



## Legislation Text

---

**File #:** Res 1887-2009, **Version:** \*

---

### THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1887

Resolution approving with modification the decision of the City Planning Commission on Application No. N 090103 ZRQ, for an amendment of the Zoning Resolution of the City of New York, creating the Special Forest Hills District in Article VIII, Chapter 6, and amending related sections of the Zoning Resolution, Borough of Queens (L.U. No. 991).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on February 2, 2009 its decision dated January 21, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning for an amendment of the Zoning Resolution of the City of New York, creating the Special Forest Hills District in Article VIII, Chapter 6, and amending related sections of the Zoning Resolution, Application No. N 090103 ZRQ, Community District 6, Borough of Queens (the "Application");

WHEREAS, the Application is related to Application Number C 090104 ZMQ (L.U. No. 992), an amendment to the Zoning Map, rezoning from C8-2, C4-2 and R7-1 to R5D/C2-3, C4-4A and C4-5X within the proposed Special Forest Hills District;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on March 4, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration issued on September 22, 2008 (CEQR No. 09DCP013Q):

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision with following modification:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in 12-10 or

\* \* \* indicates where unchanged text appears in the Zoning Resolution

Matter in ~~double strikeout~~ is old, to be deleted by the Council;

Matter in double underline is new, to be added by the Council.

## ARTICLE I GENERAL PROVISIONS

\* \* \*

### 11-12 Establishment of Districts

\* \* \*

#### Establishment of the Special Forest Hills District

In order to carry out the special purposes of this Resolution as set forth in Article VIII, Chapter 6, the Special Forest Hills District is hereby established.

#### Establishment of the Special Garment Center District

\* \* \*

### 12-10 DEFINITIONS

\* \* \*

#### Special Forest Hills District

The "Special Forest Hills District" is a Special Purpose District designated by the letters "FH" in which special regulations set forth in Article VIII, Chapter 6, apply. The #Special Forest Hills District# appears on the #zoning maps# superimposed on other districts and its regulations supersede, supplement and modify those of the districts upon which it is superimposed.

#### Special Garment Center District

\* \* \*

**Chapter 3**  
**Sidewalk Cafe Regulations**

\* \* \*

**14-44**  
**Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted**

#Enclosed# or #unenclosed sidewalk cafes# shall be permitted, as indicated, in the following special zoning districts, where allowed by the underlying zoning. #Small sidewalk cafes#, however, may be located on #streets# or portions of #streets# within special zoning districts pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

\* \* \*

| Queens                        | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|-------------------------------|--------------------------|----------------------------|
| <u>Forest Hills District*</u> | <u>No</u>                | <u>Yes</u>                 |
| Downtown Jamaica District     | No                       | Yes                        |

\*#Sidewalk cafes# are not allowed on Austin Street

\* \* \*

*Article VIII, Chapter 6, (86-00) is new text; it is not underlined*

\* \* \*

**ARTICLE VIII**  
**SPECIAL PURPOSE DISTRICTS**

\* \* \*

## Chapter 6 Special Forest Hills District

### 86-00 GENERAL PURPOSES

The “Special Forest Hills District” established in this Resolution is designed to promote and protect the public health, safety, general welfare and amenity of Forest Hills. The general goals include, among others, the following specific purposes:

- (a) to ensure that the form of new buildings is compatible with and relates to the built character of the Forest Hills neighborhood;
- (b) to preserve, protect and promote the special character of Austin Street as a regional shopping destination;
- (c) to create a graduated transition from the lower-scale character of Austin Street to the higher-scale character of Queens Boulevard;
- (d) to support a broad and vibrant mix of commercial and residential uses throughout the Special District
- (e) to enhance the pedestrian setting of Austin Street through appropriate ground floor uses and structural requirements;
- (f) to promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City’s revenue.

### 86-01 Definitions

#### Special Forest Hills District

The "Special Forest Hills District" is a Special Purpose District designated by the letters "FH" in which special regulations set forth in Article VIII, Chapter 6, apply. The #Special Forest Hills District# appears on the #zoning maps# superimposed on other districts and its regulations supersede, supplement and modify those of the districts upon which it is superimposed.

