



CITY PLANNING COMMISSION

September 30, 2013/Calendar No. 3

N 130247(A) ZRM

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article VIII, Chapter 1 (Special Midtown District), Borough of Manhattan, Community Districts 5 and 6.

An application (N 130247 ZRM) for a zoning text amendment was filed by the Department of City Planning on April 17, 2013, in conjunction with a related zoning map amendment to protect and strengthen the East Midtown business district. On July 17, 2013, pursuant to Section 2-06(c)(1) of the ULURP rules, the Department filed an application (N 130247(A) ZRM) to modify the proposed amendment to the Zoning Resolution in response to recommendations heard during the public review regarding permitted uses, provisions for landmark transfers, other changes and clarifications. This modified application (N 130247(A) ZRM) is the subject of this report.

RELATED ACTIONS

In addition to the zoning text amendment which is the subject of this report (N 130247(A) ZRM), implementation of the proposal requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 130248 ZMM	Zoning map amendment that would change an existing C5-2 District to C5-2.5 and C5-3 Districts, and establish a Special Midtown District within the proposed C5-2.5 and C5-3 Districts, in the area bounded by East 43 rd Street, Second Avenue, East 42 nd Street, and a line 200 feet easterly of Third Avenue
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BACKGROUND

In order to protect and strengthen the East Midtown business district, the Department of City Planning proposes a zoning text amendment to the Special Midtown District and a zoning map

amendment, in Community Districts 5 and 6 in the Borough of Manhattan. The proposed zoning text amendment would establish the East Midtown Subdistrict (the “Subdistrict”) affecting 73 blocks within the Special Midtown District. This new Subdistrict would supersede and subsume the existing Grand Central Subdistrict. The proposed zoning map amendment would change an existing C5-2 zoning district to C5-2.5 and C5-3 districts, and extend the Special Midtown District to incorporate the proposed C5-2.5 and C5-3 districts, in the area bounded by East 43rd Street, Second Avenue, East 42nd Street, and a line 200 feet easterly of Third Avenue.

Description of the Project Area

The East Midtown office district is one of the largest job centers in New York City and one of the world’s premier business districts. The rezoning area, generally bounded by East 39th Street to the south, East 57th Street to the north, Second and Third avenues to the east and a line 150 east of Fifth Avenue to the west, contains approximately 70 million square feet of office space, more than 200,000 workers, and numerous major corporate headquarters offices among thousands of other businesses.

This area is centered upon Grand Central Terminal, one of New York’s major transportation hubs and civic spaces. Around the Terminal and to the north are some of the city’s best known office buildings, including the Chrysler Building, Seagram Building, and Lever House, along with a mix of other iconic landmarks, civic structures, and hotels.

Grand Central Terminal and the adjoining subway station complex comprise one of the most important transit hubs in the nation. Accommodating approximately 600,000 trips and transfers on a daily basis, it is second only to the Penn Station in terms of commuter activity. Transit service in the area is currently being expanded through two major public infrastructure projects: East Side Access, and the Second Avenue subway. The East Side Access project would, for the first time, provide Long Island Rail Road service to East Midtown through the construction of a new tunnel and a below-grade station connected to Grand Central. This would also reduce the volume of Long Island Rail Road commuters using the E train and crosstown 42nd St. Shuttle to travel to East Midtown employment sites. Construction of the East Side Access is scheduled to

be completed in 2019. Additionally, the Second Avenue Subway project, with a first phase (from East 63rd to East 96th streets) currently under construction, would alleviate congestion on the Lexington Avenue subway line which runs through the East Midtown area and reduce transfers at the Grand Central-42nd Street subway station between the Lexington and Flushing subway lines. Construction of this phase of the Second Avenue Subway project is scheduled to be completed in 2016.

Current Status and Recent Trends

East Midtown has historically been one of the most sought-after office markets in the New York region. The area is made up of large parts of two office submarkets: the Grand Central submarket and the Plaza submarket. The Grand Central submarket, centered upon the Terminal, generally has an older inventory of office buildings, with a higher vacancy rate and lower rents than the overall Midtown market. The Plaza District, anchored on its northern end by Grand Army Plaza and extending southward towards Grand Central, is one of the most expensive submarkets in the country and has a comparatively newer office building inventory. One of the key strengths of East Midtown has been the wide range of office space that can be found there, including buildings of different sizes and ages allowing the area to meet the needs of diverse tenants at varying price points.

Overall, East Midtown's office tenants have historically been financial institutions and law firms, with some of the country's largest banks headquartered here. Recent trends have both reinforced and altered this role. The area has become home to the city's hedge fund and private equity cluster because of the area's cachet and easy access to the Metro-North commuter shed. This has led to a spike in rents for high-quality space in the area's top-tier buildings. At the other end of the office market spectrum, East Midtown has also developed a more-diverse roster of tenants as rents have dropped with the economic downturn, accommodating tenants who were previously priced out of the area. Both these trends have helped the area recover from the 2008 recession, with vacancy rates falling back toward seven to eight percent, which is generally considered the structurally healthy vacancy rate. This rate allows tenants to both seek and relocate to different spaces in the area based on lease length, economic conditions, or changing space needs. In

response, the office buildings themselves are under near continuous renovation to maintain their desirability in the area's office market.

Long-Term Challenges

While East Midtown has historically performed strongly as an office district, its future as a highly competitive office district is unclear. The City has identified a number of long-term challenges that must be addressed in order for East Midtown to remain one of the region's premier job centers. Concerns about the area's strength as a business district in the coming decades are primarily related to the area's aging office building inventory, which, over time, will not be able to provide state-of-the-art space and amenities desired by tenants, both of which are crucial to the area's continued competitiveness, regionally, nationally and globally.

Unless these long-term challenges are addressed, East Midtown would become less desirable as a business district and the significant public investment in the area's transit infrastructure would fail to fulfill its full potential to generate jobs and tax revenues for the city. Long-term challenges affecting the East Midtown office district include:

- *Aging office building stock*
- *Limited recent office development*
- *Pedestrian network challenges*
- *Challenges of current zoning*
- *Modernization of core office areas by competitor cities*

These challenges are described more fully below:

Aging Office Building Stock

The East Midtown rezoning area contains approximately 400 buildings, of which more than 300 are over 50 years old. The average age of buildings in the rezoning area is nearly 75 years. For an office district competing for tenants regionally, nationally and globally, this is a relatively old age. Buildings in London's City district, a comparable historic office core, have an average age of approximately 40 years.

This high average age of buildings makes it more likely that the space in the area's office buildings will increasingly become outdated in relation to premium tenant needs. Today, office buildings older than 50 years have higher vacancy rates and yield lower rents. Reasons for this include constraints in the ability to provide up-to-date technology infrastructure, redundant building systems and other amenities through renovation. Some issues, particularly low floor-to-floor heights and interior columns, cannot be addressed at all through renovation. Prior to 1961, the zoning in the East Midtown area was characterized by a restrictive height and setback control, but no specified floor area ratio. Thus the design strategy for developers to maximize floor area was to build to the limits of the zoning "envelope" by squeezing in as many floors as possible. The buildings that resulted provide low-ceilinged spaces both on the ground floor for retail and on the upper office floors, as well as a dense column grid. Today, these spaces are increasingly unattractive to the highest rent paying tenants.

Tenants looking for office space in Midtown today desire large, column-free space to have flexibility in creating office layouts, which are trending toward more open organization. Columns and low floor-to-floor heights do not work well with these open layouts, and thus buildings with these features are increasingly less competitive with the office building inventory in other global business centers. As a result, East Midtown's less marketable office buildings are converting to other uses, especially to residential or hotel use. Recent conversions include hotel conversions such as the Library Hotel at 299 Madison Avenue and the Marriott Courtyard at 866 Third Avenue, and residential conversions such as the condominiums at 5 East 44th Street. Recently, plans have been announced to convert the Sony Building at 550 Madison Avenue from office to a mix of hotel and residential uses.

Given the concentration of regional rail infrastructure in East Midtown, and ongoing expansion of the transit network, a continued trend of office space conversion to other uses, particularly residential, would not maintain East Midtown as a hub of transit-oriented development and result in optimal economic development gains for the city. While the City has undertaken many initiatives over the last decade to accommodate new office construction, including at Hudson Yards, Downtown Brooklyn, and Long Island City, all of these were predicated on the East

Midtown area remaining a center for office jobs and none contemplated the diminution of this area as the city's premier business district.

Limited Recent Office Development

With much of the East Midtown's existing office stock aging, the area has also experienced little new office development. Since 2001, only two office buildings have been constructed in this area, which represents a significant drop from preceding decades. Of the 70 million square feet of office space currently in the area, less than 5 percent was constructed within the last two decades. Whereas the area had an overall annual space growth rate of 1 percent between 1982 and 1991, the area's growth rate began to drop off in the next decade, with an annual growth rate of 0.14 percent. Over the last decade, this has continued to fall to an annual growth rate of only 0.06 percent between 2002 and 2011. Since 1982, the area's average age of buildings increased from 52 years to over 70 years.

The area's existing high density, relative to currently allowed zoning floor area, is an impediment to construction of new office stock. As a whole, the area contains approximately 2.3 million square feet more than what is permitted under the current zoning (the average area-wide maximum allowable floor area ratio (FAR) is 14.1 and the built FAR is approximately 14.3). This is particularly an issue for buildings which were constructed before 1961, when floor area ratios were first instituted under the Zoning Resolution, and contain more floor area than would be permitted today. As discussed above, many of these "overbuilt" buildings contain obsolete features that make them less marketable, but the lower amount of square footage that could be constructed in a new building on the site presents a significant disincentive to new construction. Under current zoning, up to 75 percent of the floor area could be removed and reconstructed as modern office space, but this would still leave a building with 25 percent of floor space below contemporary standards.

The area also contains few remaining development sites based on typical "soft site" criteria, i.e., sites where built FAR is less than half of the permitted base FAR, excluding landmarks. Of the possible development sites that do exist, few would accommodate a major new office building.

Current plans for development in the area bear this out. Of the sites currently cleared for new development, none are planned for office construction as the sites are considered too small to hold a new office building. One assembled site for a new Class A office building (at 317 Madison Avenue) has been reported in the media; however, this site has not yet been cleared. Another announced development site, at 425 Park Avenue, has more existing floor area than permitted under existing zoning and would therefore retain 25 percent of the existing floor area and rebuild the remainder, in order to retain its current density.

Beyond the difficulty of assembling appropriately-sized sites, there are a number of other challenges to new development. These include the need to vacate existing tenants which, depending on existing leases, can be a long, multi-year process that is not economically viable for many property owners. Large existing buildings must then be demolished, further extending the period during which the property produces no revenue. These issues have led to very limited new office construction in the area and many owners attempting instead to renovate their buildings, often on a piecemeal basis, to compete in the overall market.

Pedestrian Realm and Transit Network Challenges

East Midtown contains some of the city's best known public and civic spaces, including Grand Central Terminal's main hall, the Seagram Building Plaza, and Park Avenue itself. It also contains a below-grade pedestrian network which connects the Terminal to the Grand Central subway station at 42nd Street and to surrounding streets and buildings, allowing for a more efficient distribution of pedestrians in the area. Along with the additional subway stations to the north, East Midtown is one of the most transit-rich locations in the city and the pedestrian network is one of the area's unique assets. However, the area faces a number of challenges to creating a pedestrian network fully matching the area's role as one of the city's and world's premier office districts. These include:

- The Grand Central-42nd Street subway station, a transfer point for regional rail and the 4, 5, 6, 7 and 42nd street shuttle subway lines, is one of the busiest in the entire subway system with nearly half a million daily users. However, this station experiences pedestrian circulation constraints, including platform crowding and long dwell times for

the Lexington Avenue line (4, 5, and 6), which limit train through-put, creating a subway system bottleneck.

- The sidewalks of Madison and Lexington avenues are narrow, approximately 12 to 13 feet wide, given the scale of pedestrian use they handle. The effective widths of these sidewalks are even narrower when subway grates and other sidewalk furniture are included. Side street sidewalks in the area are narrow as well.
- While East Midtown includes a number of privately owned public spaces, it contains no significant publicly controlled open spaces.
- Vanderbilt Avenue, formerly the major taxi access point to Grand Central Terminal, has seen its use drop as taxis have been moved away from the building due to security concerns.

Challenges of Current Zoning

Existing zoning regulations are not appropriate for East Midtown's current needs and impede the area's ability to modernize.

In 1961, when the current Zoning Resolution was enacted, East Midtown was zoned with a mix of 15.0 FAR districts. Floor area bonuses for public plazas increased the permitted FAR to 18.0, as-of-right. The 1961 zoning, which permitted a tower of unlimited height covering a maximum of 40 percent of its lot but capped total floor area, removed the unintended incentive under the prior regulations to keep ceilings low (although building practices adjusted gradually) and facilitated the development of many signature corporate towers in the area. However, the height and setback control, which required the tower to be set back from the surrounding streets, worked best on large sites (over 40,000 square feet). As such sites became harder to assemble, special permits were applied for and granted for towers that covered a higher percentage of the lot and were located closer to the street or even at the street line. Planners and civic groups were dissatisfied with some of the buildings that resulted from these waivers and, by the early-1980s, the City decided that improved as-of-right height and setback rules were necessary.

At the same time, the City concluded that development in Midtown should be encouraged to the west beyond Sixth Avenue. In 1982, the Special Midtown District was created to accomplish this and other goals, which included facilitating an improved pedestrian realm. As part of this project, East Midtown was proposed as an area for ‘Stabilization’ while the area west of Sixth Avenue was marked for ‘Growth.’ To accomplish this, parts of East Midtown were downzoned. The FAR for several midblock areas was lowered from 15.0 to 12.0. The area around Lexington Avenue in the vicinity of East 55th Street was rezoned to a mix of 10.0 and 12.0 FAR. This strategy to shift development west of Sixth Avenue has been successful. Largely as a result of these changes, approximately 75 percent of the new development within the Special Midtown District since 1982 has occurred outside of the East Midtown area, especially around Times Square. However, the decline in new construction in East Midtown over the past two decades threatens to undermine the strategy of stabilizing East Midtown.

Since 1982, the major change to the zoning regulations of the area was the creation in 1992 of the Grand Central Subdistrict of the Special Midtown District to allow the transfer of development rights from Grand Central and other area landmarks to development sites in the vicinity of Grand Central, and facilitate the creation of an improved pedestrian realm in the area. The borders of the Grand Central Subdistrict were generally drawn around the area where Grand Central Terminal’s below-grade pedestrian network then existed. In the existing Core area of the Grand Central Subdistrict (between Madison and Lexington avenues, from East 41st to East 48th streets) the maximum permitted FAR by using the transfer is 21.6 and requires a zoning special permit from the Commission requiring that a significant pedestrian improvement be provided as part of the project. However, only one building, 383 Madison Avenue, has taken advantage of this provision since its adoption and more than 1.2 million square feet of development rights remain unused on the Grand Central lot. The complexity of the process required to achieve the full 21.6 maximum FAR under this provision, which includes lengthy case-by-case negotiation between the applicant, the Metropolitan Transportation Authority (MTA), and the City over the scope of the pedestrian network improvements, has been identified as one reason for its infrequent use.

Additionally, 1.0 FAR transfers are permitted through a certification process in the Core and a larger area which includes the western side of Madison Avenue and eastern side of Lexington Avenue. This provision has been used three times but because of the small size of the transfer, has not resulted in significant utilization of unused Grand Central development rights.

Beyond these transfer mechanisms, three methods exist to obtain higher floor area ratios. First, subway station improvement bonuses, of up to 20 percent more than the permitted base FAR, are permitted for sites directly adjacent to subway entrances. Second, existing New York City Landmarks Preservation Commission (LPC) designated landmarks can transfer their remaining development rights to sites that are adjacent or across streets, with no FAR limits on the receiving site. Both of these bonuses are only permitted through special permits granted by the Commission. Third, in the portions of the area not within the Grand Central Subdistrict, a 1.0 FAR bonus is permitted through the provision of a public plaza.

The current as-of-right densities, which are lower than those of many existing buildings in the area, have effectively become a disincentive for redevelopment in the area. Additionally, the floor area bonuses or other zoning incentives, including the Grand Central Subdistrict special permit which was meant to facilitate development of large buildings and the transfer of unused floor area from landmarks, have not proven attractive options for new development. Overall, the Department believes the existing zoning framework stymies development of significant new office buildings in East Midtown.

Modernization of Core Office Areas by Competitor Cities

The Department has looked at competitor cities with traditional office cores to get a better sense of how East Midtown compares on the world stage. These include London (and its traditional office core in The City), Tokyo (the Marunouchi area around Tokyo Station), and Chicago (the Loop). While East Midtown must also compete against much newer office districts like Pudong in Shanghai, the more relevant comparison is to cities with traditional large office cores that have faced similar challenges of needing to upgrade their office space and meet new market demands.

East Midtown's inventory of contemporary office space lags in comparison to office core districts in competing cities. Many competing cities have made it a major policy focus to encourage new office construction in their traditional office cores in order to replace outdated office space and better compete on the world stage. Comparison with The City (London) and Marunouchi (Tokyo) shows that a significant amount of new development has occurred in these two districts over the last decade compared to the relatively lower level of new construction in East Midtown. In both of these peer districts, outdated office buildings—particularly from the 1950s and 1960s—were replaced with new construction.

East Midtown's existing high density poses a unique challenge. Where London has replaced outdated office buildings of less than 10 stories with a mix of similarly-sized buildings with larger footprints and 30 to 40-story skyscrapers, and Tokyo has replaced smaller (10 to 15 story) office buildings with much larger structures, East Midtown's existing high density makes redevelopment especially challenging.

Consequences of Long Term Challenges

The Department believes the long-term consequence of failing to address the aging of the existing office stock and lack of replacement office development in East Midtown would be a decline in the diverse and dynamic office market in East Midtown. The needs of the full range of tenants that East Midtown serves today would be unmet if current challenges are not addressed. In particular, tenants of state-of-the-art Class A office space, who have been attracted to the area in the past, would begin to look elsewhere for space. This would likely not only affect the top of the market, but also the Class B and C office space since tenants in these buildings would lose proximity to other important businesses in their cluster. As a result, Class B and C buildings would become ripe for conversion to other uses. In sum, East Midtown would become less desirable as a business district and the significant public investment in the area's transit infrastructure would fail to maximize its full potential to generate jobs and tax revenues for the city.

Description of the Proposed Action

The Department's vision for East Midtown is that the area will continue to be a preeminent commercial district. The area would remain largely as is, with most buildings remaining in their current office uses, and only a small amount converting to residential and hotel uses. A handful of major new office buildings would reinforce the area's standing as a premier business district, add to the area's cachet and market dynamism, and provide support for the overall continued health of the area. The area's pedestrian network would be improved, befitting its status as one of the world's best business addresses. More specifically, the goals of the Proposed Action are:

- Protect and strengthen East Midtown as one of the world's premier business addresses and a key job center for the city and region;
- Seed the area with new modern and sustainable office buildings to maintain its preeminence as a premier office district;
- Improve the area's pedestrian and built environments to make East Midtown a better place to work and visit; and
- Complement ongoing office development in Hudson Yards and Lower Manhattan to facilitate the long-term expansion of the city's overall stock of office space.

To accomplish these goals, the Department proposes a new East Midtown Subdistrict within the Special Midtown District. This requires a zoning text amendment and a zoning map amendment. Each of these actions is described separately below.

It is expected that enactment of the proposal would lead to the development of around a dozen new predominantly office buildings in the coming decades. They would predominantly be concentrated around Grand Central Terminal and along Madison Avenue between East 39th and 49th streets, with more-limited additional development occurring along Park Avenue and elsewhere. This construction would translate into an increase of less than 5 percent above the approximately 90 million square feet of total space in the Subdistrict today. In addition, this new development would contribute more than half a billion dollars for pedestrian realm and transit network improvements throughout East Midtown.

In addition to the proposal, the Mayor announced in July 2013 that the City will work to secure advance funding, upon enactment of the Subdistrict, for improvements to alleviate some of the area's key pedestrian realm and transit network challenges. This would set the stage for future development in the area that would occur through the proposal. The funding would be paid back through use of the District Improvement Bonus, described below, as new construction occurs in East Midtown.

REQUESTED ACTIONS

To facilitate the proposed East Midtown Subdistrict, the following actions are required:

Zoning Text Amendment (N 130247(A) ZRM)

On April 17, 2013, the Department filed a proposed zoning text amendment (N 130247 ZRM) to establish the East Midtown Subdistrict. In response to recommendations made during the public review process for the East Midtown Subdistrict, on July 17, 2013, the Department filed a modified zoning text amendment (N 130247(A) ZRM). On September 30, 2013, the original zoning text amendment was withdrawn. The modified zoning text amendment is the subject of this report.

The proposed zoning text amendment would establish an East Midtown Subdistrict (the "Subdistrict") within the Special Midtown District. This new Subdistrict would supersede and subsume the existing Grand Central Subdistrict. While most existing zoning would remain in place, the amendment would focus new commercial development with the greatest as-of-right densities on large sites with full block frontage on avenues around Grand Central Terminal, with slightly lower densities allowed along the Park Avenue corridor and elsewhere. The amendment would encourage targeted as-of-right commercial development at appropriate locations. The amendment would generate funding for area-wide pedestrian network improvements and also provide greater opportunities for landmark transfers within certain portions of the Subdistrict.

The Qualifying Site and the DIB

The Subdistrict would create a new as-of-right zoning framework to permit increases above the base FAR for sites that meet certain site criteria and can accommodate substantial new commercial buildings. Sites within the Subdistrict with full wide street frontage or 200 feet of frontage along a wide street, and a minimum cleared site size of 25,000 square feet, that meet certain use restrictions and energy standards described below, would be considered Qualifying Sites.

As-of-Right Densities

In the area immediately surrounding Grand Central Terminal, the as-of-right density for Qualifying Sites would be increased from 15 FAR to 24 FAR. This would be the highest as-of-right density allowance in the East Midtown Subdistrict, reflecting the Department's planning policy of directing density to areas with excellent access to transit. In the area encircling the Grand Central core and along Park Avenue, the as-of-right density would be increased from 15 FAR to 21.6 FAR for Qualifying Sites. Park Avenue, already home of many of the city's most prominent office towers, is the widest street in Midtown. In the flanking areas west and east of Park Avenue and east of Grand Central along Third Avenue, the as-of-right densities for Qualifying Sites would be increased by 20 percent from 15 FAR to 18 FAR along the avenues, and from 12 FAR to 14.4 FAR in the midblocks.

The District Improvement Bonus

Qualifying Sites would be able to achieve the increased FAR allowances through utilization of a new zoning mechanism, called the District Improvement Bonus. Floor area increases above the existing base as-of-right ratios would be permitted through contribution to a District Improvement Fund (DIF) dedicated to area-wide pedestrian network improvements. The DIF is described more fully in the "Infrastructure Needs and the DIF" section below.

The initial DIB rate of \$250 per square foot was established under the original proposal for commercial uses based on an appraisal of commercial development rights in Midtown, and will be subject to adjustment. The modified proposal provides for a different rate for residential

development rights. The DIB contribution rate for use of bonus floor area as residential use will be set through an appraisal of residential development rights in Midtown, to be conducted prior to adoption of the text and subject to adjustment in a similar manner as the rate for the commercial uses. The modified proposal also requires that the contribution rate for a proposed mixed use development on a Qualifying Site be based on its ratio of residential and commercial use.

The additional floor area would be granted by Chair certification, under a procedure similar to that for the existing Hudson Yards District Improvement Bonus.

Site Area Requirements

The proposal requires that Qualifying Sites must have a minimum lot size of 25,000 square feet, a minimum wide street frontage of 200 feet and a minimum depth of 100 feet. In addition, these minimum dimensions are required to be cleared of existing buildings, except for existing MTA-related facilities. Beyond these minimum dimensional and area requirements, existing buildings are permitted to remain on the zoning lot.

Permitted Uses

The certified proposal set forth requirements that any development on a Qualifying Site be restricted to commercial uses – office, hotel, retail and other related uses. During the public review process, the Department received recommendations that residential use be permitted in new developments to support a mixed-use character for the area. In addition, the Department received recommendations that hotel uses be restricted on Qualifying Sites so that the resulting developments contain predominantly office uses.

While East Midtown has experienced a great deal of non-office development over the last decade and conversion of existing aging office buildings to residential is likely to continue, the Department believes limited mixed use on the Qualifying Sites could improve the 24-hour character of the area while continuing to meet the proposal's overall goal of encouraging new office space in the East Midtown area. However, the Department believes that Qualifying Sites

should primarily be devoted to office uses. The modified proposal addresses these issues by, on the one hand, allowing limited amounts of residential use as-of-right on Qualifying Sites, and, on the other hand, by restricting the amount of hotel use that would be allowed as-of-right on these sites. Hotels provide vital services to Manhattan's commercial core, and the proposal, which is limited in scope to regulation of Qualifying Sites, does not affect the development of hotels on other sites in the Subdistrict.

Under the modified proposal, up to 20 percent of the floor area of a new building on a Qualifying Site would be permitted to be utilized for hotel or residential use as-of-right, with the remaining portion of the building required to be allocated for office, retail and other related commercial uses. The modified proposal would also allow additional hotel and residential use beyond the amount permitted as-of-right through a new special permit, subject to full ULURP review. This change would apply to all Qualifying Sites. The 20 percent allocation reflects the mix of uses in other high-density mixed-use buildings in Manhattan, including Random House Tower and 1 Beacon Court, also known as the Bloomberg Building, which both devote approximately 20 percent of their floor area to non-office use.

The modified proposal also recognizes the importance of existing large full service hotels and services in these facilities to the area. Those few sites occupied by existing large hotels with square footage totals that would exceed the 20 percent limit in a new as-of-right development would be permitted to build back their full existing hotel square footage on the site as-of-right.

In addition, the modified proposal changes the 'stacking' rules for Qualifying Sites in response to recommendations regarding the development of restaurants and observation decks on the tops of buildings to enliven them. Under the existing 'stacking' rules, non-residential uses are not permitted above or on the same story as residential uses in new developments, limiting the ability to develop such uses in mixed-use buildings with residential uses. In order to permit these active uses, the modified proposal would allow restaurants, observation decks and other similar uses to be developed above residential uses as-of-right, provided that the residential and non-residential uses above are not accessible to each other on floors above the ground level.

Building Performance Requirement

The zoning text would require that Qualifying Site buildings comply with a higher performance-oriented energy standard than is currently required for such buildings under the 2011 New York City Energy Conservation Code. The text would require that such buildings reduce energy cost by a minimum of 15 percent above the 2011 energy code requirements. Compliance would be demonstrated to the Department of Buildings at the time of issuance of a building permit.

Existing Non-Complying Buildings

As discussed above, there are a number of pre- and post-1961 office buildings in East Midtown that do not comply with current zoning regulations, particularly in regard to the amount of floor area permitted. As these buildings age and become outdated, their ‘overbuilt’ floor area presents a challenge as current zoning offers a strong disincentive to the replacement of the outdated building.

To address this, for pre-1961 non-complying buildings that are part of a Qualifying Site, the East Midtown Subdistrict would permit the amount of floor area that exceeds the as-of-right maximum base FAR to be utilized in the new development on the site, subject to a discounted DIB contribution, set at 50 percent of the base rate. As part of a Qualifying Site, all the floor area in the building would have to meet the modified proposal’s use regulations. The retention of this non-complying floor area in the new development would be permitted by Chair certification. Additional floor area could be added to the site through the DIB and, in certain areas in the Subdistrict, the new landmark transfer mechanism.

To permit limited redevelopment for non-complying buildings that are not part of a Qualifying Site, the Subdistrict would permit all non-complying buildings with wide street frontage and minimum site size of 20,000 square feet to utilize their existing floor area in new development, subject to the discounted DIB contribution mechanism. However, such sites would not be able to obtain additional floor area through the DIB or, in certain areas in the Subdistrict, the new landmark transfer mechanism. The retention of the non-complying floor area in such new

development would be granted by Chair certification. To utilize this mechanism, the building would have to meet the modified proposal's use regulations, as well as the building performance requirement described above, and comply with as-of-right height and setback requirements.

Sunrise Provision

In order to allow sequencing of development consistent with planning objectives in the entirety of Manhattan, including Hudson Yards and Lower Manhattan, the East Midtown Subdistrict would include a sunrise provision under which foundation and building permits would not be issued under the new zoning mechanisms (DIB, new Landmark Transfer, and new Special Permit) until July 1, 2017. Until that date, permits could be issued under the existing zoning mechanisms, which would remain in place. The sunrise provision would allow developers to begin the process of assembling sites, emptying buildings, and plan for new construction including clearing of sites.

Discretionary Actions

Frontage Requirement Authorization

The original proposal specified that only sites with a minimum of 200 feet of frontage along a wide street and a minimum total of 25,000 square feet could be considered a Qualifying Site. The Department received recommendations that such requirements could be overly stringent under certain circumstances and would thereby unduly limit the applicability of the new regulations. While the Department believes the minimum 25,000 square foot site requirement is necessary for the development of substantial predominantly-office buildings, some flexibility in the minimum 200-foot frontage requirement may be appropriate to account for unforeseen conditions where lots necessary to meet the requirement may not be available for development.

The modified proposal would allow for use of the DIB on sites that meet the 25,000 square foot site requirement and satisfy a minimum of 75 percent of the 200 foot frontage requirement. An Authorization would permit use of the DIB for sites which meet these requirements and can accommodate a contemporary commercial development utilizing the existing height and setback controls. The FAR for the proposed site would be determined within the maximum as-of-right

FARs permitted for Qualifying Sites, based on findings by the Commission focused on the proposed footprint, overall massing, and relationship to surrounding buildings and spaces.

Use Modification Special Permit

Under the modified proposal, developments seeking greater amounts of residential (up to 40 percent maximum) or hotel and other uses permitted by the underlying commercial zoning (up to 100 percent) would only be permitted through a new special permit with findings focused on how the new development relates to its surroundings and the area's overall status as a predominantly-office district. Further modification to the 'stacking' provisions would also be permitted through the special permit.

The Subareas

In order to encourage appropriate development in different areas of the new Subdistrict, it would be divided into three areas, each described more specifically below. These include:

- Grand Central Subarea
- Northern Subarea
- Other Area

Grand Central Subarea

The City believes that, over the long term, most new development and the highest allowances for density in East Midtown should be located around Grand Central Terminal. Given its access to regional rail, the area has the best transportation access in East Midtown and also the largest concentration of its aging office stock.

To accomplish this, the rezoning would redefine the existing Grand Central Subdistrict as a new Grand Central Subarea within the East Midtown Subdistrict. The boundaries would be expanded to include additional portions of the Grand Central neighborhood, which are connected to the Terminal by the existing below-grade transportation network or are within a short walking distance. The Subarea would be generally expanded one block north to East 49th Street, fully across Lexington and Madison avenues, and south to East 39th Street. Additionally, a Grand

Central Core would be included within the Subarea representing the area directly around the Terminal, bounded by East 42nd and 46th streets, and Lexington and Madison avenues.

Landmark Transfers

In addition to the District Improvement Bonus, increases in FAR above the base as-of-right ratios would also be permitted in the Grand Central Subarea through transfers of unused floor area from designated landmarks, above minimum utilization of the DIB. The additional floor area would be granted by Chair certification.

For Qualifying Sites within the Grand Central Core, floor area increases would be permitted up to 24.0 FAR from the existing base maximum FAR of 15.0. Use of the District Improvement Bonus would be required in order to increase FAR from 15.0 to 18.0; contributions to the District Improvement Fund (DIF) would be used to ensure that development in the area is accompanied by pedestrian network improvements. Above 18.0 FAR, Qualifying Sites could reach the maximum 24.0 FAR through utilization of either or both of the District Improvement Bonus and the new Landmark Transfer mechanism.

For Qualifying Sites within the remainder of the Grand Central Subarea, floor area increases would be permitted up to 21.6 FAR from the existing base maximum FAR of 15.0/12.0. To achieve this maximum FAR would require utilization of the DIB for the first 3.0 FAR (from 15.0 to 18.0 FAR or from 12.0 to 15.0 FAR respectively). Above the first 3.0 FAR, Qualifying Sites could reach the maximum 21.6 FAR through additional utilization of either or both of the DIB and the new Landmark Transfer mechanism.

The existing Grand Central Subdistrict contains a number of additional zoning mechanisms and requirements, most of which would be maintained or amended in the new Grand Central Subarea. These include:

1.0 FAR as-of-right Landmark Transfer - The existing Grand Central Subdistrict permits 1.0 FAR as-of-right transfers from the Subdistrict's landmark buildings via Chair certification. This

mechanism would be continued within the expanded Subarea to allow additional opportunities for transfer, and as a replacement for the Midtown 1.0 FAR plaza bonus.

Existing Landmark transfer special permit - The existing Grand Central Subdistrict permits a transfer of landmark rights within the area bounded by East 41st and East 48th streets, and Madison and Lexington avenues, up to a maximum of 21.6 FAR and modification of height and setback requirements by special permit. This permit would be maintained and could be utilized by non-Qualifying Sites within the above boundary.

The current Grand Central Subdistrict regulations require sites that utilize landmark floor area (either through the 1.0 FAR as-of-right transfer or the existing special permit) to demonstrate as part of their application a Landmarks Preservation Commission (LPC) report concerning the harmonious relationship between the new development and the landmark. Under the proposal, this requirement would be modified to apply to all developments adjacent to Grand Central Terminal utilizing the DIB or the new landmark transfer mechanisms described above.

As in the current Grand Central Subdistrict, any transfer of development rights in the new Subarea from a landmark must include a program for continuing maintenance of the landmark structure. For Grand Central Terminal, this requirement has been met through an agreement to set aside five percent of transfer proceeds for continuing maintenance of the Terminal.

Urban Design and Height and Setback Controls

As in other existing subdistricts within the Special Midtown District, the existing Grand Central Subdistrict contains a series of requirements tailored to the unique conditions of the Subdistrict. These include special street wall, pedestrian circulation space and loading requirements. These requirements would be modified to ensure appropriate as-of-right development in the area, and would include elements such as the following:

- Street wall requirements - In order to match the high street wall character of the area, special street wall requirements would be required along Madison, Lexington and Park

Avenues, as well as along 42nd Street, Vanderbilt Avenue, and the area's side streets. Such street wall requirements would include provisions for recesses and articulation that allow for greater design flexibility.

- Modifications to height and setback controls - These controls would be modified to allow as-of-right development at the levels permitted through the new mechanisms, taking into account the unique block configurations found in the area and the high street wall character found there.
- Sidewalk widening requirement - While existing street wall requirements for Madison and Lexington Avenues permit sidewalk widenings of up to ten feet along these streets, full-frontage sites would now be required to provide sidewalk widenings that would translate into sidewalks with a minimum width of 20 feet along these streets. In addition, developments fronting along side streets between East 43rd and 47th Streets, between Vanderbilt and Madison Avenues, would also be required to provide sidewalk widenings that would translate into sidewalks with a minimum width of 15 feet along these streets.
- Mass transit access - Developments on sites in the Grand Central Core, where the subway bonus is permitted, or which currently have existing mass transit access, would be required to provide easement volumes for access between the street and the below-grade network. Additionally, if such easement is improved as part of the development, such access points would be able to count toward the required pedestrian circulation space calculations.
- Retail continuity - Existing retail requirements for Madison and Lexington Avenues would be maintained; however, a minimum retail depth of 30 feet would be added to ensure usable retail spaces. In addition, new retail requirements would be included for Vanderbilt Avenue to further activate the new pedestrian space at that location. Additionally, Qualifying Sites would be required to devote a minimum of 50 percent of their side street frontage to retail uses.
- Other modifications - Existing Grand Central Subdistrict provisions for building lobbies would be maintained with maximum lobby widths added for Vanderbilt Avenue and side streets between Vanderbilt and Madison Avenues. The current curb cut requirements would be maintained, but a process to allow for modification due to subsurface

conditions would be established. Finally, lighting standards would be added to the Pedestrian Circulation Space requirements.

The original proposal contained limited modifications to the underlying Special Midtown District height and setback controls in the Grand Central Subarea reflecting the high street walls and unique block configurations found there. Upon further analysis, the Department has determined that the height and setback controls effective along Park Avenue should be modified to better reflect the street's overall width – at 140 feet it is the widest street in Midtown.

The underlying Midtown height and setback regulations – which are focused on the pedestrian's access to daylight on surrounding streets – require calculations based on the street widths that a zoning lot fronts upon. However, compliance can only be measured on three possible street widths – 60-foot, 80-foot and 100-foot wide streets. Today, calculations for sites on Park Avenue use the 100 foot wide street requirements, but do not reflect the actual width of the street.

The Department believes this causes developments on the relatively-small sites found on Park Avenue to be taller, narrower and less economically viable than would be required if the street's full width were taken into account. In order to more accurately reflect this width, and allow the development of modern office buildings on the street while maintaining the overall Midtown district's standards of access to light and air, the modified proposal would permit Qualifying Site developments on Park Avenue in the Grand Central Subarea (and, as discussed below, along Park Avenue in the Northern Subarea) to calculate their compliance with the existing height and setback controls taking into account the full 140-foot width of the street.

Northern Subarea

The modified proposal includes a Northern Subarea that would adjoin the border of the Grand Central Subarea along East 48th and East 49th streets, and run east from Third Avenue to the Subdistrict's western boundary east of Fifth Avenue. The frontage along Park Avenue in this Subarea would be defined as the Northern Area Subarea Core.

The proposal recognizes that limited new development on Qualifying Sites that have full block frontage along Park Avenue in this area is appropriate. The avenue’s role as New York’s most prestigious business address, as well as its overall width—it is the widest avenue in Midtown—make it an appropriate location for high-density development. More limited development should occur along the Madison Avenue and Lexington Avenue corridors in this area, as these areas contain most of East Midtown’s more-recent office construction. Because the buildings in these areas are more modern on average, fewer property owners are likely to be willing to undertake the costly multiyear process of emptying, demolishing and reconstructing buildings.

Landmark Transfers

In addition, The Department received recommendations that landmarks in the northern portion of the proposed East Midtown Subdistrict be given broader opportunities for floor area transfers, similar to the provisions afforded landmarks in the Grand Central Subarea. Under existing regulations, floor area transfers are only permitted to adjacent sites – those on an abutting zoning lot or across a street – via a special permit.

Given the great concentration of iconic landmark buildings in the northern portion of the East Midtown Subdistrict (including St. Patrick’s Cathedral, St. Bartholomew’s Church, Lever House, and Central Synagogue) and the significant contribution they make to that area’s overall character, the modified proposal includes a new Northern Subarea in which landmark buildings with unused floor area would have new opportunities to transfer to development sites beyond ‘adjacent’ sites as defined under Zoning Section 74-79 which governs landmark transfers. Two options would be available for transfer, reflecting a similar framework to the existing and proposed Grand Central Subarea.

First, beginning in 2019, effectively five years from enactment of the proposal, transfers of development rights from Subarea designated landmarks could be made to Qualifying Sites within the Northern Subarea above a minimum required DIB contribution as described below.

For sites on Park Avenue in the Northern Subarea, that under the original proposal would be able to increase from 15 FAR to 21.6 FAR through the DIB, a minimum of 3.0 FAR would be required to come from the DIB, with the increase from 18.0 FAR to 21.6 FAR available from the DIB or by landmark transfer.

For sites that under the original proposal would be permitted to increase their FAR by 20 percent to achieve an increase from 15.0 to 18.0 FAR or 12.0 FAR to 14.4 FAR through the DIB, the first 10 percent increase would be required to come from DIB (1.5 and 1.2 FAR respectively), with the remaining portion available from the DIB or by landmark transfer.

These landmark transfers would be permitted as-of-right (by certification), as in the Grand Central Subarea.

Additionally, development rights from subarea landmarks would be permitted to transfer to sites within the Northern Subarea that do not meet the Qualifying Site size and frontage requirements. These transfers would be allowed by discretionary action subject to public review. Effective upon adoption, a Commission Authorization process would allow for transfers to achieve an increase of up to 20 percent above the base FAR on receiving sites in the Subarea that do not meet the Qualifying Site size and frontage requirements. On Park Avenue, such receiving sites could increase their FAR up to 21.6 FAR through transfer of landmark development rights by special permit.

The Department believes this proposal appropriately addresses the concentration of significant landmark buildings in the northern portion of the Subdistrict by giving them greater opportunities and flexibility for transfer to a broader area beyond 'adjacent' sites, consistent with the transfer mechanisms in the Grand Central Subarea, while continuing to meet the overall goals of the East Midtown proposal.

Other Zoning Controls - To ensure that as-of-right development takes account of the unique conditions along Park Avenue, the street wall requirements that apply to Park Avenue in the

Grand Central Subarea would also apply along Park Avenue in this Subarea. The modified proposal's changes to Park Avenue's height and setback controls, as described in the Grand Central Subarea section above, would also apply along this section of Park Avenue.

Other Area

Generally, more limited development in East Midtown should occur along Third Avenue, east of the Grand Central Subarea, as this area also contains more-recent office construction. Because the buildings in these areas are more modern on average, fewer property owners are likely to be willing to undertake the costly multiyear process of emptying, demolishing and reconstructing buildings.

For Qualifying Sites in this area, floor area increases would be permitted up to 20 percent higher than the existing maximum base FAR of 15.0 or 12.0. These FAR bonuses would only be permitted through use of the DIB. Underlying urban design and height and setback controls would continue to apply here.

Superior Development Special Permit

Given its extraordinarily transit-rich location, East Midtown can accommodate greater densities than the proposed as-of-right maximums and allowing this would further the Department's objective of seeding the district with major new buildings that would help retain the area's standing as the city's premier office district. Since densities above the proposed as-of-right maximums cannot be easily accommodated within the framework of as-of-right bulk regulations, it is appropriate that developers who seek to build more than the Proposed Action's as-of-right maximums FARs be required to undergo a public review process to demonstrate that the building's massing, orientation and other features feasibly accommodate the additional FAR and provide improvements to the public realm, as well as address the potential for significant adverse environmental impacts.

The East Midtown Subdistrict would therefore include a special permit for superior development that would allow an increase in the maximum FAR above that permitted as-of-right in the Grand

Central Core from 24.0 up to 30.0 FAR, and an increase in the maximum FAR above that permitted as-of-right along the Park Avenue frontage north of East 46th Street from 21.6 up to 24.0 FAR. Additionally, the special permit would allow for the modification of bulk and urban design regulations.

Modification of bulk and urban design regulations must not only be done in a way that minimizes negative effects, but that the development must provide significant public benefits. These benefits should take the form of a development that demonstrates superior qualities in terms of: overall design; relationship to the street, and function at street level; the size and caliber of on-site public amenities such as major new public space (indoor and/or outdoor); and, in the case of sites within the Grand Central Core, the size and availability of connections to the underground pedestrian network.

There would also be significant prerequisites to apply for the special permit. Sites would have to meet the Qualifying Site requirements, and, in the Grand Central Core, the minimum site size would be 40,000 sf. Additionally, all floor area above the maximum permitted as-of-right levels (24.0 / 21.6 respectively) would have to be earned by contributions to the DIF or, in certain areas, through either or both of contributions to the DIF and transfers from landmarks.

Infrastructure Needs and the DIF

As described above, one of the primary long-term challenges facing East Midtown is the creation of a pedestrian realm and transit network fully matching the area's role as one of the city's and world's premier office districts. In order to ameliorate this, the DIB mechanism would permit as-of-right higher maximum FARs through contribution to a District Improvement Fund (DIF) dedicated to area-wide improvements, including publicly accessible open space. The DIF would provide the flexibility to fund improvements, where needed, as development occurs in East Midtown, rather than having improvements be tied to specific development sites. The DIF would be focused on City-priority improvements to the pedestrian network, both above- and below-grade.

The DIF Committee Membership and Rules

The proposal includes provisions for the use and governance of the DIF. These include the creation of a DIF committee, consisting of five Mayoral appointees including the Director of the Department, who would be responsible for maintaining and adjusting a list of priority district improvements in the East Midtown area over time, and disbursing funds for such projects as contributions to the DIB are made. The text would include provisions for public participation in the process and standards for what types of projects may be funded through the DIF. The text would also include an ‘in-kind’ contribution provision that would permit property developers to construct improvements, and receive credit for their expenditure, in lieu of payment into the DIF.

The Improvements

The Department has identified certain priority improvements that, in its view, address the greatest potential needs of the area, as well as those created by the new development, and can most benefit office workers, visitors and residents. The Department is also encouraging the public to provide additional ideas for improvements in East Midtown for purposes of the future DIF committee process, described above.

The improvements below-grade, which would be implemented in relation to the pace and the level of future development, include:

- Improvements to the Grand Central-42nd Street subway station - The Grand Central subway station is one of the busiest in the entire system and also has numerous pedestrian circulation issues. In this station, the DIF could be used to construct new connections between the commuter rail facilities and the subway station, a reconfigured mezzanine level, and additional, relocated or reconstructed stair, ramp and escalator connections to the subway platforms of the Lexington Avenue line and the Flushing line from the mezzanine, with early priority items focused on the Lexington line.
- Improvements to Lexington/53rd Street and 51st Street subway complex - The original proposal included a series of considerations for the DIF Committee when determining the prioritization of DIF projects, including that priority be given to improvements to the Grand Central Subway Station and the pedestrian network in the immediate vicinity of

the Terminal, because these areas exhibited the greatest needs in the Subdistrict today. Improvements to the Lexington Avenue/53rd Street and 51st Street station complex may be needed in the future if as-of-right development based on the modified proposal's use provisions occurs in the surrounding area, reflecting an overall similar level of development but a greater office component, with more trips at peak times. These improvements have been highlighted by the MTA in the past, with recognition that further study of the station should be undertaken once the East Side Access station is operational, and the number of diverted trips to and from Penn Station are known. In order to account for this condition, the modified proposal adds the Lexington/53rd and 51st Street station complex to the list of priority areas in order to provide for implementation of improvements to this station as East Side Access opens and development occurs in the long term.

- Improvements to other East Midtown subway stations - Over the longer term, improvements to the other subway stations in the area, i.e., 53rd Street and Fifth Avenue could be funded by the DIF to improve transfers between lines, and connections between platforms and street level.

Above-grade, the Department of City Planning and the Department of Transportation are currently undertaking a public planning process to determine possible above-grade pedestrian realm improvements that could be funded through the DIF. Specific plans for improvements would be developed in the future as funding is generated through new development. One area the City identified for possible improvement was Vanderbilt Avenue, a relatively underused and bleak corridor, especially considering its location adjacent to Grand Central Terminal. The DIF could be used to transform portions of Vanderbilt Avenue into a signature pedestrian gateway space while still allowing for uninterrupted cross town traffic, vehicular access to surrounding buildings and the Terminal, and unrestricted movement for emergency vehicles.

Other Clarifications

The modified proposal also includes a number of clarifications and corrections designed to make the overall intent of the proposal clearer. In particular, the modified proposal provides further

clarification as to the applicability of the regulations for sites located on or divided by the Subdistrict's boundaries, as well as its Subareas. In addition, the proposal clarifies that Qualifying Sites would be able to continue to include existing buildings to remain as long as the minimum cleared site requirements are achieved, and that Qualifying Sites can maintain the bonus floor area from existing bonus plazas without proportional contribution into the DIB as long as such spaces are maintained as part of a new development. Finally, it clarifies that the underlying Damage or Destruction provisions of Zoning Section 54-40 would continue to apply in the Subdistrict.

Existing Zoning Provisions

Existing zoning provisions, such as the subway bonus, plaza bonus (except in the Grand Central Subarea, where it is currently not permitted), and the special permit landmark transfer available via zoning section 74-79 would continue to apply. As described above, the current landmark transfer special permit in the Grand Central Subarea would also continue to apply.

Zoning Map Amendment (C 130248 ZMM)

The rezoning area is currently zoned predominantly as high density commercial (zoning districts C5 and C6) within the Special Midtown District. The area between Second and Third Avenues along East 42nd Street is entirely commercial in character, with a number of existing aging office buildings with potential for redevelopment. The Special Midtown District generally follows the boundary of Midtown's commercial areas and thus this area would more appropriately be located in the Midtown District, and additionally as part of the East Midtown Subdistrict. By incorporating the area into Midtown, the Special District regulations, including height and setback and streetscape requirements, would become applicable. These are more tailored to the needs of the area than the generic 1961 high-density commercial zoning provisions that now apply.

In order to do this, the rezoning would replace the existing C5-2 (10.0 FAR) designations for the block located between East 42nd and East 43rd streets, and Second and Third avenues with C5-3 (15.0 FAR) and C5-2.5 (12.0 FAR), districts. The C5-3 and C5-2.5 districts will be mapped

within the Special Midtown District, and will be incorporated into the East Midtown Subdistrict. As both the existing and proposed designations are C5 districts, they all share the same permitted uses.

The C5-3 designation would be mapped along the East 42nd Street and Second Avenue frontages, which are both wide streets and reflect the typical wide street zoning pattern in Midtown where 15.0 base FAR districts are generally mapped. Midblock areas along East 43rd Street would be mapped to C5-2.5, reflecting the typical midblock Midtown zoning pattern where 12.0 base FAR districts are generally mapped.

ENVIRONMENTAL REVIEW

This application (N 130247(A) ZRM), in conjunction with the applications for the related actions (C 130248 ZMM and N 130247 ZRM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 13DCP011M. The lead is the City Planning Commission.

It was determined that the Department's proposal may have a significant effect on the environment. A Positive Declaration was issued on August 27, 2012, and distributed, published and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Supplemental Environmental Impact Statement (DEIS) was issued on August 27, 2012. A public scoping meeting was held on September 27, 2012. A Final Scope of Work was issued on April 17, 2013.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on April 19, 2013. On August 7, 2013, a public hearing was held on the DEIS pursuant to SEQRA and other relevant statutes. A Final Environmental Impact Statement (FEIS) reflecting the comments made

during scoping and the public hearing on the DEIS was completed and a Notice of Completion for the FEIS was issued on September 20, 2013.

Significant adverse impacts related to hazardous materials, air quality and noise would be avoided through the placement of (E) designations on selected projected and potential development sites as specified in Appendix 10 of the FEIS.

The Proposed Action as analyzed in the FEIS identified significant adverse impacts with respect to shadows, historic and cultural resources (architectural), transportation (traffic, bus transit, and pedestrians), and construction activities related to historic and cultural resources, traffic, and noise. In addition, the FEIS analyzed a modification to the proposed zoning text amendment (ULURP No. 130247(A) ZRM) as an alternative (the “Modified Proposal Alternative”). The Modified Proposal Alternative would result in the same significant adverse impacts as the Proposed Action, except in the areas of transportation (traffic and pedestrians) where the Modified Proposal Alternative, as compared to the Proposed Action, would result in unmitigated impacts at one additional traffic intersection, one additional crosswalk, and one additional corner area. The identified significant adverse impacts and proposed mitigation measures under the Modified Proposal Alternative are summarized in Exhibit A attached hereto.

A Technical Memorandum reflecting the Commission’s modifications discussed herein was issued on September 27, 2013. The Technical Memorandum concludes that these modifications would not have any new or different significant adverse impacts than those identified in the FEIS for the Modified Proposal Alternative.

PUBLIC REVIEW

The application (N 130247 ZRM) was referred to Manhattan Community Boards 5 and 6, the Manhattan Borough President, and the Manhattan Borough Board for information and review on April 22, 2013, in accordance with the procedures for non-ULURP matters. The related application (C 130248 ZMM) was certified as completed by the Department of City Planning on

April 22, 2013, and was duly referred to Community Board 6 and the Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

On July 17, 2013, the modified application (N 130247(A) ZRM) was duly referred to Manhattan Community Boards 5 and 6 and the Manhattan Borough President pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure.

Community Board Public Hearing

Community Board 5 and 6 held a joint public hearing on the original application and the related action on May 13, 2013. On June 13, 2013, Community Board 5 passed a resolution by acclimation recommending denial of the application. On June 28, 2013, Community Board 6 passed a resolution with 39 in favor, 0 opposed, 1 abstaining and 2 present not eligible recommending denial of the application.

The Community Boards provided a joint statement on the proposal that that sets forth their overall concerns about the plan for East Midtown. Their overall concerns were grouped into the following categories: Infrastructure; Urban Design/Bulk Rules; Public Realm; Use Regulations; Landmarks; Citywide Planning; Comments on the DEIS; and Energy. The complete joint statement is attached to this report.

In addition, Community Boards 1, 2, 4, 7, and 8 passed resolutions supporting the recommendation of Community Board 5 and 6.

Borough Board Review

The original application (N 130247 ZRM) and related application (C 130248 ZMM) were considered by the Manhattan Borough Board. On July 18, 2013, the Borough Board adopted a resolution to disapprove the applications with the following conditions:

“remaining unresolved issues related to infrastructure, urban design and bulk rules, the public realm, use regulations, landmarks, citywide planning concerns, the DEIS, and energy standards

are satisfactorily addressed by the City.” The full Manhattan Borough Board recommendation is attached to this report.

Borough President Recommendation

This application (N 130247 (A) ZRM), in conjunction with the related actions (N 130247 ZRM and C 130248 ZMM), was considered by the Borough President, who issued a recommendation approving the application with the following conditions on July 31, 2013:

1. (the applicant) ensures that infrastructure improvements are funded prior to development occurring under the new zoning by identifying and employing other financing mechanisms that will complement funds generated through the DIB;
2. works with the MTA to determine the scope of past mitigation commitments at Grand Central and determine an appropriate budget for those improvements that is separate from the DIB;
3. creates a transparent and regular process for evaluating the DIB price that requires the CPC to reexamine every four years, starting in 2017, based on a new appraisal and a public hearing;
4. incorporates residential uses into the DIB price at a higher value than the commercial uses;
5. expands appointments to the DIB committee to include Community Boards 5 and 6, the City Council, the Borough President, the Comptroller, Chair of the City Planning Commission, the Director of the Office of Management and Budget, the Commissioner of Department of Parks and Recreation, Commissioner of the Department of Transportation, Deputy Mayor for Operations, the Deputy Mayor for Economic Development, and the President of the MTA;
6. creates more rigorous DIB committee regulations including requiring a public hearing for the creation or alteration of the priority projects and requiring the publishing of annual reports to the Comptroller, the City Council and CPC on the fund value, current annual capital and programmatic expenditures, status of previously initiated improvement projects and pipeline projects or approved priorities;
7. creates an authorization process for in-kind contributions to the DIB rather than allowing them as-of-right with DIF committee approval;
8. pursues the A-Text Qualifying Sites option that accommodates potential hold-outs;
9. creates a new special permit that would allow the integration of landmark buildings on Qualifying Sites;
10. pursues the A-Text option to allow residential use on Qualifying Sites;

11. begins the necessary environmental, zoning and planning work needed to create a hotel special permit for all of East Midtown;
12. creates an authorization process to allow for more flexible design and street walls on Park Avenue;
13. pursues the proposed A-Text option that would allow transfer of the air rights in the Northern Subarea;
14. modifies the energy efficiency requirements so that it is based on the time of permitting and requires the CPC to set the appropriate percentage within 6 months of the new code being enacted provided that it will not represent a net decrease in efficiency from the previous percentage, and allow CPC to adjust the requirement as needed by rule change;
15. creates a performance-based path for modeling buildings and analyzing the code compliance for energy standards; and
16. creates an authorization process that allows smaller buildings to utilize the new regulations prior to the sunrise provision to increase contribution to the DIF without creating new office space competition to other commercial districts in the City.

The full Borough President recommendation is attached.

City Planning Commission Public Hearing

On July 24, 2013 (Supplemental Calendar No. 1), the City Planning Commission scheduled August 7, 2013, for a public hearing on this application (N 130247(A) ZRM). The hearing was duly held on August 7, 2013 (Calendar No. 25), in conjunction with the public hearing on the related applications (C 130248 ZMM and N 130247 ZRM).

There were 33 speakers in favor for the application and 52 in opposition.

Speakers in favor included the Deputy Mayor for Economic Development for the City of New York, representatives of the Borough President of Manhattan, the Metropolitan Transit Authority, the Regional Plan Association, the New York Building Congress, the Partnership for New York City, the Real Estate Board of New York, the Archdiocese of New York, Central Synagogue, the Grand Central Partnership, the Urban Land Institute, real estate development and

property entities including L & L Holdings, SL Green, Hines, and Malkin Holdings, real estate brokerage professionals, the Skyscraper Museum, architecture firms, and other individuals.

Speakers in opposition included the City Councilmembers for Districts 4, 5, and 6; State Senator for the 28th District, and representatives of the U.S. Representative for New York's 12th congressional district; the Multiboard Task Force on East Midtown; Community Boards 5, 6, and 1; the Hotel Trades Council; The Yale Club; The City Club; St. Bartholomew Church; civic groups such as the Municipal Art Society, Landmarks Conservancy, Historic Districts Council, Landmark West; Argent properties, and other individuals.

The prevailing theme for those speaking in favor was the need for a new generation of modern, state-of-the-art, energy efficient buildings to ensure that East Midtown remains competitive in the coming decades. Among these speakers there was broad consensus and agreement with the Department's analysis that the current zoning impedes replenishment of office space and that without a change in outdated zoning, the office stock will continue to age and the overall competitiveness of the business district will gradually decline, eroding one of the most important job centers and tax bases in the city. The need to promote transit oriented development was a dominant theme, and many speakers, both for and against the proposal, spoke about the public policy in favor of fostering growth in East Midtown, an area rich in transit infrastructure with continued public sector investment in expanding the transit system. Many speakers, both in favor and opposed, commended the Department's proposed modifications to the proposal as incorporated in the modified application, as showing responsiveness to concerns that were raised during the public review process by the community members, elected officials, property owners, and other stakeholders.

The Deputy Mayor for Economic Development for the City of New York stressed the importance of East Midtown as a major economic engine and tax base that supports the city's schools and other essential municipal services. He spoke of the aging office stock with the average age of buildings in the district at 73 years old and the underfunded infrastructure as challenges to the future of East Midtown. The Deputy Mayor stated that the rezoning will induce

billions of dollars of private sector investment in the form of much needed office towers, which in turn will provide half a billion dollars in new investment in the public realm, create jobs, strengthen the tax base, and improve the quality of the environment in East Midtown. The Deputy Mayor reiterated the Mayor's commitment, announced in the prior week, for upfront funding of infrastructure improvements to be implemented in advance of development pursuant to the rezoning.

Representatives from the Regional Plan Association, the Partnership for New York, and the Urban Land Institute each expressed strong support for the rezoning's overarching goals. They focused on the appropriateness of encouraging density and growth in a core commercial district that is well served by mass transit, stressing that economic vitality, transit, and job opportunities are linked. They spoke of the need to increase the diversity of office space throughout New York in order to continue to attract a wider variety of industries.

A leading expert from the commercial leasing brokerage industry testified that new construction was needed in East Midtown in order to supply as wide a spectrum of office space to accommodate the diversity of commerce in New York. She testified, as did other speakers, that given the differentiation between other office districts in the city, increasing or refreshing the office supply in East Midtown would not result in harmful competition among the districts. She applauded the Bloomberg Administration for recognizing that the long-term challenges of East Midtown need to be addressed presently. She expressed disagreement with the sunrise provision stating that it was unnecessary based on the differentiated markets, and that it was in fact detrimental to East Midtown because it would foreclose the opportunity for at least one new building which is in position to commence development in 2015, two years before the proposed sunrise of 2017.

There were a number of other speakers in favor who recommended elimination or modification of the sunrise provision. The Chairman of L&L Holdings, property owner of 425 Park Avenue, argued that the sunrise should not apply to smaller qualifying sites- sites with less than 30,000 square feet of lot area- since those sites would not be able to produce buildings of the scale and

footprint that could be considered competitive with those in Hudson Yards or at the World Trade Center. The speaker testified that if the sunrise is not modified, he would proceed to build as-of-right starting in 2015 pursuant to the existing “damage or demolition” zoning provision which requires retention of 25 percent of the existing building. This would result in the loss of a potential \$35 million contribution into the District Improvement Fund, and a redevelopment that would retain a portion of the existing building rather than a fully new development.

A representative for another developer, SL Green Realty Corporation, requested relief from the sunrise provision in the case of developments that include significant below-grade transit-related improvements. The representative, in written testimony submitted at the hearing, suggested that where extensive below grade work is required in order to provide connections to the subway system or Grand Central Terminal, or to provide other pedestrian improvements- work that will significantly extend the construction cycle- that work and related foundation work should be permitted to proceed in advance of the sunrise.

A major topic of discussion at the hearing was the question of how much residential use on a qualifying site would be appropriate given that the purpose of the rezoning is to ensure commercial development in East Midtown. Speakers expressed support for a limited amount of residential use to participate in DIB, but cautioned against allowing too high a percentage given the overwhelmingly favorable economics that residential use produces for developers.

Representatives from the MTA, including the counselor to the Chairman, the Director of Transit Oriented Development, and the Director of Corporate Initiatives, spoke in strong support of the East Midtown rezoning, acknowledging the opportunity of the Subdistrict to provide a potential ongoing source of revenue for the transit authority to implement a series of discrete and significant improvements in the area. Because the MTA must focus its limited resources on safety and maintenance, improvements of these kinds are less likely to receive significant amounts of MTA funding. Since monies in the DIF would be dedicated to improvements in the area, the East Midtown transit improvements would have a potential ongoing funding source where none currently exists.

The MTA described a plan for a series of improvements at Grand Central and other East Midtown subway stations that will greatly improve circulation and capacity. The improvements, mostly in the form of new or reconfigured stairs and escalators, have the potential to eliminate choke points and to double pedestrian capacity at key locations. In turn, these improvements would increase the line haul capacity of the Lexington Avenue subway. When asked about the timeframe for these changes if funding were to be available, the MTA representative responded that they could be implemented within five years. One project for stair construction, connecting the subway mezzanine to the concourse level of Grand Central Terminal, is currently already funded and underway.

The MTA also discussed its commitment to continuing to expand and improve the transit system in East Midtown, recognizing and strengthening the area's key role in the city and region's economy. One speaker discussed current investments of billions of dollars in two major projects under construction: the Second Avenue Subway, which in Phase 1 will decrease Lexington Avenue subway line congestion by over ten percent and reduce the number of people transferring at Grand Central, and the East Side Access project, which will provide a one-seat ride to LIRR customers traveling to and from East Midtown.

The Manhattan Borough President, represented by his Director of Land Use, reiterated the Borough President's recommendation for conditional approval of the proposed rezoning. He stated that the Mayor's commitment for up-front funding of infrastructure improvements at Grand Central and the modified application were key factors in the Borough President's determination for conditional approval. The Borough President's representative applauded the responsiveness of the Department to concerns that led to the modifications. He highlighted three of sixteen conditions listed in the recommendation- the request for increased transparency and public comment on determining future DIB rates, the establishment of a special permit to allow flexibility for inclusion of landmarks on a qualifying site, and that a special permit be required for all hotels in East Midtown.

A representative of the Grand Central Partnership, the business improvement district whose boundaries overlap a significant portion of the proposed subdistrict, spoke in strong support of the rezoning overall. The representative expressed misgivings on behalf of the governing board about certain aspects: the sunrise provision, the frontage and lot size requirements of the qualifying sites criteria, and potential new landmark designations in the area.

The potential pedestrianization of Vanderbilt Avenue was also the subject of testimony at the hearing. Representatives for JP Morgan Chase, while supporting the rezoning overall, expressed concern over the potential closure of Vanderbilt Avenue to vehicular traffic. The representatives cited emergency access and tenant access to two major buildings owned and occupied by JP Morgan Chase along Vanderbilt Avenue. Other speakers stated that closure or partial closure of Vanderbilt Avenue would provide a significant opportunity for the creation of open space and a gateway to one of the city's most important transit hubs.

Several speakers addressed the proposed zoning requirements to promote energy efficiency. One speaker, an architect and expert on sustainability, discussed the limitations of retrofitting existing older buildings to make a meaningful difference in energy efficiency. He expressed support for the proposed zoning amendments on the basis that they will encourage new high-performance buildings in Manhattan.

Representatives from the Archdiocese of New York and from Central Synagogue praised the Department's modification of the proposal to allow greater flexibility for landmarks outside the Grand Central Subarea to transfer unused development rights to sites within the newly proposed 'Northern Subarea'.

The Hotel Benjamin, the Hotel Lexington, and the Marriott East Side Hotel were represented at the hearing by a speaker who extended enthusiastic support for the East Midtown plan, but expressed serious concern about the potential landmarking of the hotels, which were listed as eligible buildings in the DEIS. The speaker posited that designation would impair the hotels' abilities to provide modern, energy efficient and attractive hotel rooms and would frustrate the

realization of the City's goal to ensure East Midtown's future as a premier office district. The speaker asked the Commission to consider this issue both in the context of the CEQR process and in its Charter mandated review of any individual landmarks designation that might occur in the future.

Architects and planning professionals spoke regarding the importance of building upon the existing commercial core of the city and the opportunity to enhance the transit infrastructure in East Midtown. They also spoke of the positive effect of increased density on flexibility and feasibility in terms of architectural design and space programming which are especially important when designing complex, multi-purpose buildings that serve both private tenants and the general public with connections to the transit network and other amenities.

