



## CITY PLANNING COMMISSION

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April 13, 2011/Calendar No. 9

N 110193 ZRM

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IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning arcades within the Special Lower Manhattan District in Community District 1, Borough of Manhattan.

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The application for an amendment of the Zoning Resolution was filed by the Department of City Planning on January 14, 2011. The text amendment would create Section 91-80 (Public Access Areas) of the Zoning Resolution and modify existing requirements to keep arcades free and clear and allow moveable tables and chairs. The text would modify the Special Lower Manhattan District and apply to arcades along and nearby Water Street in Lower Manhattan, Community District 1, Borough of Manhattan.

### **BACKGROUND**

The Department of City Planning is proposing a modification to the Special Lower Manhattan District affecting arcades along and nearby Water Street in Lower Manhattan. Currently, arcades, through block arcades, and open areas between the building street wall and the street line in the Special Lower Manhattan District are required to remain free and clear from obstructions. The proposed text modification would create a Chairperson's certification process to allow public moveable tables and chairs and café seating in these areas.

Arcades and through block arcades are privately-owned, publicly accessible areas which were built by a developer in exchange for a floor area bonus. Arcades are required to meet certain dimensional and location requirements and are intended to create a network of covered pedestrian circulation areas to protect against inclement weather. They are also meant to provide relief from congested sidewalks and give pedestrians a more pleasant walking environment which was both covered and direct.

The text amendment would apply to 23 blocks generally bounded by Whitehall Street, Pearl Street, Fulton Street, Front and South Streets in Lower Manhattan. To the east of this area are the East River waterfront and the FDR Drive. To the south, is the tip of Manhattan with historic Battery Park and Whitehall Ferry terminal, to the north, is the historic South Street Seaport area, and to the west is the historic core of Lower Manhattan. The area is located in the Special Lower Manhattan Zoning District and also high-density C5-3, C5-5, C6-4 or C6-9 zoning districts. These zoning districts permit commercial and residential uses as-of-right. Along Water Street, land uses include high-density commercial, Class A Office buildings, a few of which have been converted to residential and hotel use, some smaller residential and office buildings, and small parks interspersed throughout.

Within the applicable 23 blocks, there are 17 existing buildings with arcades. The majority of buildings were built in the 1960s and 1970s. Due to the design and variation of the arcades along and nearby Water Street, the arcades do not function well as pedestrian areas and, instead, diminish vitality from this important pedestrian corridor.

Current zoning requires arcades to be free of obstructions, which had the unfortunate effect of creating spaces that are empty and lifeless in the arcades along Water Street. The proposed text amendment creates a chairperson certification to allow the arcades to be enhanced with public and café tables and chairs, umbrellas, and litter receptacles. A minimum of 40 percent of the tables must be publicly accessible and a maximum of 60 percent of the tables may be for outdoor cafes. To prioritize the activation of Water Street, the text also requires a minimum of 50 percent of the public seating to be placed within 25 feet of Water Street. Finally, the text sets forth requirements for circulation paths, materiality of the chairs and hours of operation. This text would not induce new uses which are not currently permitted under existing zoning but would enhance the use of existing arcades. This would apply to within a portion of the Special Lower Manhattan District called the Public Access Modification Areas. No changes are proposed to the zoning related to bulk, permitted floor area, or the amount of floor area generated through the provision of bonus plazas.

## **ENVIRONMENTAL REVIEW**

This application (N 110193 ZRM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission. The designated CEQR number is 11DCP075M.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on January 24, 2011.

## **PUBLIC REVIEW**

On January 24, 2011, this application (N 110193 ZRM) was referred to Community Board 1 and the Borough President in accordance with the procedure for referring non-ULURP matters.

### **Community Board Review**

Community Board 1 held a public hearing on this application on February 22, 2011, and on that date, by a vote of 34 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

The Manhattan Borough President issued a letter supporting the application dated March 25, 2011.

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

On March 16, 2011 (Calendar No.1), the City Planning Commission scheduled March 30, 2011 for a public hearing on this application (N 110193 ZRM). The hearing was duly held on March 30, 2011 (Calendar No. 19).

There were three speakers in favor and none opposed.

A representative of Community Board 1, Manhattan, reiterated the Community Board's support and indicated that the tables and chairs would serve the wider community of Lower Manhattan including visitors and residents.

A representative of the Manhattan Borough President's office reiterated the Borough President's support and concerns about balancing the public and private nature of the arcade areas and the possibility of providing signage.

A representative of the Alliance for Downtown New York spoke in favor of the project and the efforts of the City to address Water Street's pedestrian realm. They pointed out that this would be a benefit to the business community of Lower Manhattan.

The hearing was closed.

