

CHAPTER 1

HISTORY

THE 1916 ZONING RESOLUTION

The history of privately owned public space is inextricably linked to the history of zoning in New York City. Since 1916, the City has relied upon zoning as its primary vehicle to create a sense of openness, also known as “light and air,” at street level.¹ The 1916 Zoning Resolution, the nation’s first comprehensive zoning ordinance, announced in its preamble that among its major functions would be “regulating and limiting the height and bulk of buildings hereafter erected, and regulating and determining the area of yards, courts and other open spaces.”² The stimulus for this focus is easy to identify. New York City of the late 1800s and early 1900s was witnessing the emergence of skyscrapers sited on whatever size land parcels developers could assemble.³ The invention and improvement of the passenger elevator and the substitution of steel frames for massive masonry walls previously needed to support building weight eliminated the fundamental technological barriers that had once stood in the way of very tall buildings.⁴

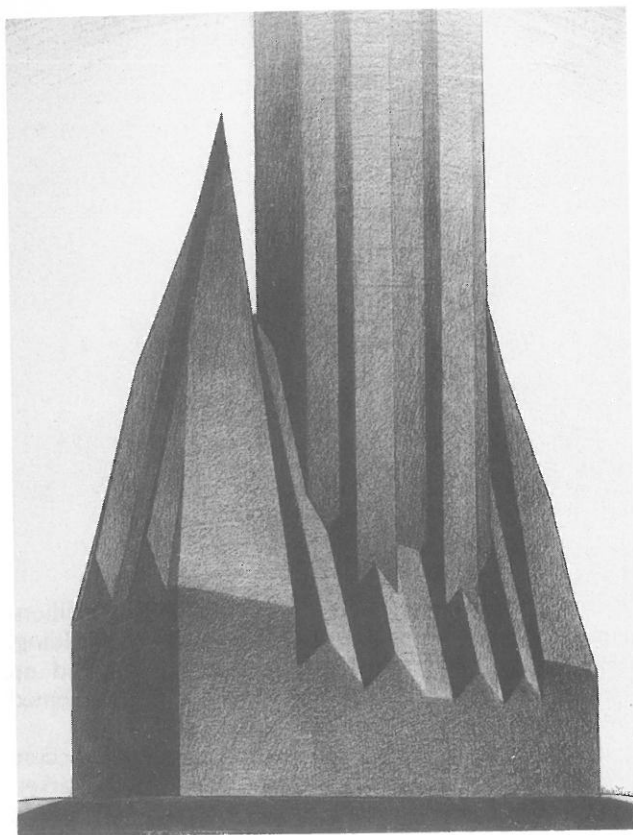
Fueled by the advertising value of holding title to New York’s tallest building and by efforts to grab as much natural light as possible for interior office space, the real estate industry aimed itself into the sky. Competition was especially intense in lower Manhattan, the city’s financial center, where a “tallest” office tower would emerge only to be supplanted by another “tallest” office tower. In 1898, the Park Row Building at 386 feet held title as the tallest building, but others would come along, including the 47-story, 612-foot Singer Building in 1908, which was only to be diminished by the 50-story, 700-foot Metropolitan Life Insurance Company Building in 1909, itself to be eclipsed by the Woolworth Building and its 792-foot height in 1913.⁵

Tall was not the only goal. Big and bulky was also in. Thus, if the Woolworth Building — a tower rising out of

a larger base — served as one prototype, the 1.2 million-square-foot 1915 Equitable Life Assurance Building, occupying almost its entire lot from the ground up through its full 41-story, 542-foot height, represented another.⁶

The advent of the skyscraper met with mixed reaction. While some applauded its raw recognition of market-based economics — architect Cass Gilbert referred to it as “[a] machine that makes the land pay”⁷ — and its assertion of grandeur for the new city, others criticized the building’s impact on light and air and safety. In a resolution presented to the Board of Estimate and Apportionment, the City’s governing body, in 1913, Manhattan Borough President George McAneny described “a growing sentiment in the community that the time has come when an effort should be made to regulate the height, size, and arrangement of buildings . . . in order to arrest the seriously increasing evil of the shutting off of light and air . . . to prevent unwholesome and dangerous congestion . . . and to reduce the hazards of fire and peril to life.”⁸ Even the real estate community had ambivalent feelings, with some members castigating skyscrapers for flooding the rental market with excess space.⁹

Another market-driven phenomenon, the migration of garment manufacturing loft factories into the retail precinct along lower Fifth Avenue, created another set of concerns for the city’s business interests.¹⁰ Manufacturers wanted to locate themselves as close to their retail markets as possible to reduce transportation costs and make transactions more convenient.¹¹ Retailers disliked the congestion at lunchtime caused by the factory workers, the environment created by contact between their customers and the factory workers, and the added street traffic of trucks.¹² The retailers banded together into the Fifth Avenue Association to agitate for regulatory controls on buildings and, in March, 1912, proposed through the Fifth Avenue Commission



Hugh Ferriss, American, 1889-1962. *Study for Maximum Mass Permitted by the 1916 New York Zoning Law, Stage 1, 1922.*

height controls of 125 feet for all buildings in the Fifth Avenue area, a restriction that would render construction of loft factories economically infeasible.¹³

The confluence of the skyscraper issue and garment-retail conflict led the City's Board of Estimate and Apportionment to establish, on February 27, 1913, a Committee on City Planning to consider aspects of building controls.¹⁴ Over the next three years, two zoning commissions issued reports recommending land-use controls that would be adopted under the state's police power to promote the health, safety, morals, and general welfare of its citizens.¹⁵ In 1914, the State of New York amended the City's charter to provide it with the power to zone.¹⁶ On July 25, 1916, the Board approved a zoning resolution, placing the entire city under a new regulatory framework that controlled how land could be developed.¹⁷

The 1916 Zoning Resolution defined three types of zoning districts addressing use, height, and area; delineated individual "classes" within each of the three districts; and mapped the districts throughout the city. Use districts dictated whether land could be used for residence, business, or unrestricted, mainly industrial, uses. Height districts controlled the shape of buildings erected on land. Area districts announced requirements for yards, courts, and other open space at ground level.