### 86-02 General Provisions

In harmony with the general purposes of this Resolution and in accordance with the provisions of the #Special Forest Hills District#, the regulations of this Chapter shall apply to all #developments#, #enlargements#, alterations and changes of #use# within the Special District. Unless modified by the particular provisions of the

Special District, the regulations of the underlying zoning districts shall remain in effect. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

Any special permit granted by the Board of Standards and Appeals before [Effective Date of this amendment], may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such special permit was granted, subject to the provisions of Sections 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) and 11-43 (Renewal of Authorization or Special Permit).

### **86-03**

#### **District Plan and Maps**

The regulations of this Chapter are designed to implement the District Plan for the #Special Forest Hills District#. The District Plan includes the map of the #Special Forest Hills District#, which is set forth in the Appendix to this Chapter and is hereby incorporated as part of this Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

### **86-04**

#### **Applicability of Article I**

Within the #Special Forest Hills District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation

### **86-10**

#### **SPECIAL USE REGULATIONS**

### **86-11**

#### **Ground Floor Uses Along Designated Streets**

Along the portions of Austin Street and 71<sup>st</sup> Avenue specified on the map in the Appendix to this Chapter as

Special Retail Continuity Streets, #uses# located on the ground floor level or within five feet of #curb level#, and within 30 feet of the #street wall#, shall be limited to #commercial# or #community facility uses# permitted by the underlying district and the provisions of Section 86-12 (Modification of Uses on Austin Street).

The #street# frontage of a #development# or #enlargement# shall be allocated exclusively to such #uses#, except for lobby space, entryways or entrances to subway stations and #accessory# parking spaces. In no event shall the length of #street# frontage occupied by lobby space exceed, in total, 40 feet or 25 percent of the building's total #street# frontage, whichever is less.

## **86-12 Modification of Uses Along Austin Street**

The #use# regulations in the #Special Forest Hills District# shall be modified to permit Use Groups 10A, 10C, 12A, 12B, 12D and 12E within C2 Districts fronting on Austin Street.

The provisions of Section 32-423 (Limitation on ground floor location) shall not apply to #uses# located along Austin Street.

## **86-13 Location of Uses in Mixed Buildings**

The provisions of Section 32-422 (Location of floors occupied by non-residential uses) are modified to permit #residential uses# on the same #story# as a non-#residential use# provided no access exists between such #uses# at any level containing #residences# and provided any non-#residential uses# are not located directly over any #residential uses#.

Such non-#residential uses#, however, may be located over a #residential use# by authorization of the City Planning Commission upon a finding that there is sufficient separation of #residential uses# from non-#residential uses# within the #building#.

## **86-14 Transparency Requirements**

The ground floor #street wall# bounding any #commercial# or #community facility use#, other than a #school#, shall be glazed with transparent materials which may include show windows, glazed transoms or glazed portions of doors.

For such #community facility uses#, the glazed area shall occupy at least 50 percent of the area of each such ground floor #street wall# measured to a height of 10 feet above the level of the adjoining sidewalk or public access area.

For #commercial uses#, such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall# measured to a height of 10 feet above the level of the adjoining sidewalk or public access area. Not less than 50 percent of such area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

## 86-15 Security Gates

For all #commercial# or #community facility uses# located on the ground floor of a #development# or #enlargement# within the #Special Forest Hills District#, any security gates installed after (date of enactment) that are swung, drawn or lowered to secure commercial or community facility premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street# or any publicly accessible area, except that this provision shall not apply to entrances or exits to parking garages.

## 86-20 SPECIAL BULK REGULATIONS

The applicable bulk regulations of the underlying districts shall apply within the #Special Forest Hills District#, except as modified by this Section, inclusive.

## 86-21 Special Floor Area Regulations in C4-5X Districts

In C4-5X Districts within the #Special District#, the underlying #floor area ratio# for #commercial uses# shall not apply. In lieu thereof, the provisions of Section 33-122 (Commercial buildings in all other Commercial Districts) shall be modified to permit a maximum #floor area ratio# of 5.0.

