



CITY PLANNING COMMISSION

May 9, 2012/ Calendar No. 2

N 120144 ZRM

IN THE MATTER OF an application submitted by the New York City 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 Article XIII, Chapter 2 (Special Enhanced Commercial District), along Broadway, Amsterdam and Columbus avenues.

An application for an amendment to the Zoning Resolution, N 120144 ZRM was filed by the Department of City Planning on December 30, 2011. The proposed text amendment will establish the Special Upper West Side Enhanced Commercial District – 2 along 77 blocks of Amsterdam and Columbus avenues, and the Special Upper West Side Enhanced Commercial District – 3 along 73 blocks of Broadway within Manhattan Community Board 7.

RELATED ACTION

In addition to the amendment of the Zoning Resolution, which is the subject of this report (N 120144 ZRM), implementation of the proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C120145 ZMM Zoning map change to map the Special Districts as “EC-2” and “EC-3” on the zoning map.

BACKGROUND

A full background discussion and description of this project appears in the report on the related application for a zoning map amendment (C 120145 ZMM).

ENVIRONMENTAL REVIEW

This application (N 120144 ZRM) in conjunction with the related application (C 120145 ZMM) 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 designated CEQR number is 12DCP079M. The lead is the City Planning Commission.

A summary of the environmental review appears in the report on the related application (C 120145 ZMM).

PUBLIC REVIEW

This application (N 120144 ZRM) was duly referred on January 3, 2012 to Manhattan Community Board 7 and the Manhattan Borough President for information and review.

Community Board Review

A summary of the votes and recommendations of Community Board 7 appears in the report on the related zoning map amendment application (C120145 ZMM).

Borough President Review

A summary of the Manhattan Borough President's recommendation appears in the report on the related zoning map amendment application (C120145 ZMM).

City Planning Commission Public Hearing

On March 28, 2012, (Calendar No. 4), the City Planning Commission scheduled April 11, 2012 for a public hearing on this application (N 120144 ZRM). The hearing was duly held on April 11, 2012 (Calendar Nos. 11), in conjunction with the hearing on the related action (C 120145 ZMM).

There were a number of speakers, as described in the report on the related application for the zoning map amendment (C 120145 ZMM), and the hearing was closed.

CONSIDERATION

The Commission believes that the application for zoning text amendment (N 120144 ZRM) as modified is appropriate.

A full consideration and analysis of the issues and the reasons for approving this application, as modified herein, appear in the report on the related application for the zoning map amendment (C 120145 ZMM).

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, that 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 subsequently amended, is further amended as follows:

- Matter in underline is new, to be added;
- Matter in ~~strikeout~~ is old, to be deleted;
- Matter within # # is defined in Section 12-10;
- * * * indicate where unchanged text appears in the Zoning Resolution

Article I: General Provisions

**Chapter 1
Title, Establishment of Controls and Interpretation of Regulations**

* * *

**11-12
Establishment of Districts**

* * *

**11-122
Districts established**

* * *

Special Purpose Districts

Establishment of the Special 125th Street District

* * *

Establishment of the Special Enhanced Commercial District

In order to carry out the special purposes of this Resolution as set forth in Article XIII, Chapter 2, the #Special Enhanced Commercial District# is hereby established.

* * *

~~Establishment of the Special Fourth Avenue Enhanced Commercial District~~

~~In order to carry out the special purposes of this Resolution as set forth in Article XIII, Chapter 2, the #Special Fourth Avenue Enhanced Commercial District# is hereby established.~~

* * *

Chapter 2 - Construction of Language and Definitions

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**12-10
Definitions**

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Special Enhanced Commercial District

The "Special Enhanced Commercial District" is a Special Purpose District designated by the letters "EC" in which special regulations set forth in Article XIII, Chapter 2, apply.

