**Zoning Resolution**

THE CITY OF NEW YORK
**Zohran K. Mamdani, Mayor**

CITY PLANNING COMMISSION
**Sideya Sherman, Chair**

# 79-40 - SPECIAL PERMIT PROVISIONS

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## 79-40 - SPECIAL PERMIT PROVISIONS

LAST AMENDED
7/19/1973

## 79-401 - Special permit for development over streets

LAST AMENDED
2/2/2011

In a #large-scale community facility development# containing #schools#, hospitals or functionally related facilities in R6 or R7-1 Districts, in C1 or C2 Districts mapped within such #Residence Districts#, when the air space above a #narrow street# or portion thereof is closed and demapped, the City Planning Commission may, by special permit, allow the demapped air space to be considered as part of the adjoining #zoning lots# constituting a single #zoning lot#, and may allow within such demapped air space the #development# or #enlargement# of a #building# which is a necessary expansion of an existing #school#, hospital or functionally related facility located on adjoining #zoning lots#. As a condition for granting a permit for such #building#, or portion thereof, within the demapped air space, the Commission shall find:

(a) that there is a Master Plan for institutional development which demonstrates that the #building# over the #street# is necessary to avoid or minimize demolition of existing facilities, or #buildings designed for residential use#, and expansion on existing #zoning lots# owned by the #community facility# is not feasible to meet its expansion needs;

(b) that the location of such #building#, or portion thereof, will not impair the existing residential character of the area;

(c) that such #building#, or portion thereof, utilizes only unused #floor area# from adjoining #zoning lots# and no #floor area# credit is received from the demapped air space, and such #building# complies with the off-street parking and loading requirements of the underlying district or districts;

(d) that such #building#, or portion thereof, is contained entirely within the buildable area of the air space plane as defined in this Section, conforms with the height and setback regulations set forth in this Section, is no more than 200 feet in length and is the only such #building# on a #block# front;

(e) that such #building#, or portion thereof, links the #zoning lots# across the #street#, in the same ownership, with adequate clearance above the #street# bed, and there is no intrusion on the existing #street#, including column supports;

(f) that all #street# frontages of the #zoning lots# under such #building#, or portion thereof, are provided with fenestration or natural light along at least 75 percent of such frontages, and such #street# frontages when #developed# with #uses# other than open area, contain only #uses# requiring human occupancy such as amusement, education, dining, shopping and other similar #uses# permitted by the underlying district regulations; that the main entrance for principal pedestrian access to the #development# is located along the #street# frontages under such #building# and that no storage rooms, mechanical equipment rooms, parking and loading facilities or curb cuts are located along such #street# frontage unless authorized by the Commission;

(g) that a satisfactory lighting and ventilation plan consistent with current environmental standards is provided for the #development#; and

(h) that an additional amount of #open space# for public use at #street# level, linked with the pedestrian circulation system of the area, equivalent to the #street# area covered by such #building#, is provided within 1,000 feet of the #building# and such #open space# maintained as usable public area in the ownership of the applicant.

