through *block* gallery shall be eligible for bonus *floor area* in the amount of six square feet for each square foot of through *block* gallery area, provided that in no case shall such bonus *floor area* exceed a *floor area ratio* of 1.0

A through *block* gallery is a continuous covered public space on a *zoning lot*, which connects two parallel or nearly parallel east-west *streets* and provides for through *block* pedestrian circulation as well as other pedestrian amenities appropriate to the Theatre Subdistrict. A through *block* gallery shall satisfy the following requirements:

(a) District plan requirements

It shall be located within a through *block* corridor as shown on Map 4 (Through Block Corridors) and satisfy the requirements of Section 81-46 (Through Block Connection). It may be counted toward meeting the minimum pedestrian circulation space requirements as set forth in Section 81-45 (Provision of Pedestrian Circulation Space) up to a maximum of 3,000 square feet. For any *zoning lot* on which a through *block* connection is not required by the provisions of Section 81-46, no bonus shall be allowed for a through *block* gallery.

(b) Location

At each end it shall adjoin and open onto a *street*, a sidewalk widening, a *plaza* or an urban plaza adjacent to the *street*. It shall provide continuous, unobstructed access from one end to the other.

(c) Elevation

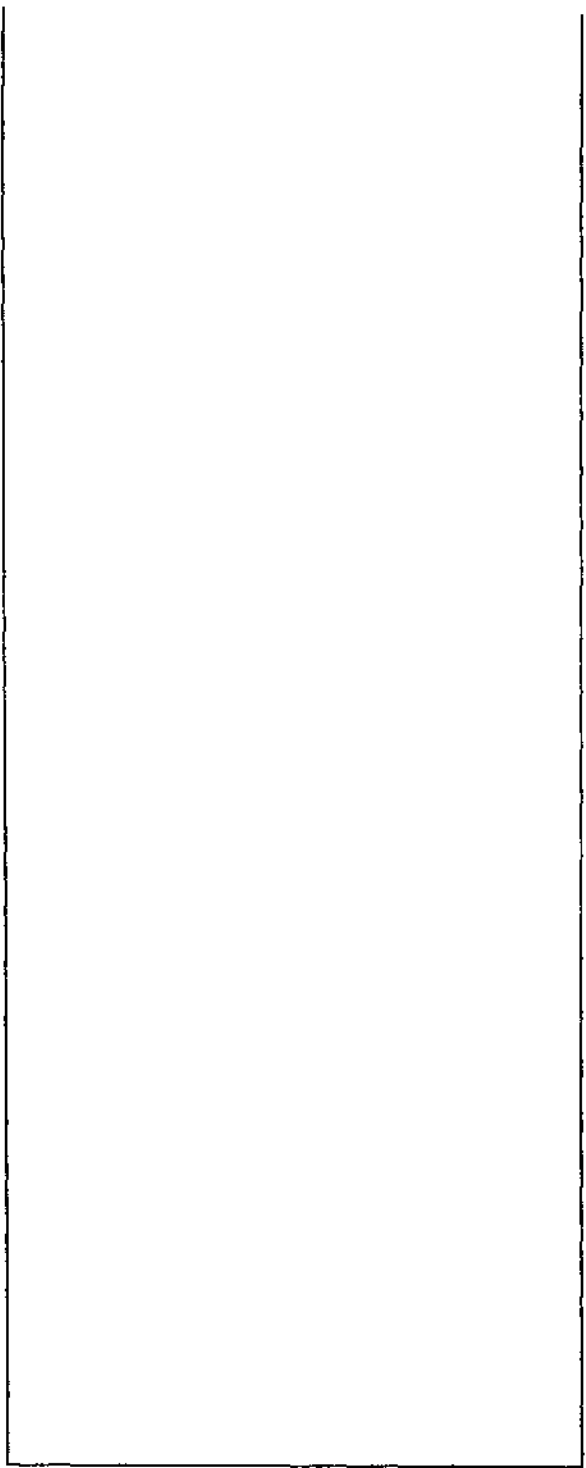
It shall have the same grade elevation at each end as the sidewalk, sidewalk widening or urban plaza which it adjoins. This elevation shall be maintained for at least 20 feet from the end, beyond which a grade change, if any, is permitted only to reconcile grade differences between the two ends. Provisions for changes in grade shall include ramps for wheelchair users with a maximum slope of one to twelve.

(d) Access

It shall be open at each end, with width and height of opening not less than the applicable minimum width and height set forth in paragraph (c). It may connect with, but not serve as, lobby space for a new *building* or a theatre. It shall be open to the public between the hours of 8:00 A.M. and 7:00 P.M. except for certain legal holidays (December 25, January 1 and July 4).

(e) Minimum dimensions

Minimum dimensions depend on the length of the through *block* gallery, as follows:



STATUTORY TEXT

	Through <i>Block</i> Galleria Length	
	less than 150 feet	150 feet or more
Minimum width	20 feet	25 feet
Average width	20 feet	30 feet
Minimum height	20 feet	25 feet
Average height	20 feet	30 feet

(f) Minimum clear path

Except as provided in paragraph (g) (Permitted obstructions) there shall be a straight path, clear of all obstructions, including door swings, extending from one end of the galleria to the other, with a minimum width of 15 feet. Where the through block galleria is adjoined at one or both ends by a sidewalk widening, *plaza* or urban plaza, such minimum width of clear path shall be continued across the adjoining open space to the *street line*.

(g) Permitted obstructions

- (1) Columns or posts are permitted obstructions provided that the minimum width of the through *block* galleria exclusive of column widths shall be 20 feet and that the clear path width is at least 15 feet or two clear paths are provided, the paths being separated by columns and each having a minimum width of 10 feet.
- (2) In areas outside the minimum clear path or paths, obstructions such as the following are permitted: planters, seating area, landscape features, fountains, works of art, food kiosks, litter receptacles, drinking fountains, lights or lighting stanchions, public telephones, temporary exhibitions, retractable awnings and canopies and movable tables and chairs, provided that the total area occupied by such obstructions is less than 50 percent of the total area of the through *block* galleria minus the required clear path area.
- (3) For through *block* gallerias with areas larger than 3,000 square feet, public seating is required. There shall be at least one linear foot of seating for each 20 square feet of through *block* galleria area in excess of 3,000 square feet. The design standards for seating shall be as set forth in Section 81-231 (Standards for urban plazas), paragraph (j). Eating or drinking service may be provided adjacent to but not within the through *block* galleria. All seating within the through *block* galleria shall be accessible to the public.
- (4) For through *block* gallerias with an average height of at least 45 feet, bridges or balconies are permitted as obstructions, provided that such bridges or balconies are at least 15 feet above the floor level of the galleria, the width of a bridge is not more than 8 feet, the width of a balcony is not more than 5 feet and the total area of such obstructions is not more than 10 percent of the total area of the galleria. Such obstructions may be enclosed provided that such enclosures are not more than 15 feet in height.

(h) Treatment of bounding walls

Along the length of a through *block* galleria, the bounding walls, except for walls along a *side lot line*, shall be lined insofar as possible with areas accessible to the public, display windows, or other exhibits, and such bounding walls shall be of transparent material. Walls along a *side lot line* may be treated with planting or other landscape features.

(i) Skylights

Skylights shall be provided having a minimum area equal to at least 75 percent of the area of the through *block* galleria. At least 50 percent of the galleria's area shall be lighted by such skylight and shall be unobstructed from the skylight itself to the sky.

81-80 SPECIAL REGULATIONS FOR FIFTH AVENUE SUBDISTRICT

81-81

General Provisions

The special regulations for developments within the Fifth Avenue Subdistrict supplement or modify the regulations applying throughout the Special Midtown District.

81-82

Special Regulations on Permitted and Required Uses

In order to protect the special retail function of Fifth Avenue, ground floor space is restricted to retail uses which reinforce the existing Fifth Avenue retail mix. Minimum floor area of 1.0 FAR must be occupied by these uses. The retail uses that may satisfy these requirements are set forth in Use Group F of this section. Only one-third of ground floor windows may be covered by signs.

STATUTORY TEXT

(j) Penalties for violations

Failure to comply with the conditions or restrictions of the bonused amenity shall constitute a violation of this resolution and shall constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

81-80 SPECIAL REGULATIONS FOR FIFTH AVENUE SUBDISTRICT

81-81

General Provisions

The regulations of Sections 81-82 to 81-84, inclusive, relating to Special Regulations for Fifth Avenue Subdistrict are applicable only in the Fifth Avenue Subdistrict, whose boundaries are shown on Map 2. They supplement or modify the regulations of this Chapter applying generally to the *Special Midtown District*, of which this Subdistrict is a part.

81-82

Special Regulations on Permitted and Required Uses

In order to insure the continued development and stability of department stores, specialty stores, boutiques and international stores, the following special limitations are imposed on the location and kinds of *uses* and *signs* permitted within the Fifth Avenue Subdistrict. These requirements and limitations shall apply to *developments, enlargements, extensions* or changes of *use*.

(a) Restriction on ground floor *uses*

For any *developments* located within the Fifth Avenue Subdistrict, *uses* located on the ground floor level or within five feet of *curb level*, except for lobby space, shall be limited to retail *uses* listed in Use Group F. This restriction shall not apply to *uses* permitted in the underlying district for which valid leases were executed prior to March 25, 1971, and to which a member of the bar of the State of New York shall attest.

(b) Minimum retail space requirement

Any *development* or portion thereof located within the Fifth Avenue Subdistrict shall contain *uses* listed in Use Group F with a *floor area ratio* of not less than 1.0. When existing *uses* listed in Use Group F are retained within a *development* or *enlargement*, their *floor area* may be counted toward such requirement. In order to count toward the requirement, retail or service establishments shall be located on levels up to but not exceeding a height of six *stories* or 85 feet, whichever is less, or not more than five feet below *curb level*.

(c) Use Group F

Use Group F comprises a group of retail establishments selected to promote and strengthen retail business in the Fifth Avenue Subdistrict.

Antique stores

Art galleries, *commercial*

Artists' supply stores

*Banks

Beauty parlors

Book or card stores

Candy stores

Clothing or clothing accessory stores, with no limitation on *floor area* per establishment

Department stores

Eating or drinking places, including those which provide outdoor table service or incidental musical entertainment either by mechanical device or by not more

81-83

Special Street Wall Requirements

In order to maintain a continuous street wall along Fifth Avenue, the building must be built to the street line to a height of at least 85 but not more than 125 feet above street level. There are additional height restrictions related to the heights of adjacent buildings.

STATUTORY TEXT

than three persons playing piano, organ, accordion, guitar, or any stringed instrument

Florist shops

Food stores, including supermarkets, grocery stores, meat markets, or delicatessen stores

Furrier shops, custom

Gift shops

Jewelry shops

Leather goods or luggage stores

Millinery shops

Music shops

Newsstands, open or enclosed

Optician or optometrist establishments

Package liquor stores

Photograph equipment or supply stores

Record shops

Shoe stores

Sporting or athletic stores

Stamp or coin stores

Stationery stores

Tailor or dressmaking shops, custom

Television, radio, phonograph or household appliance stores

Toy stores

* Travel bureaus

Variety stores

Watch or clock stores or repair shops

* Any *use* or *uses* marked with an asterisk shall occupy in the aggregate at the ground floor level no more than 15 percent of the linear *street* frontage of the *zoning lot* on or within 50 feet of Fifth Avenue and no more than 10 percent of the total *lot area* of the *zoning lot* within 50 feet of Fifth Avenue.