Those speaking in opposition raised a number of concerns ranging from general questions about the rezoning to specific concerns about certain proposed zoning mechanisms. Dominant concerns from speakers in opposition centered on infrastructure and the public realm, in particular whether there is sufficient infrastructural capacity to accommodate growth in the area and whether there are firm commitments to implement improvements. They stated that the capital improvements to the area's pedestrian and transit network should precede development of new commercial space and questioned whether payments by developers into a District Improvement Fund is too uncertain and unpredictable as a funding source for the needed improvements. The Commission also heard a significant amount of testimony on the DIB contribution rate and the DIF committee. Another major concern focused on historic resources that are not landmarked.

The Councilmember for Council District 4, the council district encompassing most of the East Midtown area, expressed support for the modifications proposed in the modified application and outlined a series of his outstanding concerns related to infrastructure, public realm, the DIB rate, membership composition of the DIF committee, among other matters listed below.

With regard to infrastructure, the Councilmember stated that more information was necessary about potential transit improvements and the commitment for upfront funding in order to better

evaluate the rezoning proposal. He stated that it is vital that the rezoning result in a better public realm that includes more walkable and well-designed streets and open spaces, and better connections between Grand Central and nearby buildings. He acknowledged the appeal of some pedestrianization of Vanderbilt Avenue, but noted logistical difficulties. With respect to the DIF, he questioned whether the proposed DIB contribution rate of \$250 per square foot was appropriate and requested that the membership of the DIF Committee be more inclusive than having Mayoral appointees only. He acknowledged the need to change zoning to encourage replacement of some buildings, but questioned whether the Department had arrived at the correct densities and whether a special permit should be required to achieve the higher densities. He requested that the energy efficiency zoning requirement be required to be updated to match updated codes. He also stated that special permits should be required for all new hotels in the Subdistrict. Finally, he stated that the rationale for the sunrise provision required further consideration.

The Councilmembers for Districts 5 and 6, and the State Senator for 28th District, echoed several of the concerns discussed above, each stressing in particular the need for more detail about the commitment for upfront funding and what infrastructure improvements would be undertaken. Other topics addressed by these speakers included the need for secondary funding mechanisms for transit improvements, a recommendation for an appraisal for each future DIB transaction, more information on potential at-grade public realm improvements, and a call to the Landmarks Preservation Commission to calendar buildings in East Midtown that are eligible for local landmark protection. The elected officials called for a special permit for any new hotel in the Subdistrict.

Some speakers including community board task force members and elected officials, expressed concern that the rezoning had proceeded too quickly and that more time was needed to understand the impact of new buildings on the public realm.

Three representatives from the Yale Club, a private non-for-profit membership club located on Vanderbilt Avenue, expressed support for the rezoning in general, but raised two specific

concerns: first, that the criteria for qualifying sites would preclude the club from expanding its premises laterally into a new building on the adjacent MTA site to the west of the club; and second, that the vehicular access to the front door of the club on Vanderbilt Avenue would be eliminated through the potential use of the District Improvement Fund to pay for the change of the street into a predominantly pedestrianized plaza.

A representative of St. Bartholomew's Church testified that while the proposed Northern Subarea in the modified application to allow for wider transfer opportunities for unused landmark floor area was a step in the right direction, it does not go far enough and would result in sales to developers at bargain prices and inadequate funds to restore and maintain landmarks such as St. Bart's. She proposed instead the creation of a consortium mechanism under which landmark owners in the Northern Subarea would be required to pool their unused development rights and engage in joint sales. The representative stated that the purpose of this mechanism would be to avoid competition among the landmark owners that could have the effect of lowering the price at which sales would be made. She posited that a zoning provision to allow for this consortium could avoid running afoul of antitrust laws.

A representative from City Club of New York criticized the proposal's district improvement bonus and fund zoning framework as an unlawful form of 'zoning for sale' and a violation of the nexus doctrine under the Nolan-Dolan line of Supreme Court cases. He argued that the DIB/DIF mechanism is improper because there is no direct relationship between the amount a developer must pay into the fund and the impact its development creates.

Three representatives for Midtown Tracking Ventures, the entity that owns the land beneath Grand Central Terminal and the unused development rights associated with that land, spoke in opposition to certain aspects of the proposal pertaining to the DIB. The speakers disputed the appraisal of the DIB rate conducted by Landauer, the City's consultant, and in particular Landauer's conclusion that the DIB rate should be valued based on a ratio of TDR to land value of 60 percent. They argued that the value of TDRs approximates the underlying value of the land and therefore should result in a higher DIB contribution rate. One of the speakers representing

Midtown Tracking Ventures, a real estate appraiser, submitted an appraisal concluding that the value of the TDRs and suggested DIB contribution rate should be between \$400 and \$445 per square foot rather than the \$250 per square foot set forth in the Landauer report. The speaker also recommended that future DIB contributions be adjusted by an appraisal conducted for each DIB transaction. A representative for Midtown Tracking Ventures also recommended elimination of the proposal to allow in-kind work to substitute for DIB contribution on an as-of-right basis.

Representatives from historic preservation civic groups, among other speakers, expressed concern that the rezoning jeopardizes historic buildings that are currently not landmarked but they believe are worthy of landmark protection.

Several speakers expressed support for the sustainability requirements for new buildings, but requested the energy efficiency provision be kept up to date over time.

Several speakers, including the local councilmember, raised concerns about the City's proposal that the DIF is to be overseen by five mayoral appointees comprising the DIF committee and recommended a more varied composition, including representatives from the community board. There was also testimony asking for more detail on how the committee would function and determine prioritization of projects and disbursement of funds.

Thirteen speakers representing the Hotel Trades Council, a labor union representing hotel and hospitality workers in New York, requested that each and every new hotel in the Subdistrict, regardless of size, location or use of the DIB, only be allowed by zoning special permit. As stated by a number of union members and in written testimony following the hearing, the purpose of requiring this special permit would be to restrict new non-union and limited-service hotels in the area.

The Commission received written testimony, both in favor and in opposition, subsequent to the hearing. The senior United States Senator from New York submitted a letter offering strong support. The State Assemblymember for the 73rd District submitted a letter of qualified support,

asking for commitments on transit pre-funding, energy, and hotel special permits. Civic groups such as American Institute for Architecture New York Chapter, the Manhattan Chamber of Commerce, and a nearby business improvement district, the 34th Street Partnership, submitted letters of support. Other letters favorable to the rezoning came from property owners and real estate brokerage firms including Omnispective Management Corp, fee owner of Lever House; SL Green; Park Avenue Properties Associates LLC; ABS Partners; Rudin Management; Massey Knackal, and others.

Correspondence in opposition to the proposal came from a variety of individuals and groups. The Municipal Art Society submitted a report elaborating on its spoken testimony at the hearing with recommendations pertaining to the public realm and infrastructure investment, density and public review, financing structure and oversight, and historic preservation. Specific recommendations from the MAS included that the Commission should insist on essential infrastructure investment before new development, that no as-of-right development be permitted in excess of 18 FAR, that the City conduct an appraisal at the time of each DIB transaction to ensure that the market price is up-to-date and set a floor for the price of air rights, and that certain buildings eligible for designation be calendared by the Landmarks Preservation Commission immediately. The American Planning Association New York Metro Chapter submitted a position statement stating the proposal overemphasizes bulk regulations. Midtown Tracking Ventures submitted material elaborating on its testimony regarding valuation of TDRs and the DIB rate.

There were a number of speakers and the hearing was closed.

CONSIDERATION

The City Planning Commission believes the application for text amendment, as modified herein, in conjunction with the related map amendment, is appropriate.

The Commission views this rezoning as essential to ensure that East Midtown remains a world class, highly competitive business district for decades to come. The Commission believes the East Midtown Subdistrict will result in the development of a limited but strategic number of

much needed modern, sustainable commercial buildings, on targeted sites that are large enough to accommodate significant new development. These new buildings are essential to enriching the office stock in the area around Grand Central Terminal so that this quintessential place for transit- oriented development can provide a full spectrum of commercial space for the array of firms that comprise New York's diverse economy.

East Midtown holds a critical position in the city's economy, in the region's vast transit system, and in the identification of New York as a world capital of commerce. It is the most significant commercial district in the city, with the largest tax base supporting critical municipal services throughout all five boroughs. It is the densest of the city's job centers, with over 200,000 workers doing business in approximately 70 million square feet of office space. East Midtown is a veritable "headquarters of headquarters," home to over a dozen Fortune 500 companies, among thousands of other businesses, large and small. One of the key strengths of East Midtown has been the wide range of office space that can be found in buildings of different sizes and eras, allowing the area to meet the needs of a diverse range of tenants at varying price points.

The dominance of East Midtown as a business district is inextricably linked to its unsurpassed transit access. East Midtown is home to Grand Central Terminal and the adjoining subway station complex. Together, they comprise a major intermodal portal connecting the city to an expansive regional commuter shed. Already one of the nation's largest transit hubs, the Grand Central area is undergoing significant ongoing investment with two major public infrastructure projects currently underway, East Side Access and the Second Avenue Subway.

During the past century, East Midtown flourished to become one of the largest commercial districts in the country and one of the best business addresses in the world. The Midtown Manhattan of Park, Madison, and Lexington avenues is home to some of the most prominent buildings in the canon of aspirational architecture built to match the ambition of commerce. These buildings, to name a few, include Chrysler, Seagram's, Lever House, AT&T/Sony, and the Citicorp tower.

For most of the past century, there was a continuous replenishment of the best in new office space. However, the replenishment of newly constructed Class A office space in East Midtown has come to a near halt. In the past decade there have been only two new buildings constructed in East Midtown, both mid-sized by Manhattan business district standards. The last major office development in the district, 383 Madison Avenue, was constructed in 1999. The average age of buildings in East Midtown is nearly three-quarters of a century old. Of the total 70 million square feet of office space currently in East Midtown, less than five percent was constructed within the last two decades. This is cause for great concern.

Every world class central business district features a full spectrum of office space offerings including a solid top tier of state-of-the-art office space that serves to enhance the entire district. Without new offerings of state-of-the-art office space, the needs of prime tenants will go unmet, and they will begin to search elsewhere. More existing office buildings will convert to other uses, and the area will become less dynamic and desirable overall as a business district. Ultimately there will be a failure to generate the full potential of jobs and tax revenues for City, and a failure to fully capitalize on huge public investments in infrastructure. In order to maintain a world class central business district status, incentives must be created to spur the construction of a critical number of state-of-the-art commercial buildings.

In addition, any proposal to stimulate development of new office space must also find implementable solutions to the pedestrian and transit network challenges that East Midtown faces. Every world class central business district also has a world class public realm. New development alone is not sufficient, and upgrades and improvements must be made to the pedestrian realm, which today suffers from numerous congestion points and other deficiencies. Replenishing the Class A office stock and improving the public realm are equally critical efforts that must be undertaken together to ensure that East Midtown continues to attract businesses and provide a distinguished and high functioning environment for workers, residents and visitors.

Economic growth in New York City has been and will continue to be predominantly driven by the growth in the office-based economic sectors. Even with the westward expansion of Midtown

to Hudson Yards, the redevelopment of the World Trade Center in Lower Manhattan, and the growth of several other commercial districts in the city, East Midtown needs to grow and supply its share of the demand for new office space in New York.

At its root, the problem of scant new Class A office development in East Midtown is its decades-old zoning. The current zoning in East Midtown is a major impediment to the development of much needed new modern office buildings in the district. East Midtown was ‘downzoned’ in the 1980s, resulting in as-of-right density allowances that are lower than the built densities of many existing buildings, creating a disincentive for redevelopment of some of the older and increasingly underperforming buildings in the area. While this ‘downzoning’ served a purpose of encouraging development to the west of Sixth Avenue, where development was lagging, it also had the effect of largely freezing development in East Midtown. Additionally, floor area bonuses such as those made available by special permit in the 1992 Grand Central Subdistrict, which was meant to facilitate development of large buildings and the transfer of landmarks floor area, have not proven to be attractive options for new development.

The Commission believes the proposed East Midtown Subdistrict will unlock a necessary, but limited, amount of new top tier office development that will serve to ensure the continued strength of the area as a world class business district. The new zoning provides for redevelopment at a scale that is appropriate for the city’s commercial core and it will also provide for much needed improvements to the area’s pedestrian and transit related networks.

The Commission notes that the overarching goal of the rezoning is simple—to ensure the long-term strength of the East Midtown business district. Prior to discussing the range of issues raised during the public review process, the Commission believes it is useful to begin with an enumeration of the fundamental principles underlying the proposal that it found especially compelling in its deliberations:

- The proposal respects the character of East Midtown and builds upon its many strengths. It recognizes that the cachet and character of East Midtown is comprised of a combination of the old and new, and that this mix is an integral part of the area's appeal.
- The proposal promotes a modest but strategic amount of much needed new Class A office space, only on Qualifying Sites that are large enough to deliver significant new office buildings. Other than these special sites, the area remains largely untouched.
- New development pursuant to the new zoning will be coupled with improvements to the public realm. Improvements to the pedestrian realm and transit network are needed to make the area a well-functioning and vital business district. This principle is reinforced by the Administration's commitment of early funding in order to implement infrastructure improvements focused on the Lexington Line at Grand Central subway station in advance of development. This advance funding would be repaid by revenues from the District Improvement Fund.
- The District Improvement Bonus, an incentive zoning mechanism, leverages private development to help deliver needed public improvements. Increases in density can be achieved through contributions to the District Improvement Fund. Monies in this fund can only be spent on improvements to the pedestrian realm and transit network of East Midtown. The East Midtown District Improvement Fund has the potential to generate over a half billion dollars for this purpose.
- The proposed density framework directs jobs and growth to locations in relation to their transit access, with the greatest density centered around Grand Central Terminal. The new as-of-right densities represent a sufficient increase in density at qualifying locations to induce redevelopment of older and increasingly underperforming buildings, at appropriate levels of densities for Manhattan central business districts.

- The proposal recognizes the longstanding effectiveness of the underlying bulk and urban design regulations of the Special Midtown District which ensure that developments provide ample light and air to the sidewalk and streets. These regulations, originally enacted in 1982 and only sparingly modified since then, have produced scores of quality as-of-right buildings in parts of Midtown outside East Midtown, and remain in place with only limited modification as part of this rezoning.
- The East Midtown Subdistrict includes, for the first time in New York City zoning, a requirement for sustainability. New buildings developed pursuant to the zoning amendment will be required to exceed energy efficiency standards.

Few zoning proposals have garnered as much widespread attention and public participation in the review process as the Department's proposal to create the East Midtown Subdistrict. There has been broad consensus from the full range of stakeholders that East Midtown needs to be refreshed and that zoning in East Midtown needs to be revisited. The Commission believes that it is essential to put new zoning in place now in order to ensure development within the next decade. Amending the zoning now is a necessary precursor for significant investment decisions to be made, as many years are required to assemble, de-tenant, and prepare sites of significant size for development. The Commission is confident that all major components of the proposal have been thoroughly discussed, and are clearly identified and understood.

The Commission's deliberations on this proposal have been informed by the consistently high level of engagement on this project from a wide array of stakeholders. The Commission is pleased with the significant improvements that have been made to the East Midtown proposal in the modified application, which incorporates new features requested by the community boards, elected officials, and other stakeholders. The Commission is confident that the application as modified by the Department, and by the Commission herein, will result in new zoning that will allow East Midtown to usher in the next generation of sustainable, competitive office space and ensure that the district maintains its vital role in support of the City's economy.

The following is a detailed discussion of the Commission’s consideration of the proposed zoning, the comments raised during the public review process, and modifications that the Commission is making herein to further improve the proposal. The discussion is organized by the following topics: the Subdistrict, Qualifying Sites and the DIB, Subareas, Superior Development Special Permit, Infrastructure and the DIF, and the accompanying Zoning Map Amendment.

The Subdistrict

The proposal would create an East Midtown Subdistrict (“The Subdistrict”) within the Special Midtown District. This Subdistrict would subsume the existing Grand Central Subdistrict.

The Commission believes the boundaries of the Subdistrict are appropriate. The Subdistrict is proposed to include an area generally bounded by East 39th Street in the south, East 57th Street to the north, a line 150 feet west of Fifth Avenue and an irregular line incorporating portions of Third and Second avenues. The Subdistrict incorporates all or portions of 73 blocks in Midtown. This would encompass much of the eastern portion of the Special Midtown District, with Grand Central Terminal and Park Avenue serving as the Subdistrict’s central spine. The Subdistrict’s northern, eastern and southern boundaries generally track the location of office buildings and do not encompass any of the residential neighborhoods which are located beyond the office corridors. The Commission notes that the Department removed areas from its initial study for the Subdistrict in response to community concerns that certain areas east of Third Avenue were too close to existing residential neighborhoods. To the west, Fifth Avenue is governed by the special Fifth Avenue Subdistrict, and is therefore not included in the East Midtown Subdistrict. The dominant land use in the Subdistrict area is commercial, with some transit and institutional uses, and a small number of residential uses interspersed.

Within the Subdistrict, most of the existing zoning regulations of the Special Midtown District would remain intact, including permitted base FARs (generally 15.0 FAR along the avenues and 12.0 FAR in the midblocks) and the range of permitted uses, as well the bonus mechanisms for plazas and subway bonuses, and the provisions for transfer of unused landmark floor area transfers. In addition, the underlying height and setback and urban design regulations of the

Special Midtown District would continue to apply with some modifications, as discussed and considered further below.

The Commission believes that retention of key features of the current zoning is appropriate and consistent with the focused nature of the proposal, which is intended to encourage the development of a handful of new office buildings in the area so that East Midtown continues to provide for a full range of office space for diverse tenants over the long term. As described below in the next section, only a specific and limited class of sites would be affected by the Subdistrict's new regulations. As such, most of the Subdistrict would be unaffected by the proposal.

In addition, the Commission is pleased the underlying Special Midtown District urban design and height and setback regulations will remain in place with only limited modifications. These flexible as-of-right regulations have guided the development in the Midtown area for the last 30 years and have resulted in scores of quality as-of-right buildings that provide ample light and air to surrounding streets and sidewalks. The focus of these Midtown bulk regulations on the quality of the pedestrian environment, through active ground floor requirements, pedestrian circulation space requirements, and unique height and setback controls have been a model for other special districts in the city, as well as for other high density districts in large cities throughout the nation.

The Qualifying Site and the DIB

While applicable in a large area, the number of buildings that would be developed through the new regulations would be limited. With few exceptions, the new regulations in the Subdistrict would only affect a specific class of sites, defined as Qualifying Sites. Zoning lots for Qualifying Sites would be required to have a lot area of at least 25,000 square feet and at least 200 feet of frontage on a wide street. Sites that meet these criteria would have the ability to develop to higher FAR as-of-right than what is permitted under current regulations provided that developments on the sites meet certain use and energy efficiency requirements.

The floor area above the base FAR on the Qualifying Sites would be required to come from utilization of a new zoning incentive mechanism – a District Improvement Bonus (the “DIB”) – which would require per-square-foot contributions into a District Improvement Fund (the “DIF”) dedicated to area-wide pedestrian realm and transit network improvements. The DIF would be established as a segregated fund, usable only for improvement projects within East Midtown. In certain areas of the Subdistrict, described below, unused floor area from designated landmarks can be also used to achieve specified tiers of higher FAR in lieu of the DIB.

The Commission agrees with this overall approach of generally restricting the applicability of the new DIB mechanism to sites that meet minimum standards and requiring that the new higher-density development fund improvements to the area’s pedestrian realm through contributions into the District Improvement Fund.

The Commission believes this “earned” as-of-right framework is in keeping with the underlying principles of the Special Midtown District, established in 1982 to encourage predominantly as-of-right high-density commercial construction. The Commission believes the East Midtown Subdistrict and its as-of-right zoning mechanism based on the Qualifying Site and the DIB, provide greater incentive for redevelopment and greater predictability to both the public and private sectors. The Commission notes that this as-of-right process, streamlined, less time consuming, less costly, and less unpredictable than full discretionary review, is a more appropriate process for development than case by case ‘negotiation’ of the amount of bonus FAR allowed in exchange for performance of or payment for improvements.

More specific consideration of the various requirements of this framework is found below.

As-of-Right Densities

Qualifying Sites in different portions of the Subdistrict would be permitted different as-of-right maximum FAR densities through use of the DIB. The highest as-of-right FAR, 24.0, would be permitted in the area immediately surrounding Grand Central Terminal. Outside the core of the Grand Central Subarea and along Park Avenue, 21.6 FAR would be allowed as-of-right. Qualifying Sites along northern Madison, Lexington and all of Third Avenue, would be

permitted a maximum FAR of 18.0 as-of-right, with midblock portions of Qualifying Sites in these areas permitted an FAR of 14.4 as-of-right.

The Commission believes these FAR amounts and their respective locations are appropriate. The highest allowance for density should be located around Grand Central Terminal. This core area has the best transportation access in the Subdistrict and among the best access in the country. The second highest as-of-right FAR allowance of 21.6 should be permitted in the area next to the core and along Park Avenue, the widest street in Midtown. FAR should be lower in the remaining portions of the Subdistrict as they are generally further from transit.

The Commission heard testimony that these as-of-right densities are unprecedented and too high, as well as that there is no rationale for these specific FAR maximums. The Commission disagrees. First, the as-of-right densities permitted for Qualifying Sites are not the highest in the city – in the core area of Hudson Yards as-of-right FAR ranges from 21.6 to 33.0 FAR. In addition, these FAR maximums are already generally permitted through the various discretionary bonus mechanisms available in the Special Midtown District. The DIB accomplishes the same result through an improved as-of-right mechanism that avoids the problems with the currently available discretionary mechanisms that has hindered development in East Midtown.

The Commission believes that the proposed earned as-of-right densities would produce buildings that are in scale with other buildings in the East Midtown area. Buildings built to these proposed as-of-right FARs are expected to range in height between 500 and 800 feet. There already are over 40 existing buildings whose heights exceed 500 feet in the Subdistrict today.

The proposed as-of-right densities are also in scale with recent construction in other high density districts of the city including in western Midtown or in Lower Manhattan. For example, the Bank of America building at One Bryant Park is the equivalent of approximately 25 FAR; the New York Times Building on Eighth Avenue, on the portion of the lot which includes the tower, has an FAR of approximately 26; and the Goldman Sachs building at 200 West Street in Lower Manhattan has an FAR of approximately 22.

The proposed maximum as-of-right FARs are rooted in the existing zoning framework in the area. The 18.0 and 14.4 FAR densities proposed for Third Avenue and the northern portions of Madison and Lexington avenues, represent a 20 percent increase over the base FAR. This percentage increase matches what is permitted through the underlying subway improvement bonus. As described in the section below on the District Improvement Bonus, the DIB is an outgrowth of that existing zoning mechanism and thus the 20 percent increase available in the outer areas of the Subdistrict is following an established zoning standard.

Areas along Park Avenue and just outside the Grand Central core are permitted an FAR of 21.6, which represents an additional 20 percent increase above the first 20 percent increase from 15.0 to 18.0 FAR. 21.6 FAR is currently available under the existing Grand Central Subdistrict special permit which was created to facilitate the development of high density buildings and the transfer of unused floor area from landmarks in the area around the Terminal. A 21.6 FAR building, 383 Madison Avenue, was developed pursuant to this special permit (the only building that utilized the special permit).

Finally, the Commission believes that the existing Special Midtown District bulk regulations - intended to permit design flexibility for high-density development while limiting the impact of buildings on access of the streets to light and air - can accommodate contemporary office buildings of up to 24.0 FAR. Thus, it is the maximum as-of-right FAR permitted under the Qualifying Site framework and permitted only in the limited core area directly around the Terminal, reflecting that area's unparalleled transit access.

The District Improvement Bonus

As described above, the Subdistrict would permit additional density on Qualifying Sites above what is permitted under the existing base FAR through a per square foot contribution into a District Improvement Fund. This DIB would be administered as-of-right, through a chair certification, a ministerial action.

The Commission believes that the proposed East Midtown District Improvement Bonus is an innovative mechanism to ensure that new development is accompanied by needed improvements to the pedestrian realm and transit network, at- and below-grade in the East Midtown area. These improvements can not only mitigate the impacts of new development, but address long-standing deficiencies for which no alternative funding source exists. In order for East Midtown to succeed as the City's premier office district, new development alone is not sufficient, and upgrades and improvements must be made to the pedestrian realm, which today suffers from numerous deficiencies.

The structure of the District Improvement Bonus is an effective solution to problems that have limited the use of the existing Subway Improvement Bonus (Section 74-634 of the Zoning Resolution) and the Transfer of Development Rights special permit in the Grand Central Subdistrict (Section 81-635). These problems include the lack of advance planning to establish the scope of needed improvements, and the restriction that improvements be performed in an adjacent subway station only. The ad hoc nature of how improvements are defined and undertaken under the special permit process, and the inability under that process to consider area wide needs severely limit the effectiveness of these special permits as planning tools. The special permits require prolonged negotiations between the applicant and the Metropolitan Transportation Authority and the City to identify an appropriate improvement and determine the scope of the improvement. Given the requirement that the improvement be performed at an adjacent station, opportunities for more meaningful pedestrian and transit network improvements at other locations may be lost.

In contrast, the District Improvement Bonus creates a fund that may be used flexibly to address priority pedestrian and transit network improvements throughout the East Midtown area as a whole, as opposed to only within the immediately adjacent subway station. The as-of-right certification process for obtaining these bonuses through contribution to the District Improvement Fund is separated from the process that determines the priority list of improvements, allowing development to proceed without extended delays as well as allowing planning for area improvements to proceed in a considered fashion. Importantly, the

improvement funded by the development need not be adjacent to the site which generated the funds for its upgrade, an appropriate result since transit stations serve a broad area and improvements in the East Midtown area benefit the Subdistrict as a whole.

The East Midtown Subdistrict is not the first instance in which the Commission has embraced the concept of a floor area bonus for contributions to an area-wide improvement fund. The Special Hudson Yards District Improvement Bonus (Section 93-31) reflects this same model. The Special West Chelsea District High Line Improvement Bonus (Section 98-25) also allows for increases in floor area based on contributions to be used for improvement of an area-wide improvement, the High Line.

The Commission heard testimony from a representative of the City Club that the District Improvement bonus is an impermissible form of “zoning for sale” that also violates legal principles governing ‘exactions’. These issues were discussed at the Commission’s review session on August 19, 2013. The District Improvement Bonus has none of the features that characterize what is sometimes called ‘zoning for sale’; that is, the ‘conflict’ situation where government uses the power of zoning to advantage itself as property owner, using the proceeds reaped from the added value created in the sale of its property through exercise of its zoning powers to support general municipal finances. In the East Midtown Subdistrict, the City acts solely as a regulator, not as a property owner, and the District Improvement Fund will be a dedicated fund usable only for improvements within the Subdistrict that support the integrated land use plan. The District Improvement Bonus is in fact fully consistent with the legal framework, pioneered in the 1961 Zoning Resolution, of “incentive zoning.” It is important to note that participation in incentive zoning is voluntary. The East Midtown District Improvement Bonus is an incentive mechanism that improves on the special permit and other incentive bonus provisions currently available in the Subdistrict to produce area wide improvements as part of an integrated land use plan that couples development with improvements to the public realm. The legal doctrines relating to exactions relied upon by the City Club do not apply to a legislated incentive bonus mechanism.

The DIB Rates and Adjustments

The certified proposal set the initial rate of the District Improvement Bonus at \$250 per square foot of floor area, with the DIB usable under the original application for commercial floor area only. This would be adjusted annually based on the percent change in the 12-month average of the “Midtown Manhattan average asking office rents” published by the Office of Management and Budget. However, no adjustment could drop below the initial rate. The modified proposal allows the DIB to be used for residential use, as described in the Permitted Use section below, and anticipated that a separate and different DIB rate for residential use would be determined before enactment of the zoning.

The Commission heard testimony challenging the methodology by which the proposed zoning text sets the required \$250 contribution rate. The figure of \$250 per square foot was derived from a development rights valuation study conducted by Landauer Valuation and Advisory, a division of Newmark Grubb Knight Frank, under contract to the Economic Development Corporation, dated February 28, 2013.

The Commission recognizes that since the District Improvement Bonus is intended to facilitate state-of-the-art, predominantly office buildings in East Midtown and to help fund pedestrian circulation improvements above and below grade in the East Midtown area, the rate should be one that is not so high that real estate developers would be uninterested in utilizing the bonus, but yet maximizes the amount of revenue contributed into the fund. Reliance on an experienced firm of appraisers to establish a market-based valuation for the rate was therefore appropriate.

The Commission heard testimony challenging the Landauer analysis from Jerome Haims Realty, another prominent appraisal firm, under contract to Midtown Trackage Ventures LLC, the owner of the unused development rights for Grand Central Terminal. The Haims report, dated [July 23, 2013](#), makes three points in particular: That the proposed rate of \$250 is below market value; that the methodology utilized by Landauer understates the value of transferable development rights relative to fee land for development; and that the East Midtown area should have been

divided into smaller areas for purposes of establishing the contribution rate, with different rates for each area.

The City's consultant, Landauer, submitted a response to the Haims report on September 20, 2013. The Landauer response letter concludes that Haims' proposed valuation is too high due to its inclusion of transactions that were intended for residential or stand alone hotel development, rather than the commercial use permitted under the \$250 per square foot rate. Moreover, the hotel transactions considered by Haims were for boutique hotels on small sites, which are far smaller than the buildings contemplated on East Midtown Qualifying Sites and are valued at considerably higher rates.

Landauer further concludes that Haims' conclusions regarding the TDR-to-land value ratio are also problematic, due to the inclusion of residential transactions in its analysis set, and that Haims' methodology for adjusting the valuation for small areas within the Subdistrict, based on differences in asking rents, is not germane to considering the value of development rights for new predominantly office buildings.

The Commission believes that a fundamental premise of the Landauer report—that an appraisal to determine the DIB contribution rate for space restricted to commercial use should be based on precedents involving only comparable commercial use—is both logical and sound. The inclusion of non-comparable floor area transactions in the Haims report is largely what accounts for the significant difference between the \$250 per square foot figure cited by Landauer and the \$400-445 per square foot figure cited by Haims, since land sales and TDRs for residential and boutique hotel use are significantly in excess of those for office use. The Commission is also persuaded by the Department that there are insufficient data points available to establish separate DIB contribution rates for portions of the Subdistrict, and notes as well that as development proceeds under the proposal, the difference in the asking rents for various portions of the Subdistrict will diminish.

The Commission heard testimony concerning the method for adjustment of the DIB contribution rate over time. A concern was expressed that the Midtown Asking Rent index may not track changes in the market successfully over long periods. The Commission agrees that the text should be modified to require a new appraisal study every three to five years to help ensure that the rate keeps pace with market changes. The new appraisal should take into account changes in the market conditions in East Midtown and Midtown, as well as changes in the valuation of transferrable development rights in relation to land sale prices. In order to help ensure a process that allows for public input while recognizing the importance of being able to rely upon a well-conducted appraisal, the modifications require the Department to publish and receive comments on its proposed instructions to the appraiser and, following the development of final instructions based on consideration of public comment, provide that the updated rate would take effect within 30 days of publication of a completed appraisal conducted in accordance with those instructions.

Some commentators felt that the text as referred was not clear as to when the first adjustment in the rate through the Midtown Asking Rent index would take place. The text, as modified, clarifies that the first adjustment will take place in August 2014, and will cover the period from December 2012, when the Landauer study was completed. Subsequent adjustments will occur every August, and cover a 12-month period.

As noted above, residential use is valued considerably higher than office use in today's real estate market. It is therefore appropriate to have a separate rate for residential floor area, as anticipated by the modified proposal. The City's consultant, Landauer, completed a separate valuation study for residential use, dated September 23, 2013. This study recommends a rate of \$360 per square foot, representing a rate 44 percent higher than the rate for commercial floor area. The Commission hereby incorporates this rate into the text amendment, to be applied to residential floor area. Additionally, an index based on the change in Manhattan residential condominium prices, also published by the Office of Management and Budget, would be used to adjust the residential contribution rate, and new appraisal studies would also be required every three to five years.

Finally, the Commission heard testimony that the DIB contribution rate should not be set in advance, but instead, be determined by an appraisal each time a development seeks to utilize the bonus. Some proponents of this approach stated that this would ensure that the City would receive the maximum possible contribution to district improvements. The Commission, however, concurs with the Manhattan Borough President that individual appraisals conducted for each DIB transaction could be highly problematic. Under this model, the City would likely be confronted with competing appraisals, extended debates over valuation, and inconsistent results, with uncertain outcomes making it difficult to plan effectively for area-wide pedestrian improvements. Setting a DIB rate provides more certainty to both developers and communities as to the level of contribution expected of developments obtaining additional floor area through the District Improvement Bonus.

Site Area Requirements

The proposal requires that a Qualifying Site must have a minimum lot size of 25,000 square feet, a minimum wide street frontage of 200 feet and a minimum depth of 100 feet. In addition, these minimum dimensions are required to be cleared of existing buildings, except for existing MTA-related facilities. Beyond these minimum dimensional and area requirements, existing buildings are permitted to remain on the zoning lot.

The Commission believes these requirements are appropriate since they focus the densest development on wide streets following the long-standing pattern of Midtown development, restrict the overall applicability of the regulations to sites which can accommodate substantial new office construction, and maximize the amount of new space which is constructed in each development. While the Commission heard testimony that these requirements should be modified to permit more sites to utilize the proposed Qualifying Site framework, the Commission believes the requirements as proposed are appropriate, with the limited ability for modification of the frontage requirement by authorization discussed in the Discretionary Actions below.

Permitted Uses

The certified proposal permitted new buildings on Qualifying Sites to contain all commercial uses permitted by the underlying district – including offices, retail and hotels. In response to recommendations heard during the public review process, the modified proposal adjusts this provision in two ways. First, the modified proposal permits up to 20 percent of the new building to contain residential use as-of-right and, second, it restricts the amount of hotel use which can be developed as-of-right in a new building to the same 20 percent. However, for sites with existing hotels where the square footage currently devoted to hotel use would exceed the 20 percent cap in the new building, the current hotel floor area total may be included in a new building on a Qualifying Site as-of-right. In all cases, the remaining share of the new building would have to contain a mix of office and retail uses. The modified proposal also modifies the ‘stacking’ rules for Qualifying Sites which normally restrict the development of commercial uses above residential uses. These requirements can only be modified through the use modification special permit which is discussed in the Discretionary Actions section below.

The Commission believes the uses permitted under the modified proposal represent the correct balance between the proposal’s main goal of encouraging as-of-right predominantly-office development and the recommendations for a greater mix of uses in the Qualifying Site buildings. Whereas the certified proposal permitted Qualifying Site buildings to be developed fully as hotels as-of-right, the modified proposal rightly prioritizes as-of-right office development. By also permitting limited residential development, the modified proposal is in keeping with the mixed-use character of the area. The allowance for up to 20 percent of the new building to contain either hotel or residential use as-of-right is in sync with comparable office buildings in the City that have been developed with multiple uses, including 1 Beacon Court and the Random House tower. Finally, the modified proposal’s changes to the ‘stacking’ provisions will help enliven the tops of mixed-use buildings on Qualifying Sites by permitting active uses like restaurant and observation decks to be developed above residential uses.

The Commission also heard testimony from representatives of the Yale Club requesting the ability to develop Use Groups 6E (non-commercial club) and 4A (community facility) in a Qualifying Site building as-of-right. This would permit the Club to expand in the future onto an

adjacent development site through the Qualifying Site framework. The Commission notes the longstanding presence of the Club in the area and that the Club functions, in many respects, similarly to a hotel. However, such modifications are bound by the scope of the certified and modified proposals. Since the certified proposal permitted all commercial uses as-of-right in a Qualifying Site, whereas the modified proposal restricted development to only specific commercial uses - office, hotel and retail – the inclusion of the non-commercial club use is possible. However, adding Community Facility (Use Group 4A) to the list of uses permitted as-of-right in a Qualifying Site building is not within the scope of the action, since this use was not included in either proposal. Thus, the Commission modifies the proposal to add Use Group 6E to the list of uses which can be developed within the 20 percent cap in a new building on a Qualifying Site. The Commission further notes that additional amounts of Use Group 6E or any amount of Use Group 4 would be permitted through the Use Modification special permit described below.

Building Performance Requirement

New buildings on Qualifying Sites are also required to meet a higher energy efficiency standard than is currently required under the New York City Energy Conservation Code. New buildings are required to outperform the 2011 code by a minimum of 15 percent, with compliance demonstrated to the Department of Buildings before a building permit can be issued.

The Commission is pleased this provision is included in the Qualifying Site requirements - the first time such a requirement has been included in the Zoning Resolution. Buildings built pursuant to the requirement would have an energy performance similar to One Bryant Park, the most energy efficient new building of its size and kind in the City. The Commission believes the standard substantially exceeds current code requirements while remaining reasonably achievable for high-rise commercial construction based on contemporary best practices.

The Commission heard testimony, from the Borough President and others, supporting the provision with the caveat that the performance standard be updated as codes and best practices

change over time. The certified proposal permitted the Commission to modify the requirement over time, but provided little certainty about when or how such updates would occur.

The Commission agrees the standards should be kept current and therefore modifies the proposal to require a more proactive reassessment of the standard over time as the code is updated and best practices change. Within 90 days of a change to the energy code, the Department would be required to re-assess the energy efficiency standard and make a recommendation to the Commission describing changes that would keep the requirement current. The Commission would then modify the standard by rule, as necessary. With this change, the Commission believes the standard will be kept current as the energy code and best practices change over time.

Existing Non-Complying Buildings

The Subdistrict would permit Qualifying Sites with pre-1961 non-complying commercial buildings to be demolished and their non-complying floor area built back as part of a new building, subject to a discounted contribution into the DIF for the non-complying floor area. In addition, the Subdistrict would permit the reconstruction of pre-1961 non-complying commercial buildings, provided that such buildings have frontage on a wide street and a lot area of at least 20,000 square feet, subject to a discounted contribution into the DIF for the non-complying floor area. The discount for the non-complying floor area in both cases would be 50 percent of the base rate.

The Commission believes that the provision permitting the reconstruction of existing non-complying floor area, as proposed, is appropriate.

Zoning in effect prior to 1961 had no maximum floor area ratios but instead controlled density through height and setback regulations. This created an incentive for office building developers to maximize the amount of floor area in a building by minimizing floor-to-ceiling heights, so that the greatest possible number of floors would fit within the height and setback requirements. Many buildings in East Midtown were built during this time and in this manner and have more floor area than is permitted under today's as-of-right FAR regulations and are thus considered

‘non-complying’ or, more colloquially, ‘overbuilt’. The Commission has heard testimony that the low ceilings, tight column grids and energy inefficiencies of these older office buildings in East Midtown make these buildings poor candidates for upgrading and modernization through renovation in the long term.

However, there has been little new construction to replace these buildings because existing zoning acts as an impediment in two ways. First, a completely new building built to current zoning regulations would be permitted less floor area than the existing building has, creating a strong disincentive to replacement. Second, the only zoning option to maintain the non-complying floor area in a new building requires 25 percent of the existing building to be retained as part of the development. This has proven to be an option with limited applicability for large office buildings due to the difficulties of construction and the disincentive in maintaining 25 percent of the outdated structure. Over time, these obsolete buildings may become Class B or C space or be converted to non-office uses, reducing the amount of employment and tax revenue generated in the area.

Given the importance of East Midtown as a business district, the Commission believes providing a mechanism through the Qualifying Site provisions to incentivize the replacement of non-complying buildings is therefore appropriate. The discounted rate which would be required for the amount of existing non-complying floor area to be redeveloped on a Qualifying Site will offer a limited but important incentive to replace these buildings with new contemporary office space. Above the amount of existing non-complying floor area, the full DIB rate would be necessary for additional square footage up to the permitted maximum as-of-right FAR.

In addition, the Commission believes it is appropriate to create a path for more efficient replacement construction for non-complying buildings that do not meet the Qualifying Site lot size and dimension standards, but meet slightly less-restrictive standards. In this case, buildings would only be permitted to “build back” the full amount of existing non-complying floor area in the new building through contribution into the DIF, at a discounted rate. Buildings that undertake this option would not be required to maintain 25 percent of the existing building and the

Commission believes this is a sufficient incentive for limited additional replacement construction. The Commission further notes that buildings that are built utilizing this build back provision would be required to meet the same use and energy standards as the new buildings on a Qualifying Site.

The Commission heard testimony that the lot size requirement for reconstructing non-complying buildings should be reduced, so that more buildings would qualify for reconstruction. However, the Commission believes that a reduction in the lot size requirement is not warranted since under the Special Midtown District height and setback regulations, new buildings on smaller sites would not be able to provide office floorplates of the minimum sizes typically demanded by tenants in contemporary office construction and that the reduction in lot size would therefore not be appropriate.

The Commission also heard testimony that contributions, even at a discounted rate, should not be required for the non-complying floor area since the floor area exists already today. The DIF-funded improvements to the pedestrian network above and below grade will ameliorate the conditions experienced by workers and visitors in reconstructed non-complying office buildings, and make reconstructed office space more valuable and attract Class A office tenants to the area. The Commission therefore believes it is appropriate that the reconstructed buildings contribute to the fund dedicated to the upgrading of East Midtown.

Sunrise Provision

The Subdistrict requires that no foundation or building permits can be issued for new buildings on Qualifying Sites until July 1, 2017. This sunrise provision was set five years into the future from when the proposal was first announced in July 2012.

The Commission believes that the sunrise provision, as modified, is appropriate.

In preparing the East Midtown proposal, the Department relied in part on an August 2011 study prepared for the Hudson Yards Infrastructure Corporation (the special financing entity

established by the City for the Hudson Yards project) by the real estate firm of Cushman & Wakefield. The study incorporates a forecast by Moody's Analytics, the economics forecasting firm, of growth of 287,700 "office-using" jobs in New York City in the 30-year period from 2011 to 2041. The study further translates this job forecast into demand for office space, and forecasts new office space completions, by area of the city. For Midtown as a whole, the Cushman & Wakefield forecast is for 73.9 million square feet of office construction over the 30-year period, of which the Hudson Yards area accounts for 25.3 million square feet of this forecast and the remainder of Midtown, including East Midtown, 48.6 million square feet.

The Department believes that the large potential demand for new office space in Midtown supports both the projected development of Hudson Yards and of East Midtown. Recent support for this position comes from a September 2013 report by the Independent Budget Office (IBO). The IBO uses a more conservative projection of employment growth and office demand, but nonetheless concludes that planning for the level of office space growth encompassed by both the Hudson Yards and East Midtown plans, as well as other City-sponsored Central Business District initiatives including the World Trade Center, Downtown Brooklyn and Long Island City, is rational and warranted.

Having concluded that in the long term, the office space proposed for East Midtown is needed to support the city's future employment growth, the Department then considered the issue of the sequencing of development. In particular, the City has a strong interest in seeing that the emerging Hudson Yards commercial district is well-anchored by new office construction as the subway extension is opened in 2014.

The Commission believes the sunrise provision is an appropriate response to this concern. Since new office buildings may take two or three years to be completed, office-based businesses looking to lease large blocks of new space earlier than 2019 or 2020 will seek such space either in Hudson Yards, or alternatively at the World Trade Center.

The Commission heard a great deal of testimony on the sunrise provision. Commentary was varied. Some said the 2017 restriction on the granting of permits was too long, while others said it was too short. Other testimony questioned whether a restriction was needed at all, or whether it should be replaced by a trigger mechanism based on the amount of development or leasing in other areas, as opposed to a specific date.

In general, the Commission believes such a trigger would not be an effective provision because of the uncertainty it would create. Redevelopment of large office buildings takes years of advance planning. Since it would be unclear when in the future such a trigger would be met, planning for development in the area would be hampered by such as trigger. A date specific, which planning and construction activities can aim for, is a more certain and effective tool to achieve the purposes of the Subdistrict.

The Commission did, however, hear testimony that warrants limited adjustment to the policy, while keeping the basic structure in place.

The developer of 425 Park Avenue, which would be the first new office building fronting on one of the city's premier commercial streets in decades, demonstrated effectively through his testimony that new development at 425 Park Avenue would not compete with new developments in Hudson Yards or Lower Manhattan. Their site has a relatively small footprint of less than 30,000 square feet, compared to the large floorplate buildings of Hudson Yards, where the smallest development site has a footprint of over 40,000 square feet and many are over 60,000 square feet. The speaker asked for sites less than 30,000 square feet in lot area to be exempt from the sunrise provision, arguing that such an exemption would not harm the City's overall planning and economic development objectives. The Commission agrees that buildings of such sizes in East Midtown would not be in competition with the larger floorplate buildings elsewhere and therefore modifies the text so that Qualifying Sites of 30,000 square feet or less may obtain permits immediately upon enactment of the Subdistrict.

Additionally, the Commission is modifying provisions of the Superior Development special permit regarding the sunrise provision, as discussed further below.

Discretionary Actions

The Commission notes that while the Subdistrict is focused on the as-of-right development of new, predominantly-office buildings, it also includes a series of discretionary mechanisms to modify the above Qualifying Site provisions. In addition, there were a number of proposals for additional discretionary actions which were raised during the public review of the Subdistrict. Each of these is discussed below.

Frontage Requirement Authorization

As described above, Qualifying Sites must meet a series of minimum dimensional and location requirements, including that such sites need to have a minimum of 200 feet of frontage on a wide street. The modified proposal includes a provision which allows for limited modification of this frontage requirement. Sites with a minimum of 75 percent of this requirement, effectively 150 feet of frontage on a wide street, would be permitted to apply for a Commission authorization, to modify the Qualifying Site requirements, as long as they still met the minimum 25,000 square foot lot area requirement.

The Commission believes this flexibility is warranted to account for unforeseen conditions where lots necessary to meet the full frontage requirement are not be available for development. Applicants would be required to demonstrate the site can accommodate a commercial building meeting contemporary standards utilizing Midtown's height and setback controls. In addition, the authorization permits the Commission to determine the maximum FAR for the site based on findings focused on the proposed building's footprint, overall massing, and relationship to surrounding buildings and spaces. The Commission believes this authorization and the limited flexibility it affords is appropriate.

Contribution In-Kind Authorization

The modified proposal included an ‘in-kind’ provision that permits developers to construct identified improvements, and receive credit for that expenditure, in lieu of a monetary contribution into the District Improvement Fund. Improvement projects built under the “in-kind” provision are required to be on the DIF Committee’s list of priority improvement projects. In the certified proposal, this provision was permitted as-of-right, similar to use of the District Improvement Bonus.

The Commission heard testimony suggesting that the provision, as proposed, could limit the effectiveness of the DIB since its use could be in conflict with the DIF Committee’s highest priorities. In addition, there was concern that determining how much additional floor area should be granted for the in-kind improvement could prove difficult and would not easily lend itself to an as-of-right process. Other testimony requested greater clarity on how the in-kind provision would interact with the DIF Committee process for identifying and prioritizing improvements.

The Commission believes there are benefits to having an in-kind provision in the Subdistrict, since Qualifying Sites may be located close to an identified priority improvement project and construction on the Qualifying Site could then make construction of the improvement more feasible. However, the Commission also believes it important the DIB remain the chief mechanism for implementing priority improvements to the area and therefore modifies the text so that Qualifying Sites are required to utilize the District Improvement Bonus for a minimum of 3.0 FAR, with the in-kind mechanism available only as a substitute for DIB payments beyond this tier. The Commission is also modifying the text so that use of the “in-kind” option will require a Commission authorization. This will guarantee a more-formal review of in-kind applications. The findings for the authorization focus on weighing the practical benefit of developing potentially lower-ranked improvement projects through the ”in-kind” mechanism, in lieu of payments, and determining the appropriate amount of in-kind credit for the improvement.

Use Modification Special Permit

As described above, the modified proposal required that the predominant as-of-right use in a new building on a Qualifying Site be office, with residential and hotel uses permitted to make up a maximum of 20 percent of the building. In addition, the modified proposal would allow additional residential and hotel use, as well as all other uses permitted by the underlying regulations, in a new building on a Qualifying Site through a new Use Modification special permit. Findings for the special permit would be focused on how the new building relates to its surroundings and the overall Subdistrict's goals and purposes. Under the special permit, residential use would be restricted to make up a maximum of 40 percent of the new building, while the other uses could make up the entirety of the new building.

The Commission heard testimony generally in favor of this provision, though concerns were raised about the amount of residential use permitted through the special permit. While the Commission believes the flexibility permitted by the provision is generally appropriate, it shares this concern regarding the permitted amount of residential use. The purpose of the Subdistrict is to ensure new office space in East Midtown. Permitting almost half a new building to be devoted to residential use, even if pursuant to special permit review, could potentially conflict with this purpose. The Commission therefore modifies the Use Modification special permit so that the maximum amount of residential use that may be permitted in a new building through the permit is lowered from 40 percent to 25 percent. This allows a limited amount of flexibility above the as-of-right percentage of 20 percent, and is more in keeping with the overall intent of the proposal.

Other Suggested Discretionary Actions

In addition to the Discretionary Actions described above, the Commission heard testimony advocating for inclusion of a series of other discretionary actions. The Commission's consideration of these suggestions follows below.

Special Permit for Hotels

As described previously, the modified proposal allows a maximum of 20 percent of a new building on a Qualifying Site to contain hotel use as-of-right, with additional amounts permitted only through the new Use Modification special permit.

The Commission heard a great deal of testimony from members of the Hotel Trades Council requesting that as-of-right hotel use be prohibited on all sites throughout East Midtown and only be permitted by special permit. This would include not only the Qualifying Sites, but also sites that are not Qualifying Sites where the proposed Subdistrict provisions do not apply. Testimony from a number of members at the hearing stated that the purpose of this special permit would be to prevent new limited-service and non-union hotels in East Midtown.

The Commission notes that hotel uses are permitted as-of-right today in East Midtown, that they are key features of the area, and that they contribute to its success as a business district. In fact, hotels are a vital and necessary part of any central business district. In general, the purpose of a special use permit is to address land use issues stemming from a particular use, by requiring that specific findings and conditions are met that avoid its potential to result in these problems. However, no land use issues which justify subjecting all new hotels in East Midtown to a special permit have been identified. As discussed above, the Commission believes the use regulations and Use Modification special permit in the modified proposal are appropriate because they are geared toward achieving the primary land use objective of encouraging new office development on Qualifying Sites. By contrast, requiring a hotel special permit for all sites in East Midtown would be wholly unrelated to the purposes of the Subdistrict and would lack a land use justification. Given this, the Commission believes requiring a special permit for all hotels in the Subdistrict is unwarranted, and would be highly problematic from both a policy and legal perspective. Finally, the Commission notes that subjecting sites that are not Qualifying Sites to a special permit for hotels would be out of ULURP scope and therefore cannot be considered in the pending land use review process.

Restricting As of Right Development to 18.0 FAR

The Commission heard testimony that the as-of-right densities proposed under the Qualifying Site framework should be restricted to a maximum of 18.0 FAR, with higher densities permitted only by special permit.

The Commission believes that such a restriction is not warranted and that it would severely limit the effectiveness of the proposal.

One of the significant issues faced by East Midtown is that the existing zoning has stymied the development of new Class A office space. Existing as-of-right FAR allowances, generally at 15 FAR, are too low and act as barrier to redevelopment. Many buildings in East Midtown have existing floor area ratios near or in excess of 15 FAR, with several of those overbuilt buildings built near or in excess of 18 FAR. Without a sufficient increase in as-of-right density, property owners and developers in the Subdistrict have little incentive to redevelop existing older and increasingly underperforming buildings and to replace them with new Class A office space. In light of the built floor area within East Midtown, the Commission does not believe that 18 FAR is sufficient incentive for targeted development on Qualifying Sites.

The Commission, in an earlier section of this Consideration, discussed why it believes the proposed as-of-right densities for Qualifying Sites are appropriate. As part of that the discussion, the Commission noted that the Midtown bulk regulations, which are maintained with only minimal modifications by this proposal, have a proven track record of ensuring that as-of-right buildings in Midtown provide ample light and air to the street and surrounding buildings. The regulations were designed to accommodate a variety of building massings and densities, while ensuring that new development is consistent with the urban fabric. The Commission also noted that the Special Midtown bulk regulations can accommodate office buildings of contemporary floor-to-ceiling height and core standards of up to 24.0 FAR. The Commission does not believe discretionary review is warranted for buildings that comply with the underlying bulk regulations as well as the Qualifying Site regulations.

The Commission notes further that the as-of-right process, streamlined, less time consuming, less costly, and less unpredictable than full discretionary review, is a more appropriate process to encourage development in East Midtown. As evidenced by the experience in the Grand Central Subdistrict, the special permit to increase FARs has largely failed to produce new development as was originally intended. The Grand Central Subdistrict special permit allows an increase up to 21.6 FAR, but in the past twenty years, there has only been one building constructed pursuant to that special permit. There are other special permits available in the East Midtown area that allow for increased floor area: the Subway Improvement Bonus allows an increase of 20 percent of allowable floor area and, in high density commercial districts, the 74-79 Landmarks Transfer special permit allows an unlimited amount of transferred landmark floor area on a receiving site. Yet, it has been over twenty years since a building was constructed in East Midtown pursuant to either of those special permits.

The Commission also notes that by making new office development less likely, a requirement that buildings over 18 FAR undergo public review would also result in less funding for improvements to the pedestrian realm as representatives of the real estate industry stated that the special permit process at this threshold would preclude new development. For example, at the public hearing, the owner of the 425 Park Avenue site stated that he would not undertake a special permit process if one was required to build a new building at the site and that he would instead rebuild the existing building under existing provisions that require 25 percent of the outdated structure to remain.

Given all of the above, the Commission believes that requiring a special permit for buildings over 18.0 FAR would be counterproductive to the goals of the proposal.

Designated Landmarks on Sites

As described above, Qualifying Sites are required to have a minimum lot size of 25,000 square feet, a minimum of 200 feet of frontage on a wide street and a minimum depth of 100 feet. In addition, these minimum dimensions are required to be cleared of existing buildings, except for existing MTA-related facilities, for the development of a new building. Beyond these minimum

dimensions, existing buildings including designated landmarks are permitted to remain on a Qualifying Site.

The Commission heard testimony that a new special permit should be created so that sites that include designated landmarks within these minimum dimensions be permitted to utilize the DIB to achieve higher FAR if the proposed design incorporates the landmark into a new commercial development. The Commission notes that the Qualifying Site provisions require the minimum dimensions be cleared of existing buildings in order to help ensure the maximum amount of new construction on individual sites, consistent with the Subdistrict's purpose of encouraging the development of new office space designed to contemporary standards. Allowing the minimum requirements for Qualifying Sites to be waived in order to incorporate landmark buildings within these minimum dimensions is inconsistent with this purpose. Finally, the Commission notes that such a special permit is beyond the ULURP scope of the proposal.

The Subareas

In addition to the requirements above that apply throughout the Subdistrict, special regulations apply in two Subareas which include additional provisions for transfers from designated landmarks within them and special height and setback and urban design requirements to reflect the unique built forms of the areas. These two subareas – the Grand Central Subarea and the Northern Subarea – are discussed separately. In addition, specific regulations which affect Park Avenue - which traverses both Subareas – are discussed after that.

Grand Central Subarea

The Grand Central Subarea is centered upon New York's iconic landmark transit hub – Grand Central Terminal. The Subarea replaces the existing Grand Central Subdistrict and expands its boundaries one block north to East 49th Street, fully across Lexington and Madison avenues, and south to East 39th Street. The Commission believes the expanded boundaries of the Subarea are appropriate as they accommodate additional portions of the Grand Central neighborhood that are connected to the Terminal by the existing below-grade transportation network that was expanded

to the north as part of the MTA's North End Access project of the 1990s or are within a short walking distance of this network.

Qualifying Sites are permitted the highest densities in the Subdistrict in the proposed Grand Central Subarea Core – the area bounded by Lexington and Madison avenues, and East 42nd and East 46th streets – which surrounds the Terminal and provides the greatest access to it. In this area, maximum as-of-right FAR of 24.0 would be available to Qualifying Sites. In the rest of the Subarea, Qualifying Sites would be permitted a maximum as-of-right FAR of 21.6. As described above, the Commission believes these densities are appropriate.

The existing Subdistrict includes special landmark transfer provisions, height and setback, and urban design controls. These are modified in the new Subarea as described in the two sections below.

Landmark Transfers

The existing Subdistrict permits designated landmarks to transfer their unused floor area to receiving sites within the Subarea in two ways, beyond that which is permitted by the underlying regulations in Section 74-79. First, transfers of 1.0 FAR are permitted as-of-right via a certification. Second, transfers up a maximum FAR of 21.6 are permitted in the area bounded by Lexington and Madison avenues, and East 41st and East 48th streets, through a special permit which requires a major improvement to the area's pedestrian network as a condition of the proposal. Both of these provisions are maintained in the proposal for non-Qualifying Sites, with the 1.0 FAR transfer applying throughout the expanded Subarea as a replacement of the Special Midtown District's 1.0 FAR plaza bonus, while the special permit's original boundaries would continue to apply.

The proposal expands on these existing transfer provisions by permitting floor area transfers from designated landmarks to Qualifying Sites throughout the Subarea. Qualifying Sites must utilize the District Improvement Bonus for a minimum of 3.0 FAR but would then be permitted the option to transfer unused floor area from the Subarea's designated landmarks up to the

maximum FARs permitted under the Qualifying Site regulations. These transfers would be permitted as of right via a chair certification. Such applications could not be combined with the 1.0 FAR transfer, the existing special permit or the transfers available via the underlying 74-79 special permit.

In addition, transfer of development rights under any of the mechanisms would continue to require a program for continuing maintenance of the designated landmark. For Grand Central Terminal, this requirement has been met through an agreement to set aside five percent of transfer proceeds for continuing maintenance of the Terminal. Sites adjacent to Grand Central utilizing the District Improvement Bonus or the existing landmark transfer provisions would be required to include, as part of their application, a report from the Landmarks Preservation Commission concerning the harmonious relationship between the new development and the landmark Terminal.

The Commission believes these various transfer mechanisms and provisions are appropriate. The expanded transfer opportunities permitted under the proposal reinforce the importance of designated landmarks, and Grand Central Terminal in particular, to the area. The creation of the Grand Central Subdistrict in 1992 reflected the City's long-standing commitment to providing opportunities for the Terminal to transfer its unused development rights. The expanded Subarea furthers this commitment with new, easier as-of-right opportunities for transfer to Qualifying Sites.

The Commission notes that the new provision permitting Qualifying Sites to utilize floor area from designated landmarks in the Subarea provides a new method for transfer of significant amounts of unused development rights in an as-of-right manner; today, only transfers of 1 FAR may be made without discretionary approval. The minimum required use of the DIB for 3.0 on Qualifying Sites will ensure that new development in the area is accompanied by funding for pedestrian realm and transit network improvements. This is consistent with provisions in the existing Landmarks transfer special permit that requires an accompanying transit improvement. Maintaining the existing transfer mechanisms provides opportunities for sites that do not or

cannot meet the Qualifying Site requirements to also receive landmark floor area, therefore providing further opportunities for transfer. The requirements for a continuing maintenance plan as a precondition for transfer will help ensure the long-term maintenance of these City-designated landmarks. Finally, the requirement that any Qualifying Site adjacent to Grand Central Terminal include a report on the harmonious relationship between the Terminal and the new building – regardless of whether a floor area transfer from the Terminal is proposed - reinforces the unique importance of this iconic landmark.

Urban Design and Height and Setback Controls

Building on the framework of urban design and height and setback controls in the underlying Special Midtown District, the existing Grand Central Subdistrict contains a series of special requirements tailored to the unique conditions of the area. These are maintained and modified in the expanded Subarea. Each of these is described and considered separately below.

The proposal requires that new full frontage buildings on Madison and Lexington avenues set back their street walls in order to create sidewalks with a minimum width of 20 feet. In addition, on the side streets between Vanderbilt and Madison avenues, the proposal further requires buildings with at least 100 feet of frontage to set back their street walls so as to create sidewalks with a minimum width of 15 feet. While sites in the Subarea are permitted to set their street walls back a maximum of 10 feet from the property line, there is no current requirement to do so. The Commission believes this requirement for widened sidewalks will improve pedestrian movement in the area and improve access to light and air and is therefore appropriate. The streets where the provision would apply have some of the narrowest sidewalks in Midtown and a high level of pedestrian activity. The provision will help ensure that new development contributes to an improved pedestrian realm.

Under the existing regulations, retail is required only along Madison and Lexington avenues and East 42nd Street. The proposal requires that Qualifying Sites also provide at least 50 percent of their side street frontage to retail uses. The Commission believes this requirement is appropriate given the great concentration of side street retail found in the Subarea – reflecting the area’s high

level of pedestrian activity – since it will help ensure that side streets are not negatively affected by the blank walls which sometimes accompany large-scale new developments. Special retail and active use provisions are included for buildings fronting on Vanderbilt Avenue. Here, retail or public space uses must be developed along the significant portion of the frontage. Special glazing requirements are also included for the area of the street wall up to 60 feet in height. The Commission believes these special requirements for the Vanderbilt frontage will help ensure that new developments along this street will activate the area and create a complimentary relationship with Grand Central Terminal.

The proposal includes special street wall provisions for the various streets and avenues in the Subarea, some of which are carried over from the existing Subdistrict. Street walls within 10 feet of the property line would be required along side streets for the first time, with their maximum heights determined in relation to the height of adjacent street walls. The existing street wall requirements for Madison, Lexington and East 42nd Streets would be maintained. Special, lower street wall requirements would be included along Vanderbilt and Depew Place adjacent to Grand Central Terminal. The Commission believes these various regulations are appropriate. The Grand Central neighborhood is defined by the high street walls, generally built to the property lines along the area's avenues and streets. These were a key feature of the 'Terminal City' buildings developed around Grand Central in the early years of the 20th century. The proposal's requirements will help ensure that new buildings continue this built form and enhance the special streetscape found there.

The Commission heard testimony that greater flexibility should be provided for buildings developed along East 42nd Street, so as to allow developments to provide improved view corridors to Grand Central Terminal. The Commission notes that under the current Subdistrict regulations a street wall is required for new developments along 42nd Street and must be built to the property line. This requirement extends beyond the Subdistrict and is required along 42nd Street throughout the Special Midtown District. This requirement reflects the existing character of the street and the buildings found along it, in particular the high street wall buildings around Grand Central Terminal. While the Commission therefore does not believe greater flexibility for

as-of-right development is warranted, it notes that the Superior Development special permit, described below, which is applicable along the north side of East 42nd Street, permits modification of street wall requirements to support innovative design.

The proposal includes limited modifications to the underlying height and setback regulations to permit as-of-right development at the levels permitted by the Qualifying Site framework and to take into account the area's high street wall character and unique block configurations.

Compliance with the Special Midtown District's unique height and setback regulations is based on calculation of the amount of daylight and openness to the sky made available to pedestrians through the proposed building's design. Building mass lower to the ground has a greater impact on a pedestrian's access to light and air and therefore the height and setback regulations weigh blockage in this area more harshly – affecting the compliance for the entire building. However, given the existing high street walls in the area and the intent to maintain this built character, the proposal modifies these requirements to permit required street walls to be exempted from the height and setback compliance calculations.

Additionally, the proposal modifies the requirements for compliance along Vanderbilt Avenue. While the height and setback controls of the Special Midtown District were developed consistent with the longer-block patterns found in the rest of Midtown, the small, square blocks in this area along Vanderbilt present a unique configuration that present problems for as-of-right development on these sites under the current regulations. Compliance with height and setback regulations in Midtown is calculated on each street frontage and while nearly all sites in Midtown are bounded by three or fewer streets, the small blocks found here are bounded by four streets, making compliance with the regulations difficult for contemporary commercial construction. The proposal modifies these requirements by permitting these square sites to include the area of Vanderbilt Avenue into their compliance calculations as a resource of openness making these sites more like other typical large sites in Midtown.

The Commission believes these limited modifications are appropriate as they recognize the unique context of the Grand Central Subarea and maintain the Special Midtown District's standards of light and air while permitting as-of-right development to occur in the area.

The proposal also requires that new buildings in the Grand Central Subarea that meet one of a series of locational standards provide a transit entrance easement volume to allow access between the street and the area's below-grade pedestrian network, if requested by the MTA. The provision includes a process by which the developer must work with the MTA and City to define the required easement area. The area of the easement volume would not count as floor area. In addition, if such easement is improved as part of the new building, the access point would be able to count toward the 'Pedestrian Circulation Space' requirements for new buildings in the Special Midtown District.

The Commission heard testimony about this provision in two main respects. On one hand, the Community Boards and others recommended the City and MTA create a 'master plan' that would define with precision the size and location of transit easements that are needed in the area. These easements would then be developed as new construction occurred. On the other hand, concerns were raised about the workability of the requirement and its effect on new development.

The Commission believes this provision, as modified, is appropriate. The area around Grand Central is defined by a below-grade pedestrian network which connects the Terminal and adjacent subway stations to the surrounding buildings and streets. Modeled after the Transit Land Use District mapped along Second Avenue in anticipation of the future subway, this provision would require new developments to provide easements, if requested by MTA, for new access points between the below-grade network and the street to improve its overall connectivity. In addition, the provision allows for the easement areas to satisfy the Pedestrian Circulation Space requirements of the Special Midtown District, creating an incentive for the finishing and maintenance of the easements at private expense. Given the importance of the below-grade

network to the area, the Commission believes that this requirement is a worthwhile addition to the Subarea's provisions.

