



## **CITY PLANNING COMMISSION**

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July 2, 2008 / Calendar No. 21

N 080184(A) ZRM

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**IN THE MATTER OF** a revised 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 Article IX, Chapter 3 (Special Hudson Yards District), concerning Article IX, Chapter 6 (Special Clinton District), and concerning Article VIII, Chapter 1 (Special Midtown District), Community District 4, Borough of Manhattan.

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The application for the zoning text amendment N 080184 ZRM was filed by the Department of City Planning on November 20, 2007. On June 20, 2008, a revised application (N 080184(A) ZRM) was filed.

### **BACKGROUND**

In January 2005, several applications related to Hudson Yards and intended to revitalize Manhattan's Far West Side were approved by the City Council. The applications included establishing a new Special Hudson Yards District to facilitate the expansion of Midtown's central business district, expand residential neighborhoods, and regulate development adjacent to new parks and open space and connections to a proposed expansion of the Number 7 subway line. During the public review and in the three years since the promulgation of the Special Hudson Yards District the need for other text changes to clarify the approved text, eliminate inaccurate references in the text, and add new provisions consistent with the intent of the text were also identified. Follow-up zoning text amendments (N 080184(A) ZRM) were approved by the City Council on December 21, 2005.

The area affected by the proposed text amendments includes certain portions of the Special Hudson Yards District, the 42<sup>nd</sup> Street Perimeter Area of the Special Clinton District, the P2 Area of the Special Garment Center District, and the Theater Subdistrict Eighth Avenue Corridor of the Special Midtown District, all within Manhattan Community District 4. These areas are generally bounded by West 30th Street on the south, 8th Avenue on the east, West 42nd Street on the north, and 11th Avenue on the west.

The original application (N 080184 ZRM) for the text change included 13 items encompassing

use and bulk regulations, location of subway entrances, treatment of floor area related to transit easements and procedural and administrative processes for bonus and floor area transfer provisions for these special districts. Additional consideration is required with respect to one of the 13 items (relating to the theater bonus in Subarea 2 of the 42nd Street Perimeter Area of the Special Clinton District (Section 96-25)) and so, on June 20, 2008, the application was split into two parts (N 080184 ZRM and N 080184 (A) ZRM). This is in response to concerns raised during the public review process relating to the theater bonus. This will allow the other 12 items to proceed (N 080184 (A) ZRM) while permitting further review and discussion of the theater bonus. The revised application (N 080184 (A) ZRM) is the subject of this report.

### **Special Hudson Yards District**

1. Lots that abut the Mid-Block Park are proposed to be considered to abut Hudson Boulevard for purposes of all bulk controls (Sections 93-055, 93-512, 93-513): There are certain lots bordering the mapped Mid-Block Park (between 10<sup>th</sup> & 11<sup>th</sup> Avenues) where the Park is mapped without the corresponding Hudson Boulevard (so without an intervening street). For certain, but not all, bulk controls the current text provides that the street lines and sidewalk widening lines of Hudson Boulevard and Park are considered to be prolonged into these portions of the Park that have no corresponding Boulevard. The proposed text would ensure that for all bulk controls the Boulevard is considered to be prolonged into these portions of the Park.

2. The 100% retail requirement for the lots that abut the Mid-Block Park between West 38<sup>th</sup> and West 39<sup>th</sup> Streets is proposed to be removed (Sections 93-14, Appendix A, Map 2): Since retail would be difficult to activate where lots meet the Park with no street frontage, the proposed text would remove the requirement that the ground floor of buildings on these lots that border the Park must have 100% of their frontage devoted to retail.

3. Developments on lots with portions facing Hudson Boulevard & Park would be permitted to temporarily waive the glazing requirements for these portions (Section 93-14): On the footprint of the mapped Hudson Boulevard and Park there are many existing buildings that could make meeting the glazing requirement for new developments bordering the mapped Park

impracticable. The proposed text would temporarily waive the glazing requirement, until a time after the existing building within the Park is demolished, if the new development is built in a way that would make compliance with the glazing rules possible after demolition.

4. The 90-foot street wall requirement is waived for small existing buildings on 10<sup>th</sup> Avenue (93-541): There is a minimum street wall height for zoning lots along 10<sup>th</sup> Avenue between West 35<sup>th</sup> and West 41<sup>st</sup> Streets. However, there are several lots where smaller residential buildings exist, and if they were merged into larger zoning lots then the entire zoning lot would become non-complying. The proposed text would not apply this minimum street wall height rule for these merged zoning lots if existing residential buildings on the zoning lots fail to meet the minimum street wall requirement.

5. Recesses are proposed to be permitted along 9<sup>th</sup> & 10<sup>th</sup> Avenues and West 34<sup>th</sup> Street and the language of bulk regulations for developments along 10<sup>th</sup> Avenue is clarified. (93-50, 93-541, 93-542): There are certain areas in the Special Hudson Yards District (on portions of 9<sup>th</sup> Avenue, 10<sup>th</sup> Avenue and West 34<sup>th</sup> Street) where the street wall must extend along the entire zoning lot. To permit greater flexibility of design, the proposed text would permit up to 30% of the length of a building's street wall to be recessed as long as the recess is 1) above the second story or above 30 feet, whichever is higher, 2) no more than five feet deep, 3) not within 20 feet of an adjacent building, and 4) not within 30 feet of the intersection of two street lines. Additionally, the proposed text clarifies the regulations relating to a development that sets back from 10<sup>th</sup> Avenue and rises without a setback.

6. New street wall/sidewalk widening controls for the portion of Subdistrict E that fronts 8<sup>th</sup> Avenue are proposed (93-55, Appendix A, Maps 3 & 4): Currently there are neither street wall requirements nor sidewalk widening requirements for the portion of Subarea E that fronts 8<sup>th</sup> Avenue. The proposed text, for purposes of providing consistent bulk controls for 8<sup>th</sup> Avenue, would impose a mandatory street wall height range (between 90 and 120 feet) before the required setback. For non-tower portions of a building above 90 feet a sky exposure plane beginning at 120 feet would be set. Additionally, there would be imposed a five-foot sidewalk widening along this portion of 8<sup>th</sup> Avenue.

7. The proposed text clarifies language to permit transferable development rights (TDRs) transfers from the Phase II Hudson Boulevard & Park to be used as the District Improvement Bonus. (93-223): The proposed text would clarify that residential developments that are employing the District Improvement Bonus (DIB) in the D1 & D2 Subareas may substitute TDRs from lots in the Phase II portion of the Hudson Boulevard & Park for additional DIB floor area.

8. The required transit easements and subway entrances for the sites along the east side of 11<sup>th</sup> Avenue between West 34<sup>th</sup> and 36<sup>th</sup> Streets are proposed to be eliminated. (93-65, Appendix A, Map 5): The text currently indicates locations where transit easements and subway entrances shall be provided for subway-related use and public access for the Number 7 Subway Extension. However, since the MTA has agreements with landowners to provide entrances at locations other than those indicated in the text, the mandated easements and entrances are no longer needed.

9. Sites eligible to receive transferable development rights (TDRs) generated by the MTA's Eastern Rail Yards are proposed to remain eligible for these TDRs after receiving a building permit for a development that does not utilize TDRs (93-34): Section 93-34 describes the procedure certifying the use of transferable development rights generated by the Eastern Rail Yards. To facilitate the commencement of development while the procedure for obtaining the TDRs is ongoing, this amendment would allow a building permit to be received for a site without making that site ineligible for a TDR transfer in the future.

10. Aspects of procedure for obtaining the District Improvement Bonus (DIB) are proposed to be amended and clarified (93-31): Section 93-31 describes the procedure and rules for obtaining the DIB. This proposed text would:

1. Require that a deposit into the Hudson Yards District Improvement Fund (DIF) (a requirement to obtain the bonus) is made after a restrictive declaration (another requirement) is executed and recorded.
2. Give the Commission rulemaking authority to adjust provisions of 93-31 in the

future without a text amendment.

3. Clarify that obtaining a building permit for a development not utilizing the DIB will not make the development ineligible to apply for the DIB in the future.
4. Change the effective date of the yearly DIB price adjustment from June 30<sup>th</sup> to August 1<sup>st</sup> because the inflation data on which the adjustment is based is generally not available until the middle of July.
5. Remove secured payment as an option for contributing into the DIF due to the difficulty in administration and determining which security is acceptable.