(d) Modifications of *use* regulations on *zoning lot* with no frontage on Fifth Avenue

For a *zoning lot* which has no frontage on Fifth Avenue, the mandatory retail *use* regulations of this Section may be modified for that portion of the *zoning lot* located more than 100 feet from the *street line* of Fifth Avenue, provided that the City Planning Commission certifies that the ground floor space is occupied by a *community facility use* which maintains front wall transparency up to a height of one *story* above the abutting sidewalk level generating pedestrian interest and activity, and is compatible with the character and objectives of the Fifth Avenue Subdistrict. In no event shall the *street line* frontage occupied by such *use* exceed 30 feet.

(e) The following special *sign* regulations apply to existing as well as new establishments or *uses*.

(1) The aggregate area of all *signs* in ground floor store windows is restricted to not more than one-third of the window area.

(2) The display of banners or pennants from the exteriors of *buildings* is prohibited.

81-83

Special Street Wall Requirements

The *street wall* of any *building* with frontage on Fifth Avenue shall extend without setback from the Fifth Avenue *street line* for at least 90 percent of the entire length of the *front lot line*. The *street wall* shall reach a minimum required height of 85 feet and shall not exceed a height of 125 feet at or within 10 feet of the *street line*.

Where a new *development* or *enlargement* occupies less than an entire *block* front of Fifth Avenue frontage, the height of the *street wall* at the *street line* shall be not more

81-84

Mandatory Regulations and Prohibitions

The provisions of this section are intended to ensure the vitality of retail uses on Fifth Avenue, by limiting interruptions in the street wall and retail continuity. Hotel, office and apartment lobbies are not permitted on Fifth Avenue unless the building is inaccessible from another street. Urban plazas are also prohibited along the Fifth Avenue frontage. Off street parking is prohibited within the Fifth Avenue Subdistrict, and access to off-street loading berths is not permitted from Fifth Avenue.

81-90 PRESERVATION SUBDISTRICT

The area located between 53rd and 56th Streets, between Fifth Avenue and Sixth Avenue, is characterized by low-scale, landmark-quality development and a variety of uses including shops, res-

STATUTORY TEXT

than 10 feet above or below the height of the adjacent existing *building* at the *street line*. If the new *development* or *enlargement* is on an *interior lot* between two existing adjacent *buildings* of different heights, the height of the new *development* or *enlargement's* *street wall* at the *street line* shall be not more than 10 feet above or below the *street wall* height of one of the adjacent *buildings* at the *street line*. However, this shall not be construed to permit a *street wall* height of less than 85 feet or more than 125 feet at the *street line*.

For the purpose of calculating the maximum *street wall* height on the *narrow street* frontage of a *corner lot* by the weighted average method, as set forth in paragraph (b) of Section 81-262 (Maximum height of front wall at the street line), the maximum *street wall* height generally applicable along the *narrow street* shall be averaged with a height of 150 feet for the first hundred feet from the *street line* intersection, provided that no actual *street wall* either on the Fifth Avenue or on the *narrow street* frontage shall exceed a height of 125 feet at the *street line*.

Below the minimum required *street wall* height, recesses are limited to not more than 10 feet in depth and the aggregate area of recesses between two and 10 feet in depth shall not exceed 30 percent of the area of the *street wall* below minimum *street wall* height. The aggregate area of all recesses shall not exceed 50 percent of the area of the *street wall*. For the area above the minimum required *street wall* height, recesses are not restricted.

Above a height of 125 feet, a *street wall* shall be set back not less than 10 feet from the *street line*.

81-84

Mandatory Regulations and Prohibitions

The following requirements listed in this Section shall apply to all *developments*, *enlargements*, *extensions* or changes of *use* within the Subdistrict.

(a) Pedestrian access to *uses*

No access from the Fifth Avenue *street line* or within 50 feet of the Fifth Avenue *street line* shall be permitted to lobbies for office, *residential* or *hotel uses* or to any new *use* not listed in Use Group F, except when the *zoning lot* is inaccessible from any other *street*, in which case the total amount of frontage occupied by lobby space or entrance space for such *uses* shall not exceed 40 feet or 25 percent of the *building's* total *street* frontage, whichever is less.

No urban plaza or any part thereof shall be permitted on or within 50 feet of the Fifth Avenue *street line*.

(b) Off-street parking regulations

No off-street parking facilities are permitted within the Fifth Avenue Subdistrict.

(c) Off-street loading regulations

In no event shall access to *accessory* off-street loading berths be permitted on or within 50 feet of the Fifth Avenue *street line*. Beyond 50 feet from the Fifth Avenue *street line*, for any *development* requiring three or more *accessory* loading berths, such berths shall be located below *street* grade. Access to such berths, however, shall be permitted at *street* grade.

Interior lots with a frontage only on Fifth Avenue or only on a *wide street* shall not contain loading berths.

81-90 SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT

In order to conform with the existing scale and character of the Preservation Subdistrict, any *development* or *enlargement* located in the underlying C5P District shall be limited to a maximum *floor area ratio* of 8.0. For all purposes other than as set forth in this Section, the R10 District regulations shall apply to any portion of a *development* or *enlarge-*

taurants, museums and residences. In order to protect the unique character of this area, it has been designated a Preservation Subdistrict, and it has been downzoned from FAR 10 to FAR 8 to reflect the scale of existing development. In addition, new development in the Preservation Subdistrict must conform to special street wall regulations and to the existing sky exposure plane provisions. Alternate sky exposure plane and tower regulations are not applicable, since these would be inconsistent with the objectives of a well defined street wall and a moderate scale of development.

11-12

Establishment of Districts

This establishes a six new zoning districts: C5P, C5-2.5, C6-4.5, C5-3.5, C6-6.5 and C6-7.5

12-10 DEFINITIONS

Defines the Special Midtown District. This Special District contains special regulations which are applicable only within the boundaries of the district, and apply in addition to the general regulations which are applicable.

STATUTORY TEXT

ment containing residential uses.

1. Mandatory street walls

The *street wall* of any residential or non-residential development or enlargement on a zoning lot shall be built to the *street line* along the full length of the *front lot line* to a minimum height of 72 feet above the *curb level* or the full height of the *building*, whichever is less. Above a height of 85 feet, the *street wall* shall be set back at least 15 feet from the *street line* and shall be subject to the *sky exposure plane* regulations of Section 33-432 (In other commercial districts) applicable in C5 Districts. The provisions of Section 33-44 (Alternate Front Setbacks) and Section 33-45 (Tower Regulations) are not applicable in the Preservation Subdistrict.

On application, the City Planning Commission may grant special authorization for minor modifications of the mandatory *street wall* provisions of this Section as applied to an *enlargement*, upon the applicant's showing of compelling necessity. Such authorization, however, may in no event include modification of permitted *floor area* regulations.

2. Residential requirements

Where a development or enlargement contains residential uses, there shall be no more than one room for every 300 square feet of gross residential floor area, and the lot area requirements of Sections 23-20 and 35-41 shall not apply.

11-12

Establishment of Districts

* * *

C5-1 Restricted Central Commercial District
C5P Restricted Central Commercial District

C5-2 Restricted Central Commercial District
C5-2.5 Restricted Central Commercial District

C5-3 Restricted Central Commercial District
C5-3.5 Restricted Central Commercial District

* * *

C6-4CR General Central Commercial District
C6-4.5 Restricted Central Commercial District
C6-5 General Central Commercial District

* * *

C-6CR General Central Commercial District
C6-6.5 Restricted Central Commercial District
C6-7 General Central Commercial District
C6-7CR General Central Commercial District
C6-7.5 Restricted Central Commercial District
C6-8 General Central Commercial District

* * *

Establishment of the Special Midtown District

In order to carry out a special purpose of this Resolution as set forth in Article VIII, Chapter 1, the Special Midtown District is hereby established.

12-10 DEFINITIONS

* * *

Special Midtown District

The "Special Midtown District" is a Special Purpose District designated by the letters MiD, in which special regulations set forth in Article VIII, Chapter 1 apply. The *Special*

23-01, 24-01, 26-02

27-01, 31-20, 33-01

These sections contain cross-references from other parts of the Zoning Resolution to the Special Midtown District regulations. They clarify the applicability of the Special Midtown District regulations and the inapplicability or modification of some underlying district regulations.

STATUTORY TEXT

Midtown District appears on the *zoning maps* superimposed on other districts, and its regulations supplement and modify those of the districts on which it is superimposed.

23-01

Applicability of this Chapter

* * *

In the *Special Midtown District*, certain provisions of this Chapter which would otherwise be applicable by cross-reference from Article III are modified as specifically set forth in Article VIII, Chapter 1.

24-01

Applicability of this Chapter

* * *

In the *Special Midtown District*, certain provisions of this Chapter which would otherwise be applicable by cross-reference from Article III are modified as specifically set forth in Article VIII, Chapter 1.

* * *

26-02

Applicability of this Chapter

In the *Special Midtown District* (Article VIII, Chapter 1), the provisions of this Chapter shall not apply.

* * *

27-01

Applicability of this Chapter

* * *

In the *Special Midtown District* (Article VIII, Chapter 1), the provisions of this Chapter shall not apply.

* * *

31-20 SPECIAL MIDTOWN DISTRICT

The regulations regarding C5P, C5-2.5, C5-3.5, C6-4.5, C6-6.5 and C6-7.5 districts and any other underlying districts within the *Special Midtown District* are set forth in Article VIII, Chapter 1, (Special Midtown District).

* * *

33-01

Applicability of this Chapter

In the *Special Midtown District*, certain provisions of this Chapter are modified as specifically set forth in Article VIII, Chapter 1.

* * *

33-124

Termination of districts with basic FAR of 18.0

Three new zoning districts, C5-3.5, C6-6.5 and C6-7.5, with basic maximum FAR's of 18, have been created in the growth area west of Avenue of the Americas. It is intended that these districts will terminate and revert to FAR 15 six years after the effective date of the Special Midtown District, unless extended at that time by zoning amendment.

34-01, 35-01, 37-01, 38-01

43-01, 73-11, 73-61, 74-01

These sections contain cross-references from other parts of the Zoning Resolution to the Special Midtown District regulations. They clarify the applicability of the Special Midtown District regulations and the inapplicability or modification of some underlying district regulations.

STATUTORY TEXT

33-124

Termination of districts with basic maximum floor area ratio of 18.0

Before the sixth anniversary of this amendment's effective date, the City Planning Commission will conduct a review of the development that has taken place under the regulations of the *Special Midtown District*. Special attention will be given to the impacts of development in the highest density districts C5-3.5, C6-6.5 and C6-7.5 and to the effects of the *Special Midtown District's* height and setback regulations. The Commission will hold a public hearing on these aspects of Midtown development approximately six months before the sixth anniversary.

The purpose of the C5-3.5, C6-6.5 and C6-7.5 districts is to stimulate for a limited period the growth of intensive central commercial development in such districts. The duration of these districts is limited because of the overriding concern for the protection of central commercial areas from the congestion which could result from long-continued development at exceptionally high density. Therefore, on the sixth anniversary of this amendment's effective date, the C5-3.5, C6-6.5 and C6-7.5 districts shall be terminated and the areas where these districts are mapped shall be designated as C5-3, C6-6 and C6-7 districts respectively. The regulations of the newly designated districts will take effect upon revision of the *zoning maps* in accordance with the provisions of Section 75-00 (PROCEDURE FOR AMENDMENTS).