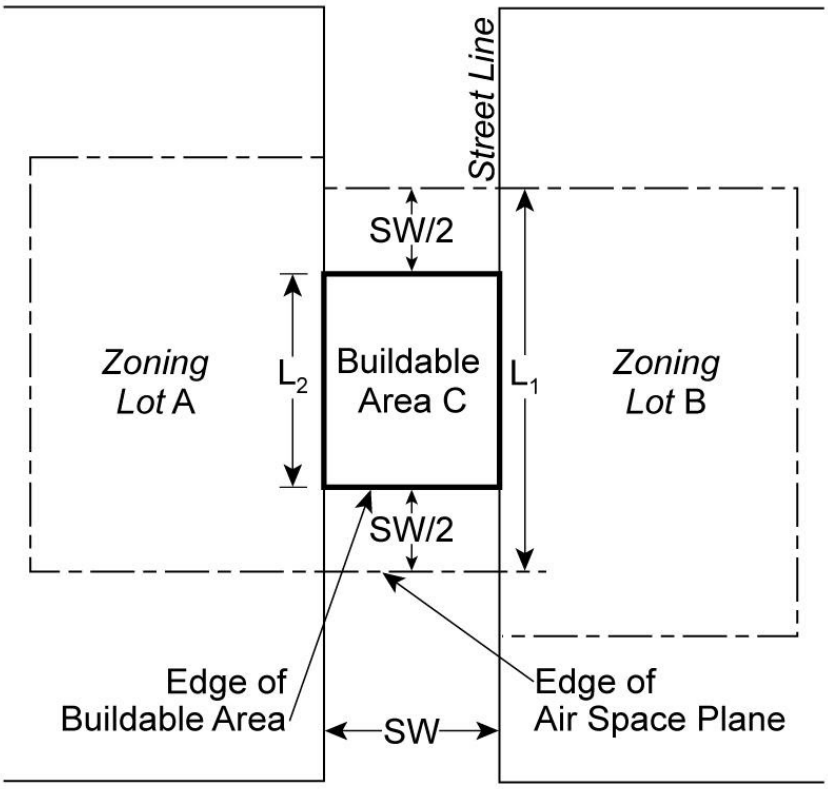
#Curb levels# of the pre-existing #zoning lots# shall not be affected by the closing and demapping of air space over such #street#.

The Commission may impose additional conditions and safeguards to improve the quality of the development and minimize adverse effects on the character of the surrounding area.

For the purposes of paragraph (d) of this Section:

Air space plane is a plane above a #narrow street# located at the same elevation as the lower limiting plane of a volume of #street# eliminated, discontinued and closed by the Board of Estimate, or its successors. The length "L1" of such air space plane is the length of the common lot frontage of two #zoning lots# opposite and across the #street# in the same ownership and its width is the width of the #narrow street# "SW" (See illustration of Required Setback for the Buildable Area).

The buildable area "C" is the lower limiting plane of the volume of #street# eliminated, discontinued and closed by the Board of Estimate, or its successors, except that in no case shall the edge of the buildable area be closer to the edge of the air space plane by a distance equal to one half the #street# width "SW/2" (See illustration of Required Setback for the Buildable Area).




SW - Width of a *narrow street*

SW/2 - Minimum required setback for the buildable area from the edge of air space plane

$L_1$ - Length of common lot frontage of two *zoning lots* across a *narrow street*

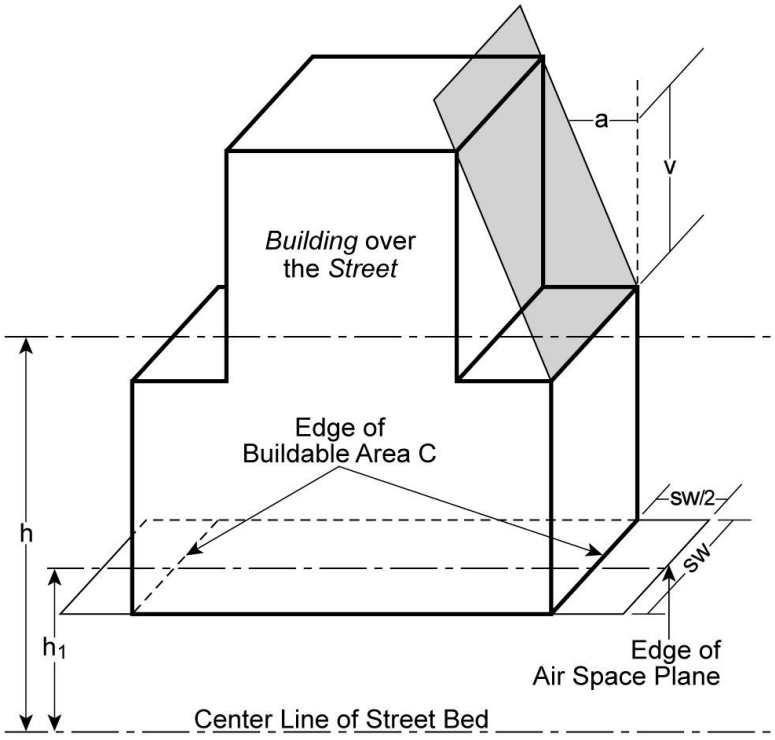
$L_2$ - Permissible length of the buildable area for a *building* over the *street*

REQUIRED SETBACK FOR THE BUILDABLE AREA

The #building# over the #street# shall comply with the height and setback regulations of this Section and the buildable area shall be completely covered by such #building#, except that such #building# may be set back from the edge of the buildable area which traverses the #street# provided that such setback area is open and obstructed from the lowest level of the #street# to the sky.