### **Special Clinton District**

Areas reserved for future transit use in the Subarea 2 of the 42<sup>nd</sup> Street Perimeter Area of the Special Clinton District are proposed to not count as floor area (96-21): A portion of the site between West 41<sup>st</sup> and 42<sup>nd</sup> Streets and Dyer and 10<sup>th</sup> Avenues is included in an easement for the entrance to the Number 7 Subway Extension's 10th Avenue Station that will provide an entrance to the future subway station. To encourage the development of active uses at this location, until the subway entrance is required, the proposed text would not consider space within this transit easement as floor area.

### **Special Midtown District**

A technical correction in the Special Midtown District is proposed (81-741): A reference to 96-22 made in section 81-741 in the Special Midtown District is proposed to be changed to 96-21.

## **ENVIRONMENTAL REVIEW**

Application N 080184 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91

of 1977. The designated CEQR number is 03DCP031M. The lead agency is the City Planning Commission.

A Notice of Minor Modification was issued on February 11, 2008, which determined that the text changes set forth in the application would not result in any new or additional significant adverse impact not already set forth in the Final Generic Environmental Impact Statement for the Hudson Yards. A modified Notice of Minor Modifications was issued on June 27, 2008 to reflect Application N 080184 (A) ZRM, which does not include a proposed amendment to Section 96-25. The modified Notice of Minor Modifications determined that the text changes set forth in Application N 080184 (A) ZRM would not result in any new or additional significant adverse impact not already set forth in the Final Generic Environmental Impact Statement for the Hudson Yards.

## **PUBLIC REVIEW**

On February 11, 2008, the original application (N 080184 ZRM) was duly referred to Manhattan Community Board 4 and the Manhattan Borough President's Office in accordance with the Commission's policy for non-ULURP items.

### **Community Board Review**

Community Board 4 held a public hearing on the original application (N 080184 ZRM) on April 2, 2008 and issued a letter dated April 7, 2008 approving the applications, with conditions:

- The Board noted that removing the 100% retail requirement should not also result in the removal of the glazing and transparency requirements on that block. The Board wrote that "We accept that ground-level activity need not be retail, but insist that the transparency requirements in the third paragraph of Section 93-14 (which describes the glazing requirements) must continue to apply along the park."
- Regarding the amendment to permit a temporary waiving of the glazing requirements on the Mid-Block Park, the Board noted that "We have no objection to this amendment."

However, the provision should include a requirement that the glazing requirements should be met as soon as possible.”

- In objecting to the amendment permitting street wall recesses, the Board stated that:

Continuity of street walls is something that this community negotiated for and achieved in the Hudson Yards rezoning. It was intended to encourage development consistent with the area’s historic character, filling in the gaps created when the Lincoln Tunnel tore through the heart of the neighborhood. The “flexibility of design” sought by DCP with this amendment would make buildings stand out rather than fit in.

- In objecting to the amendment regarding the Eastern Railyards transferable development rights the Board noted that the difference between the proposed amendment and the current text was unclear and, regardless, that all formalities for obtaining the transferable development rights should be completed before a permit is issued on the site. They stated that” (i)f a development uses Transferable Development Rights from the Eastern Rail Yards, the formalities must be completed before a building permit for the foundation is issued.”

- In objecting to the third proposed amendment of the series of amendments on the District Improvement Bonus the Board noted that:

Developers should not be allowed to start construction of a smaller building and subsequently obtain the bonus for a larger building. The larger building will involve complexities that should be thought through before any work begins. If a developer is not ready to complete the DIB formalities, it’s a sign that the project is not ready to move forward.

- In objecting to the amendment regarding the treatment of future subway transit floor area the Board stated that the easement space should be used for a non-profit use until needed by the MTA. The Board wrote that:

We agree that it is desirable to allow the space to be used temporarily, so that the street wall is activated. But since the space is part of the transit easement, it is essentially public space, and should only be used for a non-profit or non-market rate use that meets a public or community need for the area.

- Regarding the item that has been removed from this (A) text, the modifications to the Clinton District 42<sup>nd</sup> Street Theater Bonus, the Board requested further changes:

- “The portion of Subarea P2 of the 42<sup>nd</sup> Street Perimeter within which the bonus is available should be should on the Appendix A (the map) of the Special Clinton

District text, to eliminate the frequent misinterpretation that the bonus is available throughout Subarea P2.”

- That the theater bonus “should require a special permit, not certification, with required findings concerning the effect on the surrounding area.”
- “The five-year inspection reports must be publically available, by delivery of a copy to this board or some other means.”
- “That non-profit performing arts spaces should qualify for the bonus only if the development also includes two theaters” (so that the bonus can help to replace the smaller theaters that had previously been on this site).
- The board also noted a few “clarifying revisions” most of which were their suggestions for how their recommendations should be implemented in the text.

### **Borough President Review**

The original application (N 080184 ZRM) was considered by the Manhattan Borough President (BP) who issued a recommendation on April 10, 2008 approving the application, subject to the following conditions. The excerpts below highlight the chief comments which are fully described in the attached recommendation.

- The BP requested that the proposed removal of the 100% retail requirement “should be clarified to ensure that retail, transparency and temporary waivers from glazing requirements are not removed for development fronting the park”.
- The BP objected to the proposed street wall recesses amendment, noting:  
“...where street wall continuity and a strong physical context already exists, particularly along Ninth Avenue and 34<sup>th</sup> Street, the Commission should retain street wall restrictions to ensure new development that fits with the area’s historical character.
- Regarding the amendment regarding the treatment of future subway transit floor area, the BP stated that the easement space should either be included in floor area of the development or be reserved as space for tenants that cannot afford market rents noting that “Having been provided to the developer at no cost, this space should be provided to tenants at little or not rental cost to an appropriate and deserving entity providing a vital community service.”

- Regarding item that has been removed from this (A) text, the modifications to the Clinton District 42<sup>nd</sup> Street Theater Bonus, the BP requested further changes:
  - “It should be made explicit that the theater bonus applies only on the south side of 42<sup>nd</sup> Street between Dyer and Eleventh Avenues in Subarea 2 of the Special Clinton District map.”
  - “The theater bonus should be held to specific findings as part of a special permit, not only to the City Planning Chair’s certification” with findings “consistent with those on ZR Sec. 81-745” (the Special Midtown District’s Theater Subdistrict) relating to how the bulk would affect the surrounding area.
  - “Five-year inspection reports must be made publicly available, by delivery of a copy to Community Boards 4, the local City Council member and the Manhattan Borough President.

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

On May 7, 2008 (Calendar No. 5), the City Planning Commission scheduled May 21, 2008, for a public hearing on the application. The hearing was duly held May 21, 2008 (Calendar No. 16). There were 3 speakers in favor and none in opposition.

The Chair of Community Board 4’s Clinton/Hell’s Kitchen Land Use Committee, noted that the Board supported most of the proposed amendments and reiterated the Board’s objections and recommendations to the proposal.

The Director of Land Use for the Manhattan Borough President also reiterated the Borough President’s objections and recommendations.

An attorney whose client has pending applications at the City Planning Commission spoke in favor of the proposal to allow a building permit to be obtained before the steps for obtaining the transferable development rights from the Eastern Rail Yards are completed.

There were no other speakers and the hearing was closed.

## CONSIDERATION

The Commission believes that this application for an amendment to the Zoning Resolution (N 080184(A) ZRM) as modified herein is appropriate. The Commission approves of the modifications to the use and bulk regulations, location of subway entrances, treatment of floor area related to transit easements and procedural and administrative processes for bonus and floor area transfer provisions for these special districts as proposed. These modifications will help in promoting the goals of the Hudson Yards rezoning of 2005 which were adopted to transform the area into a dynamic, transit-oriented urban center, with a mix of uses and open space.

This report reflects the Commission's comments on the proposal as originally referred (N 080184 ZRM) and the revised application (N 080184(A) ZRM) submitted on June 20, 2008 in response to concerns raised during the public review concerning the proposed theater bonus in Subarea 2 of the 42nd Street Perimeter Area of the Special Clinton District (Section 96-25). That aspect of the original application (N 080184 ZRM) merits further study and review.