34-01

Applicability of this Chapter

* * *

In the *Special Midtown District*, certain provisions of this Chapter are modified as specifically set forth in Article VIII, Chapter 1.

* * *

35-01

Applicability of this Chapter

* * *

In the *Special Midtown District*, certain provisions of this Chapter are modified as specifically set forth in Article VIII, Chapter 1.

* * *

37-01

Applicability of this Chapter

* * *

In the *Special Midtown District*, (Article VIII, Chapter 1), the provisions of this Chapter shall not apply.

* * *

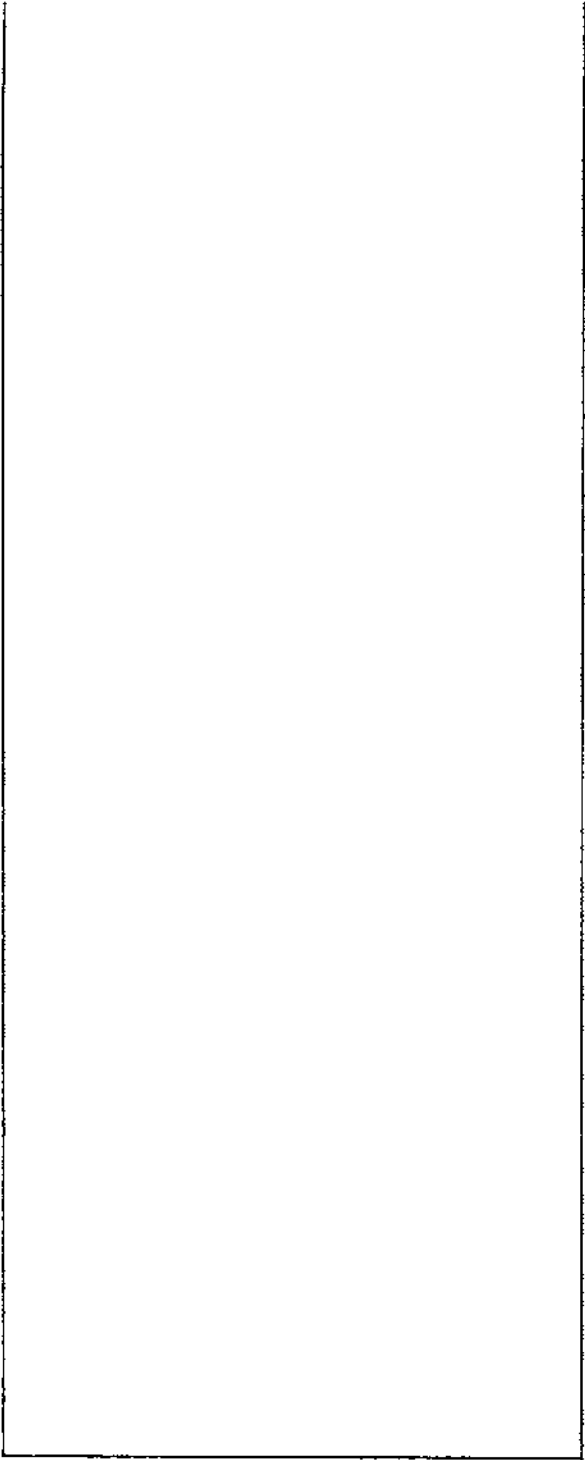
38-10

APPLICABILITY OF ARTICLE II, CHAPTER 7

* * *

In the *Special Midtown District*, (Article VIII, Chapter 1), the provisions of this Chapter shall not apply.

* * *



STATUTORY TEXT

43-01

Applicability of this Chapter

* * *

In the *Special Midtown District*, certain provisions of this Chapter are modified as specifically set forth in Article VIII, Chapter 1.

* * *

73-11

General Provisions

* * *

In the *Special Midtown District*, the powers of the Board to permit special permit uses are modified by the provisions of Section 81-13 (Special Permit Use Modifications) and Section 81-61 (Applicability of Chapter 3 of Article VII).

73-61

General Provisions

* * *

In the *Special Midtown District*, the powers of the Board to permit modification of the *bulk* regulations are made inapplicable in accordance with the provisions of Section 81-61 (Applicability of Chapter 3 of Article VII).

* * *

74-01

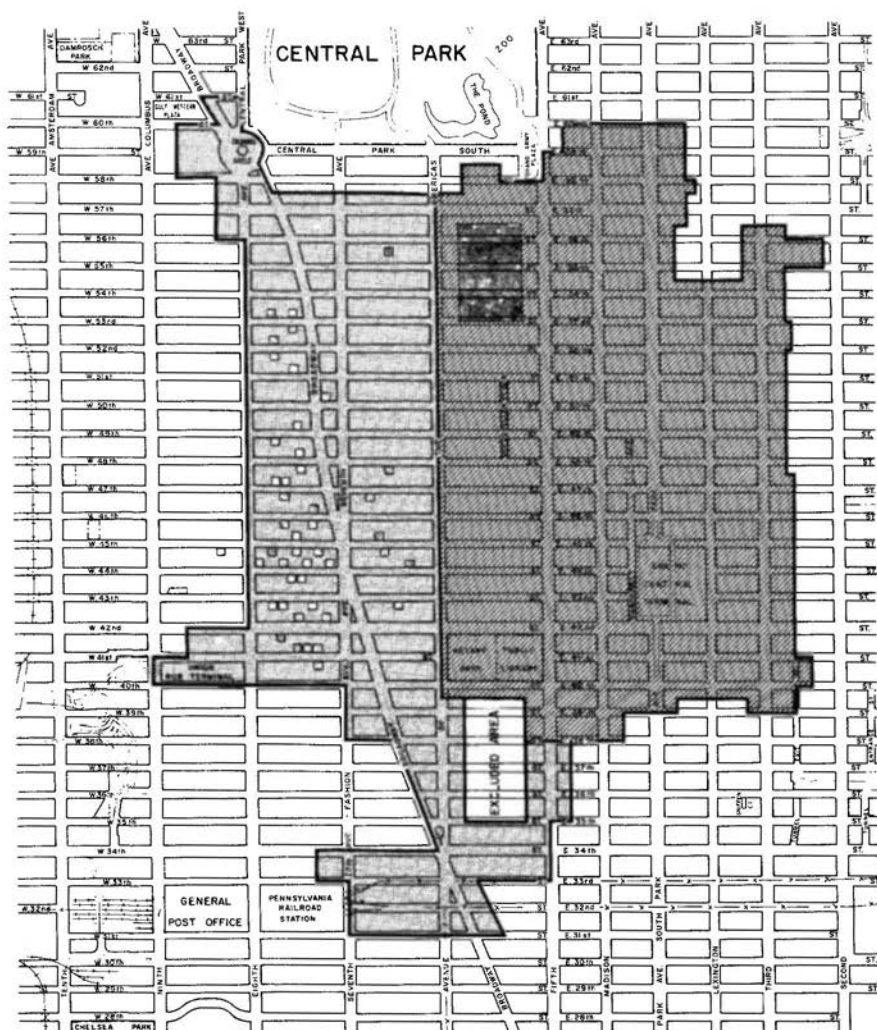
General Provisions

* * *

In the *Special Midtown District*, the powers of the Commission to permit special permit uses are modified by the provisions of Section 81-13 (Special Permit Use Modifications), and the powers of the Commission to permit modification of the *bulk* regulations or grant *bonus floor area* for certain amenities are made inapplicable or modified in accordance with the provisions of Section 81-62 (Applicability of Chapter 4 of Article VII).

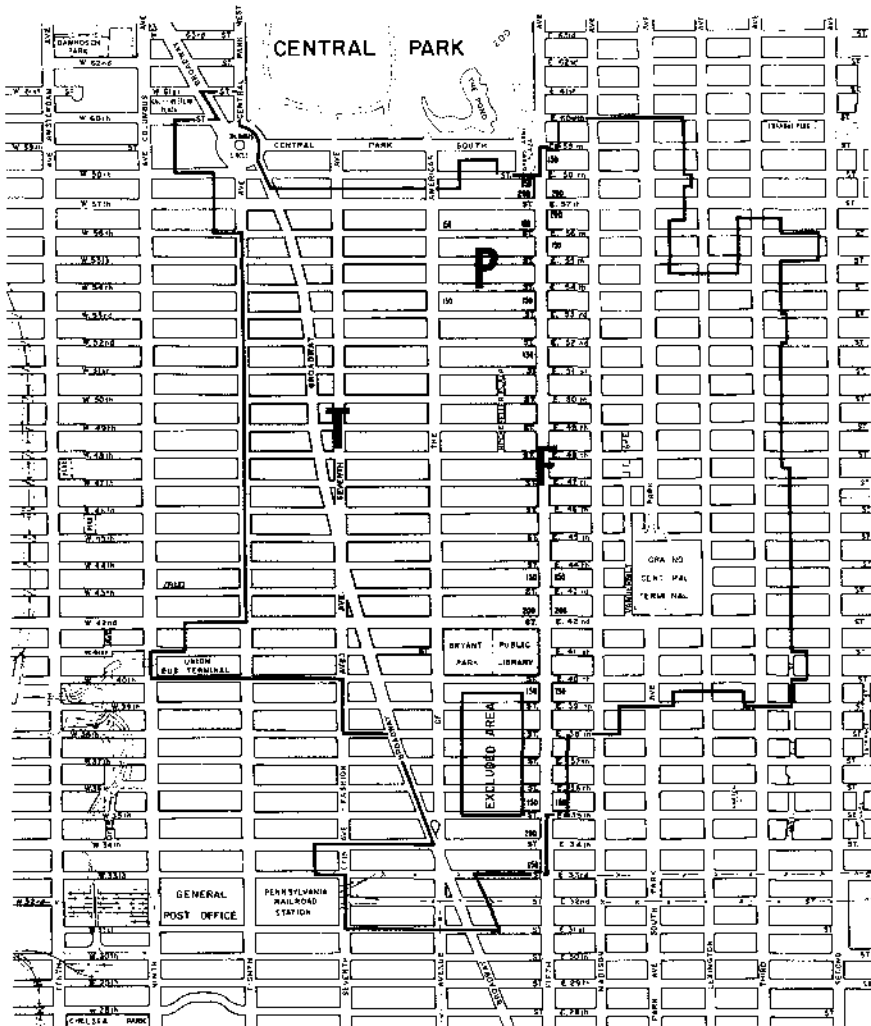
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APPENDIX A DISTRICT MAPS 1 TO 5