More than any other part of the new zoning, the height district rules determined the relationship between buildings and the public realm of streets and sidewalks.¹⁸ Maximum building height would henceforth depend on the general area in which the building was located, the width of the street the building fronted, and the amount, if any, the building or any portion of it set back from the street. As a general rule, the more the building set back from the street, the higher it could go, placing the tallest portion of the building deep into the lot and the shortest portion of the building closest to the street. Based on a geometric model establishing an angle rising from the middle of the street toward and above adjacent lots, these regulations attempted to ensure that the street and lower levels of the city enjoyed light and air.¹⁹

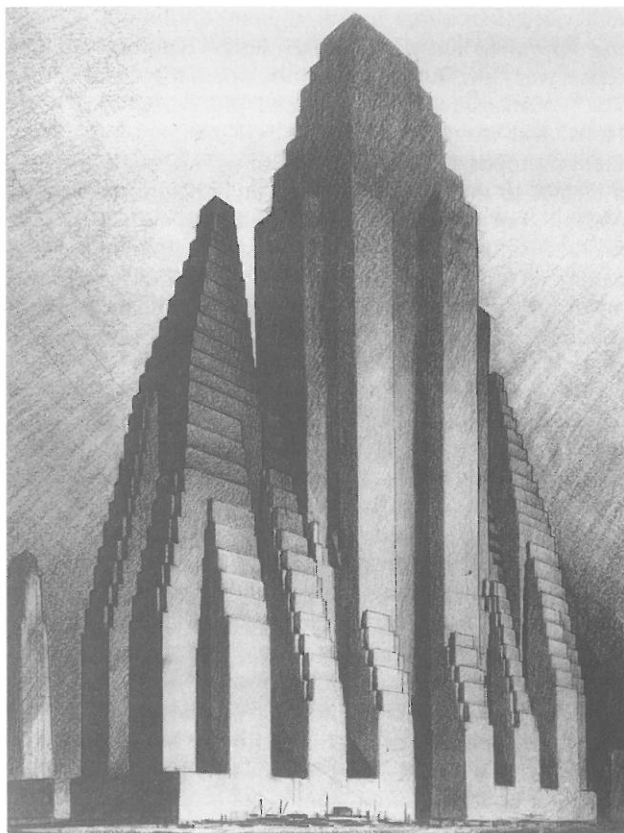
The 1916 Zoning Resolution divided the city into five classes of height districts.²⁰ If the street wall of a building — defined as "the wall or part of the building nearest to the street line"²¹ — were built on the street line — defined as "the dividing line between the street and the lot"²² — then the height of the building's street wall could rise from one to two-and-a-half times the width of the street. If the developer wanted the street wall to achieve a greater height, the only way to accomplish this would be to move the street wall away from the street line according to a fixed ratio specified for each of the base street wall on street line height ratios. As determined by the Zoning Resolution, the high development areas of Manhattan were permitted a maximum height along the street line of either two-and-one-half or two times the width of the street.²³ Upon achieving that height, the building would be required to set back a specified number of feet from the street line before it could rise any higher.

For example, in a two-and-one-half times district on a street of 100 feet in width, a building's street wall height on the street line could reach 250 feet, or roughly 25 stories. Any portion of the building above this height would have to be set back a specified number of feet from the street line to be allowed. If the portion of the building above 25 stories were set back 10 feet, then that portion could rise another 50 feet in height. The total building could thus achieve a height of 300 feet, with 250 feet of that height located in a vertical plane sitting on the street line and the rest in a vertical plane rising from deeper within the lot. If the street wall of the building at ground level were itself set back from the street, then the street wall itself could rise to a height greater than that dictated by the base ratio, depending on how far it was set back at ground level. For example, in the two-and-one-half district, if a building at ground level were set back from the street line by 20 feet, then its street wall height could be increased five times that amount, or an additional 100 feet, above that otherwise allowed.²⁴

The height district rules introduced one significant exception. For portions of the building that covered no more than 25 percent of the lot area and that were set

back from the street line by a minimum distance, there would be no height limit whatsoever.²⁵ As far as the Zoning Resolution was concerned, the building could rise to the moon. The underlying theory was that, unlike their high-lot-coverage bulky counterparts, buildings that were thin relative to their lot area would not interfere with light and air reaching the street and lower stories of surrounding buildings.

The combination of height rules from the Zoning Resolution and real estate economics, tenant requirements, and construction constraints resulted in a dominant building typology, the "wedding cake" or "ziggurat," in which the building rose vertically from the street line with roughly 90 percent lot coverage until it reached its maximum permitted height, determined by the street width and applicable height multiple, then set back, rose another amount, set back again, rose some more, and so forth. The drawings of Hugh Ferriss²⁶ illustrated the design envelope promoted by the Resolution's height and setback requirements, and the plethora of wedding cake buildings constructed after 1916 testified convincingly to their influence. Open space at street level fell victim to this dominant building typology, as developers usually built to the street line to maximize their building bulk.



Hugh Ferriss, American, 1889-1962. *Study for Maximum Mass Permitted by the 1916 New York Zoning Law, Stage 3, 1922.*

The theoretical promise for open space at ground level suggested by the 25 percent tower coverage building capitulated to the reality of real estate economics. To create tower floors acceptably sized for the market, the developer would have had to assemble a huge lot, and the economics of the deal in most cases did not pencil out. Only a few notable exceptions in the 1916 Zoning Resolution's earlier years, including the Empire State Building²⁷ and the Chrysler Building, used the 25 percent tower coverage rule, and even those towers rose from bases covering virtually all of their zoning lots at street level. Several notable exceptions in later years that included Lever House, the Seagram Building, and Chase Manhattan Plaza, would break the mold and lead to an entirely new approach to zoning that privileged open space at street level.

THE 1961 ZONING RESOLUTION

For many years, the 1916 Zoning Resolution proved serviceable as a means for the City to control development. No technological innovation, shift in real estate economics, or powerful land-use conflict arose to push for change, and the pace of development seemed manageable under the existing law. Over time, however, the Zoning Resolution picked up its share of barnacles, in the form of thousands of amendments, that any long-standing law affecting thousands of private and public interests would accumulate. Convinced that it was time to review its entire approach to zoning, the City commissioned a consultant in 1948, the architectural firm of Harrison, Ballard, and Allen, to make recommendations for a new zoning resolution.²⁸ Its report, made public in 1951, failed to galvanize sufficient support within the city, however, and it rapidly found its way to the library shelf.²⁹

A second effort ultimately met with greater success after Robert Wagner, Jr., who had served as chairman of the City Planning Commission in the late 1940s and was partly responsible for initiating the first study, became mayor in 1953 and selected James Felt in 1955 to chair the City Planning Commission.³⁰ Felt announced in early 1956 the need for another rezoning study, and later that year obtained funds to hire the architectural and planning firm of Voorhees Walker Smith & Smith.³¹ In subsequent remarks justifying the need for new zoning legislation, Felt would comment that the 1916 Resolution had been weighed down by 2,500 amendments and that it authorized construction of a city for 55 million residents and 250 million workers.³² He concluded bluntly, "It is time for New York City to stop living in zoning's past."³³ After two and a half years of study, the Voorhees firm released its report, *Zoning New York City: A Proposal for a Zoning Resolution for the City of New York*, containing a full draft of a new zoning resolution along with explanatory text.³⁴

Although modified to some degree during the public review process, the basic architecture and wording of the Voorhees draft was adopted by the Board of Estimate on December 15, 1960, and became effective on December 15, 1961.³⁵

