Zoning Resolution

THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
Sideya Sherman, Chair

Chapter 5 - Authorizations and Certifications by the City Planning Commission

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Chapter 5 - Authorizations and Certifications by the City Planning Commission

75-10 - USE AUTHORIZATIONS

LAST AMENDED
6/6/2024

75-20 - BULK AUTHORIZATIONS

LAST AMENDED
6/6/2024

75-21 - Bulk Modifications in Certain Commercial and Manufacturing Districts

LAST AMENDED
6/6/2024

For #developments# or #enlargement# of #buildings# in C4, C5, C6, C8, M1, M2, or M3 Districts, as well as M1 Districts paired with #Residence Districts#, the City Planning Commission may authorize modifications to the applicable #bulk# regulations, other than #floor area ratio#, provided that the conditions of paragraph (a) and the findings of paragraph (b) are met.

(a) Conditions

As a condition for the authorization, the proposed #development# or #enlargement# shall:

(1) be allocated exclusively to non-#residential uses#; and

(2) comply with the applicable #bulk# regulations of a C7 District. In order to apply such #bulk# regulations:

(i) where the maximum permitted #floor area ratio# for #commercial# or #manufacturing# #uses#, as applicable, is less than 2.0, the provisions for a C7-1 District shall be applied;

(ii) where the maximum permitted #floor area ratio# for #commercial# or #manufacturing# #uses#, as applicable, is greater than or equal to 2.0 but less than 3.0, the provisions for a C7-2 District shall be applied; and

(iii) in all other instances, one shall determine the particular C7 District with the same maximum permitted #floor area ratio# as that of the highest #floor area ratio# permitted for a #use# in the proposed #development# or #enlargement# pursuant to the district regulations. Where there is no C7 District with the same maximum permitted #floor area ratio#, the C7 District with the closest #floor area ratio# above that of the applicable district shall be selected.

(b) Findings

In order to grant the authorization, the Commission shall find that such #bulk# modifications:

(1) will not be incompatible with or adversely affect the essential character, use or future growth of the surrounding area; and

(2) will not unduly obstruct access of light and air to surrounding #streets# and properties.

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

75-22 - Height Modifications for Certain Sites

LAST AMENDED
12/5/2024

For #zoning lots# in R3-2 Districts, as well as R4 and R5 Districts without a letter or number suffix, the City Planning Commission may authorize modifications to the applicable height and setback regulations for #residences#, provided that the conditions of paragraph (a) and the findings of paragraph (b) are met.

(a) Conditions and limitations

The height modifications shall not apply to #buildings# utilizing the optional provisions for #predominantly built-up areas# set forth in Section 23-71, inclusive.

(b) Findings

The Commission shall find that:

(1) where the height modification is proposed for a #zoning lot# containing #qualifying senior housing#, the additional #floor area# permitted for the #use# is accommodated in an efficient manner;

(2) where the height modification is proposed for other #residences#, by concentrating permitted #floor area# in a #building# or #buildings# of greater height, the preservation

of an existing #building#, topography, vegetation, or view corridors having environmental, historic or aesthetic value to the public will be assured, and that such preservation would not be possible by careful siting of lower #buildings# containing the same permitted #floor area#;

(3) such modification is the least modification required to achieve the purpose for which it is granted;

(4) the proposed modification does not impair the essential character of the surrounding area; and

(5) the proposed modification will not have adverse effects upon light, air, and privacy of adjacent properties and of any existing #buildings# on the #zoning lot#.

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

75-23 - Bulk Modifications for Non-complying Buildings

LAST AMENDED
12/5/2024

For #buildings# existing on December 31, 1990, the City Planning Commission may authorize an #enlargement#, #extension#, #conversion#, change of #use# or other alteration to a #building# that includes or will include #residences# that would create a new #non-compliance# or increase the degree of an existing #non-compliance#, with the applicable #bulk# regulations, provided that the conditions of paragraph (a) and the findings of paragraph (b) are met.

(a) Conditions

The following conditions shall be met:

(1) Where maximum #building# height limitations apply, the proposed height modifications shall not result in an increase that exceeds 25 percent of the height permitted by the applicable district regulations, or the height of the existing #building#, whichever is greater; and

(2) Where #floor area ratio# modifications are proposed, no increase in #residential# #floor area# shall exceed the maximum #floor area# permitted by the applicable district regulations by more than 20 percent.