In response to issues raised during the public review, the Commission has modified the proposed text by changing Map 2 in Appendix A to ensure that the glazing and transparency requirements remain in effect for certain lots bordering the Mid-Block Park that will no longer have a retail requirement. Also, the Commission is modifying the proposed text to ensure that a building bordering the Park that is allowed to temporarily waive the glazing requirements would be required to comply with the glazing requirement six months after the demolition of the adjacent building in the Park.

The Commission also has modified the text by adding language relating to transferable development rights (TDR) transfers so that the Commissioner of Buildings may issue a permit for a building that is not utilizing such rights that may subsequently file for a permit that utilizes those rights, similar to what was originally proposed for the DIB.

Finally, to ensure that the recesses do not affect street walls at grade, the Commission has modified the text with regards to permitted street wall recesses so that recesses would be allowed

either not any lower than the second story or no lower than 30 feet, whichever is taller. The Commission believes that this modification would provide design flexibility to allow a variety of street wall designs.

The Commission acknowledges other concerns of the Community Board and Borough President. The Commission, however, believes that a project that may eventually utilize the DIB or TDR could be ready to move forwards but could face delays in the process of obtaining the DIB or TDR. By allowing the obtaining and use of the DIB or TDR after obtaining permits for a project that complies with the underlying zoning, projects could begin development while proceeding through the process to obtain a DIB or TDR. The Commission also believes that exempting from the definition of floor the space in the site in the Special Clinton District that would ultimately be occupied by a subway entrance would facilitate the use of such space until the entrance is constructed and help activate this portion of West 42<sup>nd</sup> Street.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the actions 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, and based on the environmental determination and the 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 old, to be deleted;

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

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

## **Article VIII - Special Purpose Districts**

### **Chapter 1**

**Special Midtown District**

\* \* \*

**81-741**

**General provisions**

\* \* \*

(d) Additional floor area bonuses

All #developments# located on the west side of Eighth Avenue between 42nd and 45th Streets within the Theater Subdistrict may receive an increase in #floor area# pursuant to Section ~~96-21 (Floor Area Increase)~~ 96-22 (Special Regulations for Eighth Avenue Perimeter Area) for those #developments# complying with the provisions of Section 23-90 (INCLUSIONARY HOUSING).

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**Article IX - Special Purpose Districts**

**Chapter 3**

**Special Hudson Yards District**

\* \* \*

**93-05**

**Applicability of District Regulations**

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**93-054**

**Applicability of Chapter 4 of Article VII**

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**93-055**

**Modification of use and bulk regulations for zoning lots bounding Hudson Boulevard Park**

Where the #lot line# of a #zoning lot# coincides with the boundary of the #public parks# located between West 35<sup>th</sup> Street, Hudson Boulevard East, West 33<sup>rd</sup> Street and Eleventh Avenue, such #lot line# shall be considered to be the #street line# of Hudson Boulevard West for the purposes of applying all #use# and #bulk# regulations of this Resolution.

Where the #lot line# of a #zoning lot# coincides with the boundary of the #public park# located between West 39<sup>th</sup> Street, Tenth Avenue, West 38<sup>th</sup> Street and Eleventh Avenue, such #lot line# shall be considered to be the #street line# of Hudson Boulevard East and West, as applicable, for the purposes of applying all #use# and #bulk# regulations of this Resolution.

\* \* \*

## 93-14

### **Retail Continuity and Glazing Requirements Along Designated Streets**

Map 2 (Mandatory Ground Floor Retail and Glazing) in Appendix A of this Chapter specifies locations where the special ground floor #use# and transparency requirements of this Section apply. Such regulations shall apply along either 100 percent or 50 percent of the building's #street# frontage, as indicated on Map 2.

#Uses# located on the ground floor level or within five feet of #curb level#, and within 50 feet of the #street line# shall be limited to #commercial uses# permitted by the underlying zoning district, but not including #uses# listed in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 or 12D. A building's #street# frontage shall be allocated exclusively to such #uses#, except for lobby space, entryways or entrances to subway stations. In no event shall the length of #street# frontage occupied by lobby space or entryways exceed, in total, 40 feet or 25 percent of the building's total #street# frontage, whichever is less, except that the width of a lobby need not be less than 20 feet.

For any new #development# or #enlargement# on such designated ~~retail~~ #streets#, each ground floor #street wall# shall be glazed with materials which may include show windows, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk or public access area. Not less than 50 percent of such area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials. For #developments# or #enlargements# fronting upon Hudson Boulevard that are adjacent to existing #buildings# located within the Hudson Boulevard #street# bed or #public park#, the Hudson Boulevard #street wall# of such new #development# or #enlargement# shall be designed in a manner that will enable the glazing requirements of this section to be met upon demolition of the #buildings# within such #street# bed or #public park#, and, within six months of such demolition, such glazing requirements shall be complied with.

The provisions of this Section shall not apply along the northern #street# frontage of West 35<sup>th</sup> through West 39<sup>th</sup> Streets within 100 feet of Eleventh Avenue, as shown on Map 2. However, any #zoning lot# fronting on such #streets# and partially within 100 feet of Eleventh Avenue may, as an alternative, apply the provisions of this Section to the entire West 35<sup>th</sup>, West 36<sup>th</sup>, West 37<sup>th</sup>, West 38<sup>th</sup> or West 39<sup>th</sup> Street frontage of the #zoning lot#.

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**93-20  
FLOOR AREA REGULATIONS**

\* \* \*

**93-223  
Maximum floor area ratio in Hell’s Kitchen Subdistrict D**

(a) Subareas D1 and D2

In Subareas D1 and D2 of Hell’s Kitchen Subdistrict D, the basic maximum #floor area ratios# of non-#residential buildings# are set forth in Row A in the table in Section 93-22 and may be increased to the amount specified in Row C pursuant to Section 93-31 (District Improvement Fund Bonus) or through the transfer of #floor area# from the #Phase 2 Hudson Boulevard and Park# as set forth in Section 93-32. The basic maximum #floor area ratios# of any #building# containing #residences# are set forth in Row B.

The #floor area ratio# of any #building# containing #residences# may be increased from 6.5 pursuant to Section 93-31 (District Improvement Fund Bonus) or through the transfer of #floor area# from the #Phase 2 Hudson Boulevard and Park# as set forth in Section 93-32, and pursuant to Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23, as follows:

- (1) The #residential floor area ratio# may be increased from 6.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase pursuant to Sections 93-31 or 93-32 there is a #floor area# increase of six square feet, pursuant to Section 23-90, as modified by Section 93-23.
- (2) Any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Section 93-31 or 93-32.

Furthermore, in Subarea D1, the #floor area ratio# on a #zoning lot# may exceed 13.0 only where the community facility #floor area ratio# is not less than the excess of such #floor area ratio# above 13.0.

\* \* \*

**93-30  
SPECIAL FLOOR AREA REGULATIONS**

**93-31  
District Improvement Fund Bonus**

In the #Special Hudson Yards District# and Area P-2 of the #Special Garment Center District#, the Chairperson of the City Planning Commission shall allow, by certification, the applicable basic maximum #floor area ratio# to be increased up to the maximum amount specified in Sections 93-21, 93-22 or 121-31, as applicable, provided that instruments in a form acceptable to the City are executed and recorded ensuring and that, thereafter, a contribution has been ~~be~~ deposited in the #Hudson Yards District Improvement Fund#. The execution and recording of such instruments and the payment of such non-refundable contribution shall be a precondition to the filing for or issuing of any building permit allowing more than the basic maximum #floor area# for such #development# or #enlargement#.

The Commissioner of Buildings shall not authorize the construction of any #development# or #enlargement# utilizing #floor area# bonused pursuant to this Section, including foundations with respect thereto, nor shall the construction of any bonused portion thereof be authorized, until the Chairperson has certified that the requirements of this Section have been met. Nothing herein shall limit the ability of the Commissioner of Buildings to issue a permit for the construction of a #development# or #enlargement# which does not utilize such bonused floor area.

~~Such~~ The contribution amount shall be \$100 per square foot of #floor area# as of January 19, 2005, and shall be adjusted by the Chairperson annually on July 1 of the following year and each year thereafter, . ~~Such adjustment shall occur on August 1 of each calendar year, based on the percentage change in the Consumer Price Index for all urban consumers as defined by the U.S. Bureau of Labor Statistics for the twelve months ended on June 30 of that year~~ The contribution amount shall be determined based upon the rate which is in effect at the time the contribution is received, and contributions may be made only on days when the Hudson Yards Infrastructure Corporation (the "Corporation") is open for business and during business hours as specified by the Corporation.