The #development# or #enlargement# of such #building# on the buildable area of the air space plane shall comply with the following #sky exposure plane# regulations (See illustration of Required Sky Exposure Plane):

| Height above #street# bed (in feet) | #Sky Exposure Plane# | | | District |
|---|---|---|---|---|
| | Slope over buildable area (expressed as a ratio of vertical distance to horizontal distance) | | | |
| | Vertical Distance | | Horizontal Distance | |
| 60 | 2.7 | to | 1 | R6 R7-1 C1 C2 |




a - Horizontal distance

v - Vertical distance

h - Height of *sky exposure plane* above center line of street bed

$h_1$ - Required clearance above center line of street bed for a *building* over the *street*

$h–h_1$ - (h minus $h_1$) Maximum permissible height of vertical wall of a *building* over the *street* along the edge of a buildable area

SW - Width of a *narrow street*

SW/2 - Minimum required setback for the buildable area from the edge of air space plane

*Sky exposure plane*

## REQUIRED SKY EXPOSURE PLANE

The height of the vertical wall or any other portion of a #building# over the #street#, shall not penetrate the #sky exposure plane#.

The #sky exposure plane# shall be measured from a point above the edge of the buildable area which traverses the #street#.

## 79-402 - Special permit for development of bridges over streets

LAST AMENDED
2/2/2011

In a #large-scale community facility development# containing hospitals or functionally related facilities in Manhattan Community Board 12, when the air space above a #wide street#, or portion thereof, is closed and demapped, the City Planning Commission may, by special permit, allow the #development# in such demapped air space of an enclosed bridge or bridges to connect #buildings# within the #large-scale community facility development#. As a condition for granting a permit for #development# of such bridges, the Commission shall find that:

(a) such bridge or bridges are essential to internal circulation of the medical function of the health care facility;

(b) such bridge or bridges shall not rest upon columns or other supports which intrude upon the #street#;

(c) the width of each such bridge shall not exceed 20 feet;

(d) such bridge within the demapped air space utilizes only #floor area# derived from the adjoining #zoning lots# and that no #floor area# credit is generated from the demapped air space;

(e) illumination of at least five foot candles is provided at the #curb level# of such bridge or bridges;

(f) such bridge in demapped air space over a #wide street# adjoins #zoning lots# wholly within the #large-scale community facility development#;

(g) the minimum horizontal distance between the nearest edges of two such bridges traversing the same #street# shall be two times the width of the #street#;

(h) the maximum exterior height of each such bridge shall not exceed 12 feet;

(i) the benefit gained from the bridge or bridges resulting from the #bulk# design or placement of such bridge or bridges outweighs any adverse impact on neighborhood character and any restriction of access to light and air to surrounding public spaces and #streets#; and

(j) a landscaped open area for public use at #street# level, linked with the pedestrian circulation system, which is at least equivalent to the #street# area covered by the bridge is provided in one location within the #large-scale community facility development# and such open area is maintained with planting and seating facilities by the owner of the #large-scale community facility development# or the owner's designee.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize the effect of the bridges, including but not limited to clearance above the #street# and surfacing materials of the bridge.

## 79-41 - Special Permit for Change of Community Facility Use

LAST AMENDED
10/10/1974

For #large-scale community facility developments# previously approved by the City Planning Commission, the Commission may, by special permit, allow a change of #community facility# #use# to a #residential use# subject to the applicable district regulations.

For the purpose of this special permit, such change of #use# shall be deemed not to alter the status and previous authorizations relating to the #large-scale community facility development#.