(b) Findings

In order to grant such authorization, the Commission shall find that:

(1) the configuration of the existing #building#, proximity to other #buildings#, or other site conditions create practical difficulties that would adversely affect the configuration of #residences# or the #building# site plan;

(2) for #enlargements#, where applicable:

(i) the proposed modifications will not unduly obstruct access to light and air to adjoining properties or #streets#;

(ii) the proposed scale and placement relates harmoniously with the surrounding area; and

(3) the requested modification is the least amount necessary to relieve such practical difficulties.

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

75-24 - Bulk Modifications Associated With a Transfer of Development Rights From Landmark Sites

LAST AMENDED
12/5/2024

In all districts, for #developments# or #enlargements#, the City Planning Commission may authorize #bulk# modifications, other than #floor area ratio#, to be made in conjunction with a transfer of development rights from landmark #buildings or other structures# certified pursuant to Section 75-42 (Transfer of Development Rights From Landmarks), provided the Commission determines that the conditions and limitations set forth in paragraph (a) and the findings set forth in paragraph (b) of this Section are met:

(a) Conditions and limitations

Where maximum #building# height limitations apply, modifications to the maximum permitted #building# height shall not result in an increase that exceeds 25 percent of the maximum #building# height as set forth in applicable district regulations.

(b) Findings

The Commission shall find that:

(1) the proposed modifications will not unduly obstruct access to light and air to adjoining properties or #streets#;

(2) the proposed scale and placement of the #development# or #enlargement# relates harmoniously with the surrounding area; and

(3) the requested modification is the least amount necessary to reasonably accommodate such transferred development rights.

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

75-30 - PARKING AUTHORIZATIONS

LAST AMENDED
12/5/2024

75-31 - Authorization to Remove Required Parking

LAST AMENDED
12/5/2024

In the #Inner Transit Zone#, the City Planning Commission may authorize the reduction or removal of #accessory# off-street parking spaces required pursuant to Section 25-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES) provided the Commission finds that such reduction or removal:

(a) will not impede access to existing #accessory# off-street parking spaces on adjoining #zoning lots#; and

(b) will not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area;

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

75-40 - CERTIFICATIONS

LAST AMENDED
12/5/2024

75-41 - Railroad Right-of-Ways

LAST AMENDED
12/5/2024

75-411 - Developments on or over railroad rights-of-way

LAST AMENDED
12/5/2024

No #development# or #enlargement# may occur on or over a #railroad right-of-way# unless the Chairperson of the City Planning Commission certifies to the Department of Buildings that:

(a) a site plan has been submitted showing:

(1) the total #lot area#, including any #railroad right-of-way# or platform over a #railroad right-of-way#; and

(2) that the #zoning lot# has direct access to one or more #streets#;

(b) the affected railroad entity or entities have indicated in writing that the proposed #development# or #enlargement# will not interfere with current or future railroad operations.

Certification by the Chairperson shall be a precondition to the issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# under this Section.

75-412 - Developments on lots under one and a half acres that include railroad right-of-ways

LAST AMENDED
12/5/2024

A #railroad right-of-way# that would otherwise be considered a #block# boundary may not be included in the #lot area# of a #zoning lot# less than one and a half acres unless the Chairperson of the City Planning Commission certifies to the Department of Buildings that:

(a) a site plan has been submitted showing:

(1) the total #lot area#, including any #railroad right-of-way# or platform over a #railroad right-of-way#; and

(2) that the #zoning lot# has direct access to one or more #streets#;

(b) the affected railroad entity or entities have indicated in writing that the proposed #development# or #enlargement# will not interfere with current or future railroad operations.

Certification by the Chairperson shall be a precondition to the issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# under this Section.

75-42 - Transfer of Development Rights From Landmarks

LAST AMENDED
12/5/2024

75-421 - Definitions

LAST AMENDED
12/5/2024

For purposes of this Section, inclusive, matter in italics is defined in Section 12-10 (DEFINITIONS) and in this Section.

Granting lot

For the purposes of this Section, inclusive, a “granting lot” shall mean a #zoning lot# or #split lot# that contains a #landmark building or other structure#.

Landmark building or other structure

For the purposes of this Section, inclusive, a “landmark building or other structure” shall include any structure designated as a landmark by the Landmarks Preservation Commission pursuant to the New York City Charter and Administrative Code, but shall not include those portions of #zoning lots# used for cemetery purposes, statues, monuments or bridges. No transfer of development rights is permitted pursuant to this Section, inclusive, from those portions of #zoning lots# used for cemetery purposes, statues, monuments or bridges.