MIDTOWN DISTRICT PLAN
MAP I - DEVELOPMENT STRATEGY

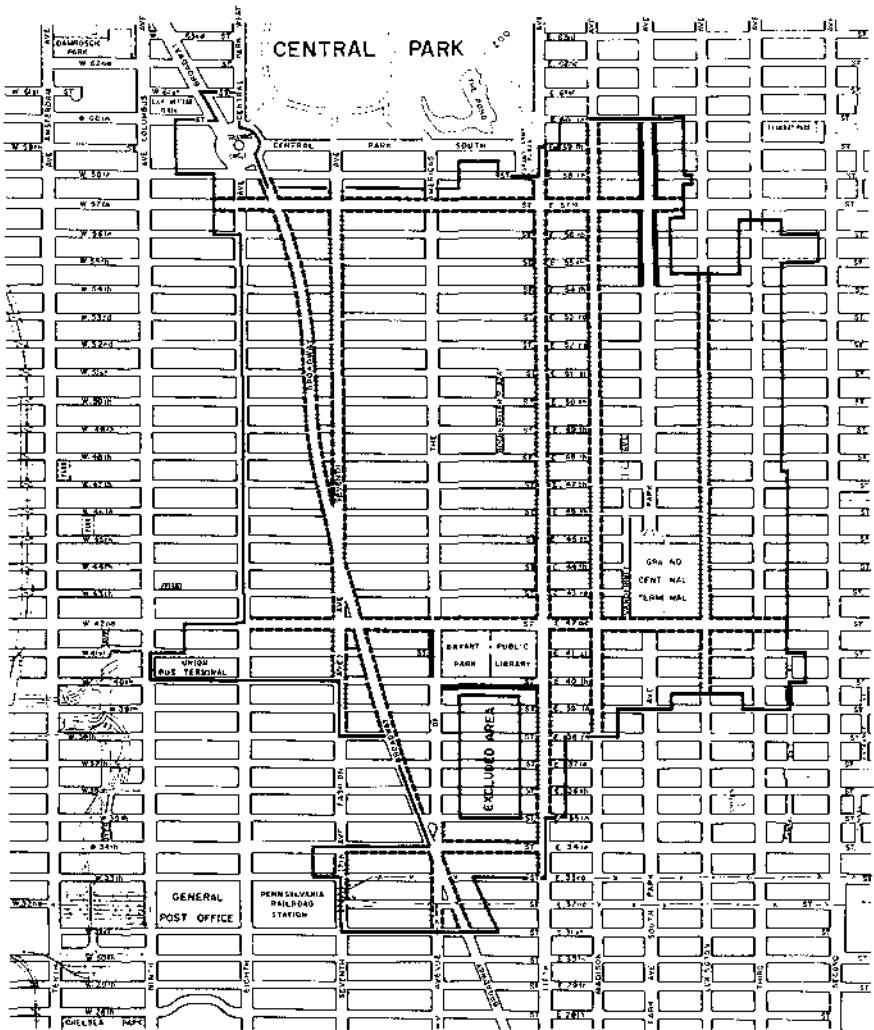
- GROWTH
- STABILIZATION
- PRESERVATION



MIDTOWN DISTRICT PLAN

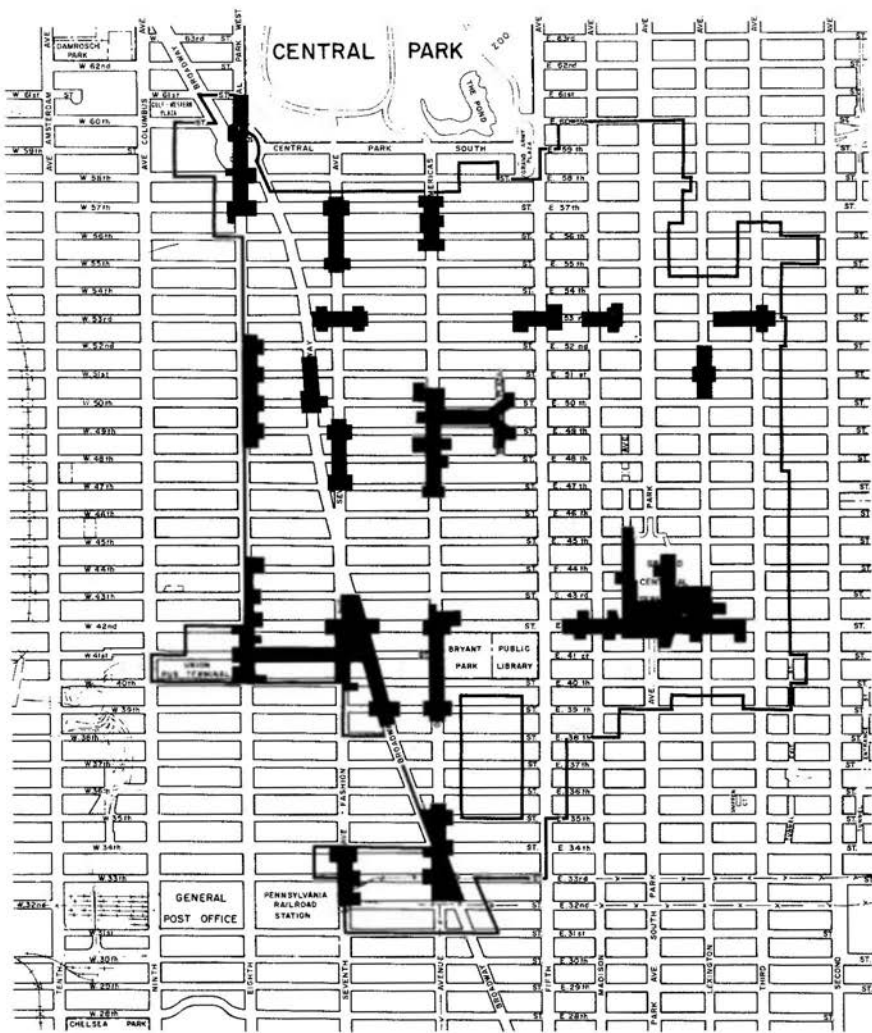
MAP 2 - SPECIAL MIDTOWN DISTRICT AND SUB DISTRICTS

- F FIFTH AVENUE SUB DISTRICT
- T THEATRE SUB DISTRICT
- P PRESERVATION SUB DISTRICT

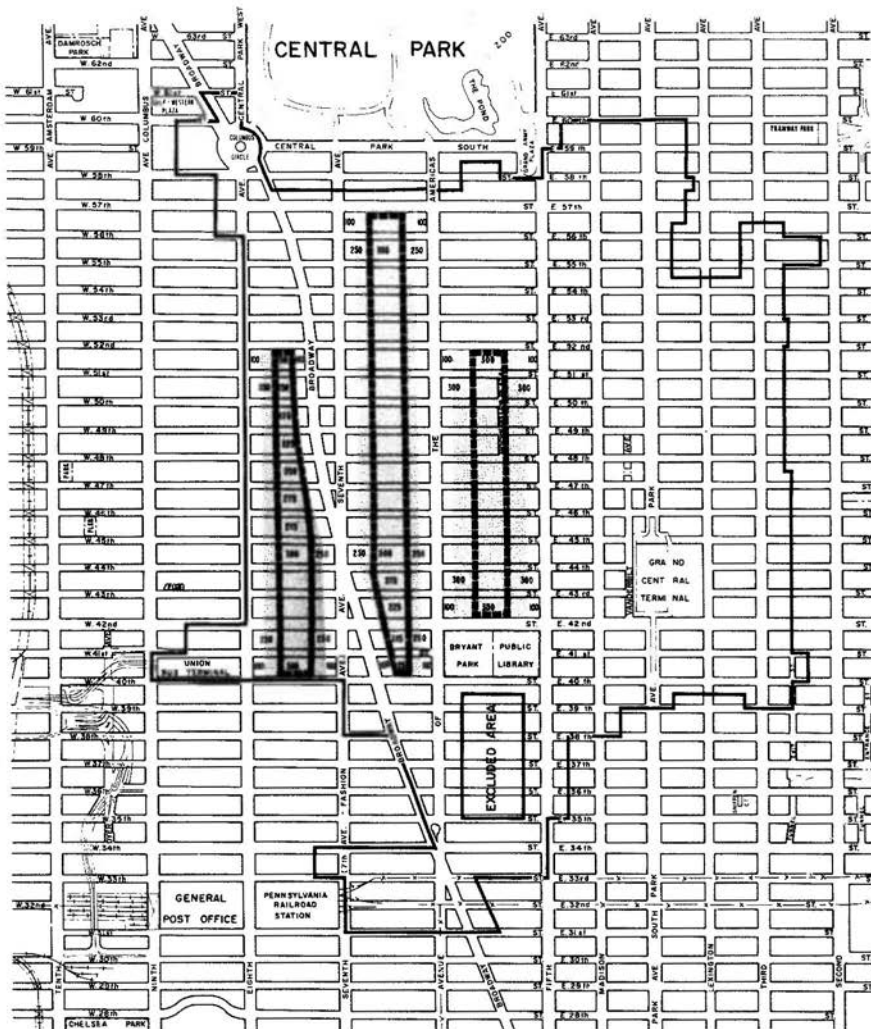


MIDTOWN DISTRICT PLAN
 MAP 3 - RETAIL AND STREET WALL CONTINUITY

- RETAIL AND STREET WALL CONTINUITY REQUIRED
- STREET WALL CONTINUITY ONLY REQUIRED



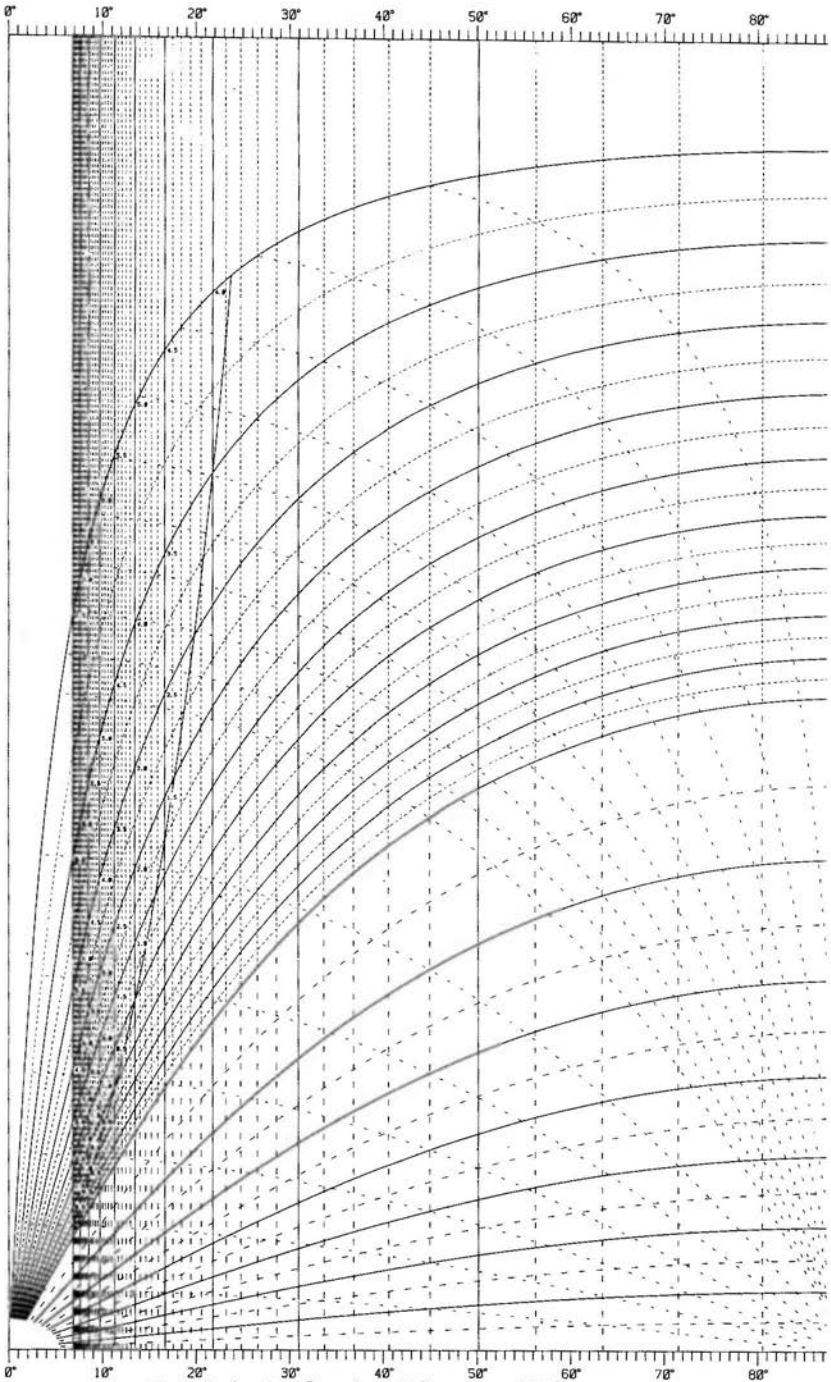
MIDTOWN DISTRICT PLAN
MAP 4 - SUBWAY STATION IMPROVEMENT AREAS