The Commission may promulgate rules regarding the administration of this Section, and the Commission may also, by rule, adjust the contribution amount specified in the preceding paragraph to reflect changes in market conditions within the #Hudson Yards Redevelopment Area# if, in its judgment, the adjusted amount will facilitate the district-wide improvements that are consistent with the purposes of this Chapter and the purposes of the #Special Garment Center District#. The Commission may make such an adjustment by rule, not more than once a year.

For any such adjustment by rule decreasing the contribution amount, or increasing the contribution amount by more than the percentage change in the Consumer Price Index for all urban consumers, the following shall apply:

- (a) Such rule shall be effective for not more than two years; and
- (b) The Commission shall not publish the proposed rule pursuant to the City Administrative Procedure Act unless the City Council Land Use Committee and the Department of City Planning have jointly filed an application for a zoning text amendment under Section 201 of the New York City Charter, which would make such adjustment of the contribution amount permanently effective. The contribution amount established under such rule as

finally adopted shall continue in effect with further adjustments based upon the Consumer Price Index for all urban consumers, until the next adjustment of the contribution amount pursuant to this Section.

~~Such contribution amount shall be payable or secured at the time foundation work has been completed and the Commissioner of Buildings shall not authorize any additional construction until the Chairperson has certified that payment has been made or adequate security therefore has been provided.~~

\* \* \*

**93-34  
Distribution of Floor Area in the Large-Scale Plan Subdistrict A**

\* \* \*

(b) Requirements for application

An application filed with the Chairperson of the Commission for the distribution of #floor area# by certification pursuant to paragraph (a) of this Section shall be made jointly by the owner of the #development# rights of the Eastern Rail Yards Subarea A1 and the receiving site and shall include:

- (1) a site plan and #floor area# zoning calculations for the receiving site; and
- (2) a copy of the distribution instrument legally sufficient in both form and content to effect such a distribution, together with a notice of the restrictions limiting further development of the Eastern Rail Yards Subarea A1.

Such ~~N~~ notice of restrictions shall be filed by the owners of the respective sites in the Borough Office of the Register of the City of New York, indexed against the Eastern Rail Yards Subarea A1 and the receiving site, a certified copy of which shall be submitted to the Chairperson of the Commission. Receipt of certified copies thereof shall be a pre-condition to issuance of any building permit for any #development# or #enlargement# utilizing #floor area# distributed pursuant to this Section, including foundations with respect thereto, ~~including any foundation or alteration permit, for any #development# or #enlargement#~~ on the receiving site. Nothing herein shall limit the ability of the Commissioner of Buildings to issue a permit for the construction of a #development# or #enlargement# which does not utilize such distributed #floor area#.

\* \* \*

**93-50  
SPECIAL HEIGHT AND SETBACK REGULATIONS IN SUBDISTRICTS A THROUGH E**

In Subdistricts A through E, the height and setback regulations set forth in Section 93-42 shall apply, except that such regulations are modified in certain locations as set forth in this Section. Such modifications include the establishment of #street wall# location regulations, minimum base heights, ~~and~~ maximum length of building walls for towers, and modifications of maximum base heights, depths of required setbacks, and tower #lot coverage#. Special provisions for recesses and sidewalk widenings are as follows:

(a) Recesses

Where #street walls# are required to be located on #street lines# or sidewalk widening lines, ground floor recesses up to three feet deep shall be permitted for access to building entrances, and deeper recesses shall be permitted only where necessary to comply with the pedestrian circulation space provisions of Section 93-63. Above the level of the second #story# or a height of 30 feet, whichever is greater, and up to any specified minimum base height, recesses are permitted provided that the aggregate length of such recesses does not exceed 30 percent of the length of the required #street wall# at any level, and the depth of such recesses does not exceed five feet. No limitations on recesses shall apply above any specified minimum base height or to any portion of a #zoning lot# where #street walls# are not required.

Where #street walls# are required to extend along the entire #street# frontage of a #zoning lot#, no recesses shall be permitted within 20 feet of an adjacent #building#, or within 30 feet of the intersection of two #street lines# except where corner articulation rules apply.

(b) Sidewalk Widenings

Where a #street wall# is required to extend along the entire #street# frontage of a #zoning lot#, and such #street# is intersected by a #street# with a mandatory sidewalk widening, no #street wall# shall be required within such sidewalk widening. Where corner articulation rules apply, the inner boundary of any required sidewalk widening may be considered to be the #street line#. The mandatory #street wall# requirements are illustrated on Map 3 in Appendix A of this Chapter. Where sidewalk widening lines are specified, such lines shall be parallel to and five or ten feet from the #street line#, as required pursuant to Section 93-61 and illustrated on Map 4 (Mandatory Sidewalk Widenings) in Appendix A.

\* \* \*

**93-512**

**Subareas A3, A4 and A5 of the Large-Scale Plan Subdistrict A**

(a) Hudson Boulevard

For the purposes of this paragraph, (a), Hudson Boulevard shall be considered to be a #wide street#. The #street wall# of the #development# or #enlargement# shall be located on the Hudson Boulevard sidewalk widening line and extend along at least 70 percent of

the length of the Hudson Boulevard frontage of the #zoning lot#, and shall rise without setback to a minimum base height of 90 feet and a maximum base height of 120 feet. On #corner lots#, the maximum base height may apply along intersecting #narrow street lines# for a distance of 100 feet from its intersection with Hudson Boulevard. Above a height of 120 feet, a setback at least 25 feet in depth is required from the Hudson Boulevard #street line#, and setbacks from intersecting #narrow streets# shall comply with the provisions of paragraph (b) of Section 93-42 (Height and Setback in Subdistricts A through E).

Alternatively, for #zoning lots# that occupy the entire Hudson Boulevard #block# front, the Hudson Boulevard #street wall# may rise above a height of 120 feet without setback at the Hudson Boulevard sidewalk widening line, provided that:

- (1) the aggregate width of such #street wall# facing Hudson Boulevard does not exceed 100 feet;
- (2) all other portions of the #building# that exceed a height of 120 feet are set back at least 25 feet from the Hudson Boulevard #street line# at a height not lower than 90 feet; and
- (3) all portions of the #building# that exceed a height of 120 feet are set back from a #narrow street# in compliance with the provisions of paragraph (b) of Section 93-42.

~~For the purposes of applying the #street wall# location and setback provisions of this paragraph to #developments# and #enlargements# fronting on the #public park# between West 38th and West 39th Streets, the #street lines# and sidewalk widening lines of Hudson Boulevard shall be prolonged northward to West 39th Street.~~

\* \* \*

**93-513**  
**Four Corners Subarea A2**

- (a) Hudson Boulevard

The provisions of paragraph (a) of Section 93-512 (Subareas A3, A4 and A5 of the Large-Scale Plan Subdistrict A) shall apply, except that the maximum base height shall be 150 feet.; and, ~~for the purposes of applying such #street wall# location and setback provisions to #developments# and #enlargements# fronting upon the #public park# between West 33<sup>rd</sup> and West 35<sup>th</sup> Streets, the westerly #street line# and sidewalk widening lines of Hudson Boulevard West shall be prolonged southward to West 33<sup>rd</sup> Street.~~

\* \* \*

**93-54**

**Special Height and Setback Regulations in Hell's Kitchen Subdistrict D**

**93-541**

**Height and setback in Subareas D1 and D2**

(a) Tenth Avenue

(1) For ~~#zoning lots#~~ that do not occupy the entire Tenth Avenue ~~#block#~~ front, and for ~~#zoning lots#~~ that occupy the entire Tenth Avenue ~~#block#~~ front where existing ~~#residential buildings#~~ will remain, the ~~#street wall#~~ of any ~~#development#~~ or ~~#enlargement#~~ shall be located on and extend along the entire Tenth Avenue ~~#street line#~~, except that to allow for corner articulation, the ~~#street wall#~~ may be located anywhere within an area bounded by intersecting ~~#street lines#~~ and lines 15 feet from and parallel to such lines. Such ~~#street wall#~~ shall rise without setback to a minimum base height of 90 feet and a maximum base height of 150 feet, except that such minimum base height requirement shall not apply to any existing ~~#residential buildings#~~ to remain. Where such ~~#zoning lots#~~ also front upon a ~~#narrow street#~~, these provisions shall apply along such ~~#narrow street#~~ frontage for a minimum distance of 50 feet and a maximum distance of 100 feet from the intersection of Tenth Avenue. Above a height of 150 feet, the setback provisions of paragraph (b) of Section 93-42 shall apply.