* * *

~~Special Fourth Avenue Enhanced Commercial District~~

~~The "Special Fourth Avenue Enhanced Commercial District" is a Special Purpose District designated by the letters "EC" in which special regulations set forth in Article XIII, Chapter 2 apply.~~

* * *

Chapter 4 – Sidewalk Cafe Regulations

* * *

14-44

Special Zoning Districts Where Certain Sidewalk Cafes are Permitted

#Enclosed# or #unenclosed sidewalk cafes# shall be permitted, as indicated, in the following special zoning districts, where allowed by the underlying zoning. #Small sidewalk cafes#, however, may be located on #streets# or portions of #streets# within special zoning districts pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

| Manhattan | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---|--------------------------|----------------------------|
| 125 th Street District | Yes | Yes |
| Battery Park City District | Yes | Yes |
| Clinton District | Yes | Yes |
| <u>Enhanced Commercial District 2</u> (Columbus and Amsterdam Avenues) | <u>Yes</u> | <u>Yes</u> |
| <u>Enhanced Commercial District 3</u> (Broadway) | <u>Yes</u> | <u>Yes</u> |
| Limited Commercial District | No | No* |
| Lincoln Square District | No | Yes |
| Little Italy District | No | Yes |
| Lower Manhattan District | No | Yes** |
| Manhattanville Mixed Use District | No*** | Yes |
| Transit Land Use District | Yes | Yes |
| Tribeca Mixed Use District | Yes | Yes |
| United Nations Development District | No | Yes |

 * #Unenclosed sidewalk cafes# are allowed on Greenwich Avenue
 ** #Unenclosed sidewalk cafes# are not allowed on State, Whitehall or Chambers Streets or Broadway
 *** #Enclosed sidewalk cafes# are allowed in Subdistrict B

| Brooklyn | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---|-----------------------------|-------------------------------|
| Fourth Avenue Enhanced Commercial District | No | Yes |
| Bay Ridge District | Yes | Yes |
| Coney Island District | No | Yes |
| Coney Island Mixed Use District | Yes | Yes |
| Downtown Brooklyn District | Yes | Yes |
| <u>Enhanced Commercial District 1 (Fourth Avenue)</u> | <u>No</u> | <u>Yes</u> |
| Mixed Use District-8 (Greenpoint-Williamsburg) | Yes | Yes |
| Ocean Parkway District* | Yes | Yes |
| Sheepshead Bay District | No | Yes |

 * #Sidewalk cafes# are not allowed on Ocean Parkway

* * *

Article XIII: Special Purpose Districts

* * *

Chapter 2

Special ~~Fourth Avenue~~ Enhanced Commercial District

132-00

GENERAL PURPOSES

The #Special ~~Fourth Avenue~~ Enhanced Commercial District#, in the Borough of Brooklyn, established in this Chapter of the Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the promotion and maintenance of a lively and engaging pedestrian experience along commercial avenues and the following specific purposes:

- (a) ~~in #Special Enhanced Commercial District# 1, to enhance the character vitality of emerging commercial districts the area-~~ by ensuring that a majority of the ground floor space within buildings is occupied by commercial establishments that enliven the pedestrian experience along the street that promote a lively and engaging pedestrian experience along Fourth Avenue;
- (b) ~~in #Special Enhanced Commercial District# 2, to enhance the vitality of well-established commercial districts by ensuring that ground floor frontages continue to reflect the multi-store character that defines such commercial blocks;~~
 _____ ~~to limit the number of curb cuts along Fourth Avenue in order to minimize conflicts between vehicles and pedestrians; and~~
- (c) ~~in #Special Enhanced Commercial District# 3, to enhance the vitality of well-established commercial districts by limiting the ground floor presence of inactive #street wall# frontages; and~~
- (d) to promote the most desirable use of land in the area and thus preserve, protect and enhance the value of land and buildings and thereby protect City tax revenues.

**132-01
Definitions**

Ground floor level

For the purposes of this Chapter, “ground floor level” shall mean a ~~#building’s# lowest #story# located within 30 feet of the Fourth Avenue #street wall# of the #building#.~~

**132-10
GENERAL PROVISIONS**

The provisions of this Chapter shall apply to all ~~#buildings# with Fourth Avenue #street# frontage along a #designated commercial street#.~~

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

**132-11
Special Enhanced Commercial Districts Specified**

The #Special Enhanced Commercial District# is mapped in the following areas:

(a) #Special Enhanced Commercial District# 1: (11/29/11)

The #Special Enhanced Commercial District# 1 is established on the following #designated commercial streets# as indicated on the #zoning maps#:

(1) Fourth Avenue, in the Borough of Brooklyn, generally between 24th Street and Atlantic Avenue.