The 1961 Zoning Resolution substituted a single zoning map for the 1916 Resolution's "Use," "Height," and "Area" District maps. Uses would continue to be divided by Residential (R), Commercial (C), and Manufacturing (M) labels. For the first time, the zoning established a maximum bulk limitation, the floor area ratio (FAR), defined as the total building floor area on a zoning lot divided by the area of the zoning lot.³⁶ Put another way, the FAR multiplied by the lot area produces the maximum allowable building floor area for that lot. For a lot of 20,000 square feet, with a 15 FAR, the basic maximum floor area would reach 300,000 square feet. A building at 100 percent lot coverage would rise 15 stories; a 50 percent coverage building would rise 30 stories; and so on. Studies of post-World War II office buildings showed an average FAR of 15 in Manhattan's central business district.³⁷ Although the original Voorhees draft mapped only one 15 FAR district, C5-3, "designed to encourage more spreading out of intensive office development over a wider area of the Central Business District and thus relieve the pressure on already overburdened transportation facilities,"³⁸ the enacted resolution expanded the number of 15 FAR districts to five.³⁹

The height and setback controls of the new Zoning Resolution ushered in a dramatic modification of the prevalent wedding cake typology of earlier decades. As described by the Voorhees report, the 1916 Zoning Resolution "was written in large measure to cope with the problem of keeping buildings from robbing other buildings or the public streets of adequate light. In attempting to solve this problem, a fixed geometric setback plane was established above a specified height, which has the now familiar limitation of producing rigid and complex building shapes which are not only uneconomic to construct but inefficient to use."⁴⁰ In contrast, the Voorhees report asserted, the "proposed regulations are intended to insure that public streets and all portions of buildings fronting on streets have access to light and air, and to provide a general feeling of openness at street level. A series of flexible and interchangeable regulations has been developed with the goal of permitting the maximum possible degree of design freedom in achieving economic, efficient, and attractive buildings."⁴¹

The new zoning rules were modeled expressly on two buildings whose skillful presentation of an International Style tower vernacular had greatly impressed architects, planners, and real estate developers.⁴² Designed by Skidmore, Owings & Merrill and built in 1952, Lever House employed a horizontal rectilinear slab above which rose a tower occupying less than 25 percent of the lot area. Most of its ground-floor area was open to the street, and either



Lever House, completed in 1952

open to the sky or covered by parts of the above structure. The ultimate tower prototype, however, would be Mies van der Rohe's Seagram Building, completed in 1958.⁴³ Occupying less than 25 percent of its lot area, the glass-and-steel tower rose vertically to a height of 38 stories. A slightly elevated plaza, flanked by two fountains at north and south ends, occupied the substantial setback space between Park Avenue and the tower itself and eloquently illustrated, albeit in a denser, tighter building lot context, the "tower in the park" urban design typology.⁴⁴ Open space was now literally out in the open, front and center. The Voorhees report reproduced photographs of Lever House and Seagram to illustrate its height and setback regulation proposals.⁴⁵ At the same time, it needed to tweak the rules to make the modernist architectural vernacular feasible, not just for deep pocket corporations like Lever Brothers and Seagram willing to spend heavily on land assembly to accommodate towers that would double as advertising monuments to their corporate identity, but for speculative office developers ready and willing to provide space for as-yet unknown tenants.

The 1961 Zoning Resolution introduced three alternate sets of rules governing the shape and placement of buildings on a lot in the maximum density zoning districts.⁴⁶ The default bulk regulation allowed the street wall of the building on its front lot line to rise 85 feet, or six stories, whichever was less, at which point an initial setback distance of 20 feet for buildings on narrow streets and 15 feet for buildings on wide streets was required.⁴⁷ After complying with the initial 20-foot setback distance, buildings could rise at a specified ratio of vertical distance to horizontal setback, conceptually represented by a "sky exposure plane" that would rise from a theoretical point located above the street line to a height permitted before the initial setback was required. The sky exposure plane established the outer boundary of the zoning envelope that the building would be prohibited from piercing at any point. Old-style wedding cake design might still be achieved through the construction of upward-stepping vertical and horizon-

tal planes; but by significantly scaling down the 1916 Resolution's street height maximum of two-and-one-half times the street width, which in some cases had allowed a building to rise 250 feet on its street line, to 85 feet, more light and air would reach ground level.

An alternative height and setback rule to some degree formally encouraged the incorporation of open space at street level in front of the building. Alternate front setback rules allowed buildings that, from the ground up, set back 15 feet from narrow streets and 10 feet from wide streets, to ignore the initial setback distance of the default rules and to achieve a higher vertical increase for every foot of horizontal setback. These rules would have the effect of pushing the street wall of the building deeper into the lot and thus would help mitigate the canyonlike effect created by buildings situated directly on the front lot line paralleling the street.

The third height and setback option proved the most popular with real estate developers, allowing the construction of an economically feasible tower rising vertically from base to top without setback and facilitating the creation of open space at front and sides of buildings. The 1961 Zoning Resolution eased the 1916 Zoning Resolution's 25 percent tower coverage rule to a basic 40 percent, up to 50 percent on small zoning lots, and up to 55 percent on lots bounded by two streets, as long as there were minimum setbacks from the street, within the highest density commercial and residential districts.⁴⁸ As the Voorhees report characterized, "These modifications of the standard requirements for access of light are designed to encourage departures from the widely prevalent 'wedding cake' building forms resulting from the rigid envelope imposed by the present resolution. In addition to their other advantages, the proposed regulations offer scope and incentive for original architectural design."⁴⁹

ZONING FOR PRIVATELY OWNED PUBLIC SPACE: THE 1961 PLAZAS AND ARCADES

The 1961 Zoning Resolution not only crafted a zoning envelope that would favor open space at street level, but formally inaugurated the public policy of encouraging the provision of privately owned public space.⁵⁰ That policy encompassed two significant innovations. First, the City would deploy its zoning power affirmatively rather than negatively, encouraging rather than requiring, private developers to act in a manner desired by the public sector, an approach that would become known as "incentive zoning."⁵¹ Second, the City introduced a new type of space: privately owned public space, located on private property yet, but unlike zoning's yards, courts, and other open spaces, physically accessible to the public-at-large.