(2) For ~~#zoning lots#~~ that occupy the entire Tenth Avenue ~~#block#~~ front, and where no existing ~~#buildings#~~ fronting upon Tenth Avenue will remain, the ~~#street wall#~~ of the ~~#development#~~ or ~~#enlargement#~~ shall be located within 10 feet of the Tenth Avenue ~~#street line#~~ and extend along the entire Tenth Avenue frontage of the ~~#zoning lot#~~ and shall rise without setback to a minimum base height of 90 feet and a maximum base height of 150 feet. These provisions shall apply for a minimum distance of 50 feet and a maximum distance of 100 feet from the intersection of Tenth Avenue.

Above a height of 150 feet, the setback provisions of paragraph (b) of Section 93-42 shall apply. ~~Alternatively, for ~~#zoning lots#~~ that occupy the entire Tenth Avenue ~~#block#~~ front and no portion of any ~~#building#~~ is within 10 feet of the Tenth Avenue ~~#street line#~~, the Tenth Avenue ~~#street wall#~~ may rise above 150 feet without setback, provided that:~~

~~(1)(i)~~ the aggregate width of such ~~#street wall#~~ does not exceed 100 feet;

~~(2)(ii)~~ all other portions of the ~~#building#~~ that exceed a height of 150 feet are set back at least 10 feet from the Tenth Avenue ~~#street wall#~~ of the ~~#building#~~ at a height not lower than 90 feet; ~~and~~

~~(3)~~(iii) all portions of the #building# that exceed a height of 150 feet are set back from a #narrow street# in compliance with the provisions of paragraph (b) of Section 93-42, and

(iv) all portions of the Tenth Avenue #street wall# that do not exceed a height of 90 feet are located ten feet from the Tenth Avenue #street line#, except that recesses may be provided in accordance with the recess provisions of paragraph (a) of Section 93-50. Above a height of 90 feet, up to a height of 150 feet, any #street wall# facing Tenth Avenue shall be located no closer to Tenth Avenue than 10 feet.

(b) Hudson Boulevard

The regulations set forth in paragraph (a) of Section 93-512 (Subareas A3, A4 and A5 of the Large-Scale Plan Subdistrict A) shall apply, except that wherever a setback from the Hudson Boulevard #street line# is required to be at least 25 feet deep, such setback depth may be reduced to 15 feet.

(c) Midblocks between Tenth Avenue and Hudson Boulevard

The regulations set forth in paragraph (c) of Section 93-512 shall apply.

(d) Length of building wall

The maximum length of any #story# located above a height of 150 feet that faces north or south shall not exceed 100 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 150 feet. Any side of such rectangle from which perpendicular lines may be drawn to the nearest #narrow street line# shall not exceed 100 feet.

(e) Tower #lot coverage#

Where more than one tower on a #zoning lot# contains #residences#, the minimum #lot area# requirement of paragraph (c)(1) of Section 93-42 shall not apply to the highest 80 feet of at least half of the number of such towers.

## 93-542

### Height and setback in Subareas D4 and D5

In Subareas D4 and D5 of Hell's Kitchen Subdistrict D, the underlying height and setback regulations shall apply, except that:

(a) the rooftop regulations set forth in Section 93-41 shall apply to all #developments# or #enlargements#; and

- (b) within the C2-5 District of Subarea D4, #commercial uses# shall be limited to two #stories# or a height of 30 feet, whichever is less.
- (c) within the C1-7A District of Subarea D5, recesses in the #street wall# of any #building# facing Ninth Avenue shall not be permitted within 20 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except as provided for permitted corner articulation.

\* \* \*

**93-55**

**Special Height and Setback Regulations in the South of Port Authority Subdistrict E**

In the South of Port Authority Subdistrict E, for any #development# or #enlargement# on a #zoning lot# fronting on Eighth Avenue, the #street wall# of such #development# or #enlargement# shall be located on the Eighth Avenue sidewalk widening line and extend along the entire #street# frontage of the #zoning lot#. Such #street wall# shall rise without setback to a minimum height of 90 feet or the height of the #building#, whichever is less, and a maximum height of 120 feet. Above a height of 90 feet, no portion of the #development# or #enlargement# shall penetrate a #sky exposure plane# that begins at a height of 120 feet above the Eighth Avenue sidewalk widening line and #street lines# of West 39<sup>th</sup> Street and West 40<sup>th</sup> Streets, as applicable, and rises over the #zoning lot# at a slope of four feet of vertical distance for each foot of horizontal distance except as provided below:

- (a) any portion of the #building or other structure developed# or #enlarged# pursuant to the tower regulations of Sections 33-45 or 35-63, as applicable, may penetrate the #sky exposure plane#.
- (b) permitted obstructions, as listed in paragraph (a) of Section 93-41, may penetrate the #sky exposure plane#. In addition, a dormer, as listed in paragraph (c) of Section 23-62, may penetrate the #sky exposure plane#.

\* \* \*

**93-55 93-56**

**Special Permit for Modification of Height and Setback Regulations**

\* \* \*

**93-65**

**Transit Easements**

Any #development# or #enlargement# on a #zoning lot# that includes the locations listed below shall provide an easement for subway-related use and public access to the subway mezzanine or station:

- (a) The area bounded by Tenth Avenue, West 41st Street, a line 190 feet east of and parallel to Tenth Avenue, and a line 55 feet south of and parallel to West 41st Street. The entrance shall be accessed from Tenth Avenue.
- ~~(b) The area bounded by the western boundary of the #public park# between West 34th and West 35th Streets, West 34th Street, a line 40 feet west of and parallel to the western boundary of the #public park# between West 34th and West 35th Streets, and a line 75 feet north of and parallel to West 34th Street. The entrance shall be accessed from the #public park# between West 34th and West 35th Streets.~~
- ~~(c) The area bounded by Eleventh Avenue, West 36th Street, a line 90 feet east of and parallel to Eleventh Avenue, a line 50 feet south of and parallel to West 36th Street, a line 50 feet east of and parallel to 11th Avenue, and West 34th Street. The entrance shall be accessed from West 36th Street or 11th Avenue within 50 feet of West 36th Street.~~
- ~~(d)(b)~~ For any #development# or #enlargement# on a #zoning lot# that includes the southwest corner of West 40th Street and Eighth Avenue, the transit easement shall accommodate a relocated subway entrance from the adjoining sidewalk to a location within the #development# or #enlargement#.

\* \* \*

**Article IX - Special Purpose Districts**

**Chapter 6  
Special Clinton District**

\* \* \*

**96-20  
PERIMETER AREA**

#Developments# within the Perimeter Area shall be eligible for increased #floor area# only pursuant to Sections 96-21 (Special Regulations for 42nd Street Perimeter Area) or 96-22 (Special Regulations for Eighth Avenue Perimeter Area)....

\* \* \*

**96-21  
Special Regulations for 42<sup>nd</sup> Street Perimeter Area**

The provisions of this Section shall apply to #developments# or #enlargements# located in all #Commercial Districts# within the area bounded by the following:

\* \* \*

(b) Floor area regulations

\* \* \*

(2) Floor area regulations in Subarea 2

In Subarea 2 of the 42<sup>nd</sup> Street Perimeter Area as shown in Appendix B, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0. However, the #floor area ratio# of any #development# or #enlargement# containing #residential use# may exceed 10.0 to a maximum of 12.0 only in accordance with the provisions of Section 23-90 (INCLUSIONARY HOUSING), except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#. For #developments# or #enlargements# that have fully utilized the Inclusionary Housing Program, the maximum permitted #floor area ratio# may be increased from 12.0 to 15.0 for new legitimate theater in accordance with the provisions of Section 96-25 (Floor Area Bonus for New Legitimate Theater Use).