(b) #Special Enhanced Commercial District# 2: (date of adoption)

The #Special Enhanced Commercial District# 2 is established on the following #designated commercial streets# as indicated on the #zoning maps#:

(1) Amsterdam Avenue, in the Borough of Manhattan, generally between West 73rd Street and West 110th Street; and

(2) Columbus Avenue, in the Borough of Manhattan, generally between West 72nd Street and West 87th Street.

(c) #Special Enhanced Commercial District# 3: (date of adoption)

The #Special Enhanced Commercial District# 3 is established on the following #designated commercial streets# as indicated on the #zoning maps#:

(1) Broadway, in the Borough of Manhattan, generally between West 72nd Street and West 110th Street.

132-12

Definitions

Ground floor level

For the purposes of this Chapter, “ground floor level” shall mean a #building’s# lowest #story# located within 30 feet of the #building’s street wall# along a #designated commercial street#.

Designated commercial street

For the purposes of this Chapter, “designated commercial street” shall be the portions of those #streets# specified in Section 132-11 (Special Enhanced Commercial Districts Specified).

132-13

Applicability of Special Use, Transparency and Parking Regulations

The special #use#, transparency and parking regulations of this Chapter shall apply to #buildings# in #Special Enhanced Commercial Districts# as designated in the following Table, except as otherwise provided in Sections 132-21, 132-31, and 132-41.

| <u>SPECIAL REGULATIONS FOR ENHANCED COMMERCIAL DISTRICTS</u> | | | | | | | | |
|---|--|---|--|--|---|--|---|----------------------------------|
| | <u>#Use# Regulations</u> | | | | | <u>Transparency Regulations</u> | <u>Parking Regulations</u> | |
| <u>#Special Enhanced Commercial District#</u> | <u>Minimum Percentage of #Commercial Uses# (132-22)</u> | <u>Minimum Number of Establishments (132-23)</u> | <u>Maximum #Street Wall# Width</u> | | | <u>Ground Floor Transparency (132-32)</u> | <u>Location of Parking Spaces (132-42)</u> | <u>Curb Cuts (132-43)</u> |
| | | | <u>Banks and loan offices (132-24(a))</u> | <u>Other non-#residential# establishments (132-24(b))</u> | <u>#Residential# lobbies (132-24(c))</u> | | | |
| <u>EC- 1 (Fourth Avenue, Brooklyn)</u> | <u>X</u> | | | | <u>X</u> | <u>X</u> | <u>X</u> | <u>X</u> |
| <u>EC - 2 (Columbus and Amsterdam Avenues, Manhattan)</u> | | <u>X</u> | <u>X</u> | <u>X</u> | <u>X</u> | <u>X</u> | | |
| <u>EC - 3 (Broadway, Manhattan)</u> | | | <u>X</u> | | <u>X</u> | <u>X</u> | | |

132-20

SPECIAL USE REGULATIONS

The special #use# regulations of this Section shall apply to the Fourth Avenue #street walls# of #developments# and to #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts upon Fourth Avenue. For #buildings# fronting along multiple #streets#, the required

percentage of #ground floor level street wall# allocated to certain #uses#, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon Fourth Avenue.

The following shall be exempt from the #use# provisions of this Section:

- (a) ~~#buildings# located in #Commercial Districts# on a #zoning lot# with a width of less than 20 feet, as measured along the Fourth Avenue #street line#, provided such #zoning lot# existed on (date of adoption); and~~
- (b) ~~any #community facility building# used exclusively for either a #school#, as listed in Use Group 3, or a house of worship, as listed in Use Group 4.~~

The special #use# regulations of this Section, inclusive, shall apply to #buildings# in the #Special Enhanced Commercial Districts# designated in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), except as otherwise provided in Section 132-21 (Applicability of Use Regulations).