The Commission understands the desire to create a kind of 'master plan' that would establish in advance where access points will be required as new development occurs. However, as a practical matter, the locations for entrances are best determined at the time of the new development. Access points may or may not be required at an individual site, depending on the proximity of other access points at the time of development. In addition, pedestrian improvements through new buildings are best designed in conjunction with the overall planning for the ground floor space of the development - including any onsite public space, retail spaces, the vertical circulation core and off-street loading.

For these reasons, it is not practical to specify in advance the location and dimensions of each access point. The current proposal, which allows the MTA to define its needs through close scrutiny of a potential transit easement in relation to the network as it exists at the time of a proposed development, provides a workable long-term approach towards improving the public circulation system.

The Commission recognizes the importance of ensuring that the process itself is clear and will work well over time. Therefore, the Commission modifies the provision herein to describe more clearly the sites to which the provision applies, that the easement must provide access between the below-grade network and the street, and the nature of the process for working with the MTA to identify the specific requirements for an on-site easement.

Finally, the proposal includes a limited number of other modifications to the existing provisions in the existing Grand Central Subdistrict regarding building lobbies, curb cuts and the standards for Pedestrian Circulation Space. The Commission believes these limited modifications are appropriate as they recognize the pedestrian-focus of this area around the Terminal.

Northern Subarea

In addition to the Grand Central Subarea, the modified application includes a Northern Subarea generally located between Third Avenue, the Subdistrict's western boundary east of Fifth Avenue, East 49th and East 57th streets. The creation of this Subarea responds to recommendations that designated landmarks in the northern portion of the Subdistrict be given broader opportunities for floor area transfers, similar to the provisions afforded such structures in the Grand Central Subarea.

Qualifying Sites in the Northern Subarea's Core - along Park Avenue mapped in the underlying C5-3 zone - are permitted a maximum as-of-right FAR of 21.6 FAR. Qualifying Sites along the other avenues are permitted a maximum floor area increase of 20 percent above the base FAR to a maximum of 18.0 FAR as-of-right. Midblock portions of Qualifying Sites are also permitted a 20 percent increase above the base FAR to a maximum of 18.0 FAR. As described above, the Commission believes these densities are appropriate. Park Avenue is the widest street in Midtown and new buildings on the small sites available along the street would be similar in scale to the existing buildings found there. Beyond Park Avenue, those portions of the Subarea are further from the transit hub at Grand Central Terminal and the floor area increase matches the 20 percent increase that can be achieved through the existing subway bonus.

Designated landmarks in this area would have new opportunities to transfer their unused development rights to sites in the Subarea beyond that which is permitted by the underlying regulations in section 74-79, which limits transfers to adjacent properties. Beginning in 2019, transfers from the Subarea's designated landmarks could be made as-of-right to Qualifying Sites above a minimum required DIB contribution.

In addition, transfers could be made to sites which do not meet the Qualifying Site dimensional requirements via discretionary actions up to the FARs permitted for Qualifying Sites. These discretionary actions include a new authorization that would be available for transfers of up to 20 percent of the base FAR, and a new special permit that would be available for sites along Park Avenue to be developed up to 21.6 FAR.

Given the concentration of iconic landmark buildings in the northern portion of the East Midtown Subdistrict (including St. Patrick's, St. Bartholomew's, Lever House, and Central Synagogue) and the significant contribution they make to that part of the Subdistrict's overall character, the Commission believes creation of the Northern Subarea is appropriate. Whereas the Grand Central Subarea, as described above, is generally defined by the below-grade network which emanates from the Terminal at its center, the Northern area is defined by the major landmarks spread throughout it, with at least one of the designated landmark buildings nearly always visible as one walks around the area. The Commission therefore believes this separation into separate defined transfer districts is appropriate. The Commission notes that the framework to transfer unused development rights to the Qualifying Sites as-of-right and to other sites through discretionary means is similar to the framework in the Grand Central Subarea.

In addition, these transfers are also appropriately balanced against the need to improve the area's pedestrian realm through the DIB. Transfers to Qualifying Sites above a minimum required DIB contribution are only permitted beginning in 2019 in this newly created transfer district. This will help ensure that any early development fully utilizes the DIB and therefore leads to early improvements to the area's pedestrian network. The lower minimum DIB requirements for Qualifying Sites before landmark transfers can occur along northern Madison, Lexington and Third avenues appropriately reflect the lower densities achievable on Qualifying Sites at these locations. In addition, the new discretionary transfer mechanisms provide greater opportunities for landmark transfer but are only available to sites that do not meet the Qualifying Site dimensional requirements. This preserves the Subarea's larger sites for development under the Qualifying Site regulations, which require use of the DIB.

The Commission heard testimony from a representative of St. Bartholomew's proposing the creation of a consortium mechanism under which landmark owners in the Northern Subarea – or at least those owned by tax exempt organizations – would be required to pool their unused development rights and engage in joint sales, presumably with the participants receiving revenues from sales according to their pro rata contributions to the pool, in order to limit sales

competition between the various designated landmarks. The Commission believes such a consortium proposal raises serious policy issues about how much the City should get involved in the private transactions of property owners, as well as whether the City should require the mandatory participation of property owners in such a framework. Further, the proposal raises a series of significant legal concerns regarding compliance with the Federal antitrust laws. For these reasons, the Commission does not believe further consideration of such a consortium is warranted.

Park Avenue Height and Setback and Urban Design Controls

As stated above, since Park Avenue runs through both Subareas, the special controls proposed for it are treated in this section.

The certified proposal included special street wall provisions for buildings fronting on Park Avenue, such that new buildings would be required to develop their street wall within 10 feet of the property line up to minimum and maximum base heights of 120 and 150 feet respectively. In addition, the modified application includes further modifications such that Qualifying Site developments on Park Avenue in the East Midtown Subdistrict can calculate their compliance with the existing height and setback controls taking into account the full 140 foot width of the street.

The Commission heard testimony that the new street wall requirement along Park Avenue should be modified to allow even greater flexibility for new buildings. The Borough President, for example, suggested an authorization process to permit the modification of the requirement.

The Commission believes the street wall regulations included in the Proposed Action along Park Avenue are consistent with the majority of the existing buildings found there and create an appropriate comprehensive set of regulations for the street. The proposal would replace the three separate street wall regulations found along portions of the street today. While it is true Park Avenue also has a series of plazas, particularly along its eastern edge, including the iconic and landmark-designated Seagram Plaza, these spaces are given definition by the street walls of the

other surrounding buildings. Having the limited development expected along Park Avenue continue to provide this definition in an as-of-right development context is appropriate.

The Commission agrees, however, that these rules should be capable of being modified for innovative and architecturally distinctive buildings. Through the Superior Development Special Permit, discussed below, modifications to the street wall requirements (and other requirements) would be permitted subject to discretionary review. This way, unique designs that propose different street wall configurations can also be accommodated under the proposal while allowing special consideration of their relationship to the surrounding context. This approach is consistent with the City's historic approach to modifications of height and setback controls in the Special Midtown District, which have only been permitted through special permit review. Finally, it should be noted, such an authorization as proposed by the Borough President is not within the scope of the Proposed Action.

Further, the Commission believes the modified height and setback controls for Qualifying Sites along Park Avenue are also appropriate. The current method of calculating compliance with the height and setback regulations causes developments on the relatively-small sites found on Park Avenue to be taller, narrower and less economically viable than would be required if the street's full width were taken into account. The modification will therefore allow the development of modern office buildings along Park Avenue while maintaining the Special Midtown District's standards for access to light and air.

Other Area

The Subdistrict extends beyond the Grand Central and Northern subareas, particularly along Third Avenue east of Grand Central. This area is described in the proposal as the Other Area. In this portion of the Subdistrict, Qualifying Sites are permitted to obtain a floor area increase of 20 percent through the use of the DIB, thereby permitting maximum as-of-right FARs of 18.0 on the avenues and 14.4 in midblock areas. No opportunities for floor area increases through landmark transfer would be permitted on Qualifying Sites in this portion of the Subdistrict. The underlying urban design and height and setback regulations of the Special Midtown District would apply.

The Commission believes the incorporation of this area in the Subdistrict and its permitted FAR are appropriate. While the Commission heard testimony concerned about the effect of the proposal on the residential areas east of Third Avenue, the Commission notes that the Other Area consists almost entirely of large commercial office buildings, and that the area tracks the existing boundaries of the Special Midtown District. The area affected by the zoning map action along East 42nd Street described below would be included in this Other Area, and is fully occupied by large commercial buildings.

Superior Development Special Permit

As part of the proposed East Midtown Subdistrict, the Department proposes a new special permit that would allow developments that provide extraordinary public benefits and exemplify superior urban design to achieve additional FAR beyond the levels proposed as the as-of-right maximums. This special permit is available for Qualifying Sites in only two areas of the Subdistrict: in the Grand Central Subarea Core, where the maximum FAR could be increased up to 30.0 FAR, and along Park Avenue between East 46th and East 57th streets where the maximum FAR could be increased up to 24.0 FAR. In addition to higher density, the special permit would also allow for the modification of bulk and urban design regulations. There would be significant prerequisites to apply for the special permit. Sites would have to meet the Qualifying Site requirements, and, in the Grand Central Core, the minimum site size would be 40,000 square feet. Additionally, all floor area above the maximum permitted as-of-right levels (above 24.0 and 21.6 FAR in the Grand Central Core and along Park Avenue, respectively) would have to be earned by contributions to the DIF or transfers from landmarks.

The additional floor area above the as-of-right maximum could only be granted through a full discretionary review and upon the determination that the development provides significant public benefits. These developments would have to demonstrate superior qualities in terms of overall massing, relationship to the street and to other buildings, function at street level, and size and caliber of required on-site public amenities. Projects seeking this special permit must include prominent and generously proportioned public space on-site, and in the case of projects within

the Grand Central Subarea Core, must also include significant and generous pedestrian connections to the mass transit system below.

The Commission supports this special permit. East Midtown is a place of global distinction, home to some of the most iconic office towers in the city and indeed the world. The Commission believes it is important to allow for the opportunity for extraordinary buildings to be built in this commercial core. The Commission notes that the precise amount of additional floor area above the as-of-right maximum is also subject to the Commission's discretionary review, and that the amount granted is based on its determination that the additional floor area is commensurate with the quality of the building and its public amenities discussed above.

During the public review, the Commission heard testimony that the proposed maximum FAR available under the superior development special permit is too high. The Commission believes these FARs are appropriate, subject to a full discretionary review of the resulting development. Given its extraordinarily transit rich location, East Midtown can accommodate greater densities than the proposed as-of-right maximum. However, since density above the proposed as-of-right maximums cannot be easily accommodated within the framework of the Midtown as-of-right bulk regulations, it is appropriate that developers who seek to build more than proposed as-of-right maximums be required to undergo a public review process to demonstrate that the building's massing, orientation, and other features successfully accommodate the additional FAR and provide significant improvements to the public realm. The Commission believes that only a modest share of the likely development sites will seek to use the Superior Development special permit, so that the potential overall increases in area-wide density will be correspondingly modest.

The Commission heard concerns that this special permit gives unusually expansive authority to the Commission to make qualitative determinations regarding proposed developments. The Commission notes that this kind of discretionary review is a normal function and responsibility of the Commission. There are many existing examples of special permits, such as the subway station improvement bonus and the general large scale development, that ask and require the

Commission to make discretionary determinations of whether a proposed project merits a bonus or zoning modification based on qualitative findings.

During the public hearing the Commission also heard testimony that the special permit, and the additional FAR achievable by it, provides an extraordinary and important opportunity to deliver buildings that are attractive both to prospective tenants who seek premium space in iconic architecture, and to the members of the public who seek additional and high quality pedestrian connections to the below grade transit network. The Commission believes that this special permit furthers the proposal's objective of encouraging development of major new world class, state-of-the-art office buildings in the area, in particular in the immediate proximity of Grand Central and along Park Avenue, the widest avenue in Midtown.

The Commission heard testimony that developments that use the Superior Development special permit and make substantial improvements to underground transit facilities may need additional time to construct those improvements. The text is therefore modified to allow the City Planning Commission to find, as part of the special permit, that the complexity of such construction warrants granting a building permit as much as one year earlier than July 1, 2017. Consistent with the rationale for this waiver of the sunrise provision, developments granted such relief will not be able to obtain a certificate of occupancy earlier than July 1, 2020.

Projected Development and Environmental Analysis

As described above and in the FEIS for the proposal, it is expected that enactment would lead to an increment of approximately 4.5 million square feet of predominantly-office development to the Subdistrict over the long term.

Virtually all of this development is projected to occur in approximately a dozen new buildings constructed under the Qualifying Site provisions described above, over the next 20 years. These buildings would be predominantly concentrated along Madison Avenue between East 39th and 49th streets, with limited additional development found along Park Avenue and elsewhere. This additional construction would translate into an increase of less than 5 percent above the existing 90 million square feet of total space in the Subdistrict over 20 years. More importantly, this

additional development would replace approximately 9 million square feet of existing aging space with new modern, predominantly-office space. Under the proposal, it is expected that by 2033 approximately 15 percent of the Subdistrict's office space would have been built in the proceeding 20 years, as opposed to today where less than 5 percent of the area's office stock is less than 20 years old.

In addition, this new development could contribute more than half a billion dollars into the District Improvement Fund which would be available for needed pedestrian realm and transit network improvements throughout East Midtown. The District Improvement Fund, and the area's infrastructure needs are discussed in the next section.

As stated above, the Commission believes the proposed Subdistrict is appropriate, as modified, in order to protect and strengthen the East Midtown business district over the long term. However, the Commission is aware that the Subdistrict is expected to lead to a number of impacts as identified in the FEIS – in regard to Historic and Cultural Resources, Construction and Transportation. In particular, the Commission heard a great deal of testimony raising concerns about the proposal's effect on the area's Historic and Cultural Resources, especially the buildings that have not been granted Landmark status but are considered eligible for it.

Historic and Cultural Resources

The Commission is aware that the Landmarks Preservation Commission is actively reviewing the area to identify its priorities for future landmark designations. During the ULURP process, LPC began this process by calendaring five eligible buildings for possible future designation. For its part, the Commission has considered a number of ways to partially mitigate the effects of the proposal on the eligible buildings, as identified in the FEIS. The Commission therefore modifies the text so that:

- In order to partially mitigate direct construction impacts, the developer of a Qualifying Site development, as identified in the FEIS, that contains an eligible resource which has not been designated and is proposed for demolition, would be required to conduct and

complete Historic American Building Survey recordation – a national standard used for photographic documentation of historic resources – in a manner acceptable to LPC before the DOB may grant an excavation or demolition permit. This documentation would be a partial mitigation measure.

- In order to mitigate indirect construction impacts, the developer of a Qualifying Site development, as identified in the FEIS, located within 90 feet of an eligible resource which has not been designated would be required to implement a construction monitoring protocol of similar scope and purpose to the provisions of TPPN #10/88 – the protocol used by DOB for construction protection of existing Landmark buildings – before the DOB may grant an excavation or demolition permit. Use of the monitoring protocol would fully mitigate indirect construction impacts.

At the public hearing, the Commission heard testimony stating that future designations of eligible resources in the area would limit East Midtown’s future as a premier office district and that the Commission should consider this issue in relation to its Charter-mandated review of future landmarks designations in the area and their relationship “to the Zoning Resolution, projected public improvements, and any plans for the development, growth, improvement or renewal of the area involved.”

The Commission believes that one of the defining features of the East Midtown area is the great variety of buildings found there, representing more than a century of the city’s development history. Some of these buildings are icons of their era, and some like Grand Central Terminal and the Chrysler Building are icons for the entire city. Moving forward, the Commission hopes and expects that new buildings built under the proposal will join this roster. At the same time, the Commission takes seriously its role in commenting on proposed landmark designations, and in the future expects to consider their relationship to achievement of the goals of the rezoning.

Shadows

The FEIS identified shadow impacts on the stained glass windows of three historic resources, two of which are designated landmarks, and one of which is eligible. In order to partially mitigate these impacts, the Commission is modifying the text so that the developers of Qualifying Site developments on the three sites identified as causing the impacts will be required, prior to the issuance of a new building permit, to provide the Department with a shadow analysis identifying the incremental shadows cast by the proposed building on the affected resource. Further, the Chairperson, acting in consultation with the Chair of LPC, must certify to the Commissioner of Buildings that either: a) a plan for artificial lighting of the stained glass windows or for use of architectural/design techniques which increase natural light to the affected resource has been developed and will be implemented; or, b) such a plan is not feasible or is impracticable, would negatively affect the character or integrity of the historic resource, or has not been accepted by the owner of the resource.

Construction - Noise

The FEIS identified the potential for noise impacts in the event that certain sites located in the Grand Central Subarea in close proximity to each other are constructed simultaneously. In order to partially mitigate the impact, the Commission hereby modifies the text so that no demolition excavation or foundation permits may be issued for work at any one of the three sites for development under the Qualifying Site provisions unless the Chairperson has certified either a) that the simultaneous construction of the three sites conservatively analyzed in the EIS is not anticipated to occur; or, b) that a restrictive declaration has been executed and recorded providing for implementation during construction of noise path and control measures , except to the extent determined by the Chair to be infeasible or impracticable due to site-specific conditions.

Construction - Air

In order to assist in ensuring that air quality standards are maintained during construction, construction equipment used on Qualifying Sites will be required to meet emissions-related standards.

Transportation

The FEIS identified potential for impacts for traffic and buses, as well as for pedestrians at specific locations throughout the Subdistrict. A series of measures were identified that could mitigate many of the impacts from development under the proposal. The District Improvement Fund, described more fully in the next section below, would be available to fund the capital costs associated with the implementation of identified and approved traffic and pedestrian mitigation measures. The certified proposal included a requirement that prioritization of identified improvements consider their ability to address or avoid impacts and the Commission further modifies the text to require the Department to provide to the DIF Committee an on-going review of the identified measures and the timing for their implementation. The modified text also provides that DIF funding may be used for studies needed to determine the need for, adjustment, and timing of mitigation and environmental measures as the build out of the Subdistrict occurs.

Infrastructure Needs and the DIF

Contributions through the DIB would be deposited in the District Improvement Fund, a separate account which can only be used to fund pedestrian realm and transit network improvements in East Midtown. Use of the fund would be determined by a DIF Committee which would be charged with prioritizing improvement projects to be funded over time as moneys are generated through the DIB.

The Commission heard a great deal of testimony about the Fund, and more broadly about the area's infrastructure and public realm needs. The predominant questions centered on whether there was sufficient infrastructure capacity to accommodate additional growth and whether the DIF mechanism provides sufficient assurance that infrastructure improvements will occur. The Commission understands these concerns and has conducted a careful review of these issues, discussed below.

The Commission notes that East Midtown is one of the most transit-rich areas of North America. Grand Central Terminal provides rail access from the northern portions of the region, while the

area's web of subways provides access from throughout the city. This network is being significantly expanded by the multi-billion dollar projects currently under construction by the MTA: First, under the East Side Access project – the largest infrastructure project under construction in the country - a new terminal is being built under Grand Central Terminal which will provide one-seat access to the East Midtown area from Long Island, easing the commute of thousands of existing commuters to the area. Expected to be completed in 2019, it will free up capacity on subway trains that currently bring commuters to East Midtown and reduce auto trips; Second, the first phase of the Second Avenue Subway currently being constructed on the Upper East Side and scheduled for completion in 2016 will alleviate congestion on the Lexington Line that runs north-south through East Midtown and reduce transfers at Grand Central Station between subway lines. For all these reasons, as stated above, the Commission believes the East Midtown area – already afforded some of the best transit access in the city – is an appropriate place for new development.

However, even with these major infrastructure projects, the Commission agrees that there will continue to be problems in the area's transit network if improvements are not undertaken. This system, predominantly built nearly 100 years ago, has to be made to work better for the hundreds of thousands of people who travel to and from East Midtown today and any additional users in the future. In addition, there will continue to be above-grade challenges that hamper the pedestrian's experience of the area.

For these reasons, the Commission is pleased the proposal includes the District Improvement Bonus mechanism to generate funding for area-wide pedestrian realm and transit network improvements. As described in the section above describing the DIB, the Commission believes that improvements to the pedestrian realm and transit network are needed to make the area a well-functioning and vital business district and believes it is appropriate for the DIB to fund such improvements. With it, new development in the area would not just bring new users to the area but also provide funding for improvements that would help upgrade the area for both the new users as well as the far-larger number of existing users. With the level of development projected under the proposal, the DIB could generate more than half a billion dollars for improvements

over the long term. The Commission believes the DIB and its associated DIF are an appropriate zoning mechanism to fund improvements in East Midtown.

The Commission heard testimony that the City and the MTA should be funding the necessary improvements out of the City's capital budget, or the MTA capital program, not from less-predictable development-based revenues. However, while the problems of East Midtown's pedestrian infrastructure have in some cases been well understood for decades, given the broad range of capital needs that must be funded through these traditional funding sources, resources have not been adequate to meet East Midtown's specific needs. The future prospect for funding is no more favorable in the absence of the innovative DIF funding stream. Further, the DIF is not intended to preclude the use of alternative funding sources, if available. The MTA has secured Federal funding to initiate a limited upgrade of portions of the Grand Central subway station, and such funding, while unpredictable, may be available in the future to a limited degree.

Given the reality of limited resources faced by the MTA and the City, the DIF will be a vital source of funding for the area and its needs – both today and over the long term. With this in mind, the Commission has considered three main concerns: whether there are projects that can improve the pedestrian realm and transit network in East Midtown; whether the DIF would be a sufficient funding source for these projects; and whether the structure for the administration of the DIF is designed to ensure that improvements are implemented over time. The Commission's consideration of each of these concerns is included below.

The Improvements

The Commission notes the broad agreement in testimony that the primary needs of the area are to improve East Midtown's subway stations below grade, with a particular focus on the Grand Central-42nd Street complex's Lexington line station. While each of the East Midtown stations has challenges, the issues at Grand Central-42nd Street affect not only station users but also the entirety of the Lexington line, with the Grand Central-42nd Street station acting as the main bottleneck along that critical subway line.

As part of its ongoing planning work, the MTA has identified a series of specific improvements that can significantly improve the usability, connectivity and through-put of East Midtown's stations over time. The Commission views these improvements as realistic and doable. They consist of new or reconfigured subway stairs and improved connections between various lines and, in the case of the Grand Central-42nd Street complex, between the subway and the Terminal. Some of this work has already begun, with the MTA using approximately \$25 million including federal funding to make improvements to the Lexington line station.

In total, subway station improvements with an approximate cost in excess of \$400 million have been identified for the overall area. The Commission notes that this is in scale with the amount of projected funding available through the DIF over time. The Commission notes that each of the projects is sufficiently sized to be able to be constructed as funding is generated by individual buildings through the DIB, and that projects can be staged to coincide with funding and to avoid significant disruption to station operations. In addition, the MTA has pointed out that not all of these improvements are needed right now – the improvements to the northern stations along 53rd Street, for example, may only be needed in the long term depending on changes to commuting patterns brought about by East Side Access. In the Grand Central-42nd street station, the key short-term funding needs are for the remaining Lexington line improvements which are projected to cost around \$100 million.

The Commission believes that these projects would provide significant public benefits. In particular, the FEIS for the proposal analyzes the various improvements taking into account expected growth in the area brought about by the zoning and finds that the improvements to the Grand Central-42nd street station would result in less congestion, improved sightlines and additional Lexington Line express track capacity - producing capacity and reliability benefits to users throughout the subway system.

In summary, the Commission believes there are viable projects that would improve the below-grade network, that their total costs are in scale with the projected funding available through the DIF, and that they can be accomplished over time as that funding is generated.

The Commission also notes that a limited subset of these improvements had been identified as mitigation measures of other projects (Hudson Yards and East Side Access) to be implemented over the long term. In addition, in more recent re-evaluation of these improvements in context of a more comprehensive overall plan for Grand Central subway station complex, the MTA has replaced certain previously identified mitigations with more comprehensive improvements that address the needs that gave rise to the mitigation within a framework that addresses long-term needs in the station complex.

The Commission has also reviewed the City's initial suggestions for above-grade improvements, focused on Vanderbilt Avenue, as well as the results to date of the ongoing public realm vision process that has been organized by the Department and the Department of Transportation. The Commission concurs that improvements to the above-grade pedestrian realm area also are needed to make the area a well-functioning and vital business district and believes it is appropriate for the DIF to fund such improvements. While still ongoing, the vision process has identified a number of key issues and opportunities for above-grade improvements that could be funded through the DIF over time. The potential projects identified to date would improve the pedestrian network throughout the area with opportunities for greening and beautifying streets and with targeted improvements at subway entrances and other strategic locations. The Commission applauds this ongoing public discussion about the public realm in East Midtown. Implementation of these projects would require additional public consultation, with funding becoming available through the DIF mechanism.

The Commission heard a great deal of testimony about the City's initial suggestion to transform Vanderbilt Avenue into a partially-pedestrianized space – with particular concerns expressed about the need to maintain access to adjacent buildings, including the Terminal. The Commission believes that the partial-pedestrianization of Vanderbilt would provide important benefits to the area by creating a significant new open space in a part of the Subdistrict with little such space available. It would also provide a new grand entrance befitting Grand Central Terminal. Any improvements to the street could be done in stages, would be expected to take

into account the needs and concerns of adjacent property owners and would require the agreement and sign-off of the police and fire departments. The Commission recognizes, however, that any decision to partially pedestrianize Vanderbilt would require further consideration and a decision to allocate DIF funding for the work.

Early Funding

While the Commission believes that the DIF mechanism would generate sufficient funding over time to fund necessary improvements in the area, the Commission understands the strong concerns that have been raised about the need for key improvements to precede new development in the area. This concern was raised by the Borough President, the Community Boards, and numerous other elected officials.

The Commission was therefore pleased with the Mayor's announcement in July that the City will work to secure advance funding for some of the at- and below-grade pedestrian network improvements upon enactment of the proposal. This funding would be paid back through the DIB as development occurs in the area. With early funding, residents, visitors and workers would begin to see the benefits of the proposal soon after it is enacted and these improvements would set the stage for future development.

The Commission is aware that the City is exploring a variety of options to create an early funding vehicle by the end of the year for key improvements. One option being considered is the creation of a special financing entity called the East Midtown Infrastructure Corporation that would finance specific projects in anticipation of future DIB revenues. This would be similar to the Hudson Yards Infrastructure Corporation which was used to fund the subway and other infrastructure construction there. In order to facilitate this option, the Commission modifies the proposal to require assignment of DIB revenues to the special purpose financing entity for East Midtown, should it be created, to support the financing of these improvements.

The Commission understands that the amount of the advanced funding and the determination of which improvements would be funded are matters that will need to be addressed by the Office of the Mayor and the City Council during the Council's review period of the proposal. However,

the Commission strongly recommends that the Lexington Line station at Grand Central-42nd Street be the main focus of early funding, given the significant need for improvements at that location and the major benefits they would provide to the public.

The DIF Committee Membership and Rules

While the early funding described above will allow for the construction of some of the key priority improvements in the area before development occurs, the Commission believes it is critical that the Committee established to administer the DIF and the process used to identify priority improvements are structured to best ensure that improvements will be implemented over time.

The proposal provides that the Committee would have five members appointed by the Mayor, including the Director of the Department. The Commission heard a great deal of testimony about the need for broader representation on the Committee and agrees this is warranted. However, the Commission believes it best for the City Council to determine the appropriate mix of the non-Mayoral members. The Commission is, however, modifying the text to include one additional member – the Chairman of the MTA – as a non-voting member. A great deal of testimony was focused on the role of the MTA in relation to the Committee and the Commission agrees that the agency should have representation; however, since the MTA would be the recipient of much of the funding, the role should be one of a non-voting member. While, as noted above, the Commission believes it appropriate for the Council to determine the mix of non-Mayoral members of the Committee, it is important that a majority of the members be appointed by the Mayor. The DIF mechanism is fundamentally a zoning-based capital program for East Midtown, and the complex issues that will arise regarding cost-estimation, design, engineering, funding, and implementation require the strong involvement of Mayoral agencies and representatives of the Office of the Mayor with expertise in these areas.

In reviewing the provisions of the structure governing the identification, prioritization, and funding of improvements, the Commission believes that the text should provide greater guidance and a clearer procedural framework to help ensure that improvements will be developed through the Fund. The Commission therefore modifies the requirements of the Committee in a number of

ways that it believes will lead to a better outcome over time. These modifications are intended to: ensure that the discussions about needed improvements that have occurred during the public review of the Subdistrict will be given weight in future determinations, while permitting flexibility as new issues and opportunities arise; give the public a greater role in the determination of priorities; and ensure a more predictable process.

First, the Commission believes the initial structure - while giving the Committee broad authority to select, prioritize and fund improvements – is unrealistic in its expectation that a part-time Committee can develop a capital program from scratch. The modifications adopted herein recognize that, in order for the process to function effectively, the Committee should be presented with a draft Priority Improvement List (the “List”) based on consultation among the affected agencies that will take into account changes since the work done during the current public review process, the later identification of new improvements, and budget, engineering and other concerns. The Committee would then conduct a public hearing regarding the draft List and, taking into account public comment received, would then approve, modify or disapprove the draft List. Similar procedures would be followed for modification of the initial List and the adoption of an annual allocation plan for funding of the improvements. This approach reinforces the policymaking role of the Committee, while recognizing that the affected agencies are best suited to develop an initial plan for the improvements. To facilitate this process, the Commission has incorporated a list of specific projects reviewed by the Commission during the current public review process into Appendix B of this Report, and modified the text to require consideration of this list as the draft List is developed.

Second, the Commission is modifying the text herein to set forth a series of goals that all improvements must meet in one or more ways. The goals are divided between those relating to below- and above-grade improvements. The goals for the below-grade improvements relate to, among other things, increasing connectivity between the different elements of each of the various stations. The goals for the above-grade improvements reflect those which have been identified through the public realm vision process for the above-grade pedestrian realm, such as creating opportunities to green the area with trees, planting and foliage. In adopting a Priority

Improvements List, the Committee would be required to find that all the improvements on the List satisfy one or more of the goals.

Related to this, the Commission believes it important that in developing the Priority Improvements List, priority be given to improvements which would address conditions on the Lexington subway line, as well as those which would serve to mitigate or avoid transit, traffic or pedestrian impacts. Accordingly, in adopting the list the Committee would likewise have to find that it reflects these priority areas. Additional modifications govern the stage of project readiness which must be reached before fund expenditures may be made in order to ensure that a project's scope, costs and timeline are well understood before DIF monies are expended.

Finally, the Borough President made a series of recommendations regarding the need for a public hearing as part of any approval or amendment of the List and for additional public reporting of their activities. As discussed above, public hearings are now incorporated into the determinations of the Committee. Additionally, the Commission supports the recommendations to provide the public more information regarding the DIF process, including requirements for an annual report, and therefore modifies the text to incorporate them.

With these changes, the Commission believes the DIF will be an effective mechanism to fund improvement projects in East Midtown and that the pedestrian infrastructure needs of the area above- and below-grade will be met through the proposal over time.

Zoning Map Amendment

The proposal also includes a zoning map amendment to replace the C5-2 designation for portions of the block located between East 42nd and East 43rd streets, and Second and Third Avenues, with C5-3 and C5-2.5 districts mapped within the Special Midtown District, and to incorporate this block into the East Midtown Subdistrict.

The Commission believes this map change is appropriate. The entirety of the block is commercial in character with a number of existing older office buildings built to the proposed the C5-3 and C5-2.5 densities. The Special Midtown District generally follows the boundaries of

Midtown's commercial areas and thus this area would more appropriately be located in the District, and as part of the Subdistrict where the DIB would be available for Qualifying Sites. In addition, the District's regulations, including height and setback and streetscape requirements would apply. These regulations are tailored to meet the needs and effects of high-density commercial construction better than the generic C5-2 regulations that now apply.

Concluding Comments

The Commission believes that this application, as modified herein, represents a thoughtful and well-considered approach to addressing the long term challenges of East Midtown. This critical and timely zoning proposal has been undertaken to ensure that the district maintains its vital role in support of the city's economy. The participation of the Community Boards, Borough President, the Borough Board, Councilmembers, civic organizations, property owners, and the public at large has facilitated an expansive and detailed consideration of this application to create the East Midtown Subdistrict. Many recommendations made by participants in the public review process were incorporated into the modifications to the certified application, and are also reflected in modifications made by Commission herein. The Commission believes that the comments and recommendations received prior to and during the review process have contributed to further the goal of the East Midtown Subdistrict and results in a stronger plan.

The Commission believes that the East Midtown Subdistrict will usher in the next generation of state-of-the-art office buildings, coupled with improvements to the public realm—thereby ensuring that East Midtown maintains its position of one of the best business addresses in world.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on September 20, 2013, with respect to this application (CEQR No. 13DCP011M), and the Technical Memorandum, dated September 27, 2013, the City

Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

2. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations for Hazardous Materials, Air Quality, and Noise, as well as through the provisions of Sections 81-624 and 81-691(a)(3) of the Zoning Resolution, which form part of the action

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, 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 to be deleted;

Matter with # # is defined in Section 12-10;

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

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**Chapter 1
Special Midtown District**

**81-00
GENERAL PURPOSES**

The "Special Midtown District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to strengthen the business core of Midtown Manhattan by improving the working and living environments;
- (b) to stabilize development in Midtown Manhattan and provide direction and incentives for further growth where appropriate;
- (c) to control the impact of buildings on the access of light and air to the streets and avenues of Midtown;
- (d) to link future Midtown growth and development to improved pedestrian circulation, improved pedestrian access to rapid transit facilities, and avoidance of conflicts with vehicular traffic;
- (e) to preserve the historic architectural character of development along certain streets and avenues and the pedestrian orientation of ground floor uses, and thus safeguard the quality that makes Midtown vital;
- (f) to continue the historic pattern of relatively low building bulk in midblock locations compared to avenue frontages;
- (g) to improve the quality of new development in Midtown by fostering the provision of specified public amenities in appropriate locations;
- (h) to preserve, protect and enhance the character of the Theater Subdistrict as the location of the world's foremost concentration of legitimate theaters and an area of diverse uses of a primarily entertainment and entertainment-related nature;
- (i) to strengthen and enhance the character of the Eighth Avenue Corridor and its relationship with the rest of the Theater Subdistrict and with the Special Clinton District;
- (j) to create and provide a transition between the Theater Subdistrict and the lower-scale Clinton community to the west;
- (k) to preserve, protect and enhance the scale and character of Times Square, the heart of New York City's entertainment district, and the Core of the Theater Subdistrict, which are

characterized by a unique combination of building scale, large illuminated signs and entertainment and entertainment-related uses;

- (l) to preserve, protect and enhance the character of Fifth Avenue as the showcase of New York and national retail shopping;
- (m) to preserve the midblock area north of the Museum of Modern Art for its special contribution to the historic continuity, function and ambience of Midtown;
- (n) to protect and strengthen the economic vitality and competitiveness of the East Midtown Subdistrict by facilitating the development of exceptional modern and sustainable office towers and enabling improvements to the above and below grade pedestrian network;
- (o) to protect and strengthen the role of iconic landmark buildings as important features of the East Midtown Subdistrict;
- (p)(n) to protect and enhance the role of Grand Central Terminal as a major transportation hub within the City and in East Midtown, to expand and enhance the pedestrian circulation network connecting Grand Central Terminal to surrounding development, to minimize pedestrian congestion and to protect the surrounding area's special character;
- (q)(o) to expand the retail, entertainment and commercial character of the area around Pennsylvania Station and to enhance its role as a major transportation hub in the city;
- (r)(p) to provide freedom of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms without the need for special development permissions or "negotiated zoning"; and
- (s)(q) to promote the most desirable use of land and building development in accordance with the District Plan for Midtown and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

81-01

Definitions

For purposes of this Chapter, matter in italics is defined in Sections 12-10, 81-261, ~~or~~ 81-271 or Section 81-612 (Definitions).

* * *

81-03 District Plan

The regulations of this Chapter are designed to implement the #Special Midtown District# Plan.

The District Plan partly consists of the following ~~four~~five maps:

- Map 1 Special Midtown District and Subdistricts
- Map 2 Retail and Street Wall Continuity
- Map 3 Subway Station and Rail Mass Transit Facility Improvement Areas
- Map 4 East Midtown Subareas and Subarea Cores ~~Network of Pedestrian
Circulation.~~
- Map 5 Applicability of special permit for superior development

The maps are located in Appendix A of this Chapter and are hereby incorporated and made a part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements set forth in the text of this Chapter apply.

81-04 Subdistricts and Subareas

In order to carry out the purposes and provisions of this Chapter, five special Subdistricts are established within the #Special Midtown District#. In each of these Subdistricts certain special regulations apply which do not apply in the remainder of the #Special Midtown District#. The Subdistricts are outlined on Map 1 (Special Midtown District and Subdistricts) in Appendix A.

The Subdistricts, together with the Sections of this Chapter specially applying to each, are as follows:

Subdistricts	Sections Having Special Application
Penn Center Subdistrict	81-50
<u>East Midtown-Grand Central</u> Subdistrict	81-60
Theater Subdistrict	81-70
Fifth Avenue Subdistrict	81-80
Preservation Subdistrict	81-90

The Subdistricts are also subject to all other regulations of the #Special Midtown District# and, where applicable pursuant to Section 81-023, the #Special Clinton District# and the underlying districts, except as otherwise specifically provided in the Subdistrict regulations themselves.

Within the East Midtown Subdistrict, certain special regulations apply to Subareas which do not apply within the remainder of the Subdistrict. Such Subareas are established, as follows:

Grand Central Subarea

Northern Subarea.

These Subareas are shown on Map 4 (East Midtown Subareas and Subarea Cores) in Appendix A of this Chapter.

* * *

81-067

Modification of provisions for minimum base height and street wall location in Historic Districts

Within the Special Midtown District, for any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, any applicable provisions relating to minimum base height and #street wall# location requirements as modified in Sections 81-43

(Street Wall Continuity Along Designated Streets), 81-66 (Special Street Wall Requirements) ~~81-621 (Special street wall requirements)~~ pertaining to the East Midtown Grand Central Subdistrict, 81-75 (Special Street Wall and Setback Requirements) pertaining to the Theater Subdistrict, 81-83 (Special Street Wall Requirements) pertaining to the Fifth Avenue Subdistrict, and 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT) pertaining to mandatory #street walls# may be modified pursuant to Sections 23-633 (Street wall location and height and setback regulations in certain districts) and 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts).

* * *

81-20

BULK REGULATIONS

81-21

Floor Area Ratio Regulations

The #floor area ratio# regulations of the underlying districts are modified in accordance with the provisions of this Section or Section 81-241 (Maximum floor area ratios for a residential building or the residential portion of a mixed building). However, the provisions of Sections 81-211 (Maximum floor area ratio for non-residential or mixed buildings) shall not apply in the East Midtown Subdistrict, where the special #floor area# provisions of Section 81-62 (Special Floor Area Provisions for Qualifying Sites) and 81-64 (Special Floor Area Provisions for All Other Sites) shall apply, as applicable.

81-211

Maximum floor area ratio for non-residential or mixed buildings

- (a) For #non-residential buildings# or #mixed buildings#, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section.
- (b) In the #Special Midtown District#, the basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

MAXIMUM FLOOR AREA ALLOWANCES FOR SPECIFIED FEATURES
AND MAXIMUM FLOOR AREA RATIOS BY DISTRICTS

Means for Achieving Permitted FAR Levels on a #Zoning Lot#	Maximum #Floor Area Ratio# (FAR)						
	Outside the Grand Central Subdistrict					Grand Central Subdistrict	
			C5-2.5				
	C6-4	C6-5	C6-4.5		C5-3		
		M1-6	C6-5.5		C6-6		C5-3
	C5P		C6-6.5	C6-7T	C6-7	C5-2.5	C6-6

A. Basic Maximum FAR

8.0 10.0 12.0 14.0 15.0 ~~12.0~~ ~~15.0~~

B. Maximum As-of-Right #Floor Area# Allowances:(District-wide Incentives), #Public plaza# (Section 81-23)

--- 1.0^{1,2} 1.0^{1,3} --- 1.0² --- ---

C. Maximum Total FAR with As-of-Right Incentives

8.0 11.0^{1,2,7,8} 13.0^{1,3} 14.0 16.0 ~~12.0~~ ~~15.0~~

D. Maximum Special Permit #Floor Area# Allowances:(District-wide Incentives), Subway station improvement (Section 74-634)

--- 2.0^{1,6,7} 2.4¹ --- 3.0 ~~2.4~~ ~~3.0~~

E. Maximum Total FAR with District-wide and As-of-Right Incentives

	8.0	12.0	14.4	14.0	18.0	14.4	18.0
F.	Maximum Special Permit #Floor Area# Allowances in Penn Center Subdistrict: Mass Transit Facility Improvement (Section 74-634)						
	---	2.0	---	---	3.0	---	---
G.	Maximum Total FAR with As-of-Right, District-wide and Penn Center Subdistrict Incentives:						
	---	12.0	---	---	18.0	---	---
H.	Maximum As-of-Right #Floor Area# Allowances in Theater Subdistrict:						
	Development rights (FAR) of a "granting site" (Section 81-744)						
	---	10.0	12.0	14.0	15.0	---	---
	Maximum amount of transferable development rights (FAR) from "granting sites" that may be utilized on a "receiving site" (Section 81-744(a))						
	---	2.0	2.4	2.8	3.0	---	---
	Inclusionary Housing (Sections 23-90 and 81-22)						
	---	2.0 ⁴	---	---	---	---	---
I.	Maximum Total FAR with As-of-Right #Floor Area# Allowances in Theater Subdistrict						
	---	12.0	14.4	16.8	18.0	---	---
J.	Maximum #Floor Area# Allowances by Authorization in Eighth Avenue Corridor (Section 81-744(b))						
	---	2.4	---	---	---	---	---

K. Maximum Total FAR with As-of-Right and Theater Subdistrict Authorizations

---	14.4	14.4	16.8	18.0	—	—
-----	------	------	------	------	---	---

L. Maximum Special Permit #Floor Area# Allowances in Theater Subdistrict:

Rehabilitation of "listed theaters" (Section 81-745)

---	4.4	2.4	2.8	3.0	—	—
-----	-----	-----	-----	-----	---	---

M. Maximum Total FAR with Theater Subdistrict, District-wide and As-of-Right Incentives

8.0	14.4	14.4	16.8	18.0	—	—
-----	------	------	------	------	---	---

N. Maximum FAR of Lots Involving Landmarks:

Maximum FAR of a lot containing non-bonusable landmark (Section 74-711 or as-of-right)

8.0	10.0	12.0	14.0	15.0	12.0	15.0
-----	------	------	------	------	-----------------	-----------------

Development rights (FAR) of a landmark lot for transfer purposes (Section 74-79)

8.0	10.0	13.0 ⁵	14.0	16.0	12.0	15.0
-----	------	-------------------	------	------	-----------------	-----------------

Maximum amount of transferable development rights (FAR) from landmark #zoning lot# that may be utilized on:

(a) — an "adjacent lot" (Section 74-79)

1.6	2.0	2.4	No Limit	No Limit	2.4	No Limit
-----	-----	-----	----------	----------	-----	----------

(b) — a "receiving lot" (Section 81-634)

---	---	---	---	---	1.0	1.0
-----	-----	-----	-----	-----	-----	-----

~~(c) a "receiving lot" (Section 81-635)~~

---	---	---	---	---	9.6	6.6
-----	-----	-----	-----	-----	-----	-----

O. Maximum Total FAR of a Lot with Transferred Development Rights from Landmark #Zoning Lot#, Theater Subdistrict Incentives, District-wide Incentives and As-of-Right Incentives

9.6	14.4	14.4	No Limit	No Limit	21.6	No ⁶ Limit
-----	------	------	----------	-------------	------	--------------------------

-
- ¹ Not available for #zoning lots# located wholly within Theater Subdistrict Core
 - ² Not available within the Eighth Avenue Corridor
 - ³ Not available within 100 feet of a #wide street# in C5-2.5 Districts
 - ⁴ Applicable only within that portion of the Theater Subdistrict also located within the #Special Clinton District#
 - ⁵ 12.0 in portion of C6-5.5 District within the Theater Subdistrict Core
 - ~~⁶ Limited to 21.6 FAR on a "receiving lot" pursuant to Section 81-635 in the Grand Central Subdistrict~~
 - ~~⁶⁷ Not available on west side of Eighth Avenue within the Eighth Avenue Corridor~~
 - ⁷⁸ 12.0 for #zoning lots# with full #block# frontage on Seventh Avenue and frontage on West 34th Street, pursuant to Section 81-542 (Retention of floor area bonus for plazas or other public amenities)

81-212

Special provisions for transfer of development rights from landmark sites

The provisions of Section 74-79 (Transfer of Development Rights from Landmark Sites) shall apply in the #Special Midtown District#, subject to the modification set forth in this Section and Sections 81-254, 81-266 and 81-277 pertaining to special permits for height and setback modifications, Section 81-747 (Transfer of development rights from landmark theaters) and Section 81-85 (Transfer of Development Rights from Landmark Sites).

The provisions of Section 74-79 pertaining to the meaning of the term "adjacent lot" in the case of lots located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts are modified to apply in the #Special Midtown District# where the "adjacent lot" is in a C5-3, C6-6, C6-7, C6-5.5, C6-6.5 or C6-7T District.

The provisions of paragraph (c) of Section 74-792 as applied in the #Special Midtown District# shall be subject to the restrictions set forth in the table in Section 81-211 on the development rights (FAR) of a landmark "granting lot" for transfer purposes.

Wherever there is an inconsistency between any provision in Section 74-79 and the table in Section 81-211, the table in Section 81-211 shall apply.

Within the East Midtown Subdistrict, ~~Grand Central Subdistrict~~, any transfer of development rights from a landmark site may be made pursuant to either Section 74-79, or Section 81-65 (Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites) ~~Section 81-63 (Transfer of Development Rights from Landmark Sites)~~, but not both.

For #developments# or #enlargements# in C5-3, C6-6, C6-7 and C6-7T Districts, the City Planning Commission may also modify or waive the requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) and requirements governing the minimum dimensions of a #court#, where:

- (a) the required minimum distance as set forth in Section 23-86 is provided between the #legally required windows# in the #development# or #enlargement# and a wall or #lot line# on an adjacent #zoning lot# occupied by the landmark; and
- (b) such required minimum distance is provided by a light and air easement on the #zoning lot# occupied by the landmark #building or other structure#, and such easement is acceptable to the Department of City Planning and recorded in the County Clerk's office of the county in which such tracts of land are located.

For #developments# or #enlargements#, on #zoning lots# located in C5-3, C6-6, C6-7 and C6-7T Districts and with frontage on #streets# on which curb cuts are restricted, pursuant to Section 81-44, the Commission may also modify or waive the number of loading berths required pursuant to Section 36-62. In granting such special permit, the Commission shall find that:

- (1) a loading berth permitted by Commission authorization, pursuant to Section 81-44, would have an adverse impact on the landmark #building or other structure# that is the subject of the special permit;
- (2) because of existing #buildings# on the #zoning lot#, there is no other feasible location for the required loading berths; and
- (3) the modification or waiver will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement. For #developments# or #enlargements#, on #zoning lots# located in C5-3, C6-6, C6-7 and C6-7T Districts, the Commission may also modify the dimensions and minimum clear height required for pedestrian circulation space, pursuant to Sections 37-50 and 81-45. In granting such special permit, the Commission shall find that the modification will result in a distribution of #bulk# and arrangement of #uses# on the #zoning lot# that relate more harmoniously with the landmark #building or other structure# that is the subject of the special permit.

81-23

Floor Area Bonus for Public Plazas

Within the #Special Midtown District#, for each square foot of #public plaza# provided on a #zoning lot#, the basic maximum #floor area# permitted on that #zoning lot# under the provisions of Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings) may be increased by six square feet, provided that in no case shall such bonus #floor area# exceed a #floor area ratio# of 1.0.

This Section shall be applicable in all underlying districts throughout the #Special Midtown District#, except that there shall be no #floor area# bonus for a #public plaza# that is:

- (a) on #zoning lots# in the C5P District within the Preservation Subdistrict;

- (b) within 50 feet of a #street line# of a designated #street# on which retail or #street wall# continuity is required, pursuant to Sections 81-42 (Retail Continuity Along Designated Streets) or 81-43 (Street Wall Continuity Along Designated Streets);
- (c) on a #zoning lot#, any portion of which is within the Theater Subdistrict Core, as defined in Section 81-71 (General Provisions); and
- (d) on #zoning lots#, any portion of which is within the Grand Central Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subareas and Subarea Cores) in Appendix A of this Chapter, or on #qualifying sites# in the East Midtown Subdistrict, as defined in Section 81-612 (Definitions) on #zoning lots#, any portion of which is in the Grand Central Subdistrict.

All #public plazas# provided within the #Special Midtown District# shall comply with the requirements for #public plazas# set forth in Section 37-70, inclusive.

A major portion of a #public plaza# may overlap with a sidewalk widening which may be provided to fulfill the minimum pedestrian circulation space requirements set forth in Section 81-45 (Pedestrian Circulation Space), provided that the overlapping portion of the #public plaza# also conforms to the design standards of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE) for a sidewalk widening. Such sidewalk widening may be included in the major portion of a #public plaza# for purposes of calculating the proportional restrictions set forth in Section 37-715.

* * *

81-253

Special provisions for the East Midtown Grand Central, Theater, Fifth Avenue, Penn Center and Preservation Subdistricts

The provisions of Sections 81-26 (Height and Setback Regulations) and 81-27 (Alternate Height and Setback Regulations) are supplemented and modified by special provisions applying in the Fifth Avenue Subdistrict, as set forth in Sections 81-81 (General Provisions) and 81-83 (Special Street Wall Requirements) or in the Theater Subdistrict as set forth in Sections 81-71 (General Provisions) and 81-75 (Special Street Wall and Setback Requirements) or in the East Midtown Grand Central Subdistrict as set forth in Sections 81-61 (General Provisions), 81-66 (Special Street Wall Requirements) ~~81-621 (Special street wall requirements)~~ and 81-67 (Special Height and Setback Requirements) ~~81-622 (Special height and setback requirements)~~.

The provisions of Sections 81-26 and 81-27 are not applicable in the Preservation Subdistrict, where height and setback is regulated by the provisions of Section 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT), or in the Penn Center Subdistrict as set forth in Section 81-532 (Special street wall requirements).

81-254

Special permit for height and setback modifications

In the #Special Midtown District#, the City Planning Commission may modify the special height and setback regulations set forth in this Chapter only in accordance with the following provisions:

- | | |
|---------------------------|---|
| Section 74-711 | (Landmark preservation in all districts) as modified by the provisions of Sections 81-266 or 81-277 (Special permit for height and setback modifications) |
| Section 74-79 | (Transfer of Development Rights from Landmark Sites) where development rights are transferred from a landmark site to an adjacent lot in a C5-3, C6-6 or C6-7 District, as modified by Section 81-212, and the total #floor area# on the adjacent lot resulting from such transfer exceeds the basic maximum #floor area ratio# by more than 20 percent. In such cases, the granting of a special permit by the Commission for height and setback modifications shall be in accordance with the provisions of Sections 81-266 or 81-277 |
| Section 81-066 | (Special permit modifications of Section 81-254, Section 81-40 and certain Sections of Article VII, Chapter 7) |
| <u>Section 81-633</u> | <u>(Special permit for superior developments)</u> |
| <u>Section 81-652</u> | <u>(Transfer of development rights from landmarks by special permit in the Grand Central Subarea)</u> |
| Section 81-635 | (Transfer of development rights by special permit). |

* * *

[Sections 81-60 through 81-635 are to be deleted and re-written as new text, as follows.]

81-60

SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT

81-61

General Provisions

Special regulations are set forth in this Section in order to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers and enabling improvements to the above and below grade pedestrian circulation network; protecting and strengthening the role of iconic landmark buildings as important features of East Midtown; protecting and enhancing the role of Grand Central Terminal as a major transportation hub within the City and in East Midtown; expanding and enhancing the pedestrian circulation network connecting the Terminal to surrounding development and minimizing pedestrian congestion; and protecting the surrounding area's special character. Such regulations establish special provisions governing maximum floor area, sustainability, urban design and streetscape enhancements, the transfer of development rights from landmarks, and the improvement of the surface and subsurface pedestrian circulation network in the East Midtown Subdistrict.

The regulations of Sections 81-60 (SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT), inclusive, are applicable only in the East Midtown Subdistrict, the boundaries of which are shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A. These regulations supplement or modify the provisions of this Chapter applying generally to the #Special Midtown District#, of which this Subdistrict is a part.

81-611

Applicability of regulations

All #developments# in the East Midtown Subdistrict on #qualifying sites# shall utilize the #floor area# provisions of Section 81-62 (Special Floor Area Provisions for Qualifying Sites). No foundation permit or new building permit for a #building# on a #qualifying site# with a #lot area# greater than or equal to 30,000 square feet shall be issued by the Department of Buildings prior to July 1, 2017 and no certificate of occupancy for such #building# on a #qualifying site#

shall be issued until the Department of Buildings determines such #building# is compliant with applicable provisions of Section 81-62.

In the Northern Subarea, provisions allowing the transfer of development rights from #landmark buildings or other structures# to #receiving lots# as set forth in Section 81-622 (Transfer of development rights from landmarks to qualifying sites) and Section 81-633 (Special permit for superior developments), shall not be effective until January 1, 2019.

All #developments# and #enlargements# on #zoning lots# other than #qualifying sites# shall utilize the #floor area# provisions of Section 81-64 (Special Floor Area Provisions for All Other Sites).

#Zoning lots# existing on (date of adoption) with more than 50 percent of their #lot area# within the boundaries of the East Midtown Subdistrict shall be deemed to be entirely within the Subdistrict. In addition, #zoning lots# with #landmark buildings or other structures# with more than 50 percent of their #lot area# in the Special Midtown District which #abut# the East Midtown Subdistrict boundary, may be considered as part of the Subdistrict, and the associated Subarea therein, for the purposes of transferring development rights pursuant to the applicable provisions of Sections 81-62 or 81-64. However, the maximum amount of #floor area# that may be transferred from a #granting lot#, or portion thereof, located outside the Special Midtown District shall be the maximum #floor area ratio# permitted under the applicable underlying zoning district. For #zoning lots# divided by zoning district, or Subarea boundaries, the applicable provisions of Article 7, Chapter 7 shall apply.

81-612

Definitions

Adjacent lot

For the purposes of Section 81-60, inclusive, an "adjacent lot" is:

- (a) a #zoning lot# that is contiguous to the lot occupied by the designated #landmark building or other structure# or one that is across a #street# and opposite to the lot occupied by such designated #landmark building or other structure#, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by such #landmark building or other structure#; and
- (b) in the case of lots located in C5-3 or C6-6 Districts, a lot contiguous or across a #street# and opposite to another lot or lots that except for the intervention of #streets# or #street#

intersections, form a series extending to the lot occupied by such designated #landmark building or other structure#. All such lots shall be in the same ownership (fee ownership or ownership as defined under #zoning lot# in Section 12-10 (DEFINITIONS).

East Midtown District Improvement Fund

For the purposes of Section 81-60, inclusive, the “East Midtown District Improvement Fund” (the “Fund”) shall be a separate account established for the deposit of contributions made when #developments# on sites in the East Midtown Subdistrict utilizing the provisions of either Sections 81-614 (Special provisions for retaining non-complying floor area) or 81-62 (Special Floor Area provisions for Qualifying Sites) are planned to exceed the basic maximum #floor area ratio#.

In the event an East Midtown Infrastructure Corporation (the “Corporation”) is established in order to undertake financing for the purpose of funding district improvements in the East Midtown Subdistrict, the “Fund” shall be an account of the “Corporation” and shall be owned for all purposes by the “Corporation” and may be used for any corporate purposes of the “Corporation”, including its pledge, assignment or sale in furtherance of any financing by the “Corporation” in support of district improvements in the East Midtown Subdistrict. The “Corporation”, as owner for all purposes of the “Fund”, will manage the “Fund” in furtherance of the purposes of the “Corporation”.

Upon the repayment or other satisfaction of any such financing of the “Corporation”, the “Fund” shall be utilized, subject to the provisions of 81-691 (The East Midtown District Improvement Fund Committee), to implement improvements to the East Midtown Subdistrict, pursuant to the provisions of such Section.

East Midtown District Improvement Fund Committee

For the purposes of Section 81-60, inclusive, the “East Midtown District Improvement Fund Committee” (the “Committee”) shall be established to administer the #East Midtown District Improvement Fund# (the “Fund”), pursuant to the provisions set forth in Section 81-691 (The East Midtown District Improvement Fund Committee). The “Committee” shall consist of six members: one member shall be the Director of the Department of City Planning; four members shall be appointed by and serve at the pleasure of the Mayor; and one member shall be the Chairman of the Metropolitan Transportation Authority or his or her designee, who shall be non-voting.

East Midtown District Improvement Fund Contribution Rate

For the purposes of Section 81-60, inclusive, the “East Midtown District Improvement Fund Contribution Rate” (“Contribution Rate”) shall refer to the rate which is in effect at the time the contribution is received. As of (date of the adoption), the “Contribution Rate” shall be set at \$360 per square foot of #residential floor area#, and \$250 per square foot of #non-residential floor area#., Such “Contribution Rate” shall be adjusted only in accordance with the provisions of Section 81-692 (The East Midtown District Improvement Fund Contribution Rate). Any #residential floor area# in the #building#, up to the total amount of #floor area# in the #building# in excess of the basic maximum #floor area# established in Row A of the table in Section 81-62 (Special Floor Area Provisions for Qualifying Sites), shall be included in determining such #building’s# “Contribution Rate”. #Non-complying floor area# in #commercial building# constructed prior to December 15, 1961 may be reconstructed pursuant to the provisions of Section 81-614 (Special provisions for retaining non-complying floor area) at 50 percent of such #building’s# “Contribution Rate”.

The “Contribution Rate” for #mixed buildings# shall be determined as follows:

Step 1: The percentage that the amount of #residential floor area# in the #building# constitutes in relation to the amount of #floor area# in the #building# in excess of the basic maximum #floor area ratio# established in Row A of the table in Section 81-62 shall be multiplied by the “Contribution Rate” for #residential use#.

Step 2: Subtract the amount of #residential floor area ratio# in the #building# from the amount of #floor area ratio# in the #building# in excess of such basic maximum #floor area ratio#. The percentage that such difference constitutes of the amount of #floor area# in the #building# in excess of such basic maximum #floor area# shall be multiplied by the “Contribution Rate” for #non-residential uses#.

Step 3: Add the products obtained in the calculations in Step 1 and 2 to determine the adjusted “Contribution Rate” for such #mixed building#.

Step 4: The “Contribution Rate” for any #non-complying floor area# reconstructed pursuant to Section 81-614 would be 50 percent of such adjusted rate.

Illustrative Examples

The following examples, although not part of the Zoning Resolution, are included to demonstrate the application of the adjusted “Contribution Rate” to mixed buildings#.

Example 1:

A mixed building# being developed# on a qualifying site# has a lot area# of 25,000 square feet, a basic maximum floor area ratio# of 15.0, and a proposed floor area ratio# of 21.6. Twenty percent of the total floor area ratio# is proposed to be comprised of residential use#.

Step 1: The percentage that the amount of residential floor area# in the building# constitutes in relation to the amount of floor area# in the building# in excess of the basic maximum floor area ratio# established in Row A of the table in Section 81-62 is 65.45 percent (4.32 is 20 percent of the building’s floor area ratio#, and constitutes 65.45 percent of the 6.6 floor area ratio# proposed above 15.0). Multiplying this percentage by the residential Contribution Rate#, one obtains the product of \$235.62 per square foot (.6545 x \$360 per square foot).

Step 2: Subtract the amount of residential floor area ratio# in the building# from the amount of floor area ratio# in the building# in excess of such basic maximum floor area ratio# to obtain a floor area ratio# of 2.28 (6.6 floor area ratio# - 4.32 residential floor area ratio#). The percentage that such difference constitutes of the amount of floor area# in the building# in excess of such basic maximum floor area ratio# is 34.55 percent (2.28 is 34.55 percent of 6.6). Such percentage is multiplied by the non-residential Contribution Rate# to obtain the product of \$86.38 per square foot (.3455 x \$250 per square foot).

Step 3: The sum of products obtained in the calculations in Step 1 and 2 determine the adjusted “Contribution Rate” for the mixed building#, at \$322 per square foot (\$235.62 per square foot + \$86.38 per square foot).

If the building# achieved all 6.6 of the floor area ratio# in excess of the basic maximum floor area ratio# through contributions to the East Midtown District Improvement Fund#, pursuant to Section 81-621 (District improvement bonus for qualifying sites), the contribution amount for such mixed building# would be \$53,130,000 (6.6 x 25,000 square feet x \$322 per square foot)

Example 2:

A #mixed building# being #developed# on a #qualifying site# has a #lot area# of 25,000 square feet, a basic maximum #floor area ratio# of 15.0 and a proposed #floor area ratio# of 24.0. Prior to #development#, a #non-complying commercial building# with a #non-complying floor area ratio# of 18.0 was demolished. A #floor area ratio# of 3.0 is eligible to be reconstructed at a reduced “Contribution Rate” pursuant to Section 81-614. Fifteen percent of the total #floor area ratio# is proposed to be comprised of #residential uses#.

Step 1: The percentage that the amount of #residential floor area# in the #building# constitutes in relation to the amount of #floor area# in the #building# in excess of the basic maximum #floor area ratio# established in Row A of the table in Section 81-62 is 40 percent (3.6 is 15 percent of the #building’s floor area ratio#, and constitutes 40 percent of the 9.0 #floor area ratio# proposed above 15.0). Multiplying this percentage by the #residential Contribution Rate#, one obtains the product of \$144 per square foot (.4 x \$360 per square foot).

Step 2: Subtract the amount of #residential floor area ratio# in the #building# from the amount of #floor area ratio# in the #building# in excess of such basic maximum #floor area ratio# to obtain a #floor area ratio# of 5.4 (9.0 #floor area ratio# - 3.6 #residential floor area ratio#). The percentage that such difference constitutes of the amount of #floor area# in the #building# in excess of such basic maximum #floor area ratio# is 60 percent (5.4 is 60 percent of 9.0). Such percentage is multiplied by the #non-residential Contribution Rate# to obtain the product of \$150 per square foot (.6 x \$250 per square foot).

Step 3: The sum of these two products will determine the adjusted “Contribution Rate” for the #mixed building#, at \$294 per square foot (\$144 per square foot + \$150 per square foot).

Step 4: The “Contribution Rate” for the reconstructed #non-complying floor area# would be 50 percent of such adjusted rate, or \$147 per square foot.

If the #building# achieved 5.0 of the #floor area ratio# in excess of the basic maximum #floor area ratio# through contributions to the #East Midtown District Improvement Fund#, pursuant to Section 81-621, and of such 5.0, a #floor area ratio# of 3.0 was achieved utilizing the reduced “Contribution Rate” for #non-complying floor area#, pursuant to Section 81-614, the contribution amount for such #building# would be \$25,725,000 (2.0 x 25,000 square feet x \$294 per square foot + 3.0 x 25,000 square feet x \$147 per square foot)

Granting lot

For the purposes of Section 81-60, inclusive, a “granting lot” shall mean a #zoning lot# which contains a #landmark building or other structure#. Such “granting lot” may transfer development rights pursuant to Sections 81-622 (Transfer of development rights from landmarks to qualifying sites), 81-633 (Special permit for superior developments) or 81-65 (Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites).

If the landmark designation is removed from the #landmark building or other structure#, the #landmark building or other structure# is destroyed or #enlarged#, or the #zoning lot# with the #landmark building or structure# is redeveloped, the #granting lot# may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer.

Landmark #building or other structure#

For the purposes of Section 81-60, inclusive, a "landmark #building or other structure#" shall include any structure designated as a landmark pursuant to the New York City Charter, but shall not include those portions of #zoning lots# used for cemetery purposes, statues, monuments or bridges. No transfer of development rights is permitted pursuant to this Section from those portions of #zoning lots# used for cemetery purposes, or any structures within historic districts, statues, monuments or bridges.

Minimum Clear Site

For the purposes of Section 81-60, inclusive, a “minimum clear site” shall refer to the applicable #lot area#, #lot width# and #lot depth# of a #zoning lot#, or portion thereof, required in paragraphs (a) or (b), as well as the clearance requirement of paragraph (c) of this definition:

- (a) for #qualifying sites# to be #developed# pursuant to the provisions of 81-62 (Special Floor Area Provisions for Qualifying Sites), such #zoning lot# shall:
 - (1) have a minimum #lot area# of 25,000 square feet for #buildings developed# with a #floor area ratio# beyond the basic maximum #floor area ratio# set forth in Row A of the table in Section 81-62 (Special Floor Area Provisions for Qualifying Sites); or a minimum #lot area# of 40,000 square feet for #buildings developed# pursuant to the special permit provisions of Section 81-633 (Special permit for superior developments) in the Grand Central Subarea Core of the Grand Central Subarea, as shown on Map 4 (East Midtown Subareas and Subarea Cores) in Appendix A of this Chapter; and

- (2) have a #lot width# which extends along the entire #wide street block# frontage, or continuously for at least 200 feet of #wide street block# frontage, whichever is less. Such #lot width# shall extend continuously to a depth of at least 100 feet, as measured perpendicular to the #street line#.
- (b) for non-#qualifying sites# where the reconstruction #non-complying floor area# is proposed pursuant to the provisions of Section 81-614 (Special provisions for retaining non-complying floor area), such #zoning lot# shall have frontage along a #wide street# and a #lot area# of at least 20,000 square feet.
- (c) within the site area established in paragraph (a) or (b) of this definition, no existing #buildings or other structures# shall remain at the time of #development#, except for any #building or other structure# devoted exclusively to subway or rail mass transit-related #uses#, including, but not limited to, ventilation facilities and other facilities or services used or required in connection with the operation of a subway or rail mass transit facility.