The idea first appeared in the 1958 Voorhees draft zoning resolution, which proposed to grant developers a bonus of extra zoning floor area for use in their building,

above what would otherwise be allowed by the zoning, if the developer would provide a plaza.⁵² The Voorhees draft defined a plaza as "an open area accessible to the public," at least five feet deep from the front lot line, or extending from street to street on a through lot and not less than 40 feet wide.⁵³ The trade would be calibrated at three square feet of bonus floor area for every square foot of plaza, to be permitted only in high density commercial and residential districts.⁵⁴

Interestingly, for such a novel idea, the Voorhees report's commentary on the underlying rationale was remarkably terse, delivered in two sentences. The report first stated, "In order to bring more light and air into streets surrounded by tall buildings, as well as to create more usable open space, a bonus device has been established to encourage the setting back of buildings from the street line."⁵⁵ In justifying the use of a floor area bonus, the report added, "The slight increase in maximum permitted bulk resulting from this bonus is well justified by the benefits of increased open space."⁵⁶ The Voorhees report also relied on a photograph of the Seagram Building to tout the advantages of plazas, with a caption underneath stating, "Open area at ground level permits a higher rise before a setback is required, as well as a bonus in Floor Area Ratio."⁵⁷ Historical precedents for the plaza stopped there, however, without reference to other examples in the city or elsewhere.⁵⁸ Indeed, the concept of "usable" open space, as distinct from space meant to bring more "light and air" to the street level, was never elaborated. Although the Seagram plaza has roughly 600 linear feet of ledge and step space, Philip Johnson is said to recall that "when Mies van der Rohe saw people sitting on the ledges, he was quite surprised. He had never dreamt they would."⁵⁹

The 1961 Zoning Resolution, as slightly amended in early 1962,⁶⁰ more or less adopted the Voorhees plaza definition: "an open area accessible to the public at all times . . . [a] continuous open area along a front lot line, not less than 10 feet deep (measured perpendicular to the front lot line), with an area of not less than 750 square feet . . . not at any point . . . more than five feet above nor more than twelve feet below the curb level of the nearest adjoining street . . . unobstructed from its lowest level to the sky . . ."⁶¹ This open and unobstructed plaza could, nonetheless, be obstructed by a series of expressly permitted objects, including "arbors or trellises, awnings or canopies, railings not less than 50 percent open and not exceeding three feet, eight inches in height, flag poles, open terraces or porches, steps, ornamental fountains or statuary, or unenclosed balconies . . ."⁶²

The 1961 Zoning Resolution did diverge from some elements of the Voorhees draft. Most significantly, the amount of floor area bonus for the plaza was more than tripled, from three to ten square feet, in the 15 FAR zoning districts.⁶³ In 10 FAR districts, the bonus increased from three to six square feet, and it went from three to four

square feet in 6 FAR districts.⁶⁴ More zoning districts offered the plaza bonus.⁶⁵ Furthermore, the Resolution introduced a new privately owned public space never even discussed in the Voorhees draft: an arcade, defined as "a continuous area open to a street or to a plaza, which is open and unobstructed to a height of not less than 12 feet . . . accessible to the public at all times . . .,"⁶⁶ that would receive a floor area bonus of three square feet for every foot of arcade in higher density zoning districts, and two square feet in several others.⁶⁷ Finally, the 1961 Resolution prescribed a cap on the total amount of bonus that could be generated by plazas and arcades for any given building, set at 20 percent of the base maximum FAR applicable to a lot.⁶⁸ Thus, for example, on a 15 FAR parcel, the FAR could increase through plaza and arcade zoning bonuses to a maximum of 18 FAR.

The provision of plazas and arcades in return for bonus floor area proved irresistible to most office and residential developers. According to one study, of the 95 commercial office buildings constructed between 1966 and 1975 and realistically qualified to earn zoning bonuses, 67 buildings, or 70 percent of the total, provided plazas.⁶⁹ In the majority of such cases, the developer earned an FAR bonus close or equal to the maximum 20 percent.⁷⁰ The reasons for the enormous popularity of the plaza and arcade bonuses are not hard to fathom. To begin with, the financial rewards generated by the floor area bonus were disproportionately large in relation to the cost of providing the plaza or arcade. One study estimated the ratio of the value of the bonus floor area to the cost of a plaza at 48 to 1.⁷¹ Furthermore, the design and administrative requirements for obtaining the bonus were relatively undemanding. A qualifying plaza could be as simple as a plain, concrete surface in front of or next to the building. Since the plaza and arcade bonuses were "as-of-right," a developer only had to file its plans with the City's Department of Buildings, demonstrating that it had met the minimal plaza or arcade zoning standards and had correctly computed the zoning bonus.⁷² The City Planning Commission had no role in reviewing the proposed plaza or arcade and, in its discretion, approving or denying the developer's application for the zoning bonus.

Finally, the location of plazas and arcades in front of and underneath the front curtain wall of most buildings did not harm, and in some cases affirmatively advanced, the private agenda of the owner. Since the real estate industry had selected the tower-without-expanded-base typology as its preferred massing for many office and residential developments, the tower by zoning law could usually cover only 40 percent of the lot, and the remaining 60 percent of the lot was not going to be left as dirt, the setting off of buildings with plazas in front and on both sides seemed inevitable. Even sweeter was the fact that, under the lenient definition of the Zoning Resolution, loading docks, driveways, and garage entries quali-

fied for many years as bonusable plazas, so plazas did double duty for the building owner. In short, there was almost nothing to lose and almost everything to gain by providing such spaces.

NEW CATEGORIES OF PRIVATELY OWNED PUBLIC SPACES: 1968-1973

For a six-year period from 1968 to 1973, the City Planning Commission, the Department of City Planning, and, in several cases, the private development community became creative fonts for five new public space categories to be encouraged through the Zoning Resolution. The abundance of plazas and arcades at commercial and residential buildings throughout much of Manhattan had validated incentive zoning as a powerful mechanism for obtaining privately owned public space. Thus, when the Commission considered how to obtain newly conceived public spaces, it naturally chose the engine of floor area bonuses to promote their provision. At the same time, the proliferation of plaza and arcades had planted the first seeds of doubt about an "as-of-right" approval process that permitted spaces to be located almost anywhere. When the Zoning Resolution introduced bonuses for elevated plazas, through block arcades, covered pedestrian spaces, sunken plazas, and open air concourses, such spaces would be eligible for bonuses only after undergoing a discretionary review of their design quality and location, to be conducted by the City Planning Commission.

In a number of cases, a developer's plan to include a new type of space in its proposed building acted as a catalyst for the City's consideration and adoption of a zoning amendment generically defining the space and the amount of floor area bonus it could receive. Not surprisingly, the catalyst building would normally be the first recipient of a special permit granted under the new zoning provision, and the date of adoption of the zoning amendment and date of issue of the special permit would be identical.

Enacted in 1968, the first new public space category since the plaza and arcade would be a variant of the plaza itself, the elevated plaza, defined as a space "at levels consistent with existing or contemplated public pedestrian circulation," with at least 8,000 square feet and easy access from the street level below.⁷³ An elevated plaza provision became necessary to override the "as-of-right" plaza standard prohibiting spaces more than five feet above curb level. The catalyst building for the elevated plaza was 55 Water Street (9), a large downtown office building proposed for a site across the highway from the East River. The Lower Manhattan Development Plan had proposed waterfront improvements that included pedestrian spaces that might span the adjacent highway from the East River side and connect to buildings such as 55 Water Street.⁷⁴ Although 55 Water Street did, indeed,

receive a special permit and construct the elevated plaza, the spanning pedestrian network never materialized. Although the city has other elevated plazas, the one at 55 Water Street is the only example permitted specifically under this zoning provision.