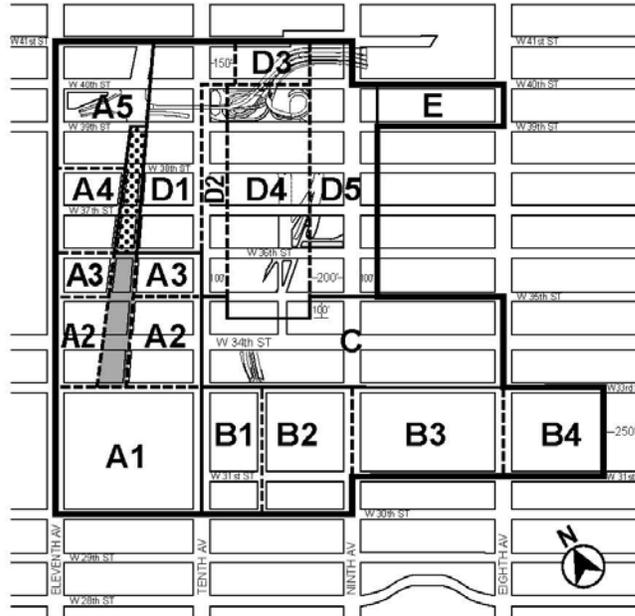
Where a transit easement volume is required on a #zoning lot# in Subarea 2, such easement volume may be temporarily used by the owner of the #zoning lot# for any permitted #uses# until such time as required by the Transit Authority or by its designee for subway purposes. Any such floor spaces occupied by such transit easement volume shall not count as #floor area#. Improvements or construction of a temporary nature within the easement volume for such temporary #uses# shall be removed by the owner of the #zoning lot# prior to the time at which public #use# of the easement area is required. A minimum notice of six months in writing shall be given by the Transit Authority to the owner of the #zoning lot# to vacate the tenants of such temporary #uses#.

\* \* \*

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A** (1/19/05)

Map 1: Special Hudson Yards District, Subdistricts and Subareas



- Special Hudson Yards District
- Subdistricts
- Subareas within subdistricts
- Phase 1 Hudson Boulevard and Park
- ▨ Phase 2 Hudson Boulevard and Park

## Large-Scale Plan Subdistrict A

- Eastern Rail Yard Subarea A1
- Four Corners Subarea A2
- Subareas A3 through A5

## Farley Corridor Subdistrict B

- Western Blocks Subarea B1
- Central Blocks Subarea B2
- Farley Post Office Subarea B3
- Pennsylvania Station Subarea B4

## 34th Street Corridor Subdistrict C

## Hell's Kitchen Subdistrict D

- Subareas D1 through D5

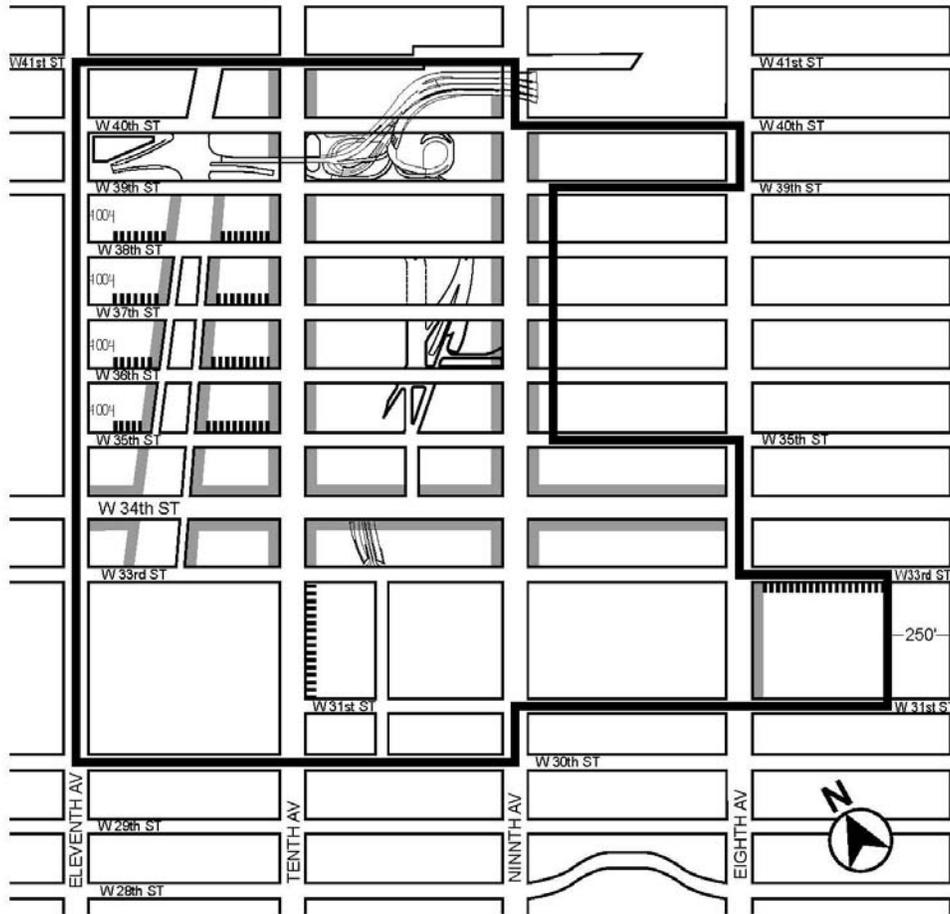
## South of Port Authority Subdistrict E

**EXISTING**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A** (1/19/05)

**Map 2: Mandatory Ground Floor Retail**



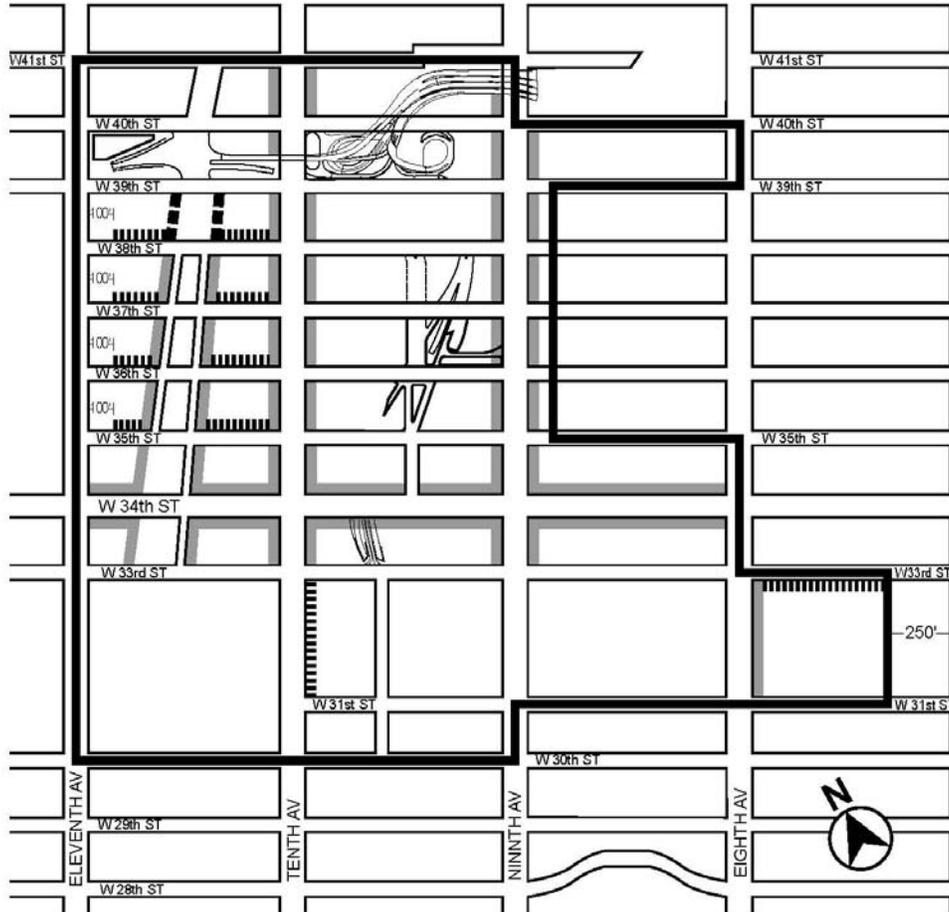
- Special Hudson Yards District
- 100% Retail Requirement
- ▨** 50% Retail Requirement