Qualifying Site

For the purposes of Section 81-60, inclusive, a “qualifying site” shall refer to a #zoning lot# which, at the time of #development#, complies with the requirements of paragraphs (a) through (d) of this definition:

- (a) such #zoning lot# shall meet the applicable criteria for a #minimum clear site# set forth in the definition in Section 81-612;
- (b) the owner of such #zoning lot# has made a district improvement contribution to the #East Midtown District Improvement Fund# pursuant to the applicable regulations set forth in Sections 81-621 (District improvement bonus for qualifying sites) or 81-614 (Special provisions for retaining non-complying floor area);
- (c) within the #minimum clear site# required in the definition in Section 81-612, such #zoning lot# shall have a single proposed #building# where a minimum of 80 percent of such #building’s floor area# is allocated to office #uses#, as listed in Use Group 6B, or #uses# listed in Use Groups 6A, 6C, 7B, 8A, 8B, 9A, 10A, 12A, or 12B, subject to the underlying zoning district regulations. The remaining percentage, not to exceed 20 percent of such #building’s floor area#, or the portion of the #building’s floor area# exceeding the basic maximum #floor area ratio# set forth in Row A of the table in Section 81-62, whichever is less, may be allocated to #residential#, hotel or non-

commercial club #uses#, as listed in Use Groups 2, 5 and 6E respectively. However, where hotel #uses# occupied floor space in a #building# on a #qualifying site# prior to the demolition of such #building#, and such #use# existed on (date of adoption), the aggregate amount of #floor area# used by such hotel #uses# may exceed such 20 percent maximum, up to the amount of #floor area# previously used by such hotel #use#. The #use# regulations of this paragraph (e) may only be modified where permitted by the City Planning Commission, in accordance with the provisions of Section 81-634 (Special permit for use modifications); and

- (d) such proposed #building# on the #qualifying site# complies with the performance standards set forth in Section 81-623 (Special building performance requirements for all qualifying sites) and the #qualifying site# complies with the applicable environmental standards set forth in Section 81-624 (Special environmental requirements for all qualifying sites).

Receiving lot

For the purposes of Section 81-60, inclusive, a “receiving lot” shall mean a #zoning lot# to which development rights of a "granting lot" are transferred. Such “receiving lot” may receive a transfer of development rights pursuant to Sections 81-622 (Transfer of development rights from landmarks to qualifying sites), 81-633 (Special permit for superior developments) or 81-65 (Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites).

81-613

Special provisions for existing buildings

Existing #buildings#, including existing #non-complying buildings# with #non-complying floor area#, may remain on a #qualifying site developed# pursuant to the provisions of Section 81-62 (Special Floor Area Provisions for Qualifying Sites), or any other #zoning lot developed# pursuant to the provisions of Section 81-614 (Special provisions for retaining non-complying floor area), provided that any such #buildings# to remain are not located within the applicable #minimum clear site# required for #qualifying sites#, or #zoning lots developed# pursuant to the provisions of paragraph (b) of Section 81-614, as applicable. Any #non-complying floor area# on the #zoning lot# generated from the provision of a #publicly accessible open area# may only be retained if such #publicly accessible open area# is retained on the #qualifying site# without diminution, pursuant to provisions of Section 81-231 (Existing plazas or other public amenities).

Where a #non-complying building or other structure# is damaged or destroyed, and the extent of damage or destruction constitutes less than 75 percent of such #building's# total #floor area#, the provisions of Section 54-41 (Permitted Reconstructions) shall apply. For #buildings or other structures# where the extent of damage or destruction constitutes 75 percent or more of the total #floor area#, the provisions of Section 54-41 shall apply, except that where such #non-complying building# was a #commercial building# with #non-complying floor area# constructed prior to December 15, 1961, such #non-complying building# may be demolished and reconstructed to retain the amount of pre-existing #non-complying floor area# pursuant to the provisions of Section 81-614.

81-614

Special provisions for retaining non-complying floor area

In the East Midtown Subdistrict, a #non-complying commercial building# with #non-complying floor area# constructed prior to December 15, 1961 may be demolished and reconstructed to retain the amount of pre-existing #non-complying floor area# in accordance with the applicable district #bulk# regulations of this Chapter, upon certification by the Chairperson of the City Planning Commission to the Department of Buildings first, that prior to demolition, such #non-complying commercial building# complies with the provisions of paragraph (a) of this Section, as applicable, and, subsequently, that such reconstructed #building# complies with the provisions of paragraph (b) of this Section, as applicable. Additional requirements for the reconstruction of such #non-complying commercial building# are set forth in paragraph (c) of this Section. Additional provisions are set forth in paragraph (d) of this Section for #non-complying commercial buildings# that, after (date of adoption), were demolished prior to certification pursuant to paragraph (a).

(a) Certification to demolish a #non-complying building#

A #non-complying commercial building# may be demolished in order to reconstruct pre-existing #non-complying floor area# pursuant to the provisions of paragraph (b) of this Section, provided that:

- (1) The #non-complying commercial building# is located on a #zoning lot# which meets the applicable criteria for a #minimum clear site# set forth in the definition in Section 81-612 (Definitions);

- (2) Calculations of the amount of #non-complying floor area# in such existing #non-complying commercial building#, and where applicable, the amount of any #floor area# allocated to a hotel #use# to be replaced in such reconstructed #building# pursuant to paragraph (e) of the definition of #qualifying site# set forth Section 81-612, shall be submitted to the Chairperson. Such calculations shall be shown on either the #building's# construction documents previously submitted for approval to the Department of Buildings at the time of such #building's# construction, #enlargement#, or subsequent alterations, as applicable; or on an as-built drawing set completed by a licensed architect prior to such #building's# demolition.

For the purpose of calculating the amount of #non-complying floor area# to be retained on #zoning lots# with multiple existing #buildings# at the time of application, including #buildings# to remain outside the #minimum clear site# required pursuant to paragraph (a)(1) of this Section, as applicable, the #non-complying floor area# in the #building# to be reconstructed shall be determined in relation to the entire #lot area# of the #zoning lot# and shall be calculated based on the #floor area# of all such existing #buildings#; and

- (3) such #zoning lot# complies with the applicable environmental standards for #qualifying sites# set forth in Section 81-624 (Special environmental requirements for all qualifying sites).

Certification pursuant to the provisions of paragraph (a) of this Section shall be a precondition to the issuance of any demolition permit by the Department of Buildings for a #zoning lot# reconstructing #non-complying floor area#. Such certification shall set forth the calculation of the amount of #non-complying floor area# which may be reconstructed pursuant to paragraph (b) of this Section, as determined by the Chairperson.

- (b) Certification to reconstruct pre-existing #non-complying floor area#

Upon certification pursuant to paragraph (a) of this Section, a #building# may reconstruct the amount of pre-existing #non-complying floor area# calculated pursuant to such certification, provided that such reconstructed #building# complies with the applicable provisions of this paragraph (b).

- (1) For #qualifying sites#

A #building# may reconstruct pre-existing #non-complying floor area# on a #qualifying site# provided that:

- (i) All requirements for #qualifying sites# set forth in the definition in Section 81-612 (Definitions), inclusive are met; and
- (ii) contributions to the #East Midtown District Improvement Fund# are made pursuant to Section 81-621 (District improvement bonus for qualifying sites) at a rate of 50 percent of the #East Midtown District Improvement Fund Contribution Rate# for the amount of such reconstructed pre-existing #non-complying floor area#. The process for determining such “Contribution Rate” is set forth in the definition of #East Midtown District Improvement Fund Contribution Rate# in Section 81-612 (Definitions);
- (iii) The #lot area# of the #zoning lot# at the time of application for certification under paragraph (a) of this Section is the same at the time of application for this paragraph (b), as well as any subsequent or concurrent application for additional #floor area# pursuant to Section 81-62; and
- (iv) Any proposed #floor area# in the reconstructed #building# beyond the amount contained in the pre-existing #non-complying building# shall be obtained by utilizing the applicable provisions of Section 81-62 (Special Floor Area Provisions for Qualifying Sites).

(2) For all other sites

A #building# may reconstruct #non-complying floor area# on a #zoning lot# which is not a #qualifying site#, in an amount equivalent to the #non-complying floor area# contained in the pre-existing #non-complying building#], provided that:

- (i) such reconstructed #building# shall comply with the #use# provisions of paragraph (e) of the definition of #qualifying site# set forth in Section 81-612. Such #use# regulations may only be modified where permitted by the City Planning Commission, in accordance with the provisions for #qualifying sites# set forth in Section 81-634 (Special permit for use modifications);
- (ii) such reconstructed #building# shall comply with the performance standards for #qualifying sites# set forth in Section 81-623 (Special

building performance requirements for all qualifying sites) and, such #zoning lot# shall comply with the applicable environmental standards set forth in Section 81-624 (Special environmental requirements for all qualifying sites). For the purpose of applying provisions in Section 81-624, the term #developments# on #qualifying sites# as used in such Section shall include #developments# on a #zoning lot# pursuant to the provisions of this paragraph (b);

- (iii) contributions to the #East Midtown District Improvement Fund# shall be made, at rate of 50 percent of the #East Midtown District Contribution Rate#, for the amount of reconstructed pre-existing #non-complying floor area#. The process for determining such “Contribution Rate” is set forth in the definition of #East Midtown District Improvement Fund Contribution Rate# in Section 81-612; and
- (iv) The #lot area# of the #zoning lot# at the time of application for certification under paragraph (a) of this Section is the same at the time of application for this paragraph (b).

(c) Additional requirements

Legal instruments shall be executed and recorded in a form acceptable to the City. The execution and recording of such instruments and the payment of the non-refundable contribution to the #East Midtown District Improvement Fund# pursuant to the provisions of paragraph (b), shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing a #development# on a #qualifying site# or other site.

No foundation permit or new building permit for a #building# reconstructed on a #zoning lot# with a #lot area# greater than or equal to 30,000 square feet pursuant to the provisions of this Section shall be issued by the Department of Buildings prior to July 1, 2017, and no certificate of occupancy for the reconstructed #building# shall be issued until the Department of Buildings determines such reconstructed #building# is compliant with the provisions of this Section.

(d) For buildings demolished prior without certification

In the event that, after (date of adoption), a demolition permit was issued for work within the #minimum clear site# prior to application for certification pursuant to paragraph (a) of this Section, no application shall be granted under paragraph (b) of this Section unless

and until the Chairperson has obtained materials which are sufficient to determine the amount of #non-complying floor area# in the demolished #non-complying commercial building# that may be reconstructed in accordance with paragraph (b) of this Section. The Commissioner of the Department of Buildings may assist the Chairperson making such a determination, as necessary.

81-615

Location of uses in mixed buildings

For #mixed buildings developed# on #qualifying sites#, or #buildings# on other sites #developed# pursuant to the provisions of Section 81-614 (Special provisions for retaining non-complying floor area), the provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit the following #uses#, subject to the underlying zoning district regulations, on the same #story# as, or at any #story# above, #residential uses#, provided that no access exists between such #uses# at any level above the ground floor:

open or enclosed observation decks;

open or enclosed publicly-accessible spaces;

eating or drinking establishments, as listed in Use Groups 6C, 10A and 12A;

bowling alleys, as listed in Use Group 8A and 12A;

theaters, as listed in Use Group 8A;

commercial art galleries, as listed in Use Group 8B;

gymnasiums, used exclusively for basketball, handball, paddleball, racketball, squash and tennis, as listed in Use Group 9A;

wedding chapels and banquet halls, as listed in Use Group 9A;

enclosed skating rinks, as listed in Use Group 12A; and

swimming pools and gymnasium #uses# which are #accessory# to any other #use# located within the #building#.

The #use# regulations of this Section may only be modified where permitted by the City Planning Commission, in accordance with the provisions of Section 81-634 (Special permit for use modifications).

81-616

Conversion in buildings on certain sites

Where the “Contribution Rate” for #residential uses# exceeds that for #non-residential uses#, no #conversion# of #non-residential floor area# to #residential floor area# within a #building# on a #qualifying site developed# pursuant to the provisions of Section 81-62 (Special Floor Area Provisions for Qualifying Sites), or any other #zoning lot developed# pursuant to the provisions of Section 81-614 (Special provisions for retaining non-complying floor area), shall be permitted unless additional contributions to the #East Midtown District Improvement Fund# are made in accordance with the provisions of Section 81-621 (District improvement bonus for qualifying sites). For the purposes of determining the contribution amount pursuant to paragraph (b) of such Section, the amount of #floor area# being #converted# to #residential use# shall be multiplied by the difference between the #East Midtown District Improvement Fund Contribution Rate# for #residential uses# and the “Contribution Rate” for #non-residential uses# in effect at the time of application. No #conversion# shall result in a percentage of #residential floor area# within such #building# in excess of that permitted pursuant to paragraph (e) of the definition of #qualifying site# in Section 81-612 (Definitions) or Section 81-634 (Special permit for use modifications), as applicable.

81-62

Special Floor Area Provisions for Qualifying Sites

The #floor area# provisions of Sections 81-211 (Maximum floor area ratio for non-residential or mixed buildings), and 81-24 (Floor Area, Lot Coverage and Building Spacing Regulations for Residential Uses) shall not apply to #qualifying sites# in the East Midtown Subdistrict. In lieu thereof, the provisions of this Section shall apply.

The table in this Section shall apply only to #qualifying sites#. The basic maximum #floor area ratio# for #qualifying sites# is specified in Row A. Such #floor area ratio#, shall be increased, up to the amount specified in Row B, only through contributions to the #East Midtown District Improvement Fund# pursuant to Section 81-621 (District improvement bonus for qualifying sites). For #qualifying sites# that have maximized such increased #floor area# permitted in Row B, additional #floor area# shall be permitted, up to the amount specified in Row C, through

further contributions to the “Fund” pursuant to Section 81-621, or through the transfer of development rights pursuant to Section 81-622 (Transfer of development rights from landmarks to qualifying sites). As an alternative to such additional contributions, additional #floor area# shall be permitted up to the amount specified in Row D for district improvement contributions in-kind, pursuant to Section 81-632 (Authorization for contribution in-kind). For #qualifying sites# that have achieved the #floor area ratio# specified in Row E, such #floor area ratio# may be further increased up to the amount specified in Row F pursuant to Section 81-633 (Special permit for superior developments).

#Zoning lots# with #landmark buildings or other structures# may transfer development rights, pursuant to Section 81-622 or 81-633, as applicable, only to the Subarea of the East Midtown Subdistrict within which such #landmark building or other structure# is located.

<u>MAXIMUM FLOOR AREA ALLOWANCES FOR QUALIFYING SITES IN THE EAST MIDTOWN SUBDISTRICT</u>										
<u>Row</u>	<u>Means for Achieving Permitted FAR Levels on a #Zoning Lot# for #qualifying sites#</u>	<u>Grand Central Subarea</u>				<u>Northern Subarea</u>			<u>Any other Areas</u>	
		<u>Grand Central Subarea Core</u>	<u>Outside of Grand Central Subarea Core and Park Avenue</u>		<u>Along Park Ave, between E. 46th and E. 49th Streets</u>	<u>Northern Subarea Core</u>	<u>Outside of Northern Subarea Core</u>		<u>C5-2.5</u>	<u>C5-3</u>
		<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>	<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>	<u>C6-4.5</u>		
<u>A</u>	<u>Basic Maximum FAR</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>12</u>	<u>15</u>
<u>B</u>	<u>Additional FAR through District</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>1.2</u>	<u>1.5</u>	<u>2.4</u>	<u>3</u>

	<u>Improvement Bonus (DIB) (Section 81-621)</u>									
<u>C</u>	<u>Additional FAR for further contributions to DIB (Section 81-621) or transfer of development rights from landmark buildings (Sections 81-622)</u>	<u>6</u>	<u>6.6</u>	<u>3.6</u>	<u>3.6</u>	<u>3.6</u>	<u>1.2</u>	<u>1.5</u>	=	=
<u>D</u>	<u>Additional FAR through contribution in-kind (Section 81-632)</u>	<u>6</u>	<u>6.6</u>	<u>3.6</u>	<u>3.6</u>	<u>3.6</u>	=	=	=	=
<u>E</u>	<u>Total FAR without special permit</u>	<u>24</u>	<u>21.6</u>	<u>21.6</u>	<u>21.6</u>	<u>21.6</u>	<u>14.4</u>	<u>18</u>	<u>14.4</u>	<u>18</u>
<u>F</u>	<u>Additional FAR through special permit (Section 81-633)</u>	<u>6</u>	<u>NA</u>	<u>NA</u>	<u>2.4</u>	<u>2.4</u>	=	=	=	=
<u>G</u>	<u>Maximum FAR permitted for #qualifying Sites#</u>	<u>30</u>	<u>21.6</u>	<u>21.6</u>	<u>24</u>	<u>24</u>	<u>14.4</u>	<u>18</u>	<u>14.4</u>	<u>18</u>

81-621

District improvement bonus for qualifying sites

The Chairperson of the City Planning Commission shall allow, by certification, the applicable basic maximum #floor area ratio# for a #qualifying site# set forth in Row A of the table in Section 81-62 (Special Floor Area Provisions for Qualifying Sites) to be increased up to the maximum amount specified in Row B and thereafter, Row C of such table, as applicable, provided that the requirements for applications in paragraph (a) of this Section have been completed and a district improvement contribution has been deposited in the #East Midtown District Improvement Fund#, in the amount set forth in paragraph (b) of this Section. All #floor area# certified pursuant to this Section shall be utilized within the #lot area# of the #qualifying site# as it existed at the time of application. Legal instruments and notices of restrictions shall be executed by the applicant in accordance with the provisions of paragraph (c) of this Section. Additional provisions are set forth in paragraph (d) of this Section for #buildings# that have proceeded with construction prior to certification pursuant to this Section.

- (a) The following requirements for applications shall be completed and submitted, as applicable, prior to, or as part of an application:
- (1) an affidavit shall be submitted to the Chairperson attesting that, at the time of #development#, the #zoning lot# will comply with the applicable criteria for a #minimum clear site# set forth in the definition in Section 81-612 (Definitions). A site plan shall also be submitted to the Chairperson, demonstrating compliance with the such #minimum clear site# criteria;
 - (2) the applicant shall submit materials for the Chairperson to determine whether, within five years prior to the time of application, any foundation or new building permit has been issued for a foundation or #building#, as applicable, within such #minimum clear site# and work has been conducted pursuant to such permit. In the event that such a foundation or new building permit has been issued within five years prior to the time of application and work commenced pursuant thereto, the applicant shall submit additional materials for the Chairperson to determine whether the foundation if or as completed, would be of sufficient size and capable of supporting a #building# exceeding the basic maximum #floor area ratio# established in Row A of the table in Section 81-62 and, if applicable, the #building# if or as completed, would be of sufficient size and capable of including #floor area# exceeding the basic maximum #floor area ratio# established in Row A of the table in Section 81-62. The Commissioner of the Department of Buildings may assist the Chairperson making such a determination, as necessary;

- (3) zoning calculations for the proposed #development# on the #qualifying site# shall be submitted to the Chairperson;
- (4) for #qualifying sites# replacing the amount of #floor area# allocated to a hotel #use# pursuant to paragraph (e) of the definition of #qualifying site# set forth in Section 81-612, the permitted amount of hotel #floor area# shall be that amount shown on either the previous #building's# construction documents submitted for approval to the Department of Building's at the time of such #building's# construction, #enlargement# or subsequent alteration, as applicable; or on an as-built drawing set completed by a licensed architect prior to such #building's# demolition; and
- (5) for #qualifying sites# meeting the criteria of paragraph (a) of the definition of #adjacent lot# with regard to such #zoning lot's# adjacency to Grand Central Terminal, a report from the Landmarks Preservation Commission concerning the harmonious relationship between the proposed #development# on such #qualifying site# and Grand Central Terminal has been submitted to the Chairperson.
- (b) Monies shall be contributed to the #East Midtown District Improvement Fund# at the #East Midtown District Improvement Fund Contribution Rate# for the applicable amount of #floor area# in the #building# in excess of the basic maximum #floor area ratio# established in Row A of the table in Section 81-62. However, where such #building# includes #floor area# reconstructed pursuant to the provisions of Section 81-614 (Special provisions for retaining non-complying floor area), the contribution amount for such reconstructed pre-existing #non-complying floor area# shall be 50 percent of the #East Midtown District Improvement Fund Contribution Rate#. The process for determining such "Contribution Rate" is set forth in the definition of #East Midtown District Improvement Fund Contribution Rate# in Section 81-612 (Definitions).
- (c) Legal instruments shall be executed and recorded in a form acceptable to the City. The execution and recording of such instruments and the payment of such non-refundable contribution to the #East Midtown District Improvement Fund# shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings that would allow a #development# on a #qualifying site#.
- (d) In the event that a foundation or new building permit has been issued within five years prior to the time of application and worked commenced pursuant thereto, and the

Chairperson has determined, in consultation with the Commission of the Department of Buildings, as necessary, that the foundation if or as completed would be of sufficient size and capable of supporting a #building# exceeding the basic maximum #floor area ratio# established in Row A of the table in Section 81-62 and , if applicable, the #building# if or as completed, would be of sufficient size and capable of including #floor area# exceeding the basic maximum #floor area ratio# established in Row A of the table in Section 81-62 the Chairperson shall not grant such application under this Section for a period of 5 years following the issuance of the foundation or new building permit whichever is the later.

81-622

Transfer of development rights from landmark buildings or other structures to qualifying sites

Within the Grand Central or Northern Subareas, as shown on Map 4 (East Midtown Subareas and Subarea Cores) in Appendix A of this Chapter, the Chairperson of the City Planning Commission shall allow, by certification, a transfer of development rights from #zoning lots# occupied by #landmark buildings or other structures# within the Subarea to a #qualifying site# proposed for #development# also within such Subarea, provided that the requirements for applications in paragraph (a) of this Section have been completed, the conditions set forth in paragraph (b) of this Section have been met, and the transfer instruments required pursuant to paragraph (c) of this Section have been executed.

- (a) An application filed with the Chairperson for certification pursuant to this Section shall be made jointly by the owners of the #granting lot# and #receiving lot#. The following requirements for applications shall be completed and submitted, as applicable, prior to, or as part of an application:
- (1) prior to, or concurrently with the application, the applicant shall comply with the certification provisions of Section 81-621 (District improvement bonus for qualifying sites), including the contribution to district improvements required pursuant to paragraphs (b) of such Section. The proposed #development# shall utilize the #floor area# bonus of such Section to the full extent set forth in Row B of the table in Section 81-62;
 - (2) site plans and zoning calculations for the #granting lot# and #receiving lot# shall be submitted to the Chairperson;

- (3) materials to demonstrate the establishment of a program for the continuing maintenance of the #landmark building or other structure#; and
- (4) a report from the Landmarks Preservation Commission shall be submitted to the Chairperson concerning the continuing maintenance program of the #landmark building or other structure#;

A separate application shall be filed for each transfer of development rights to an independent #receiving lot# pursuant to this Section.

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

- (1) the maximum amount of #floor area# that may be transferred from a #granting lot# shall be the applicable basic maximum #floor area# set forth in Row A of the table in Section 81-62, less the total #floor area# of all existing #buildings# on the landmark #zoning lot#, and any previously transferred #floor area#. In no event shall a #granting lot# transfer any previously granted bonus #floor area# received for subway station improvements, #publicly accessible open areas# or the provision of district improvements pursuant to Section 81-621;
- (2) for each #receiving lot#, the #floor area# allowed by the transfer of development rights pursuant to this Section shall not exceed the applicable amount set forth in Row C of the table in Section 81-62; and
- (3) each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred.

(c) The owners of the #granting lot# and the #receiving lot# shall submit to the Chairperson a copy of a transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the #granting lot# and the #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York (County of New York). Proof of recordation of the notices shall be submitted to the Chairperson of the City Planning Commission, in a form acceptable to the Chairperson.

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

81-623

Special building performance requirements for all qualifying sites

Within the East Midtown Subdistrict, no new building permit shall be issued for a #development# on a #qualifying site# unless such #building# achieves a level of energy efficient design that exceeds the standard set forth in paragraph (a) of this Section by the minimum margin set forth in paragraph (b), as the same may be modified in accordance with paragraph (c) of this Section. Compliance with the provisions of this Section shall be demonstrated to the Department of Buildings at the time of issuance of such new building permit. For purposes of this Section, the term #developments# on #qualifying sites# shall include #developments# on a #zoning lot# pursuant to the provisions of paragraph (b) of Section 81-614 (Special provisions for retaining non-complying floor area).

- (a) As of (date of adoption), and unless modified pursuant to the provisions of paragraph (c), the energy efficiency standard shall be either the 2011 New York City Energy Conservation Code (NYCECC) or the Building Performance Rating method of the applicable version and edition of American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., Standard 90.1 (ASHRAE 90.1), as referenced within the NYCECC.
- (b) As of (date of adoption), and unless modified pursuant to the provisions of paragraph (c), #buildings# on #qualifying sites# shall exceed the energy efficiency standard set forth in paragraph (a) by a minimum of 15 percent.
- (c) In order to ensure that #developments# on #qualifying sites# continue to achieve a level of energy efficient design that substantially exceeds code requirements while remaining reasonably achievable for high-rise commercial construction based on contemporary best practices for such #buildings#, the Commission may, by rule, modify the standard of paragraph (a) or the minimum margin of paragraph (b) of this Section, as necessary, to ensure that the level of energy efficient design required by this Section is maintained.
- (d) Within 90 days of the effective date of a new energy efficiency reference standard for New York City made by operation of other law or regulation which supersedes the energy efficiency reference standard set forth in paragraph (a), the Department of City Planning shall submit to the City Planning Commission a report recommending any changes necessary to the standard set forth in paragraph (a) and, to the extent necessary

in connection therewith, the minimum margin of paragraph (b), that would maintain the level of energy efficient design required by this Section. Such report shall consider the effects of changes in the referenced standard, as well as current industry practices. Following receipt of such report, the Commission may, by rule, modify the referenced standard and minimum margin set forth in paragraphs (a) or (b) of this Section, respectively, as necessary, to ensure that the level of energy efficient design required by this Section is maintained.

81-624

Special environmental requirements for all qualifying sites

Within the East Midtown Subdistrict, all #developments# on #qualifying site# shall comply with the provisions of paragraph (a), and where applicable, the provisions of paragraph (b) or (c) of this Section. For purposes of this Section, the term #developments# on #qualifying sites# shall include demolitions, excavations and #developments# on a #zoning lot# pursuant to the provisions of paragraphs (a) and (b) of Section 81-614 (Special provisions for retaining non-complying floor area).

(a) All #developments# on #qualifying sites# shall comply with the following:

- (1) for #qualifying sites# that include an existing #building# listed in Special Environmental Requirement List 1, in Appendix B of this Chapter, that has not been designated as a New York City Landmark at the time of filing for a full demolition permit for purposes of #development# on a #qualifying site# pursuant to Section 81-62 (Special Floor Area Provisions for Qualifying Sites), no such permit shall be issued unless the Chairperson of the City Planning Commission shall have certified to the Commissioner of Buildings, based upon notice received from the Chair of the Landmarks Preservation Commission, that Historic American Buildings Survey recordation work for such existing building has been completed and submitted to the Landmarks Preservation Commission pursuant to a protocol approved by such Commission;
- (2) for #qualifying sites # located within ninety feet of an existing #building# listed in Special Environmental Requirement List 2, in Appendix B, that has not been designated as a New York City Landmark at the time of filing for a full demolition, excavation or foundation permit for purposes of #development# on such #qualifying site# pursuant to Section 81-62, no such permit shall be issued unless a monitoring plan shall have been developed by a registered design

professional and accepted by the Commissioner of Buildings for the purpose of protection of such existing #building# during the course of construction. The monitoring plan shall be specific to the structures to be monitored and operations to be undertaken, and shall specify the scope and frequency of monitoring, acceptable tolerances, reporting criteria for when tolerances are exceeded, and methods for corrective action;

- (3) for #qualifying sites# located on Block 1278, Lots 8, 14, 15, 17, 62, 63, 64 and 65, Block 1279, Lots 9, 17, 57, 63 and 65, and Block 1279, Lots 23, 24, 25, 28, 45, no demolition, excavation or foundation permit shall be issued unless:
- (i) The Chairperson certifies to the Department of Buildings, based on information provided by the applicant, that it is not anticipated that levels of construction activity projected in CEQR No. 13DCP011M to occur simultaneously at Projected Development Sites 5, 6 and 7 for purposes of noise impact analysis will occur during the period of construction of such #development#; or
 - (ii) The Chairperson certifies to the Department of Buildings that a declaration of restrictions has been executed and recorded, in a form acceptable to the Department, providing for the implementation of noise source and path controls during construction beyond those required pursuant to a Noise Mitigation Plan submitted to the Department of Environmental Protection in accordance with requirements of the New York City Noise Control Code. Such noise and path controls shall include noise source and path controls identified in CEQR No. 13DCP011M as noise reduction mitigation measures, except as determined by the Chairperson to be infeasible or impracticable based on site-specific considerations.
- (4) during construction, all non-road diesel engines greater than 50 hp shall satisfy Tier 4 standards or Tier 3 standards with the use of diesel particulate filters. No excavation, demolition or foundation permit shall be issued unless the Chairperson certifies to the Department of Buildings that a declaration of restrictions has been executed and recorded, providing for implementation of this paragraph (a)(4) and reporting with respect to compliance.
- (5) For purposes of this paragraph, (a), an excavation or demolition permit shall be considered to be for purposes of #development# on a #zoning lot# pursuant to Section 81-62, or Section 81-614, as applicable irrespective of whether an

application has been filed pursuant to Section 81-621 (District improvement bonus for qualifying sites) or paragraph (b) of Section 81-614 at the time of issuance of such excavation or demolition permit, in accordance with the provisions of this paragraph.

At the time of filing for a demolition or excavation permit for a lot or lots which are so located as to be capable of comprising, in whole or in part, a #zoning lot# which, at the time of #development#, would meet the applicable #minimum clear site# provisions established in definition in Section 81-612, the owner of such #zoning lot# shall certify to the Department of Buildings whether the excavation or demolition is for purposes of #development# on a #qualifying site# pursuant to the provisions of Section 81-62 or #development on a #zoning lot# pursuant to paragraph (b) of Section 81-614, as applicable, and such certification shall be a precondition to issuance of the permit. In the event the owner of such #zoning lot# certifies that the excavation or demolition is for purposes of #development# on a #qualifying site# pursuant to the provisions of Section 81-62, or #development# on a #zoning lot# pursuant to paragraph (b) of Section 81-614, as applicable, the provision of this Section shall apply. In the event that the owner of such #zoning lot# certifies that the excavation or demolition is not for purposes of #development# on a #qualifying site# pursuant to the provisions of Section 81-62, or #development# on a #zoning lot# pursuant to paragraph (b) of Section 81-614, as applicable, an excavation or demolition permit is issued and work undertaken pursuant to such permit without compliance with the provisions of this Section, on the basis of such certification, and application is made thereafter pursuant to Section 81-621 for purposes of #development# on a #qualifying site# or #development# on a #zoning lot# pursuant to paragraph (b) of Section 81-614, as applicable, which includes a lot or lots for which excavation and demolition work was undertaken pursuant to the such permit, the Chairperson shall not grant such application under Section 81-621 or paragraph (b) of Section 81-614, as applicable, unless and until the Chairperson has determined that remedial measures specified by the Chairperson, and developed in consultation with relevant agencies, have been implemented or funded.

(b) No new building permit shall be issued for the purposes of #development# of Block 1285, Lot 36, Block 1310, Lot 1 or Block 1306, Lot 23 as a #qualifying site# unless:

(1) a shadow analysis has been submitted to the Department of City Planning identifying the extent of the incremental shadows that will be cast by the #building# upon stained glass windows of such landmark buildings or eligible

historic resource, as applicable, identified in CEQR No. 13DCP011M as potentially impacted by incremental shadows from #development# as a #qualifying site#; and

(2) the Chairperson certifies to the Commissioner of Buildings, acting in consultation with the Chair of the Landmarks Preservation Commission, that:

(i) a plan for lighting the stained glass windows of such landmark buildings or eligible historic resource using artificial lighting or the use of architectural and design techniques to reflect natural light onto such stained glass windows impacted by incremental shadows, as applicable, has been developed and will be implemented to partially mitigate the effects of such incremental shadows; or

(ii) the artificial lighting of the stained glass windows or the use of architectural and design techniques to reflect natural light onto such stain glass windows in order to partially mitigate the effects of such incremental shadows is not feasible or is impracticable, or would negatively affect the character or integrity of the landmark buildings or eligible historic resource, as applicable, or has not been accepted by the owner of the landmark #building# or eligible historic resource.

(c) Within the East Midtown Subdistrict, (E) designations established under Application No. N120247AZRM pursuant to CEQR No. 13DCP011M for #developments# on #qualifying sites# shall be subject to the following requirements in addition to those set forth in Section 11-15 (Environmental Requirements):

(1) for (E) designations for air quality and for noise, the term “building permit” for purposes of paragraph (a) of Section 11-15 shall mean a foundation permit. Prior to the issuance of a foundation permit, the Department of Buildings shall be furnished with a notice to proceed issued by the Office of Environmental Remediation (OER) stating that OER does not object to the issuance of such permit, and prior to the issuance of a temporary or final certificate of occupancy, the Department of Buildings shall be furnished with a notice of satisfaction issued by OER that OER does not object to the issuance of such certificate of occupancy, in accordance with the applicable rules of the City of New York; and

(2) for (E) designations for hazardous materials, a building permit shall be considered to be for purposes of #development# on a #qualifying site# pursuant

to Section 81-62, and subject to such (E) designation irrespective of whether an application has been filed pursuant to Section 81-621 at the time of filing for such permit. and a building permit shall be considered to be for purposes of #development# on a #zoning lot# pursuant to paragraph (b) of Section 81-614, and subject to such (E) designation irrespective of whether an application has been filed pursuant to paragraph (b) of Section 81-614 at the time of filing for such permit, unless the owner of the #zoning lot# or #development# certifies in accordance with this paragraph (c)(2) that the #development# will not be pursuant to Section 81-62 or paragraph (b) of Section 81-614, as applicable, and no application is filed thereafter pursuant to Section 81-621 or paragraph (b) of Section 81-614, as applicable. At the time of application for a building permit for work on a lot or lots which are so located as to be capable of comprising, in whole or in part, a #zoning lot# which, at the time of #development#, would meet the applicable #minimum clear site# provisions established in the definition of #qualifying site# under Section 81-612, or at the time of application for a building permit for a #zoning lot# which meets the requirements for reconstruction of #non-complying# floor area pursuant to paragraph (b) of Section 81-614, the owner of the #zoning lot# or #development# shall certify to the Department of Buildings whether the work under such permit is for purposes of #development# on a #qualifying site# pursuant to the provisions of Section 81-62 or for purposes of #development# on a #zoning lot# pursuant to paragraph (b) of Section 81-614, as applicable, and such certification shall be a precondition to the issuance of the permit. In the event that a permit is issued and work undertaken without compliance with the provisions of the (E) designation for hazardous materials, on the basis of a certification by the owner of the #zoning lot# or #development# that the work under such permit is not for #development# pursuant to Section 81-62 or paragraph (b) of Section 81-614, as applicable, and application is made thereafter pursuant to Section 81-621 for purposes of a #development# on a #qualifying site# which includes a lot or lots for which work was undertaken pursuant to such permit, or is made thereafter pursuant to paragraph (b) of Section 81-614 for a #development# on a #zoning lot# pursuant to such Section, the Chairperson shall not grant such application under Section 81-621 or paragraph (b) of Section 81-614, as applicable, unless and until:

- (i) the Chairperson has been provided written notice from OER that the hazardous materials conditions were satisfactorily addressed during the course of work performed in one of the following ways:

- (aa) pursuant to the City's Voluntary Brownfield Cleanup Program established pursuant to Administrative Code Section 24-903, or successor provisions thereto;
 - (bb) pursuant to a written protocol developed with the consultation and approval of OER prior to commencement of work under the permit;
 - (cc) pursuant to measures which OER has determined were equivalent to those required pursuant to the (E) designation program; or
- (ii) Chairperson has been provided written notice from OER that the exposure risk has been determined to be acceptable pursuant to a post-work testing program accepted by OER and that any retrofit work determined to be necessary by OER has been performed.

81-63

Authorizations and Special Permits for Qualifying Sites

81-631

Authorization for zoning lots with limited wide street frontage

In the East Midtown Subdistrict, the City Planning Commission may allow, by authorization, the utilization of the #floor area# provisions set forth in Section 81-62 (Special Floor Area Provisions for Qualifying Sites) for #zoning lots# that do not meet the #wide street block# frontage criteria established in paragraph (a)(2) of the definition of #minimum clear site#, as set forth in Section 81-612 (Definitions), provided that the conditions of paragraph (a) and the findings of paragraph (b) of this Section are met. For the purpose of Section 81-60, inclusive, any #zoning lot# authorized pursuant to this Section shall be considered a #qualifying site#.

- (a) Any application for such authorization shall contain information sufficient to allow the Commission to determine that the following conditions are met:
 - (1) At the time of #development#, the #zoning lot# will have a #lot width# which extends across a minimum of 75 percent of the #wide street block# frontage, or for at least 150 feet of #wide street# frontage, whichever is less; and such #lot width# will extend continuously to a depth of 100 feet, as measured perpendicular to the #wide street line#;

- (2) Other than the #wide street block# frontage criteria established in paragraph (a)(2) of the definition of #minimum clear site#, as set forth in Section 81-612, the #zoning lot# shall comply with all other criteria established in such definition, including the minimum #lot area# required by paragraph (a)(1) of such definition. At the time of #development#, no existing #buildings or other structures# shall remain within the modified #minimum clear site#;
 - (3) the #floor area ratio# of the proposed #building# does not exceed the amount set forth in Row E of the table in Section 81-62, as applicable, and the #development# will comply with the applicable certification provisions of Sections 81-621 (District improvement bonus for qualifying sites) or Section 81-622 (Transfer of development rights from landmarks to qualifying sites); and
 - (4) the proposed #building# complies with all the applicable height and setback regulations of the #Special Midtown District#.
- (b) In order to grant such authorization, the Commission shall find that:
- (1) the #building# footprint, including the size and configuration thereof, will be sufficient to accommodate a #non-residential# or #mixed building# which is comparable to recent #commercial developments# in the Midtown, and is consistent with the goals of the East Midtown Subdistrict;
 - (2) the percentage of #block# frontage the proposed #building# will occupy, and the proposed distribution of #bulk# for such #building# can accommodate a proportional amount of #floor area# being granted pursuant to this Section in a manner that ensures the surrounding #streets# and public spaces will have ample access to light and air;
 - (3) the design of the ground floor level of the #building# contributes to a lively streetscape through a combination of active uses, ample amounts of transparency and pedestrian connections that facilitate movement between the #building# and adjoining public spaces;
 - (4) where applicable, due consideration has been demonstrated for the relationship between the proposed #building# and any existing #building# on the #wide street block# frontage, especially with regard to streetscape and the distribution of #bulk#.

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

81-632

Authorization for contribution in-kind

In the East Midtown Subdistrict, the City Planning Commission may allow, by authorization, the applicable basic maximum #floor area ratio# for a #qualifying site# to be increased up to the maximum amount specified in Row D of the table in Section 81-62 (Special Floor Area Provisions for Qualifying Sites), as applicable, provided that a district improvement contribution in-kind is provided by the applicant. In order to authorize such #floor area# increase, the Commission shall determine that conditions set forth in paragraph (a), the findings set forth in paragraph (b) and the requirements of paragraph (c) of this Section have been met.

- (a) Any application for such authorization shall contain information sufficient to allow the Commission to determine that the following conditions are met:
- (1) the applicant will comply with the certification provisions of Section 81-621 (District improvement bonus for qualifying sites), including the contribution to district improvements required pursuant to such Section. The proposed #development# shall utilize the #floor area# bonus of such Section to the full extent set forth in Row B of the table in Section 81-62, as applicable;
 - (2) the applicant has selected a district improvement project which has been included on the Priority Improvements List by the #East Midtown District Improvement Fund Committee# pursuant to 81-691 (The East Midtown District Improvement Fund Committee);
 - (3) The applicant has submitted concept plans for the proposed improvement to the Commission and any applicable City or State agencies with jurisdiction over and control of the proposed improvement; and
 - (4) any applicable City or State agencies with jurisdiction over and control of the proposed improvement have each provided a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement. Such letters shall be a prerequisite to the certification of the application.

(b) To grant such authorization, the Commission shall find that:

(1) Where the proposed improvement is not the first priority on the list established by the “Committee” pursuant to Section 81-691, the practical benefits of incorporating an improvement proximate to the proposed #development# into the construction phasing of such #development# warrant the adjustment of district improvement priorities. In order to make such determination, the Commission may consult with the “Committee”.;

(2) The amount of proposed #floor area# proposed to be generated by the contribution in-kind is reasonable in relation to the anticipated cost of such improvement to the City or State agencies with jurisdiction over and control of the proposed improvement. In order to make such determination, the Commission may consult with an engineer at the applicant’s expense, or the staff of any applicable City or State agencies with jurisdiction over and control of the proposed improvement.

(c) Prior to the grant of the authorization, the applicant shall execute agreements and legally enforceable instruments running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to design and construct the improvement in accordance with the requirements of the applicable City or State agencies with jurisdiction over and control of the proposed improvement. The execution and recording of such instruments and the payment of such non-refundable contribution to the #East Midtown District Improvement Fund# required pursuant to Section 81-621 shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing a #development# on a #qualifying site#.

No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# identified as utilizing the bonus #floor area# granted pursuant to the provisions of this Section until the Chairperson of the City Planning Commission, acting in consultation with the applicable City or State agencies having jurisdiction over and control of the proposed improvement, has certified that the improvements are substantially complete and usable by the public. Such portion of the #building# shall be designated by the Commission in drawings included in the instruments filed pursuant to this paragraph (c). No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing such bonus #floor area# until the improvements have finally been completed in accordance with the approved plans and such final completion has been approved by the

Chairperson, acting in consultation with the applicable City or State agencies having jurisdiction over and control of the proposed improvement.

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

81-633

Special permit for superior developments

For #qualifying sites# in the areas designated on Map 5 (Applicability of special permit for superior developments) in Appendix A of this Chapter, in order to facilitate the #development# of #buildings# that make a significant contribution to the East Midtown Subdistrict, the City Planning Commission may allow, by special permit, additional #floor area#, and in conjunction with such additional #floor area#, modifications to the regulations for #street wall#, height and setback, mandatory district plan elements, and the date a foundation or new building permit may be obtained, as set forth in paragraph (a) of this Section. In order to grant such increases in #floor area# or other such permitted modifications in paragraph (a), applications shall comply with the conditions of paragraph (b), as applicable, the findings of paragraph (c), as applicable, and the requirements of paragraph (d) of this Section.

(a) The City Planning Commission may, by special permit, allow:

(1) Additional #floor area#, beyond the applicable #floor area ratio# permitted in Row E of the table in Section 81-62 (Special Floor Area Provisions For Qualifying Sites) up to the applicable amount set forth in Row F of such table; and

(2) In conjunction with such additional #floor area#:

(i) modifications to the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets), or 81-66 (Special Street Wall Requirements), inclusive;

(ii) modifications to the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, 81-27 (Alternative Height and Setback Regulations – Daylight Evaluation), inclusive, and 81-67 (Special Height and Setback Requirements), inclusive;

- (iii) modifications to the mandatory district plan element regulations of Sections 81-42 (Retail Continuity along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-Street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-Street Improvement of Access to Rail Mass Transit Facility), 81-68 (Special Mandatory District Plan Element Requirements), inclusive, or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37- 51 (Amount of Pedestrian Circulation Space) or the curb cut and loading berth provisions of Section 81-686 (Curb cut restrictions and loading berth requirements) shall be permitted;
- (iv) modifications of the provisions for #zoning lots# divided by district boundaries set forth in Sections 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements);
- (v) the ability to achieve a portion of the proposed #floor area# in the #development# through a district improvement contribution in-kind without authorization pursuant to 81-632, where application for the special permit is made prior to the establishment of the Priority Improvements List by the #East Midtown District Improvement Fund Committee# pursuant to Section 81-691 (The East Midtown District Improvement Fund Committee); and
- (vi) modifications to the provisions establishing the earliest date a foundation permit or new building permit may be obtained, pursuant to Section 81-611 (Applicability of regulations), where below-grade improvements to the pedestrian circulation network, including access improvements to subway stations or rail mass transit facilities, are required in conjunction with the proposed #development#, pursuant to condition (b)(5) of this Section.

(b) Any application for such special permit shall contain information sufficient to allow the Commission to determine that the following conditions are met:

(1) The proposed #development# will comply with the applicable certification or authorization provisions of Section 81-621 (District improvement bonus for qualifying sites), Section 81-632 (Authorization for contribution in-kind) or Section 81-622 (Transfer of development rights from landmarks to qualifying sites). Compliance with such provisions shall include demonstration that:

(i) all proposed #floor area# for such #development# up to, and in excess of, the amount permitted in Row E of the table in Section 81-62, will be achieved through a contribution to district improvements in accordance with the provisions of Section 81-621; a district contribution in-kind in accordance with the provisions of Section 81-632, or paragraph (b)(2) of this Section, as applicable; a transfer of development rights from landmarks in accordance with the provisions of Section 81-622; or some combination thereof.

Contributions or transfers for #floor area# in excess of that permitted under Row E of the table in Section 81-62 shall be made in the manner described in the applicable Section for generating #floor area# up to the amount set forth in Row E; and

(ii) any district improvement contribution in-kind provided pursuant to Section 81-632, or paragraph (b)(2) of this Section, as applicable, is for an improvement that is separate and distinct from the additional above and below-grade site improvements required pursuant to conditions (b)(4) and, if applicable, (b)(5) of this Section;

(2) for any district improvement contribution in-kind proposed prior to the establishment of the Priority Improvements List by the “Committee”, the provisions of Section 81-632 shall not apply. In lieu thereof, the applicant shall propose a contribution in-kind project which shall achieve one or more of the requirements set forth for district improvement projects in paragraph (a) of Section 81-691 (The East Midtown District Improvement Fund Committee).

The applicant shall submit concept plans for the proposed improvement project to the Commission and any applicable City or State agencies which would have jurisdiction over and control of the proposed improvement project. At the time of filing of the application, such agencies shall each provide a letter to the Commission containing a conceptual approval of the improvement project,

including a statement of any considerations regarding the construction and operation of the improvement project;

- (3) for any proposed modification to the date a foundation permit or new building permit may be obtained in order to accommodate a complex construction schedule associated with the provision of improvements to the below-grade pedestrian circulation network in conjunction with the proposed #development#, as required pursuant to condition (b)(5) of this Section, the applicant shall submit a construction schedule for the proposed #building#. In addition, such schedule shall describe when the improvements will be open to the public.

No proposed modification to the date a foundation or new building permit may be obtained for the #building# shall exceed one year prior to that required pursuant to Section 81-611, and accordingly, no foundation permit or new building permit shall be issued by the Department of Buildings for the #building# prior to July 1, 2016. No temporary certificate of occupancy shall be issued for any portion of the #building# prior to January 1, 2020, and no permanent certificate of occupancy shall be issued for such #building# prior to July 1, 2020;

- (4) the proposed #development# provides a major improvement to the above-grade pedestrian circulation network, consisting of open or enclosed space or spaces, which shall be open to the public for public use and enjoyment. A site plan shall be submitted of sufficient scope and detail to enable the Commission to determine that such publicly-accessible space or spaces:

- (i) to the greatest extent feasible, includes amenities required for #public plazas#, as set forth in Section 37-70 (PUBLIC PLAZAS), including but not limited to planting beds and trees, a variety of seating types, paving, lighting, litter receptacles, and public space signage. The applicable minimum and maximum dimensional criteria for such amenities set forth in Section 37-70 shall apply;
- (ii) front upon a #street# or a pedestrian circulation space in close proximity to and full view of an adjoining sidewalk; and
- (iii) to the greatest extent feasible, are adjoined by ground floor #uses# and transparent materials in accordance with the provisions of Section 37-76 (Mandatory Allocation of Frontages for Permitted Uses);

Where a City or State agencies would have jurisdiction over and control of the proposed improvement, the applicant shall submit concept plans for the above-grade improvement to such agency and the Commission. At the time of filing of the application, any such agency with jurisdiction over and control of the proposed improvement shall provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

- (5) where located within the Grand Central Subarea Core, the proposed #development# provides major improvements to the below-grade pedestrian circulation network. Such below-grade improvements shall be in addition to the above-grade improvements required pursuant to paragraph (b)(4) of this Section. Such improvements may include, but are not limited to, widenings, straightenings or expansions of the existing pedestrian circulation network, reconfigurations of circulation routes to provide more direct pedestrian connections between the proposed #development# and Grand Central Terminal, and provision for direct daylight access, retail in new and existing passages, and associated enhancements to air quality, lighting, finishes and signage.

Concept plans of the proposed improvements to the below-grade pedestrian circulation network, shall be provided to the Metropolitan Transportation Authority (MTA), the Commission and any other City or State agency with jurisdiction over and control of the proposed improvement. At the time of filing of the application, the MTA and any other agencies with jurisdiction over and control of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

- (6) the ground floor level of the proposed #development# provides pedestrian circulation spaces and active streetscape amenities to improve the surrounding pedestrian circulation network. A ground floor level site plan shall be provided of sufficient scope and detail to enable the Commission to determine:
- (i) the size and location of proposed circulation spaces and the manner in which such spaces will connect to the overall pedestrian circulation network and above-grade or below-grade improvements provided in accordance with conditions (b)(4) and (b)(5) of this Section;

- (ii) the type of proposed #uses# on the ground floor level, the proposed amounts of transparency, and the location of proposed #building# entrances; and
 - (iii) where modifications to the mandatory district plan elements are proposed, how the proposed ground floor level will not comply with the provisions of Sections 81-42, 81-44, 81-45, 81-46, 81-47, or 81-48, or as such provisions are modified pursuant to Section 81-68.
- (7) any proposed modifications to #street wall# or height and setback regulations within the proposed #development# are demonstrated through materials submitted to the Commission, including but not limited to:
 - (i) drawings, including but not limited to plan views and axonometric views, that illustrate how the proposed #building# will not comply with the provisions of Sections 81-26 or 81-27, or as such provisions are modified pursuant to Section 81-67;
 - (ii) where applicable, formulas showing the degree to which such proposed #building# will not comply with the length and height rules of Section 81-26, or as such provisions are modified pursuant to Section 81-67; and
 - (iii) where applicable, #daylight evaluation charts# and the resulting daylight evaluation score showing the degree to which such proposed #building# will not comply with the provisions of Section 81-27 or as such provisions are modified pursuant to Section 81-67;
- (8) the proposed #development# exceeds the #building# performance standards set forth in Section 81-623 (Special building performance requirements for all qualifying sites). Information regarding the proposed #development's# energy performance shall be submitted to the Commission; and
- (9) the applicant has submitted drawings sufficient to demonstrate to the Commission the building design of the proposed #development#, and to enable the Commission to evaluate such #building# in the context of adjacent #buildings# and the Manhattan skyline. Such drawings shall include, but shall not be limited to, measured elevation drawings, axonometric views, and renderings showing such proposed #building# within the Manhattan skyline.

- (c) To grant such special permit, the Commission shall find that:
- (1) the public benefit derived from the proposed #development# merits a proportional amount of additional #floor area# being granted pursuant to this Section;
 - (2) with regard to any district improvement contribution in-kind proposed prior to the establishment of the Priority Improvements List by the “Committee”:
 - (i) the proposed contribution in-kind is consistent with one or more of the requirements for district improvement projects established in paragraph (a) of Section 81-691 (The East Midtown District Improvement Fund Committee);
 - (ii) the practical benefits of incorporating an improvement project proximate to the proposed #development# into the construction phasing of such #development# warrant a contribution in-kind; and
 - (iii) the amount of #floor area# proposed to be generated by the contribution in-kind is reasonable in relation to the estimated cost of such improvement to the City or State agencies with jurisdiction over and control of the proposed improvement. In order to make such determination, the Commission may consult with an engineer at the applicant’s expense, or with the staff of any applicable City or State agencies with jurisdiction over and control of the proposed improvement;
 - (3) any proposed modification to the date a foundation permit or new building permit may be obtained for the #building# is necessary in order to ensure that a complex construction schedule associated with the below-grade improvements to the pedestrian circulation network required in conjunction with the proposed #development#, does not delay the construction or completion of the above-grade portion of the #building# = and will provide for the earlier availability of major below-grade improvements to the pedestrian circulation network;
 - (4) the above-grade improvement required pursuant to condition (b)(4) of this Section:
 - (i) shall be a prominent space of generous proportions and quality design that is inviting to the public, and provides ample amounts of light and air for

occupants. Such space shall contain amenities for the comfort and convenience of the public, including, but not limited to, abundant greenery through a combination of planting beds and trees, and generous amounts of seating in a variety of different types. Such amenities shall be combined in a cohesive and harmonious manner, demonstrating particular consideration for the choice, amount and quality of such proposed amenities, and shall result in a quality public space greater than that required for a #public plaza#; and

(ii) shall be highly visible and accessible from the adjoining sidewalk and significantly contribute to the pedestrian circulation network by providing generous pedestrian accessibility through and around the site, and fluid connections to pedestrian circulation spaces in the immediate vicinity thereof;

(5) any below-grade improvements required as part of the proposed #development# pursuant to condition (b)(5) of this Section:

(i) shall provide significant and generous connections from the above-grade pedestrian circulation network and surrounding #streets# to the below-grade pedestrian circulation network;

(ii) shall provide major improvements to public accessibility in the below-grade pedestrian circulation network between and among subway stations and other rail mass transit facilities in and around Grand Central Terminal through the provision of new connections, or the addition to or reconfigurations of existing connections; and

(iii) shall provide significant enhancements to the environment of subway stations and other rail mass transit facilities including through the provision of enhancements such as direct daylight access, or through enhancements to noise control, air quality, lighting or rider orientation;

(6) with regard to the ground floor level of the proposed #building#, including any modifications to the mandatory plan elements:

(i) the proposed pedestrian circulation spaces shall substantially improve the accessibility of the overall pedestrian circulation network, reduce points of

pedestrian congestion and, where applicable, establish more direct and generous connections to Grand Central Terminal;

(ii) the site plan of the proposed #development# seamlessly integrates the location of pedestrian circulation spaces with the location of above-grade and below-grade improvements required by conditions (b)(4) and (b)(5) of this Section; and

(iii) the design of the ground floor level of the #building# contributes to a lively streetscape through a combination of active uses, ample amounts of transparency and pedestrian connections that facilitate fluid movement between the #building# and adjoining public spaces. Such design shall demonstrate particular consideration for the location of pedestrian circulation space, #building# entrances, and the types of #uses# fronting upon the #street# or adjoining public spaces;

(7) with regard to the proposed #bulk# of the #building#, including any modifications to #street wall# or height and setback regulations:

(i) the design of the #building# ensures light and air to the surrounding #streets# and public spaces through the use of setbacks, recesses and other forms of articulation, and the tower top produces a distinctive addition to the Midtown Manhattan skyline which is well-integrated with the remainder of the #building#;

(ii) the #building# demonstrates an integrated and well-designed combination of articulation, choice of materials and amounts of fenestration, which contribute to create a prominent and distinctive #building# which complements the character of the surrounding area;

(iii) any modifications to the #street wall# or height and setback regulations will result in a distribution of #bulk# on the #zoning lot# which is harmonious with the basic #bulk# strategy of the #Special Midtown District#;

(8) the proposed #development# comprehensively integrates ‘green’ building systems into the #building# and site design, and exhibits innovations in ‘green’ building technology which will place the #development# at the forefront of sustainable

building design; and

(9) all of the separate elements within the proposed #development#, including but not limited to, the proposed #building#, the proposed open or enclosed publicly accessible space, and any required below-grade improvements to the pedestrian circulation network, are well integrated and will result in a superior #development# that will present a significant contribution to the East Midtown area and its collection of world-renowned #buildings#.

(d) Prior to the grant of a special permit which includes an improvement provided pursuant to condition (b)(2) of this Section, or required under conditions (b)(4) or (b)(5) of this Section, where applicable, and to the extent required by the Metropolitan Transportation Authority (MTA) and any other City or State agencies with jurisdiction over and control of the proposed improvement, the applicant shall execute agreements and legally enforceable instruments, setting forth the obligations of the owner and developer, their successors and assigns, to establish a design process and preliminary construction schedule for the proposed improvement, to construct the proposed improvement, and to establish a program for maintenance and a schedule of hours of public operation for the proposed improvement. Where the MTA, or any other City or State agencies with jurisdiction over and control of the proposed improvement, deems necessary, the applicant shall provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA and any other such agencies.

A written declaration of restrictions, in a form acceptable to the City Planning Commission, setting forth the obligations of owner or developer to construct, maintain and provide public access to a public improvement provided pursuant to conditions (b)(2) of this Section, or required pursuant to conditions (b)(4) or (b)(5) of this Section, shall be recorded against such property in the Office of the Register of the City of New York (County of New York). Proof of recordation of the declaration of restrictions shall be submitted to the Department of City Planning, in a form acceptable to the Department. Execution and recordation of such declaration of restrictions and the payment of all non-refundable contributions to the #East Midtown District Improvement Fund# required pursuant to (b)(1)(i) of this Section and Section 81-621 shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing a #development# on a #qualifying site#.

No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# granted pursuant to the provisions of this Section until all required improvements have been substantially

completed as determined by the Chairperson of the City Planning Commission, acting in consultation with the MTA, or any other City or State agencies with jurisdiction over and control of the proposed improvement, where applicable, and such improvements are usable by the public. Such portion of the #building# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph (d). No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing such bonus #floor area# until all improvements have been completed in accordance with the approved plans and such final completion has been approved by the Chairperson, and, where applicable, until such final completion has been certified by letter from the MTA, and any other City or State agencies with jurisdiction over and control of the proposed improvement.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area and may stipulate appropriate hours of access to above-grade and below-grade improvements provided in accordance with the provisions of this Section.

81-634

Special permit for use modifications

In the East Midtown Subdistrict, the City Planning Commission may allow, by special permit, modifications to the #use# criteria established in paragraph (e) of the definition of #qualifying site# in Section 81-612 (Definitions), to allow any #use# permitted by the underlying zoning district regulations on #qualifying sites# or #buildings developed# on non-#qualifying sites# pursuant to the provisions of Section 81-614 (Special provisions for retaining non-complying floor area), provided that the conditions of paragraph (a) and the findings of paragraph (b) of this Section are met. In conjunction with such modification to permitted #uses#, the Commission may permit modifications to the location of #use# provisions set forth in Section 81-615 (Location of uses in mixed buildings), as necessary.

- (a) Any application for such special permit shall contain information sufficient to allow the Commission to determine that the following conditions are met:
- (1) no more than 25 percent of the #building's floor area# shall be allocated to #residential use#; and
 - (2) the #East Midtown District Improvement Fund Contribution Rate# for all proposed #floor area# for such #development# in excess of the basic maximum

#floor area# established in Row A of the table in Section 81-62 (Special Floor Area Provisions for Qualifying Sites) utilizing the provisions of Section 81-621 (District improvement bonus for qualifying sites) has been adjusted, as necessary, to account for any increase in #residential floor area#, in the manner described in such definition in Section 81-612.

(b) In order to grant such special permit, the Commission shall find that:

- (1) the design of the ground floor level of the #building# contributes to a lively streetscape through a combination of active uses, ample amounts of transparency and pedestrian connections that facilitate movement between the #building# and adjoining public spaces;
- (2) above the ground floor level, adequate access to light and air is provided for #residential# and hotel #uses#, as applicable, through a well-composed distribution of #bulk# which utilizes setbacks, recesses and other forms of articulation;
- (3) the mix of #uses# in the proposed #building# will not undermine the achievement of the goals and purposes set forth for the East Midtown District and the #Special Midtown District#. In order to make such determination, the applicant shall demonstrate to the Commission that sufficient #development# sites exist within the East Midtown Subdistrict to reasonably accommodate the Subdistrict's projected office demand; and
- (4) where the location of #use# provisions are being modified, sufficient separation of #residential uses# from #non-residential uses# exists within the #building#.

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

81-64 **Special Floor Area Provisions for All Other Sites**

The provisions of this Section shall apply to all #zoning lots# that are not #qualifying sites# in the East Midtown Subdistrict. For such #zoning lots#, the #floor area# provisions of Sections 81-211 (Maximum floor area ratio for non-residential or mixed buildings), shall not apply. In lieu thereof, the provisions of this Section shall apply. The #residential floor area# provisions of

Section 81-24 (Floor Area, Lot Coverage and Building Spacing Regulations for Residential Uses) shall apply.

The table in this Section shall apply to all #zoning lots# that are not #qualifying sites#. The basic maximum #floor area ratio# for such #zoning lots# is specified in Row A. Where such #zoning lot# is located outside the Grand Central Subarea, as shown on Map 4 (East Midtown Subareas and Subarea Cores) in Appendix A of this Chapter, such #floor area ratio# may be increased up to the amount specified in Row B pursuant to Section 81-641 (Floor area bonus for public plazas). Where such #zoning lot# is eligible for a subway improvement, the basic maximum #floor area ratio# may be increased up to the amount specified in Row D, pursuant to Section 81-642 (Floor area bonus for subway station improvements). Where such #zoning lot# is a #receiving lot# in the Grand Central Subarea, the basic maximum #floor area ratio# may be increased up to the amount specified in Row F.1 or F.2 pursuant to the applicable provisions of Sections 81-65 (Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites) and 81-651 (Transfer of development rights by certification in the Grand Central Subarea) or 81-652 (Transfer of development rights by special permit in the Grand Central Subarea). Where such #zoning lot# is a #receiving lot# in the Northern Subarea, the basic maximum #floor area ratio# may be increased up to the amount specified in Row F.3 or F.4 pursuant to the applicable provisions of Sections 81-65 and 81-653 (Transfer of development rights by authorization in the North Subarea) or 81-654 (Transfer of development rights from landmarks by special permit in the Northern Subarea). The maximum #floor area# on a #receiving lot# shall not exceed the applicable amount set forth in Row G. Where such #zoning lot# is an #adjacent lot# in relation to a #landmark or other structure#, the basic maximum #floor area ratio# may be increased up to the amount specified in Row I pursuant to Section 74-79 (Transfer of Development Sites from Landmark Sites). The maximum #floor area# on an #adjacent lot# shall not exceed the applicable amount set forth in Row J.

Within the Grand Central or Northern Subarea, any transfer of development rights from a #landmark building or other structure# from a #granting lot# to a #receiving lot# may be made pursuant to either Section 74-79 or Section 81-65, but not both. For #receiving lots#, any subsequent transfer of development rights shall be made in accordance with the same provisions as the initial transfer. Any #development# using the provisions of Section 74-79 shall also be subject to the modifications set forth in Section 81-212 (Special provisions for transfer of development rights from landmark sites). Whenever there is an inconsistency between any provisions in Section 74-79 and the table in this Section, the table in this Section shall apply.

#Zoning lots# with #landmark buildings or other structures# may transfer development rights pursuant to Section 81-65 and the applicable subsequent Section, only to the Subarea of the East Midtown Subdistrict within which such #landmark building or other structure# is located.