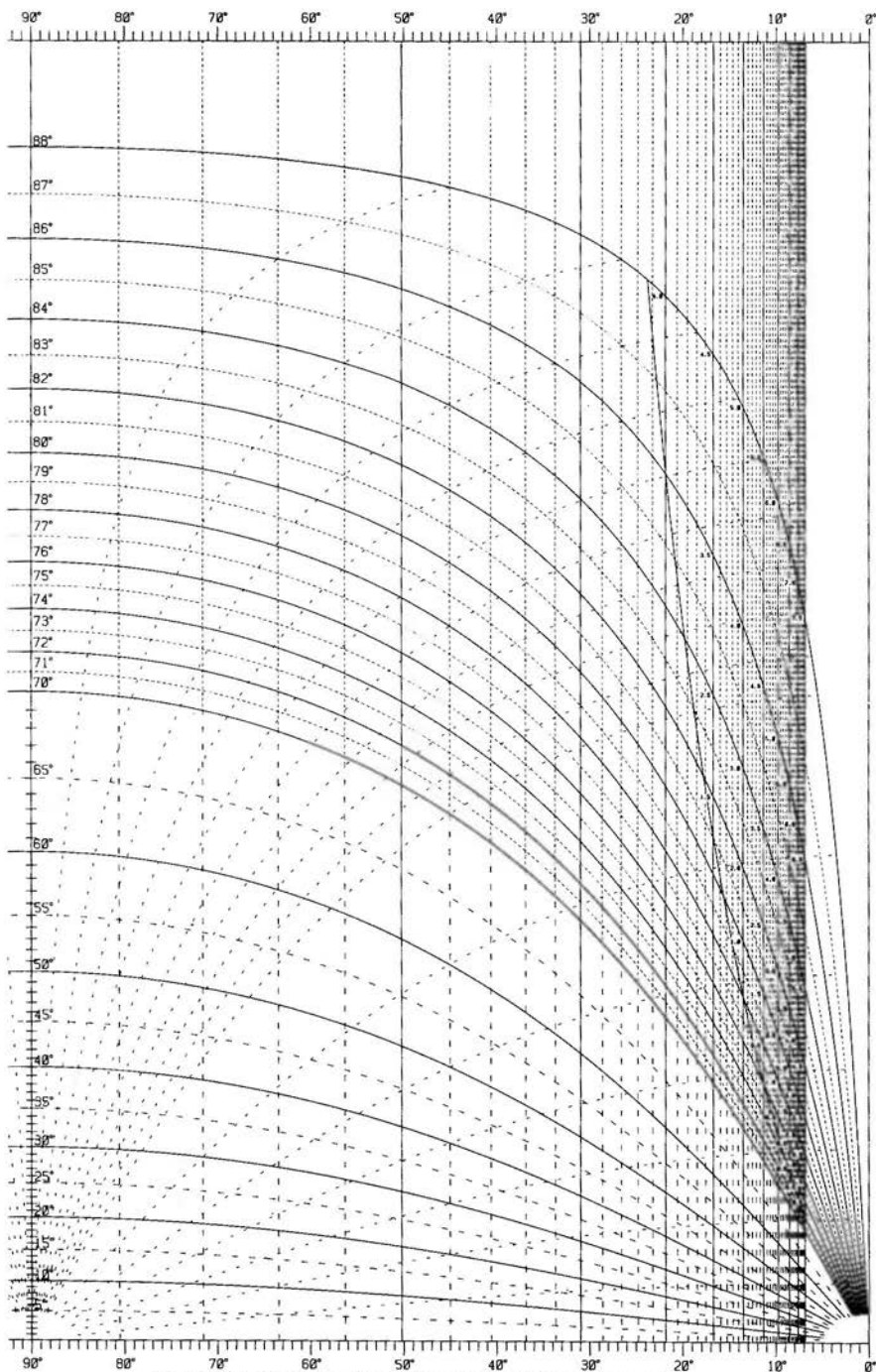
MIDTOWN DISTRICT PLAN
 MAP 5 - THROUGH BLOCK CORRIDORS