**EXISTING**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A** (1/19/05)

Map 2: Mandatory Ground Floor Retail and Glazing Requirements



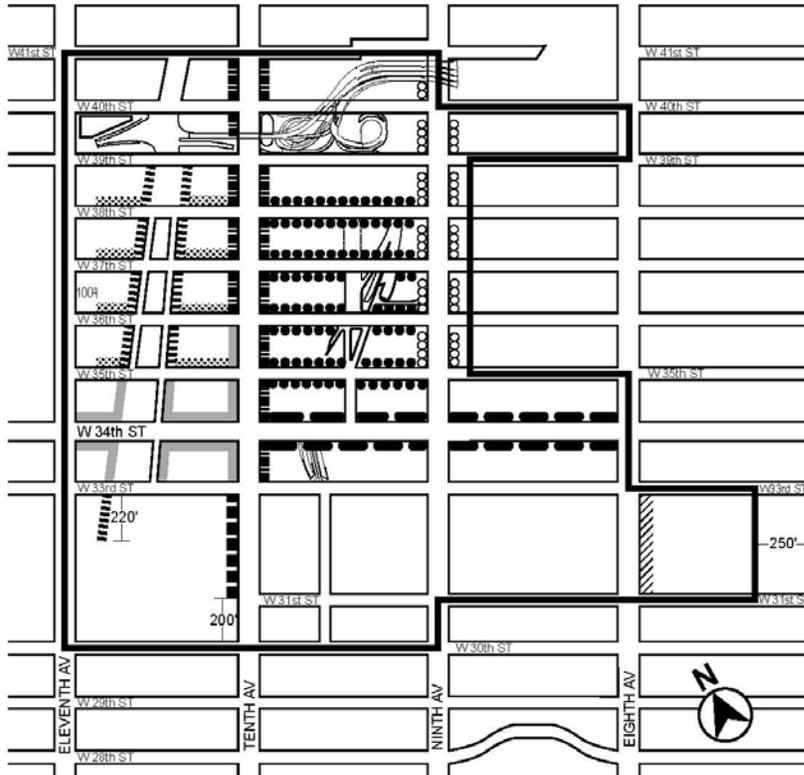
- Special Hudson Yards District
- 100% Retail and Glazing Requirement
- ||||** 50% Retail and Glazing Requirement
- Glazing Requirement Only

**PROPOSED**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A ( / / / )**

**Map 3: Mandatory Street Wall Requirements**



**Special Hudson Yards District**

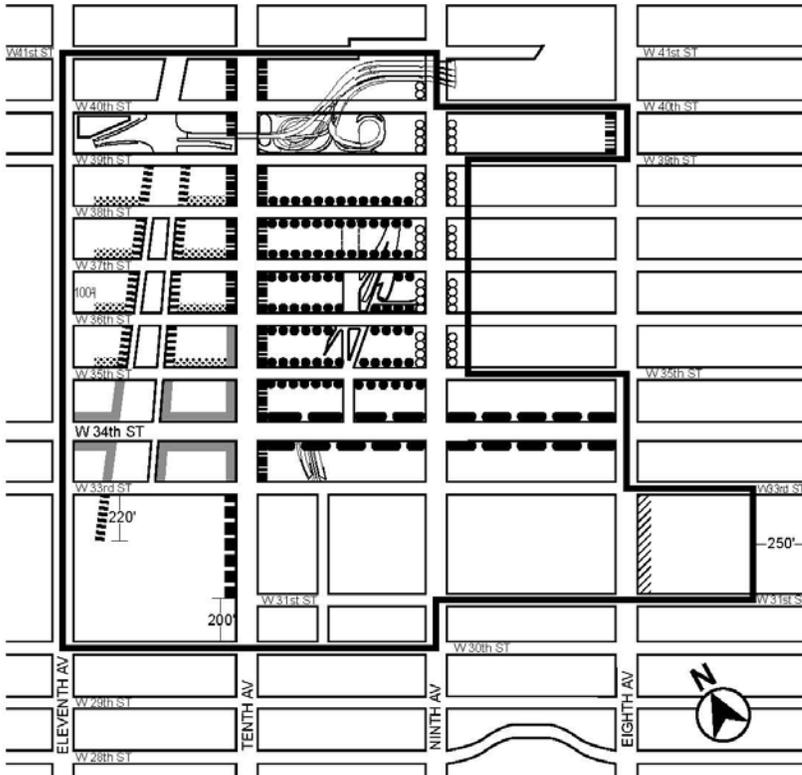
	Minimum Base Height	Maximum Base Height	Percentage of zoning lot street frontage that must be occupied by a street wall
○○○○○○○○○○○○○○○○	60'	85'	100%
●●●●●●●●●●●●●●	60'	85'	None
▨▨▨▨▨▨▨▨▨▨▨▨	60'	120'	50%
▤▤▤▤▤▤▤▤▤▤▤▤	90'	120'	70%
▧▧▧▧▧▧▧▧▧▧▧▧	60'	150'	70%
▩▩▩▩▩▩▩▩▩▩▩▩	90'	150'	100%
▬▬▬▬▬▬▬▬▬▬▬▬	90'	150'	70%
▯▯▯▯▯▯▯▯▯▯▯▯	90'	150'	35%
▰▰▰▰▰▰▰▰▰▰▰▰	120'	150'	100%

**EXISTING**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A ( / / / )**

**Map 3: Mandatory Street Wall Requirements**



**Special Hudson Yards District**

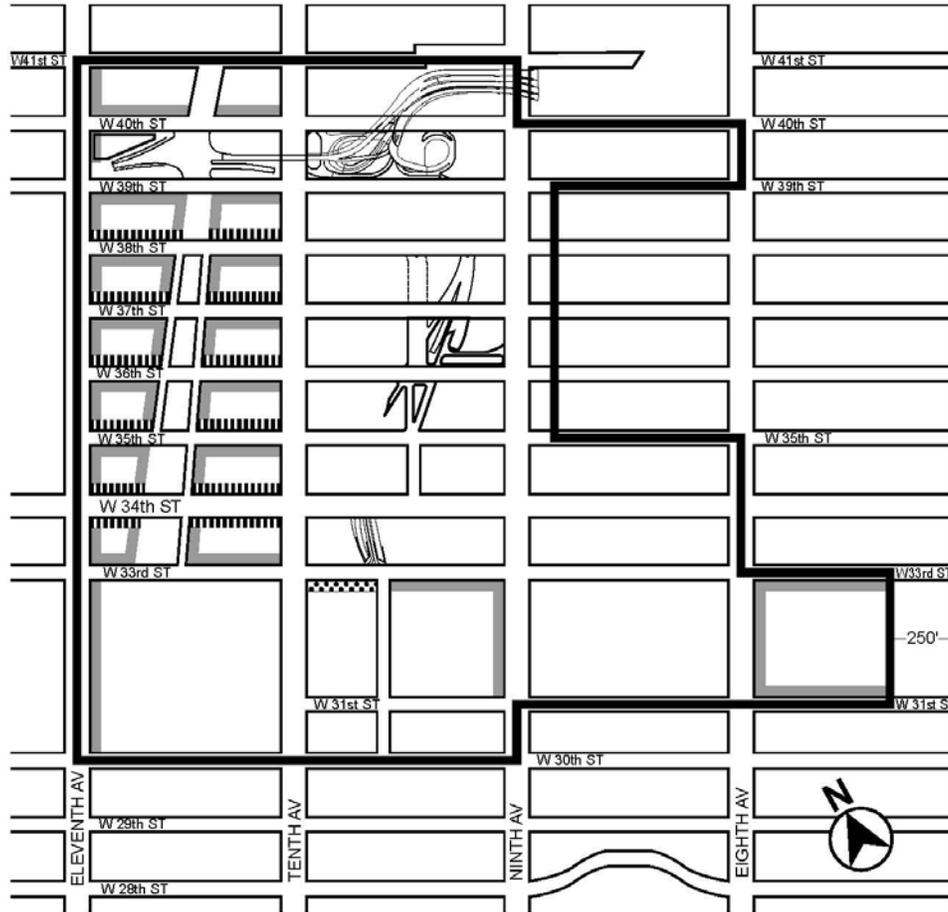
	Minimum Base Height	Maximum Base Height	Percentage of zoning lot street frontage that must be occupied by a street wall
○○○○○○○○○○○○○○○○	60'	85'	100%
●●●●●●●●●●●●●●	60'	85'	None
▨▨▨▨▨▨▨▨▨▨▨▨	60'	120'	50%
▧▧▧▧▧▧▧▧▧▧▧▧	90'	120'	70%
■ ■ ■ ■ ■ ■ ■ ■ ■ ■	60'	150'	70%
▩▩▩▩▩▩▩▩▩▩▩▩	90'	120'	100%
▩▩▩▩▩▩▩▩▩▩▩▩	90'	150'	100%
▬▬▬▬▬▬▬▬▬▬▬▬	90'	150'	70%
▨▨▨▨▨▨▨▨▨▨▨▨	90'	150'	35%
▬▬▬▬▬▬▬▬▬▬▬▬	120'	150'	100%