## **CONSIDERATION**

The Commission believes that this zoning text amendment (N 110193 ZRM) is appropriate.

The Commission recognizes that Water Street is not heavily utilized by pedestrians, even though is an important economic corridor for Lower Manhattan and lined with Class A office space and recent residential and hotel conversions. The Commission believes that the proposed text amendment would create the opportunity for activities that could draw pedestrians onto Water Street, improving its vitality.

The Commission recognizes that there are 17 buildings within this 23 block area with privately-owned, publicly-accessible arcades. The Commission notes that the arcades were designed to create a continuous pedestrian network to protect against inclement weather but because of the variation in design and location on the property, the path is neither continuous nor inviting. The arcades vary in width and location, and tend to have thick columns made of heavy materials such as stone or granite. The Commission believes that this design does not invite pedestrians to use the arcades for relief from congestion or weather but instead has resulted in unwelcoming areas. The arcades, as a result, are not used for their intended purpose and instead draw energy from the street. The Commission believes that the proposed text amendment would create the opportunity

for activities within the arcades that would enliven the arcades and make them more inviting to pedestrians.

The Commission also notes that the majority of pedestrians do not use Water Street as their north-south route but rather the streets that are further upland and tend to be narrower and more inviting. The Commission believes that the text amendment would give the arcade areas a new purpose, benefit Lower Manhattan, and strengthen this critical connection from the South Street Seaport area to The Battery.

The Commission notes that the proposed text would allow moveable tables and chairs for both café and public seating, umbrellas, and litter receptacles. The Commission also notes that there are specific circulation and location dimensions along with requirements on the types of material for furniture. The Commission believes that the public nature of the arcade space needs to be protected and believes that mandating that a minimum of 40 percent of the total number of tables and chairs must be for public use would help ensure that the arcades will continue to provide a public benefit. Furthermore, the proposed chairperson certification process would provide the Department of City Planning with a tool to review future arcade furniture plans and ensure that the public nature of the arcades is not lost.

The text amendment builds on the success of the Department of City Planning's other initiatives to improve the pedestrian realm, and furthers Mayor Bloomberg's commitment to revitalizing Lower Manhattan.

The Commission believes that the text amendment would improve the existing arcades and encourage their use as a public amenity.

## **RESOLUTION**

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

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

Matter in underline is new, to be added;

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

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

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

## **Article IX: Special Purpose Districts**

### **Chapter 1: Special Lower Manhattan District**

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#### **91-03**

##### **District Maps**

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

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

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#### **91-80**

##### **PUBLIC ACCESS AREAS**

#### **91-81**

##### **Certification to modify existing arcades in certain areas**

For the purposes of this Section, ‘arcade’ shall refer to an #arcade# or #through block arcade# provided in accordance with the provisions of Sections 12-10 (DEFINITIONS) and 37-80 (ARCADES); or an arcade provided in accordance with paragraph (a) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces); or an open space provided on a #zoning lot#

between the #building street wall# and the #street line# where tables and chairs would otherwise not be allowed as permitted obstructions.

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

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

(a) Tables and chairs

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

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

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

(1) Number and size of tables and chairs

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

(i) Publicly accessible tables and chairs

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

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

(ii) Outdoor cafe

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

(2) Location restrictions and other prohibitions

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

(i) Publicly accessible tables and chairs

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

(ii) Outdoor cafe

Outdoor cafes shall be located at the same elevation as the adjoining sidewalk area or #publicly accessible open area#, except that platforms that do not exceed a height of six inches may be provided.

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

(3) Hours of operation

(i) Publicly accessible tables and chairs

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

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

(ii) Outdoor cafe

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



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

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

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

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

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

- (i) no more than 50 percent of the publicly accessible tables and chairs required to be within 25 feet of the Water Street #street line#, pursuant to paragraph (a)(2)(i) of this Section, shall be located within such #publicly accessible open area#. However, where the entirety of an arcade is located beyond 25 feet of the Water Street #street line#, the entirety of the publicly accessible tables and chairs required to be within 25 feet of such #street line#, pursuant to paragraph (a)(2)(i) above, may be located within such #publicly accessible open area#;
- (ii) such publicly accessible tables and chairs shall in no event constitute required seating for such existing #publicly accessible open area#; and
- (iii) such publicly accessible tables and chairs comply with the hours of operation provisions of paragraph (a)(3) of this Section.

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

- (b) Litter receptacles

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

In order to certify that the proposed modification to an existing arcade is consistent with the provisions of this Section, the applicant shall submit to the Chairperson, a site plan demonstrating the proposed obstructions within the existing arcade, and where applicable, the adjacent #publicly accessible open area#; and a detailed seating plan illustrating compliance with paragraph (a) of this Section.

