Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

93-73 - Public Access Areas on the Ninth Avenue Rail Yard

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93-73 - Public Access Areas on the Ninth Avenue Rail Yard

LAST AMENDED
6/6/2024

For the purposes of this Section 93-73, inclusive, the Ninth Avenue Rail Yard shall be considered the area bounded by the western #street line# of Ninth Avenue, the northern #street line# of West 31st Street, a line located 498 feet west of the western #street line# of Ninth Avenue and the southern #street line# of West 33rd Street. Such area shall include the tax lots located at Block 729, Lots 50 and 60, existing on April 29, 2014. Any #development# in such area shall provide public access areas in accordance with the provisions of Section 93-73, inclusive.

Public access areas on the Ninth Avenue Rail Yard shall be comprised of the types of public access areas listed in this Section. Public access areas shall also include the area of the sidewalk widenings along Ninth Avenue and West 33rd Street required pursuant to Section 93-61. The entry plaza and the art plaza, as set forth in paragraphs (a) and (c) of this Section, respectively, shall be subject to the hours of access provisions set forth in Section 37-727. All other public access areas listed in this Section shall be accessible to the public between the hours of 6:00 a.m. and 1:00 a.m.

(a) Entry Plaza

(1) Location and minimum dimensions

A publicly accessible space, open to the sky (hereinafter referred to as the "entry plaza"), shall be located within the area bounded by the western #street line# of Ninth Avenue, the southern #street line# of West 33rd Street, a line 168 feet south of and parallel to the southern #street line# of West 33rd Street and a line 60 feet west of and parallel to the western #street line# of Ninth Avenue, as shown on Map 1 (Subdistrict B: 450 West 33rd Street and Ninth Avenue Rail Yard Public Access Area Plan) in

Appendix B of this Chapter. The entry plaza shall have a minimum area of 10,080 square feet, shall have a minimum frontage along Ninth Avenue of 168 feet and shall provide a direct connection to the central plaza required pursuant to paragraph (b) of this Section. No more than 50 percent of the entry plaza area shall be covered by the permitted obstructions described in paragraph (a) of Section 37-726.

(2) Required amenities

The entry plaza shall have the following amenities:

(i) a minimum of eight trees (or other amounts equivalent to a minimum of 32 caliper inches);

(ii) at least 336 linear feet of seating including a minimum of 48 moveable chairs and 12 moveable tables. At least 50 percent of the seating, including movable seats, shall have backs and no more than 50 percent of the seating with backs shall be movable seating;

(iii) two or more planting beds which, in the aggregate, occupy an area of at least 800 square feet. No more than 35 percent of the linear feet of the planting beds shall have bounding walls exceeding 18 inches in height above an adjacent walking surface;

(iv) ground floor transparency, in accordance with the provisions of Section 37-34 , shall apply to at least 70 percent of the length of all #building# walls facing the entry plaza; and

(v) one clear pedestrian circulation path with a minimum width of 12 feet shall be provided adjacent to the #building# facing the entry plaza and shall extend for the full length of the #building# frontage.

(b) Central Plaza

(1) Location and minimum dimensions

A publicly accessible space (hereinafter referred to as the "central plaza"), shall be located within an area bounded by the western #street line# of Ninth Avenue, a line 168 feet south of and parallel to the southern #street line# of West 33rd Street, a line 478 feet west of and parallel to the western #street line# of Ninth Avenue, a line 167 feet north of and parallel to the northern #street line# of West 31st Street beyond 40 feet of the western street line of Ninth Avenue, a line 40 west of and parallel to the western #street line# of Ninth Avenue and a line 187 feet north of and parallel to the northern #street line# of West 31st Street within 40 feet of the western street line of Ninth Avenue, as shown on Map 1 in Appendix B of this Chapter. Except as provided in paragraph (b)(3) of this Section, the central plaza shall have a minimum area of 47,800 square feet, and shall have a minimum north-south dimension of 100 feet as measured from the #building# walls of the #buildings# facing onto the central plaza of. The central plaza shall be open to the sky, except:

(i) for the area occupied by the pavilion permitted by paragraph (b)(2)(vii) of this Section; and

(ii) within a line 115 feet west of and parallel to the western #street line# of Ninth Avenue, a #building# may cantilever over the central plaza and required circulation paths located therein, provided such cantilever extends no greater than 10 feet over such central plaza.