<u>MAXIMUM FLOOR AREA ALLOWANCES FOR ALL OTHER SITES IN THE EAST MIDTOWN SUBDISTRICT</u>									
<u>Row</u>	<u>Means for achieving permitted FAR on a #zoning lot# for all other sites</u>	<u>Grand Central Subarea</u>			<u>Northern Subarea</u>			<u>Any other Areas</u>	
		<u>Grand Central Subarea Core</u>	<u>Outside of Grand Central Subarea Core</u>		<u>Northern Subarea Core</u>	<u>Outside of Northern Subarea Core</u>			
		<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>	<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>
		<u>C6-4.5</u>	<u>C6-6</u>		<u>C6-4.5</u>	<u>C6-6</u>	<u>C6-4.5</u>	<u>C6-6</u>	
<u>A</u>	<u>Basic Maximum FAR</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>12</u>	<u>15</u>
<u>B</u>	<u>Additional FAR for provision of a #public plaza# (Section 81-641)</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>C</u>	<u>Total as-of-right FAR</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>16</u>	<u>13</u>	<u>16</u>	<u>13</u>	<u>16</u>
<u>D</u>	<u>Additional FAR for subway station improvements through special permit (Section 81-642)</u>	<u>3</u>	<u>2.4</u>	<u>3</u>	<u>3</u>	<u>2.4</u>	<u>3</u>	<u>2.4</u>	<u>3</u>
<u>E</u>	<u>Maximum FAR of a #landmark or other</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>=</u>	<u>=</u>

	<u>structure# for transfer purposes (Sections 81-65)</u>								
<u>F</u>	<u>Maximum amount of transferable development rights from a landmark #zoning lot# that may be utilized on:</u>								
<u>1</u>	<u>a #receiving lot# in Grand Central Subarea through certification by Chairperson of the CPC (Section 81-651)</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>2</u>	<u>a #receiving lot# in Grand Central Subarea through special permit (Section 81-652)</u>	<u>6.6</u>	<u>9.6</u>	<u>6.6</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>3</u>	<u>a #receiving lot# in the Northern Subarea through authorization (Section 81-653)</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>3</u>	<u>2.4</u>	<u>3</u>	<u>=</u>	<u>=</u>

	<u>4</u>	a #receiving lot# in the Northern Subarea through special permit (Section 81-654)	=	=	=	<u>6.6</u>	=	=	=	=
<u>G</u>		Maximum FAR permitted on a #receiving lot# (Sections 81-65)	<u>21.6</u>	<u>21.6</u>	<u>21.6</u>	<u>21.6</u>	<u>14.4</u>	<u>18</u>	=	=
<u>H</u>		Maximum FAR of a #landmark or other structure# for transfer purposes (Section 74-79)	<u>15</u>	<u>12</u>	<u>15</u>	<u>16</u>	<u>13</u>	<u>16</u>	<u>13</u>	<u>16</u>
<u>I</u>		Maximum amount of transferable development rights from a landmark #zoning lot# that may be utilized on an #adjacent lot# (Sections 74-79)	No limit	<u>2.4</u>	No limit	No limit	<u>2.4</u>	No limit	<u>2.4</u>	No limit
<u>J</u>		Maximum FAR permitted on an #adjacent lot#	No limit	<u>14.4</u>	No limit	No limit	<u>14.4</u>	No limit	<u>14.4</u>	No limit

81-641
Floor area bonus for public plazas

For all #zoning lots# that are not #qualifying sites# within the East Midtown Subdistrict, except within the Grand Central Subarea, as shown on Map 4 (East Midtown Subareas and Subarea Cores) in Appendix A of this Chapter, the basic maximum #floor area ratio# permitted on such #zoning lots# shall be increased, up to the amount specified in Row B of the table in Section 81-64 (Special Floor Area Provisions for All Other Sites), where a #public plaza# is provided in accordance with the provisions of Section 81-23 (Floor Area Bonus for Public Plazas).

81-642

Floor area bonus for subway station improvements

For all #zoning lots# that are not #qualifying sites# within the East Midtown Subdistrict, the City Planning Commission may permit an increase in the amount of #floor area# permitted on such #zoning lots#, up to the amount specified in Row D of the table in Section 81-64 (Special Floor Area Provisions for All Other Sites), as applicable, where subway station improvements are made in accordance with the provisions of Sections 81-292 (Subway station improvements) and Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).

81-65

Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites

In accordance with the provisions of Sections 81-651 through 81-654, the Chairperson of the City Planning Commission may certify, or the City Planning Commission may permit, or authorize, as applicable, the transfer of development rights from a #landmark building or other structure# to a #zoning lot#, as set forth in paragraph (a) of this Section, provided that the application requirements of paragraph (b), the conditions of paragraph (c) and the additional requirements of paragraph (d) of this Section are met.

(a) The following transfer of development rights shall be allowed on #zoning lots# other than #qualifying sites# within the East Midtown Subdistrict:

(1) In the Grand Central Subarea:

(i) The Chairperson of the City Planning Commission shall, by certification, allow a transfer of development rights from a #granting lot# to a #receiving lot# in an amount not to exceed the applicable #floor area

ratio# set forth in Row G.2 of the table in Section 81-64 (Special Floor Area Provisions for All Other Sites). In addition to the provisions of this Section, applicants shall comply with the provisions of Section 81-651 (Transfer of development rights from landmarks by certification in the Grand Central Subarea);

(ii) The City Planning Commission may, by special permit, allow a transfer of development rights from a #granting lot# to a #receiving lot# in an amount not to exceed the applicable #floor area ratio# set forth in Row G.3 of the table in Section 81-64. In addition to the provisions of this Section, applicants shall comply with the provisions of Section 81-652 (Transfer of development rights from landmarks by special permit in the Grand Central Subarea).

(2) In the Northern Subarea:

(i) The City Planning Commission may, by authorization, allow a transfer of development rights from a #granting lot# to a #receiving lot# in an amount not to exceed the applicable #floor area ratio# set forth in Row G.4 of the table in Section 81-64. In addition to the provisions of this Section, applicants shall comply with the provisions of Section 81-653 (Transfer of development rights from landmarks by authorization in the Northern Subarea); and

(iii) The City Planning Commission may, by special permit, allow a transfer of development rights from a #granting lot# to a #receiving lot# in an amount not to exceed the applicable #floor area ratio# set forth in Row G.5 of the table in Section 81-64. In addition to the provisions of this Section, applicants shall comply with the provisions of Section 81-654 (Transfer of development rights from landmarks by special permit in the Northern Subarea).

(b) An application filed with the City Planning Commission, or the Chairperson thereof, as applicable, shall be made jointly by the owners of the #granting lot# and #receiving lot# and shall include:

(1) a site plan and zoning calculations for the #granting lot# and #receiving lot#;

- (2) materials to demonstrate the establishment of a program for the continuing maintenance of the #landmark building or other structure#;
 - (3) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the #landmark building or other structure#, and for those #receiving lots# meeting the criteria of paragraph (a) of the definition of #adjacent lot# with regard to such #zoning lot's# adjacency Grand Central Terminal, a report concerning the harmonious relationship of the #development# or #enlargement# to Grand Central Terminal; and
 - (4) any such other information as may be required by the Commission or Chairperson, as applicable.
- (c) Any transfer of development rights from a #granting lot# to a receiving lot# pursuant to this Section shall be subject to the following conditions:
- (1) the maximum amount of #floor area# that may be transferred from a #granting lot# shall be the applicable maximum #floor area# on such landmark #zoning lot# set forth in Row E of the table in Section 81-64, as if it were undeveloped, less the total #floor area# of all existing #buildings# on the landmark #zoning lot#, and any previously transferred #floor area#;
 - (2) for each #receiving lot#, the #floor area# allowed by the transfer of development rights under this Section shall not exceed the applicable amount set forth in Row G.2 through G.5 of the table in Section 81-64;
 - (3) each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred.
- (d) The owners of the #granting lot# and the #receiving lot# shall submit to the Commission or the Chairperson, as applicable, a copy of a transfer instrument legally sufficient in both form and content to effect such a transfer. Notices of the restrictions upon further #development# or #enlargement# of the #granting lot# and the #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York (County of New York). Proof of recordation of the notices shall be submitted, in a form acceptable to the Commission or the Chairperson, as applicable.

Both the instrument of transfer and the notices of restrictions shall specify the total amount of #floor area# transferred and shall specify, by lot and block numbers, the lots from which and the lots to which such transfer is made.

81-651

Transfer of development rights from landmarks by certification in the Grand Central Subarea

Within the Grand Central Subarea, the Chairperson of the City Planning Commission shall allow, by certification, a transfer of development rights from a #landmark building or other structure# to a #zoning lot# that is not a #qualifying site#, as set forth in paragraph (a)(1)(i) of Section 81-65 (Transfer of Development Rights from Landmark Buildings or other Structures on All Other Sites), provided that, in addition to the applicable requirements set forth in paragraphs (b) through (d) of Section 81-65, such #zoning lot# shall comply with the applicable environmental standards for #qualifying sites# set forth in paragraph (c) of Section 81-624 (Special environmental requirements for all qualifying sites). For the purpose of applying provisions in Section 81-624, the term #developments# on #qualifying sites# as used in such Section shall include #developments# or #enlargements# on a #zoning lot# pursuant to the provisions of this Section. In the case of an (E) designation for air quality or noise for a site for which certification has been made pursuant to this Section for the #enlargement#, #extension# or change of #use# in an existing #building#, the term “building permit” for purposes of paragraph (a) of Section 11-15 shall mean such permit as may be required for the #enlargement#, #extension# or change of #use#, as applicable.

In conjunction with such transfer of development rights, the Chairperson shall allow modifications to the provisions of Sections 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements), as follows:

For any #receiving lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area#, #dwelling units# or #rooming units# permitted by the applicable district regulations which allow a greater #floor area ratio# may be located on a portion of such #receiving lot# within a district that allows a lesser #floor area ratio#, provided that the amount of such #floor area#, #dwelling units# or #rooming units# to be located on the side of the district boundary permitting the lesser #floor area ratio# shall not exceed 20 percent of the basic maximum #floor area ratio# or the permitted number of #dwelling units# or #rooming units# of the district in which such #bulk# is to be located.

81-652

Transfer of development rights from landmarks by special permit in the Grand Central Subarea

Within the portion of the Grand Central Subarea bounded by East 41st Street, East 48th Street, Lexington and Madison Avenues, the City Planning Commission may allow, by special permit, a transfer of development rights from a #landmark building or other structure# to a #zoning lot# that is not a #qualifying site#, as set forth in paragraph (a)(1)(ii) of Section 81-65 (Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites), and, in conjunction with such transfer, the Commission may permit modifications to #bulk# and provisions regarding #zoning lots# divided by district boundaries, as set forth in paragraph (a) of this Section, provided that, in addition to the applicable requirements set forth in paragraphs (b) through (d) of Section 81-65, the conditions of paragraph (b), the findings of paragraph (c), and the additional requirements of paragraph (d) of this Section are met.

- (a) In conjunction with such transfer of development rights, the Commission may permit:
- (1) for #receiving lots# divided by district boundaries, modifications of the provisions of Sections 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements) for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto. The #floor area#, #dwelling units# or #rooming units# permitted on the portion of the #receiving lot# that, pursuant to district regulations, allows a greater #floor area ratio# may be located on the portion of the #receiving lot# that allows a lesser #floor area ratio#::
 - (2) the modification of #bulk# regulations except #floor area ratio# and height and setback regulations; however, in the case of an #enlargement# to an existing #building# utilizing the transfer of development rights from a designated landmark, the Commission may modify the provisions of Sections 81-66 (Special Street Wall requirements), 81-67 (Special Height and Setback requirements), 81-68 (Special Mandatory District Plan Element Requirements), and Sections 81-25 (General Provisions Relating to Height and Setback of Buildings), 81-26 (Height and Setback Regulations-Daylight Compensation) and 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation) in order to accommodate existing structures and conditions; and

- (3) notwithstanding the provisions of paragraph (a)(2) of this Section, for #developments# or #enlargements# on #zoning lots# with a #lot area# of more than 40,000 square feet that occupy an entire #block#, modifications of #bulk# regulations, except #floor area ratio# regulations.
- (b) As a condition for approval, the applicant shall demonstrate to the Commission that the design of the #development# or #enlargement# includes a major improvement of the surface and/or subsurface pedestrian circulation network in that portion of the Subdistrict. The improvement shall increase the general accessibility and security of the network, reduce points of pedestrian congestion and improve the general network environment through connections into planned expansions of the network. The improvement may include, but is not limited to, widening, straightening or expansion of the existing pedestrian network, reconfiguration of circulation routes to provide more direct pedestrian connections between the #development# or #enlargement# and Grand Central Terminal, and provision for direct daylight access, retail in new and existing passages, and improvements to air quality, lighting, finishes and signage. The Commission may require, where appropriate, the provision of similar public amenities for #developments# or #enlargements# in the Northern Subarea.
- (c) In order to grant such special permit, the Commission shall find that:.
- (1) the improvement to the surface and subsurface pedestrian circulation network provided by the #development# or #enlargement# increases public accessibility to and from Grand Central Terminal;
- (2) the streetscape, the site design and the location of #building# entrances contribute to the overall improvement of pedestrian circulation within the portion of the Subdistrict and minimize congestion on surrounding #streets#, and that a program is established to identify solutions to problems relating to vehicular and pedestrian circulation problems and the pedestrian environment within such portion of the Subdistrict;
- (3) the modification of #bulk# regulations, regulations governing #zoning lots# divided by district boundaries or the permitted transfer of #floor area# will not unduly increase the #bulk# of any #development# or #enlargement# on the #receiving lot#, density of population or intensity of #use# on any #block# to the detriment of the occupants of #buildings# on the #block# or the surrounding area;

- (4) for #enlargements# to existing #buildings#, the modifications of height and setback requirements of Sections 81-66 (Special Street Wall requirements), 81-67 (Special Height and Setback requirements) and the district plan requirements of 81-68 (Special Mandatory District Plan Element Requirements) are necessary because of the inherent constraints or conditions of the existing #building#, that the modifications are limited to the minimum needed, and that the proposal for modifications of height and setback requirements demonstrates to the satisfaction of the Commission that an integrated design is not feasible for the proposed #enlargement# which accommodates the transfer of development rights due to the conditions imposed by the existing #building# or configuration of the site; and
- (5) for #developments# or #enlargements# on #zoning lots# with a #lot area# of more than 40,000 square feet that occupy an entire #block#, modifications of #bulk# regulations are necessary because of inherent site constraints and that the modifications are limited to the minimum needed.
- (d) Any application filed with the Commission pursuant to this Section shall include a plan of the required pedestrian network improvement, as well as information and justification sufficient to provide the Commission with a basis for evaluating the benefits to the general public from the proposed improvement to the surface and/or sub-surface of the pedestrian circulation network. The applicant shall submit schematic or concept plans of the proposed improvement to the Department of City Planning, as well as evidence of such submission to the Metropolitan Transportation Authority (MTA) and any other City or State agencies with jurisdiction over and control of the area of the proposed improvement. Prior to Uniform Land Use Review Procedure (ULURP) certification of the special permit application, as required by Section 197-c of the New York City Charter, the MTA and any other agencies with jurisdiction over and control of the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

Prior to the grant of a special permit the applicant shall obtain approvals of plans from the MTA and any other agencies with jurisdiction over and control of the proposed improvement, as applicable, and, if appropriate, the applicant shall execute agreements and legally enforceable instruments, setting forth the obligations of the owner and developer, their successors and assigns, to establish a design process and preliminary construction schedule for the proposed improvement, to construct the proposed improvement, and to establish a program for maintenance and a schedule of hours of public operation for the proposed improvement. Where the MTA, or any other City or

State agencies with jurisdiction over and control of the proposed improvement, deems necessary, the applicant shall provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA and any other such agencies.

The written declaration of restrictions and any instrument creating an easement on privately owned property shall be recorded against such private property in the Office of the Register of the City of New York (County of New York) and a certified copy of the instrument shall be submitted to the City Planning Commission.

No temporary certification shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# granted pursuant to the provisions of this Section until all required improvements have been substantially completed as determined by the Chairperson of the City Planning Commission, acting in consultation with the MTA, as appropriate, and the areas are usable by the public. Such portion of the #building# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph (d). No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing such bonus #floor area# until all improvements have been completed in accordance with the approved plans and such final completion has been approved by the Chairperson and has been certified by letter from the MTA and any other agencies with jurisdiction over and control of the area of the proposed improvement.

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

81-653

Transfer of development rights from landmarks by authorization in the Northern Subarea

Within the Northern Subarea, the City Planning Commission may allow, by authorization, a transfer of development rights from a #landmark building or other structure# to a #zoning lot# that is not a #qualifying site#, as set forth in paragraph (a)(2)(i) of Section 81-65 (Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites), and, in conjunction with such transfer, the Commission may authorize associated modifications to provisions regarding #zoning lots# divided by district boundaries, as forth in paragraph (a) of this Section, provided that, in addition to the applicable requirements set forth in paragraphs (b) through (d) of Section 81-65, the conditions of paragraph (b) and the findings of paragraph (c) of this Section are met.

- (a) In conjunction with such transfer of development rights, for #receiving lots# divided by district boundaries, the Commission may authorize modifications of the provisions of Sections 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements) for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto. The #floor area#, #dwelling units# or #rooming units# permitted on the portion of the #receiving lot# that, pursuant to district regulations, allows a greater #floor area ratio# may be located on the portion of the #receiving lot# that allows a lesser #floor area ratio##.
- (b) As a condition for approval, the applicant shall demonstrate to the Commission that on (date of adoption), and at the time of application, the #receiving lot# did not meet the applicable #minimum clear site# criteria established for #qualifying sites# in the paragraph (a) of the definition in Section 81-612.
- (c) In order to grant such authorization, the Commission shall find that the authorized transfer of #floor area will not unduly increase the #bulk# of any #development# or #enlargement#, density of population or intensity of use in any #block# to the detriment of the occupants of #buildings# on the #block# or on nearby #blocks##; and that the program for continuing maintenance will result in the preservation of the #landmark building or other structure#.

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

81-654

Transfer of development rights from landmarks by special permit in the Northern Subarea

Within the Northern Subarea, the City Planning Commission may allow, by special permit, a transfer of development rights from a #landmark building or other structure# to a #zoning lot# that is not a #qualifying site#, as set forth in paragraph (a)(2)(ii) of Section 81-65 (Transfer of Development Rights from Landmark Buildings or Other Structures on All Other Sites), and, in conjunction with such transfer, the Commission may permit associated modifications to provisions regarding #zoning lots# divided by district boundaries, as forth in paragraph (a) of this Section, provided that, in addition to the applicable requirements set forth in paragraphs (b) through (d) of Section 81-65, the conditions of paragraph (b) and the findings of paragraph (c) of this Section are met.

- (a) In conjunction with such transfer of development rights, for #receiving lots# divided by district boundaries, the Commission may permit modifications of the provisions of Sections 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements) for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto. The #floor area#, #dwelling units# or #rooming units# permitted on the portion of the #receiving lot# that, pursuant to district regulations, allows a greater #floor area ratio# may be located on the portion of the #receiving lot# that allows a lesser #floor area ratio#.
- (b) As a condition for approval, the applicant shall demonstrate to the Commission that on (date of adoption), and at the time of application, the #receiving lot# did not meet the applicable #minimum clear site# criteria established for #qualifying sites# in paragraph (a) of the definition in Section 81-612 (Definitions).
- (c) In order to grant such special permit, the Commission shall find:
- (1) that the permitted transfer of #floor area will not unduly increase the #bulk# of any #development# or #enlargement#, density of population or intensity of use in any #block# to the detriment of the occupants of #buildings# on the #block# or nearby #blocks#;
 - (2) that the program for continuing maintenance will result in the preservation of the #landmark building or other structure#; and
 - (3) the scale and placement of the #building# on the #zoning lot# is harmonious with the surrounding neighborhood character.

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

81-66 **Special Street Wall Requirements**

For #buildings# which are #developed# or #enlarged# within the East Midtown Subdistrict, the applicable #street wall# regulations of Section 81-43 (Street Wall Continuity Along Designated Streets) shall be modified in accordance with the provisions of this Section, inclusive.

81-661

Special street wall requirements along designated streets

#Buildings# that front upon designated #streets#, as shown on Map 2 (Retail and Street Wall Continuity) in Appendix A of this Chapter that are within the Grand Central Subarea and the Northern Subarea Core, as shown on Map 4 (East Midtown Subarea and Subarea Core), shall comply with the #street wall# requirements of this Section.

For #buildings# with frontage along designated #streets#, a #street wall# shall be provided for the entire length of a #zoning lot's# designated #street# frontage, except that to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines fifteen feet from and parallel to such #street lines#. Where intersecting #streets# provide a sidewalk widening pursuant to Section 81-681, the #street wall# width shall be reduced to the extent of such widening. Furthermore, #street wall# lengths may be modified, to the minimum extent necessary, to accommodate required transit access that is open to the sky, pursuant to the provisions of Section 81-682 (Mass transit access). All #street walls# along designated #streets# shall be located in accordance with paragraphs (a) through (d) of this Section, as applicable, and shall extend to the minimum heights specified in such applicable paragraph.

Any #street wall# below the applicable minimum #street wall# height that is set back more than one foot from a #street line# or sidewalk widening line shall be considered a recess. Ground floor recesses up to three feet deep shall be permitted for access to #building# entrances, and deeper recesses shall be permitted only where necessary to comply with the pedestrian circulation space provisions of Section 81-685. Above the ground floor, the aggregate width of all recesses in the #street wall# shall not exceed 30 percent of the entire width of such #street wall# at any such level, and no recess shall be permitted within 30 feet of the intersection of two #street lines#. The maximum depth of any recess shall be ten feet if such recess is not open to the sky, and 15 feet if such recess is open to the sky. All recesses shall be at least twice as wide as they are deep.

The #street wall# provisions of this Section, inclusive, shall also apply to the portion of any #narrow street# frontage within 50 feet of the designated #street line#, and may apply on such #narrow street# frontage to a depth of 125 feet from such designated #street line#.

All heights shall be measured from #curb level#.

In addition, the following regulations shall apply:

(a) 42nd Street

The provisions of this paragraph shall apply to #buildings# fronting upon 42nd Street.

The #street wall# of all #buildings# fronting upon 42nd Street shall be located on the 42nd Street #street line#. For portions of #buildings# along 42nd Street and along #street# frontages within 125 feet of the #street line# of 42nd Street, the minimum height of such #street walls# without setback shall be 120 feet or the height of the #building#, whichever is less, and the maximum height of such #street walls# shall be 150 feet. However, such #street wall heights# shall be modified as set forth in paragraph (c) of this Section, where maximum #street wall# heights for #buildings# fronting on Vanderbilt Avenue or Depew Place are required to be maintained along 42nd Street.

(b) Madison and Lexington Avenues

The provisions of this paragraph shall apply to #buildings# fronting upon Madison or Lexington Avenues.

(1) Street wall location

Where the #building# has frontage along the entire Madison Avenue or Lexington Avenue #block# front, the #street wall# shall be located at the sidewalk widening required pursuant to Section 81-681 (Sidewalk widening). For all other #buildings# the #street wall# location shall match the location of an existing adjacent #building#, except that the #street wall# need not be located beyond ten feet of the Madison or Lexington Avenue #street line#.

(2) Street wall height requirements

(i) For portions of #buildings# along Madison or Lexington Avenues or along #narrow streets# within 125 feet of the Madison or Lexington Avenue #street line#, the minimum height of such #street walls# without setback shall be 120 feet or the height of the #building#, whichever is less, and the maximum height shall not exceed 150 feet.

(ii) For portions of #buildings# along #narrow streets# beyond 125 feet of the Madison or Lexington Avenue #street line#, the maximum height of the #street wall# shall be as follows:

(aa) where the height of the #street wall# of the adjacent #building# is less than 90 feet, the maximum height of such portion of the #street wall# shall be 90 feet;

(bb) where the height of the #street wall# of the adjacent #building# is between 90 and 120 feet, the maximum height of such portion of the #street wall# shall be 120 feet; and

(cc) where the height of the #street wall# of the adjacent #building# exceeds a height of 120 feet, the height of such portion of the #street wall# may match the height of such adjacent #building#, provided that the height of such #street wall# does not exceed a height of 150 feet.

(c) Vanderbilt Avenue and Depew Place

The provisions of this paragraph shall apply to #buildings# fronting upon Vanderbilt Avenue and Depew Place. For the purpose of this Section, Depew Place, between 42nd Street and 46th Street, as shown on Map 2 (Retail and Street Wall Continuity) in Appendix A of this Chapter, shall be considered a #street#. For the purpose of applying #street wall# height requirements, where two #street# levels exist, #curb level# shall be measured from the lower #street# level.

(1) Street wall location

For #buildings# fronting along Vanderbilt Avenue or Depew Place, the #street wall# shall be located on the Vanderbilt Avenue or Depew Place #street line#.

(2) Street wall height requirements along Vanderbilt Avenue

For #buildings# fronting upon Vanderbilt Avenue, the minimum height of a #street wall# without setback shall be 90 feet or the height of the #building#, whichever is less, and the maximum height shall not exceed 100 feet. Where such frontages intersect 42nd Street, the #street wall# height along Vanderbilt shall be maintained along 42nd Street for a minimum length of 15 feet. Above the

maximum height permitted at the #street line#, every portion of a #building# shall be set back at least 15 feet from the #street line# of Vanderbilt Avenue.

(3) Street wall height requirements along Depew Place

For #buildings# fronting upon Depew Place, the minimum height of a #street wall# without setback shall be 90 feet or the height of the #building#, whichever is less, and the maximum height shall not exceed 100 feet. Where such frontages intersect 42nd Street, the #street wall# height along Depew Place shall be maintained along 42nd Street for a minimum length of 60 feet. Above the maximum height permitted at the #street line#, every portion of a #building# shall be set back at least 60 feet from the #street line# of Depew Place.

(d) Park Avenue

The provisions of this paragraph shall apply to #buildings# fronting upon Park Avenue

(1) Street wall location requirements

Where a #building# has frontage along the entire Park Avenue #block# front, the #street wall# shall be located within ten feet of the Park Avenue #street line#. For all other #buildings# the #street wall# location shall match the location of an existing adjacent #building#, except that the #street wall# need not be located beyond ten feet of the Park Avenue #street line#.

(2) Street wall height requirements

The minimum height of a #street wall# without setback shall be 120 feet or the height of the #building#, whichever is less, and the maximum height shall be 150 feet.

81-662

Special street wall requirements along narrow streets

#Buildings# that front upon #narrow streets# within the Grand Central Subarea, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, beyond any required #street wall# wrap-around distance from a designated #street# pursuant to the applicable

regulations of Section 81-661 (Special street wall requirements along designated streets), shall comply with the requirements of this Section.

(a) Street wall width and location

A #street wall# shall be provided for at least 80 percent of the length of a #zoning lot's narrow street# frontage, exclusive of any required wrap-around distance from a designated street. Such #street wall# shall be located within ten feet of the #street line#. However, such requirements may be reduced, to the minimum extent necessary, to accommodate required transit access that is open to the sky, pursuant to the provisions of Section 81-682 (Mass transit access), and pedestrian circulation space provided pursuant to Section 81-685 (Pedestrian circulation space requirements).

(b) Recesses

Recesses are permitted in accordance with the provisions for designated #streets#, as set forth in Section 81-661 (Special street wall requirements along designated streets).

(c) Street wall height requirements

The minimum height of #street walls# without setback shall be 60 feet above #curb level# or the height of the #building#, whichever is less, and the maximum height shall be 90 feet above #curb level#. However, where an adjacent #building# existing prior to (date of adoption) has a #street wall# height that exceeds 90 feet, as measured from #curb level#, the #street wall# of the #development# or #enlargement# may match such existing #building's street wall# height, provided that no portion of such #developed# or #enlarged street wall# exceeds a height of 150 feet, as measured above #curb level#.

81-67
Special Height and Setback Requirements

For #buildings# which are #developed# or #enlarged# within the East Midtown Subdistrict, the applicable height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, and 81-27 (Alternative Height and Setback Regulations – Daylight Evaluation), inclusive, shall be modified in accordance with the provisions of this Section, inclusive.

#Buildings# in the East Midtown Subdistrict using the daylight compensation method of height and setback regulations shall utilize the provisions of Section 81-671 (For buildings using daylight compensation method in the Grand Central Subarea) or 81-672 (For buildings using daylight compensation method along Park Avenue), as applicable. #Buildings# on #qualifying sites# with frontage along Park Avenue in the Grand Central Subarea may utilize the provisions of either Section, but not both.

#Buildings# in the East Midtown Subdistrict using the daylight evaluation method of height and setback regulations shall utilize the provisions of Section 81-673 (For buildings using daylight evaluation method in the Grand Central Subarea) or 81-674 (For buildings using daylight evaluation method along Park Avenue), as applicable. #Buildings# on #qualifying sites# with frontage along Park Avenue in the Grand Central Subarea may utilize the provisions of either Section, but not both.

81-671

For buildings using daylight compensation method in the Grand Central Subarea

For #buildings# in the Grand Central Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, the provisions of Section 81-26 (Height and Setback Regulations-Daylight Compensation) shall apply to all #buildings# on a #zoning lot#, except that:

- (a) for the purposes of determining permitted #encroachments# and #compensating recesses# pursuant to Section 81-264 (Encroachments and compensating recesses):
 - (1) no #compensating recess# shall be required where #encroachments#, or portions thereof, are provided on the portion of the #building# below a height of 150 feet, as measured from #curb level#;
 - (2) #compensating recesses# provided for #encroachments#, or portions thereof, above a height of 400 feet, as measured from #curb level#, need not comply with the provisions of paragraph (c)(1) of Section 81-264. In lieu thereof, for any portion of the #building# located above a height of 400 feet, the amount of #compensating recess# required for any particular level of the #building# shall be equal to the amount of #encroachment# provided at such level. The remaining provisions of paragraph (c) of Section 81-264 shall continue to apply to such #compensating recess#; and

- (3) where such #building# is located on a #zoning lot# that occupies the entire #block#, and such #block# is bounded by Vanderbilt Avenue and Madison Avenue, a portion of Vanderbilt Avenue may be considered part of the #zoning lot#. Such modified #zoning lot# shall be constructed by shifting the easterly boundary of the #zoning lot# to the easterly #street line# of Vanderbilt Avenue, and prolonging the #narrow street lines# to such new easterly boundary. The Vanderbilt Avenue portion of such modified #zoning lot# may be considered a #compensating recess# for encroachments along such #building's narrow street frontage zone#, provided that:
- (i) any portion of the #building# fronting along Vanderbilt Avenue above a height of 100 feet, as measured from #curb level#, is setback a minimum 15 feet from the Vanderbilt Avenue #street line#, as set forth in paragraph (c)(2) of Section 81-661 (Special street wall requirements along designated streets); and
 - (ii) the #street frontage zone# calculation along Madison Avenue shall not include Vanderbilt Avenue; and
- (b) for the purposes of determining the permitted length of #encroachments# pursuant to Section 81-265 (Encroachment limitations by length and height rules) the minimum length of recess required by Formula 2 in paragraph (c) shall be modified to 20 percent of the length of the #front lot line#.

81-672

For buildings using daylight compensation method along Park Avenue

For #buildings# on #qualifying sites# with frontage along Park Avenue in the Grand Central or Northern Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, the provisions of Section 81-26 (Height and Setback Regulations-Daylight Compensation) shall apply to all #buildings# on a #zoning lot#, except that the set back requirements of Table A, B, or C in paragraph (b) of Section 81-263 (Standard setback requirements) shall not apply to the Park Avenue frontage of such #building#. In lieu thereof, the Park Avenue wall of such #building# shall be set back behind the applicable #setback line# to the depth of the #setback line# required at that particular height, in accordance with the applicable requirements of Table D of this Section.

Table D

SETBACK REQUIREMENTS ON STREETS AT LEAST 140 WIDE

Depth of #Setback Line# from #Street Line# at Stated Heights above #Curb Level#.

<u>Height</u>	<u>Depth of #Setback Line#</u>	<u>Height</u>	<u>Depth of #Setback Line#</u>
<u>210</u>	<u>0.00</u>	<u>470</u>	<u>29.75</u>
<u>220</u>	<u>1.00</u>	<u>480</u>	<u>30.50</u>
<u>230</u>	<u>2.50</u>	<u>490</u>	<u>31.50</u>
<u>240</u>	<u>4.25</u>	<u>500</u>	<u>32.00</u>
<u>250</u>	<u>5.50</u>	<u>510</u>	<u>33.00</u>
<u>260</u>	<u>7.00</u>	<u>520</u>	<u>33.50</u>
<u>270</u>	<u>8.75</u>	<u>530</u>	<u>34.50</u>
<u>280</u>	<u>10.00</u>	<u>540</u>	<u>35.00</u>
<u>290</u>	<u>11.25</u>	<u>550</u>	<u>35.50</u>
<u>300</u>	<u>12.75</u>	<u>560</u>	<u>36.00</u>
<u>310</u>	<u>14.25</u>	<u>570</u>	<u>37.00</u>
<u>320</u>	<u>15.25</u>	<u>580</u>	<u>37.50</u>
<u>330</u>	<u>16.25</u>	<u>590</u>	<u>38.00</u>
<u>340</u>	<u>17.50</u>	<u>600</u>	<u>38.50</u>
<u>350</u>	<u>18.75</u>	<u>610</u>	<u>39.00</u>
<u>360</u>	<u>19.75</u>	<u>620</u>	<u>39.75</u>
<u>370</u>	<u>21.00</u>	<u>630</u>	<u>40.25</u>
<u>380</u>	<u>21.75</u>	<u>640</u>	<u>41.00</u>
<u>390</u>	<u>23.00</u>	<u>650</u>	<u>41.50</u>
<u>400</u>	<u>23.75</u>	<u>660</u>	<u>41.75</u>
<u>410</u>	<u>25.00</u>	<u>670</u>	<u>42.25</u>
<u>420</u>	<u>25.75</u>	<u>680</u>	<u>43.00</u>
<u>430</u>	<u>26.75</u>	<u>690</u>	<u>43.50</u>
<u>440</u>	<u>27.50</u>	<u>700</u>	<u>43.75</u>
<u>450</u>	<u>28.50</u>	<u>710</u>	<u>44.25</u>
<u>460</u>	<u>29.25</u>	<u>Above 710</u>	<u>*</u>

*For every 10 feet of height above 710 feet, the depth shall increase by one foot.

81-673

For buildings using daylight evaluation method in the Grand Central Subarea

For #buildings# in the Grand Central Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, the provisions of Section 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation) shall apply to all #buildings# on a #zoning lot#, except that:

- (a) For the purposes of calculating the daylight evaluation score pursuant to Section 81-274 (Rules for determining the daylight evaluation score):
 - (1) the computation of daylight evaluation shall not include any daylight blockage or profile daylight blockage for that portion of the #building# above the curved line representing 70 degrees in the applicable Daylight Evaluation Charts, and below a height of 150 feet above #curb level#. However, such computation shall include the daylight blockage or profile daylight blockage created by extending the lines representing the outermost edges of the portion of the #building# above a height of 150 feet downwards to such 70 degree line; and
 - (2) The computation of unblocked daylight squares which are below the curved line representing an elevation of 70 degrees, pursuant to paragraph (c) of such Section, may apply along designated #streets# where #street wall# continuity is required; and

- (b) For the purposes of constructing the #daylight evaluation chart# pursuant to Section 81-272 (Features of the Daylight Evaluation Chart), where such #building# is located on a #zoning lot# which occupies the entire #block#, and such #block# is bounded by Vanderbilt Avenue and Madison Avenue, a portion of Vanderbilt Avenue may be considered part of the #zoning lot#. Such modified #zoning lot# shall be constructed by shifting the easterly boundary of the #zoning lot# to the easterly #street line# of Vanderbilt Avenue, and prolonging the #narrow street lines# to such new easterly boundary. Such modified #zoning lot# may be utilized to create a modified pedestrian view along Vanderbilt Avenue and intersecting #narrow streets# provided that:
 - (1) any portion of the #building# fronting along Vanderbilt Avenue above a height of 100 feet, as measured from #curb level#, is setback a minimum 15 feet from the Vanderbilt Avenue #street line#, as set forth in paragraph (c)(2) of Section 81-661 (Special street wall requirements along designated streets);
 - (2) #vantage points# along Vanderbilt Avenue are taken 30 feet east of the easterly #street line# instead of the #center line of the street#; and

- (3) #vantage points# along #narrow streets# are taken from the corner of the modified #zoning lot#.

81-674

For buildings using daylight evaluation method along Park Avenue

For #buildings# on a #qualifying site# with frontage along Park Avenue in the Grand Central or Northern Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, the provisions of Section 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation) shall apply to all #buildings# on a #zoning lot#, except that:

- (a) for the purposes of establishing #vantage points# along Park Avenue to construct a #daylight evaluation chart# pursuant to the provisions of Section 81-272 (Features of the Daylight Evaluation Chart), the definition of #centerline of the street#, as set forth in Section 81-271 (Definitions), shall be modified along Park Avenue to be a line 70 feet from, and parallel to, the Park Avenue #street line# of the #zoning lot#;
- (b) for the purpose of plotting #buildings# on the #daylight evaluation chart# pursuant to Section 81-273 (Rules for plotting buildings on the daylight evaluation chart), Chart 4 (Daylight Evaluation Diagram – Park Avenue) in Appendix A of this Chapter, shall be utilized in lieu of the chart for #streets# 100 feet or more in width;
- (c) for the purposes of calculating the daylight evaluation score pursuant to Section 81-274 (Rules for determining the daylight evaluation score):
- (1) the computation of daylight evaluation shall not include any daylight blockage or profile daylight blockage for that portion of the #building# above the curved line representing 70 degrees in the applicable Daylight Evaluation Charts, and below a height of 150 feet above #curb level#. However, such computation shall include the daylight blockage or profile daylight blockage created by extending the lines representing the outermost edges of the portion of the #building# above a height of 150 feet downwards to such 70 degree line; and
- (2) the computation of unblocked daylight squares which are below the curved line representing an elevation of 70 degrees, pursuant to paragraph (c) of such Section, may apply along designated #streets# where #street wall# continuity is required; and

- (d) the overall score calculated pursuant to paragraphs (h) of Section 81-274 shall include a reflectivity calculation, pursuant to Section 81-276 (Modification of score for reflectivity), irrespective of whether reflectivity is utilized to achieve the passing score.

81-68

Special Mandatory District Plan Element Requirements

For #buildings# which are #developed# or #enlarged# within the East Midtown Subdistrict, the applicable provisions of Section 81-40 (MANDATORY DISTRICT PLAN ELEMENTS) shall be modified in accordance with the provisions of this Section, inclusive.

81-681

Sidewalk widenings

All sidewalk widenings provided pursuant to the provisions of this Section shall be improved as sidewalks to Department of Transportation standards, shall be at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times. The design provisions set forth in paragraph (f) of Section 37-53 (Design Standards for Pedestrian Circulations Spaces) shall apply, except as modified in this Section. All sidewalk widenings provided in accordance with the provisions of this Section shall constitute pedestrian circulation space, as required pursuant to Section 81-45 (Pedestrian Circulation Space).

- (a) Mandatory sidewalk widenings

- (1) Along Madison and Lexington Avenues

Along Madison and Lexington Avenues, in the Grand Central Subarea, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, all #developments# and #enlargements# shall provide mandatory sidewalk widenings as follows:

- (i) where such #development# or #enlargement# is on a #zoning lot# which occupies the entire #block# frontage, sidewalk widening shall be provided to the extent necessary so that a minimum sidewalk width of 20 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening shall exceed 10 feet, as measured perpendicular to the #street line#;

(ii) where such #development# or #enlargement# is on a #zoning lot# which does not occupy the entire #block# frontage, a sidewalk widenings shall be provided where all existing #buildings# on the #block# frontage have provided such a widening. Such required widening shall match the amount of widened sidewalk provided on adjacent #zoning lots#, provided that no sidewalk widening shall exceed 10 feet, as measured perpendicular to the #street line#.

(2) Along #narrow streets# between 43rd and 47th Streets

Along #narrow streets# from 43rd to 47th Streets between Vanderbilt and Madison Avenues, in the Grand Central Subarea, as shown on Map 4, for #developments# and #enlargements# on #zoning lots# with a #lot width# of 100 feet or more, as measured along either the #narrow street line#, sidewalk widenings shall be provided to the extent necessary so that a minimum sidewalk width of 15 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening shall exceed 10 feet, as measured perpendicular to the #street line#.

The Commissioner of the Department of Buildings may waive such sidewalk widening requirement where the Commissioner of the Department of Transportation certifies that a sidewalk widening on the portion of the sidewalk adjacent to a proposed #development# or #enlargement# is planned by the City of New York in conjunction with an improvement of Vanderbilt Avenue, and #narrow streets# immediately adjacent thereto.

(b) Permitted sidewalk widenings

Sidewalk widenings may be provided, in accordance with the applicable size and design standards established in Section 37-50 (Pedestrian Circulation Space):

(1) along #narrow streets# in the Grand Central Subarea, as shown on Map 4, for #developments# and #enlargements# on #zoning lots# with a #lot width# of 100 feet or more, as measured along such #narrow street line#; and

(2) where a #street wall#, or portions thereof, is permitted to be located beyond the #street line# pursuant to the applicable provisions of Section 81-66 (Special Street Wall Requirements), inclusive.

(c) Permitted obstructions

In the Grand Central Subarea, as shown on Map 4, awnings and canopies shall be permitted obstructions within a sidewalk widening provided that no structural posts or supports are located within any portion of the sidewalk or such widening.

81-682

Mass transit access

#Developments# and #enlargements# in the Grand Central Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, involving ground level construction shall provide on certain #zoning lots# a transit easement volume on such #zoning lot# for public access between the #street# and the below-grade subway station or rail mass transit facility. Such transit easement volume shall be provided on a #zoning lot# where subway or rail mass transit access is currently provided; on a #zoning lot# which is directly adjacent to a #zoning lot# or portion of the public right-of-way with a subway station or rail mass transit facility, including any mezzanines, platforms, concourses or connecting passageways; or on a #zoning lot# in the Grand Central Subarea Core, as shown on Map 4, when required pursuant to the provisions of this Section.

Prior to filing any applications with the Department of Buildings for an excavation permit, foundation permit, new building permit or alteration permit for a #development# or #enlargement#, the owner of the #zoning lot# shall file an application with the Metropolitan Transportation Authority (MTA) and the Chairperson of the City Planning Commission requesting a certification as to whether or not a transit easement volume is required on the #zoning lot#.

Within 60 days after receipt of such application, the MTA and the Chairperson shall jointly certify whether or not a transit easement volume is required on the #zoning lot#. Failure to certify within the 60-day period will release the owner from any obligation to provide a transit easement volume on such #zoning lot#.

When the MTA and the Chairperson indicate that a transit easement volume is required, the owner shall submit a site plan showing a proposed location and size of the transit easement volume that would provide access between the #street# and the below-grade subway station or rail mass transit facility and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the MTA and the Chairperson.

The MTA and the Chairperson shall comment on such site plan within 45 days after its receipt and may, within such 45 day period or following its expiration, permit the granting of an excavation permit while the location and size of the transit easement volume is being finalized. Upon joint approval of a site plan by the MTA and the Chairperson, copies of such certification shall be forwarded by the City Planning Commission to the Department of Buildings.

Legal instruments creating a transit easement volume shall be executed and recorded in a form acceptable to the City. The execution and recording of such instruments shall be a precondition to the issuance of any foundation permit, new building permit, or alteration permit by the Department of Buildings allowing a #development# or #enlargement#.

If a transit easement volume is required on the #zoning lot#, pursuant to the provisions of this Section, an off-street subway or rail mass transit access improvement may be constructed and maintained by either the owner of the #development# or #enlargement#, or the MTA, as follows:

- (a) where such mass transit access improvement is constructed and maintained by the owner of the #development# or #enlargement#:
 - (1) each square foot of mass transit access may constitute three square feet of pedestrian circulation space required pursuant to Section 81-45 (Pedestrian Circulation Space), not to exceed 3,000 square feet. Such mass transit access shall be measured in accordance with the provisions of Section 81-48 (Off-street Improvement of Access Rail Mass Transit Facility), and shall comply with the following:
 - (iii) such mass transit access shall be improved to the standards set forth in Section 81-48 and shall be approved by the MTA;
 - (iv) where the #building's# lobby abuts such mass transit access, in addition to mass transit access to the #street#, such mass transit access shall provide a direct connection to the #building's# lobby which is open during normal business hours; and
 - (v) such mass transit access shall provide directional #signs# in accordance with the provisions of Section 81-412 (Directions signs). Such #signs# shall be exempt from the maximum #surface area# of non-illuminated signs permitted by Section 32-642 (Non-illuminated signs); and
 - (2) No temporary certificate of occupancy shall be granted by the Department of Buildings for the #building# until the Chairperson of the City Planning

Commission, acting in consultation with the MTA, has certified that the improvements are substantially complete and usable by the public.

- (b) where such mass transit access is constructed and maintained by the MTA:
- (1) where construction of the transit easement volume by the MTA is not contemporaneous with the construction of the #development#:
- (i) any underground walls constructed along the #front lot line# of a #zoning lot# shall contain a knockout panel, not less than twelve feet wide, below #curb level# down to the bottom of the easement. The actual location and size of such knockout panel shall be determined through consultation with the MTA; and
- (ii) temporary construction access shall be granted to the MTA on portions of the #zoning lot# outside of the transit easement volume, as necessary, to enable construction within and connection to the transit easement volume; and
- (2) in the event that the MTA has approved of obstructions associated with the #development# or #enlargement# within the transit easement volume, such as #building# columns or footings, such construction and maintenance shall exclude any such obstructions within the transit easement volume.

The floor space occupied by any transit easement volume shall not count as #floor area#.

81-683

Building lobby entrance requirements

In addition to the provisions of Section 81-47 (Major Building Entrances), #developments# and #enlargements# in the Grand Central Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, shall provide #building# lobby entrances in accordance with the provisions of this Section.

- (a) Required lobby entrances

#Buildings developed# from May 13, 1982, to August 25, 1992, shall be subject to the provisions of Section 81-47 (Major Building Entrances).

For #buildings developed# or #enlarged# on the ground floor after August 26, 1992, #building# lobby entrances shall be required on each #street# frontage of the #zoning lot# where such #street# frontage is greater than 75 feet in length, except that if a #zoning lot# has frontage on more than two #streets#, #building# entrances shall be required only on two #street# frontages. Each required #building# entrance shall lead directly to the #building# lobby.

(b) Maximum lobby widths

For #building# entrances located on a #wide street# frontage, the maximum lobby width shall be 40 feet or 25 percent of the #building's street wall# width, whichever is less. However, the maximum width of a lobby along Vanderbilt Avenue shall be 60 feet.

(c) Through #block# provisions

Required #building# entrances on opposite #street# frontages may be connected directly to the #building# lobby by providing a through #block# connection in accordance with paragraph (h) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces), except that such through #block# connection shall be located at least 50 feet from the nearest north/south #wide street#.

81-684

Retail continuity provisions

In addition to the provisions of Section 81-42 (Retail Continuity along Designated Streets), #developments# and #enlargements# in the Grand Central Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, shall provide retail continuity in accordance with the provisions of this Section.

(a) Along designated #streets#

For #buildings# with frontage on designated #streets# other than Vanderbilt Avenue, where retail continuity is required, as shown in Map 2 (Retail and Street Wall Continuity) in Appendix A of this Chapter, ground floor level retail, personal service or amusement

#uses# required by Section 81-42 shall extend to a minimum depth of 30 feet, as measured perpendicular to the #street wall#.

(b) Along #narrow streets# of #qualifying sites#

For #buildings# on #qualifying sites#, a minimum of 50 percent of a #building's# ground floor level #street wall# frontage along a #narrow street# shall be limited to retail, personal service or amusement #uses# permitted by the underlying zoning district regulations, but not including #uses# in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 and 12D or automobile showrooms or plumbing, heating or ventilating equipment showrooms. Such ground floor level retail, personal services or amusement #uses# shall extend to a minimum depth of 30 feet, as measured perpendicular to the #street wall#.

(c) Along Vanderbilt

For #developments# and #enlargements# of #buildings# with frontage upon Vanderbilt Avenue, within 60 feet of Vanderbilt Avenue, as measured perpendicular to a #building's# Vanderbilt Avenue #street wall#, the ground floor level or the portion of a #building's# street wall# frontage below a height of 60 feet, whichever is less, shall be allocated exclusively to:

- (1) retail #uses# listed in Use Groups 6A, 6C, and 10A, with access to each establishment provided directly from Vanderbilt Avenue;
- (2) transit access connections provided in accordance with the provisions of Section 81-682 (Mass transit access);
- (3) enclosed publicly-accessible spaces; or
- (4) #building# entrance lobbies, not to exceed the maximum #street wall# width set forth in paragraph (b) of Section 81-683 (Building lobby entrance requirements).

(d) Required transparency

(1) Along designated #streets# and #qualifying sites#

For portions of ground floor #commercial# and #community facility uses# provided pursuant to paragraphs (a) and (b) of this Section, at least 50 percent of the #street wall# surface of each required establishment shall be glazed with clear

untinted transparent material. For the purpose of this glazing requirement, the establishment's #street wall# surface shall be measured from the floor to the height of the ceiling or 14 feet above grade, whichever is more.

(2) Along Vanderbilt

Any portion of a #building# fronting along Vanderbilt Avenue shall provide transparency for at least 70 percent of the #street wall# surface measured from #curb level# to a height of 60 feet above #curb level#. Such transparency shall consist of clear untinted transparent material.

81-685

Pedestrian circulation space requirements

All #developments# and #enlargements# within the East Midtown Subdistrict shall be subject to the provisions of Sections 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACES), and 81-45 (Pedestrian Circulation Space), except that:

- (a) no arcade shall be allowed on Madison and Lexington Avenues in the Grand Central Subarea, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, except where an existing arcade is located, a new arcade may be provided which connects to such existing arcade, provided that such new arcade complies with the provisions of paragraph (a) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces);
- (b) no #floor area# bonus shall be granted for the provision of a #public plaza# within the Grand Central Subarea;
- (c) the minimum dimension of a #building# entrance recess area set forth in paragraph (b) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces) shall be measured from the #street wall# instead of the #street line# where a sidewalk widening is provided pursuant to Section 81-671 (Sidewalk widening); and
- (d) for all pedestrian circulation spaces in the Grand Central Subarea, lighting shall be provided as follows:
 - (1) within sidewalk widenings, a minimum level of illumination of two horizontal foot candles shall be maintained between sunset and sunrise; and

- (2) for all other pedestrian circulation spaces, a minimum level of illumination of five horizontal foot candles shall be maintained between sunset and sunrise.

81-686

Curb cut restrictions and loading berth requirements

For #developments# or #enlargement# within the Grand Central Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subarea and Subarea Core) in Appendix A of this Chapter, in addition to the provisions of Sections 81-30 (OFF-STREET PARKING AND LOADING REGULATIONS), inclusive, and 81-44 (Curb Cut Restrictions), the following shall apply:

(a) Loading berth provisions

For #through lots#, the required loading berth shall be arranged so as to permit head-in and head-out truck movements to and from the #zoning lot#.

However, the Commissioner of Buildings may waive such head-in and head-out requirements, provided that:

- (1) the #zoning lot# has frontage along a #street# where curb cuts accessing a loading berth are permitted, but there is no access to such #zoning lot# from the #street# due to the presence of:
 - (i) a #building# existing on (date of adoption) containing #residences#;
 - (ii) a #non-residential building# existing on (date of adoption) that is three or more #stories# in height; or
 - (iii) a #building# designated as a landmark or considered a contributing #building# in an Historic District designated by the Landmarks Preservation Commission; or
- (2) there are subsurface conditions, ventilation requirements from below-grade infrastructure or other site planning constraints that would make accommodating such loading berths infeasible.

(b) Curb cut provisions

The maximum width of any curb cut (including splays) shall be 15 feet for one-way traffic and 25 feet for two-way traffic. Curb cuts shall not be permitted on 47th Street between Park and Madison Avenues or on 45th Street between Depew Place and Madison Avenue.

81-69

Special District Improvement Fund Procedural Regulations

81-691

The Priority Improvements List and District Improvement Fund Committee

(a) The Priority Improvements List

- (1) The #East Midtown District Improvement Fund Committee# shall, in accordance with the provisions of this Section, adopt and modify a priority list (the “Priority Improvements List”) of physical above-grade and below-grade pedestrian circulation network improvements, including publicly accessible open space, within the East Midtown Subdistrict, or in a location immediately adjacent thereto, which may be funded through contributions to the #East Midtown District Improvement Fund#. All such improvements shall meet the definition of a capital project under Section 210 of the New York City Charter.
- (2) All improvements on the Priority Improvements List shall achieve one or more of the following:
 - (i) Below-grade:
 - (aa) improve the Grand Central-42nd Street subway station by providing greater connectivity between street level and mezzanine level, as well as between mezzanine and platform levels;
 - (bb) provide greater connectivity between Grand Central Terminal and the Grand Central-42nd Street subway station;

- (cc) provide greater connectivity between the 51st Street and Lexington/53rd Street subway stations, as well as between the Lexington/53rd Street platform and mezzanine levels;
 - (dd) provide greater connectivity between the street level and the Madison/53rd Street platform levels; and
 - (ee) improve the overall functioning of the transit system in the area, create a better user experience and improve the general network environment.
- (ii) Above-grade:
- (aa) create diverse spaces that are accessible and inviting and that provide opportunities for casual activities;
 - (bb) provide street and sidewalk patterns that support smooth circulation with comfortable places for walking and stopping;
 - (cc) create new publicly accessible spaces and link existing publicly accessible spaces;
 - (dd) create opportunities to green the area with trees, planting and foliage; and
 - (ee) create a better overall user experience of the above-grade pedestrian network that supports the East Midtown Subdistrict as a high-density business district.
- (3) The priority order of improvements on the Priority Improvements List shall be determined through consideration of the following:
- (i) for below-grade improvements, priority shall be given to improvements to the Grand Central – 42nd Street subway station, the Lexington Avenue / 53rd Street and 51st Street subway station, and to the pedestrian network in the immediate vicinity of Grand Central Terminal;
 - (ii) the ability of such improvements to address or avoid the potential for significant adverse transit, traffic or pedestrian impacts identified in the

City Environmental Quality Review (CEQR) No. 13DCP011M in connection with the adoption of provisions of this Chapter establishing the East Midtown Subdistrict. The Department of City Planning, in consultation with the Metropolitan Transportation Authority (MTA) and relevant City agencies, shall advise the “Committee” regarding the need for and possible adjustment of mitigation and other measures, and the timing of their implementation, in order to address or avoid the potential for significant adverse impacts, in relation to growth within the East Midtown Subdistrict, based on an on-going review of all mitigation and environmental measures identified in CEQR No. 13DCP011M. Monies from the “Fund” may be used to conduct evaluations to determine the need for and possible adjustment of mitigation and other measures identified in CEQR No. 13DCP011M, and the timing of their implementation, as determined to be necessary by the Department of City Planning, acting in consultation with the agency having jurisdiction and control over such improvements; and

(iii) project readiness, availability of supplemental funding and any other changes in circumstances.

(4) Each improvement project on the Priority Improvement List shall have a City or State agency as a project sponsor and such list shall include, but not be limited to, the following information regarding each priority improvement:

(i) the purpose and need for such improvement, and the consistency of such improvement with the prioritization criteria set forth in paragraph (b) of this Section;

(ii) the projected timeline, milestones and preliminary cost estimates associated with the implementation of such improvement. Such preliminary cost estimates shall be accompanied by a description of any other funding available or potentially available for the improvement, and the sources of such funding;

(iii) a description of project readiness with regard to any previously conducted engineering or design and other critical path considerations; and

(iv) the anticipated benefits of such improvement to the immediate area.

(b) Adoption and Modification of the Priority Improvements List

- (1) The Department shall submit to the “Committee” for its review and consideration a proposed Priority Improvements List, prepared in consultation with the MTA and relevant City agencies, which shall be prepared based on consideration of the list of improvements included in the appendix to Commission Report (130247(A) ZRM), taking into account the current status and feasibility of the improvements identified in such appendix, and which may also include alternative, modified or additional improvements which have been identified through consultation with relevant City and State agencies. The proposed Priority Improvement List shall be accompanied by a report including a description of each improvement and its consistency with one or more of the goals set forth in paragraph (a)(2), an explanation of the order of priority reflected in such proposed Priority Improvements List and the consistency of such order of priority with the provisions of paragraph (a)(3), and all information required under paragraph (a)(4) of this Section. The Department shall publish the proposed Priority Improvements List and associated report on the Department website upon transmittal to the “Committee”.

- (2) Within thirty days following receipt of the proposed Priority Improvements List, the “Committee” shall hold a public hearing upon public notice to receive public comment regarding the proposed Priority Improvement List. The “Committee” shall meet thereafter as necessary to review the proposed Priority Improvements List and to consider public comments received. No later than one hundred twenty days following the public hearing, the “Committee” shall vote to approve, approve with modifications, or to disapprove the proposed Priority Improvements List. Such modifications may include the addition, deletion or a change in scope of an improvement set forth in the proposed Priority Improvements List, provided that additions may not be made unless the “Committee” shall have afforded the public an opportunity to comment, either in person or in writing, with respect to a proposed addition upon no less than thirty days notice. In order to adopt the Priority Improvements List, with or without modifications, the “Committee” shall find that the requirements of paragraph (a)(2), (a)(3) and (a)(4) of this Section are met with respect thereto. The approved Priority Improvements List shall be published on the Department website immediately following adoption. In the event that the “Committee” fails to act with respect to the proposed Priority Improvements List within one hundred twenty days following the public hearing, the proposed Priority Improvements List shall be deemed adopted as the Priority Improvements List.

(3) The Priority Improvements List adopted pursuant to paragraph (b)(2) may be amended from time to time upon submission of a modification proposal by the Department, which shall be accompanied by a report including a description of the modification and its purpose and need, an explanation of how the Priority Improvements List, as so modified, would continue to be consistent with the provisions of paragraph (a)(2) and (a)(3), and all information required under paragraph (a)(4) of this Section with respect to the improvement which is the subject of the modification. The Department shall consult with the MTA and other relevant City agencies in the preparation of such report, and shall publish the modification proposal on the Department website upon submittal to the “Committee”. The “Committee” shall review and consider the modification proposal in accordance with the provisions of paragraph (b)(2) of this Section, provided that the “Committee” shall vote to approve, approve with modifications, or to disapprove such modification proposal no later than sixty days following the public hearing. In the event the “Committee” fails to act within such sixty day period, the modification proposal shall be deemed adopted. The modification shall be published on the Department website immediately following adoption.

(c) “Committee” Procedures

The “Committee” shall adopt procedures for the conduct of its activities. Such procedures shall be consistent in all respects with the provisions of this Section and shall provide that:

- (1) the “Committee” shall meet at least once a year;
- (2) all meetings of the “Committee” shall be open to the public with advance notice of all meetings and public hearings provided; and
- (3) all minutes of “Committee” meetings and records of its decisions shall be published on the Department website.

(d) Annual and Long-term Allocation Plan Procedures for Priority Improvements

The “Committee” shall allocate funds from the “Fund” for improvements consistent with their prioritization on the Priority Improvements List, in accordance with the following procedures:

- (1) The Department shall, prior to the commencement of a fiscal year, and in consultation with the Office of Management and Budget (OMB), the MTA and other relevant public agencies, propose to the “Committee” for adoption a proposed annual and long-term allocation plan from the “Fund” for improvements on the Priority Improvements List, taking into account available and expected funds. The “Committee” shall approve, approve with modifications or disapprove such allocation plan within sixty days following submission. The allocation plan shall be published on the Department website immediately upon adoption. In the event the “Committee” fails to act within such sixty day period, the proposed annual and long-term allocation plan shall be deemed adopted as the annual and long-term budget for the fiscal year;
- (2) Prior to the first allocation of funds for an improvement on the Priority Improvements List, whether in whole or in part, the “Committee” shall be presented with a report from the Department, prepared after consultation with the OMB, the MTA and other relevant public agencies, certifying that:
 - (i) cost estimates for the full scope of the improvement, as shown on conceptual plans prepared or approved by the project sponsor with responsibility for the construction of the improvement, demonstrate that current and expected funds available from the “Fund” and any other available sources of funding are sufficient to fund the improvement; and
 - (ii) that the estimated construction timeline for the improvement demonstrates that it can be constructed in a reasonable timeframe.
- (3) The allocation plan adopted pursuant to paragraph (d)(1) of this Section may provide for allocation of funds for phases of more than one priority improvement project at a time, such as funding the construction phase of one project and the design phase for another project, in order to facilitate the timely development of improvement projects.
- (4) Allocations from the “Fund” may be used to reimburse the cost of work performed by sponsor agencies to advance priority improvement projects, in accordance with agreements entered into for such purpose.
- (5) Allocations from the “Fund” for the purposes set forth in paragraph (a)(3)(ii) shall be made in accordance with the provisions of this paragraph (d).

- (6) The expenditure of funds allocated from the “Fund” for improvements in accordance with the allocation plan shall be subject to City budgetary procedures for grant-restricted funding. For such purpose, capital budget appropriations supported by grant-restricted funding from the “Fund” shall be restricted to use for the identified improvement on the Priority Improvements List; and
- (7) No allocation of “Fund” revenues may be made except in accordance with this paragraph (d), other than with respect to revenues assigned to the East Midtown Infrastructure Corporation in accordance with the provisions in the definition in Section 81-612.

(e) Other Procedures

- (1) The Department, after consultation with the OMB, the MTA and other relevant public agencies, shall provide the “Committee” with periodic progress reports regarding the design, construction and completion of improvements.
- (2) The Department, after consultation with the OMB, the MTA and other relevant public agencies, shall produce an annual report, to be published on the Department and , regarding “Fund” balances, the allocation plan adopted pursuant to paragraph (d) of this Section, and the status of previously initiated priority improvements.
- (3) The Department shall maintain and update a dedicated portion of its website for purposes of publications under this Section.

81-692

The East Midtown District Improvement Fund Contribution Rate

The #East Midtown District Improvement Fund Contribution Rate# shall be adjusted in accordance with the provisions of this Section.

The “Contribution Rate” for non-#residential uses# shall be adjusted, by the Chairperson of the City Planning Commission, annually on August 1 of each calendar year, beginning August 1, 2014, based on the percentage change in the twelve month average, from July of the previous calendar year to June of the current calendar year, of the “Midtown Asking Rent”, published by the Office of Management and Budget (OMB). However, the first such adjustment shall account

for the percentage change in such “Midtown Asking Rent” from December 2012 to June 2014. In no event shall the adjusted “Contribution Rate” be set below \$250. In the event that OMB ceases publication of the “Midtown Asking Rent”, the City Planning Commission may, by rule, select an alternative index of adjustment that the Commission determines reflects an appropriate rate of change in real estate values for such non-#residential uses# in the East Midtown area.

The “Contribution Rate” for #residential uses# shall be adjusted, by the Chairperson of the City Planning Commission, annually on August 1 of each calendar year, beginning August 1, 2014, based on the percentage change in the four-quarter average, from July of the previous calendar year to June of the current calendar year, of the “Manhattan Condo Average Price Per Square Foot”, published by OMB. However, the first such adjustment shall account for the percentage change in such “Manhattan Condo Average Price Per Square Foot” from September 2013 to June 2014. In no event shall the adjusted “Contribution Rate” be set below \$360. In the event that OMB ceases publication of the “Manhattan Condo Average Price Per Square Foot”, the City Planning Commission may, by rule, select an alternative index of adjustment that the Commission determines reflects an appropriate rate of change in real estate values for such #residential uses# in the East Midtown area.

Not more frequently than every three years nor less frequently than every five years, beginning (date of adoption), the City shall conduct a re-appraisal study by qualified professionals utilizing industry best practices to determine the appropriate valuation for the #residential# and non-#residential Contribution Rate#. Such re-appraisal shall take into account changes in market conditions in the East Midtown Subdistrict and the overall Midtown area, as well as changes in the valuation of transferrable development rights in relation to land sale prices. No later than ninety days prior to commissioning a re-appraisal, the Department of City Planning (DCP) shall publish notice in the City Record of proposed instructions to an appraiser consistent with the provisions of this Section. Within the sixty day period following publication, DCP shall receive and consider written comments from the public regarding the proposed instructions. Following the expiration of such sixty day period, DCP shall publish notice of final instructions in the City Record, which may include modifications based on public comments received, together with an explanation of the nature and purpose of any such modifications. Following receipt of an appraisal conducted pursuant to such final instructions, DCP shall publish a copy of such appraisal upon the DCP website and the “Contribution Rate” set forth in such appraisal shall take effect thirty days following such publication. Notwithstanding the foregoing, the “Contribution Rate” set forth in such appraisal shall not take effect if, following receipt thereof, DCP determines that the appraisal was not performed in accordance with the final instructions or contains material errors which require correction. In that event, DCP shall re-commission an appraisal or direct the appraiser to correct the material error, as appropriate, and shall follow the procedures set forth herein regarding publication of an appraisal with regard to the re-

commissioned or corrected appraisal, as applicable, and the “Contribution Rate” set forth in such re-commissioned or corrected appraisal shall take effect within thirty days following such publication.

81-60

~~SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT~~

81-61

General Provisions

~~In order to preserve and protect the character of the Grand Central Subdistrict, as well as to expand and enhance the Subdistrict’s extensive pedestrian network, special regulations are set forth governing urban design and streetscape relationships, the transfer of development rights from landmarks, and the improvement of the surface and subsurface pedestrian circulation network.~~

~~The regulations of Sections 81-60 (SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT) are applicable only in the Grand Central Subdistrict, the boundaries of which are shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A. These regulations supplement or modify the provisions of this Chapter applying generally to the #Special Midtown District#, of which this Subdistrict is a part.~~

~~As stated in Section 81-212, transfer of development rights from landmark sites may be allowed pursuant to Section 81-63.~~

~~The provisions of Section 81-23 (Floor Area Bonus for Public Plazas) are inapplicable to any #zoning lot#, any portion of which is located within the Grand Central Subdistrict.~~

81-62

Special Bulk and Urban Design Requirements

~~In addition to the requirements set forth in Sections 81-25 (General Provisions Relating to Height and Setback of Buildings) and 81-40 (MANDATORY DISTRICT PLAN ELEMENTS), the provisions of this Section shall apply to a #zoning lot# having 50 percent or more of its #lot area# within the Grand Central Subdistrict. For the purposes of this Section, all such #zoning~~

lots# shall be deemed to be entirely within the Subdistrict. If any of the provisions of Sections 81-25, 81-40 and 81-62 are in conflict, the regulations of this Section shall govern.