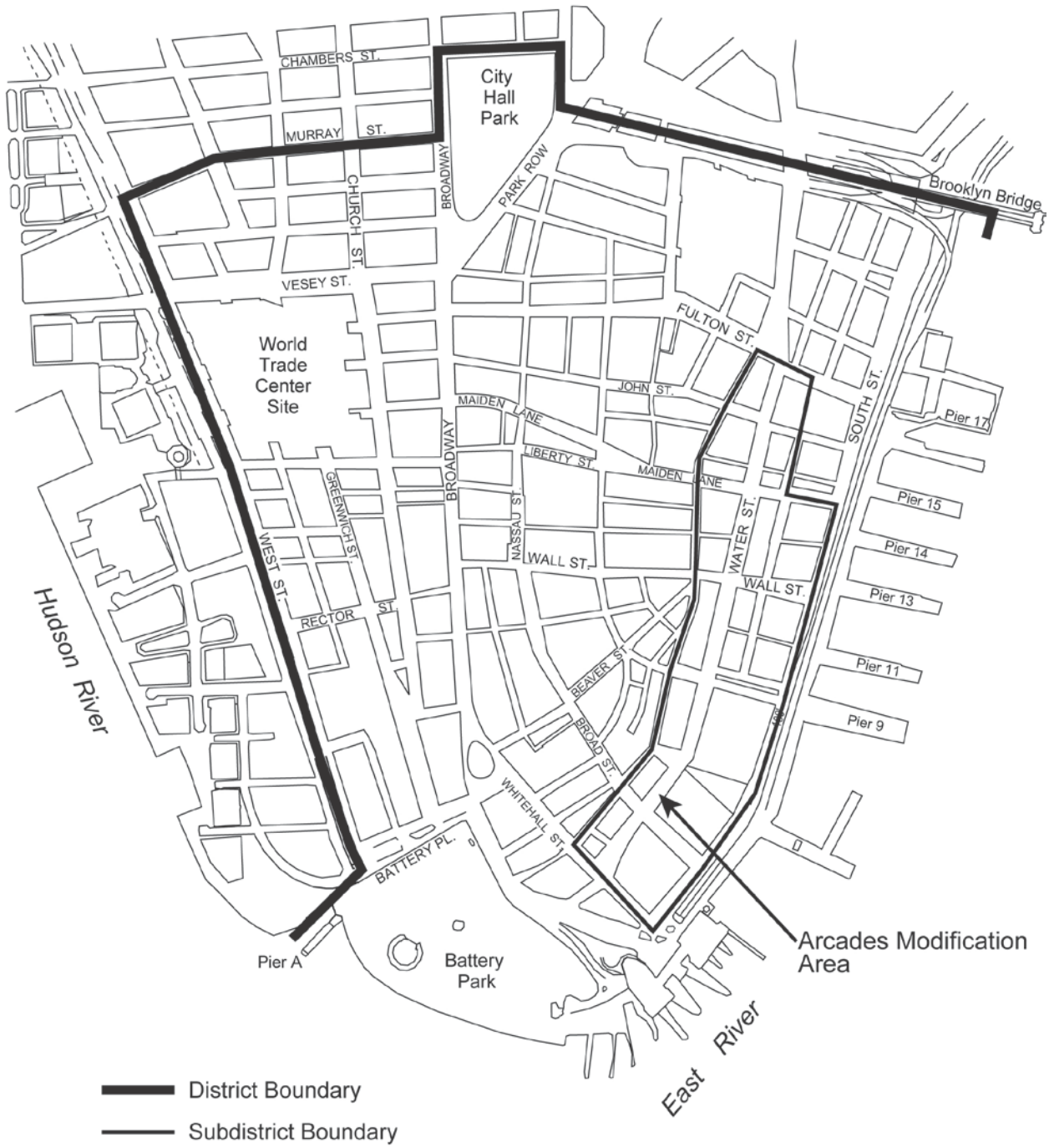
All plans for arcades or other #publicly accessible open areas# that are the subject of a certification pursuant to this Section shall be filed and duly recorded in the Office of the City Register of the City of New York, indexed against the property in the form of a legal instrument, in a form satisfactory to the Chairperson, providing notice of the certification of the arcade, pursuant to this Section. Such filing and recording of such instrument shall be a precondition to certification. The recording information shall be included on the certificate of occupancy for any #building#, or portion thereof, on the #zoning lot# issued after the recording date.

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**Appendix A  
District Maps**

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Map 8  
Public Access Modification Areas



The above resolution (N 110193 ZRM), duly adopted by the City Planning Commission on April 13, 2011 (Calendar No. 9, is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter

**AMANDA M. BURDEN, FAICP, Chair**

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,  
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