(2) Required amenities

The central plaza shall contain the following features and amenities:

(i) Landscaped area

A landscaped area shall be provided and shall contain a minimum of 44 trees

(or other amounts equivalent to a minimum of 176 caliper inches), and planting beds which, in the aggregate, occupy an area of at least 7,500 square feet.

Within the area bounded by the western #street line# of Ninth Avenue and a line drawn 45 feet west of the western #street line# of Ninth Avenue, a minimum of 1,000 square feet of such total requirement shall be occupied by planting beds.

(ii) Seating

A minimum of 725 linear feet of seating shall be provided, with 120 moveable chairs and 30 moveable tables. At least 50 percent of the required seating shall have backs.

Within the area bounded by the western #street line# of Ninth Avenue and a line drawn 45 feet west of the western #street line# of Ninth Avenue, a minimum of 50 linear feet of seating of such total requirement shall be provided, of which 50 percent shall have backs.

(iii) Event space

The portion of the central plaza located beyond a line drawn 295 feet west of and parallel to the western #street line# of Ninth Avenue may be used for events (hereinafter referred to as the "event space"). Such event space may be used for events not exceeding a maximum area of 4,500 square feet, except as set forth below for summer public events and winter public events. When the event space is not being used for an event (general public events, summer public events, winter public events and private events), it shall contain a minimum of 192 linear feet of seating, with 96 moveable chairs and 24

moveable tables and, between April 1 and November 15, a minimum of two moveable food carts within the event space or on the periphery thereof. Such tables and chairs shall be in addition to the amount required for the landscaped area in paragraph (b)(2)(ii) of this Section. When the event space is being used for an event (general public events, summer public events, winter public events and private events), the additional tables, chairs and moveable food carts may be removed.

(a) General Public Events

At all times of the year, the event space may be used to host general public events which are open and accessible to the general public and free of admission. During such public events, the event space may contain associated temporary structures and seating.

(b) Summer Public Events

For not more than 75 days between April 1 and November 15, the event space may be used for summer public events which are open and accessible to the general public and free of admission charge, where the temporary structures and seating associated with such summer public events may extend beyond 4,500 square feet, provided that the total area used for such summer public events does not exceed an additional 2,000 square feet and is located beyond a line drawn 295 feet west of and parallel to the western #street line# of Ninth Avenue.

(c) Winter Public Events

Between November 15 and April 1, an ice skating rink, together with

associated temporary structures, may extend beyond 4,500 square feet, provided that the total area used for the ice skating rink together with associated temporary structures does not exceed an additional 2,000 square feet and is located beyond a line drawn 295 feet west of and parallel to the western #street line# of Ninth Avenue. The ice skating rink shall be open and accessible to the general public, but a fee for use of the ice skating rink may be charged, provided the combined total admission and equipment rental fees do not exceed the highest of such combined fees charged at any one rink operating in a #public park#.

(d) Private Events

The City Planning Commission may allow the closing of the event space for up to 12 private events per year pursuant to a restrictive declaration acceptable to the City and recorded in the Office of the City Register for New York County and indexed against the property.

For all events specified in this Section, temporary structures or seating associated with such an event (general public events, summer public events, winter public events and private events) permitted by this paragraph may be installed in the event space, provided the circulation paths required in paragraph (b)(2)(iv) of this Section remain unobstructed at all times.