81-621

Special street wall requirements

The requirements of Section 81-43 (Street Wall Continuity Along Designated Streets) shall be applicable within the Subdistrict, except as modified in this Section.

~~#Buildings# with frontage on Park, Lexington, Madison and Vanderbilt Avenues, or Depew Place, shall have a #street wall# within 10 feet of the #street line# of such #streets#.~~

On 42nd Street, the #street wall# shall be at the #street line#. The width of the required #street wall# shall be at least 80 percent of the length of the #front lot line#. The minimum height of such #street walls# without any setback shall be 120 feet above #curb level# or the height of the #building#, whichever is less, and the maximum height shall not exceed 150 feet above #curb level#. Where a #zoning lot# is bounded by the intersection of Park, Lexington, Madison and Vanderbilt Avenues, 42nd Street or Depew Place and any other #street#, these #street wall# height regulations shall apply along the full length of the #zoning lot# along the other #street# or to a distance of 125 feet from the intersection, whichever is less.

Beyond 125 feet from the intersection, the maximum height of the #street wall# above #curb level# shall not exceed 120 feet. For such #building#, the provisions of Section 81-262 (Maximum height of front wall at the street line) shall not be applicable.

However, the ten foot setback requirement of Section 81-263, paragraph (a), shall apply only to those portions of the #building# above this height.

81-622

Special height and setback requirements

Within the Subdistrict, the provisions of Sections 81-26 (Height and Setback Regulations-Daylight Compensation) or 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation) shall apply to all #buildings# on a #zoning lot#, except that:

- (a) ~~where such #buildings# are governed by Section 81-26, no #compensating recess# shall be required for the #encroachment# of that portion of the #building# below 150 feet above #curb level#; or~~
- (b) ~~where such #buildings# are governed by Section 81-27, the computation of daylight evaluation shall not include any daylight blockage, daylight credit, profile daylight blockage or available daylight for that portion of the #building# below 150 feet above #curb level#. However, the passing score required pursuant to paragraph (i) of Section 81-274 shall apply.~~

81-623

Building lobby entrance requirements

~~For #buildings developed# or #enlarged# on the ground floor after August 26, 1992, #building# lobby entrances shall be required on each #street# frontage of the #zoning lot# where such #street# frontage is greater than 75 feet in length, except that if a #zoning lot# has frontage on more than two #streets#, #building# entrances shall be required only on two #street# frontages. Each required #building# entrance shall lead directly to the #building# lobby. #Buildings developed# from May 13, 1982, to August 25, 1992, shall be subject to the provisions of Section 81-47 (Major Building Entrances).~~

~~Required #building# entrances on opposite #street# frontages shall be connected directly to the #building# lobby by providing a through #block# connection in accordance with paragraph (h) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces), except that such through #block# connection shall be located at least 50 feet from the nearest north/south #wide street#.~~

~~Each required #building# entrance shall include a #building# entrance recess area, as defined in paragraph (b) of Section 37-53, except that for #developments# or #enlargements# with frontage on Madison or Lexington Avenues or 42nd Street, the width of a #building# entrance recess area shall not be greater than 40 feet parallel to the #street line# and there may be only one #building# entrance recess area on each such #street# frontage.~~

81-624

Curb cut restrictions and loading berth requirements

In addition to the provisions of Section 81-44 (Curb Cut Restrictions), for a #through lot#, the required loading berth shall be arranged so as to permit head-in and head-out truck movements to and from the #zoning lot#.

The maximum width of any curb cut (including splays) shall be 15 feet for one-way traffic and 25 feet for two-way traffic. Curb cuts shall not be permitted on 47th Street between Park and Madison Avenues or on 45th Street between Depew Place and Madison Avenue.

81-625

Pedestrian circulation space requirements

Any #development# or #enlargement# within the Grand Central Subdistrict shall be subject to the provisions of Sections 81-45 (Pedestrian Circulation Space), 81-46 (Off Street Relocation or Renovation of a Subway Stair) and 81-48 (Off Street Improvement of Access to Rail Mass Transit Facility), except that:

- (a) — no arcade shall be allowed within the Subdistrict; and
- (b) — within the Subdistrict, a sidewalk widening may be provided only for a #building# occupying an Avenue frontage, provided that such sidewalk widening extends for the length of the full #block# front.

81-63

Transfer of Development Rights from Landmark Sites

For the purposes of the Grand Central Subdistrict:

A "landmark #building or other structure#" shall include any structure designated as a landmark pursuant to the New York City Charter, but shall not include those portions of #zoning lots# used for cemetery purposes, statues, monuments or bridges. No transfer of development rights is permitted pursuant to this Section from those portions of #zoning lots# used for cemetery purposes, or any structures within historic districts, statues, monuments or bridges.

A "granting lot" shall mean a #zoning lot# which contains a landmark #building or other structure#. Such "granting lot" may transfer development rights pursuant to Sections 81-634 or 81-635 provided that 50 percent or more of the "granting lot" is within the boundaries of the Grand Central Subdistrict.

A "receiving lot" shall mean a #zoning lot# to which development rights of a "granting lot" are transferred. Such "receiving lot" may receive a transfer of development rights pursuant to Sections 81-634 or 81-635 provided that 50 percent or more of the "receiving lot" is within the boundaries of the Grand Central Subdistrict and provided that the "receiving lot" occupies frontage on Madison or Lexington Avenues or 42nd Street, if such "receiving lot" is west of Madison Avenue or east of Lexington Avenue.

81-631

Requirements for application

In addition to the land use review application requirements, an application filed with the City Planning Commission for certification pursuant to Section 81-634 (Transfer of development rights by certification) or special permit pursuant to Section 81-635 (Transfer of development rights by special permit) shall be made jointly by the owners of the "granting lot" and "receiving lot" and shall include:

- (a) — site plan and zoning calculations for the "granting lot" and "receiving lot";
- (b) — a program for the continuing maintenance of the landmark;
- (c) — a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the landmark and, for those "receiving" sites in the immediate vicinity of the landmark, a report concerning the harmonious relationship of the #development# or #enlargement# to the landmark;
- (d) — for #developments# or #enlargements# pursuant to Section 81-635, a plan of the required pedestrian network improvement; and
- (e) — any such other information as may be required by the Commission.

A separate application shall be filed for each transfer of development rights to an independent “receiving lot” pursuant to Section 81-63 (Transfer of Development Rights from Landmark Sites).

81-632

Conditions and limitations

The transfer of development rights from a “granting lot” to a “receiving lot,” pursuant to Section 81-63, shall be subject to the following conditions and limitations:

- (a) — the maximum amount of #floor area# that may be transferred from a “granting lot” shall be the maximum #floor area# allowed by Section 33-12 for #commercial buildings# on such landmark #zoning lot#, as if it were undeveloped, less the total #floor area# of all existing #buildings# on the landmark #zoning lot#;
- (b) — for each “receiving lot,” the #floor area# allowed by the transfer of development rights under Section 81-63 shall be in addition to the maximum #floor area# allowed by the district regulations applicable to the “receiving lot,” as shown in Section 81-211; and
- (c) — each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the “granting lot” by the amount of #floor area# transferred. If the landmark designation is removed, the landmark #building# is destroyed or #enlarged#, or the “landmark lot” is redeveloped, the “granting lot” may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer.

81-633

Transfer instruments and notice of restrictions

The owners of the “granting lot” and the “receiving lot” shall submit to the City Planning Commission a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the “granting lot” and the “receiving lot” shall be filed by the owners of the respective lots in the

Office of the Register of the City of New York (County of New York), a certified copy of which shall be submitted to the City Planning Commission.

Both the instrument of transfer and the notice of restrictions shall specify the total amount of #floor area# transferred and shall specify, by lot and block numbers, the lots from which and the lots to which such transfer is made.

81-634

Transfer of development rights by certification

Within the Grand Central Subdistrict, the City Planning Commission may allow by certification:

- (a) — a transfer of development rights from a “granting lot” to a “receiving lot” in an amount not to exceed a #floor area ratio# of 1.0 above the basic maximum #floor area ratio# allowed by the applicable district regulations on the “receiving lot,” provided that a program for the continuing maintenance of the landmark approved by the Landmarks Preservation Commission has been established; and
- (b) — in conjunction with such transfer of development rights, modification of the provisions of Sections 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements), as follows:

For any “receiving lot,” whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area#, #dwelling units# or #rooming units# permitted by the applicable district regulations which allow a greater #floor area ratio# may be located on a portion of such “receiving lot” within a district which allows a lesser #floor area ratio#, provided that the amount of such #floor area#, #dwelling units# or #rooming units# to be located on the side of the district boundary permitting the lesser #floor area ratio# shall not exceed 20 percent of the basic maximum #floor area ratio# or number of #dwelling units# or #rooming units# of the district in which such #bulk# is to be located.

81-635

Transfer of development rights by special permit

Within the portion of the Subdistrict bounded by East 41st Street, East 48th Street, Lexington and Madison Avenues (the Grand Central Subdistrict Core Area as shown on Map 1 in Appendix A), the City Planning Commission may permit:

- (a) — a transfer of development rights from a “granting lot” to a “receiving lot” provided that the resultant #floor area ratio# on the “receiving lot” does not exceed 21.6;
- (b) — modifications of the provisions of Sections ~~77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements)~~ for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area#, #dwelling units# or #rooming units# permitted by the district regulations which allow a greater #floor area ratio# may be located within a district that allows a lesser #floor area ratio#;
- (c) — the modification of #bulk# regulations except #floor area ratio# and height and setback regulations; however, in the case of an #enlargement# to an existing #building# utilizing the transfer of development rights from a designated landmark, the Commission may modify the provisions of Sections ~~81-621 (Special street wall requirements), 81-622 (Special height and setback requirements), 81-623 (Building lobby entrance requirements), 81-624 (Curb cut restrictions and loading berth requirements), 81-625 (Pedestrian circulation space requirements), and Sections 81-25 (General Provisions Relating to Height and Setback of Buildings), 81-26 (Height and Setback Regulations-Daylight Compensation) and 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation)~~ in order to accommodate existing structures and conditions; and
- (d) — notwithstanding the provisions of paragraph (c) of this Section, for #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, modifications of #bulk# regulations, except #floor area ratio# regulations.

A special permit for the transfer of development rights to a “receiving lot” shall be subject to the following findings:

- (1) — that a program for the continuing maintenance of the landmark has been established;
- (2) — that the improvement to the surface and subsurface pedestrian circulation network provided by the #development# or #enlargement# increases public accessibility to and from Grand Central Terminal, pursuant to the following requirements:

- (i) ~~that the streetscape, the site design and the location of #building# entrances contribute to the overall improvement of pedestrian circulation within the Subdistrict and minimize congestion on surrounding #streets#, and that a program is established to identify solutions to problems relating to vehicular and pedestrian circulation problems and the pedestrian environment within the Subdistrict;~~
- (ii) ~~that the modification of #bulk# regulations, regulations governing #zoning lots# divided by district boundaries or the permitted transfer of #floor area# will not unduly increase the #bulk# of any #development# or #enlargement# on the "receiving lot," density of population or intensity of #use# on any #block# to the detriment of the occupants of #buildings# on the #block# or the surrounding area;~~
- (iii) ~~that, for #enlargements# to existing #buildings#, the modifications of height and setback requirements and the requirements of Section 81-62 are necessary because of the inherent constraints or conditions of the existing #building#, that the modifications are limited to the minimum needed, and that the proposal for modifications of height and setback requirements demonstrates to the satisfaction of the Commission that an integrated design is not feasible for the proposed #enlargement# which accommodates the transfer of development rights due to the conditions imposed by the existing #building# or configuration of the site; and~~
- (iv) ~~that, for #developments# or #enlargements# on #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, modifications of #bulk# regulations are necessary because of inherent site constraints and that the modifications are limited to the minimum needed.~~

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

~~As a condition for granting a special permit pursuant to this Section, the design of the #development# or #enlargement# shall include a major improvement of the surface and/or subsurface pedestrian circulation network in the Subdistrict (as shown on Map 4 in Appendix A of this Chapter). The improvement shall increase the general accessibility and security of the network, reduce points of pedestrian congestion and improve the general network environment through connections into planned expansions of the network. The improvement may include, but is not limited to, widening, straightening or expansion of the existing pedestrian network;~~

reconfiguration of circulation routes to provide more direct pedestrian connections between the #development# or #enlargement# and Grand Central Terminal, and provision for direct daylight access, retail in new and existing passages, and improvements to air quality, lighting, finishes and signage.

The special permit application to the Commission shall include information and justification sufficient to provide the Commission with a basis for evaluating the benefits to the general public from the proposed improvement. As part of the special permit application, the applicant shall submit schematic or concept plans of the proposed improvement to the Department of City Planning, as well as evidence of such submission to the Metropolitan Transportation Authority (MTA) and any other entities that retain control and responsibility for the area of the proposed improvement. Prior to ULURP certification of the special permit application, the MTA and any other entities that retain control and responsibility for the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

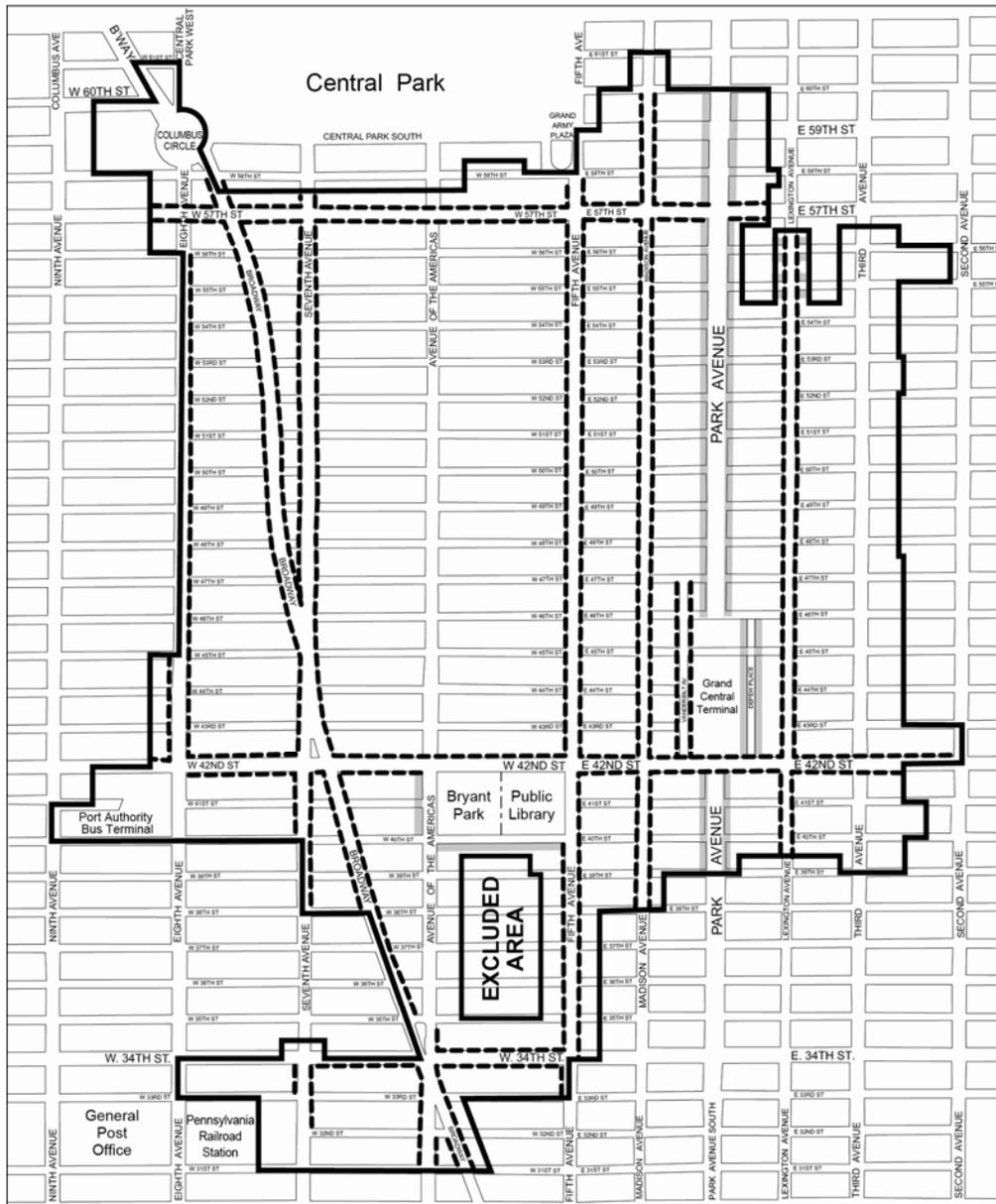
Prior to the grant of a special permit, the applicant shall obtain approvals of plans from the MTA and any other entities that retain control and responsibility for the area of the proposed improvement, and, if appropriate, the applicant shall sign a legally enforceable instrument running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to construct and maintain the improvement and shall establish a construction schedule, a program for maintenance and a schedule of hours of public operation and shall provide a performance bond for completion of the improvement.

The written declaration of restrictions and any instrument creating an easement on privately owned property shall be recorded against such private property in the Office of the Register of the City of New York (County of New York) and a certified copy of the instrument shall be submitted to the City Planning Commission.

No temporary certification of occupancy for any #floor area# of the #development# or #enlargement# on a "receiving lot" shall be granted by the Department of Buildings until all required improvements have been substantially completed as determined by the Chairperson of the City Planning Commission and the area is usable by the public. Prior to the issuance of a permanent certificate of occupancy for the #development# or #enlargement#, all improvements shall be 100 percent complete in accordance with the approved plans and such completion shall have been certified by letter from the Metropolitan Transportation Authority.

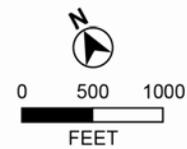
Map 2: Retail and Street Wall Continuity

[REPLACE EXISTING MAP]

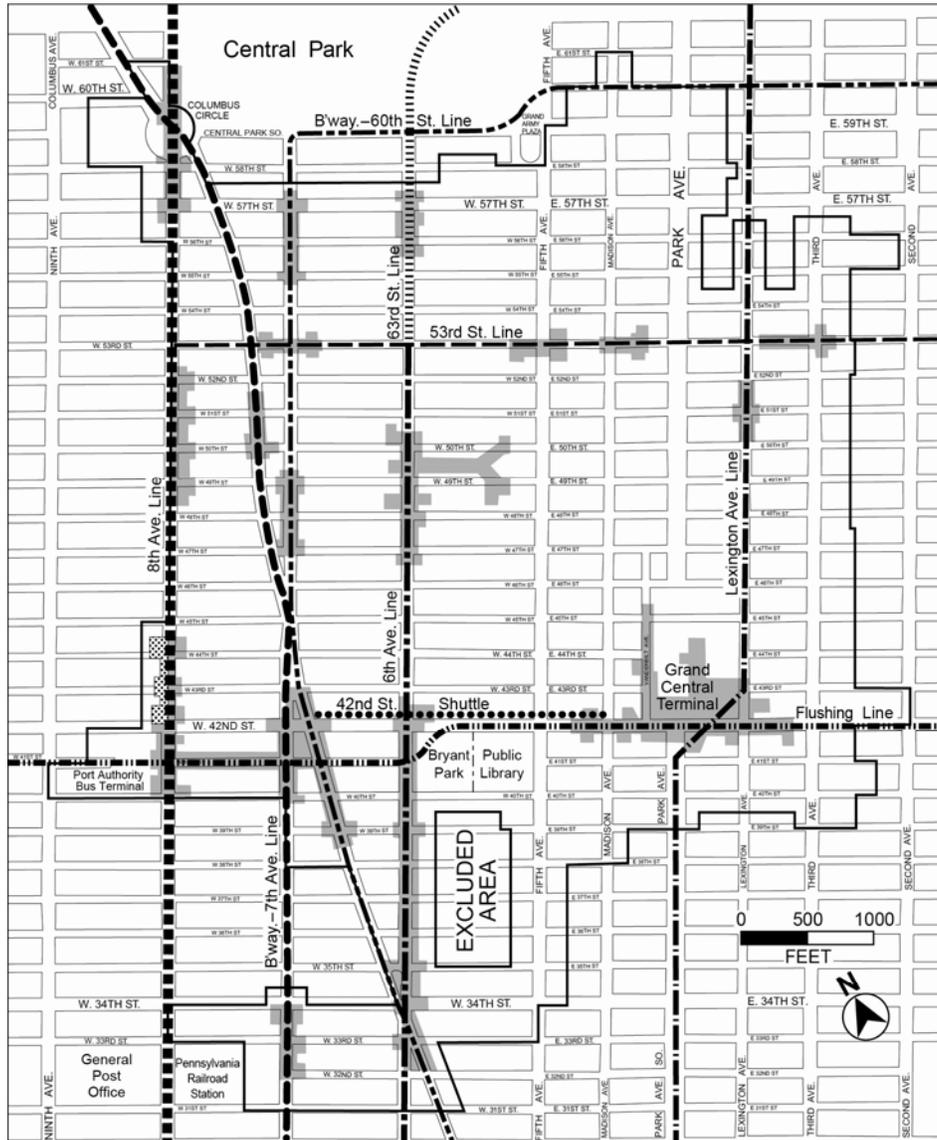


MIDTOWN DISTRICT PLAN
MAP 2 - Retail and Street Wall Continuity

- Retail and Street Wall Continuity required
- Only Street Wall Continuity required
- Special Midtown District



Map 3: Subway Station and Rail Mass Transit Facility Improvement Areas
 [REPLACE EXISTING MAP]

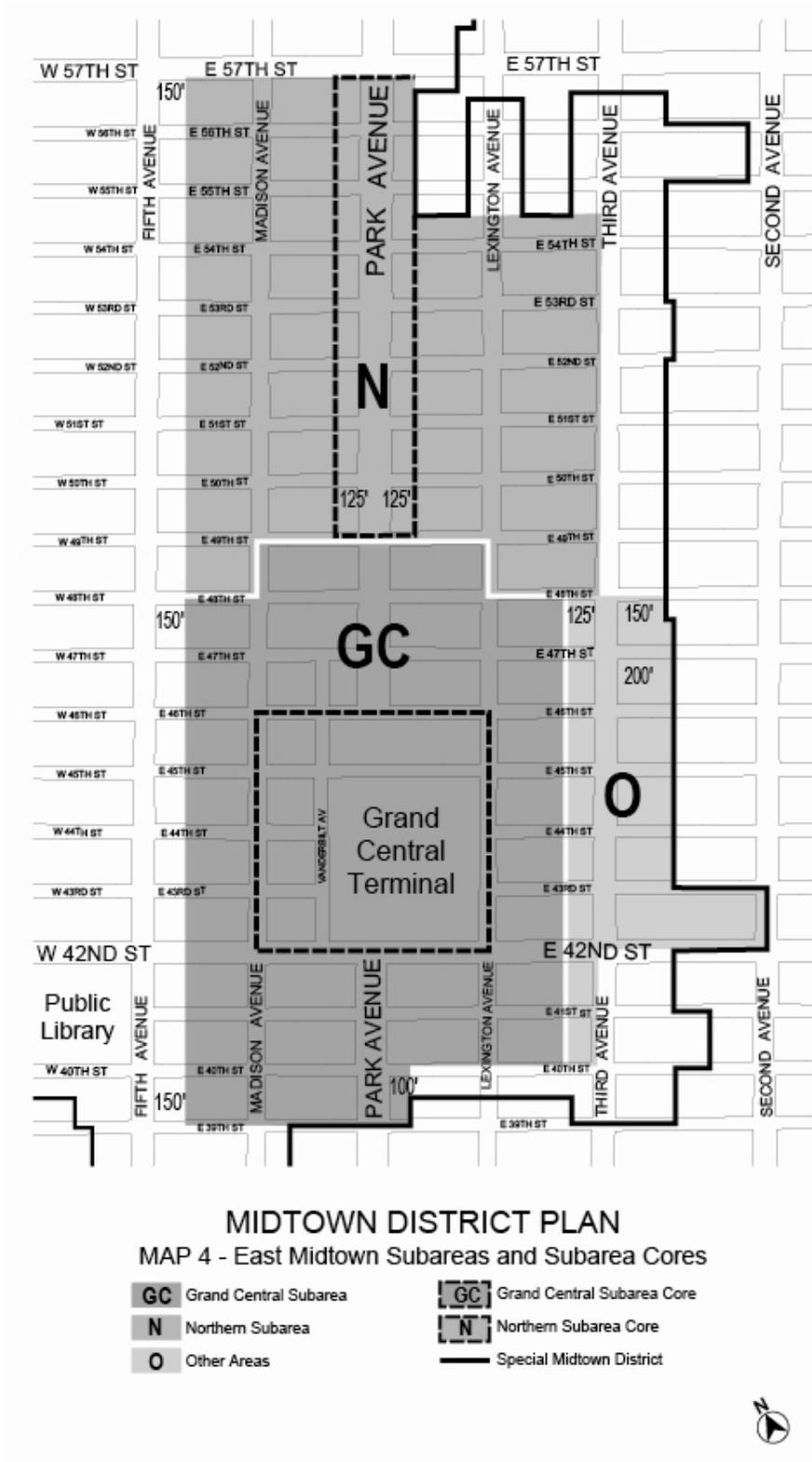


MIDTOWN DISTRICT PLAN

MAP 3 - Subway Station and Rail Mass Transit Facility Improvement Areas

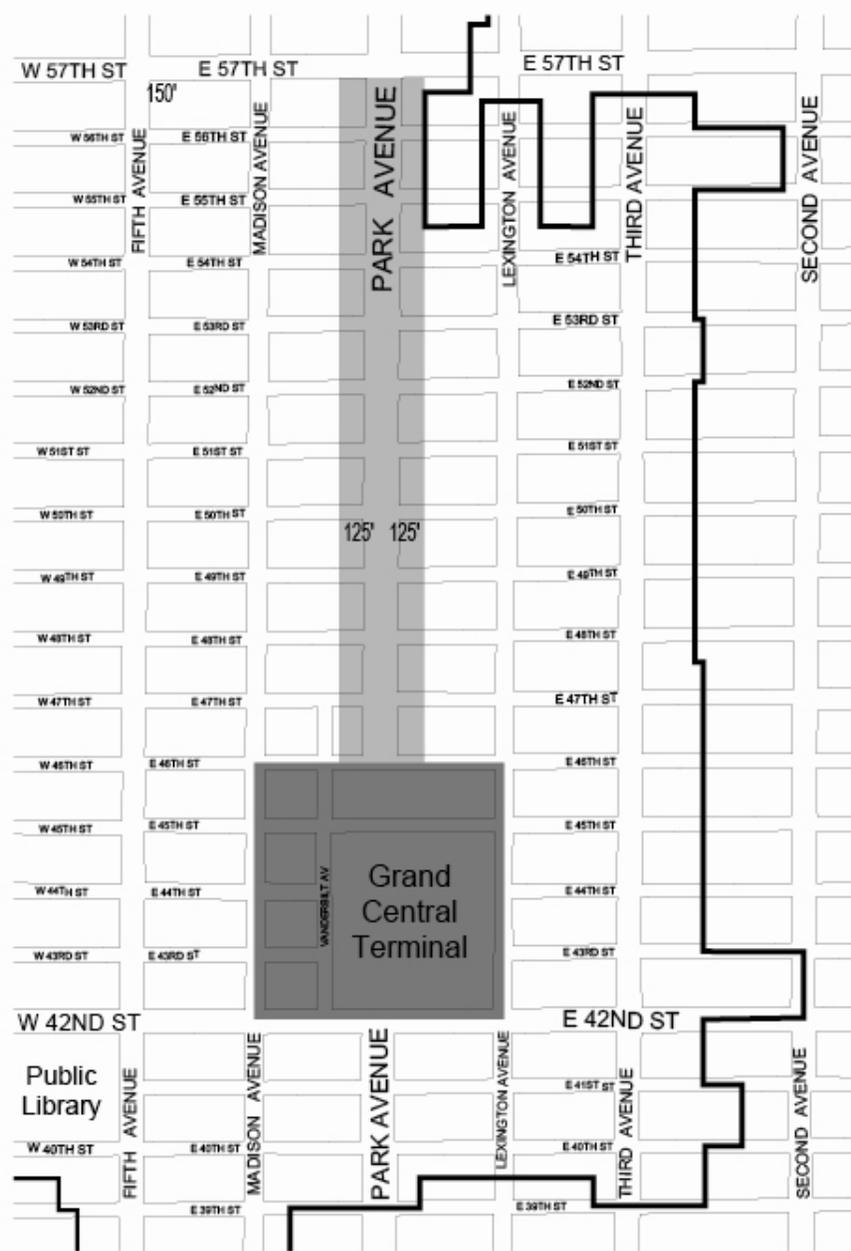
- | | |
|---|------------------------------|
| — Special Midtown District | ----- Broadway-60th St. Line |
| ■ Improvement Area | ----- 6th Ave. Line |
| ▨ Improvement Area (Subway station improvement bonus pursuant to Section 81-292 not applicable) | ----- Lexington Ave. Line |
| ■ 8th Ave. Line | ----- 63rd St. Line |
| ----- Broadway-7th Ave. Line | ----- 53rd St. Line |
| | ●●●●● 42nd St. Shuttle |
| | ----- Flushing Line |

Map 4: East Midtown Subareas and Subarea Cores Network of Pedestrian Circulation
 [DELETE EXISTING MAP, REPLACE WITH THIS]



Map 5: Applicability of special permit for superior developments

[NEW MAP]



MIDTOWN DISTRICT PLAN

MAP 5 - Applicability of special permit for superior developments

- Up to 30.0 FAR permitted for #qualifying sites#, pursuant to Section 81-833
- Up to 24.0 FAR permitted for #qualifying sites#, pursuant to Section 81-833

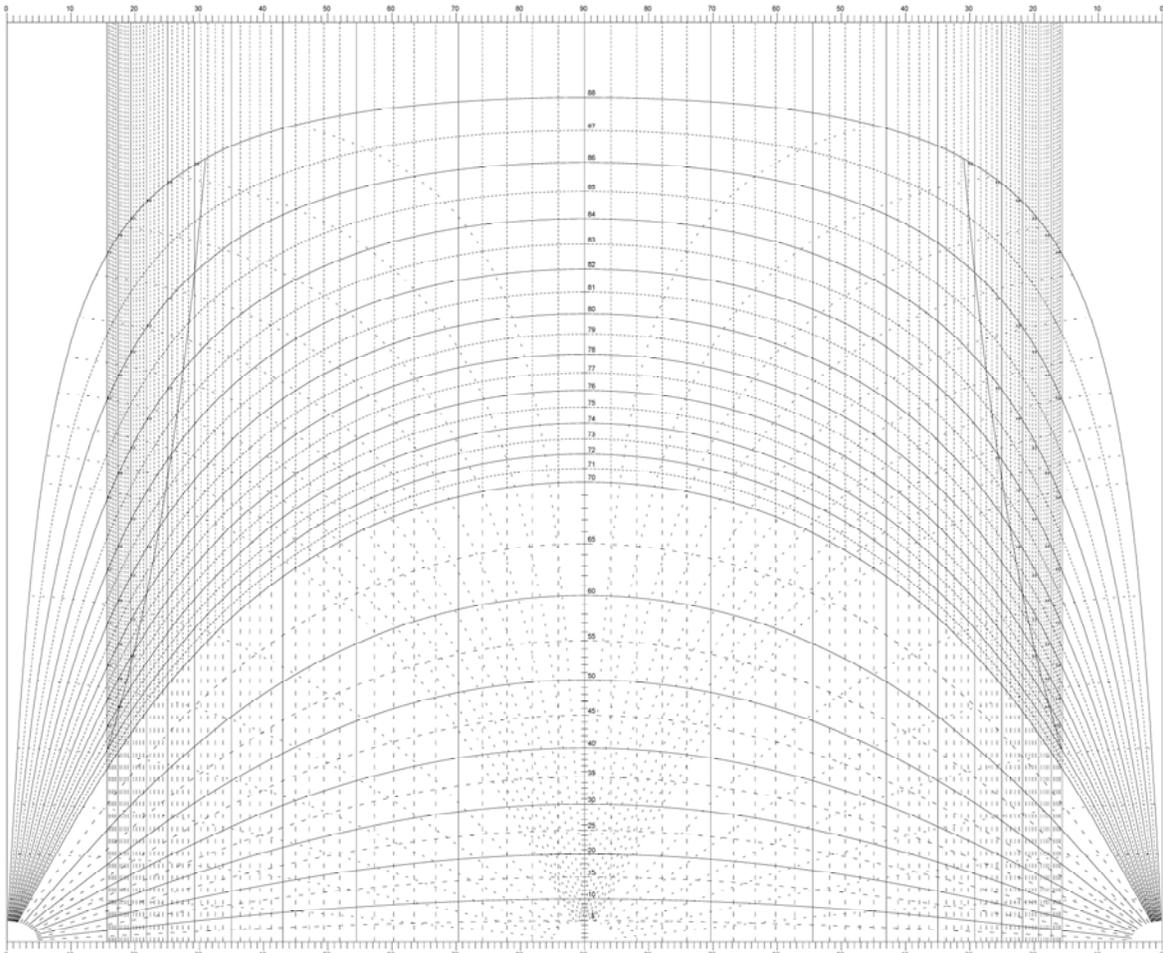


* * *

Chart 4. Daylight Evaluation Diagram – Park Avenue

[New Chart]

(A full size, 30" by 36", copy of this chart is available for purchase and inspection at the Department of City Planning's Bookstore.)



Daylight Evaluation Diagram, Park Avenue

Appendix B
Special Environmental Requirements

Special Environmental Requirement List 1

<u>Building Name and Address</u>	<u>Tax Block</u>	<u>Tax Lot</u>
<u>22-24 East 41st Street</u>	<u>1275</u>	<u>60</u>
<u>18-20 East 41st Street</u>	<u>1275</u>	<u>61</u>
<u>American Encaustic Tiling Co, 16 East 41st Street</u>	<u>1275</u>	<u>63</u>
<u>346 Madison Avenue</u>	<u>1279</u>	<u>17</u>
<u>Yale Club, 50 Vanderbilt Avenue</u>	<u>1279</u>	<u>28</u>
<u>Vanderbilt Concourse, 52 Vanderbilt Building</u>	<u>1279</u>	<u>45</u>
<u>Title Guarantee and Trust, 6 East 45th Street</u>	<u>1279</u>	<u>65</u>
<u>Roosevelt Hotel, 45 East 45th Street</u>	<u>1281</u>	<u>20</u>
<u>Postum Building, 250 Park Avenue</u>	<u>1282</u>	<u>34</u>
<u>Pershing Square Building, 100 East 42nd Street</u>	<u>1296</u>	<u>1</u>
<u>Lexington Hotel, 509-511 Lexington Avenue</u>	<u>1302</u>	<u>51</u>
<u>Barclay/Inter-Continental Hotel, 111 East 48th</u>	<u>1303</u>	<u>14</u>
<u>Shelton Club Hotel, 525 Lexington Avenue</u>	<u>1303</u>	<u>53</u>
<u>Girl Scout Building, 830 Third Avenue</u>	<u>1305</u>	<u>40</u>

Special Environmental Requirement List 2

<u>Building Name and Address</u>	<u>Tax Block</u>	<u>Tax Lot</u>
<u>Chemist Club, 50-52 East 41st Street</u>	<u>1275</u>	<u>44</u>
<u>Lefcourt Colonial Building, 295 Madison Avenue</u>	<u>1275</u>	<u>50</u>
<u>22-24 East 41st Street</u>	<u>1275</u>	<u>60</u>
<u>18-20 East 41st Street</u>	<u>1275</u>	<u>61</u>
<u>American Encaustic Tiling Co, 16 East 41st Street</u>	<u>1275</u>	<u>63</u>
<u>299 Madison Avenue</u>	<u>1276</u>	<u>23</u>
<u>Vanderbilt Avenue Building , 51 East 42nd Street</u>	<u>1277</u>	<u>27</u>
<u>Yale Club, 50 Vanderbilt Avenue</u>	<u>1279</u>	<u>28</u>
<u>346 Madison Avenue</u>	<u>1279</u>	<u>17</u>
<u>Vanderbilt Concourse, 52 Vanderbilt Building</u>	<u>1279</u>	<u>45</u>
<u>Title Guarantee and Trust, 6 East 45th Street</u>	<u>1279</u>	<u>65</u>
<u>Pan Am/Met Life Building, 200 Park Avenue</u>	<u>1280</u>	<u>9010</u>
<u>Roosevelt Hotel, 45 East 45th Street</u>	<u>1281</u>	<u>20</u>
<u>Postum Building, 250 Park Avenue</u>	<u>1282</u>	<u>34</u>
<u>Mercantile Library, 17 East 47th Street</u>	<u>1283</u>	<u>13</u>
<u>Union Carbide Building, 270 Park Avenue</u>	<u>1283</u>	<u>21</u>
<u>Bankers Trust Building, 280 Park Avenue</u>	<u>1284</u>	<u>33</u>
<u>ITT-American Building, 437 Madison Avenue</u>	<u>1285</u>	<u>21</u>
<u>39 East 51st Street</u>	<u>1287</u>	<u>27</u>
<u>59 East 54th Street</u>	<u>1290</u>	<u>28</u>
<u>Pershing Square Building, 100 East 42nd Street</u>	<u>1296</u>	<u>1</u>
<u>Lexington Hotel, 509-511 Lexington Avenue</u>	<u>1302</u>	<u>51</u>
<u>Barclay/Inter-Continental Hotel, 111 East 48th</u>	<u>1303</u>	<u>14</u>
<u>Shelton Club Hotel, 525 Lexington Avenue</u>	<u>1303</u>	<u>53</u>
<u>Girl Scout Building, 830 Third Avenue</u>	<u>1305</u>	<u>40</u>
<u>Citicorp Center, 601 Lexington Avenue</u>	<u>1308</u>	<u>7501</u>

* * *

The above resolution (N 130247(A) ZRM), duly adopted by the City Planning Commission on September 30, 2013 (Calendar No. 3), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.

BETTY Y. CHEN, MARIA M. DEL TORO, JOSEPH DOUEK, RICHARD W. EADDY,

ANNA HAYES LEVIN, ORLANDO MARÍN, Commissioners

MICHELLE DE LA UZ, Commissioner, Abstained

ALFRED C. CERULLO, III, Commissioner, Recused

Exhibit A

Environmental Impacts and Mitigation

In accordance with East Midtown Rezoning and Related Actions FEIS

Significant Adverse Impacts and Proposed Mitigation Measures

The Proposed Action as analyzed in the FEIS identified significant adverse impacts with respect to shadows, historic and cultural resources (architectural), transportation (traffic, bus transit, and pedestrians), and construction activities related to historic and cultural resources, traffic, and noise. In addition, the FEIS analyzed a modification to the proposed zoning text amendment (ULURP No. 130247(A) ZRM) as an alternative (the “Modified Proposal Alternative”).

Under the Modified Proposal Alternative, as with the Proposed Action, a new East Midtown Subdistrict would be mapped within the existing Special Midtown District, but there would be a number of modifications to the proposed zoning text as discussed in the CPC Report for ULURP No. 130247(A) ZRM. The modifications included in the Modified Proposal Alternative would result in differences in the as-of-right development that could be realized from that analyzed for the Proposed Action. The Modified Proposal Alternative would be constructed on the same 19 projected development sites identified in the Proposed Action. However, compared to the Proposed Action, the Modified Proposal Alternative would result in less office space and hotel space, and more residential space, compared to the No-Action condition. The net incremental increase in retail space would be the same under both the Proposed Action and the Modified Proposal Alternative. The Modified Proposal Alternative adds the Lexington/53rd and 51st Street station complex to the list of priority areas in order to provide for implementation of improvements to this station as East Side Access opens and development occurs in the long term. Thus, the Modified Proposal Alternative includes both the City-priority improvements at the Grand Central-42nd Street subway station complex and stair and escalator improvements at the 51st Street/Lexington Avenue-53rd Street stations.

In general, compared to the Proposed Action, the Modified Proposal Alternative would result in the same significant adverse shadows impacts (on the sunlight-sensitive features of St. Bartholomew’s Church and Community House, the Lady Chapel of St. Patrick’s Cathedral, and Christ United Methodist Church), and would have the same potential for significant adverse impacts related to historic and cultural resources and construction. The same partial mitigation measured for shadows, historic and cultural resources and construction being considered by the CPC for the Proposed Action would be available for the Modified Proposal Alternative. With respect to transportation, the Modified Proposal Alternative would, in general, result in the same significant adverse impacts and the same unmitigated significant adverse impacts as the Proposed Action, although in a few instances the affected intersections and time periods would be different. As in the case of the Proposed Action, standard mitigation measures—such as signal timing and daylighting for traffic; and crosswalk widening and bulbouts for corners for pedestrians—could mitigate impacts. With respect to traffic, the Modified Proposal Alternative would result in unmitigated impacts at one additional intersection. With respect to pedestrian impacts, the Modified Proposal Alternative would have unmitigated significant adverse impacts at one additional crosswalk and one additional corner area. The identified significant adverse impacts and proposed mitigation measures under the Modified Proposal Alternative are detailed below.

Shadows Impacts

The Modified Proposal Alternative, as with the Proposed Action, would result in significant adverse shadows impacts on three historic architectural resources, namely St. Bartholomew’s Church, Lady

Chapel of St. Patrick's Cathedral, and Community House and Christ Church United Methodist; there would be no significant adverse shadows impacts on open spaces. These impacts are the result of incremental shadows during limited time periods on certain analysis days cast by Projected Development Site 12 and Potential Development Site 14 on St. Bartholomew's Church and Community House, incremental shadows cast by Projected Site 12 on Lady Chapel, and incremental shadows cast by Projected Development Site 18 on Christ Church United Methodist. Under the Modified Proposal Alternative, the incremental shadows cast by the projected and potential development sites on the sunlight-sensitive features of these three historic resources, would be identical to the incremental shadows under the Proposed Action, and thus this alternative would not exacerbate the significant adverse impacts to these three architectural resources.

A mitigation measure to address the significant adverse shadows impacts on these historic architectural resources would be to provide for measures that would serve as a substitute for the direct sunlight on these sun-sensitive features. In order to adopt such measures in the absence of a site-specific approval, such as a Special Permit with an accompanying restrictive declaration, a mechanism would have to be developed to ensure implementation and compliance, since it is not known and cannot be assumed that owners of these properties would voluntarily implement this mitigation. In consultation with staff of the New York City Landmarks Preservation Commission, DCP, as lead agency, determined that techniques exist for artificial lighting, as well as for the reflection of natural light through architectural features or reflective panels, that could potentially serve as a partial substitute for the loss of direct sunlight.

To allow for the potential installation of such features, the CPC is currently considering a modification to the zoning text amendment that would require, prior to the issuance of a New Building Permit for development of Projected Development Sites 12 and 18, and Potential Development Site 14, that the developer provide DCP with a shadow analysis identifying the incremental shadows cast by the proposed building on the affected resource, and that the Chairperson of the Commission, acting in consultation with the Chair of the Landmarks Preservation Commission, certify to the Commissioner of Buildings either: a) that a plan for such features has been developed and will be implemented; or, b) that such a plan is not feasible or is impracticable, would negatively affect the character or integrity of the historic resource, or has not been accepted by the owner of the resource.

In the event that a plan for artificial lighting or reflection of natural light were developed and implemented pursuant to this provision, significant adverse shadows impacts under the Modified Proposal Alternative would be partially mitigated. Absent such a plan, the Modified Proposal Alternative's significant adverse shadows impacts would be wholly unmitigated.

Historic and Cultural Resources Impacts

As with the Proposed Action, the Modified Proposal Alternative would not result in any significant adverse impacts to archaeological resources, historic districts, or individually designated historic resources, but has the potential to result in significant adverse direct impacts to eligible historic resources. In the Modified Proposal Alternative, development could occur on the same 19 projected development sites and 20 potential development sites identified in the Proposed Action. As a consequence, the Modified Proposal Alternative would have the same potential to result in direct impacts to historic resources as does the Proposed Action due to potential partial or complete demolition of 14 historic

resources that are eligible for New York City Landmark (NYCL) designation and/or inclusion on the State and/or National Register of Historic Places (S/NR), located on Projected Development Sites 6, 7, 9, and 16 and Potential Development Sites 2, 5, 9, 12, 13, and 19.

Measures that would partially mitigate these significant adverse impacts could include photographically documenting the eligible structures in accordance with Historic American Buildings Survey (HABS) level II, as per National Park Service standards and/or placement of an interpretive exhibit within the lobby of new construction. In order to adopt these measures in the absence of a site-specific approval, such as a Special Permit with an accompanying restrictive declaration, a mechanism would have to be developed to ensure implementation and compliance since it is not known and cannot be assumed that owners of these properties would voluntarily implement this partial mitigation. The CPC is currently considering a modification to the zoning text amendment that would require—prior to any demolition of an eligible structure as part of development undertaken on Projected Development Sites 6, 7, 9 and 16 and Potential Development Sites 2,5,9,12,13 and 19 pursuant to the Modified Proposal Alternative—that the developer conduct and complete HABS recordation in a manner acceptable to the LPC.

The proposed modification to the zoning text amendment discussed above is considered partial mitigation only. Consequently, these impacts would not be completely eliminated and they would constitute unavoidable significant adverse impacts on these historic resources as a result of the Modified Proposal Alternative.

Transportation - Traffic Impacts

Compared with the Proposed Action, the Modified Proposal Alternative would have a net increase of two intersections with significant adverse impacts during the AM peak hour, a net decrease of two intersections with significant adverse impacts during the Midday peak hour, and a net increase of four intersections with significant adverse impacts during the PM peak hour; resulting in significant adverse traffic impacts at 60 study area intersections (versus 57 with the Proposed Action) during one or more analyzed peak hours. The Modified Proposal Alternative would have the same number of intersections with unmitigated significant adverse impacts during the AM and Midday peak hours and one additional intersection with unmitigated significant adverse impacts during the PM peak hour compared to the Proposed Action.

Implementation of traffic engineering improvements such as signal timing changes or modifications to curbside parking regulations would provide mitigation for many of the anticipated traffic impacts. It is anticipated that funding from the District Improvement Fund established under the Proposed Action would be used for capital costs associated with the implementation of identified and approved traffic mitigation measures. Implementation of the recommended traffic engineering improvements is subject to review and approval by DOT, except for intersections along Route 9A, which are also subject to review and approval by the New York State Department of Transportation (NYSDOT). If, prior to implementation, DOT (or NYSDOT) determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation measure will be identified. No practicable mitigation was identified for one or more approach movements at 23 impacted intersections, and impacts in one or more peak hours at these locations would remain unmitigated.

First Avenue and East 42nd Street (East and West Sides)

Impacts would occur on the eastbound left turn movement on the First Avenue West Side during the AM peak hour and eastbound left and through approach movement on the First Avenue East Side during the PM peak. In the AM peak hour, the impacts would be mitigated by increasing green signal timing one second in the eastbound and westbound approaches, decreasing green signal timing one second in the northbound approach, and restriping the right turn lane to increase its width for the northbound approach on the First Avenue East Side to 13 feet. The significant adverse impact in the PM peak hour would remain unmitigated.

First Avenue and East 46th Street

Impacts would occur on the eastbound left turn movement during the Midday and PM peak hours. In the Midday peak hour, the impacts would be mitigated by increasing green signal timing three seconds in the eastbound approach and decreasing green signal timing three seconds in the northbound approach. In the PM peak hour, the impact would be mitigated by implementing No Standing 4pm-7pm Mon-Fri for 100 feet along the north curb of the eastbound approach; this would result in the elimination of up to four diplomat parking spaces.

First Avenue and East 47th Street

Impacts would occur on the northbound through right turn movement during the PM peak hour. Impacts would be mitigated by decreasing green signal timing by three seconds in the eastbound approach and increasing green signal timing by three seconds in the northbound approach.

First Avenue and East 48th Street

Impacts would occur on the northbound right movement during the PM peak hour; these significant adverse impacts would remain unmitigated.

Second Avenue and East 42nd Street

Impacts would occur on the eastbound right turn, westbound left turn through and southbound left turn movements during the AM peak hour; on the eastbound right turn, southbound left turn and southbound through right turn movements in the Midday peak hour; and, on the eastbound right turn and southbound left turn movements in the PM peak hour. The significant adverse impacts during these time periods would remain unmitigated.

Second Avenue and East 44th Street

Impacts would occur on the eastbound through right turn movement during the AM, Midday, and PM peak hours. In the AM peak hour, impacts would be mitigated by increasing green signal timing by three seconds in the eastbound approach and decreasing green signal timing by three seconds in the southbound approach. In the Midday peak hour, impacts would be mitigated by increasing green signal timing by one second in the eastbound through right turn movement and decreasing green signal timing by one second in the southbound approach. In the PM peak hour, impacts would be mitigated by decreasing green signal timing by one second in the southbound and increasing green signal timing by one second in the eastbound.

Second Avenue and East 45th Street

Impacts would occur on the westbound left through movement during the AM peak hour. Impacts would be mitigated by increasing green signal timing by one second in the westbound through approach and decreasing green signal timing by one second in the southbound approach.

Second Avenue and East 46th Street

Impacts would occur on the eastbound right turn movement during the AM, Midday, and PM peak hours; and, on the eastbound through movement in the PM peak hour. In the AM peak hour, impacts would be mitigated by increasing green signal timing by one second in the eastbound approach and decreasing green signal timing by one second in the southbound approach. In the Midday peak hour, impacts would be mitigated by increasing green signal timing by two seconds in the eastbound approach and decreasing green signal timing by two seconds in the southbound approach. In the PM peak hour, impacts would be mitigated by decreasing green signal timing by four seconds in the southbound and increasing green signal timing by four seconds in the eastbound approaches.

Second Avenue and East 49th Street

Impacts would occur on the westbound left turn movement during the AM and PM peak hours; and, on the westbound left through movement in the Midday peak hour. In the AM and Midday peak hour, impacts would be mitigated by increasing green signal timing by one second in the westbound approach and decreasing green signal timing by one second in the southbound approach. In the PM peak hour, impacts would be mitigated by increasing green signal timing by one second in the westbound and decreasing green signal timing by one second in the southbound approaches.

Second Avenue and East 52nd Street

Impacts would occur on the eastbound through right during the PM peak hour. The impact would be mitigated by increasing green signal timing by one second in the eastbound approach and decreasing green signal timing by one second in the southbound approach.

Second Avenue and East 53rd Street

Impacts would occur on the westbound left through movement during the AM peak hour. The impact would be mitigated by increasing green signal timing by one second in the westbound approach and decreasing green signal timing by one second in the southbound approach.

Second Avenue and East 59th Street

An impact would occur on the eastbound through movement during the AM peak hour. The impact would be mitigated by restriping the eastbound furthest left two through lanes to increase their widths to 11.6 and 11.7 feet, respectively; and, the eastbound furthest right through lanes to decrease its widths to 10 feet.

Third Avenue and East 42nd Street

Impacts would occur on the westbound right turn movement during the AM, Midday, and PM peak hours; and, on the westbound through and northbound right turn in the AM and AM and PM peak hours,

respectively. In the Midday peak hour, the impact would be mitigated by increasing green signal timing by one second in the eastbound and westbound approaches, and decreasing green signal timing by one second in the northbound approach. The significant adverse impacts in the AM and PM peak periods would remain unmitigated.

Third Avenue and East 44th Street

An impact would occur on the northbound right turn movement during the Midday peak hour. The impact would be mitigated by decreasing green signal timing by one second in the eastbound approach and increasing green signal timing by one second in the northbound approach.

Third Avenue and East 57th Street

An impact would occur on the northbound right turn movement during the Midday peak hour. The impact would be mitigated by restriping the northbound through and adjacent right turn lanes to decrease their widths to 10.5 feet, and the northbound right turn only lane to increase its width to 11.5 feet.

Lexington Avenue and East 39th Street

Impacts would occur on the westbound left and through and movements during the AM and PM peak hours. In the AM peak hour, the impact would be mitigated by daylighting the north curb of 39th Street for 100 feet of the westbound approach the block between Lexington and Park Avenues, implementing No Standing 7am-10am Mon-Fri along, this would result in the elimination of up to 19 commercial parking spaces. In the PM peak hour, the impact on Westbound through would be mitigated by increasing green signal timing by one second in the westbound approach and decreasing green signal timing by one second in the southbound approach.

Lexington Avenue and East 51st Street

Impacts would occur on the westbound left and Westbound left through movements during the Midday and PM peak hours, respectively. The impact would be mitigated by increasing green signal timing by one and three seconds in the westbound approach and decreasing green signal timing by one and three seconds in the southbound approach during the Midday and PM peak hours, respectively.

Park Avenue and East 39th Street

Impacts would occur on the westbound left through right turn movements during all three peak hours. In the AM peak hour, the impact would be mitigated by daylighting the north curb of 39th Street between Lexington and Park Avenues for 100 feet, implementing the parking regulation of No Standing 7am-7pm Mon-Fri for all three peak hours;; this would result in the elimination of up to three commercial parking spaces .

Park Avenue and East 40th Street

Impacts would occur on the southbound through movement in viaduct exit approach during the Midday and PM peak hours, and on the eastbound left though movement in the PM peak hour. In the Midday peak hour, the impact would be mitigated by decreasing green signal timing by one second in the eastbound and increasing green signal timing by one second in the northbound and southbound approaches. The significant adverse impacts during the PM peak hour would remain unmitigated.

Park Avenue and East 47th Street

Impacts would occur on the northbound through movement during the PM peak hour. The impact would be mitigated by decreasing green signal timing by two seconds in the westbound and increasing green signal timing by two seconds in the northbound and southbound approaches.

Park Avenue and East 49th Street

Impacts would occur on the westbound left through movement during the AM, Midday and PM peak hours, and on the northbound through movement in the PM peak hour. The significant adverse impacts during these time periods would remain unmitigated.

Park Avenue and East 51st Street

Impacts would occur on the northbound through movement during the PM peak hour. The significant adverse impacts during this time period would remain unmitigated.

Park Avenue and East 53rd Street

Impacts would occur on the northbound through movement during the PM peak hour. The significant adverse impacts during this time period would remain unmitigated.

Park Avenue and East 57th Street

Impacts would occur on the northbound through right movement during the AM and PM peak hours. In the AM peak hour, the impact would be mitigated by decreasing green signal timing by one second in the westbound and increasing green signal timing by one second in the northbound and southbound approaches. In the PM peak hour, the impact would be mitigated by decreasing green signal timing by two seconds in the westbound and increasing green signal timing by two seconds in the northbound and southbound approaches.

Madison Avenue and East 39th Street

Impacts would occur on the westbound right turn movement during all three peak hours and westbound through movement in the AM and PM peak hours. The impacts in the AM, Midday, and PM peak periods would be mitigated by daylighting the west curb of Madison Avenue for 100 feet, implementing the parking regulation of No Standing Anytime, to create an exclusive left turn lane; this would result in the elimination of up to three commercial parking spaces. Also, to mitigate the impacts during these time periods, restripe the westbound through lane to decrease its width to 12.0 feet and increase the right turn lane width to 10.0 feet. Additionally, modify signal timing in the AM peak hour by increasing green signal timing by four seconds in the westbound through right turn movement and decreasing green signal timing by four seconds in the northbound approach. Additionally, modify signal timing in the Midday peak period by increasing green signal timing by one second in the westbound right turn movement and decreasing green signal timing by one second in the northbound approach. Additionally, modify signal timing in the PM peak period by increasing green signal timing by two seconds in the westbound through and right turn movements and decreasing green signal timing by two seconds in the northbound approach.

Madison Avenue and East 40th Street

Impacts would occur on the eastbound left turn and through movements during the AM and PM peak hours. In the AM peak hour, the impact would be mitigated by increasing green signal timing by one second in the eastbound left turn and through movement lanes and decreasing green signal timing by one second in the northbound approach. In the PM peak hour, the impact would be mitigated by increasing green signal timing by four seconds in the eastbound left turn and through movement lanes and decreasing green signal timing by four seconds in the northbound approach.

Madison Avenue and East 42nd Street

Impacts would occur on the northbound left through movement during the AM and Midday peak hours. The impacts would be mitigated by daylighting the west curb of Madison Avenue northbound approach for 100 feet, implementing No Standing 7am-1pm parking regulation and extend it to 43rd Street to create a left through lane for the northbound approach; this would result in the elimination of up to ten commercial parking spaces.

Madison Avenue and East 43rd Street

Impacts would occur on the northbound left turn movement during the AM and PM peak hours and northbound through movement during the AM peak hour. The impacts in the AM peak period would be mitigated by decreasing green signal timing by two seconds in the eastbound approach and increasing green signal timing by two seconds in the northbound approach. The impacts in the PM peak period would be mitigated by decreasing green signal timing by one second in the eastbound approach and increasing green signal timing by one second in the northbound approach.

Madison Avenue and East 44th Street

Impacts would occur on the northbound right turn and eastbound left through movements during all three peak hours, on the northbound through movement in the AM and Midday peak periods. Impacts during all three peak periods would be mitigated by creating an eastbound left turn lane on this approach by prohibiting standing along north curb of eastbound approach, for 100 feet up to the face of the intersection; this would result in the elimination of up to four commercial parking spaces. Also, to mitigate the impacts during these time periods, restripe the eastbound left through lane approach to decrease its width to 10.0 feet and making it through only. Additionally, the Midday peak period would be mitigated by decreasing green signal timing by four seconds in the eastbound and increasing green signal timing by four seconds in the northbound approaches. These measures would only partially mitigate the impacts in the AM and PM peak periods, therefore the significant adverse impacts during these peak time periods would remain unmitigated.

Madison Avenue and East 45th Street

Impacts would occur on the northbound through movement during all three peak hours. The impact in the AM peak period would be mitigated by decreasing green signal timing by four seconds in the westbound approach and increasing green signal timing by four seconds in the northbound approach. The impact in the PM peak period would be mitigated by decreasing green signal timing by two seconds in the westbound approach and increasing green signal timing by two seconds in the northbound approach. The significant adverse impacts during the Midday peak period would remain unmitigated.

Madison Avenue and East 46th Street

Impacts would occur on the eastbound left through movement during all three peak hours, on the northbound through movement in the AM and Midday peak hours, and the northbound right turn movement in the PM peak hour. Impacts during all three peak periods would be mitigated by the continuing enforcement of existing parking regulations (No Standing 7am-6pm Mon-Fri) along the north curb of eastbound approach. Additionally, the impact in the AM peak period would be mitigated by decreasing green signal timing by four seconds in the eastbound approach and increasing green signal timing by four seconds in the northbound approach. The impact in the Midday peak period would be mitigated by decreasing green signal timing by three seconds in the eastbound approach and increasing green signal timing by three seconds in the northbound approach. These measures would only partially mitigate the impacts in the PM peak period, therefore the significant adverse impacts during this time period would remain unmitigated.

Madison Avenue and East 47th Street

Impacts would occur on the westbound through movement during all three peak hours, on the northbound through movement in the AM peak hour, the northbound left turn movement in the Midday peak hour, and on the westbound right turn movement in the PM peak hour. Impacts during all three peak periods would be mitigated by daylighting the south curb of westbound approach and south curb of 47th Street between Madison and Fifth Avenues for 100 feet, implementing No Standing 7am-7pm Mon-Fri parking regulation; this would result in the elimination of up to 16 commercial parking spaces. Additionally, the impact in the AM peak period would be mitigated by decreasing green signal timing by three seconds in the westbound approach and increasing green signal timing by three seconds in the northbound approach. The impact in the PM peak period would be mitigated by increasing green signal timing by three seconds in the westbound through and right turn approach lanes and decreasing green signal timing by three seconds in the northbound approach.

Madison Avenue and East 49th Street

Impacts would occur on the northbound through approach during the AM peak hour. The impacts would be mitigated by decreasing green signal timing by two seconds in the eastbound approach and increasing green signal timing by two seconds in the northbound approach.

Madison Avenue and East 51st Street

Impacts would occur on the northbound through movement-during the AM, Midday, and PM peak hours. The significant adverse impacts during these time periods would remain unmitigated.

Madison Avenue and East 53rd Street

Impacts would occur on the northbound through movement during the AM and Midday peak hours. In the AM peak hour, the impact would be mitigated by decreasing green signal timing by two seconds in the westbound approach and increasing green signal timing by two seconds in the northbound approach. In the Midday peak hour, the impact would be mitigated by decreasing green signal timing by one second in the westbound approach and increasing green signal timing by one second in the northbound approach.

Madison Avenue and East 57th Street

Impacts would occur on the northbound through movement-during the AM peak hour. The impact would be mitigated by decreasing green signal timing by one second in the eastbound and westbound approaches and increasing green signal timing by one second in the northbound approach.

Fifth Avenue and East 42nd Street

Impacts would occur on the southbound left through movement during the AM and PM peak hours. In the PM peak hour, the impact would be mitigated by decreasing green signal timing by one second in the westbound and eastbound approaches and increasing green signal timing by one second in the southbound approach. The significant adverse impacts during the AM peak period would remain unmitigated.

Fifth Avenue and East 43rd Street

Impacts would occur on the southbound right turn movement-in the AM and Midday peak hours and on the southbound through movement in the AM peak hour. In the Midday peak hour, the impact would be mitigated by decreasing green signal timing by three seconds in the westbound approach and increasing green signal timing by three seconds in the southbound approach. The significant adverse impacts during the AM peak period would remain unmitigated.

Fifth Avenue and East 44th Street

Impacts would occur on the southbound left through movement in all three peak hours and on the eastbound right turn movement in the Midday and PM peak hours. The significant adverse impacts during these time periods would remain unmitigated.

Fifth Avenue and East 45th Street

Impacts would occur on the southbound through movement during the AM and Midday peak hours. In the AM peak hour, the impact would be mitigated by decreasing green signal timing by four seconds in the westbound approach and increasing green signal timing by four seconds in the southbound approach. In the Midday peak hour, the impact would be mitigated by decreasing green signal timing by one second in the westbound approach and increasing green signal timing by one second in the southbound approach.

Fifth Avenue and East 46th Street

Impacts would occur on the eastbound through right and southbound left through movement in all three peak hours. The significant adverse impacts during these time periods would remain unmitigated.

Fifth Avenue and East 47th Street

Impacts would occur on the westbound left turn movement in all three peak hours; on the southbound left through movement during the AM and Midday peak hours, and on the southbound right turn movement during the PM peak hour. The significant adverse impacts during these time periods would remain unmitigated.

Fifth Avenue and East 48th Street

Impacts would occur on the southbound left through movement approach in all three peak hours and on the eastbound right turn movement during the Midday and PM peak hours. Although modifying signal timing (i.e., shifting two seconds from the eastbound to the southbound approaches in the AM and one second from the eastbound to the northbound approaches in the PM) would improve conditions at this intersection, it would not fully mitigate the impacts. Therefore, the significant adverse impacts during these time periods would remain unmitigated.

Fifth Avenue and East 49th Street

Impacts would occur on the southbound through movement during the AM peak hour. The impact would be mitigated by decreasing green signal timing by two seconds in the westbound approach and increasing green signal timing by two seconds in the southbound approach.

Fifth Avenue and East 50th Street

Impacts would occur on the southbound left through movement during the AM peak hour. The impact would be mitigated by decreasing green signal timing by two seconds in the eastbound approach and increasing green signal timing by two seconds in the southbound approach.

Fifth Avenue and East 51st Street

Impacts would occur on the southbound through movement during the AM. The significant adverse impacts during this time period would remain unmitigated.

Fifth Avenue and East 52nd Street

Impacts would occur on the southbound left through movement during the AM and Midday peak hours. In the Midday peak hour, the impact would be mitigated by decreasing green signal timing by one second in the eastbound approach and increasing green signal timing by one second in the southbound approach. The significant adverse impacts during the AM peak period would remain unmitigated.

Fifth Avenue and East 53rd Street

Impacts would occur on the southbound through movement during the AM peak hour. The impact would be mitigated by decreasing green signal timing by two seconds in the westbound approach and increasing green signal timing by two seconds in the southbound approach.

Fifth Avenue and East 54th Street

Impacts would occur on the southbound left through movement during the AM peak hour. The impact would be mitigated by decreasing green signal timing by two seconds in the eastbound approach and increasing green signal timing by two seconds in the southbound approach.

Fifth Avenue and East 56th Street

Impacts would occur on the southbound left through movement during the AM peak hour. The impact would be mitigated by decreasing green signal timing by two seconds in the eastbound approach and increasing green signal timing by two seconds in the southbound approach.

Fifth Avenue and East 57th Street

Impacts would occur on the southbound left through movement during the AM peak hour. The significant adverse impacts during this time period would remain unmitigated.

Fifth Avenue and East 59th Street

Impacts would occur on the southbound left through movement in all three peak hours. The significant adverse impacts during these time periods would remain unmitigated.

Sixth Avenue and East 40th Street

Impacts would occur on the northbound through right movement during the AM peak hour; on the eastbound left through movement in the Midday peak hour, and on the northbound right turn movement in the PM peak hour. The impact in the Midday peak period would be mitigated by daylighting the north curb of 40th Street for 100 feet, implementing No Standing 7am-7pm parking regulation; this would result in the elimination of up to four commercial parking spaces. The impact in the PM peak period would be mitigated by decreasing green signal timing by one second in the eastbound approach and increasing green signal timing by one second in the northbound approach. The significant adverse impacts during the AM peak period would remain unmitigated.