In all #Special Enhanced Commercial Districts#:

- (a) the finished floor of the #ground floor level# for #developments# or #ground floor level enlargements#, shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjacent sidewalk along a #designated commercial street#; and
- (b) where regulations apply to existing #buildings# in #Special Enhanced Commercial Districts# 2 and 3, constructed prior to (date of adoption), the finished floor of the #ground floor level# shall be located not higher than five feet above nor lower than five feet below the as-built level of the adjacent sidewalk along a #designated commercial street#.

132-21

Applicability of Use Regulations

~~Special Ground Floor Level Use Requirements in Commercial Districts~~

~~In #Commercial Districts#, the following #use# provisions shall apply to the #ground floor level# of a #building#. In addition to these provisions, permitted #uses# shall comply with the provisions of Sections 132-30 (SPECIAL TRANSPARENCY REGULATIONS), and 132-40 (SPECIAL PARKING REGULATIONS).~~

- (a) ~~Mandatory commercial uses for a portion of the #ground floor level#~~

~~Mandatory #commercial use# regulations shall apply to an area of a #building's ground floor level# defined by an aggregate width equal to at least 50 percent of a #building's# Fourth Avenue #street wall# and a depth equal to at least 30 feet, as measured from the Fourth Avenue #street~~

~~wall#. Such an area on the #ground floor level# shall be occupied by #commercial uses# listed in Use Groups 5, 6A, 6C excluding banks and loan offices, 7B, 8A, 8B, and 9A.~~

~~(b) Remaining portion of #ground floor level#~~

~~The remaining portion of the #ground floor level# shall be occupied by any non #residential use# permitted by the underlying district regulations, except that:~~

~~(1) #residential# lobbies, and an associated vertical circulation core shall be permitted in such remaining area, provided that the #street wall# width of such lobbies shall not exceed 25 feet, as measured along the Fourth Avenue #street line#. In addition, the 30 foot depth requirement for #commercial uses# pursuant to paragraph (a) of this Section may be encroached upon where necessary to accommodate a vertical circulation core associated with such #residential# lobby; and~~

~~(2) off street parking spaces and entrances to such spaces shall comply with the provisions of Section 132-40 (SPECIAL PARKING REGULATIONS).~~

~~(c) Location of #ground floor level#~~

~~The finished floor of the #ground floor level# shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjacent Fourth Avenue public sidewalk.~~

In #Special Enhanced Commercial Districts# the applicable special #use# provisions set forth in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations) shall apply as follows:

(a) Enhanced Commercial District 1

In the #Commercial Districts# located within the #Special Enhanced Commercial District# 1, the applicable special #use# provisions indicated in the Table in Section 132-13 shall apply to #developments# and to #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts upon a #designated commercial street#, except that such provisions shall not apply to #zoning lots# with a width of less than 20 feet, as measured along the #street line# of the #designated commercial street#, provided such #zoning lot# existed on November 29, 2011.

(b) Enhanced Commercial Districts 2 and 3

In #Special Enhanced Commercial Districts# 2 and 3, the applicable special #use# provisions indicated in the Table in Section 132-13 shall apply to all #buildings# with frontage along a #designated commercial street#, except that such provisions shall not apply to:

(1) the portion of a #ground floor level# of a #building# containing a #commercial use# continuously existing since (date of adoption), where the average depth of such

#commercial use# is less than 30 feet, as measured from the #street wall# of the #building# fronting upon the #designated commercial street#;

- (2) any establishment which has been lawfully issued a building permit on or before (date of adoption) authorizing “other construction”, as set forth in paragraph (c)(3) of Section 11-31 (General Provisions), that would create a #street wall# width exceeding the maximum #street wall# width set forth in Section 132-24, provided that such “other construction” is completed by (six months after date of adoption). However, where such establishment is located within a landmark #building# or within an Historic District designated by the Landmarks Preservation Commission, and a completed application has been filed at the Landmarks Preservation Commission on or before the (date of adoption), such “other construction” shall be completed within six months after a Certificate of Appropriateness or other permit approving the #building# design was obtained from the Landmarks Preservation Commission.