Receiving lot

For the purposes of this Section, inclusive, a “receiving lot” shall mean a #zoning lot# or #split lot# to which development rights of a #granting lot# are transferred.

Split lot

For the purposes of this Section, inclusive, a “split lot” is each portion of a #zoning lot# that is divided by district boundaries.

Surrounding area

For the purposes of this Section, inclusive, the “surrounding area” shall mean all #zoning lots# on the #block# on which the #landmark building or other structure# is located, as well as all #zoning lots#

across a #street# or #street# intersection from the #block#. It shall also mean, in #Commercial Districts# where the maximum #floor area ratio# for #commercial uses# is 15.0 or greater, #zoning lots# that, except for the intervention of #streets# or #street# intersections, form a series extending to the #zoning lot# occupied by the #landmark building or other structure#. All such lots shall be in the same ownership (fee ownership or alternative ownership arrangements of the #zoning lot# definition in Section 12-10).

75-422 - Certification to transfer development rights from landmarks

LAST AMENDED
12/5/2024

The Chairperson of the City Planning Commission shall allow, by certification, a transfer of development rights from #granting lots# to #receiving lots# within the #surrounding area#, provided that the provisions of this Section are met.

(a) The transfer of development rights shall be subject to the following conditions:

(1) The maximum amount of #floor area# that may be transferred from a #granting lot# shall be the maximum #floor area# allowed by the applicable district regulations, less the total #floor area# of all existing #buildings# on the #granting lot#, and any previously transferred #floor area#. Such maximum #floor area# shall not include any additional #floor area# allowed for #publicly accessible open areas# or any other form of bonus whether as of right or by discretionary action;

(2) For each #receiving lot#, the increased #floor area# allowed by the transfer of development rights pursuant to this Section shall in no event exceed the maximum

#floor area# allowable on such #zoning lot# by more than 20 percent. Such #floor area# increase may be applied to any individual #use#, provided that the total of all #floor area ratios# does not exceed 20 percent of the greatest #floor area ratio# permitted on the #zoning lot#. However, in #Commercial Districts# or #Manufacturing Districts# where the maximum #floor area ratio# for non-#residential uses# is 15.0 or greater, such 20 percent limit shall be increased to 30 percent. Transfers over 30 percent in such districts shall only be permitted pursuant to Section 74-79 (Transfer of Development Rights from Landmark Sites);

(3) Each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred. If the landmark designation is removed from the #landmark building or other structure#, the #landmark building or other structure# is destroyed or #enlarged#, or the #zoning lot# with the #landmark building or other structure# is redeveloped, the #granting lot# may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer; and

(4) Prior to the issuance of a building permit, as set forth in paragraph (c) of this Section, the owners of the #granting lot# and the #receiving lot# shall submit to the Chairperson a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the #granting lot# and the #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York. Proof of recordation shall be submitted to the Chairperson.

Both the transfer instrument and the notices of restrictions shall specify the total amount of #floor area# transferred and shall specify, by lot and block numbers, the #granting lot# and the #receiving lot# that are a party to such transfer.

(b) An application filed with the Chairperson for certification pursuant to this Section shall be made jointly by the owners of the #granting lot# and the #receiving lot#. The following items shall be submitted to the Chairperson as part of an application for certification:

(1) site plans and zoning calculations for the #granting lot# and #receiving lot# showing the additional #floor area# associated with the transfer, and any such other information as may be required by the Chairperson;

(2) materials to demonstrate the establishment of a program for the continuing maintenance of the #landmark building or other structure#; and

(3) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the #landmark building or other structure#.

(c) The Chairperson shall certify to the Department of Buildings that a #development# or #enlargement# is in compliance with the provisions of this Section only once the instrument of transfer and notice of restrictions required by paragraph (a) of this Section have been executed and recorded with proof of recordation provided to the Chairperson.

A separate application shall be filed for each transfer of development rights to an independent #receiving lot# pursuant to the provisions of this Section. #Bulk# modifications may be permitted in conjunction with a transfer of development rights pursuant to this Section through either Section 75-24 (Bulk Modifications Associated With a Transfer of Development Rights From Landmark Sites) or Section 74-79 (Transfer of Development Rights From Landmark Sites), as applicable.