Sixth Avenue and East 42nd Street

Impacts would occur on the westbound right turn movement in all three peak hours. The impact in the AM peak period would be mitigated by increasing green signal timing by two seconds in the eastbound and westbound approaches and decreasing green signal timing by two second in the northbound approach. The impact in the Midday and PM peak hour periods would be mitigated by increasing green signal timing by one second in the eastbound and westbound approaches and decreasing green signal timing by one second in the northbound approach for each peak hour.

Sixth Avenue and East 44th Street

Impacts would occur on the northbound right turn movement during the PM peak hour. The impact would be mitigated by decreasing green signal timing by two seconds in the eastbound approach and increasing green signal timing by two seconds in the northbound approach.

Sixth Avenue and East 45th Street

Impacts would occur on the westbound right turn movement during the Midday peak hour. The impact would be mitigated by restriping the westbound through movement lane to decrease its width to 10.5 feet and increase the right turn movement lane width to 12.5 feet, in addition to increasing green signal timing by four seconds in the westbound approach and decreasing green signal timing by four seconds in the northbound approach.

Sixth Avenue and East 46th Street

Impacts would occur on the northbound right turn movement during the PM peak hour. The impact would be mitigated by decreasing green signal timing by three seconds in the eastbound approaches and increasing green signal timing by three seconds in the northbound approach.

Route 9A and East 56th Street

Impacts would occur on the northbound through movement during the AM peak hour. The impact would be mitigated by increasing green signal timing by one second in the northbound through and southbound through approaches and decreasing green signal timing by one second in the southbound left turn approach.

Transportation - Bus Transit

The Proposed Action would result in capacity shortfalls on eastbound M42 local bus service during one or more analyzed peak hours. Although there would be fewer trips on the M42 local bus service under the Modified Proposal Alternative, the Proposed Action's significant adverse impacts to the M42 local bus in the eastbound direction in the AM and westbound direction in the PM would still occur under the Modified Proposal Alternative. These impacts could be fully mitigated by the addition of one eastbound M42 bus in the AM peak hour and one westbound bus in the PM peak hour, compared to two eastbound buses in the AM and two westbound buses in the PM under the Proposed Action. Alternatively, conversion of the M42 route to articulated bus service could be another option for providing needed capacity.

The general policy of NYCT is to provide additional bus service where demand warrants, taking into account financial and operational constraints. Based on NYCT's ongoing passenger monitoring program and as new development occurs throughout the study area, a comprehensive service plan would be generated to respond to specific, known needs with capital and/or operational improvements where fiscally and operationally practicable. NYCT's capital program is developed on a five-year cycle; through this program, expansion of bus services would be provided as needs are determined. It is therefore anticipated that NYCT would increase service frequency on the M42 route to address its capacity shortfalls.

Transportation - Pedestrian Impacts

The Modified Proposal Alternative would significantly adversely impact a total of one sidewalk, 24 crosswalks and eight corner areas in one or more peak hours compared to two sidewalks, 25 crosswalks and eight corner areas being would significantly adversely impacted under the Proposed Action. The mitigation measures to address these significant adverse pedestrian impacts generally consist of crosswalk widening and minor traffic signal timing adjustments and are detailed below. Under the Modified Proposal Alternative there would be three crosswalks with unmitigated significant adverse impacts in the AM peak hour, none in the Midday and two in the PM, compared to two in the AM, none in the Midday and one in the PM for the Proposed Action. There would also be four, one and two corner areas with unmitigated impacts in the AM, Midday and PM peak hours, respectively, compared to three, one and two under the Proposed Action. There would not be any unmitigated sidewalk impacts under either the Proposed Action or the Modified Proposal Alternative.

East 43rd Street North Sidewalk between Vanderbilt and Madison Avenues

The AM and PM peak hour impacts to the north sidewalk along East 43rd Street between Vanderbilt and Madison Avenues would occur at the location of security bollards adjacent to a Metro-North entrance at

the east end of this sidewalk. Widening the portion of this sidewalk adjacent to the bollards by 1.5 feet would fully mitigate these impacts.

East 43rd Street North Sidewalk between Madison and Fifth Avenues

The AM and PM peak hour impacts to the north sidewalk on East 43rd Street between Madison and Fifth Avenues would occur at the location of two tree pits located along this sidewalk in front of the Fifth Church of Christ, Scientist church. Removal of these tree pits would fully mitigate the significant adverse impacts to this sidewalk in the AM and PM peak hours.

Third Avenue and East 49th Street

The significant adverse impact is to the north and west crosswalks in the Midday peak hour. It would be fully mitigated by widening the north crosswalk by 2.5 feet and the west crosswalk by one foot.

Third Avenue and East 42nd Street

The significant adverse impact to the north crosswalk in all three peak hours would be fully mitigated by widening this crosswalk by 2.5 feet.

Lexington Avenue and East 50th Street

The Modified Proposal Alternative would result in a significant adverse impact to the north crosswalk in the AM peak hour, the south crosswalk in the Midday peak hour, the east crosswalk in all peak hours, and the west crosswalk in the AM peak hour. In addition, some of the crosswalk impacts would be worsened by a sidewalk bulb out proposed as mitigation for a significant corner impact. The bulk of the significant impacts would be fully mitigated by a one-foot widening of the north, a 2.5-foot widening of the south crosswalk, and a two-foot widening of the east crosswalk. The west crosswalk would remain unmitigated in the AM peak hour.

Lexington Avenue and East 49th Street

The significant adverse impacts to the west crosswalk in the AM and PM peak hours would be fully mitigated by widening this crosswalk by 3.5 feet.

Lexington Avenue and East 48th Street

The significant adverse impact to the south crosswalk in the Midday peak hour would be fully mitigated by widening this crosswalk by 1.5 feet.

Madison Avenue and East 47th Street

The west crosswalk at this intersection would be significantly adversely impacted in the Midday peak hour and it would be fully mitigated by widening the crosswalk by 1.5 feet.

Madison Avenue and East 46th Street

The Modified Proposal Alternative would significantly adversely impact the east crosswalk in all three peak hours. A 2.5-foot widening of the east crosswalk, along with signal timing changes recommended as traffic mitigation, would fully mitigate all of the significant adverse impacts to the crosswalk.

Madison Avenue and East 45th Street

The Modified Proposal Alternative would significantly adversely impact the north and east crosswalks at this intersection in all three peak hours. A two-foot widening, along with signal timing changes recommended as traffic mitigation, would fully mitigate all of the significant adverse impacts at the east crosswalk. Widening the north crosswalk by 3.5 feet would fully mitigate the significant impact in the Midday and PM peak hours and improve conditions in the AM. However, the significant adverse impact to the north crosswalk in the AM would remain unmitigated.

Madison Avenue and East 44th Street

The significant adverse impact to the east crosswalk in the AM peak hour would be fully mitigated by widening this crosswalk by 0.5 feet.

Madison Avenue and East 43rd Street

The Modified Proposal Alternative would significantly adversely impact the west crosswalk in the AM and PM peak hours and the north crosswalk in AM and Midday peak hours. Widening the north crosswalk by 1.5 feet and the west crosswalk by 0.5 feet each, along with signal timing changes recommended as traffic mitigation, would fully mitigate all of the significant adverse impacts at these crosswalks.

Madison Avenue and East 42nd Street

The Modified Proposal Alternative would significantly adversely impact the north crosswalk in the PM peak hour. Widening the north crosswalk by 0.5 feet would fully mitigate the significant adverse impact at this crosswalk.

Madison Avenue and East 40th Street

The significant adverse impacts to the north crosswalk in the Midday peak hour would be fully mitigated by widening the crosswalk by 1.5 feet.

Fifth Avenue and East 47th Street

The significant adverse impact to the south crosswalk in the AM, Midday and PM peak hours would be fully mitigated by widening this crosswalk by 2.5 feet.

Fifth Avenue and East 46th Street

The Modified Proposal Alternative would significantly adversely impact the south crosswalk in the Midday and PM peak hours. Widening this crosswalk by 1.5 feet would fully mitigate the significant adverse impacts for these peak hours.

Fifth Avenue and East 44th Street

The Modified Proposal Alternative would significantly adversely impact the east crosswalk in all three peak hours. Widening the east crosswalk by three feet would fully mitigate the significant adverse impacts in all periods. In the PM peak hour, signal timing changes recommended as traffic mitigation would also significantly impact the north and south crosswalks. Widening the north crosswalk by 0.5 feet,

along with signal timing changes recommended as traffic mitigation, would fully mitigate the significant adverse impact at this crosswalk. Widening the south crosswalk by 1.5 feet, along with signal timing changes recommended as traffic mitigation, would improved conditions in the PM. However, the significant adverse impact to the south crosswalk in the PM would remain unmitigated.

Fifth Avenue and East 42nd Street

The Modified Proposal Alternative would significantly adversely impact the east crosswalk in the PM peak hour and the north and south crosswalks in both the AM and PM. Signal timing changes recommended as traffic mitigation would worsen the PM impact to the north and south crosswalks. Widening the north, south and east crosswalks by three feet, 2.5 feet, and one foot, respectively, along with signal timing changes recommended as traffic mitigation in the PM peak hour would fully mitigate the significant impacts to the north crosswalk in the AM and PM peak hours and the east crosswalk in the PM. While conditions at the south crosswalk would be improved in the AM and PM, the significant impacts to this crosswalk in both periods would remain unmitigated.

Third Avenue and East 42nd Street

A significant adverse impact would occur on the northwest corner in the AM peak hour. While conditions at this corner would be improved by removing a waste receptacle out of the corner area, no practicable measures to fully mitigate this impact were identified. The impact at this location would therefore remain unmitigated.

Lexington Avenue and East 50th Street

The northeast, southeast, and southwest corners at this intersection would be significantly adversely impacted in all three peak hours, while the northwest corner would be impacted in the AM and PM peak hours. A bulb out along the East 50th Street sidewalk adjacent to the southwest corner would fully mitigate the significant adverse impacts to this corner. Similarly, a bulb out along the Lexington Avenue sidewalk adjacent to the southeast corner would fully mitigate the significant adverse impacts to this corner. A bulb out along the Lexington Avenue sidewalk adjacent to the northeast corner would fully mitigate the significant adverse impacts at this location. Although a similar bulb out would likely mitigate the impact at the northwest corner, it should be noted that the building adjacent to this corner has been set back to create a covered plaza area around an entrance stair to the 51st Street subway station. As this plaza provides additional pedestrian circulation and queuing space immediately adjacent to the corner area, no additional mitigation measures are proposed for this location, and the impact would remain unmitigated.

Madison Avenue and East 45th Street

The northwest corner at this intersection would be significantly adversely impacted in the Midday and PM peak hours. A bulb out along the East 45th Street sidewalk adjacent to the northwest corner would fully mitigate the significant adverse impacts at this location in both periods.

Madison Avenue and East 43rd Street

The northeast corner at this intersection would be significantly adversely impacted in all peak hours. As no practicable measures to fully mitigate the pedestrian impacts at the northeast corner were identified, the impacts at this location would remain unmitigated.

Madison Avenue and East 42nd Street

The northwest corner at this intersection would be significantly adversely impacted in the Am and PM peak hours. No practicable measures to fully mitigate the impacts to this corner were identified, and the impacts at this location would therefore remain unmitigated.

It is anticipated that funding from the District Improvement Fund established under the Proposed Action would be used for capital costs associated with the implementation of identified and approved pedestrian mitigation measures. Implementation of the recommended pedestrian engineering improvements is subject to review and approval by DOT. If, prior to implementation, DOT determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation measure will be identified.

Construction-Related Historic and Cultural Resources Impacts

Development under the Modified Proposal Alternative—specifically, on Projected Development Sites 3, 6, 9, 10, 12, and 16, and Potential Development Sites 2-7, 12, 13, 15, and 20—could result in inadvertent construction-related damage to 24 NYCL- and/or S/NR-eligible historic resources, as they are located within 90 feet of projected and/or potential development sites. If these eligible resources are designated in the future prior to the initiation of construction, the protective measures of New York City Department of Buildings (DOB) Technical Policy and Procedure Notice (TPPN) #10/88 would apply and indirect significant adverse impacts resulting from construction would be avoided. Should they remain undesignated, however, the additional protective measures of TPPN #10/88 would not apply, and the potential for significant adverse construction-related impacts would not be mitigated.

In order to make TPPN #10/88 or similar measures applicable to eligible historic resources in the absence of a site-specific approval, such as a Special Permit with an accompanying restrictive declaration, a mechanism would have to be developed to ensure implementation and compliance, since it is not known and cannot be assumed that owners of these properties would voluntarily implement this mitigation. The CPC is currently considering a proposed modification to the zoning text amendment which would require, prior to excavation or demolition pursuant to the Proposed Action on a Projected or Potential Development Site located within 90 feet of an eligible resource, that the Commissioner of Buildings have approved a construction monitoring protocol of similar scope and purpose to the provisions of TPPN #10/88. In the event this modification is adopted, significant adverse historic resources impacts resulting from construction activities under the Modified Proposal Alternative would be fully mitigated.

Construction-Related Traffic Impacts

The Modified Proposal Alternative would result in the same significant adverse construction-related impacts compared with the Proposed Action. As with the Proposed Action, the Modified Proposal Alternative is expected to result in significant adverse construction-related traffic impacts to the following nine intersections during the 6:00 – 7:00 a.m. peak hour: Second Avenue at East 44th Street; Second Avenue at East 46th Street; Second Avenue at East 49th Street; Third Avenue at East 39th Street; Third Avenue at East 42nd Street; Park Avenue at East 39th Street; Madison Avenue at East 44th Street; Fifth Avenue at 43rd Street; and Fifth Avenue at 47th Street. Implementation of traffic engineering improvements such as signal timing changes or modifications to curbside parking regulations and identified above would provide mitigation for all but two of the anticipated traffic impacts (Second

Avenue at East 44th Street and Fifth Avenue at 47th Street). In the absence of the application of mitigation measures, these two construction-related traffic impacts would remain unmitigated.

Construction-Related Noise Impacts

Construction activities associated with the Modified Proposal Alternative would occur on multiple development sites within the same geographic area and, as the result, has the potential to increase interior noise levels of existing adjacent commercial buildings. In particular, simultaneous construction at Projected Development Sites 5, 6 and 7, would likely result in increases that would approach or marginally exceed the impact threshold for short periods of time and has the potential to do so during other construction quarters bordering the peak construction period. Therefore, if the peak construction scenario conservatively assumed for the purposes of the FEIS analysis with regard to simultaneous construction on Projected Development Sites 5, 6 and 7 is realized, the Modified Proposal Alternative would result in a significant adverse construction noise impact.

Partial mitigation for construction noise impacts could include, in addition to the requirements under the New York City Noise Control Code, noise barriers, use of low noise emission equipment, locating stationary equipment as far as feasible away from receptors, enclosing areas, limiting the duration of activities, specifying quiet equipment, scheduling of activities to minimize impacts (either time of day or seasonal considerations), and locating noisy equipment near natural or existing barriers that would shield sensitive receptors.

The CPC is currently considering a modification to the proposed zoning text amendment which would provide that no demolition or excavation work may be issued for development of Projected Sites 5, 6, or 7 as qualified sites under the rezoning unless the Chairperson of the CPC has certified either a) that the simultaneous construction of Projected Sites 5, 6 and 7 conservatively analyzed in the EIS is not anticipated to occur; or, b) that a restrictive declaration has been executed and recorded providing for implementation during construction of the noise path and control measures described above, except to the extent determined by the Chair to be infeasible or impracticable due to site specific conditions. This provision, if adopted by the CPC, would partially mitigate the potential for significant adverse noise impacts during construction.

The proposed modifications to the zoning text amendment discussed above are considered partial mitigations only. Consequently, these impacts would not be completely eliminated and they would constitute an unmitigated significant adverse construction noise impact.

Exhibit B
East Midtown Subdistrict

Initial List of Priority Improvements
For Consideration by the
East Midtown DIF Committee

BELOW-GRADE

GRAND CENTRAL - LEXINGTON LINE IMPROVEMENTS

“R238/P16”

- New mezzanine stair (Kenneth Cole)
- R238 control area reconfiguration
- New platform stair (P16)

“P10”

- New platform stair (P10)

“Northern improvements”

- New platform stairs (P25, P25)
- Improved access from street to mezzanine (Strawberry Stair)

Existing Platform Stair Reconstruction

- Reconfigure existing platform stairs to provide greater circulation space on platform

Acquisition/Finishing

- Acquire central basement area to provide overall mezzanine connectivity
- Refinishing of overall mezzanine level

GRAND CENTRAL - INTERMODAL CONNECTIONS

- Reconfigure connection between mezzanine and 7 line platform
- Provide additional access from Grand Central Terminal platforms and East Side Access to subway station

LEXINGTON/53rd STREET AND 51st STREET STATION

- Widened 53rd Street platform escalator
- Widened transfer connection between downtown Lexington platform and 53rd Street station

FIFTH / 53rd STREET STATION

- Add/widen platform access on Madison end of platforms to street level

ABOVE-GRADE

EAST MIDTOWN PLACES FOR PEOPLE – PUBLIC REALM PLAN



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

July 31, 2013

**Recommendation on
East Midtown Subdistrict
ULURP Application Nos.: N 130247 ZRM and C 130248 ZMM
by the New York City Department of City Planning**

PROPOSED ACTIONS

The New York City Department of City Planning (“DCP” or “the applicant”) is requesting zoning map and zoning text amendments (collectively, the “proposed actions”) affecting an approximately 73-block area of Midtown Manhattan. The rezoning area located within Manhattan Community Districts 5 and 6, is generally bounded by East 39th Street, East 57th Street, Second and Third avenues and a line 150 feet east of Fifth Avenue to the west. The proposed actions would allow new density through as-of-right zoning mechanisms and a new special permit for large qualifying developments.

The following proposed land use actions are subject to review under the Uniform Land Use Review Procedure (“ULURP”) required by Section 200 of the New York City Charter:

- A **zoning text amendment (N 130247 ZRM)** to establish the East Midtown Subdistrict superseding the existing Grand Central Subdistrict, within the Special Midtown District. The amendment would encourage targeted as-of-right commercial development, generate funding for area-wide pedestrian network improvements, and alter the process for landmark air rights transfers around Grand Central Terminal. Text amendments are proposed for the following sections of the Zoning Resolution: **ZR §§ 81-00** (General Provisions); **81-20** (Bulk Regulations); and **81-60** (Special Regulations for the Grand Central Subdistrict).
- A **zoning map amendment (C 130248 ZMM)** to replace the existing C5-2 districts on the block bounded by East 42nd and 43rd streets and Second and Third avenues with C5-3 and C5-2.5 districts that will be mapped within the Special Midtown District.

On July 17, 2013, the DCP proposed modifications to the original zoning text amendment application (N 130247 ZRM (A) – the “A-Text” application). The proposed A-Text application would expand the scope of the original application to include limited residential use, restricted hotel use, and an expanded area in which landmark air rights could be transferred.

PROJECT DESCRIPTION

The applicant seeks a zoning text amendment to establish the East Midtown Subdistrict (hereafter “the Subdistrict”) that would replace the existing Grand Central Subdistrict within the Special Midtown District. While most of the underlying zoning would remain in place, the Subdistrict would feature new, as-of-right mechanisms that would allow additional density for commercial developments in areas around Grand Central Terminal and along Park Avenue. Only “Qualifying Sites” that meet certain requirements, to be defined and discussed further below, would be eligible for these new mechanisms. These Qualifying Sites would be afforded increases in developable floor area above the existing base floor area ratio (“FAR”) by utilizing:

- a **District Improvement Bonus (“DIB”)** that would allow greater FAR through contributions to a fund dedicated to area-wide pedestrian and transit improvements; and
- a streamlined **Landmark Air Rights Transfer** process to increase FAR through transfers of development rights from landmark buildings.

Area Context

The proposed rezoning area encompasses 73 blocks of Midtown Manhattan containing approximately 400 buildings with over 70 million square feet (“sf”) of office space. East Midtown is home to a variety of commercial users, which include financial institutions, law firms, media companies, advertising agencies, hotels and some of the nation’s large bank headquarters are located in the rezoning area. The office vacancy rates are quite low, hovering at around seven percent.¹ The area is marked by a wide variety of ground-floor retail, stores that mainly service daytime users, with the notable exception of Vanderbilt Avenue, which lacks significant retail presence. The commercial uses equate to over 200,000 workers in the area. Lastly, there a limited amount of residential uses, at a little over 334,000 sf (approximately 6 percent).²

Despite the concentration of one dominant use, a variety of building stock exists in East Midtown. The oldest buildings in the area were built as part of Terminal City following the construction of Grand Central Terminal in 1913. These are typically 20 to 25 stories and built to the lot line without any setbacks. This is the dominant building form in the area immediately surrounding the landmark Grand Central Terminal. Also in the immediate area of the Terminal are a few 1920s skyscrapers, such as the Chrysler Building, built up to their lot lines. Park Avenue, on the other hand, is home to 1950s and 1960s glass office towers some of which are set back and separated from the street by public plazas and arcades. Many of these were built under zoning that limited height but not floor area, regulations that resulted in a dense building form with relatively lower floor to ceiling heights.

¹ East Midtown DEIS 13DCP011M – Project Description, 1-4.

² Ibid.

The northern half of the rezoning area includes sparse low scale buildings on large sites that mostly include historic religious institutions, such as St. Bartholomew's Church, St. Patrick's Cathedral and Central Synagogue. In addition to significant landmarks, the area has a rich history. It contains more than 300 buildings that are over 50 years old and the average age of buildings in the area is over 70 years.

Transit Infrastructure

The rezoning area is particularly rich in public transit options. Seven subway lines run through East Midtown: the 4, 5, 6, 7, E, M, and Times Square Shuttle. The B, D, F, M, N, Q, and R lines also run within two blocks of the Subarea. Additionally, the area is serviced by 14 local and 53 express bus lines. The most used transit facility in the area is Grand Central Terminal and its subway station is the second most used in the City. Grand Central Terminal connects the district via Metro North Railroad to the City's northern suburbs as well as parts of Connecticut. The Metro North Railroad brings over 80,000 daily riders into Grand Central, and the subway station is used by twice that amount; on an average weekday in 2012, the Grand Central Subway Station was used by 150,266 riders.³ The Lexington Avenue (4/5/6) line is the only line that operates over the entire length of the east side of Manhattan, and is consequently one of the most crowded in the City.⁴ The line carries over 1.3 million daily riders and operates significantly over capacity.⁵

Transit service to Grand Central is currently being expanded by two major public works projects: East Side Access and the Second Avenue Subway. The Long Island Railroad's ("LIRR") East Side Access project will connect Long Island Railroad commuters to Grand Central and will likely bring an additional 65,000 new riders into Grand Central during the weekday morning peak. Simultaneously, the Second Avenue Subway, currently under construction, will partially alleviate congestion along the Lexington Avenue subway line and will, as a result, provide East Midtown commuters with more transit options.

Grand Central Pedestrian Network

At the center of the public realm is Grand Central Terminal. The Terminal's primary function is to circulate passengers to their next train or out onto the streets. It is a complex below-grade pedestrian network consisting of platforms, mezzanine levels, and vertical circulation cores. However, the network's inefficiency results in sub-par operations and significant congestion. For example, platform crowding on the Lexington Avenue lines increases the time that trains must stop at the station, creating a bottleneck that reduces the efficiency throughout the system. Several planned improvements to this network have been identified as mitigation for the LIRR East Side Access project and the No. 7 extension/Hudson Yards redevelopment project.

The streets surrounding Grand Central are the other component of the neighborhood's pedestrian network, and face similar challenges due to the high volume of pedestrians in the area. The sidewalks of major surrounding corridors, Madison and Lexington avenues, are often

³ MTA New York City Transit Ridership Data, 2012

⁴ The Lexington Avenue line is the most used in the City and carries more than the combined ridership of San Francisco, Chicago, and Boston's entire transit systems.

⁵ Second Avenue Subway FEIS, 2004.

overcrowded and the presence of subway grates further reduces usable area and compounds sidewalk congestion.⁶ Narrow sidewalks on east-west side streets present additional problems.

Publicly Accessible Open Space

Another defining element of East Midtown's public realm is the publicly accessible open space throughout and surrounding the East Midtown Subdistrict. The DEIS for the proposed actions determines that the study area⁷ contains 98 individual publicly-accessible open spaces, comprising 39.15 total acres.⁸ Nearly all of these are considered passive open spaces, including City-owned plazas, pocket parks and larger parks, and a vast majority of the open spaces identified (87 percent—approximately half of the total acreage) are privately owned public spaces ("POPS") and other publicly accessible private plazas.⁹ These POPS include covered pedestrian spaces or arcades, such as the Philip Morris sculpture gallery on Park Avenue and 42nd Street, the Blackrock Park Avenue Plaza on East 52nd Street, and the public seating area at the Sony Building at 550 Madison Avenue.

The substantial concentration of publicly accessible open spaces exists north of East 46th Street. The blocks to the immediate northwest of Grand Central Terminal noticeably lack such public spaces relative to the rest of the rezoning area. Park Avenue features a concentration of notable plaza spaces that have defined the character of the district and that both predated and inspired the POPS regulations, namely the Seagram Building and Lever House plazas. Despite their numbers and general concentration in East Midtown, the open space resources within the rezoning area are marginally or only moderately utilized, potentially reflective of available amenities and general visibility.¹⁰

Existing Land Use and Zoning

Most of the rezoning area is currently zoned C5-3, with C5-2.5 districts in the midblock areas. These districts carry an FAR of 15 and 12, respectively. North of 48th Street, Lexington Avenue and 3rd Avenue are zoned for a lower FAR at C6-6, with a C6-4.5 district in the midblocks between them. These districts also carry a maximum FAR of 15 and 12, respectively. The current zoning is the result of two distinct regulatory changes.

1982 Special Midtown District

The 1982 Special Midtown District established the district's built density. The Special Midtown District lowered allowable densities in an effort to stabilize development in East Midtown and encouraged larger developments in Times Square and other parts of Midtown. This approach

⁶ Sidewalk widths on Madison and Lexington avenues are between 12 and 13 feet.

⁷ Per CEQR guidelines, the study area for the rezoning proposal encompasses an additional ¼ mile radius surrounding the boundaries of the proposed rezoning area.

⁸ The major City parks or portions of parks and plazas within the CEQR study area but not within the East Midtown subdistrict account for approximately 16 acres toward this total.

⁹ ZR §81-23 Floor Area Bonus for Public Plazas

¹⁰ Other important City-owned public spaces are either in development within the East Midtown subdistrict or accessible to users within the area, including: Pershing Square (DOT plaza in development); Vanderbilt Avenue (proposed DOT plaza); Bryant Park; Central Park (9.83 acres are within the CEQR study area for this project); and Dag Hammarskjöld Plaza.

was particularly effective: since 1982, 75 percent of development in the Special Midtown District has occurred outside of the East Midtown area.¹¹

1992 Grand Central Subdistrict

Adding to the Special Midtown District, the Grand Central Subdistrict was created in 1992 to allow the transfer of development rights from Grand Central Terminal and other landmarks to development sites in the area surrounding the station. The Grand Central Subdistrict consists of a core, which is bounded by Madison and Lexington avenues, from East 41st to East 48th streets. The full Subdistrict extends beyond the core for an additional width of 125 feet (220 feet at 42nd street) east of Lexington and west of Madison. Within the existing Grand Central Subdistrict, a 1.0 FAR transfer of air rights from New York City landmarks is allowed by City Planning Commission (“CPC”) certification (ZR §81-634). In the core area, a special permit (ZR §81-635) provides a higher density of 21.6 FAR, with requirements for significant improvements to pedestrian areas and transit access points. Such improvements must be negotiated by developers with the MTA. Only one building, 383 Madison Avenue, has taken advantage of this special permit.

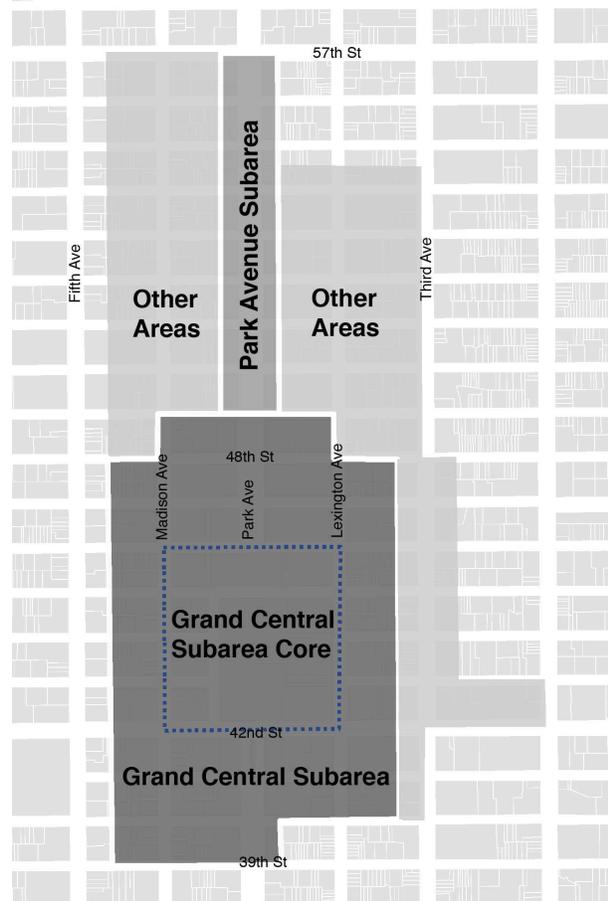
Existing Floor Area Transfer and Bonus Mechanisms

Three other provisions exist in the rezoning area to increase a site’s allowable FAR. Development bonuses of 20 percent are available for subway station improvements on sites directly adjacent to subway entrances through a special permit (ZR §74-634). Also through a special permit, existing New York City landmarks can transfer their unused development rights to receiving sites that are adjacent or across the street, with no FAR limits on the receiving site (ZR §74-79). Finally, in areas not within the Grand Central Subdistrict, a 1.0 FAR bonus is permitted through the provision of a public plaza (ZR §81-23).

Proposed Actions

The applicant seeks to encourage the construction of new commercial space through the introduction of a zoning text amendment and an associated zoning map amendment. While the

Figure 1: East Midtown Subareas



¹¹ East Midtown DEIS 13DCP011M – Project Description, 1-8 and 1-9.

map amendment affects a limited area, the zoning text amendment would restructure the existing special district through the creation of a new East Midtown Subdistrict.

The proposed zoning text amendment and zoning map amendment aim to:

- Protect and strengthen East Midtown as a premier office district;
- Seed the area with new modern and sustainable office buildings;
- Improve the area's pedestrian and built environments; and
- Complement ongoing office development in Hudson Yards and Lower Manhattan.

Generally, the proposed zoning text amendment: defines the sites eligible for certain floor area bonuses; establishes a mechanism for funding improvements to the public realm; introduces a series of CPC approvals including a new special permit for superior development to encourage iconic architecture and Class A office space; and fine-tunes bulk and density requirements for certain new construction within the Subdistrict. In order to encourage development of the intended scale and density in particular areas within East Midtown, the Subdistrict is broken up into three subareas, each with individual rules for how these mechanisms can be utilized (see Figure 1).

DCP is also proposing a zoning map amendment for the block located between East 42nd and 43rd streets, and Second and Third avenues. The amendment would replace the existing C5-2 designation for the block with C5-3 and C5-2.5 districts. The C5-3 and C5-2.5 districts will be mapped within the Special Midtown District, and be incorporated into the East Midtown Subdistrict. The subject block is located in Manhattan Community District 6, and currently contains five commercial buildings.

The following sections will describe which sites are eligible for the new rules, what mechanisms are available to those sites for additional density, and bulk controls that accompany these new densities.

Qualifying Sites

Only certain development sites would be eligible for the new zoning mechanism created by the proposed actions. Qualifying Sites within the overall East Midtown Subdistrict must:

- have full avenue frontage;
- a minimum lot size of 25,000 sf.; and
- be fully cleared of all buildings, except for structures used for mass transit purposes.

Additional requirements apply within the Grand Central Subarea, which includes a Grand Central Subarea core. The core consists of the blocks immediately to the north and west of the Terminal. Qualifying Sites in the core must be at least 40,000 sf to apply for the Special Permit for Superior Development, described below. Developments on Qualifying Sites must be exclusively commercial uses and meet specific sustainability standards, also described below. Finally, a site is not considered a Qualifying Site until it has made contributions to the District Improvement Fund ("DIF").

No building permits could thus be issued for the densities afforded to Qualifying Sites unless the developer has met their financial obligation to the DIF. Since non-paying sites are not considered Qualifying Sites, none of the new rules would apply to a site, even if it met the lot size requirements. If a developer does not utilize the available incentives, then the district’s underlying zoning still applies.

The District Improvement Bonus

The DIB mechanism would permit a higher maximum FAR through a financial contribution by a developer to the DIF, which would be dedicated to area-wide improvements to the transportation system and pedestrian network. The DIF is designed to provide improvements where needed, rather than on specific development sites. The proposed text amendment sets the contribution rate at \$250 per sf, to be adjusted annually. This price is based on a 2012 study of air rights transactions in the area over the past 15 years.

Different areas within the proposed Subdistrict would be allowed various levels of density based on the width of streets and proximity to Grand Central Terminal. Density purchased from the DIF can be coupled with floor area purchased from New York City landmarks within the Grand Central Subarea, as described in Table 1.

Table 1: PROPOSED DENSITIES AND BONUS MECHANISMS

	Grand Central Subarea				Park Avenue Subarea	Other Areas	
	Core	Non-Core		Park Avenue		C5-2.5 C6-4.5	C5-3 C6-6
	C5-3	C5-2.5 C6-4.5	C5-3 C6-6	C5-3			
Base FAR	15	12	15	15	15	12	15
FAR through DIB	3	3	3	3	6.6	2.4	3
Additional FAR through either DIB contributions or transfers from landmarks	6	6.6	3.6	3.6	0	0	0
Total as-of-right FAR	24	21.6	21.6	21.6	21.6	14.4	18
Additional FAR through Special Permit	6	0	0	2.4	2.4	0	0
Maximum permitted FAR	30	21.6	21.6	24	24	14.4	18

Source: DCP

Management: The DIF, as proposed, would be managed by a committee of five mayoral appointees, including the chairperson of CPC. The committee would identify and maintain a list of priority improvement projects, and would disperse funds for projects as contributions are made through the DIB. The proposed text provides that the DIF committee should adopt procedures for creating and adjusting the priority project list.

The zoning amendment also includes provisions to allow developers to make improvements themselves, with approval from the DIF committee, in lieu of payment into the DIF. Such in-kind contributions to the DIF would be projects that will have already been identified as priority projects by the DIF committee. Any in-kind projects would need to be completed before the issuance of temporary certificates of occupancy. These contributions would require negotiations

between the developer and the DIF committee over the monetary equivalent of the in-kind contributions.

Any improvements or their prioritization would need to be ratified by the DIF committee once the committee has been created. The proposed zoning text identifies improvements to the Grand Central subway station as the top priority. As identified by the MTA, potential improvements to the station could include: additional connections between the subway and commuter rail facilities; a reconstructed mezzanine level; and reconstructed stairs, ramps and escalators between the platform and the mezzanine on both the Lexington Avenue line and the 7 line. Additionally, the City has identified Vanderbilt Avenue as a potential area for improvement as a pedestrian plaza.¹²

Overbuilt Provisions: The area has a number of existing, overbuilt office buildings and the text would permit owners to rebuild to existing densities. Through a CPC certification process, owners can purchase density above the allowable FAR for the underlying district at a rate of 50 percent of the DIB price. The regulations would only apply to overbuilt buildings that are either part of a Qualifying Site or a site that has full avenue frontage and a lot area of at least 20,000 sf. If the site is a Qualifying Site, additional floor area beyond the rebuildable FAR could be added through the mechanisms outlined in Table 1.

Energy Efficiency Standards: The zoning text would require sites that utilize the DIB to comply with higher energy performance standards than are currently required by the New York City Energy Conservation Code. Proposed buildings on Qualifying Sites would need to reduce energy cost by 15 percent more than is required by the 2011 energy code requirements. Compliance would be demonstrated to the Department of Buildings at the time of issuance of building permits. The proposed text provides that the CPC may, by rule, “modify the minimum percentage set forth in this Section, as necessary, to ensure that the performance standard required by this Section is maintained.”

Special Regulations within the Grand Central Subarea

As in the existing Grand Central Subdistrict, the proposed Grand Central Subarea contains a number of provisions regulating bulk and urban design, including height and setback regulations (see Table 2). Additionally, all developments fronting Grand Central Terminal must receive a certification from the Landmarks Preservation Commission (“LPC”) that it relates harmoniously to the landmark site. Along 42nd Street, buildings would be required to build all the way to the property line. For buildings that front directly on Madison or Lexington avenues, sites with full avenue frontage would be required to be set back to achieve a 20-foot sidewalk on that block.

¹² Were the City to pursue this in the future, the Department of City Planning has identified in the EIS that it would apply for a City Map Amendment to classify Vanderbilt Avenue as park land.

Table 2: SUMMARY OF BASE HEIGHT AND SETBACK PROVISIONS

Corridor	Street Wall Height Minimum (feet)	Street Wall Height Maximum (feet)	Setback Above Base (feet)
42 nd Street	120	150	15
Madison	120	150	15
Lexington	120	150	15
Vanderbilt	90	100	15
Depew Place	90	100	60

Source: DCP

Additionally, the proposed zoning text has special regulations for Vanderbilt Avenue and Depew Place.¹³ Building lobbies along Vanderbilt Avenue would be required to be 60 feet wide and ground level space would only be available to active retail, transit connections, lobbies, or enclosed, publicly accessible space. Sites fronting Vanderbilt Avenue also have specific transparency requirements dictating that 70 percent of the street wall façade up to a height of 60 feet be glazed with a transparent, untinted material. Further, the height and setback regulations for buildings fronting Vanderbilt Avenue are modified to allow measurements to be taken from the east side of the avenue instead of at the street line.

Special Regulations within the Park Avenue Subarea and Other Areas

Park Avenue is Manhattan’s widest avenue, and the rezoning proposal includes provisions that target density along this corridor, though at a lower concentration than in the Grand Central Subarea. The Park Avenue Subarea would extend from East 46th Street to East 57th Street at a depth of 125 feet on either side of the avenue. Developers seeking to achieve the maximum FAR for the Park Avenue Subarea would be required to utilize the DIB.

Park Avenue Subarea and areas designated as Other Areas have specific density and bulk requirements under the proposed zoning text.¹⁴ Much like in the Grand Central Subdistrict, buildings along Park Avenue would be required to have street walls ranging from 120 to 150 feet. Buildings with full avenue frontage could be built no more than 10 feet from the street line, and buildings that share avenue frontage must be built in line with the existing building.

Special Permit for Superior Development

The proposed zoning text also includes a special permit through which developers could achieve even higher FAR than afforded through the DIB. The Special Permit for Superior Development would be available only to Qualifying Sites in the Grand Central Core and along Park Avenue. In the Grand Central Core, developers granted a special permit could build up to 30.0 FAR, and up to 24.0 FAR on Park Avenue.

¹³ Depew Place is a four-block corridor from East 42nd to East 46th Street between Vanderbilt and Lexington avenues. While not a City street or publicly accessible, the City owns a perpetual easement for the above-grade air space, and the eastern ramp of the Park Avenue Viaduct runs through the space. The Zoning Resolution treats Depew Place as a street, though not mapped as such. The setback required for Depew Place is intended to match those on Vanderbilt Avenue with respect the Grant Central Terminal airspace.

¹⁴ Other Areas refer to areas not within the Grand Central or Park Avenue subareas. See Figure 1 and Table 1. Other Areas are subject to the underlying bulk regulations of the Special Midtown District.

The Special Permit for Superior Development allows for the waiver of street wall, setback, retail continuity, and transit connection regulations. In order to be granted the special permit, developments are required to:

- provide major improvements to the above-grade pedestrian network and, where applicable, provide generous connections to Grand Central Terminal;
- provide major improvement to the below-grade pedestrian network for sites within the Grand Central Core; and
- exceed the energy performance standards set out in the proposed text.

Sunrise Provision

Included in the proposed text amendment is a sunrise provision for the proposed changes. No building permits would be issued under the new zoning mechanisms until July 1, 2017. Until then, permits could be issued under the current zoning, which would remain in place.

A-Text Modifications

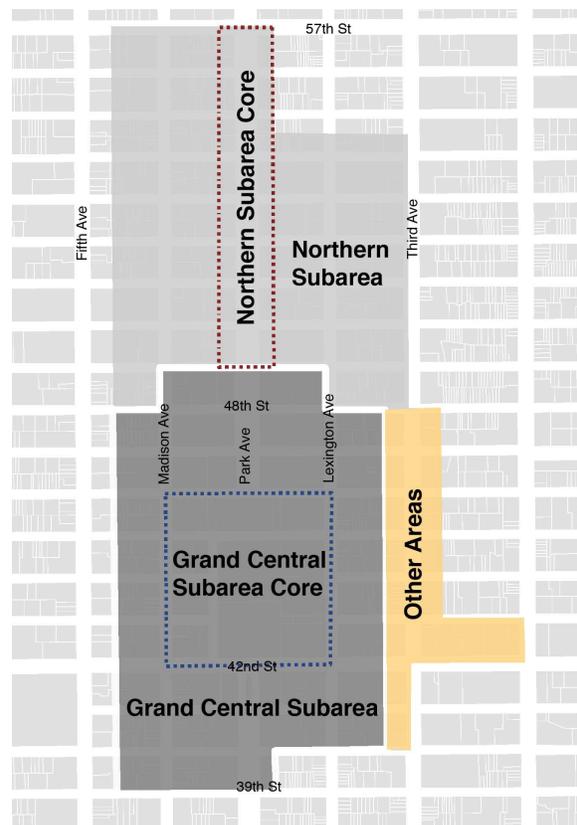
In July 2013, DCP filed a modified text amendment application that would expand the scope of the rezoning proposal (known as the “A-Text”). These modifications allow residential uses on Qualifying Sites, expand opportunities for as-of-right transfers of landmarks’ development rights, limit hotel development, and alter rules for Qualifying Sites.

Residential Uses on Qualifying Sites

Under the original proposal, only commercial buildings would be permitted on Qualifying Sites. The applicant now proposes an alternate plan to allow up to 20 percent of a building’s floor area for residential use. This percentage is intended to provide for a mix of uses without undermining the proposal’s chief goal of incentivizing office space development. The percentage of residential use could be increased up to 40 percent through a special permit (ZR §81-626).

The residential floor area will be charged a different DIB contribution rate from the commercial price (ZR §81-611), and the residential price will be established by a separate appraisal from that previously conducted for commercial floor area.

Figure 2: Revised A-Text Subareas



Limits to Hotel Uses on Qualifying Sites

Under the originally proposed zoning text, hotel use would be permitted to occupy the entirety of a new development. The modified proposal would restrict hotel use to 20 percent of the floor area of a new development. The remainder of the new building could be developed as a hotel only by special permit (ZR §81-626); the findings of which would determine that such a use would not conflict with the goals of fostering a district with office space as the predominant use.

In addition, the area currently contains a number of large, full-service hotels, which would be allowed, under the modified proposal, to fully rebuild the existing hotel floor area within a larger development on a Qualifying Site.¹⁵

Creation of a Northern Transfer Area

Under the originally proposed rules, transfers of air rights from landmarks and use of the DIB were mutually exclusive. Outside of the Grand Central Subarea, landmarks could only transfer unused floor area to adjacent lots¹⁶ through a special transfer process. This would have limited the ability of the significant number of landmark buildings to transfer unused air rights. In recognition of this limitation, DCP proposes a Northern Subarea, which would replace the proposed Park Avenue Subarea (see Figure 2). Starting in 2019, landmarks in the Northern Subarea would be allowed to transfer unused development rights to Qualifying Sites up to their maximum permitted FAR. Like the Grand Central Subarea, developers can utilize this transfer mechanism after a minimum contribution to the DIF.

In addition to floor area transfers to Qualifying Sites, CPC authorization (ZR §81-636) would permit non-Qualifying Sites in the Northern Subarea to receive transfers of up to 3.0 FAR from a landmark in the district. Additionally, a special permit similar to the one in the Grand Central Subarea (ZR §81-637) would permit the same non-Qualifying Sites to receive up to 6.6 FAR.

Modifications to Qualifying Site Requirements

The modified proposal would allow a site of 25,000 sf but with only 75 percent of frontage to apply for an authorization that would permit it to be a Qualifying Site (ZR §81-624). This modification is intended to give flexibility to large sites with a few holdout buildings that would otherwise prevent development. The applicant would have to demonstrate that the site could still accommodate a viable office development utilizing the existing height and setback controls.

Further, the modified text clarifies that existing buildings would be permitted to remain on Qualifying Sites, as long as the minimum cleared site requirements are achieved. Additionally, Qualifying Sites would be able to maintain the bonus floor area from existing bonus plazas without proportional contribution into the DIF, as long as the plazas are maintained as part of a new development (ZR §81-613).

¹⁵ ZR §81-611 – “Qualifying Site” Paragraph E.

¹⁶ Adjacent lots are defined as lots that adjoin, are located across the street, or are located diagonally across an intersection from the landmark.

Other Changes

Park Avenue Bulk: The modified proposal adjusts height and setback controls along Park Avenue to account for the street's 140-foot width, rather than calculate bulk as if the street were 100 feet wide.

Stacking Rules: In order to allow publicly accessible uses on the top floors of buildings that have residential components, the A-Text eliminates rules that prohibit non-residential uses above residential uses on Qualifying Sites.

East 51st and 53rd Street Stations: Because the alternative proposal would change the mix of uses that was anticipated in the original proposal, further study of the 53rd Street/Lexington Avenue subway station would need to be undertaken to determine if improvements there warrant priority status. The station has thus been added to the list of potential priority DIF projects.

Anticipated Development Under the Reasonable Worst Case Development Scenario

The Draft Environmental Impact Study ("DEIS") analyzed anticipated development under the proposed actions as compared with development under a no-action condition. Under the Reasonable Worst Case Development Scenario (RWCDs), the DEIS identified 39 projected and potential development sites. The 19 projected sites are considered more likely to be developed within the next 30 years based on known development proposals, past development trends and other development site criteria. The DEIS identified significant adverse impacts in the following categories.

Shadows: The anticipated new development would cast shadows at times throughout the year on several open spaces and sunlight-sensitive features of historic architectural resources. A detailed shadow analysis identified significant adverse impact on three architectural resources: the sunlight-sensitive stained glass windows at St. Bartholomew's Church, the Lady Chapel at St. Patrick's Cathedral, and the stained-glass windows at Christ Church United Methodist.

Traffic: Potential significant adverse impacts are identified at 53 intersections during one or more peak hour period.

Transit: The analysis for the future with the proposed action condition at the Grand Central subway station incorporates the priority improvements that would be implemented under the DIB mechanism. The analysis is presented as both action-with-improvements and action-without-improvements. All of the significant adverse impacts identified under the action-without-improvements scenario would be eliminated by implementing the proposed DIF improvements.

Pedestrians: 165 street-level pedestrian elements were analyzed in key areas and around developments sites, and 36 elements would be significantly adversely impacted during one or more peak period hour.

Construction: The DEIS finds that construction would significantly impact traffic in the area during morning peak hours.

COMMUNITY BOARD COMMENTS

A Multi-Board Taskforce on East Midtown, consisting of representatives of Community Boards 1, 4, 5, and 6 released a report on June 5, 2013 recommending disapproval of this ULURP application, and advocating for a new rezoning proposal. In addition, Community Boards 2, 7, and 8 passed resolutions supporting the Taskforce's recommendation. The following is a summary of the Taskforce's major concerns.

Infrastructure and DIB: The Taskforce argues that the proposed rezoning relies on the speculative possibility of future payments to the DIF to finance infrastructure upgrades that are needed today. New development, therefore, will outpace infrastructure improvements unless the City adopts a mechanism to fund improvements before projects in the area begin. The group advocates for a secondary funding mechanism. The Taskforce further proposes an appraisal should be done for each DIB sale in order to maximize public benefit. They also oppose the proposed structure of the DIF committee as non-representative of community needs, and support a DIF committee that includes representation from the affected Community Boards, the City Council, and relevant City agencies.

A key concern raised is the uncertainty of transit improvements committed to mitigate adverse impacts identified in Hudson Yards rezoning and the MTA's East Side Access project. The Community Boards would like assurance that DIB contributions will not be used to fund these previously identified projects in order to maximize the amount of new public improvements that would result from developments of this rezoning. The Community Boards also argue that on top of district-wide improvements through the DIF, development sites above potential transit connections should be required to add and improve to those connections.

Urban Design/Bulk: The Taskforce argues that some density increases in this area are appropriate, but that they should be limited to 24 FAR in the Grand Central Core and 21.6 FAR in other areas. The Taskforce also recommends that any building over 18 FAR should go through a public review process.

The Taskforce further argues for more fine-tuned bulk controls and would like to see greater bulk flexibility on Park Avenue rather than a mandated street wall, as this corridor is marked by its variegated plaza setbacks and street walls. The Taskforce also argues for different street wall requirements throughout the district to protect key view corridors, especially along 42nd Street.

Use: The Community Boards recommend that the proposal be altered to include up to 25 percent of residential use on Qualifying Sites. The Community Boards would also like to eliminate some of the required ground-floor lobby space for retail to activate ground floor uses. The Taskforce recommendation proposes a skyline public use requirement, to extend public spaces and uses in the new buildings.

Public Realm: One of the Taskforce's priorities is for greater comprehensive planning for the public realm. While a community planning process for the public realm is currently under way, the Community Boards point out that the results of this process will not be able to be evaluated along with this ULURP proposal. For any future improvements to the public realm funded and

planned through the DIF, the community would first like a comprehensive plan for the area and would like transparency and community participation in the making of that plan. The Community Boards list a number of projects that they would like to see studied for inclusion in such a plan.

Landmarks: Finally, the Taskforce recommends LPC to calendar the 11 buildings that are considered eligible for landmarking in the DEIS. Further, the Taskforce recommends landmarks located outside the Grand Central Subarea to be able to transfer their air rights. In general, the Multi-Board Taskforce would like the text to address the conflict between protecting landmark sites with the proposed DIB system.

BOROUGH PRESIDENT'S COMMENTS

As the City plans for the future of East Midtown, the neighborhood's past can serve as a valuable lesson. The ascendance of East Midtown as New York City's premier central business district was directly correlated to the expansion of the City's rail infrastructure in the late 19th Century. As Cornelius Vanderbilt's New York Central and Hudson Railroads grew, 42nd Street became the gateway for the majority of the City's travelers. At the turn of the century, the advent of electrified rails and the needs of a rapidly-growing City led to the construction of Grand Central Terminal, a truly modern, multi-level transportation hub. Lowering the tracks below-grade opened up a vast swath of real estate above, between Lexington and Madison avenues from 42nd to 50th streets. The railroads sold the development rights to build Terminal City and the proceeds went to construct what is today one of New York's most important landmarks and transportation facilities.

East Midtown has consistently served as a model for innovative development. The area around Grand Central is one of the earliest and most successful examples of transit-oriented development, where economic development was closely related to transit improvements. Terminal City led to a building boom in the 1920s, and spurred an incredible demand for office space. Demand continued to rise after the Second World War, leading to a series of mid-century glass office towers on Park Avenue that became models for modern office buildings around the world.

Development thrived so much in this district that in 1982, the City created the Special Midtown District to stabilize East Midtown and provide incentives for growth in West Midtown and Times Square. The special district has been very successful in achieving its goals; since its inception, 75 percent of development in the district has occurred outside of the East Midtown area.

The 1982 rezoning effectively downzoned the area, so much of the neighborhood is currently overbuilt and the roughly 400 buildings in the rezoning area contain approximately 2.3 million more square feet than what would be allowed by the underlying zoning. Owners of these overbuilt sites have little incentive to invest or rebuild their properties, as any new developments would be permitted less floor area. As a result, only two office buildings have been constructed in East Midtown since 2001. Consequently, East Midtown's building stock is aging out, and many of the area's older buildings come with frequent column spacing and low ceilings that make them less attractive in today's office market.

Over the same period during which development has slowed, the area's transit infrastructure has become overcrowded and is in need of improvement. New York's transit system utilization has experienced exponential growth over the past decades and the Lexington Avenue Line (4,5, and 6 trains)—the only subway line serving the East Side—operates well over capacity. Overcrowding is particularly problematic at Grand Central Terminal, where commuters from Metro North Railroad and the Flushing Line transfer to already overcrowded trains. This Lexington Avenue Line bottleneck decreases the speed and reliability of transit along the entire line, and limits the ability of the neighborhood to grow.

The Future of East Midtown

The City's proposal would introduce new density in order to encourage commercial development, while generating funds for neighborhood-wide improvements. Density is generally appropriate for this transit-rich neighborhood, and a rezoning would create the opportunities for East Midtown to continue to grow as one of New York City's principal commercial districts. However, the potential Citywide ramifications of adding density to the already overloaded capacity of the local transit infrastructure raise serious questions about a development-first approach.

The proposed plan could introduce over 15,000 new workers and thousands of commuters and visitors per day to the area. Unless properly mitigated, the projected 3.8 million sf of office space and a combined 600,000 sf of parking, retail, and hotels will have undesirable consequences for the City as a whole. Most significantly, nearly half of the projected new workers and visitors are anticipated to arrive in the neighborhood via the subway system, according to the DEIS. The City must take proper steps toward ensuring the proposed plan produces true public benefits for the City's pedestrian and transit networks.

In order to make East Midtown's plan a success, greater density in East Midtown should *follow* significant investments in its infrastructure. This requires ensuring the proposed financing mechanism would achieve its desired goals. Additionally, the City must take proper steps towards ensuring the proposed plan produces true public benefits for the City's pedestrian and transit networks.

A balanced plan for the future of East Midtown must carefully target new development sites that will result in the fewest negative impacts to the neighborhood. In order to minimize those impacts and add positive benefits, a new Subdistrict must encourage innovative architecture while guiding it towards an appropriate form. Supporting a diverse mix of uses, rather than an office space monoculture, will help achieve this goal. In this neighborhood that experienced exponential growth followed by prolonged stagnation, a special district must provide for sustainable development, both economically and environmentally, in a way that integrates the area's rich history.

District Improvement Bonus

As a zoning mechanism to create a new funding source, the District Improvement Bonus ("DIB") leverages private investment for the public good. The DIB allows the City to prioritize some of the more important area-wide projects, rather than focus benefits directly on individual,

contributing sites. The proposed improvements to the subway station at Grand Central are incredibly important to the future success of all of East Midtown, and directly contribute to the goals of this rezoning. It is not just modern office space that attracts businesses to a neighborhood, but the qualities and amenities of a neighborhood as well. In order for East Midtown to be globally competitive, it needs increased transit capacity and an improved public realm. The DIB is a necessary feature of this proposal, but as currently structured, it is insufficient in meeting the needs of the district.

Mass Transit in East Midtown

Permitting East Midtown rezoning to go forward without first addressing the urgent need for capital investment at Grand Central will have significant negative consequences on the neighborhood and the City at large. Today, the 4 and 5 trains operate at 103 and 102 percent of capacity, respectively, during the morning peak hours. Ridership at Grand Central on the downtown 4 and 5 trains is anticipated to grow to 112 percent and 103 percent, respectively, capacity by 2030, even without the proposed project. On the uptown lines, peak evening ridership on the 4 and 5 trains is anticipated to reach 104 percent and 90 percent over the same time period

If the proposed action is advanced without mitigation, utilization is anticipated to grow by an additional one percent. However, the MTA has released a preliminary plan—as shown in the DEIS—for improving Grand Central. The plan includes new stairways, exits, and a redesigned mezzanine. The net result of these improvements would be to reduce the platform crowding and bottleneck conditions currently experienced at Grand Central. The proposed improvements would allow one additional train to travel through Grand Central during peak hours, which would increase capacity by 1,100 people per hour.¹⁷ While this would not fully alleviate crowding conditions, it will improve 4 and 5 train line capacity by seven percent in the morning, and eliminate overcrowding during the evening rush.

Funding Transit Improvements Today

While the proposed rezoning establishes a funding source in the DIF, the funding mechanism has been of significant public concern. Although successful implementation of the DIB would collect revenue prior to development, improvements will take time to realize. Impacts from this rezoning could therefore be felt before the funds are available for appropriate mitigation measures.

The City must think beyond zoning and towards comprehensive planning. The City should advance proactive funding mechanisms, which could include, but are not limited to, direct capital investment, bond financing, or a special tax assessment district. Such funding mechanisms can provide capital dollars today that could be paid back by the proposed source (i.e. the DIB) over time.

The people who rely on Grand Central Terminal and East Midtown's public transit lines cannot wait until 2017 or later for critical improvements. The City must commit to funding the improvements to the Grand Central subway station proposed by the MTA today. The MTA and City need to develop a timeline for when these projects will be complete.

¹⁷ DEIS Table 12-92

Honoring Past Commitments

Aside from the MTA's plan for Grand Central, the City and the Long Island Rail Road previously committed to improving to the subway station at Grand Central as mitigation for the increase in ridership expected as a result of the Hudson Yards 7 Line extension and East Side Access. These mass transit improvements include:

7 Line Mitigations¹⁸

- Four new stairways from the mezzanine to the Lexington Line
- A new high-speed escalator from the mezzanine to Grand Central Terminal
- A wider stairwell connecting the 7 Line to the mezzanine
- High-speed escalators to the 7 Line platform

East Side Access Mitigations¹⁹

- An enlarged fare control area including an additional turnstile bank
- Widened corridors
- A new stairway and a restoration of an existing stairway

As the scope of the MTA's plans to improve the station has changed in response to the desire for a more comprehensive plan related to this rezoning, these particular projects are no longer being pursued. Instead, new projects are being put forward that will achieve the same goals, but will go further at improving conditions. These previous commitments came with monetary obligations from the Long Island Railroad and the City, however, that should be met separate from new funding from the DIF.

The 7 Line extension will open next year and East Side Access will bring tens of thousands of commuters to Grand Central Terminal by the end of the decade. As a result, the City and the MTA need to explicitly determine the specific mitigation projects that have already been committed to by the City and the Long Island Rail Road, the cost of those projects, and how they are being funded as part of a larger plan.

Establishing a Fair Market Price for the DIB

Although infrastructure should be paid for in advance, the DIB is still an essential mechanism and valuable tool to generate funding to improve other aspects of the public realm and transit system. Because the DIB mechanism utilizes air rights transfers, the value of air rights in the district will directly determine the scope of feasible mitigations and improvements. To date, the City has established a price of \$250²⁰ per square foot for the air rights associated with the DIB. If this rate is undervalued, then fewer improvements will be possible. Further, an undervalued DIB negatively impacts the area's landmarks as the DIB price would, to an extent, determine the price on the private market as well. It is therefore critical to ensure that the DIB price reflects a fair market value for development rights. The market for air rights is still poorly understood, however, as data collection on the topic is limited. The price is related to the value of land, but even that value can be difficult to separate from the specifics of individual developments. Appraisal of air rights is more of an art than a science.

¹⁸ City Planning Commission Report on ULURP No. N 040500(A) ZRM, Hudson Yards Rezoning.

¹⁹ Record of Decision, East Side Access Project.

²⁰ The \$250 per square foot listed in the proposed text was established in 2012.

For this rezoning, the City has attempted to place a fair value on development rights in Midtown through an appraisal from an outside consultant. The current value established by that appraisal, however, has been challenged by some critics as far too low and by others as far too high. This discrepancy in opinion is due to the fact that there are limited numbers of comparable sales, and there is no standard methodology for appraisal. For example, this particular appraisal examined a number of sales of air rights that took place through zoning lot mergers. Though the air rights transactions analyzed by the consultant occurred in the same neighborhood as the proposed rezoning, sellers of air rights have been previously very limited in the number of receiving sites to which they could transfer, a condition which creates a buyer's market. The appraisal also analyzed the value of the underlying land, and weighted air rights at 60 percent of value of the underlying land. Professional appraisers, however, do not agree on the precise relationship between air rights and land value, so this percentage does not represent a perfect measure. The value of the DIB and its associated air rights will be best understood over time as more developments utilize the mechanism.

There are several possible approaches to setting the DIB price. One approach to ensuring maximum value to the City would be an appraisal for each sale of air rights, which was a key concern of the Taskforce. This would ensure that each sale accounted for the particular location of the development site, and would be specific to the market conditions at the time of transaction. Typically, however, air rights transactions are negotiated using an appraisal from both the buyer and the seller. A negotiated sales price could result in one developer receiving a preferential price over another, due to their respective negotiating prowess or personal relationships. The process described in this scenario is not a transparent one, and therefore cannot guarantee that the City's long-term interests and public benefits are maximized.

Rather than an appraisal for each sale, periodic adjustments to the base DIB price should be mandated to reflect current market realities. To ensure fairness and transparency, the value should be determined by a public process. Specifically, the revaluation should require a CPC public hearing with mandatory community board referral on the required appraisal. This would provide the City the ability to not only evaluate the appraised price, but would also allow the community, elected officials, and relevant stakeholders to challenge any methodological or mathematical differences. This public process should first take place in 2017, just prior to the enactment of the proposed DIB and the first contributions to the DIF.

Precedents for such an approach exist within the Zoning Resolution. The Theater Subdistrict of the Special Midtown District has a similar DIB structure, though priced at a much lower value, and has provisions that the price be updated every three to five years. A similar provision would be appropriate for the East Midtown proposal.

Price Adjustment

The City proposes to adjust the DIB price annually. The Hudson Yards DIB provides a comparable model to the mechanism being proposed for East Midtown. New York City created the DIB in Hudson Yards in 2004 to pay for public realm improvements on the west side, and the City initially priced the DIB at \$100 per sf. Each August, DCP updates this price based on the percentage change in the consumer price index ("CPI") for the previous 12 months. As of

August 2012, the price of the DIB had increased to \$120.61 per sf, roughly a 20 percent increase over a seven-year period.²¹ The City created this method of price adjustment to make the DIB price responsive to changes in the market over time. The CPI, however, as a representative of increases in the price of a bundle of consumer goods, does not directly correspond to the value of land or development rights.

The City proposes to use a price adjustment mechanism for the East Midtown DIB that is much more closely tied to the value of the air rights being sold. The proposed indicator, Midtown Asking Rent, is published monthly by the Office of Management and Budget and tracks average rent in Midtown as compiled by the real estate service firm Cushman & Wakefield. Rent and the value of development rights have an intrinsic relationship, making this a much better indicator than general consumer prices. Furthermore, this indicator looks to provide larger increases in DIB price over time, which would provide more funding for transit and public realm improvements. Over the same period that CPI increased 20 percent, Midtown Asking Rent grew by 38 percent.²²

Though this method of adjustment is appropriate, is not without its detractors. One of its biggest drawbacks is that it is a new approach. The City has never used this Midtown Asking Rent figure in any official capaCity, so it is untested and not as thoroughly vetted as CPI. However, if the adjustment process is coupled with the recommended process for regular reevaluation of the base price, then the proposed method is viable and can be used on an annual basis between DIB revaluation hearings.

Committee Structure

This rezoning will establish a DIF committee to determine how funds generated through the DIB will be spent. In order to ensure that the body is transparent and adequately represents community needs, the DIF committee needs to collectively represent administration priorities, transportation needs, and the needs of the local community. As proposed, the committee would be composed of mayoral representatives and therefore is not representative of the diversity of experts and stakeholders in the neighborhood.

Similar to the Hudson Yards Development Corporation, the DIF committee should include the following membership:

1. Chair, Community Board 5;
2. Chair, Community Board 6;
3. A representative of the City Council;
4. Manhattan Borough President;
5. New York City Comptroller;
6. Chair, City Planning Commission;
7. Budget Director, Office of Management and Budget;
8. Commissioner, Department of Transportation;
9. Commissioner, Parks Department;

²¹ IBO, City's Spending on Hudson Yards Project Has Exceeded Initial Estimates. April 2013.

²² Calculated from raw data provided by the Department of City Planning. The average Midtown Asking Rent for 2005 was \$51.27, which grew to \$70.59 for 2012.

10. Deputy Mayor for Economic Development;
11. Deputy Mayor for Operations; and
12. President, MTA.

In addition to a committee makeup that is more representative of community interests, the DIF should be managed by procedures that are more transparent than those outlined in the currently proposed text. ZR § 81-681(c) stipulates that “the committee shall adopt procedures for approving and amending such priority district list, as well as a procedure for public comment regarding the initial list and amendments thereto.” The appropriate procedures need to be designed now for public review. Committee procedures should include requirements to annually update and publish a priority list of improvement projects. Prior to updating the list, the committee should hold a public hearing for people to comment on any proposed changes. Finally, the committee should publish a publicly available annual report to the Comptroller, the City Council, and CPC on fund value, current annual capital and programmatic expenditures, status of previously-initiated improvement projects, and pipeline projects or approved priorities.

In-kind Contributions

The DIF is set up to provide site-specific neighborhood benefits through in-kind contributions. This approach addresses the wide impacts that large developments can have, and helps to encourage further development through neighborhood improvement. The current proposal, however, includes the opportunity to build in-kind improvements, rather than provide a monetary contribution. This structure has the potential to undermine the DIB process.