Adopted in 1969,⁷⁵ the through block arcade zoning provision authorized a bonus of six square feet for every square foot of through block arcade, defined as "a continuous area within a building connecting one street with another street, plaza or arcade adjacent to the street."⁷⁶ Strategically deployed with special permit oversight, the through block arcades would create additional circulation capacity to relieve sidewalk congestion, reduce walking distances, and provide shelter from bad weather. Some arcades would be covered but unenclosed at both ends, while others would be fully indoors. The record is scanty as to the typological forbearer of the through block arcade public space. Unlike the Voorhees report's use of photographs of Lever House and Seagram to show plaza typologies, the legislative record here is unclear as to how much reliance, if any, was placed on such typological exemplars as the nineteenth century arcades of Paris or London.⁷⁷

One year later, in 1970, the City Planning Commission approved a zoning amendment for the covered pedestrian space, the first indoor space that would expressly serve both destination and circulation goals and require functional amenities for the public within the space. The City Planning Commission report described the covered pedestrian space as "an efficient pedestrian circulation system and an attractive sheltered public space," noting that this "combination of functions makes it a highly desirable public space."⁷⁸ The zoning text defined the space as an enclosed area of at least 1,500 square feet, with a height of at least 30 feet, and with appropriate uses such as small stores and cafes fronting the space.⁷⁹ Banks, loan and insurance offices, and similar types of uses were prohibited. Open between 7:00 a.m. and 12:00 midnight, the space would provide public sitting areas while continuing to serve as part of the general public pedestrian circulation system of the city. The bonus rate varied from 11 square feet for each square foot of basic covered pedestrian space to 14 square feet for a fully indoor air-conditioned and heated space, to 16 square feet for a space additionally providing a subway connection.

Introduced in 1971 and authorized only in one commercial zoning district, the sunken plaza would allow developers by special permit to depress up to 50 percent of their street level plazas more than 10 feet below the curb level and receive a higher bonus of 10, rather than 6, square feet for doing it.⁸⁰ This provision would thus override that part of the "as-of-right" plaza definition prohibiting space more than 12 feet below curb level. Similar to the purpose of the open air concourse, the purpose of the sunken plaza was to provide light and air and direct pedestrian access to the subway station.⁸¹ The catalyst for the sunken plaza was a possible development in Jamaica, Queens, where "the

proximity of the Office Development District and the new Parsons Boulevard Station indicate that such an opportunity is available and every effort should be directed at securing an appropriate connection via sunken plazas."⁸² Interestingly, after the public hearing and before adoption of the sunken plaza amendment, the Commission apparently changed the administrative review procedure from an "as-of-right" to a discretionary process.⁸³ Presumably the Commission must have had second thoughts about allowing the sunken plaza without additional oversight. No developer has ever provided a sunken plaza under this provision.

Another catalyst building, Citigroup Center (206), then Citicorp, launched the City Planning Commission's adoption of the open air concourse zoning provision in 1973.⁸⁴ The developer proposed to provide an indoor covered pedestrian space and through block arcade, and an outdoor area that would connect from the street to a lower level outside the building and near the subway platform. The enacted zoning defined an open air concourse as an open area located more than 12 feet below the street that would connect the street to the subway platform.⁸⁵ In its accompanying report, the Commission observed that below-grade open space could "provide for the large number of persons entering the high density zones via underground rapid transit" and cause an "improvement to subway air and ventilation by increasing the amount of openings to the out-of-doors."⁸⁶

SPECIAL PURPOSE DISTRICT PRIVATELY OWNED PUBLIC SPACES: 1967-1973

During the same period that the City invented five discrete, generic public space categories, it also introduced five special purpose zoning districts that created their own set of privately owned public spaces. Mapped to specific geographic areas and justified on the basis that the area's unique circumstances required distinct zoning treatment,⁸⁷ these special districts would overlay existing zoning districts and create an alternative regime of incentives and requirements for public space. Unlike the Resolution's geographically indeterminate approach to "as-of-right" plazas and arcades and discretionary through block arcades and covered pedestrian spaces, these special zoning districts would assign public spaces to specifically identified parcels and/or streets, in advance of any new development on the site or street, making them either mandatory, sometimes leavened with a floor area allowance, or voluntary encouraged by a floor area bonus.⁸⁸ The City established the Special Theatre District in 1967, the Special Lincoln Square District in 1969, the Special Greenwich Street Development District and the Special Fifth Avenue District in 1971, and the Special Manhattan Landing District in 1973.⁸⁹ For several of these special districts, a catalyst building played a role in triggering the City's initial consideration of the legislation.

Adopted in 1967, the Special Theatre District was designed to "preserve, protect and promote the character of the special theatre district area as the location of the world's foremost concentration of legitimate theatres – an attraction which helps the City of New York achieve pre-eminent status as a cultural showcase, an office headquarters center and a cosmopolitan residential community."⁹⁰ Created in response to fears that anticipated new office development around Times Square might squeeze out, physically or financially, many of the historic, existing Broadway theaters, the City Planning Commission decided to encourage, with zoning bonuses and height and setback regulation waiver incentives, the construction of new legitimate theaters. However, a second stated purpose of the district addressed the City's public space agenda, announcing a goal to "develop and strengthen a much-needed circulation network in order to avoid congestion arising from the movements of large numbers of people . . . including . . . provision of arcades, open space and subsurface concourses."⁹¹ Although the Special Theatre District did not map public spaces in advance to specific sites, it directed the Commission to take into consideration for purposes of determining how much of an increase in floor area to grant whether the developer had agreed to provide public spaces along with theaters.⁹²

The catalyst building for the theater district zoning, One Astor Place (81), occupied one of the most significant sites in the Times Square area, between West 44th and 45th Streets west of Broadway.⁹³ Since late 1965, developer Samuel Minskoff and Sons had been planning an office tower with a large plaza fronting on Broadway. Once the Special Theatre District zoning was in place, however, the developer agreed instead to include a legitimate theater and two privately owned public spaces: Shubert Alley in back of the building and a pedestrian thoroughfare through the building. In return, the developer received a substantial floor area bonus increasing the floor area ratio to 21.6 and a waiver of height and setback regulations, including increased tower coverage of 43 percent of the lot.

Enacted in 1969, the Special Lincoln Square District for the first time mapped required public spaces — mandatory arcades accompanied by extra floor area — to specific streets and lots along portions of Broadway, Columbus Avenue, and West 61st Street.⁹⁴ Traditional, bonused plazas and arcades could still be provided "as-of-right" elsewhere within the district, along with newly introduced, bonused spaces of covered plazas, galleries, pedestrian malls, and subsurface concourses.⁹⁵ The overall purpose of the district was to "preserve, protect and promote the character of the Special Lincoln Square District area as the location of a unique cultural and architectural complex — an attraction which helps the City of New York to achieve pre-eminent status as a center for the performing arts, and thus conserve its status as an

office headquarters center and a cosmopolitan residential community."⁹⁶ Along with the public spaces, the District also required conformity of exterior walls with street lines and restricted street-level uses to specified categories. Ironically, the catalyst building, One Lincoln Plaza (233), planned for a lot across the street from Lincoln Center's main plaza, declined to pursue some of the newly available bonused space opportunities provided by the Special Lincoln Square District zoning, and instead applied, successfully, to the Board of Standards and Appeals for a floor area variance that did not require public space.⁹⁷ The building did provide an "as-of-right" plaza and arcade.