In the event that such “other construction” has been commenced but not completed before the applicable date set forth in this paragraph (b)(2), the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit pursuant to the provisions set forth in paragraph (b) of Section 11-332 (Extension of period to complete construction); and

- (3) in Enhanced Commercial District 2, the portion of a #ground floor level# of a #building# containing a food store, as listed in Use Group 6A, where at least 6,000 square feet of #floor area#, or #cellar# space utilized for retailing, is utilized for the sale of a general line of food and non-food grocery products, such as dairy, canned and frozen foods, fresh fruits and vegetables, fresh and prepared meats, fish and poultry, intended for home preparation, consumption and utilization. Such retail space utilized for the sale of a general line of food and non food grocery products shall be distributed as follows:

- (i) at least 3,000 square feet or 50 percent of such retail space, whichever is greater, shall be utilized for the sale of a general line of food products intended for home preparation, consumption and utilization; and
- (ii) at least 2,000 square feet or 30 percent of such retail space, whichever is greater, shall be utilized for the sale of perishable goods that shall include dairy, fresh produce, frozen foods and fresh meats, of which at least 500 square feet of such retail space shall be designated for the sale of fresh produce.

In addition, in #Special Enhanced Commercial Districts# 1, 2 and 3 the applicable special #use# provisions indicated in the Table in Section 132-13 shall not apply to any #community facility building# used exclusively for either a #school#, as listed in Use Group 3, or a house of worship, as listed in Use Group 4.

132-211

Non-Conforming Uses

In #Special Enhanced Commercial Districts# 2 and 3, the regulations of Article V, Chapter 2 shall be modified as follows.

For the purposes of this Chapter, #non-conforming uses# shall include #ground floor level uses# exceeding the applicable maximum #street wall# widths set forth in Section 132-24 (Maximum Street Wall Width).

Any #ground floor level use# with a #non-conforming street wall# width may be continued or changed to another #use# permitted by the applicable district regulations, provided that such change of #use# does not create a new #non-conformance# or increase the degree of #non-conformance# with regard to the permitted #street wall# width of such proposed #use#. The discontinuance provisions of Section 52-60 shall not apply to such change of #use# within establishments with #non-conforming street wall# widths.

132-22

Minimum Percentage of Commercial Uses

Special Ground Floor Level Use Requirements in Residence Districts

In #Residence Districts#, all #uses# permitted by the underlying district regulations are permitted on the #ground floor level#, provided such #uses# comply with the provisions of Sections 132-30 (SPECIAL TRANSPARENCY REGULATIONS), where applicable, and 132-40 (SPECIAL PARKING REGULATIONS).

In the applicable #Special Enhanced Commercial Districts# indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the #ground floor level street walls# of #buildings# fronting along a #designated commercial street#. For #buildings# fronting along multiple #streets#, the required percentage of #ground floor level street wall# allocated to certain #uses#, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon a #designated commercial street#.

(a) Mandatory #commercial uses# for a portion of the #ground floor level#

Mandatory #commercial use# regulations shall apply to an area of a #building's ground floor level# defined by an aggregate width equal to at least 50 percent of a #building's street wall# along a #designated commercial street# and a depth equal to at least 30 feet, as measured from the #street wall# along the #designated commercial street#. Such an area on the #ground floor level# shall be occupied by #commercial uses# listed in Use Groups 5, 6A, 6C excluding banks and loan offices, 7B, 8A, 8B, or 9A.

(b) Remaining portion of #ground floor level#

The remaining portion of the #ground floor level# shall be occupied by any non-#residential use# permitted by the underlying district regulations, except that:

- (1) #residential# lobbies, and an associated vertical circulation core, shall be permitted in such remaining area, provided that such lobbies comply with the applicable maximum width provisions of paragraph (c) of Section 132-24 (Maximum Street Wall Width). In addition, the 30 foot depth requirement for #commercial uses# pursuant to paragraph (a) of this Section may be encroached upon where necessary to accommodate a vertical circulation core associated with such #residential# lobby; and
- (2) off-street parking spaces and entrances to such spaces, where permitted, shall comply with the provisions of Section 132-40 (SPECIAL PARKING REGULATIONS).