## 86-22 Waiver for Rear Yards

No rear yards shall be required for any #commercial# or #community facility use# permitted within a C2-3 District in the #Special Forest Hills District#.

## 86-23 Height and setback regulations

#Developments# and #enlargements# within the Special District shall comply with the height and setback regulations of Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts), except as modified by this Section.

### (a) In C4-4A Districts

For #developments# or #enlargements# within the C4-4A District, the maximum base height of the #street wall# shall be 60 feet.

The maximum height of a #building# within the C4-4A District shall be 70 feet.

### (b) In C4-5X Districts

For #developments# or #enlargements# within the C4-5X District west of 70<sup>th</sup> Road, the minimum base height of the #street wall# shall be 40 feet and the maximum base height of the #street wall# shall be 60 feet.

The maximum height of a #building# within the C4-5X District shall be 150 120 feet, except that the maximum height for #buildings# or portions of #buildings# on #zoning lots# located wholly or partly within 60 feet of the northerly side of Austin Street between Yellowstone Boulevard and 70<sup>th</sup> Avenue, shall be 80 feet.

All heights shall be measured from the #base plane#.

## **86-30**

### **SPECIAL PERMIT TO MODIFY USE OR BULK REGULATIONS**

For any #development#, #enlargement#, alteration or change of #use# on a #zoning lot# within the #Special Forest Hills District#, the City Planning Commission may permit modification of the #use# or #bulk# regulations, other than #floor area ratio# provisions, provided the Commission shall find that such:

- (a) modification will aid in achieving the general purposes and intent of the Special District;
- (b) #use# modification will encourage a lively pedestrian environment along Austin Street;
- (c) modification is the only practicable way to achieve the programmatic requirements of the #development#;
- (d) modification will enhance the distribution of #bulk# on the #zoning lot#;
- (e) modification of #bulk# will permit adequate access of light and air to surrounding #streets# and properties; and
- (f) #development# or #enlargement# will relate harmoniously to the character of the surrounding area.

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

## **86-40**

### **SPECIAL OFF-STREET PARKING AND LOADING REGULATIONS**

The applicable parking and loading regulations of the underlying districts shall apply within the #Special Forest Hills District#, except as modified by this Section, inclusive.

## **86-41**

### **Parking Regulations for Commercial Uses**

For all #commercial uses# located within the #Special Forest Hills District# in parking requirement category (PRC) A, B, B1 or C, the requirements of Section 36-21 (General Provisions) pertaining to the number of #accessory# off-street parking spaces required for each type of #use# shall be modified to provide one parking space per 400 square feet of #floor area# for all such #uses#.



In the Special District, hotels (PRC-H) shall be required to provide one parking space per 12 guest rooms or suites, or one parking space per 12 persons rated capacity, whichever is greater. Places of assembly (PRC-D) shall be required to provide one parking space per 12 persons rated capacity.

## 86-42

### Location of Off-Site Accessory Parking Spaces for Residences

The applicable regulations for the location of permitted or required off-site #accessory# parking spaces for #residential uses# in Sections 36-42 (Off-Site Spaces for Residences) and 36-421 (Maximum distance from zoning lot) shall not apply in the #Special Forest Hills District#. In lieu thereof, such off-site parking spaces, which are #accessory# to a #residential use#, may also be located on any #zoning lot# within the Special District other than the #zoning lot# to which they are #accessory#.

## 86-43

### Modification of Parking Requirement Waivers

The waiver provisions of Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations), inclusive, shall be modified within the #Special Forest Hills District#, as follows:

- (a) For any new #residential development# or #enlargement# in the Special District, the waiver modification provisions set forth in Section 36-362 (For new developments or enlargements in other C1 or C2 Districts or in C4, C5 or C6 Districts), inclusive, shall not apply. In lieu thereof, the total number of #accessory# off-street parking spaces required in Section 36-30 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES WHEN PERMITTED IN COMMERCIAL DISTRICTS), inclusive, shall be waived if the number of spaces for all #uses# on the #zoning lot#, required by the applicable regulations of Section 36-30, inclusive, is five spaces or fewer.