As a condition precedent to the grant of such special permit, the Commission shall find:

(a) that such #community facility# #use# does not provide essential services to the community at large; and

(b) that such #community facility# #use# has been actively operated as a #community facility# # use# for a period not less than five years following Commission approval of the #large-scale community facility development# or was actively operated as a #community facility# #use# prior to Commission approval of the #large-scale community facility development#.

## 79-42 - Special Permit for Non-profit Hospital Staff Dwelling Buildings

LAST AMENDED
6/6/2024

For #non-profit hospital staff dwellings# in #large-scale community facility developments# in Manhattan Community Board 8, the City Planning Commission, may by special permit, allow:

(a) Temporary occupancy of #dwelling units# by outpatients of the non-profit or voluntary hospital or by families visiting hospitalized patients provided the following findings are made:

(1) that the density and transient nature of the population housed in such #dwelling units# will not impair the essential character, future use or development of the surrounding area; or impair the security of the hospital staff residing in the #building#;

(2) that such occupancy will neither create nor contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and

(3) that the number of such #dwelling units# so occupied is less than 50 percent of the total number of #dwelling units# in the #building#.

(b) Ambulatory diagnostic or treatment health care facilities listed in Use Group III(B) on the third floor of such #buildings# in C1 Districts, provided the following findings are made:

(1) that such facilities are used exclusively for staff of, or staff affiliated with, the non-profit or voluntary hospital;

(2) that such occupancy will neither create nor contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;

(3) that such #use# will not impair the essential character, future use or development of the surrounding area;

(4) that such #use# will not produce any adverse effects which interfere with the appropriate use of land in the districts or in any adjacent district; and

(5) that separate access to the outside is provided.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

## 79-43 - Special Permit for Limited Bulk Modifications for Certain Large-scale Community Facility Developments

LAST AMENDED
9/26/2024

For #large-scale community facility developments# located within the boundaries of Community Districts 8 and 12 in the Borough of Manhattan, that contain #community facility uses# specified in Section 73-64 (Modification for Community Facility Uses), the City Planning Commission may, by special permit, allow modifications to the following provisions set forth in paragraph (a) of this

Section, provided that the findings in paragraph (b) are met.

(a) The Commission may allow modifications:

(1) to regulations relating to height and setback on the periphery of the #large-scale community facility development#, #courts# and distance between windows and walls or #lot lines# not otherwise allowed in Section 79-21 (General Provisions); and

(2) additionally, in R9 and R10 Districts, located within Community District 8:

(i) to #lot coverage#; and

(ii) to #sign# regulations.

(b) In order to grant such special permit, the Commission shall find that such modification:

(1) is required in order to enable the #large-scale community facility development# to provide an essential service to the community;

(2) will provide a more satisfactory physical relationship to the existing #buildings# which form the #large-scale community facility development#, and provide a more efficient and integrated site plan;

(3) will better complement the existing character of the neighborhood;

(4) will not unduly increase the #bulk# of #buildings# in any #block# to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks#; will not adversely affect any other #zoning lots# or #streets# outside the #large-scale community facility development# by unduly restricting access to light and air; and

(5) in R9 and R10 Districts located within Community District 8:

(i) with regard to #lot coverage#, will result in a better site plan and a better relationship among #buildings# and open areas; and

(ii) with regard to #sign# modifications:

(a) a signage plan has been submitted showing the location, size, height, and illumination of all #signs# on the #zoning lot#;

(b) the modifications are consistent with the amount and location of the #large-scale community facility development# that the Commission finds appropriate on the #zoning lot#; and

(c) #illuminated signs#, if provided:

(a) utilize an illumination type, and are located and oriented in a manner so as to minimize any negative effects on nearby #residences#; and

(b) do not alter the essential character of the adjacent area.

The Commission may prescribe additional conditions and safeguards to improve the quality of the #large-scale community facility development# and to minimize adverse effects on the character of the surrounding area.

## 79-44 - Lapse of Authorization or Special Permit

LAST AMENDED

Any authorization or special permit granted by the City Planning Commission pursuant to this Chapter shall automatically lapse if substantial construction has not been completed as set forth in Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution). For any renewal of such authorization or special permit, the provisions of Section 11-43 (Renewal of Authorization or Special Permit) shall apply.