THROUGH BLOCK CORRIDOR
 THROUGH BLOCK BAND

APPENDIX A (continued)
DAYLIGHT EVALUATION CHARTS 1 TO 3

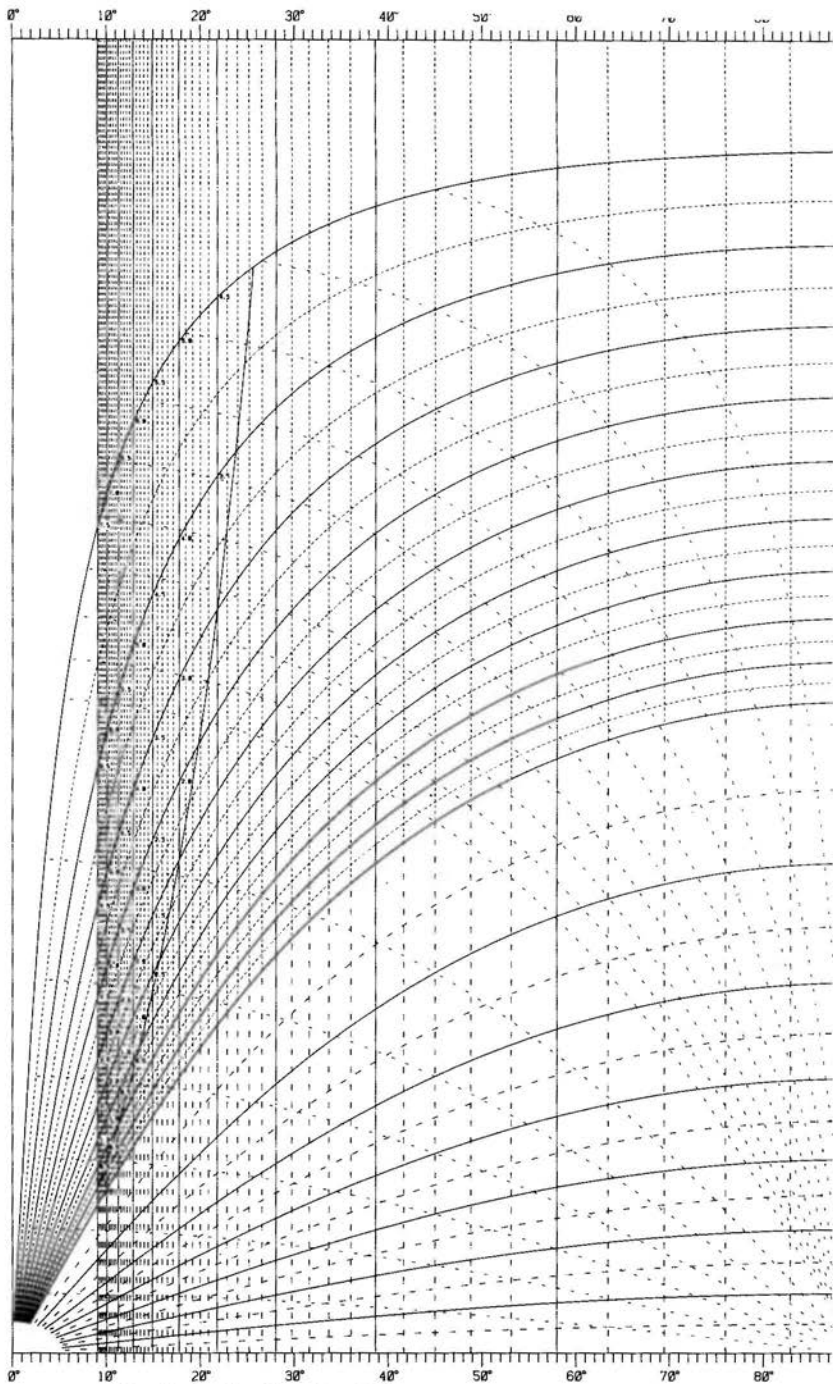


**Daylight Evaluation Diagram, 60 foot street
(Left Half)**

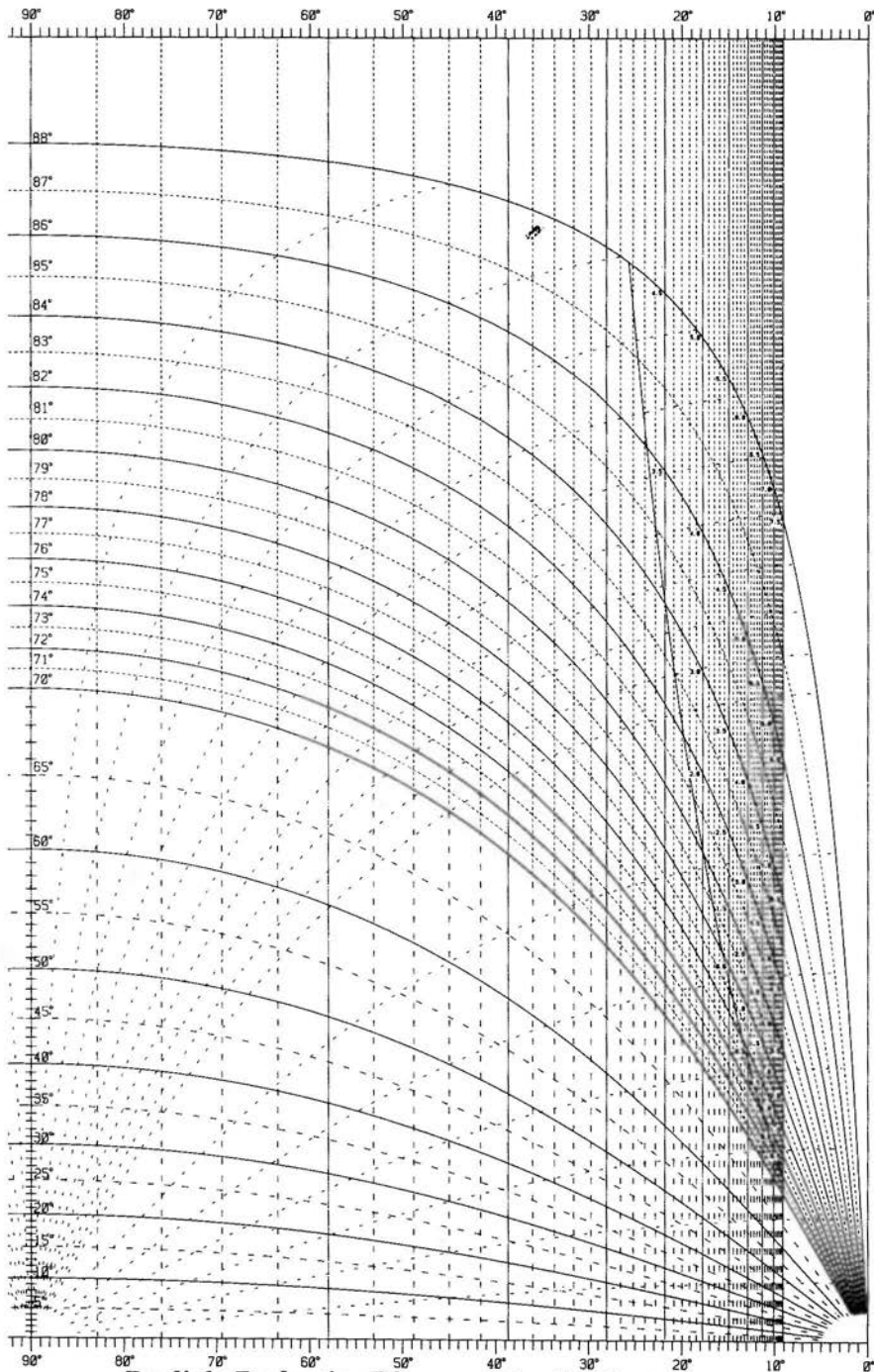


**Daylight Evaluation Diagram, 60 foot street
(Right Half)**

Note: Full size (30''x36'') copies available for inspection and purchase at the Department of City Planning, Room 1616.

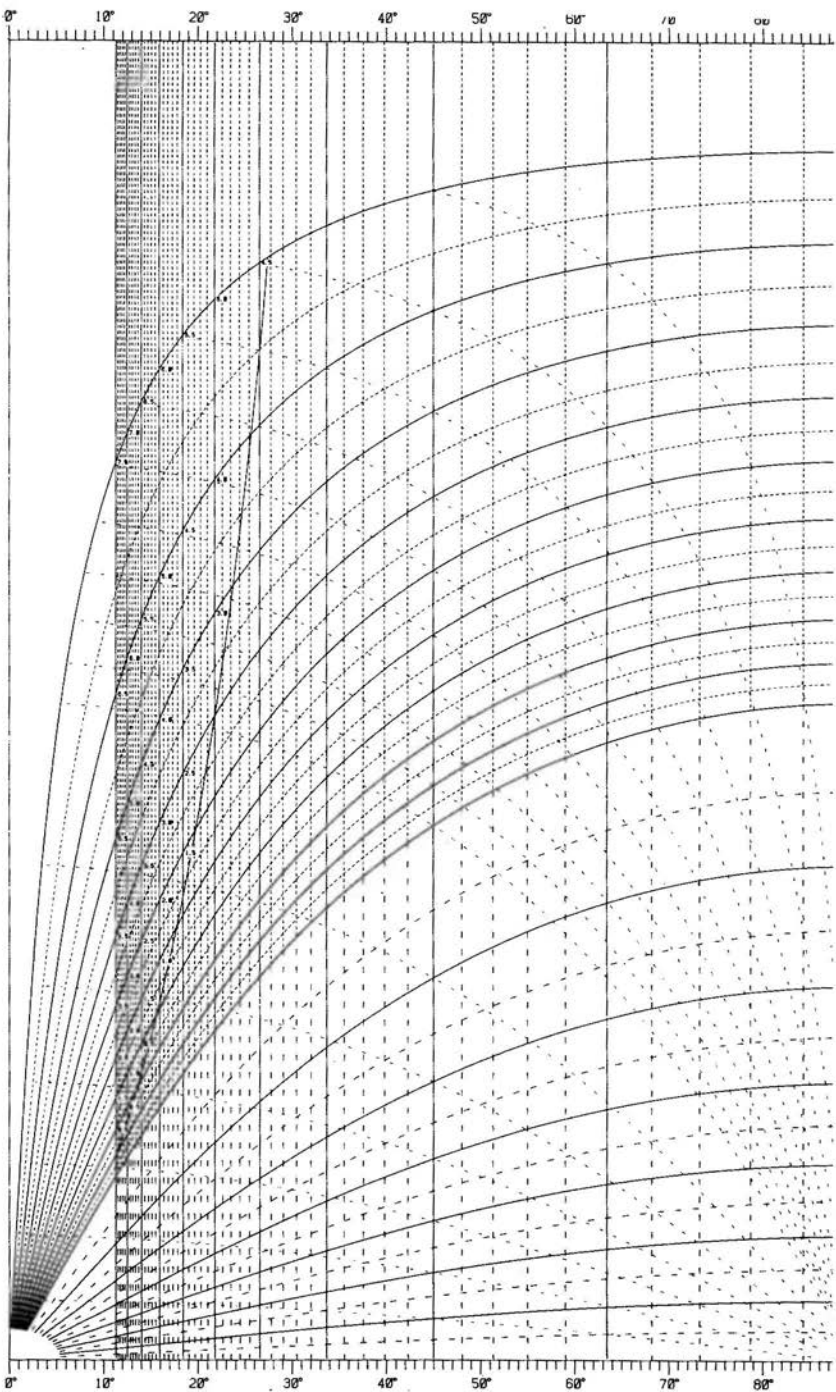


**Daylight Evaluation Diagram, 75 and 80 foot street
(Left Half)**

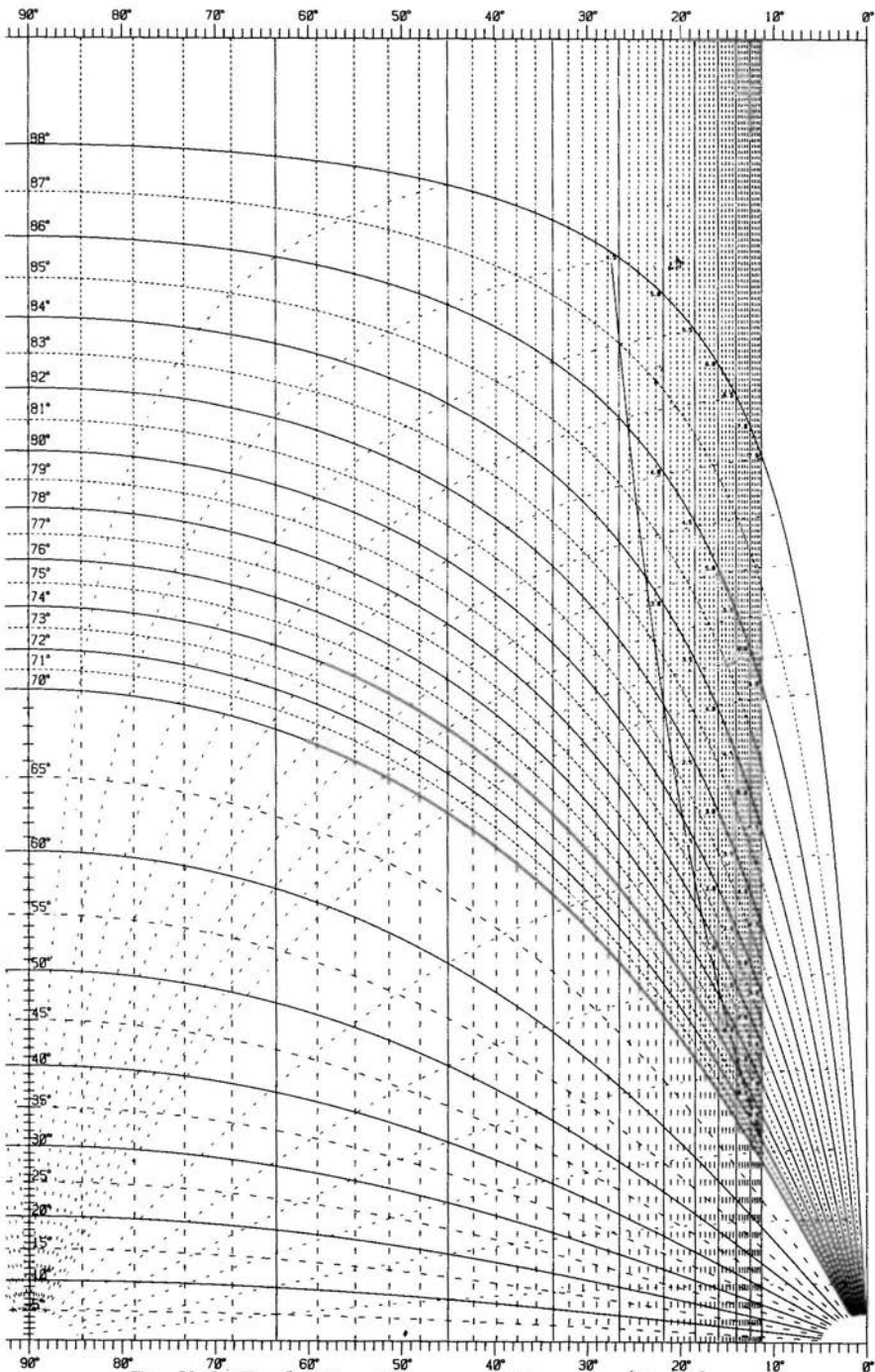


**Daylight Evaluation Diagram, 75 and 80 foot street
(Right Half)**

Note: Full size (30"x36") copies available for inspection and purchase at the Department of City Planning, Room 1616.



**Daylight Evaluation Diagram, 100 or more foot street
(Left Half)**



**Daylight Evaluation Diagram, 100 or more foot street
(Right Half)**

Note: Full size (30"x36") copies available for inspection and purchase at the Department of City Planning, Room 1616.

RESOLVED, by the City Planning Commission that the Zoning Resolution of the City of New York, effective as of December 15, 1961, and subsequently amended, is further amended by changes relating to Article VIII, Chapter 1, Section 81-00 through 81-90, the deletion of the Special Theatre District and Special Fifth Avenue District, and miscellaneous changes in other sections regarding the establishment of the Special Midtown District.

N 820253 ZRM
N 820253 ZRM (A)

Herbert Sturz, Chairman;
Martin Gallent, Vice Chairman;
Max Bond, John P. Gulino,
Howard B. Hornstein, R. Susan Motley,
Theodore E. Teah, Commissioners.