**PROPOSED**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A** (1/19/05)

**Map 4: Mandatory Sidewalk Widening**



**Special Hudson Yards District**

**10' Sidewalk widening**

**5' Sidewalk widening**

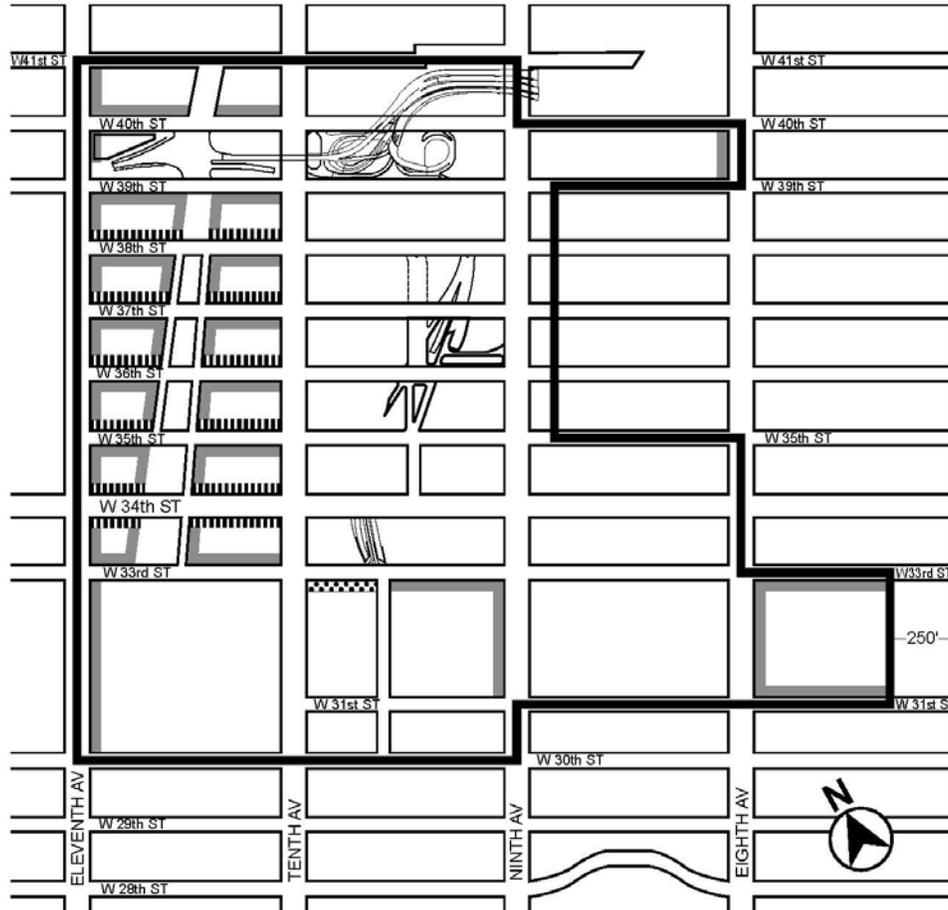
**5' Sidewalk widening required if more than 75% of the total floor area existing on the zoning lot on January 19, 2005 is demolished**

**EXISTING**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A** ( / / / )

**Map 4: Mandatory Sidewalk Widening**



**Special Hudson Yards District**

**10' Sidewalk widening**

**5' Sidewalk widening**

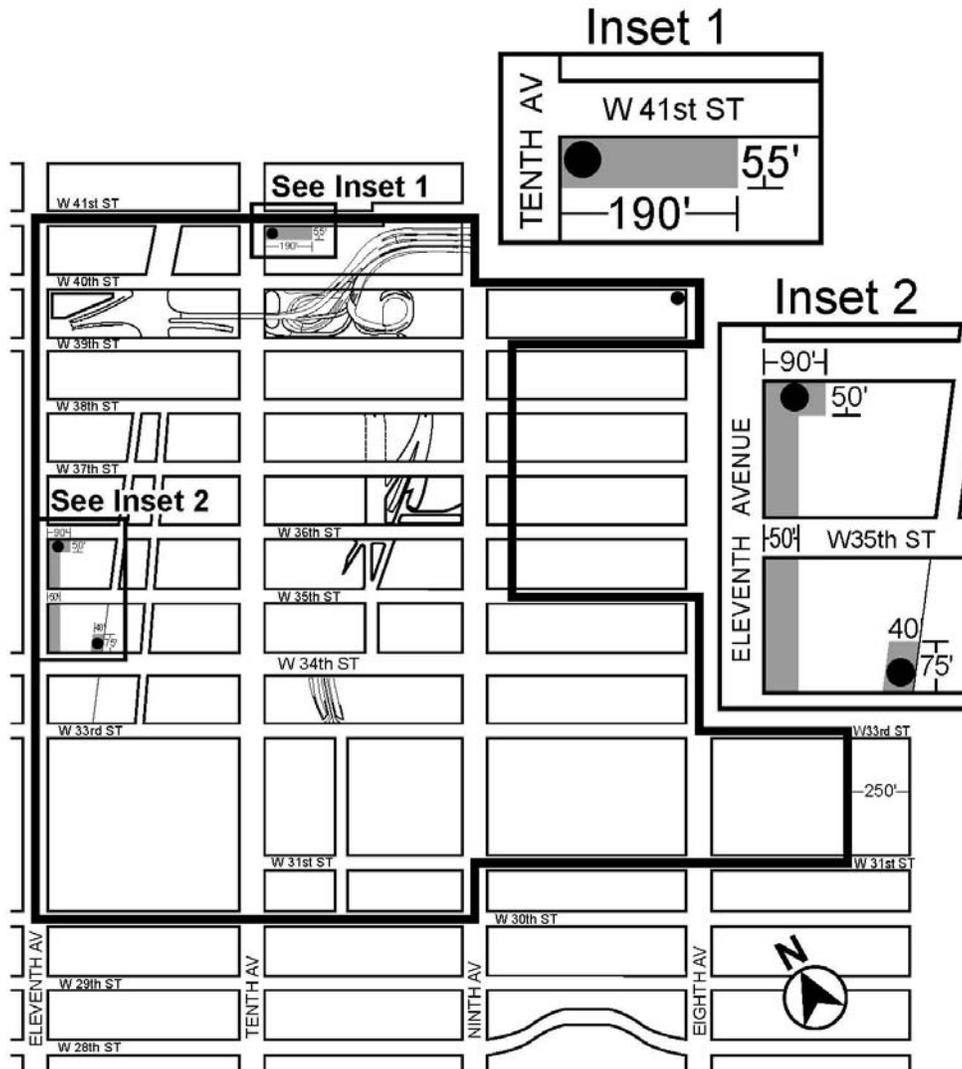
**5' Sidewalk widening required if more than 75% of the total floor area existing on the zoning lot on January 19, 2005 is demolished**

**PROPOSED**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A** (1/19/05)

Map 5: Transit Easements and Subway Entrances



**—** Special Hudson Yards District

**■** Transit Easement

**●** Subway Entrance

**EXISTING**

# Special Hudson Yards District

Zoning Resolution Section: **93-A (ARTICLE IX; CHAPTER 3) APPENDIX A** (\_\_\_/\_\_\_)

**Map 5: Transit Easement and Subway Entrance**



**—** Special Hudson Yards District

**■** Transit Easement

**●** Subway Entrance

**PROPOSED**

\* \* \*

The above resolution (N 080184(A) ZRM), duly adopted by the City Planning Commission on July 2, 2008 (Calendar No. 21), 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**  
**KENNETH J. KNUCKLES, ESQ., Vice Chairman**  
**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,**  
**ANGELA CAVALUZZI, AIA, BETTY CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL,**  
**JOHN MEROLO, KAREN A. PHILLIPS, Commissioners**