(iv) Circulation paths

Circulation paths in the central plaza shall meet the following minimum requirements:

(a) pedestrian circulation paths with an aggregate width of not less than 30 feet shall be provided;

(b) at least two of the required circulation paths with a minimum clear width of 12 feet shall be located within 20 feet of the facade of each #building# facing the central plaza;

(c) in addition to the circulation paths required by paragraph (b)(2)(iv)(a) of this Section, at least two circulation paths shall be provided through the landscaped area required by paragraph (b)(2)(i) of this Section, which connect with the circulation paths required by paragraph (b)(2)(iv)(b) of this Section;

(d) all circulation paths shall be unobstructed during events held in the event space permitted by paragraph (b)(2)(iii) of this Section; and

(e) clear paths, with a total minimum aggregate width of 20 feet, shall be located at the boundary between the entry plaza, required pursuant to paragraph (a) of this Section, and the central plaza, required by paragraph (b) of this Section, and at the boundary between the art plaza, required pursuant to paragraph (c) of this Section, and the central plaza, required by paragraph (a) of this Section, provided that up to eight feet of such required clear path may be located within the entry plaza and within the art plaza, respectively, and that all clear paths counted toward the aggregate minimum width required by this paragraph shall be a minimum of 7 feet, 6 inches in clear width, and be located no further than 12 feet apart from one another.

(v) Transparency

The transparency requirements of Section 37-34 (Minimum Transparency

Requirements) shall apply to the ground floor level of at least 70 percent of the length of all #building# walls facing each side of the central plaza.

(vi) Retail continuity

At least 40 percent of the frontage of any #building# fronting on the central plaza shall comply with the retail continuity requirements of paragraph (a) of Section 37-76 (Mandatory Allocation of Frontages for Permitted Uses) and at least 50 percent of the aggregate frontage of all #buildings# fronting on the central plaza shall comply with the retail continuity requirements of paragraph (a) of Section 37-76. Such retail space shall have a minimum depth of 30 feet measured perpendicular to the wall adjoining the central plaza.

(vii) Pavilion

A #building# (hereinafter referred to as a "pavilion") containing #uses# listed in Use Groups 6A and 6C may be located within the central plaza, provided that such pavilion, and any seating associated with a #use# in the pavilion, shall be located at least ten feet west of the prolongation of the east face of the #building# fronting on the north side of the central plaza. The pavilion shall have a minimum #lot coverage# of 1,000 square feet and a maximum #lot coverage# of 3,000 square feet, with a maximum width of 40 feet parallel to Ninth Avenue. Such pavilion shall be no more than one #story# in height, except such one #story# limitation may be exceeded by portions of the pavilion allocated to mechanical equipment as well as restrooms and a food preparation kitchen occupying, in the aggregate, no more than 200 square feet area. Such pavilion shall not exceed a height limit of 25 feet, except that the permitted obstructions set forth in Section 33-42, as well as restrooms and a food preparation kitchen located above the level of the first #story# may be permitted to exceed such height limit provided that the height of such

restroom and food preparation kitchen do not exceed ten feet. Seating may be provided for the #uses# in the pavilion provided that the total area occupied by the pavilion and such associated seating does not exceed a maximum #lot coverage# of 3,600 square feet and that such seating shall not count towards meeting the seating requirements set forth in paragraphs (b)(2)(ii) and (iii) of this Section. Floor space within the pavilion shall not be considered #floor area#. At least 60 percent of the exterior walls of the pavilion shall be transparent except for structural supports, provided that 100 percent of the east facing wall of the pavilion shall be transparent except for structural supports.

(3) Alternative design option

Notwithstanding the provisions of paragraph (b)(1) of this Section, the minimum north-south width of the central plaza may be reduced to no less than 80 feet for at least 50 percent of the aggregate frontage of the #buildings# fronting on the central plaza, provided that such narrowed portion begins no further than 150 feet from the western #street line# of Ninth Avenue, and further provided that the minimum size of the central plaza is not less than 41,382 square feet. The minimum height of a #building# wall fronting upon such narrowed portion shall be 45 feet, and the maximum height of such #building# wall shall not exceed 85 feet. Above a height of 85 feet, the minimum setback distance shall be 10 feet and the minimum distance between #buildings# fronting on the central plaza shall be 100 feet.