132-23

Minimum Number of Establishments

In the applicable #Special Enhanced Commercial Districts# indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the #ground floor level# of all #buildings# with #street# frontage along a #designated commercial street#.

For #zoning lots# with a #lot width# of 50 feet or more, as measured along the #street line# of the #designated commercial street#, a minimum of two non-#residential# establishments shall be required for every 50 feet of #street# frontage. In addition, each such #ground floor level# establishment shall have an average depth equal to at least 30 feet, as measured from the #street wall# along the #designated commercial street#. However, such depth requirement may be reduced where necessary in order to accommodate a vertical circulation core associated with a #residential# lobby.

132-24

Maximum Street Wall Width

In the applicable #Special Enhanced Commercial Districts# indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the #ground floor level# of all #buildings# with #street# frontage along a #designated commercial street#.

- (a) Banks and loan offices

In the applicable #Special Enhanced Commercial Districts#, within 30 feet of a #building's street wall# along a #designated street#, the maximum #street wall# width of a bank or loan office, as listed in Use Group 6C, on a #ground floor level# shall not exceed 25 feet.

(b) Other non-#residential# establishments

In the applicable #Special Enhanced Commercial Districts#, the maximum #street wall# width of any non-#residential ground floor level# establishment, other than a bank or loan office, shall not exceed 40 feet, as measured along the #street line# of a #designated commercial street#.

(c) #Residential# lobbies

In the applicable #Special Enhanced Commercial Districts#, the maximum #street wall# width of any #ground floor level residential# lobby shall not exceed 25 feet, as measured along the #street line# of a #designated commercial street#.

132-30

SPECIAL TRANSPARENCY REGULATIONS

~~The special transparency regulations of this Section shall apply to the Fourth Avenue #street walls# of #developments# and to portions of #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts upon Fourth Avenue. For #buildings# fronting along multiple #streets#, the required percentage of #ground floor level street wall# allocated to transparent materials, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon Fourth Avenue.~~

The following shall be exempt from the transparency provisions of this Section:

- ~~(a) #buildings# in #Residence Districts# where the #ground floor level# of such #buildings# contains #dwelling units# or #rooming units#; and~~
- ~~(b) #buildings# located in #Commercial Districts# on a #zoning lot# with a width of less than 20 feet, as measured along the Fourth Avenue #street line#, provided such #zoning lot# existed on (date of adoption); and~~
- ~~(c) any #community facility building# used exclusively for either a #school# or a house of worship.~~

The special transparency regulations of this Section, inclusive, shall apply to #buildings# in the #Special Enhanced Commercial Districts# indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), except as otherwise provided in Section 132-31 (Applicability of Transparency Regulations).

132-31

Applicability of Transparency Regulations

Special Ground Floor Level Transparency Requirements

The ~~#ground floor level street wall# shall be glazed with transparent materials which may include show windows, transom windows or glazed portions of doors, provided such transparent materials have a minimum width of two feet. Such transparency shall occupy at least 50 percent of the surface area of each such #ground floor level street wall# between a height of two feet, and 12 feet, or the height of the ground floor ceiling, whichever is higher as measured from the adjoining sidewalk. The lowest point of any transparency that is provided to satisfy the requirements of this Section shall not be higher than two feet, six inches above the #curb level#, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers. In addition, the maximum width of a portion of the #ground floor level street wall# without transparency shall not exceed ten feet.~~

~~However, where an entrance to an off-street parking facility is permitted on Fourth Avenue in accordance with the provisions of Section 132-42 (Special Curb Cut Requirements), the transparency requirements of this Section shall not apply to the portion of the #ground floor level street wall# occupied by such entrance.~~

In #Special Enhanced Commercial Districts#, the special transparency provisions indicated in the Table in Section 132-13 shall apply to #developments# and to #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts upon a #designated commercial street#, except that such provisions shall not apply:

- (a) to #zoning lots# in #Commercial Districts# with a width of less than 20 feet, as measured along the #street line# of a #designated commercial street#, provided such #zoning lots# existed on:
 - (1) November 29, 2011 for #Special Enhanced Commercial District# 1; and
 - (2) (date of adoption) for #Special Enhanced Commercial Districts# 2 and 3;
- (b) to any #community facility building# used exclusively for either a #school#, as listed in Use Group 3, or a house of worship, as listed in Use Group 4; and
- (c) in #Special Enhanced Commercial District# 1, to #buildings# in #Residence Districts# where the #ground floor level# contains #dwelling units# or #rooming units#.