The Special Greenwich Street Development District, approved in early 1971, marked the apogee of efforts to introduce through zoning a complex urban design plan involving multiple levels of mandatory and elective public spaces spread throughout a multiblock area south of the World Trade Center in downtown Manhattan.⁹⁸ Among the purposes of the district would be to "develop and implement a plan for improved pedestrian and vehicular circulation, including the grade separation of pedestrian and vehicular circulation systems, in order to avoid congestion arising from the movements of large numbers of people," and to "encourage a desirable urban design relationship between each building in the District, between the buildings and the District's circulation systems and between the development in the District and in the adjacent areas of Battery Park City and the World Trade Center."⁹⁹ The zoning delineated by map and text a "District Plan" identifying public spaces that would be required or encouraged on geographically specific lots within the area.¹⁰⁰ Usually matched with floor area bonuses or allowances, types of public spaces included an elevated shopping bridge, enclosed and open pedestrian bridges, a pedestrian deck, a shopping arcade, an elevated shopping way, a shopping way, and a loggia,¹⁰¹ as well as already extant public space legal typologies of plazas, arcades, though block arcades, elevated plazas, and covered pedestrian spaces.¹⁰² The zoning also initiated a special district fund that would accept money from developers in return for floor area bonuses, to be applied toward the improvement of public transit facilities in the area and the identification and cost estimating of pedestrian circulation improvements.¹⁰³

Completed in 1973, One Bankers Trust Plaza (37) was the catalyst building as well as pioneering case for the District.¹⁰⁴ The development site had a base FAR of 10. By providing a pedestrian bridge to the World Trade Center, a pedestrian underpass connecting to One Liberty Plaza (then the U.S. Steel Building) and the World Trade Center, and a contribution of \$63,517.50 to the Special Greenwich Street Development District fund, the FAR was adjusted to 15. Extra floor area generated by a shopping arcade, elevated shopping way, and escalators was traded in to increase the permissible tower coverage from 40 per-

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building's atrium lobby which will be open both to the workers in the building and to residents of and visitors to the neighborhood. Significantly, this atrium satisfies all of the physical requirements for a floor area bonus as a 'covered pedestrian space' except those involving the building entrances."¹²² Given the Resolution's silence, however, it is difficult to determine whether the Board at the time thought it was conditioning its variance on provision of a privately owned public space, whether it viewed the space as a nice place that the public could visit with the owner's permission, or whether it thought about it at all. Four years later, the Board's Chairperson reviewed the record and concluded that, because the space had not received a floor area bonus under the Zoning Resolution, it must be a private, rather than a public, space.¹²³

PLAZA REFORMS OF 1975 AND 1977

Between 1961 and 1974, developers provided 136 plazas and 57 arcades out of 231 privately owned public spaces, making them the dominant legal types of public space produced in the city during this period.¹²⁴ Their record created unease among many expert observers. According to the Voorhees report, plazas had two goals: to foster greater light and air at street level and to create usable open spaces. They accomplished the first goal in many cases, pushing buildings deeper into their lots from front and side street lines. They fell woefully short of achieving the second goal, however. Although a handful of developers soared above the requirements set forth in the Zoning Resolution, furnishing functional, even pleasing, spaces, most developers supplied "letter of the law" plazas that complied strictly with the minimum legal requirements. Plazas could and would be open and accessible to the public, meet the elevation and dimension standards, be unobstructed except for permitted objects, and yet be completely unusable in any functional sense.

As discussed more fully in Chapter 3, no single problem attached to every space.¹²⁵ Many were empty expanses of concrete, seen by users as desolate, depressing, cold, and aesthetically hostile environments. Others were leftover strips at the edges of buildings, sometimes raised above or below the public sidewalk, serving no apparent purpose. Without functional amenities such as seating, tables, and food service, and with available ledges punctuated with spikes, users would have to look elsewhere if they wanted a place for utilitarian or passive recreational activity. Plazas at residential buildings often doubled as semicircular passenger drop-off driveways, loading docks, or driveways leading to underground garages, private uses hardly compatible with public use. Remarkably, as if there were a public clamoring to enter, some owners placed illegal obstructions in and around the spaces and/or instructed their doormen to discourage public entry.

Some observers began to question the benefits derived from achieving the light and air goal. It is not that they disagreed that the plazas actually accomplished the goal, but that they began to doubt its appropriateness at every location. Three consecutive massive plazas fronting office towers at 1211 Sixth Avenue (86), 1221 Sixth Avenue (97), and 1251 Sixth Avenue (96), on the west side of Sixth Avenue between West 47th and 50th Streets, came to epitomize the problem. While they surely exposed Sixth Avenue and surrounding streets to additional light and air, they also drained much of the energy and excitement wrought by front lot line street walls and sidewalk retail frontage. The succession of spaces made observers realize that light and air, while important, can sometimes be too much of a good thing. A Department of City Planning report criticized "contiguous plazas which totally obliterate the street wall."¹²⁶ One urban designer in the Department's Urban Design Group wrote in 1970, "There are many cases where a plaza is not appropriate, and the proliferation of plazas accentuates even further zoning's tendency to pull development into the center of the block, and to impose design solutions that are not related to surrounding development, or to topography and orientation. . . . The first plaza on an avenue is a welcome relief; by the time there are five, the spaces they create seem confused and irregular."¹²⁷

In a formal response to the expanding inventory of unsatisfactory "as-of-right" plazas, the Department commenced a major reform initiative in the early 1970s, assigning a team of urban designers, planners, and lawyers to complete an Urban Open Space Study.¹²⁸ A consultant who had been a principal author of the original 1958 Voorhees Walker Smith & Smith *Zoning New York City* report was hired to help with zoning matters.¹²⁹ Local community boards participated formally and informally in reviewing legislative proposals.¹³⁰

The ground-breaking work of William H. Whyte, the urban sociologist who had commenced his own study of public spaces several years earlier in 1970¹³¹ under the auspices of his grant-funded Street Life Project, played a major role in the formulation of the City's policies.¹³² Whyte and his small band of researchers initially trained their eyes on City-owned parks, playgrounds, and blocks,¹³³ but soon turned to bonused and unbonded plazas and private parks. They walked around the city and "watched people to see what they did."¹³⁴ Focusing on 18 spaces attached to or near office buildings,¹³⁵ they employed time-lapse photography, user interviews, and statistical compilations, the stuff of empirical sociology, to analyze what made small public spaces succeed or fail.

