

Topic:	Incentive Zoning; Site Design Standards; Transportation & Land Use Planning
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	City of New York
Year (adopted, written, etc.):	2004
Community Type – applicable to:	Urban; Suburban
Title:	City of New York Floor Area Bonus for Subway Station Improvements
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Abstract

The City of New York created incentive zoning in 1961 to acquire available open space in densely packed commercial or business districts. Article VII, Chapter 4 in the New York City Zoning Resolution grants floor area bonus by special permit for improving subway station.

Resource

Article VII. Administration

Ch. 4 Special Permits by the City Planning Commission

74-634 Subway station improvements in Downtown Brooklyn and in commercial zones of 10 FAR and above in Manhattan (6/28/04)

The City Planning Commission may grant, by special permit, a “floor area” bonus not to exceed 20 percent of the basic maximum “floor area ratio” permitted by the underlying district regulations, and may waive or modify the provisions of Article III, Chapter 7 (Special Regulations), and the “street wall” continuity provisions of Sections 81-43 (Street Wall Continuity Along Designated Streets), 91-31 (Street Wall Regulations) or 101-47 (Special Street Wall Location Regulations) for “developments” or “enlargements” located on “zoning lots” where major improvements to adjacent subway stations are provided in accordance with the provisions of this Section. For the purposes of this Section, “adjacent” shall mean that upon completion of the improvement, the “zoning lot” will physically adjoin a subway station mezzanine, platform concourse or connecting passageway. Subway stations where such improvements may be constructed are those stations located within the “Special Midtown District” as listed in Section 81-292 (Subway station improvements), the “Special Lower Manhattan District” as listed in Section 91-43 (Special Permit for Subway Station Improvements), the “Special Downtown Brooklyn District” as listed in

Section 101-211 (Special permit for subway station improvements), the “Special Union Square District” as listed in Section 118-60 and those stations listed in the following table:

Station	Line
8th St.	Broadway BMT
23rd St.	Broadway BMT
23rd St.	Lexington Ave. IRT
28st St.	Lexington Ave. IRT
33rd St.	Lexington Ave. IRT
34st St.	8 th Ave. IND
59st St.	Lexington Ave. IRT
Lexington Ave(60 th St)	Broadway BMT

The Selection of subway station improvements shall be on a case-by-case basis and shall be subject to the approval of the Metropolitan Transportation Authority, New York City Transit and the City Planning Commission. All such improvements shall comply with all applicable design standards of the current station planning guidelines of New York City Transit.

(a) Pre-application requirements

Prior to submitting an application for a special permit pursuant to this Section, the applicant shall submit a schematic or concept plan for the proposed improvement to the Metropolitan Transportation Authority, New York City Transit and the Chairperson of the City Planning Commission.

(b) Requirements for application

An application for a special permit pursuant to this Section shall include a letter from New York City Transit to the City Planning Commission containing conceptual approval of the improvement and a statement of any special considerations regarding New York City Transit’s future operation of the improvement. The applicant shall submit all information and justification sufficient to enable the Commission to:

- (1) evaluate the benefits to the City;

- (2) determine the appropriate amount of bonus “floor area”; and
- (3) where applicable, assess the advantages and disadvantages of waiving or modifying “street wall” continuity requirements.

(c) Conditions

(1) For a “residential” or mixed “development”, when a “floor area” bonus is granted pursuant to this Section, alone or in combination with other bonuses, the “lot area” requirements of Sections 23-20 (DENSITY REGULATIONS) and 35-40 (APPLICABILITY OF DENSITY REGULATIONS TO MIXED BUILDINGS) shall not apply. Instead, the minimum average size of a “dwelling unit” shall be 790 square feet.

(2) Within the “Special Midtown District”, for a “development” or “enlargement” within the Theater Subdistrict on a “zoning lot” containing a theater designated as listed pursuant to Section 81-742 (Listed theaters), the Commission shall find that the requirements of Section 81-743 (Required assurance for continuance of legitimate theater use) have been met.

(3) Within the “Special Midtown District”, for a “development” or “enlargement” located on a “zoning lot” divided by a Theater Subdistrict Core boundary, as defined in Section 81-71 (General Provisions), the amount of “lot area” eligible for bonus “floor area” shall not exceed an amount equal to twice the “lot area” of that portion of the “zoning lot” located outside the Theater Subdistrict Core.

(d) Findings

(1) In determining the amount of “floor area” bonus, the City Planning Commission shall consider the degree to which:

(i) the general accessibility and security of the subway station will be improved by the provision of new connections, additions to or reconfigurations of circulation space, including provision of escalators or elevators; and

(ii) significant improvement the station’s environment by provision for direct daylight access, or improvements to noise control, air quality, lighting or rider orientation and satisfactory integration of the “street” level entryway into the “development” or “enlargement” will occur.

(2) In determining modifications to the requirements of Article III, Chapter 7 (Special Regulations), the Commission shall find that the provisions of a Subway improvement cannot be accommodated without modification to these requirements.

(3) In determining modifications to the “Street wall” continuity provisions of Section 81-43 in the “Special Midtown District”, Section 91-31 (Street Wall Regulations) in the “Special Lower Manhattan District” or Section 101-41 in the “Special Downtown Brooklyn District”, the Commission shall find that the modification will permit the

proposed design to provide for access of daylight and air to the subway platform, mezzanine or concourse and that the advantages of such access outweigh the disadvantages incurred by the interruption of "street wall" and retail continuity.

(e) Procedural requirements

Prior to the granting of a special permit, the City Planning Commission shall be provided with the following:

(1) a letter from New York City Transit stating that the drawings and other documents submitted by the applicant have been determined by New York City Transit to be of sufficient scope and detail to fix and describe the size and character of the subway improvement as to architectural, structural, mechanical and electrical systems, materials, relationship to existing site conditions and such other conditions as may be appropriate, and that the construction of the subway improvement in accordance with such submission is feasible; and

(2) a legally enforceable instrument running with the land and signed by the applicant and all parties in interest, other than parties in interest who have waived and subordinated their interest, containing complete drawings of the improvement and setting forth the obligations of owner and developer, their successors and assigns, to construct and provide capital maintenance for the improvement, establish a construction schedule and provide a performance bond for completion of the improvement.

(f) Recordation & completion procedures

Any instrument creating a transit easement on the "zoning lot" shall be recorded against the "zoning lot" in the office of the Register of the City of New York and a certified copy of the instrument shall be submitted to the City Planning Commission and New York City Transit. The applicant shall not apply for not accept a temporary Certificate of occupancy for the bonus "floor area", and the Department of Buildings shall not issue such a temporary certificate of occupancy, until New York City Transit has determined that the bonused subway improvement is substantially complete which shall, for this purpose, mean open to and usable by the public.

In all districts, the City Planning Commission may, by special permit, allow the elimination or reduction in size of any existing "plaza", "plaza"-connected open area, "residential plaza", "urban plaza", "arcade" or other public amenity, open or enclosed, for which a "floor area" bonus has been utilized, provided that such reduction or elimination shall not create a "floor area" non-compliance on the "zoning lot".

In granting such special permit, the Commission shall find that:

(a) Such elimination or reduction is adequately compensated by the substitution of another public amenity or improvement on the “zoning lot” that shall provide equal or increased public benefit; and

(b) any remaining bonused open area will comply to the maximum extent feasible with the standards of “urban plazas” as set forth in Section 37-04 (Requirements for Urban Plazas).

The Commission may prescribe additional conditions to enhance the relationship of public open areas or other amenities and the “development” to the surrounding areas.