132-32

Ground Floor Level Transparency Requirements

In the applicable #Special Enhanced Commercial Districts#, as indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the special transparency regulations of this Section shall apply to the #ground floor level street walls# of #buildings# fronting

along a #designated commercial street#. For #buildings# fronting along multiple #streets#, the required percentage of #ground floor level street wall# allocated to transparent materials, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon a #designated commercial street#.

The #ground floor level street wall# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials may be provided anywhere on such #ground floor level street wall#, except that:

- (a) transparent materials shall occupy at least 50 percent of the surface area of such #ground floor level street wall# between a height of two feet and 12 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Transparent materials provided to satisfy such 50 percent requirement shall:
 - (1) not begin higher than 2 feet, 6 inches above the level of the adjoining sidewalk, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers; and
 - (2) have a minimum width of two feet; and
- (b) the maximum width of a portion of the #ground floor level street wall# without transparency shall not exceed ten feet.

However, where an entrance to an off-street parking facility is permitted on a #designated commercial street# in accordance with the provisions of Section 132-43 (Curb Cut Requirements), the transparency requirements of this Section shall not apply to the portion of the #ground floor level street wall# occupied by such entrance.

132-40 SPECIAL PARKING REGULATIONS

The provisions of this Section shall apply to all #buildings# with Fourth Avenue #street# frontage. The special parking regulations of this Section, inclusive, shall apply to all #buildings# in the #Special Enhanced Commercial Districts# indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations).

132-41 Applicability of Parking Regulations ~~Special Location of Parking Spaces Requirements~~

All off-street parking spaces shall be located within a #completely enclosed building#.

~~Enclosed, off street parking spaces shall be permitted on the ground floor of a #building# only where they are located beyond 30 feet of such #building's# Fourth Avenue #street wall#. Entrances to such spaces along Fourth Avenue shall be permitted only where a curb cut is allowed in accordance with the provisions of Section 132-42 (Special Curb Cut Requirements).~~

In #Special Enhanced Commercial Districts#, the applicable special parking provisions indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations) shall apply to all #buildings# with frontage along a #designated commercial street#.

132-42

Location of Parking Spaces

Special Curb Cut Requirements

~~For #zoning lots# with frontage along Fourth Avenue and another #street#, curb cuts accessing off street parking spaces shall not be permitted along Fourth Avenue.~~

~~Curb cuts accessing off street parking spaces shall be permitted on Fourth Avenue only where such curb cut is located on a #zoning lot# that:~~

- ~~(a) — is an #interior lot# fronting along Fourth Avenue;~~
- ~~(b) — existed on (date of adoption);~~
- ~~(c) — has a width of at least 60 feet, as measured along the Fourth Avenue #street line#; and~~
- ~~(d) — has a #lot area# of at least 5,700 square feet.~~

In the applicable #Special Enhanced Commercial Districts#, as indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the ground floor of all #buildings# with #street# frontage along a #designated commercial street#.

All off-street parking spaces shall be located within a #completely enclosed building#.

Enclosed, off-street parking spaces shall be permitted on the ground floor of a #building# only where they are located beyond 30 feet of such #building's# street wall# along a #designated commercial street#. Entrances to such spaces along a #designated commercial street# shall be permitted only where a curb cut is allowed in accordance with the provisions of Section 132-43 (Curb Cut Requirements).

132-43

Curb Cut Requirements

In the applicable #Special Enhanced Commercial Districts#, as indicated in the Table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the ground floor of all #buildings# with #street# frontage along a #designated commercial street#.

For #zoning lots# with frontage along a #designated commercial street# and another #street#, curb cuts accessing off-street parking spaces shall not be permitted along a #designated commercial street# .