On May 21, 1975, after 14 years of experience, the City enacted a zoning amendment implementing the first major revision to the "as-of-right" plazas, imposing higher design standards, mandating functional amenities, and inaugurating a special administrative review procedure, for all plazalike spaces henceforth produced in

commercial zoning districts. Under the rubric of Urban Open Space Standards, the amendment replaced the existing "as-of-right" plaza in most commercial areas of the city with three categories of privately owned public space: urban plaza, sidewalk widening, and the pre-existing "open air concourse."¹³⁶ The split between "urban plaza" and "sidewalk widening" would be especially salutary. The zoning amendment defined a sidewalk widening as "a continuous open area at the same elevation as the adjoining sidewalk" that is "directly accessible to the public at all times," not less than five feet nor greater than 10 feet wide along a narrow street, or not greater or less than 10 feet wide along a wide street.¹³⁷ That label and definition represented a refreshing example of truth in advertising. From now on, a public space that was in essence nothing more than a widened sidewalk would legally be classified and regulated as such rather than as a plaza. Expectations and reality would be brought into equipoise.

Higher aspirations could and would be applied to that category of the urban open space henceforth known as urban plaza and defined as "a continuous open area fronting upon a street or sidewalk widening which is accessible to the public at all times for the use and enjoyment of large numbers of people."¹³⁸ That last phrase, "for the use and enjoyment of large numbers of people," became the touchstone for specific design and amenities requirements that would expressly remedy the failures of many existing plazas. Location rules mandated that urban plazas have a southern exposure, where possible, to secure sunlight. The number of urban plazas that could occupy any given full blockfront was limited, in order to preserve the sense of a discrete outdoor room for each space and prevent undesirable interruptions of the street wall and retail frontage continuity.¹³⁹ To avoid oddly configured spaces with unrelated pieces, shape rules required that a majority of urban plaza area be visible at any one time from any one point. Rules also announced ratios governing the relationship between frontage and depth, to assure that urban plazas would be commodious and comfortable formations. Elevation changes were restricted and access guaranteed along much of the street frontage. Special standards of access for the physically disabled applied.

For the first time, functional and visual amenities were mandated, giving more than lip service to the concept of public use. For every 30 square feet of urban plaza, for example, the zoning required one linear foot of seating. The seating had to meet detailed specifications designed to ensure comfort for the user. Night lighting and litter receptacles were prescribed. Plaques and signs listing required amenities, the owner's name, and the entity designated to maintain the space would inform the public that this was, indeed, a public space.¹⁴⁰ Trees of a minimum caliper size had to be installed within the space, with street trees planted in the public sidewalk. Paving made with decorative durable materials was also mandated.

To enliven the space, specified categories of retail or service establishments were required to occupy at least 50 percent of building frontage on the space. Obstructions such as fountains, reflecting pools, waterfalls, sculptures, arbors, trellises, open air cafés, kiosks, and canopies were permitted, while parking spaces, passenger drop-offs, garage driveways, loading berths, building trash storage facilities, and exhaust vents were expressly prohibited.

In order to guarantee that proposed urban plazas met the new rules, the zoning amendment introduced an administrative procedure through which a developer would bring detailed design plans for its space to the Chairperson of the City Planning Commission, who would review and certify to the Department of Buildings that the proposed design met the required standards. No foundation permit would be issued by the Buildings Department without this certification. Furthermore, the developer would have to take out a performance bond that would finance the provision of trees, movable seating, and litter-free maintenance in case of the owner's failure to act. Finally, the owner would now file an additional legal instrument, a restrictive declaration running with the parcel, restating the obligations already outlined in the Zoning Resolution and certification action.

In 1977, two years after the City Planning Commission amended the zoning for plazas attached to office buildings in commercial districts, it did the same to the zoning governing plazas connected to residential buildings in residential and commercial districts.¹⁴¹ The process and outcome followed the ones associated with urban plaza reform. The Department of City Planning assigned a team of urban designers, planners, and lawyers to complete a study of residential plazas and streetscapes.¹⁴² Seven community boards, a host of civic and non-profit organizations, and, once more, William Whyte participated in the study.¹⁴³ As with urban plazas, the zoning amendment introduced a new name, "residential plazas," for these spaces and mandated dramatically higher design and amenity standards. The only substantial difference between the residential and urban plaza zoning amendments was that residential plazas would continue to be approved "as-of-right," without any new administrative process such as certification to supplement or supplant review by the Department of Buildings.¹⁴⁴

The purpose of the new residential plaza standards was "to promote the development of an improved quality of residential plaza for the public."¹⁴⁵ Unlike the broadly worded command for an "as-of-right" plaza that it be "an open area accessible to the public at all times," the law of residential plazas expressly required that they be "developed for use by the public,"¹⁴⁶ an injunction backed by specifically enumerated requirements. According to the Department of City Planning, residential plazas would be "living rooms of open space"¹⁴⁷ that were "accessible,

inviting, sunlit, safe and beautifully landscaped."¹⁴⁸ The public would be understood as comprising host building residents and outsiders, each of whom would benefit from the space.¹⁴⁹

The residential plaza rules divided the space into three conceptual and geographic subcategories: primary space, usable residual space, and visual residual space. Primary and usable residual space would be accessible to and usable by the public, whereas visual residual space would be landscaped and not required to be publicly accessible. As its name implies, primary space would constitute the largest portion of the residential plaza and house the major public use and recreational activities. The zoning introduced requirements for shape and placement of the space, including minimum entrance dimensions and ratios of depth to length. Spaces could only be three feet above or below curb level. When it could be provided, southern exposure was required to secure sunlight, and special rules for northern plazas took into account their reduced or nonexistent sunlight. Exposed blank walls of adjacent buildings would have to be covered with vines or similar planting, or an artwork, or otherwise be treated so that the space would not face an unappealing wall. As with urban plazas, residential plazas would have lighting, special paving, plaques, litter receptacles, and performance bonds. Parking spaces, passenger drop-offs, driveways, and loading berths were similarly forbidden.

To promote usability, the residential plaza rules required one linear foot of seating for every 30 square feet of primary space, as well as trees, bicycle parking spaces, and at least one drinking fountain. The space would also have to provide two additional amenities, selected from a list that included additional trees, planting, grass and other groundcover, gametables, artwork, fountains and pools, and play equipment. Open air cafés and kiosks were also acceptable additional amenities. Usable residual space would have to provide seating and at least one of several listed amenities including trees, planting, grass or other groundcover, artwork, and fountains and pools.