(c) Art Plaza

(1) Location and minimum dimensions

A publicly accessible space open to the sky (hereinafter referred to as the “art plaza”) shall be located in the area bounded by the western #street line# of Ninth Avenue, the

northern #street line# of West 31st Street, a line 40 feet west of and parallel to the western #street line# of Ninth Avenue and a line 187 feet north of and parallel to the northern #street line# of West 31st Street, as shown on Map 1 in Appendix B. The art plaza shall have a minimum area of 7,480 square feet, a minimum east-west dimension of 40 feet and shall provide a direct connection to the central plaza required pursuant to paragraph (b) of this Section.

(2) Required amenities

The art plaza shall contain the following features and amenities:

(i) a minimum of four trees (or other amounts equivalent to a minimum of 16 caliper inches);

(ii) planting beds which, in the aggregate, occupy an area of at least 410 square feet;

(iii) a minimum of 45 linear feet of seating;

(iv) one or more pieces of artwork. Such artwork may not incorporate addresses, text or logos related to the adjacent #building# or tenants of such #building#; and

(v) the transparency requirements of Section 37-34 shall apply to the ground floor level of at least 70 percent of the length of all #building# walls facing the art plaza.

(d) Dyer Avenue Platform

(1) Location and minimum dimensions

A publicly accessible platform shall be constructed over Dyer Avenue connecting

West 33rd Street and West 31st Street (hereinafter referred to as the "Dyer Avenue Platform"), as shown on Map 1 in Appendix B. The Dyer Avenue Platform shall include the easement area described in paragraph (b) of Section 93-72 and shall directly connect with the central plaza and the West 31st Street connector required by paragraphs (b) and (e) of this Section, respectively. The Dyer Avenue Platform shall have a minimum east-west dimension of 53 feet and a minimum north-south dimension of 455 feet. However, such minimum east-west dimension may be reduced to accommodate an extension of such existing egress stair in order to adjoin the level of the platform, or to accommodate up to 15 inches of additional exterior wall thickness added to the eastern face of the existing #building# at 450 West 33rd Street. Except for any portion of the Dyer Avenue Platform which on April 29, 2014, was covered by the #building# located at 450 West 33rd Street and the existing egress stairs on the eastern face on such #building#, or the permitted additions thereto, respectively, the Dyer Avenue Platform shall be open to the sky.

(2) Required amenities

The Dyer Avenue Platform shall contain the following features and amenities which may be located on the portion of the Dyer Avenue Platform located within the easement provided pursuant to paragraph (b) of Section 93-72 (Public Access Areas at 450 West 33rd Street):

(i) a minimum of 16 trees (or other amounts equivalent to a minimum of 64 caliper inches), of which a minimum of 12 trees (or other amounts equivalent to a minimum of 48 caliper inches) shall be located south of the center line of the prolongation of West 32nd Street;

(ii) planting beds, which in the aggregate, occupy an area of at least 1500 square feet, of which a minimum of 450 square feet of planting beds shall be located south of the center line of the prolongation of West 32nd Street and a

minimum of 250 square feet of planting beds shall be located within 30 feet of the southern street line of 33rd Street. No more than 25 percent of the linear feet of the planting beds shall have bounding walls exceeding 18 inches in height above an adjacent walking surface;

(iii) a minimum of 350 linear feet of seating shall be provided, of which 50 percent shall consist of seats with backs and with at least 210 linear feet of seating located south of the center line of the prolongation of West 32nd Street and a minimum of 50 linear feet of seating located within 30 feet of the southern street line of West 33rd Street;

(iv) the glazing requirements of Section 37-34 shall apply to the ground floor level of at least 70 percent of the length of all #building# walls fronting on the eastern edge of the Dyer Avenue Platform; and

(v) at least two pedestrian circulation paths with a minimum clear path of eight feet or one circulation path with a minimum clear path of 12 feet shall be provided along the full length of the Dyer Avenue Platform, from West 31st Street to West 33rd Street.

Vertical circulation elements, including stairs and ramps traversing the grade changes of the Dyer Avenue Platform shall be considered a part of the Dyer Avenue Platform and not an obstruction.