ZONING MAP REPORT

CITY PLANNING COMMISSION

March 16, 1982/Calendar No. 2

C820214ZMM

An amendment of the Zoning Map (section nos. 8c and 8d), pursuant to Sections 197-c and 200 of the New York City Charter:

1. *Establishing a Special Midtown District (MiD) and changing from C5-3CR, C6-6CR, C6-7CR, C4-7, C5-2, C5-3, C6-4, C6-5, C6-6, and C6-7 Districts to C5P, C5-2.5, C5-3, C5-3.5, C6-4.5, C6-6, C6-6.5, and C6-7.5 Districts, and eliminating the Special Theatre District (T), the Special Fifth Avenue District (F), and portions of the Special Clinton Preservation District (CL) and Special Transit Land Use District (TA), for property bounded by East 60th Street, a line 150 feet west of Lexington Avenue, East 58th Street, a line 100 feet west of Lexington Avenue, a line midway between East 57th Street and East 58th Street, a line 150 feet west of Lexington Avenue, a line midway between East 56th Street and East 57th Street, a line 125 feet east of Park Avenue, a line midway between East 54th Street and East 55th Street, a line 125 feet west of Third Avenue, a line midway between East 56th Street and East 57th Street, a line 150 feet east of Third Avenue, East 56th Street, a line 100 feet west of Second Avenue, East 55th Street, a line 150 feet east of Third Avenue, East 53rd Street, a line 160 feet east of Third Avenue, East 52nd Street, a line 150 feet east of Third Avenue, a line midway between East 47th Street and East 48th Street, a line 200 feet east of Third Avenue, East 41st Street, a line 100 feet east of Tunnel Exit Street, East 40th Street, Tunnel Exit Street, East 39th Street, a line 100 feet west of Third Avenue, a line midway between East 39th Street and East 40th Street, a line 100 feet east of Park Avenue, East 39th Street, a line 100 feet east of Madison Avenue, East 38th Street, a line 150 feet east of Fifth Avenue, East 35th Street, Fifth Avenue, West 33rd Street, a line 200 feet east of Broadway, West 31st Street, Seventh Avenue, West 33rd Street, a line 200 feet west of Seventh Avenue, West 34th Street, Broadway, West 38th Street, Seventh Avenue, West 40th Street, Ninth Avenue, West 41st Street, a line 297 feet east of Ninth Avenue, West 42nd Street, Eighth Avenue, West 56th Street, a line 200 feet west of Eighth Avenue, West 58th Street, a line 225 feet east of Columbus Avenue, West 60th Street, Broadway, West 61st Street, Central Park West, Columbus Circle, Broadway, a line midway between West 57th Street and West 58th Street, a line 200 feet east of Avenue of the Americas, a line midway between West 58th Street and Central Park South, a line 150 feet west of Grand Army Plaza, West 58th Street, Fifth Avenue, East 59th Street, and a line 125 feet east of Fifth Avenue;*

2. *Changing from a C5-3CR District to a C5-1 District, property bounded by East 61st Street, a line 125 feet west of Park Avenue, East 60th Street, and a line 125 feet east of Fifth Avenue; and*

3. *Changing from C5-3, C5-3CR, C6-6CR and C6-6 Districts to a C5-2 District, property bounded by a line midway between East 56th Street and East 57th Street, a line 125 feet west of Third Avenue, a line midway between East 54th Street and East 55th Street, and a line 125 feet east of Park Avenue, Borough of Manhattan. (CB Nos. 4, 5, 6, 7 & 8).*

The amendment of the Zoning Map was initiated by the City Planning Commission to delineate the boundaries of the new Special Midtown District (MiD) established by a related amendment of the Zoning Resolution (N820253ZRM), and outside the Special Midtown District to rezone to C5-1 and C5-2 Districts properties adjoining the new MiD District. The related amendment of the Zoning Resolution is the subject of a separate report (N820253ZRM) approved by the Commission on March 16, 1982 (Cal. #1).

The amendment of the Zoning Map was certified as complete by the City Planning Commission on October 13, 1981, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Boards 4, 5, 6, 7 and 8 and the Manhattan Borough Board, together with the text of the related amendment of the Zoning Resolution (N820253ZRM). The responses of the Community Boards under ULURP are summarized in the report on the related amendment of the Zoning Resolution (N820253ZRM).

On January 20, 1982 (Cal. Nos. 23, 24 and 25), the City Planning Commission scheduled PUBLIC HEARINGS on the proposed amendment of the Zoning Resolution (N820253ZRM), the amendment of the Zoning Map (C820214ZMM) and the Departments of City Planning and Environmental Protection scheduled a public hearing on the draft Environmental Impact Statement pursuant to the State Environmental Quality Review Act and Regulations (SEQR) and the City Environmental Quality Review (CEQR).

The public hearings on these three items were held on February 3, 1982 (Cal. Nos. 52, 53 and 54) and the hearings were continued on February 24, 1982 (Cal. Nos. 62, 63 and 64.) The public hearings on the amendment of the Zoning Resolution (N820253ZRM) and the amendment of the Zoning Map (C820214ZMM) were further continued on March 2, 1982 (Cal. Nos. 1 and 2). The hearing on the draft Environmental Impact Statement was closed. On February 8, 1982 (Cal. No. 1), a PUBLIC HEARING was also scheduled for March 2, 1982 on additional revisions of the Zoning Resolution (N820253ZRM(A)), which responded to comments made at the public hearing on February 3, 1982, and were considered by the Commission as appropriate for inclusion in the Special Midtown District regulations.

A summary of the arguments presented at the public hearings, an analysis of the issues and consideration, and the reasons for approving the proposal as finally adopted, are all set forth in the related report on the amendment of the Zoning Resolution (N820253ZRM).

The City Planning Commission therefore considers the proposed rezoning appropriate and adopted the following resolution on March 16, 1982 (Cal. #2) which is herewith filed with the Secretary of the Board of Estimate, in accordance with the requirements of Sections 197-c and 200 of the Charter.

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 8c and 8d,

1. establishing a Special Midtown District (MiD) and changing from C5-3CR, C6-6CR, C6-7CR, C4-7, C5-2, C5-3, C6-4, C6-5, C6-6, and C6-7 Districts to C5P, C5-2.5, C5-3, C5-3.5, C6-4.5, C6-6, C6-6.5, and C6-7.5 Districts, and eliminating the Special Theatre District (T), the Special Fifth Avenue District (F), and portions of the Special Clinton Preservation District (CL) and Special Transit Land Use District (TA), for property bounded by East 60th Street, a line 150 feet west of Lexington Avenue, East 58th Street, a line 100 feet west of Lexington Avenue, a line midway between East 57th Street and East 58th Street, a line 150 feet west of Lexington Avenue, a line midway between East 56th Street and East 57th Street, a line 125 feet east of Park Avenue, a line midway between East 54th Street and East 55th Street, a line 125 feet west of Third Avenue, a line midway between East 56th Street and East 57th Street, a line 150 feet east of Third Avenue, East 56th Street, a line 100 feet west of Second Avenue, East 55th Street, a line 150 feet east of Third Avenue, East 53rd Street, a line 160 feet east of Third Avenue, East 52nd Street, a line 150 feet east of Third Avenue, a line midway between East 47th Street and East 48th Street, a line 200 feet east of Third Avenue, East 41st Street, a line 100 feet east of Tunnel Exit Street, East 40th Street, Tunnel Exit Street, East 39th Street, a line 100 feet west of Third Avenue, a line midway between East 39th Street and East 40th Street, a line 100 feet east of Park Avenue, East 39th Street, a line 100 feet east of Madison Avenue, East 38th Street, a line 150 feet east of Fifth Avenue, East 35th Street, Fifth Avenue, West 33rd Street, a line 200 feet east of Broadway, West 31st Street, Seventh Avenue, West 33rd Street, a line 200 feet west of Seventh Avenue, West 34th Street, Broadway, West 38th Street, Seventh Avenue, West 40th Street, Ninth Avenue, West 41st Street, a line 297 feet east of Ninth Avenue, West 42nd Street, Eighth Avenue, West 56th Street, a line 200 feet west of Eighth Avenue, West 58th Street, a line 225 feet east of Columbus Avenue, West 60th Street, Broadway, West 61st Street, Central Park West, Columbus Circle, Broadway, a line midway between West 57th Street and West 58th Street, a line 200 feet east of Avenue of the Americas, a line midway between West 58th Street and Central Park South, a line 150 feet west of Grand Army Plaza, West 58th Street, Fifth Avenue, East 59th Street, and a line 125 feet east of Fifth Avenue;

2. changing from a C5-3CR District to a C5-1 District, property bounded by East 61st Street, a line 125 feet west of Park Avenue, East 60th Street, and a line 125 feet of Fifth Avenue; and

3. changing from C5-3, C5-3CR, C6-6CR and C6-6 Districts to a C5-2 District, property bounded by a line midway between East 56th Street and East 57th Street, a line 125 feet west of Third Avenue, a line midway between East 54th Street and East 55th Street, and line 125 feet east of Park Avenue, Borough of Manhattan, as shown on a diagram dated October 13, 1981. (C820214ZMM)

GLOSSARY

Accessory Use

An accessory use is a use which is clearly incidental to and customarily found in connection with the principal use. Such accessory use must be conducted on the same zoning lot as the principal use to which it is related.

Adjacent Lot

When used in connection with transfer of development rights from zoning lots occupied by landmarks, the term "adjacent lot" is the receiving lot on which the development rights are to be utilized in a development. In this context an adjacent lot does not have to be contiguous to the landmark lot. It may also be across a street or a street intersection, or in FAR 15 and 18 districts may be linked to the landmark lot by a chain of zoning lots all in common ownership and contiguous to, or across the street from, one another.

Arcade

An arcade is a continuous covered area which opens onto a street. It is unobstructed to a height of not less than 12 feet, and is accessible to the public at all times.

As-of-Right

Use or development entitlement without need for discretionary authorization or special permits.

Bulk

Bulk is the term used to describe the size and location (including height, setback, floor area and open space) of buildings on a zoning lot.

Certification

A ministerial action by the Chairman of the City Planning Commission, or the full City Planning Commission, indicating that certain specific requirements of the Special Midtown District have been fully complied with, such as the specifications governing through block gallerias and urban plazas.

Commercial Building

Any building occupied only by commercial use.

Commercial Use

Any use listed in Use Groups 5 through 16.

Corner Lot

A corner lot is a zoning lot which adjoins the point of intersection of two or more streets. The only part of a zoning lot which can qualify as a corner lot must be within 100 feet of the intersecting street lines.

Daylight Compensation

Daylight compensation is the term which identifies one of the two alternative height and setback regulations for Midtown. Under this alternative, buildings whose front walls penetrate the front setback line must provide recess area behind the setback line to compensate for the encroachment.

Daylight Evaluation

Daylight evaluation is the term which identifies the other alternative height and setback regulation for Midtown. Under this alternative, a building is scored by means of an objective measurement of the amount of sky it will block when plotted on a daylight evaluation chart.

Development

A development includes: a) the construction of a new building or other structure on a zoning lot; or b) the relocation of an existing building to another lot. In some cases it may include an enlargement, or a new use.

Development Rights

For every zoning lot in the City some amount of development may occur. The amount of permissible development is measured in terms of floor area and other bulk allowances permitted by the underlying zoning district. The difference between the floor area of retained buildings and the floor area permitted on the zoning lot equals the development rights, available for new construction. In certain situations, e.g., in the case of zoning lots occupied by landmarks, this unused floor area, or development rights, may be transferred to an adjacent zoning lot, to increase the amount of floor area which is permissible on that zoning lot.