As with the introduction in 1975 of sidewalk widenings, the introduction of a subcategory of residential plaza called visual residual space delivered the truth-in-advertising benefit of matching expectations with reality. Visual residual space would be legally covered with trees, planters, grass, fountains, artwork, or other elements and would not have to be physically accessible to the public. Up to 30 percent of it could be devoted to an entrance path for building residents, and it could be enclosed with railings or fences. The virtue of such legal precision and accuracy is immediately evident. For example, if a substantial portion of an "as-of-right" plaza were covered with a permitted obstruction, then could that portion of the plaza be simultaneously open and accessible to the public, as the law for "as-of-right" plazas demands? In the case of residential plazas, at least,

members of the public would know that the inaccessible landscaped portions deemed visual residual space were expressly permitted.

FINE-TUNING PRIVATELY OWNED PUBLIC SPACES: 1977 TO THE PRESENT

From 1977 to the present, the history of privately owned public space has shown a persistent fine-tuning, rather than a major reform, of the legal regime, as well as the production of more spaces within existing categories and the creation of two through-block public space categories for midtown Manhattan. With the major legislative initiatives for urban and residential plazas, correcting the structural deficiencies bedeviling "as-of-right" plaza legislation, behind it, the City Planning Commission would be content to consider and adopt incremental improvements for privately owned public space, sometimes as one component of a broader zoning reform effort, other times as a change to a specific provision of public space law.

In 1982, as part of its new Special Midtown District rezoning of midtown Manhattan, extending roughly from 38th to 60th Streets and from Third to Eighth Avenues, the City Planning Commission introduced new public spaces and modified existing bonused ones.¹⁵⁰ "Pedestrian circulation space" would be mandatory at the ground level, at a size determined in proportion to the building's floor area, ranging from one square foot of space for every 300 to one square foot for every 350 square feet of new building floor area. The list of pedestrian circulation spaces from which the developer could choose to satisfy this requirement included sidewalk widenings, arcades, corner arcades, corner circulation spaces, building entrance recess areas, through block connections, and relocation of subway stair entrances from outside to inside the development's property line.

The zoning imposed special demands with regard to through block connections, making these indoor or outdoor passageways mandatory for new mid-block developments in mapped corridors especially between Sixth Avenue and Seventh Avenue or Broadway. This provision would help strengthen an already developing network of through-block passageways between Sixth and Seventh Avenues and ultimately contribute significantly to the formation of the city's longest chain, six blocks in length, connecting West 51st and 57th Streets between Sixth and Seventh Avenues.¹⁵¹

Another new, through-block space, the non-required, bonused through block galleria, could be located only within the Theater Subdistrict of the Special Midtown District and only where a through block connection itself would be otherwise required.¹⁵² Unlike the through block connection, however, designed purely for circulation, the through block galleria would be amenable to stationary public use. It would be covered, furnish seating if greater

than 3,000 square feet in size, and be permitted to have other amenities such as planters, artworks, and kiosks.

The Special Midtown District also tightened the rules for urban plazas within its boundaries, reducing the bonus from 10 to 6 square feet and setting a maximum ceiling of 1 rather than 3 FAR that had been previously possible in 15 FAR commercial districts.¹⁵³ In addition, urban plazas would face new locational restrictions: they would be fully barred from certain areas, prohibited from locating within 50 feet of a street designated for street wall continuity, and prevented from being situated on a lot only with north-facing frontage unless an open area adjacent to the urban plaza fronted a south-facing street. In addition, the new rules altered slightly the design specifications for seating and permitted the urban plaza to be covered in part with a transparent roof.

The other legal revisions to privately owned public space between 1977 and the present reflected a varied palette of concerns. Some fixed long-standing, stubborn problems. For example, auto-related activities such as off-street parking spaces, passenger drop-offs, driveways, or off-street loading berths were finally prohibited from an arcade or within 10 feet of bonusable arcade area in 1979.¹⁵⁴ Some addressed social and economic issues in the city. For example, the increased use of public spaces by homeless persons led owners to seek, and the City to adopt in 1979, a zoning amendment allowing the City Planning Commission to authorize owners to close certain through block plazas and contiguous arcades at night if, among other things, they agreed to upgrade the space to urban plaza standards.¹⁵⁵ In 1993, owners of urban plazas in midtown Manhattan gained the right to apply for authorization to close at night¹⁵⁶ and in 1996, that right was extended to existing plazas anywhere.¹⁵⁷ Proposals from private developers would sometimes lead to consideration and adoption of zoning amendments adjusting public space requirements. For example, in 1979, the City Planning Commission revised the rules for covered pedestrian spaces within the Special Fifth Avenue District, allowing them to locate within 50 feet of the avenue, thereby making Trump Tower's proposed covered pedestrian space (132), as well as other possible spaces in the future, eligible for a floor area bonus.¹⁵⁸

Ongoing evaluations of the general success and failure of existing public spaces led to additional changes. The geographical territory within which plazas, arcades, and even residential plazas could locate would be slowly

whittled down; they were banned in parts of the upper west side in 1981,¹⁵⁹ and along designated avenues and wide streets in high-density residential neighborhoods in 1993 as part of the City's effort to encourage "tower-on-a-base" rather than "tower-in-a-plaza" development.¹⁶⁰ Finally, in 1996, the space that started it all became an artifact of zoning history when the Commission formally concluded the "as-of-right" plaza's long run by expressly proscribing new ones.¹⁶¹ Existing plazas would now be defined as spaces "developed for public use prior to June 12, 1996," and their governing rules would be known as the "Plaza Standards of 1961."¹⁶² The 1996 zoning amendment also altered the standards for arcades, covered pedestrian spaces, open air concourses, residential plazas, urban plazas, sidewalk widenings, and through block arcades.¹⁶³ Significantly, residential plazas would no longer be "as-of-right" spaces and would now, like urban plazas, have to undergo certification review by the City Planning Commission Chairperson.¹⁶⁴ The City fully repealed the Special Greenwich Street Development District in 1998 after concluding that its attempt to create a multilevel urban design plan for pedestrian circulation improvements had fallen far short of its original ambition.¹⁶⁵ It also eliminated bonuses for sidewalk widenings, open air concourses,¹⁶⁶ and through block galleries.¹⁶⁷

As this book goes to press, the history of zoning reform affecting privately owned public space continues. The City Planning Commission is considering a proposal, known as the Unified Bulk Program, that would, among other things, further constrain the ability of developers to provide newly created privately owned public space. Residential plazas would no longer be allowed in residential zoning districts at all.¹⁶⁸ At residential buildings in high-density commercial zoning districts, a newly named public space, "public open space amenity," would be allowed, but only by special permit with input from a newly created Advisory Design Panel.¹⁶⁹ The Unified Bulk Program proposal expunges bonuses for arcades, through block arcades, elevated plazas, and sunken plazas, leaving urban plazas and covered pedestrian spaces as the only public space survivors.¹⁷⁰ More generally, the proposal would change the zoning in ways that foster lower buildings built to the street wall.¹⁷¹ As Joseph B. Rose, the current Chairperson of the City Planning Commission, asserted when he announced plans for zoning reform, the City is "going to drive a stake through the heart of tower in the park zoning."¹⁷²