(e) West 31st Street Connector

(1) Location and minimum dimensions

A publicly accessible connection (hereinafter referred to as the "West 31st Street connector") shall be provided between the Dyer Avenue Platform required pursuant to paragraph (e) of this Section and West 31st Street, as shown on Map 1 in Appendix

B. The West 31st Street connector shall be located on West 31st Street adjoining the eastern boundary of the Dyer Avenue Platform and shall have a minimum area of 450 square feet.

(2) Required amenities

The West 31st Street connector shall be directly accessible from West 31st Street by a staircase with a minimum width of eight feet and by an elevator.

(f) Connection to below-grade passage

Where a pedestrian passage extending from the Eighth Avenue Subway beneath West 33rd Street to the west side of Ninth Avenue has been constructed, an entrance within the #development# shall be constructed that connects with such passage.

93-731 - Design and maintenance requirements for public access areas on the Ninth Avenue Rail Yard

LAST AMENDED
8/9/2017

Public access areas on the Ninth Avenue Rail Yard provided pursuant to the requirements of Section 93-73, shall comply with the applicable design reference standards set forth in paragraph (a) and the maintenance provisions of paragraph (b) of this Section.

(a) Design reference standards

(1) seating shall meet the minimum and maximum dimensional standards set forth in paragraphs (1) through (7) of Section 37-741 (Seating), inclusive;

(2) where planting areas are provided, they shall meet the soil depth, continuous area, permeable surface and irrigation requirements of Section 37-742 (Planting and trees). Where trees are provided, they shall meet the planting standards, soil requirements and irrigation standards set forth in Section 37-742;

(3) steps shall meet the minimum dimensional standards set forth in Section 37-725 (Steps);

(4) kiosks or open air cafes shall meet the operational and service requirements listed in paragraphs (a) and (b) of Section 37-73 (Kiosks and Open Air Cafes) and shall not occupy in the aggregate more than 20 percent of the public access areas required by Section 93-73. Seating provided as part of an open air cafe shall not count towards meeting the seating requirements of a public access area listed in Section 93-73;

(5) the public access areas on the Ninth Avenue Rail Yard shall provide the following public signage system:

(i) One entry plaque in each of the following locations:

(a) entry to the Entry Plaza from West 33rd Street;

(b) entry to the Central Plaza from Ninth Avenue;

(c) entry to the Art Plaza from West 31st Street;

(d) sidewalk level entry to the West 31st Street Connector; and

(e) entry to the Dyer Avenue Platform from West 33rd Street.

(ii) Each entry plaque is subject to the signage standards as set forth in paragraph (a)(1) through (a)(4) of Section 37-751 (Public space signage systems).

(iii) Each entry plaque shall be mounted on a wall, a permanent free-standing post, or on a post located within a planter, with its center five feet above the elevation of the nearest walkable pavement. The maximum height of such free-standing post shall be six feet, with a maximum width and depth of 16 inches. Each entry plaque shall be in a position that clearly identifies the entry into the portion of the public access areas on the Ninth Avenue Rail Yard that such plaque is provided in connection with, and placed so that the entire entry plaque is obvious and directly visible, without any obstruction, along every line of sight from all paths of pedestrian access to that portion of the public access areas on the Ninth Avenue Rail Yard.

(iv) A minimum of one information plaque, constructed from the same permanent materials as the entry plaques, or combined with one or more of the required entry plaques, shall be provided within the Art Plaza, the Entry Plaza, the Central Plaza and Dyer Avenue. The information plaque shall be mounted on a wall, a permanent free-standing post, or on a post located within a planter, with its center five feet above the elevation of the nearest walkable pavement. The maximum height of such free-standing post shall be six feet, with a maximum width and depth of 16 inches.

(v) Each information plaque is subject to the signage requirements as set forth in paragraphs (b)(1) through (b)(6) of Section 37-751 except that paragraph (b)(3) shall be modified to read, “in lettering three-eighths of an inch in

height, the words: 'This public access area contains:'" followed by the total linear feet of seating, the type and quantity of trees and the number of additional required amenities, such as moveable seating, that are provided in the portion of the public access area in which the entry plaque or information plaque is provided.