District Plan

The district plan for Midtown consists of a basic strategy and a group of plan elements whose implementation in the course of new development is mandated or encouraged by the district regulations. The district plan includes five maps, which depict a development strategy for Midtown and specify locations where certain requirements apply.

District Plan Elements

The elements of the district plan include the development strategy, requirements of retail continuity and street wall continuity along designated streets, pedestrian circulation space requirements, through block connection requirements in designated through block corridors, on-site relocation of subway stairs and restrictions on the location of major building entrances. In addition, other special requirements apply in three subdistricts: the Theatre, the Fifth Avenue and the Preservation Subdistricts.

Effective Date of this Amendment

The date the Board of Estimate votes to approve the Special Midtown District is the date on which its provisions became effective and legally binding on all development within its area. However, developments which were permitted and started under regulations applying before the effective date may be completed if construction of foundations has been completed by the effective date (see Section 11-33). Substantial construction of foundations prior to the effective date provides a basis for appeal to the Board of Standards and Appeals.

Enlargement

An enlargement is an addition to the floor area of an existing building.

Floor Area

The floor area of a building is the sum of the gross area of each floor of the building, excluding cellar space, floor space in open balconies, roof elevator or stair-bulkheads and floor space used for accessory parking which is located less than 23 feet above curb level.

Floor Area Per Room

Amount of gross residential floor area within a building required for a zoning room.

Floor Area Ratio

Floor area ratio (F.A.R.) is the total floor area on a zoning lot divided by the area of that zoning lot. Each zoning district classification contains an F.A.R. control which, when multiplied by the lot area of the zoning lot, produces the maximum floor area allowable on such lot.

Growth Area

The part of Midtown where the district regulations encourage development. The basic maximum FAR has been increased on major avenue frontages and certain bonuses have been made available only within the Growth Areas. There are two growth areas: West Midtown where basic FAR of 15 has been increased to 18 and South Midtown where basic FAR has been raised from 10 to 15.

Legitimate Theatre

A building or part of a building which contains at least an auditorium meeting minimum standards of seating capacity, a stage of standard size, scenery storage space, dressing rooms and rehearsal space, and which can be used for live theatrical performances.

Listed Theatre

One of the forty-four theatres listed in the Special Midtown District, which meet or can be rehabilitated to meet the criteria for a legitimate theatre. These theatres are afforded special protection under the Theatre Subdistrict regulations.

Lot Area

The lot area is the area of a tract of land designated as a zoning lot.

Midblock

The portion of a typical Midtown block lying between two east-west streets and excluding the block ends that front on north-south avenues. In most of the Special Midtown District, midblocks are in zoning districts with lower bulk limits than the avenue frontages, and midblocks are defined by the district boundaries.

Mixed Building

A mixed building is a building in a Commercial District used partly for residential use and partly for community facility or commercial use.

Narrow Street

A narrow street is less than 75 feet wide.

Non-Complying, or Non-Compliance

A legal non-complying building is any building legal at its inception which no longer complies with any one or more of the present district bulk regulations.

Non-Conforming, or Non-Conformity

A legal non-conforming use is any use legal at its inception (whether of a building or tract of land) which no longer conforms to any one or more of the present use regulations of the district.

Orientation Value

As a component of reflectivity in the daylight evaluation of a building (see Section 81-276), the orientation value for a building surface is determined on a scale of .09 to 1.0. A maximum value of 1.0 is assigned to a surface which faces true south. Values for other orientations are based on the bearing of the orientation in degrees from true north related to 180 degrees (true south).

Pedestrian Circulation Space

An addition on private property to the amount of street space for movement of pedestrians. In order to alleviate sidewalk congestion, Midtown district regulations require developments over a certain size to provide pedestrian circulation space within their zoning lots. The regulations specify what types of pedestrian circulation space can qualify, e.g., sidewalk widenings and arcades.

Performance Bond

A type of insurance purchased from a bonding company, whereby if a required action by an owner or developer does not occur, e.g., urban plaza, the bonding company, as insurer, will pay to the City the full costs of the required action so that the City may undertake the action at no cost to itself.

Preservation Area

The small midblock area located between Fifth Avenue and Avenue of the Americas in the vicinity of the Museum of Modern Art. Preservation of this area's character and scale will be encouraged by a reduction in maximum density and by mandatory street wall provisions.

Public Parking Garage

A public parking garage is a building which provides parking spaces for the public.

Public Parking Lot

A public parking lot is a tract of land which is used for open parking for the public.

Reflectance

The amount of light reflected by a building's surface material compared to the amount of light cast upon it, expressed as a ratio. Relative reflectance, the term used for purposes of reflectivity scoring in the daylight evaluation of a building, is the excess of a given material's reflectance over the reflectance of a medium gray or glass building (see Section 81-276).

Reflectivity

Daylight reflected by a building. Reflectivity has two components: the reflectance of the building's surface material and the orientation of the material to the sun. In reflectivity scoring for daylight evaluation (see Section 81-276), the relative reflectance value (relative to a medium gray or glass building) is combined with the orientation value.

Restrictive Declaration

A covenant, or promise, by a property owner, in which the owner agrees to do or refrain from doing some particular act in connection with the property's development. Often referred to as a deed restriction, the restrictive declaration becomes a legal commitment of the property owner. The declaration is recorded in the Office of the Register in the County Clerk's Office and then becomes binding as a covenant running with the land against all persons who subsequently purchase the property or otherwise acquire an interest in the property, such as a mortgagee.

Residence, or Residential

A residence is a building or part of a building containing dwelling units or rooming units.

Retail Continuity

An uninterrupted chain of retail establishments, which can enhance the vitality of a retail commercial street by drawing pedestrian shoppers along the length of the street. Midtown district regulations require new developments or enlargements fronting on designated avenues or cross-town streets to allocate ground floor space to retail, personal service or amusement uses to preserve retail continuity.

Rooms

For zoning computations, a room is a space such as a living room or bedroom. The basic living space in a dwelling unit (a living room, dining area, and kitchen and bath) counts as 2 1/2 zoning rooms. Each additional room as defined in Section 4 of the Multiple Dwelling Law in a dwelling unit counts as another zoning room.

Sign (Advertising)

An advertising sign directs attention to a business, profession, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same zoning lot.

Sign (Business)

A business sign directs attention to a profession, business, commodity, service or entertainment conducted, sold or offered upon the same zoning lot.

Sign (Flashing)

A flashing sign is any illuminated sign, whether stationary, revolving or rotating, which changes light or color.

Sign (Illuminated)

An illuminated sign uses artificial light or reflected light from an artificial source.

Special Permit (of the Planning Commission)

A discretionary action by the City Planning Commission and the Board of Estimate to permit the modification or waiver of certain restrictions or requirements of the Midtown Special District after certain findings are made relating to the desirability or need for such a modification or waiver. The procedure for the grant of a Special Permit is governed by Section 197-c of the New York City Charter (ULURP). Special permits may be issued for any modification or waiver specifically authorized in the Special Midtown District text of the Zoning Resolution, for instance a special use or bonus floor area for a specified public amenity. Midtown zoning has been revised to maximize opportunities for as-of-right developments.

Split Lot

A zoning lot divided by the boundary between two zoning districts. Article VII, Chapter 7, restricts the generation and distribution of a building's floor area on either side of the boundary.

Stabilization Area

The East Side office core, roughly bounded by 40th Street and 60th Street, and Third Avenue and Avenue of the Americas. In this most intensively developed part of Midtown, permissible FARs are somewhat reduced and bonus opportunities correspondingly curtailed.

Street

Any street or avenue, as shown on the City Map which is intended for public use and provides a principal means of approach for vehicles or pedestrians to a building or structure. Street refers to the entire public right-of-way (including public sidewalks).

Street Line

A street line is a lot line separating the street from a lot.

Street Wall

A street wall is a wall or portion of a wall of a building facing a street.

Street Wall Continuity

Character of a street along which abutting buildings are consistently built to the street line or within a limited setback distance. Street wall continuity regulations restrict or prohibit setback along designated avenues and crosstown streets of Midtown and stipulate minimum heights for street walls subject to these setback restrictions.

Subdistricts

Special or unique areas within the Special Midtown District where the general requirements for Midtown are supplemented or modified by special regulations of the subdistrict. These subdistricts include the Theatre Subdistrict, the Fifth Avenue Subdistrict and the Preservation Subdistrict.

Through Block Connection

A paved open or enclosed space connecting, in a straight, continuous unobstructed path, two east-west streets. Through block connections are required on specified blocks west of Fifth Avenue subject to locational criteria. A through block connection may also be counted towards satisfying the pedestrian circulation space requirement. No floor area bonus is given for the through block connection.

Through Block Galleria

A covered through block connection subject to special design standards and eligible for an FAR bonus within the Theatre Subdistrict.

ULURP (Uniform Land Use Review Procedure)

The procedure specified in Section 197-c of the New York City Charter governing review of a variety of land use actions, including special permits and zoning map amendments. Under this procedure, after an application is certified as complete by the City Planning Commission, it is sent to the appropriate community board for public hearing and comment. Following community board review the City Planning Commission holds a public hearing. Where the Commission approves the zoning action and prepares a written report for the Board of Estimate, final action by the Board of Estimate after a public hearing must occur within 60 days of Commission approval.

Underlying District

The underlying districts are the basic zoning districts which may have been established prior to the Special Midtown District. These districts each have their own sets of basic zoning regulations, which remain in effect for Midtown developments, except where they are explicitly modified or superseded by the new Midtown regulations.

Urban Park

A landscaped "vest pocket" park on a zoning lot which fronts on one or two narrow streets, and which is subject to special design standards. Development rights may be transferred from an urban park to a nearby receiving site under the same ownership through a special permit procedure.

Urban Plaza

An open area which fronts upon a street or a sidewalk widening and is accessible to the public. An urban plaza may receive a floor area bonus provided it meets special design standards. The design standards for urban plazas in Midtown vary from the standards in Section 12-10.

Use

A use is any activity, occupation, business or operation carried on, or intended to be carried on, in a building or on a tract of land.

Yard

A yard is the required open area on a zoning lot along the lot lines. A yard shall be unobstructed from the lowest level to the sky except for certain permitted obstructions.

Zoning Lot

A zoning lot is a contiguous tract of land located within a block which, at the time of filing for building permit, is designated as a tract of land to be used, developed or built upon under a declaration of single zoning lot by all parties in interest thereto.

A zoning lot may be subdivided into two or more zoning lots, provided that all resulting zoning lots and all buildings thereon shall comply with all of the applicable provisions of the Zoning Resolution.

Zoning Maps

Maps that are included in the provisions of the Zoning Resolution to indicate the location and boundaries of zoning districts.

FUTURE ACTIONS

In the course of its review and consideration of the new Midtown zoning regulations, the Commission agreed that a number of follow-up actions should have high priority. These include:

1. Development of appropriate infill zoning regulations for Lexington Avenue from 55th to 57th Streets.
2. Preparation of revised regulations to protect the residential character of Second Avenue in the forties and fifties.
3. Preparation of zoning proposals for both sides of Eighth Avenue as part of revised zoning regulations for the Special Clinton District.
4. Initiation of a program to train Community Board District Managers so they can have a role in monitoring the enforcement of zoning compliance and a *pro bono* legal unit to assist in the prosecution of zoning violations.
5. Development of recommendations for strengthening enforcement procedures against zoning and other code violations.

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