Curb cuts accessing off-street parking spaces shall be permitted on a #designated commercial street# only where such curb cut is located on a #zoning lot# that:

- (a) is an #interior lot# fronting along a #designated commercial street#;
- (b) existed on November 29, 2011 in #Special Enhanced Commercial District# 1;
- (c) has a width of at least 60 feet, as measured along the #street line# of the #designated commercial street#; and
- (d) has a #lot area# of at least 5,700 square feet.

132-50

CERTIFICATIONS AND AUTHORIZATIONS

132-51

Certification to Allow a Limited Increase in Street Wall Width

In #Special Enhanced Commercial District# 2, an establishment may #extend#, thereby exceeding the maximum #street wall# width for non-#residential# establishments set forth in paragraph (b) of Section 132-24 (Maximum Street Wall Width), and may reduce the number of establishments required pursuant to 132-23 (Minimum Number of Establishments) upon certification by the Chairperson of the City Planning Commission to the Department of Buildings that:

- (a) the proposed establishment does not exceed a maximum #street wall# width of 60 feet;
- (b) the applicant has submitted an affidavit attesting to and including information that:
 - (1) at the time of application for #extension#, the #use# has existed within such #building# for a period of one year; and
 - (2) such existing establishment cannot #extend# without increasing the #street wall# width for such establishment because of:

- (1) physical restrictions created by the #building# design, including, but not limited to the location of existing structural walls and vertical circulation cores;
 - (2) the presence of other #uses# with ongoing or expected occupancy within such #building#; or
 - (3) regulatory limitations; and
- (c) the applicant has demonstrated that at the time of application not more than one non-#residential# establishment has a #street wall# width exceeding 40 feet on either the same #block# frontage containing the applicant's establishment, or on the #block# frontage directly across the #street# from the #block# containing such establishment, or on the #blocks# fronting on the #commercial street# immediately adjacent to the north and south of the #block# containing such applicant's establishment.

In order to demonstrate such conditions, the applicant shall:

- (1) submit photographs or dimensioned elevation drawings to verify compliance with the conditions specified in this paragraph (c) ; and
- (2) verify that at the time of application no other approved applications exist for certifications or authorizations under Section 132-50 (CERTIFICATIONS AND AUTHORIZATIONS) in the geographic boundaries set forth in this paragraph (c).

A copy of an application for certification pursuant to this Section shall be sent by the Department of City Planning to the affected Community Board, which may review such proposal and submit comments to the Chairperson of the City Planning Commission. If the Community Board elects to comment on such application, it must be done within 30 days of receipt of such application. The Chairperson will not act on such application until the Community Board's comments have been received, or the 30 day comment period has expired, whichever is earlier.

A certification granted pursuant to this Section shall automatically lapse if substantial construction in accordance with the plans for which such certification was granted, has not been completed within one year from the effective date of such certification.

132-52

Authorization to Modify Maximum Street Wall Widths of Establishments

In #Special Enhanced Commercial Districts# 2 and 3, the City Planning Commission may authorize a modification of the maximum #street wall# width of non-#residential# establishments, as set forth in paragraphs (a) and (b) of Section 132-24 (Maximum Street Wall Width), provided the Commission finds that:

- (a) such additional frontage space is required for the operation of such proposed #use#, and such #use# cannot be reasonably configured within the permitted #street wall# width; or

(b) a high ground floor vacancy rate exists within a reasonable distance of the proposed #use#, and such high vacancy rate is a consequence of adverse market conditions.

The land use application for an authorization pursuant to this Section shall be sent to the applicable Community Board. If the Community Board elects to comment on such application, it must be done within 30 days of receipt of such application. The Chairperson will not act on such application until the Community Board's comments have been received, or the 30 day comment period has expired, whichever is earlier.

The above resolution (N 120144 ZRM), duly adopted by the City Planning Commission on May 9, 2012 (Calendar No. 2), 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.
ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE DE LA UZ,
MARIA M. DEL TORO, ANNA HAYES LEVIN, ORLANDO MARIN,
SHIRLEY A. MCRAE, Commissioners