(6) where #buildings# front on to public access areas, canopies, awnings, marquees and sun control devices shall be permitted pursuant to the standards set forth in paragraph (c) of Section 37-726 (Permitted obstructions);

(7) the aggregate number of litter receptacles in such public access areas shall be 21;

(8) no gates, fences or other barriers shall be permitted within such public access areas except that protective bollards provided in connection with the development of the Ninth Avenue Rail Yard may be located within the required public access areas; and

(9) for the purposes of applying the #sign# regulations to #building# walls facing public access areas, such public access areas shall be considered #streets#.

(b) Maintenance

The owner or owners shall be responsible for the maintenance of all public access areas, including, but not limited to, litter control, management of pigeons and rodents, maintenance of required lighting levels, and the care and replacement of furnishings and vegetation.

93-732 - Certification for public access areas on the Ninth Avenue Rail Yard

LAST AMENDED
4/29/2014

No certification for the phased development of public access areas on the Ninth Avenue Rail Yard shall be permitted until a plan has been submitted that provides for the completion of public access areas in accordance with the provisions of this Section. Such plan shall provide, at a minimum, that the entry plaza, required pursuant to paragraph (a) of Section 93-73 (Public Access Areas on the Ninth Avenue Rail Yard) will be provided in connection with the construction of a #building# located on the northeast corner of the Ninth Avenue Rail Yard, that the art plaza, required pursuant to paragraph (c) of Section 93-73, will be provided in connection with the construction of a #building# located on the southeast corner of the Ninth Avenue Rail Yard and that in connection with the construction of a #building# on the southwest corner of the Ninth Avenue Rail Yard, the West 31st Street connector required by paragraph (e) of Section 93-73, and a 20-foot wide paved area along the eastern edge of Dyer Avenue and extending for the north-south dimension of such #building# will be provided.

An application for certification under this Section shall be filed with the Chairperson of the City Planning Commission and such application shall include a site plan indicating the area and dimensions of the public access area, or portions thereof, and a detailed plan or plans demonstrating compliance with the requirements of Section 93-73.

Plans for the public access areas shall be set forth in an instrument in a form acceptable to the City, including such provisions as are necessary to ensure compliance with the provisions of this Section. Such instrument shall be filed and duly recorded in the Office of the City Register of the City of New York for New York County and indexed against the property. Such filing and recording of the instrument shall be a precondition for the Chairperson's certification to the Department of Buildings under this Section. The recording information shall be included on the certificate of occupancy for any #building#, or portion thereof, on the #zoning lot# issued after the recording date.

No temporary certificate of occupancy from the Department of Buildings may be issued for any portion of a #development# within a phase until the Chairperson of the City Planning Commission certifies to the Department of Buildings that the public access area, or portions thereof associated with such phase, is substantially complete and that such public access area, or portions thereof, are open to and useable by the public. No permanent certificate of occupancy from the Department of Buildings may be issued for any portion of such #development# until the Chairperson certifies to the Department of Buildings that the public access areas, or portions thereof, are fully complete, and that all requirements of this Section have been met in accordance with the plans for public access area, or portions thereof associated with such phase.

No temporary certificate of occupancy from the Department of Buildings may be issued for a #building#, or portion thereof, where the total amount of #floor area# that has been #developed# or #enlarged# on the Ninth Avenue Rail Yard exceeds 3,204,000 square feet until the Chairperson of the City Planning Commission certifies to the Commissioner of Buildings that the public access areas at 450 West 33rd Street required by paragraphs (c) and (d) of Section 93-72 and that all public access areas on the Ninth Avenue Rail Yard required by Section 93-73 have been substantially completed and are open and usable by the public. Notwithstanding the foregoing, the Chairperson may, with respect to the public access area required by paragraph (c) and the elevator required by paragraph (d) of Section 93-72 at 450 West 33rd Street, certify to the Commissioner of Buildings that such temporary certificate of occupancy may be issued absent their substantial completion provided that:

(a) the owner of 450 West 33rd Street has submitted proof that all or portions of the area of the West 31st Street passageway required by paragraph (c) of Section 93-72 was at any time subject to a lease with an expiration date of December 31, 2019, and was not able to obtain control of the areas subject to such lease on or before December 31, 2017;

(b) a letter of credit has been posted in accordance with City requirements, and such letter of credit:

(1) is in an amount equal to 200 percent of the estimated cost to construct the public access area and the elevator at 450 West 33rd Street, required by paragraphs (c) and (d) of Section 93-72, respectively, as set forth in a cost estimate prepared by a professional engineer. Such cost estimate shall be based upon construction documents prepared by a registered architect and submitted with the application for certification pursuant to this Section, and shall be subject to review and acceptance by the City; and

(2) authorizes the City to draw upon the letter of credit if such public access area and elevator have not been substantially completed and are not open and usable by the public by December 31, 2022;

(c) that an easement agreement has been recorded granting the City access to 450 West 33rd Street and the Ninth Avenue Rail Yard, as may be necessary for purposes of constructing the public access area and elevator required by paragraphs (c) and (d) of Section 93-72, respectively, if they are not completed by the owner by December 31, 2022; and

(d) in addition to the foregoing, such letter of credit shall be maintained from the date of certification for temporary certificates of occupancy, pursuant to this Section, until the Chairperson of the City Planning Commission certifies to the Commissioner of Buildings that the public access area required by paragraph (c) and the elevator required by paragraph (d) of Section 93-72 have been substantially completed and are open and usable by the public, or until same have been substantially completed by the City. The Chairperson may, no more frequently than annually, require the submission of an updated or new letter of credit in an amount that reflects changes in costs over time, and such updated or new letter of credit shall be subject to the requirements and procedures of paragraph (b) of this Section, until such letter of credit is released based upon substantial completion.

Notwithstanding the foregoing, in the event that a temporary public access area plan is approved pursuant to Section 93-734 (Certification to temporarily modify public access areas for construction staging), no temporary certificate of occupancy from the Department of Buildings may be issued for any portion of a #development# until the Chairperson certifies to the Department of Buildings that the public access area, or portions thereof associated with a phase of #development#, is substantially complete and in accordance with such temporary public access area plan, and the public access area, or portions thereof, are open and useable by the public. No permanent certificate of occupancy from the Department of Buildings may be issued for any portion of such #development# until the Chairperson certifies to the Department of Buildings that the public access area, or portions thereof associated with such phase, has been fully completed in accordance with the plan therefor, and that such public access area, or portions thereof, are open and useable by the public.

93-733 - Certification to modify general requirements of public access areas for ventilation demands

LAST AMENDED
4/29/2014

The Chairperson of the City Planning Commission may modify the general requirements of the public access areas listed in Section 93-73 (Public Access Areas on the Ninth Avenue Rail Yard), provided that the Chairperson certifies to the Commissioner of Buildings that such a change is necessary to accommodate unforeseen ventilation demands within the Ninth Avenue Rail Yard. In addition to the site plan required pursuant to Section 93-732 (Certification for public access areas on the Ninth Avenue Rail Yard), a mechanical plan shall be provided demonstrating the need to modify such general requirements.

93-734 - Certification to temporarily modify public access areas for construction staging

LAST AMENDED
4/29/2014

In the event that the applicant demonstrates to the satisfaction of the Chairperson of the City Planning Commission that the area designated for public access will be required for construction staging or similar activities in a future phase of #development#, the application for the site plan approval may be accompanied by a request for approval of a temporary public area which may include fewer amenities and other features required pursuant to Section 93-73 (Public Access Areas on the Ninth Avenue Rail Yard), as necessary to accommodate such future construction staging or similar activities.

Such temporary public access area plan shall be subject to review and approval in the same manner as site plan approval pursuant to Section 93-732 (Certification for public access areas on the Ninth Avenue Rail Yard) and, if approved pursuant thereto, shall be implemented and remain in effect only for the period necessary to accommodate the need for use of the public access area for construction staging or similar activities in a future phase of development. Following the expiration of such period, the site plan shall be implemented.