For any #commercial# or #community facility use# permitted in the Special District, the modification waiver provisions for a C4-4 or C4-5 District set forth in Section 36-232 (In districts with very low parking requirements) shall not apply. In lieu thereof, the total number of #accessory# off-street parking spaces required in Section 36-21 (General Provisions) shall be waived if the number of spaces for all #uses# on the #zoning lot#, required by the regulations of Section 36-21, is fewer than 40 spaces.

- (b) The provisions of Sections 36-342 (Reduced requirements in other C1 or C2 Districts or in C4, C5 or C6 Districts) and 36-344 (Waiver of requirements in other C1 or C2 Districts or in C4, C5 or C6 Districts) shall not apply in the #Special Forest Hills District#.
- (c) Within the #Special Forest Hills District#, the provisions of paragraph (a) of this Section and Sections 36-23 (Waiver of Requirements for Spaces Below Minimum Number) and 36-36 (Waiver of Requirements for Small Number of Spaces) shall apply only to #zoning lots# existing both on (date of amendment) and on the date of application for a building permit.

## 86-44

### Location of Access to the Street

The waiver provisions of Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations), pertaining to location of access shall be modified within the #Special Forest Hills District#, as follows:

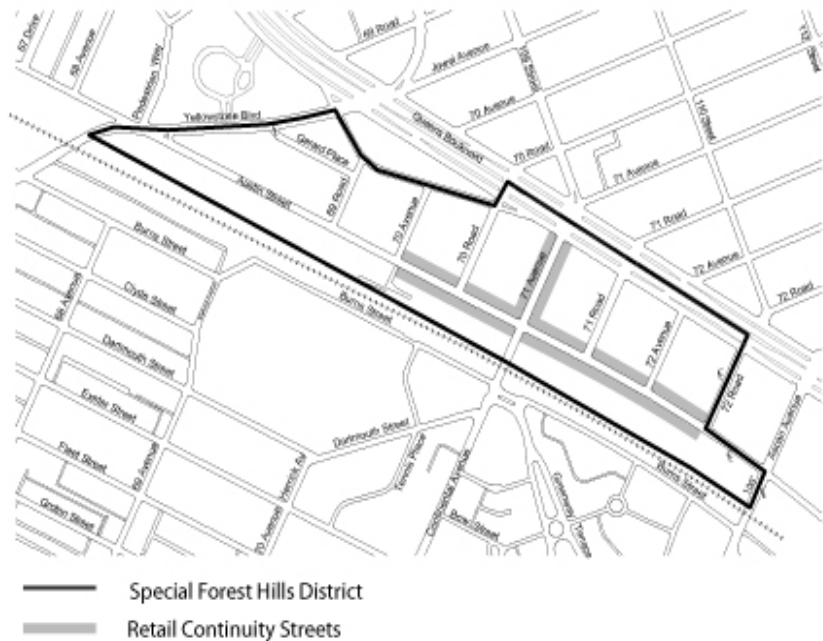
Curb cuts for permitted or required #accessory# off-street parking and loading spaces along Austin Street from

70<sup>th</sup> Avenue to Ascan Avenue and along 71<sup>st</sup> Avenue from Austin Street to Queens Boulevard, as shown on the map in the Appendix to this Chapter, shall not be allowed. The Chairperson of the City Planning Commission, however, may certify to the Commissioner of Buildings that such #zoning lot# has access only to such prohibited location and that a curb cut in that location would not be hazardous to traffic safety and would, if granted, be no wider than 20 feet.

An application for certification respecting such curb cut shall be accompanied by a site plan drawn to a scale of at least one sixteenth inch to a foot, showing the size and location of the proposed curb cut.

The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.

### Appendix A Special Forest Hills District



Adopted.

Office of the City Clerk, }  
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on March 24, 2009, on file in this office.

.....  
City Clerk, Clerk of The Council