The projects undertaken by the DIF would be vetted through a public process and prioritized in order of need. In-kind contributions to the DIF, however, would be the result of negotiations between the developer and the DIF committee. This adds self-interest on the part of the developer to an otherwise fair and transparent process. A developer of a favored project or site could propose a non-priority improvement to satisfy the in-kind requirement; in this way, in-kind improvements are more likely to offer specific benefits to the developer, and this provision could better serve private interest or convenience at the expense of a greater area-wide priority.

Further, it becomes difficult to quantify the value of an improvement that is built as part of a larger development, and would require negotiations over what the project is worth, and how many square feet of development rights they would receive in exchange. This price negotiation further erodes an otherwise transparent process.

Because of these issues, any agreement between the DIF Committee and a developer over an in-kind contribution should be ratified by a CPC authorization. A good model for such an authorization is ZR §93-32(b), associated with the Hudson Yards rezoning. The findings for that authorization stipulate that the CPC can determine the appropriate amount of density that should be provided for an in-kind contribution based on an evaluation of the cost.²³ Further, the authorization mandates that the proposed in-kind improvement be consistent with the

²³ ZR § 93-32(b) stipulates “the amount of increased floor area generated by the contribution-in-kind shall be as determined by the Commission, which shall determine the reasonable cost of such improvement, including any acquisition and site preparation costs, and shall permit a floor area bonus in relation thereto. In making such determination, the Commission may consult with an engineer at the applicant’s expense.”

comprehensive plans of the DIF committee, including design specifications. ZR § 93-32(b) is particularly well designed and serves as the ideal model for an authorization in this case.

Qualifying Sites

The proposed zoning is targeted to allow new development of larger buildings, but only on sites where such large developments are appropriate. The proposed Qualifying Site rules are crafted so that only large sites can be developed with the highest densities. The proposed rules guard against overly tall towers on lots that would strain to accommodate them, thereby helping to protect the character of the midblock areas in the district.

Further, there is a direct relationship between the size of the Qualifying Site requirements and the type of buildings that DCP aims to encourage through this rezoning. Column-free spaces and large, flexible floor plates are top requirements of contemporary companies, especially those seeking signature Manhattan office space. In addition, the required size of a building's core is larger than ever. Current safety standards require ample elevators and wide stairwells. Smaller lots, therefore, do not accommodate modern building needs where the building core area may take up a larger portion of each floor, lowering the value of the building. By requiring large lots, DCP is thus ensuring the construction of only quality office space at these higher densities.

Holdouts

While the desire to target development to the Subdistrict's largest lots is appropriate, it could result in unintended consequences. As originally proposed, the text would require a Qualifying Site to be fully clear of all buildings for an entire avenue frontage and 25,000 sf; in this scenario, holdout owners would have incredible power to derail development.

The proposed A-Text creates a necessary safety valve for reasonable development to occur on sites with holdouts, but ensures design review to prevent out-of-context development. Under the proposed A-Text, applicants can seek an authorization that would allow modification of the Qualifying Site requirements. This process would allow additional development, which would contribute more money into the DIF, on sites that may otherwise be blocked by a single or limited holdouts.

Landmarks on Qualifying Sites

While the proposed A-text accommodates potential holdouts, it does not do enough to ensure balance with landmarks regulations. The DEIS identified 31 eligible landmarks within the CEQR study area, 11 of which are associated with potential or projected development sites. While determination of landmark status falls under the purview of the LPC, appropriate zoning regulations could also serve to protect landmark and historic preservation interests. More specifically, the text needs to ensure zoning does not complicate potential new development where a landmark exists on a site.

Per DCP's initial proposal, the presence of a landmark building on a development site would preclude status as a Qualifying Site, as the site could not by definition be cleared. This provision could limit the ability to apply for building permits associated with this rezoning proposal, even if all other requirements could be met. This translates to lost DIB revenue. Additionally, the

proposed regulations prevent a developer from receiving the height and setback waivers that are generally granted to development sites featuring a landmark (such as ZR §§74-711 and 74-79). It is important that the proposed text amendment not cause unnecessarily conflict between the interests of historic preservation and economic development. Developments should be allowed, where appropriate, to include existing landmarks in their designs. This is especially important for helping to preserve landmark buildings while also allowing for new development.

Potential development sites that include a New York City landmark should be able to apply for a special permit that would allow an uncleared site to be considered as a Qualifying Site if the proposed design incorporates the landmark building into a new commercial development. Findings for such a special permit could be modeled after ZR §74-711²⁴ which waives bulk regulations on landmark sites, provided that the proposed modifications relate harmoniously with the existing landmark,²⁵ and that the proposed development does not adversely impact the surrounding neighborhood. Additional findings for a new special permit should ensure a proposed landmark project: produces a viable commercial development; is integrated with the public transit and pedestrian networks; and will not unduly shift bulk towards other parts of the development lot.

Use Restrictions

The adoption of the City's proposed A-Text to allow residential up to and restrict hotel uses to 20 percent on Qualifying Sites will, generally, produce an appropriate mix of uses and create a more vibrant and business-friendly East Midtown. A mixed-use community reflects recent trends toward developing business districts with a greater component of residential uses, as evidenced by the Special Hudson Yards District and the Special Hudson Square District. These districts include residential uses as a way to both promote new, and preserve existing, commercial uses.

Benefits of Mixed-Use Neighborhoods

Mixed uses have several positive impacts on districts that are predominantly commercial. Additional residential development introduces and supports around-the-clock amenities and services such as higher quality retail. Improved retail stores that operate throughout the day also benefit workers. A retail presence enlivens the streets at night and generally improves safety for pedestrians. A mixed-use community with quality residential amenities could therefore be an asset to businesses that are looking to attract employees who want to live close to their jobs. Allowing some amount of new residential units in East Midtown is an opportunity to create a more vibrant and appealing neighborhood that will meet the standards of a modern commercial district and thus better fulfills the goals of the proposed rezoning.

The Multi-Board Taskforce recommended permitting some residential development in new buildings, because it would allow greater variety in architectural design, as residential floor plates can be smaller and allow for more flexible design schemes than Class A office spaces. The option to include residential space as part of a larger development would additionally

²⁴ 74-711 is a Special Permit for Landmark Preservation in All District.

²⁵ This finding is general demonstrated by the Landmarks Preservation Commission providing a Certificate of Appropriateness.

facilitate financing, as residential developments tend not to require anchor tenants as commercial developments would.

The proposed A-Text indicates residential uses on Qualifying Sites would be appraised at a different rate than the currently proposed DIB price of \$250 per sf. As residential floor area is likely valued at higher rates than commercial floor area, the separate DIB price for residential uses could mean a greater return for the DIF, generating more funds for public improvements in the area.

The proposed alternative to allow residential uses on qualifying sites meets the community's concern and aligns with our office's general policy supporting a mix of uses in predominantly commercial areas. It also creates an opportunity to generate greater contributions toward transit and public realm improvements, and therefore, CPC should adopt the A-text for those reasons.

Hotels in East Midtown

The proposed A-Text introduces new restrictions on hotels. Hotels do not necessarily conflict with commercial uses. When developed carefully, they can produce good jobs, serve the City's tourism industry and complement existing businesses. However, any development of hotels must be done in such a way that is compatible with the dominant uses in the district. Hotels can introduce new traffic impacts such as increased deliveries and taxi pick-ups and drop-offs. New hotels in East Midtown should be regulated to avoid their potential negative impacts and ensure an appropriate mix of uses in the neighborhood.

The City's A-Text addresses hotels in East Midtown by:

- restricting new hotels to 20 percent of floor area on qualifying sites with larger percentages allowed through special permit; and
- allowing existing hotels on Qualifying Sites to preserve all of its use without the 20 percent limit.

These proposed additions are an important recognition by the City that hotel development needs to be carefully regulated in order to create a successful central business district. However, the City should restrict all hotel use on qualifying sites by requiring a special permit. If the A-Text is adopted, then hotels would be in direct competition with residential developments on qualifying sites. Since residential floor area would be appraised at a different rate than commercial floor area, and is generally appraised at a higher value, not regulating hotels may directly impact the amount of DIF contributions the area would ultimately receive from planned developments.

Moreover, these changes also do not fully address potential impacts of as-of-right hotels on development goals in East Midtown. While the direction the City is taking in the proposed A-Text is positive, a wider hotel special permit is necessary in this rezoning. The intention of a hotel special permit is to encourage the balanced growth of hotel to office uses. Especially in the case of this rezoning where one of the major goals is to create world class office space, then instituting a regulatory provision on hotels is highly appropriate and necessary. Hotel developments are generally easier to finance than Class A office buildings, and therefore, more profitable of the two options. The cost-effectiveness of building hotels may undercut the

development of new office space, which not only detracts from this rezoning's general purpose, but it also discourages the creation of quality and high paying jobs that would come as a result of office developments. Additionally, the community has expressed a desire to see expanded residential uses in the district, which is beneficial for the reasons outlined above. Allowing hotels on non-qualifying sites may prevent the area from being seeded with the residential uses necessary to create a 24-hour mixed-use commercial district.

A special permit required of a hotel is consistent with the City's policies in special districts that have specific goals; the Special Hudson Square, the Tribeca Mixed Use District and M1-6D districts are a few examples. The findings associated with a hotel special permit should reflect the aims of this rezoning, which may include:

- that in addition to the proposed hotel sufficient Qualifying Sites are available in the area to meet East Midtown's commercial development goal; and
- that the proposed hotel is so located as not to impair the essential residential and commercial growth, or the future use or development, of the surrounding area.

To ensure that the goals of the East Midtown rezoning are met and the contributions to the DIF are maximized, the hotel special permit for the entire district should be adopted with this proposed plan. As the City has not yet studied the potential impacts of the proposal, an updated environmental review is required to achieve this goal. Further, the City would need to release an updated zoning text with this addition to ensure proper notice is given and that it remains in scope.

Urban Design and Bulk Provisions

The DCP proposal correctly prioritizes improvements to the overall public realm—the streets, sidewalks, plazas, and below-grade transit network—as critical to the goal of protecting and strengthening East Midtown as a premier business address and vital job center, and acknowledges the overall poor quality of these spaces due to factors such as overcrowding, inaccessibility, and lack of amenities. Improvements to the public realm are tied to investment generated through future development on Qualifying Sites through contributions to the DIF. At the same time, the proposal and the A-Text address the quality of these spaces through bulk, street wall, stacking, retail continuity, and lobby provisions that will define the urban design and pedestrian experience in key corridors throughout the East Midtown Subdistrict. While generally these provisions are appropriate, the sections below outline several key points for consideration.

Park Avenue

In the course of public review, significant attention has been placed on the rezoning's potential impact on architectural design, particularly on Park Avenue. Park Avenue is the primary north-south artery through East Midtown, and is home to significant landmarks and iconic architecture from all periods of 20th Century design, including the Ritz Tower, the Waldorf Astoria Hotel, St. Bartholomew's Church, the Colgate-Palmolive building, the Seagram Building, and Lever House. This section of the avenue terminates in the Helmsley Building, with its entrances to the Park Avenue viaduct leading ultimately through Grand Central Terminal itself. Each of these

structures has a unique relationship to the avenue on which they all front. As a particularly wide street (140 feet instead of the 100 feet typical of avenues in Manhattan), Park Avenue has the potential to accommodate more flexible design than other areas of the City.²⁶

The community has called for waiving of the proposed street wall rules along Park Avenue (proposed ZR § 81-651), as they believe the street wall requirement is inconsistent with the existing, varied character of the avenue and its removal would allow for more flexible design. The City should meet the community's suggestion and further include in the text provisions to allow for new styles of architecture and public spaces on Park Avenue that will continue to foster East Midtown's tradition of innovation. In the past, the City has experimented with minimal or non-existent street walls. In many cases, however, this approach has resulted in undesirable, low, one-story commercial street walls or large vacant spaces set away from the street. Still, in its more elegant form, street wall variations can produce exceptional architectural relationships to the public realm.

Therefore, it is appropriate to keep the street wall requirements outlined in the zoning, but create a pathway to achieve varied, unique architectural designs in order to circumvent both of these possible undesirable outcomes. While most Park Avenue developments anticipated by the DEIS will likely use the superior development special permit, which allows bulk and setback waivers to achieve up to 24 FAR, it is possible that a development not seeking additional density could benefit from waiving bulk controls. As such, the City should add a new authorization process for the Park Avenue corridor that will allow street wall and bulk modifications if the applicant is producing a development that harmoniously relates to the streetscape and does not impact light and air to either the street or surrounding open spaces.

Vanderbilt Avenue

The dense development of East Midtown has, over time, reduced opportunities for the City to provide quality open space in the neighborhood. While the POPS program has attempted to address this problem, as described earlier, the success of the existing public spaces is quite limited. The East Midtown rezoning proposal will add additional density with full block coverage, perpetuating the open space problem. The Department of Transportation ("DOT") has introduced Pershing Square, and proposed a similar pedestrian plaza on Vanderbilt Avenue.

While much of the discussion around the rezoning has addressed the planned pedestrianization of portions of this five-block street, such plans are separate and independent of this proposal, which establishes certain urban design controls that appropriately relate the physical bulk of added density along Vanderbilt Avenue to Grand Central Terminal. More specifically, this plan reduces the maximum base height for new buildings fronting Vanderbilt Avenue to 100 feet to create a more harmonious relationship to Grand Central Terminal, which rises to a maximum height of 130 feet. The proposed zoning also requires new buildings adjacent to Grand Central Terminal intending to utilize the DIB to submit a report from the LPC to ensure there is a harmonious relationship between such a development and the historic Terminal (proposed ZR §81-621 (a)(4)). Additionally, the requirements for lobby width, transparency, and retail

²⁶ At present, one new tower redevelopment, designed by Lord Norman Foster, is planned at 425 Park Avenue, adding what is anticipated to be a contemporary icon to the Park Avenue skyline. Existing rebuild requirements do not permit

continuity will activate the streetscape. These new provisions will both help preserve the physical significance of Grand Central Terminal as well as heighten the pedestrian experience on Vanderbilt Avenue.

Parallel to this ULURP proposal, the City has commissioned a series of urban design workshops to inform a set of design recommendations and guidelines for East Midtown's public realm. The public workshops have been successful in drawing out community concerns, which include ones from property owners on Vanderbilt Avenue who are particularly concerned about transforming Vanderbilt Avenue into a pedestrian plaza and thereby restricting vehicular access to their front entrances.

As this public design process continues, our office looks forward to working with the City, community members, and property owners to establish an open space plan for the neighborhood. Further, should design plans for Vanderbilt Avenue be advanced, we encourage a careful balance between the interests of existing building owners and public benefits.

Public Spaces in the Sky

The Taskforce has called for activating public spaces at the skyline plane to extend much-needed public space in an area where skyscrapers dominate. This proposal would include active uses at the building's highest segment including restaurants, observation decks, or other such facilities. The proposed A-Text appropriately allows for such uses to occur by altering the stacking rules to allow for these active, commercial uses to occur above residential uses, which are also permitted in the A-Text. The potential to include these spaces has a benefit to the City as a whole, as they can serve as tourist attractions and open new perspectives on our City.

Historic Landmarks

East Midtown has a rich history that today can be seen in the built form of the neighborhood. From the Beaux Arts Helmsley Building²⁷ that evokes the golden age of railroads, to the sleek and modern Lever House, these handsome structures are a reflection of New York's story. As we now look to the future of this neighborhood, we should make sure to leave room to preserve our past. There are a number of existing New York City landmark buildings in the neighborhood, and as more research and evaluation occurs, there are sure to be more that warrant preservation. While this rezoning cannot influence which buildings are landmarked, our office encourages the LPC to engage in evaluating buildings identified as being historically significant and hold public hearings to determine their eligibility.

While zoning and landmarking are separate land use processes, the goals of preservation and development are not mutually exclusive and should be reconciled. There are a number of important New York City landmarks whose air rights are presently "locked in," with few potential receiving sites, and this proposal would further limit the potential of these landmarks to sell their air rights. If more buildings are landmarked, they too may be landlocked.

Under the originally proposed text, only in the Grand Central Subarea could landmark air rights be coupled with DIB bonuses. In the Park Avenue corridor, there are a number of landmarks

²⁷ Formerly known as the New York Central Building

that would not be able to sell to any site developed as part of this rezoning. Collectively, though, these landmarks have over two million sf of unused development rights, so including them in a similar way as in the Grand Central Subarea could flood the market with air rights and result in very little money to the DIB. Creating a mechanism to allow the owner of Landmarks to sell development rights within this zoning framework thus necessitates a careful balance between ensuring DIF money for public improvements and protecting the viability of our City's landmark buildings and institutions.

The A-Text has introduced a good mechanism for achieving this goal. It would allow the sale of air rights in the proposed Northern Subarea through a floating mechanism, but delays those sales until 2019. This proposed future date ensures that some money will come in to the DIF for public improvements from projects that are developed in the near future. The authorization for air rights sales to non-Qualifying Sites will also allow owner's of landmarks recourse to sell their air rights without impacting the DIF. As a whole, these components help remove conflict between preservation and development.

Increased Energy Efficiency Standards

The proposed text would require increased energy efficiency standards for buildings on Qualifying Sites at a 15 percent increase over the standards of the current 2011 New York City Energy Conservation Code ("NYCECC"). Additionally, developers seeking the Special Permit for Superior Development per proposed ZR § 81-624 (b)(5) would be required to demonstrate an unspecified degree of additional energy savings above 15 percent. Generally, this type of provision represents a pioneering approach in the New York City Zoning Resolution, setting standards not only for new construction in East Midtown, but also as a likely precedent for other special districts in the future.

While tying incentive zoning to the building performance code is untested in New York City, the City should take a stronger position on the environmental agenda for East Midtown. Any world-class central business district should plan for the integration of the objectives of sustainable development in order to respond to additional density through the reduction of the ecological "footprint" of its buildings. In East Midtown, the new commercial buildings incentivized through the proposed zoning will be among the largest in the City. They should also be among the most resource-efficient. Buildings that are better energy performers give back to the City as a public benefit.

More efficient buildings are also attractive to tenants seeking Class A office space, and many developers are already providing high-quality and well-engineered commercial high rises in New York's central business districts. Green construction offers a competitive advantage. Similarly, owner-operators of flagship headquarters will see rapid amortization of initial building systems costs, and will be more likely to invest in long-term efficiency. The feasibility of top-notch energy-efficient construction and retrofit for signature East Midtown buildings is exemplified by the recent \$1 billion LEED Platinum-certified retrofit of the J.P. Morgan Chase headquarters at 270 Park Avenue, completed in 2012.²⁸

In view of these benefits, planners, engineers, and policymakers have already begun to push New York City towards greater efficiency standards. Zone Green²⁹ and the City's Greener Greater Buildings Plan,³⁰ for example, have begun to establish pathways toward the City's increasingly aggressive sustainability goals by ensuring sustainable construction methods and design are permissible under zoning, and by putting in place systems and standards for benchmarking energy usage. Indeed, the City's Energy Conservation Code is only one piece of a larger whole.

The NYCECC is composed of a series of local laws³¹ that modify and adopt the current version of the Energy Conservation Code of New York State ("ECCNYS"), thereby specifying the minimum standards for energy efficiency to which all new buildings and renovation projects must comply.³² The NYCECC is revised every three years in accordance with local law.³³ It is slightly more stringent than the ECCNYS on which it is based. The NYCECC additionally requires compliance from buildings undergoing renovation.³⁴ Energy efficiency is measured in terms of cost savings, based on energy modeling of a design relative to a baseline reference building, the characteristics of which represent the minimum requirements of the current energy code.

It is of critical importance that this provision be updated to require "evergreen" standards — improvement over the applicable version of the NYCECC at the time of permitting. Therefore, the City should require a percentage improvement over the current edition of the NYCECC at time of permitting, and provide appropriate mechanisms for re-examining the energy savings required to receive the benefits of the proposed zoning. Today, it is typical for such developments to utilize LEED certification, which sets a minimum of 10 percent improvement over code as its baseline.³⁵

Pegging the requirement for increased efficiency in East Midtown to the current code at the time of permitting is a simple solution to a complex issue of code revision, compliance, and the uneven nature of advancements in building technology. In order to refine the approach to piloting zoning requirements tied to the energy conservation code, CPC should require the proposed zoning text to include the following for approval:

²⁹ <http://www.nyc.gov/html/dcp/html/greenbuildings/index.shtml>

³⁰ The Greener Greater Buildings Plan includes Local Law 84 (2009), which mandates that all private properties with individual buildings over 50,000 sf or multiple buildings with a combined area of 100,000 sf measure and report their energy and water use on an annual basis. At present, there are no incentives or requirements for building owners to act on any performance issues, although Local Law 87 provides guidance and requirements for energy audits and retro commissioning. <http://www.nyc.gov/html/gbee/html/plan/plan.shtml>

³¹ Local Law 85: http://www.nyc.gov/html/planyc2030/downloads/pdf/1185of2009_energy_code.pdf

³² The 2011 (current) NYCECC includes: Local Law 1 (2011), Local Law 48 (2010) and the 2010 ECCNYS. The 2010 ECCNYS is based on the 2009 International Energy Conservation Code ("IECC"), in international model code published by the International Codes Council ("ICC").

³³ Codes are the products of significant legislative and industry consensus, of which the development community is a part.

³⁴ Buildings listed on the State or National Register of Historic Places or that are designated as contributing resources to Historic Districts on the National Register are exempt. Landmarks' interiors and exteriors as designated by the LPC are also exempt.

³⁵ Urban Green Council

- The text should be modified such that the performance standards applied to buildings on Qualifying Sites and those applying for the Special Permit for Superior Development be based on the current code at time of permitting.
- The percentage should be set within six months of the new code being released.
- CPC should be permitted to modify the percentage as appropriate by rule change.
- Neither method of adjusting the percentage shall produce an outcome that represents a net decrease in efficiency from the previous code cycle.
- The text should specify a performance-based path for modeling buildings and analyzing code compliance.

Finally, it is of note that size is less important than shape in building performance. The CPC may need to reexamine whether traditional building envelopes remain appropriate to encourage efficient buildings over the traditional light and air considerations.

Sunrise Provision

The City included a sunrise provision in its proposed rezoning to prevent new developments in East Midtown from competing with other development projects for which the City has outstanding funding to recoup. The 2005 Hudson Yards redevelopment project, for example, included over \$3 billion in City-backed bonds, and development has not proceeded as quickly as expected, meaning the City has yet to earn back its money through higher property taxes. As such, the sunrise provision delays any new, large-scale development in East Midtown so as to remove competition for anchor tenants in order to protect the public's investment on the west side and downtown.

The Multi-Board Taskforce has recommended pegging the sunrise provision to development goals in Hudson Yards, Lower Manhattan and in the transit system. While this is an innovative approach, such a goal creates uncertainty for when the text would be applied. If the City experiences another downturn in the economy, this proposed rezoning may not be in effect for decades. On the other hand, if the City experiences an upturn, then this rezoning and its impacts may come into effect earlier than anticipated. A sped or slowed development process could create legal problems as the environmental review makes assumptions based on when developments come online.

Further, as stated above, it is the City's responsibility to ensure that new infrastructure is funded prior to development occurring. An unpredictable time frame could result in the City failing to improve the transit system prior to development. As such, the City should err on finding an appropriate time period for the sunrise provision, rather than pegging it to unpredictable swings in the development market.

Most importantly, the speed of the proposed rezoning will be mitigated by the sunrise provision. As the proposed rezoning will not go into effect until 2017, it allows the City to revisit regulations during this period, and to consider any necessary corrective measures or add any new proposals prior to the enactment of this rezoning. Given the City's recent history with the Hudson Yards Rezoning, which required multiple follow-up actions, a sunrise provision here can provide more time to evaluate and add any changes to the proposal.

Appropriate Exceptions to the Sunrise

New York City's real estate market accommodates a wide range of tenants with different needs and price points. Tenants looking to locate to East Midtown are not necessarily the same as ones going to the west side or Lower Manhattan. With the exception of a 30 FAR building on a 40,000 sf lot, many new developments in East Midtown would be significantly smaller than the building at One World Trade and the commercial buildings planned on the west side. For example, a rebuild of an 18.0 FAR building in East Midtown would likely have smaller floor-plates, and would attract a different type of commercial tenant.³⁶

Under current zoning, owners are permitted to rebuild overbuilt sites by retaining at least 25 percent of the original building.³⁷ In addition, all sites in the district can currently build with increased floor area through existing bonuses and landmark air rights special permits. By stalling the enactment of this rezoning until 2017, the City relinquishes potential DIB contributions from developments that could occur in the near future.

The proposed zoning text should be revised to include an authorization to waive the sunrise provision for specific buildings. This would allow some flexibility to owners who are ready now to develop buildings that reflect the general purposes and goals of this East Midtown rezoning, which would include contributing to and seeding the DIF prior to 2017. Early contributions to the DIF could provide public realm benefits in the near future that would spur future development. Findings for such an authorization could include that the proposed development has floor-plates such that would not compete with other large-scale developments in the City and that the proposed new building is of similar scale to one that could be constructed today under the existing zoning.

Proposed Zoning Map Amendment

Finally, the proposed zoning map amendment would rezone a block bounded by East 42nd and 43rd streets and Second and Third avenues on the east side of the rezoning area as part of the Special Midtown District, specifically the Subdistrict. The block has a number of existing office buildings, so its inclusion in a special district aimed at regulating commercial districts makes intuitive sense. Incorporating the block into the Subdistrict will allow the area to be regulated by the specific height and setback rules designed for East Midtown. This zoning map amendment is appropriate.

³⁶ One World Trade Center has floor plates of around 44,000 SF, which is the anticipated size of the ground floor of the largest buildings in East Midtown.

³⁷ L&L Holdings, the owners of 425 Park Avenue have announced that they plan to rebuild on their existing site by retaining 25 percent of their current floor area in a new building.

BOROUGH PRESIDENT'S RECOMMENDATION

The health and well being of Midtown is inextricably linked to its mass transit system. While the proposed rezoning targets development, any additional density onto a system that is over capacity will inevitably lead to potentially dangerous conditions. It is, therefore, critical that the City mitigate the existing overcrowding and create a real plan for investment in the east side's transportation infrastructure, including improving conditions at Grand Central. Further, as the transportation improvements will occur over time, the DIB must be constructed as a robust and transparent financing source.

The City must also take efforts to encourage commercial and residential uses in the area that will contribute to the City's overall economic goals without undermining East Midtown's architectural significance.

The proposed plan has taken several positive steps in the last month, including the introduction of residential uses, new mechanisms to benefit landmarks, modifications to the DIB to allow its price to be increased in recognition of the range of uses and a more flexible definition of Qualifying Sites. The Department of City Planning has indicated in a letter to this office that it is committed to advancing these changes as the process moves forward.

Most importantly, the Mayor's office has committed to the Borough President that it will provide upfront financing to mitigate impacts on the Lexington Avenue line, which will allow more trains to enter and leave the station prior to development occurring.

While there are still important issues to resolve, these changes represent a significant positive step forward and demonstrate willingness by the administration to address outstanding issues. As the proposal advances, the City should continue to work with the local community and elected officials to further refine this plan based on public feedback and the below outlined conditions.

Therefore, the Manhattan Borough President recommends conditional approval, if the applicant:

- 1. ensures that infrastructure improvements are funded prior to development occurring under the new zoning by identifying and employing other financing mechanisms that will complement funds generated through the DIB;**
- 2. works with the MTA to determine the scope of past mitigation commitments at Grand Central and determine an appropriate budget for those improvements that is separate from the DIB;**
- 3. creates a transparent and regular process for evaluating the DIB price that requires the CPC to reexamine every four years, starting in 2017, based on a new appraisal and a public hearing;**
- 4. incorporates residential uses into the DIB price at a higher value than the commercial uses;**
- 5. expands appointments to the DIB committee to include Community Boards 5 and 6, the City Council, the Borough President, the Comptroller, Chair of the City**

Planning Commission, the Director of the Office of Management and Budget, the Commissioner of Department of Parks and Recreation, Commissioner of the Department of Transportation, Deputy Mayor for Operations, the Deputy Mayor for Economic Development, and the President of the MTA;

- 6. creates more rigorous DIB committee regulations including requiring a public hearing for the creation or alteration of the priority projects and requiring the publishing of annual reports to the Comptroller, the City Council and CPC on the fund value, current annual capital and programmatic expenditures, status of previously initiated improvement projects and pipeline projects or approved priorities;**
- 7. creates an authorization process for in-kind contributions to the DIB rather than allowing them as-of-right with DIF committee approval;**
- 8. pursues the A-Text Qualifying Sites option that accommodates potential hold-outs;**
- 9. creates a new special permit that would allow the integration of landmark buildings on Qualifying Sites;**
- 10. pursues the A-Text option to allow residential use on Qualifying Sites;**
- 11. begins the necessary environmental, zoning and planning work needed to create a hotel special permit for all of East Midtown;**
- 12. creates an authorization process to allow for more flexible design and street walls on Park Avenue;**
- 13. pursues the proposed A-Text option that would allow transfer of the air rights in the Northern Subarea;**
- 14. modifies the energy efficiency requirements so that it is based on the time of permitting and requires the CPC to set the appropriate percentage within 6 months of the new code being enacted provided that it will not represent a net decrease in efficiency from the previous percentage, and allow CPC to adjust the requirement as needed by rule change;**
- 15. creates a performance-based path for modeling buildings and analyzing the code compliance for energy standards; and**
- 16. creates an authorization process that allows smaller buildings to utilize the new regulations prior to the sunrise provision to increase contribution to the DIF without creating new office space competition to other commercial districts in the City.**



Scott M. Stringer
Manhattan Borough President



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

ROBERT K. STEEL
DEPUTY MAYOR FOR ECONOMIC DEVELOPMENT

July 31, 2013

Dear Borough President Stringer,

Thank you to you and your team for your very thoughtful and thorough review of the East Midtown rezoning application, which will reinvigorate East Midtown and ensure that it remains one of the world's premier business districts. Indeed, the City has sought to encourage redevelopment in this area through zoning for over twenty years.

We have always believed that the East Midtown proposal would be improved through the public review process. For example, we made changes that will allow a more vibrant mix of uses in new buildings and give landmarks in the district greater flexibility to sell their unused development rights. Today, after extensive discussions with local stakeholders and elected officials, and in response to specific feedback from you, Councilman Dan Garodnick, and the community boards, we are announcing our commitment to advance funding for significant mass transit and open space improvements in East Midtown immediately upon passage of the rezoning.

Previously, the plan had been to pair private development and public investment, with developers paying into a fund at the time they seek a building permit. Now, we are committing to advance a portion of this funding, before new development occurs, so that the public can experience the benefits of the rezoning far more quickly. Our initial spending priorities will address stakeholder feedback about the need to reduce Lexington Line congestion today at the Grand Central subway station, which affects Lexington Line riders from the Bronx to Brooklyn. Among other things, we will invest in improved access and egress to the subway platform that will allow trains to clear more quickly and thus improve the rider experience. We will also continue our work with the community on a public realm vision plan to articulate and prioritize investments in the streets throughout East Midtown.

Without the rezoning and the revenue it generates, potentially in excess of \$500 million, these improvements may never get made. We can't allow that to happen. By modernizing zoning and using the anticipated revenue to begin early funding of public improvements, we can create immediate quality-of-life improvements while also strengthening the long-term health of our economy.

Thank you again for your support and stewardship of this crucial project.

Sincerely,

Robert K. Steel



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK
OFFICE OF THE DIRECTOR

July 31, 2013

The Honorable Scott Stringer
Borough President, Borough of Manhattan
One Centre Street, 19th Floor North
New York, NY 10007

Dear Borough President Stringer,

As you may know, the Department of City Planning has proposed a number of modifications to its East Midtown rezoning proposal, which may be relevant as you consider your own review of this application. In particular a number of the elements included in this "A" text alternative have arisen in response to concerns raised by you and your staff, as well as with the community, other elected officials and stakeholders.

1) Changes to Allowed Uses on Sites Utilizing Zoning Incentives

Under the existing proposal, only fully commercial (office, hotel and retail) buildings qualify for zoning incentives, provided the site meets certain "Qualifying Site" criteria of a minimum site size of 25,000 square feet and 200 feet of frontage on a wide street. The Department heard from your office as well as the Community Board, recommendations that new developments should allow for a mix of residential use to complement commercial uses in the new buildings and contribute to the vitality of the area. We have also heard concerns that allowing hotel use to occupy the entirety of a new development would undermine the proposal's chief goal of incentivizing modern office space. In order to provide for a better mix of uses, without undermining the proposal's chief goal of incentivizing modern office development, City Planning is proposing to modify the proposal to allow up to 20% of a building's floor area as non-office uses as-of-right, with higher amounts achievable only through a full ULURP special permit process.

As your staff suggests, the rate for contributions for residential floor area will be established by a separate appraisal from the appraisal previously conducted for commercial floor area, and the contribution rate for a development will be based on its ratio of residential and commercial use.

2) Creation of a Northern Landmark Transfer Area

Under existing zoning rules, city landmarks may only transfer unused floor area to 'adjacent' lots, defined as lots which either adjoin or are across the street or catty-corner from the landmark. Transfers are made through a special permit process. In 1992, the City Planning Commission recognized the unique relationship between Grand Central Terminal and its surrounding area by

Amanda M. Burden, FAICP, Director
22 Reade Street, New York, NY 10007-1216
(212) 720-3200 FAX (212) 720-3219
nyc.gov/planning



allowing for the transfer of unused floor area from the Terminal to sites within a broader geographic district, known as the Grand Central Subarea.

Having received recommendations from your office and other stakeholders— and in recognition of the unique ensemble of iconic landmarks that exist and contribute to the character of the area to the north of Grand Central Subarea -- the revised proposal would create a new Northern Subarea similar in nature to the Grand Central Subarea.

The Northern Subarea would stretch from 48th and 49th streets in the south to 57th Street in the north, from Third Avenue in the east to the East Midtown subdistrict's western boundary east of Fifth Avenue, and encompass major landmarks such as St. Patrick's cathedral, St. Bartholomew's Church, Central Synagogue, and Lever House.

Starting in 2019, these landmarks would be allowed to transfer unused development rights to Qualifying Sites as-of-right up to their maximum permitted FARs (21.6 FAR on Park Avenue and 18 FAR and 14.4 FAR in Other areas).

As is the case in the Grand Central Subarea, a minimum contribution to the District Improvement Fund would be required before a landmark transfer could be made, to ensure that the use of the new zoning incentives results in a contribution to neighborhood infrastructure. This contribution requirement would apply to the first 3 FAR for sites on Park Avenue, and half of the FAR increase in other areas.

In addition, transfers to sites that do not meet the Qualifying Site size and frontage requirements could be permitted by discretionary action subject to public review, similar to what is allowed today in the Grand Central Subarea.

These changes are designed to create an appropriate balance between offering landmarks greater opportunities and flexibility for transfer of development rights to a broader area beyond 'adjacent' sites -- thus facilitating the continued maintenance of their properties -- and ensuring that the District Improvement Fund will be funded to make area-wide subway and pedestrian network improvements.

3) Modification of Qualifying Site Requirements Through Discretionary Review

The original East Midtown proposal limited zoning incentives to "Qualifying Sites" - sites with a minimum of 200 feet of frontage along a wide street and a minimum size of 25,000 square feet. The Department received recommendations that the fixed nature of these site criteria could in some cases impede development of viable office sites.

The modified proposal creates greater flexibility by allowing a site that meets the 25,000sf site size requirement and at least 75% of the frontage requirement to apply for a waiver to use the zoning incentives. To receive a waiver through discretionary review, the applicant must demonstrate that the site can still accommodate a viable office development on the site utilizing the existing height and setback controls. The waiver would be granted through an Authorization process that includes referral to the local community board.

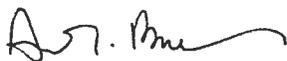
4) Other Clarifications and Adjustments

In addition the A text introduces a number of other modest clarifications and amendments that respond to stakeholder concerns. Two that were specifically in response to concerns from your office are:

- Rooftop uses: In response to your concerns that rooftop uses be encouraged in the district, the modified proposal would facilitate the activation of top floors of mixed-use buildings with uses like observatories and restaurants, by modifying “stacking rules” which prohibit non-residential uses above residences.
- Qualifying Site clarifications: In response to your and other concerns that the Qualifying site criteria disincentives the adaptive reuse of certain buildings by requiring the clearing of a Qualifying site, the proposal clarifies that existing buildings are permitted to remain on a Qualifying Site, as long as the minimum cleared site requirements are achieved. It also clarifies that Qualifying Sites can maintain the bonus floor area from existing bonus plazas without proportional contribution into the DIB as long as such spaces are maintained as part of a new development.

I believe these changes are both responsive to concerns while continuing to meet the goals and objectives of the rezoning. We are committed to advancing these amendments through the ULURP process and will officially present them at the City Planning Commission session on August 5th, in advance of a public hearing on them August 7th.

Best regards,



Amanda M. Burden



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

**MANHATTAN BOROUGH BOARD RESOLUTION
REGARDING EAST MIDTOWN REZONING**

WHEREAS, The Department of City Planning seeks a zoning text amendment (N 130247 ZRM) and a zoning map amendment (C 130248 ZMM), which would alter the zoning regulations for over 70 blocks surrounding Grand Central Terminal in East Midtown, located within the boundaries of Community Boards 5 and 6, in the Borough of Manhattan; and

WHEREAS, The City intends to preserve and enhance East Midtown's competitiveness in the growing global economy by permitting greater densities that encourage redevelopment of new, world-class office space; and

WHEREAS, Community Boards 1, 2, 4, 7, and 8 have determined that their districts are also affected by the rezoning pursuant to New York City Charter section 197-C(m); and

WHEREAS, When multiple community boards are impacted by a zoning action, the Manhattan Borough Board is empowered to issue a recommendation to the Department of City Planning pursuant to New York City Charter section 197-C(f); and

WHEREAS, As part of a multi-board taskforce, Community Boards 1, 4, 5, and 6 produced an 80-page document outlining in detail specific issues with the proposed rezoning, focusing in particular on infrastructure, urban design and bulk rules, the public realm, use regulations, landmarks, citywide planning, the Draft Environmental Impact Statement (DEIS), and energy standards; and

WHEREAS, While several community boards passed identical resolutions, other community boards focused on individual issues or specific recommendations; and

WHEREAS, Several boards expressed a general agreement with the goals of the multi-board resolution, but desire further careful study; and

WHEREAS, The Manhattan Borough Board remains committed to improving our city's transit infrastructure; and

WHEREAS, Several impacted community boards have expressed that these new "qualifying" buildings, which will be the largest buildings in Midtown, should not be able to entirely bypass the process of public review; and

WHEREAS, The impacted community boards have expressed concern that the proposed rezoning relies entirely on the speculative possibility of future payments into a District Improvement Fund (DIF) to finance critical infrastructure upgrades and improvements that are known and needed today; and

WHEREAS, If a DIF is created as a supplementary revenue source it needs to include an appraisal process for development rights to ensure market pricing and to include a floor which increases over time; and

WHEREAS, The impacted community boards have raised concern that the proposed DIF Committee of five mayoral appointees is not representative of various public interests; and

WHEREAS, East Midtown is one of the densest areas in New York City with a transit hub - Grand Central Terminal - that is currently over capacity; and

WHEREAS, The proposed rezoning would allow owners of qualifying sites to demolish current structures in order to rebuild to a higher Floor Area Ratio; and

WHEREAS, The impacted community boards have expressed concern that the proposed rezoning seeks to add density and with it, a sizable population of new workers, with the prospect of future transit improvements being made only after the addition of said density; and

WHEREAS, The impacted community boards have expressed concern over adding additional density to the affected streets; and

WHEREAS, The impacted community boards view the proposed improvements to the public realm associated with this rezoning to be vague and insufficient in details of how, what, and when improvements will be made; and

WHEREAS, The impacted community boards expressed concern that while the zoning regulations are designed to ensure that new buildings will be models of sustainable development, building code and environmental guidelines included in this proposal do not reflect the highest standards; and

WHEREAS, Several eligible landmarks lie within the rezoning area and are:

- 1) either projected or potential development sites at risk of demolition, or
 - 2) may unduly face increased competition for the sale of air rights as a result of the what the impacted community boards view as an underpriced District Improvement Bonus (DIB);
- and

WHEREAS, Several impacted community boards expressed concern regarding the sunrise provision and use provisions; and

WHEREAS, Several impacted community boards have expressed concern that by encouraging new development in East Midtown, the City may hinder the significant investments it has made in other office districts including Hudson Yards and Lower Manhattan; and

WHEREAS, Nothing in this resolution is intended to supplant or supersede any individual resolution or opinion by an affected community board and each affected community board retains the right to advocate for its own individual priorities; and

WHEREAS, Some members of the Borough Board will issue recommendations or vote on the proposed actions after this resolution is issued and therefore reserve the right to elaborate, refine, or resolve any issues raised here or as may come up in the due course of review;

THEREFORE, the Manhattan Borough Board recommends disapproval of zoning text amendment (N 130247 ZRM) and a zoning map amendment (C 130248 ZMM) unless remaining unresolved issues related to infrastructure, urban design and bulk rules, the public realm, use regulations, landmarks, citywide planning concerns, the DEIS, and energy standards are satisfactorily addressed by the City.

SANDRO SHERROD
CHAIR

VICE-CHAIRS
RICHARD EGGERS, 1ST
CLAUDE L. WINFIELD, 2ND
CHARLES BUCHWALD
ELLEN IMBIMBO
LETTY SIMON



THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD SIX
866 UNITED NATIONS PLAZA, SUITE 308
NEW YORK, NY 10017

TONI CARLINA
DISTRICT MANAGER

BEATRICE DISMAN
TREASURER

AARON HUMPHREY
SECRETARY

June 28, 2013

Hon. Michael Bloomberg
Mayor
Cityhall
New York, NY 10007

Amanda Burden
Chair
Department of City Planning
22 Reade Street
New York, NY 10007

Department of City Planning proposed Zoning Text Amendment (N 130247 ZRM) and Zoning Map Amendment (C 130248 ZMM) to amend the Special Midtown District of the NYC Zoning Resolution.

Dear Mayor Bloomberg & Ms. Burden:

At the June 12th, Full Board meeting of Community Board 6 the following resolution was adopted:

WHEREAS, The Department of City Planning seeks to rezone a 70-block area surrounding Grand Central Terminal including parts of Park Avenue, together known as East Midtown; and

WHEREAS, The goal of the rezoning is to preserve East Midtown's global competitiveness in the 21st century; and

WHEREAS, CB6 agrees that East Midtown should be studied and the goals of the rezoning are worthy of consideration; and

WHEREAS, The timeline for this rezoning has been beholden to a political calendar and needlessly rushed despite multiple requests from elected officials, community boards, and advocacy groups to slow the process down and allow for a more thorough, complete plan for the future of this vital office district; and

WHEREAS, A truly world-class district must have a truly world-class transit system; and

WHEREAS, A commitment to infrastructure as represented by Grand Central Terminal is what allowed East Midtown to become the premier business district it is today; and

WHEREAS, The proposed rezoning relies entirely on the speculative possibility of future payments into a District Improvement Fund (DIF) to finance infrastructure upgrades that are known and needed today; and

WHEREAS, The proposal's plan to use the DIF, which is unpredictable and unreliable, to fund critical infrastructure needs does not represent a commensurate commitment to infrastructure that will solidify East Midtown as a globally competitive office district in the 21st century; and

WHEREAS, If a DIF is created as a supplementary revenue source it needs to include an appraisal process for development rights to ensure market pricing and to include a floor which increases over time as well; and

WHEREAS, This proposal would allow a drastic increase in density in an area the City deemed built-out in a 1982 downzoning which sought to encourage development elsewhere in Manhattan; and

WHEREAS, East Midtown is already one of the densest areas of the developed world with a transit system that is currently overcapacity yet this proposal seeks to add *more* density with the prospect of future transit improvements coming only *after* said density has been added; and

WHEREAS, The proposed densities will overwhelm the already overcrowded streets and sidewalks of the area and therefore must be reduced in order to better reflect a coherent and contextual urban design strategy; and

WHEREAS, Although public review is essential for any building in the proposal area above 18FAR (which still represents a 20% increase over the allowable base FAR), this proposal marginalizes the public's critical role in the review of land use matters by allowing extremely high FAR as-of-right ; and

WHEREAS, Improvements to the public realm meant to be part of this proposal are exceptionally vague with no detailed plan for how, what, and when improvements will be made; and

WHEREAS, The Multi-Board Task Force and others have repeatedly asked for a comprehensive public realm strategy; yet the commissioning of such a plan has only just been announced and is not included in the ULURP application, preventing Community Boards and the Borough President from having the opportunity to comment on it, or to provide meaningful input as a part of their recommendations; and

WHEREAS, The proposal has a narrow and outdated conception of use regulations for a 21st century office district; and

WHEREAS, An allowance for residential and community facility use in all new buildings (capped if necessary) would promote the 21st century paradigm of mixed-use that cities around the world have embraced; and

WHEREAS, A retail or public use requirement for the rooftop of these new buildings would allow greater public interaction with our city's skyline; and

WHEREAS, Streetwall requirements discourage innovative and architecturally distinctive building design; and

WHEREAS, Although designed to ensure that new buildings resulting from these new zoning rules will be models of sustainable development, building code and environmental guidelines included in this proposal are insufficient; and

WHEREAS, More rigorous and inventive requirements that promote 21st century environmental concerns are included in the attached document; and

WHEREAS, Several eligible landmarks lie within the rezoning area and are either projected or potential development sites and therefore under threat of demolition and, in fact, the very prospect of landmarking these buildings has already prompted some owners to deface them or strip their façade in an effort to prevent landmarking; and

WHEREAS, Although air rights were conceived by the City to provide a secure funding stream for existing landmarks to maintain the city's historic resources, landmarks in the area will unduly face increased competition for selling these air rights as a result of the underpriced DIF; and

WHEREAS, The Task Force and others have called for the study of a landmarks transfer alternative that would allow landmarks in the area outside of the Grand Central Subdistrict to float their air rights more broadly; and

WHEREAS, By encouraging new development in East Midtown the City is putting at risk the significant investments it have made in other office districts, including Hudson Yards and Lower Manhattan, investments the taxpayers are still paying for as developers fail to achieve anticipated occupancy goals; therefore be it

RESOLVED, Community Board Six recommends denial of the Department of City Planning's proposed Zoning Text Amendment (N 130247 ZRM) and Zoning Map Amendment (C 130248 ZMM), as the amendments may be counterproductive in addressing many of the challenges of East Midtown and as they represent an incomplete and unworthy proposal ill-suited to meet their most basic goal: to ensure East Midtown's competitiveness in the 21st century; and be it further

RESOLVED, Community Board Six also calls for greater study and review to produce a more comprehensive, thoughtful strategy to strengthen the city's most important business district and in the attached statement outlines all of the critical issues that need to frame a more civically inspired vision.

VOTE: 39 in Favor 0 Opposed 1 Abstention 2 Not Entitled

Yours truly,

Sandro Sherrod (SC)

Sandro Sherrod
Chair

Terrence O'Neal (SC)

Terrence O'Neal
Chair, Land Use

Rajesh Nayar (TC)

Rajesh Nayar
Housing, Homeless & Human Rights

Cc: Hon. Scott Stringer
Hon. Brad Hoylman
Hon. Liz Krueger
Hon. Brian Kavanagh
Hon. Dick Gottfried
Hon. Dan Quart
Hon. Christine Quinn

Hon. Dan Garodnick
Hon. Jessica Lappin
Hon. Rosie Mendez
Edith Sue Chin

cc: Hon. Charles Schumer
Hon. Bill deBlasio
Hon. Carolyn Maloney
Hon. Gale Brewer
Hon. Robert Steel
Thomas Pendergrast, Chair - MTA
Andrew Albert, Chair - NYCTRC
Gene Russianoff, Sen. Atty. - NYPIRG SC
John Raskin, Exec Dir. - RA
Paul Steely White, Exec Dir. - TA
Ryan Lynch, Assoc Dir. - TSTC
Robert Tierney, Chair - LPC
Simeon Bankoff, Exec. Dir. - HDC
Peg Breen, Pres. - NYLC
Vin Cipolla, Pres. - MAS
William Viets, Managing Dir.



MULTI-BOARD TASK FORCE ON EAST MIDTOWN

MANHATTAN COMMUNITY BOARDS ONE, FOUR, FIVE, & SIX

Catherine McVay Hughes, *Chair, Community Board One*

Corey Johnson, *Chair, Community Board Four*

Vikki Barbero, *Chair, Community Board Five*

Sandro Sherrod, *Chair, Community Board Six*

Department of City Planning Zoning Text Amendment (N 130247 ZRM) and Zoning Map Amendment (C 130248 ZMM) to amend the Special Midtown District of the NYC Zoning Resolution.

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MULTI-BOARD TASK FORCE ON EAST MIDTOWN

MANHATTAN COMMUNITY BOARDS ONE, FOUR, FIVE, & SIX

Catherine McVay Hughes, *Chair, Community Board One*
Corey Johnson, *Chair, Community Board Four*

Vikki Barbero, *Chair, Community Board Five*
Sandro Sherrod, *Chair, Community Board Six*

June 11, 2013

Department of City Planning proposed Zoning Text Amendment (N 130247 ZRM) and Zoning Map Amendment (C 130248 ZMM) to amend the Special Midtown District of the NYC Zoning Resolution.

WHEREAS, The Department of City Planning seeks to rezone a 70-block area surrounding Grand Central Terminal including parts of Park Avenue, together known as East Midtown; and

WHEREAS, The goal of the rezoning is to preserve East Midtown's global competitiveness in the 21st century; and

WHEREAS, Although CB5 agrees that East Midtown should be studied and the goals of the rezoning are worthy of consideration; and

WHEREAS, The timeline for this rezoning has been beholden to a political calendar and needlessly rushed despite multiple requests from elected officials, community boards, and advocacy groups to slow the process down and allow for a more thorough, complete plan for the future of this vital office district; and

WHEREAS, A truly world-class district must have a truly world-class transit system; and

WHEREAS, A commitment to infrastructure as represented by Grand Central Terminal is what allowed East Midtown to become the premier business district it is today; and

WHEREAS, The proposed rezoning relies entirely on the speculative possibility of future payments into a District Improvement Fund (DIF) to finance infrastructure upgrades that are known and needed today; and

WHEREAS, The proposal's plan to use the DIF, which is unpredictable and unreliable, to fund critical infrastructure needs does not represent a commensurate commitment to infrastructure that will solidify East Midtown as a globally competitive office district in the 21st century; and

WHEREAS, If a DIF is created as a supplementary revenue source it needs to include an appraisal process for development rights to ensure market pricing and to include a floor which increases over time as well; and

WHEREAS, This proposal would allow a drastic increase in density in an area the City deemed built-out in a 1982 downzoning which sought to encourage development elsewhere in Manhattan; and

WHEREAS, East Midtown is already one of the densest areas of the developed world with a transit system that is currently overcapacity yet this proposal seeks to add *more* density with the prospect of future transit improvements coming only *after* said density has been added; and

WHEREAS, The proposed densities will overwhelm the already overcrowded streets and sidewalks of the area and therefore must be reduced in order to better reflect a coherent and contextual urban design strategy; and

WHEREAS, Although public review is essential for any building in the proposal area above 18FAR (which still represents a 20% increase over the allowable base FAR), this proposal marginalizes the public's critical role in the review of land use matters by allowing extremely high FAR as-of-right; and

WHEREAS, Improvements to the public realm meant to be part of this proposal are exceptionally vague with no detailed plan for how, what, and when improvements will be made; and

WHEREAS, The Multi-Board Task Force and others have repeatedly asked for a comprehensive public realm strategy; yet the commissioning of such a plan has only just been announced and is not included in the ULURP application, preventing Community Boards and the Borough President from having the opportunity to comment on it, or to provide meaningful input as a part of their recommendations; and

WHEREAS, The proposal has a narrow and outdated conception of use regulations for a 21st century office district; and

WHEREAS, An allowance for residential and community facility use in all new buildings (capped if necessary) would promote the 21st century paradigm of mixed-use that cities around the world have embraced; and

WHEREAS, A retail or public use requirement for the rooftop of these new buildings would allow greater public interaction with our city's skyline; and

WHEREAS, Streetwall requirements discourage innovative and architecturally distinctive building design; and

WHEREAS, Although designed to ensure that new buildings resulting from these new zoning rules will be models of sustainable development, building code and environmental guidelines included in this proposal are insufficient; and

WHEREAS, More rigorous and inventive requirements that promote 21st century environmental concerns are included in the attached document; and

WHEREAS, Several eligible landmarks lie within the rezoning area and are either projected or potential development sites and therefore under threat of demolition and, in fact, the very prospect of landmarking these buildings has already prompted some owners to deface them or strip their façades in an effort to prevent landmarking; and

WHEREAS, Although air rights were conceived by the City to provide a secure funding stream for existing landmarks to maintain the city's historic resources, landmarks in the area will unduly face increased competition for selling these air rights as a result of the underpriced DIF; and

WHEREAS, The Task Force and others have called for the study of a landmarks transfer alternative that would allow landmarks in the area outside of the Grand Central Subdistrict to float their air rights more broadly; and

WHEREAS, By encouraging new development in East Midtown the City is putting at risk the significant investments it has made in other office districts, including Hudson Yards and Lower Manhattan, investments the taxpayers are still paying for as developers fail to achieve anticipated occupancy goals; therefore be it

RESOLVED, Community Board Five recommends denial of the Department of City Planning's proposed Zoning Text Amendment (N 130247 ZRM) and Zoning Map Amendment (C 130248 ZMM), as the amendments may be counterproductive in addressing many of the challenges of East Midtown and as they represent an incomplete and unworthy proposal ill-suited to meet their most basic goal: to ensure East Midtown's competitiveness in the 21st century; and be it further

RESOLVED, Community Board Five also calls for greater study and review to produce a more comprehensive, thoughtful strategy to strengthen the city's most important business district and in the attached statement outlines all of the critical issues that need to frame a more civically inspired vision.



MULTI-BOARD TASK FORCE ON EAST MIDTOWN

MANHATTAN COMMUNITY BOARDS ONE, FOUR, FIVE, & SIX

Catherine McVay Hughes, *Chair, Community Board One*

Corey Johnson, *Chair, Community Board Four*

Vikki Barbero, *Chair, Community Board Five*

Sandro Sherrod, *Chair, Community Board Six*

Department of City Planning Zoning Text Amendment (N 130247 ZRM) and Zoning Map Amendment (C 130248 ZMM) to amend the Special Midtown District of the NYC Zoning Resolution.

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MULTI-BOARD TASK FORCE ON EAST MIDTOWN

MANHATTAN COMMUNITY BOARDS

ONE, FOUR, FIVE, & SIX

Catherine McVay Hughes, *Chair, Community Board One*

Corey Johnson, *Chair, Community Board Four*

Vikki Barbero, *Chair, Community Board Five*

Sandro Sherrod, *Chair, Community Board Six*

June 5, 2013

Department of City Planning Zoning Text Amendment (N 130247 ZRM) and Zoning Map Amendment (C 130248 ZMM) to amend the Special Midtown District of the NYC Zoning Resolution.

The Multi-Board Task Force consisting of Community Boards 1, 4, 5, and 6, and CB5 and CB6 specifically, have met with the Department of City Planning for over one year to discuss this far reaching plan. Early on, in November of 2012, the Task Force voted to approve the “Principles for a New East Midtown” as a guiding document on which to evaluate this rezoning plan and it was promptly shared with the administration¹. While we appreciate the Department of City Planning’s regular meetings with the community, the final text and associated actions fall significantly short of achieving the principles established by the Task Force. Critical elements which have underpinned New York’s economic success have simply been ignored. In an effort to “seed” Midtown with a handful of new 21st century buildings, the City has missed an opportunity to create a truly 21st century district. In the absence of a proposal which balances private gain with public good, we respectfully recommend the denial of this ULURP application. In the following document we outline many of the critical issues that constitute a more civically inspired vision. If the plan were focused on these principles we believe we will ultimately unlock far greater value for the City over the long term.

The following statement is broken down into the critical issues the Task Force has raised throughout the process and anchored by the specific principles in our Statement of Principles.

¹ See Attachment A

This statement is informed by hundreds of meetings and conversations with a diverse group of stakeholders, in particular our elected officials and their extraordinary staffs. Specifically, Councilmembers Dan Garodnick, Gale Brewer, and Jessica Lappin, State Senators Liz Krueger and Brad Hoylman, Assemblymember Dan Quart, Congresswoman Carolyn Maloney, Borough President Scott Stringer, Public Advocate Bill de Blasio, Speaker Christine Quinn and US Senator Charles Schumer have been invaluable throughout the process. Many of them have raised some or all of the issues outlined in this document in correspondence to Deputy Mayor Steel and Chair Burden and all have provided thoughtful feedback and advice². We have also met with real estate developers, REBNY, preservation groups, transportation experts, union representatives, environmentalists, landmark owners, journalists, academics, residents, visitors, and workers in East Midtown. All of their ideas have helped inform our position.

Rationale for Proposed Rezoning:

A major purpose for the East Midtown rezoning is given as preserving New York City's competitiveness against such other major cities as Shanghai, London, Tokyo and Chicago. The term "competitor cities" is often used. E.g., pp. DEIS, 1-9. However, no evidence whatsoever is given that there is any competition between New York and these other cities based on the building stock. A map displaying the age of buildings across cities is offered as a piece of analysis. However, a large number of economic, geopolitical, and other factors determine what economic activity occupies major office buildings. No evidence is presented that the nature of the building stock is a cause rather than an effect. In a somewhat different context, page 3-14 in the DEIS states that the amount of office development that would be allowed by the rezoning "would not be enough to alter or accelerate existing economic trends." That runs counter to the claim that the rezoning would make New York more competitive with these other cities. The Department of City Planning is stating that East Midtown is in competition for tenants with Tokyo but not with Lower Manhattan or Hudson Yards – an extraordinary leap of logic.

The underlying need for reliable transit investment, public realm investment and careful preservation is clear but these issues have been neglected in favor of a development agenda where there is far less consensus. Fundamentally, any planning effort for East Midtown needs to focus on many of these responsibilities that lie with the public sector instead of the proposed

² See Attachments B-K

approach which abdicates public sector responsibility and transfers it squarely to the private sector to fund critical pieces of our future infrastructure. This is not an appropriate planning framework, this is a speculative gamble on the future of our infrastructure contingent on the market producing the needed returns. We cannot and should not solely rely on real estate development to fund our present and future needs.

Infrastructure

Infrastructure lies at the heart of the economic success of Midtown and a longer term strategy for what is required to serve a modern 21st Century East Midtown is essential. We cannot build a 21st Century Midtown with early 20th Century infrastructure and expect to remain competitive. Yet, the proposed rezoning relies entirely on the speculative possibility of future payments into a District Improvement Fund to finance infrastructure upgrades that are overdue today, as articulated to the Task Force by the MTA in a presentation from October 2012.

East Midtown is already one of the city's most congested areas and the proposed rezoning will inevitably bring thousands of new workers into the community. Unless the infrastructure expands to keep pace with the added demand, East Midtown will become increasingly overcrowded and congested. This congestion will impact traffic, sidewalks, mass transit, open space and all essential services. New development will outpace infrastructure improvements unless the city adopts a mechanism to fund improvements before development occurs. With the infrastructure in place we're also more likely to see development as the private sector responds to the improvements in infrastructure and the public realm. Many including Senator Schumer have suggested that the City could issue bonds against the Fund in order to enable anticipated improvements to move forward more quickly. The Board and others have articulated similar approaches over the course of several months and additional work and study is needed to ensure we don't fall behind other cities as they make significant investments in their transit networks. As Mayor Bloomberg said on April 10, 2013, just two months ago: "The lack of new transit investment is creating a serious and urgent threat to New York City's economic competitiveness." We couldn't agree more but this proposal totally fails to create a predictable and reliable framework for this urgent investment.

Despite the concerns raised from all of the elected officials representing this neighborhood, as

well as transit advocates, planning advocates and the Multi-Board Task Force, over the past year there has been no modifications to the planning framework to ensure that infrastructure is in place before development occurs.

In order for this plan to be compatible with the long-term health of Midtown a number of modifications are essential:

- A long term strategy must be created to establish goals for what is essential to ensure a 21st Century infrastructure in East Midtown, both below- and at-grade.
- Adequate sources of funding need to be identified and described. We believe it is essential for the City, in close coordination with the MTA, to develop a long term transit strategy for Midtown, looking at a range of additional investments over the course of a number of decades to ensure New York City is keeping up with our global competitors when it comes to infrastructure investment. This study should lay the groundwork for additional investment over the course of the coming decades. Please see below for an outline of an alternative funding approach.
- The sunrise provision should be contingent on infrastructure investment. Instead of setting an arbitrary date – July 2017 – after which development can occur, a sunrise mechanism needs to be developed based on a set of milestones. Triggers for any new development should be tied to:
 - Development milestones in Hudson Yards and Lower Manhattan
 - Infrastructure milestones such as the completion of Phase 1 of the 2nd Avenue Subway
 - Completion of improvements the MTA has identified in its presentation on October 2012
 - Completion of improvements to be identified in the public realm plan
- The DIB is a totally inappropriate mechanism for funding essential infrastructure given its lack of reliability and predictability. We will not know how much money the fund will accrue or when it will accrue it. By relying on the DIF to fund essential transit

investment, we are beholden to the whims of the private market. As has been clearly established in Hudson Yards³, there is tremendous uncertainty as to when development will occur and, despite our best intentions and analysis, we will not be able to accurately predict the market. Large fortunes are lost by far more sophisticated real estate analysts in getting the market wrong and we should not gamble our transit future on educated speculation. While leveraging private investment for public purposes is a worthy goal and makes sense to mitigate the adverse impacts of a specific development, it is unwise public policy to adopt this approach to mitigate our current problems. Moreover, it cannot be the only mechanism for making long term investments.

- A DIB might be more realistically used to provide a secondary revenue source to supplement capital commitments. If so, it should include an appraisal process for the pricing of air rights at the time of each transaction. The City does this as a matter of course in other contexts – for example, the sale of air rights from City controlled buildings. This same process should be followed for any City-created air rights as a result of the East Midtown zoning. The appraisal for the sale of air rights does not impose a burden on developers that outweighs the public need to ensure the highest possible price. The City’s current approach does not ensure that the value of the DIB is maximized. The City has already taken a step in this direction by providing a floor for the DIB price. However, the initial value of that floor is lower than prevailing prices of development rights in the current market, and there is no stated mechanism for adjusting it as opposed to adjusting the DIB price. The City has said that the \$250 per square foot price is not a subsidy for development but the current framework provides little assurance for that claim. One price for all air rights in a 70 block area runs counter to a common sense understanding of the value of real estate – it varies dramatically by location. In addition, if the City were to permit some residential development as is described later in this statement, this will raise the cost of air rights and therefore create additional DIF revenue. Finally, setting a price in 2013 for a sale to occur in 2017 at the earliest requires a level of prediction that is totally unnecessary. Why should we try to predict the value of air rights four years from now when we can do an appraisal at that time to make sure we have an accurate number? The only conclusion we are left with is that this is a direct subsidy to the real estate industry that ultimately undercuts the amount of money

³ WSJ on Hudson Yards: <http://online.wsj.com/article/SB10001424127887324874204578441223686072506.html>

generated for needed improvements. The DIB, if created, has to have an independent appraisal at the time of the sale of City-controlled development rights, otherwise the public will potentially lose out on tens if not hundreds of millions of dollars in revenue.

- The Department of City Planning staff has informed us that this does not create “predictability” for developers. The City has continued to place predictability for developers over the public benefit. Furthermore, developers in East Midtown are some of the most sophisticated anywhere in the world. They should be able to understand the market value of air rights and plan accordingly, they do it all the time in the context of negotiating zoning lot mergers which we have seen produce almost a new skyline over the course of the last five years. We should worry less about their need for “predictability” and more about the public’s need for a transparent and market-based mechanism for the sale of development rights we control.
- The proposed governance structure for the District Improvement Fund is unacceptable. The Department of City Planning proposes a board of five representatives, all appointed by the Mayor. This panel should be evenly balanced between the City Council and the Mayor, with required representation from both Community Board Five and Six. The mayoral appointees should be required to include representatives from the MTA and DOT in addition to the Chair of the City Planning Commission. A more diverse constituency which better understands the issues in East Midtown will help ensure transparency, accountability and needed insight into the kinds of improvements that should be prioritized.
- A clear timeline for mitigation measures the City committed to make in East Midtown for projects that are already underway, such as East Side Access and Hudson Yards, needs to be described and fully funded, as was promised by the City of New York and MTA during the public review for those projects. The City cannot use this current proposed rezoning to fund prior obligations. The City needs to honor those mitigation agreements separately. It is profoundly troubling that the approach the City seems to be taking is to use this rezoning to fund past commitments. Many of the mitigation measures identified as a result of additional transit passengers from the East Side Access project and Hudson Yards were to the Grand Central subway station and many of these same “improvements”

are now being funded through the East Midtown rezoning DIF. This double dipping, using the East Midtown rezoning to pay for prior commitments, is totally inappropriate and sets a dangerous precedent. The City needs to ensure a better structure for delivering on promised mitigation; in Hudson Yards for instance, there are many pieces that after 8 years remain unaddressed including but not limited to those listed below. A persistent failure to address mitigation and follow through in a timely way has compromised the integrity of public statements about the benefits of rezonings. Given that the administration only has a few months left, the commitment to follow through on any mitigation measures outlined for East Midtown is a source of real concern.

- 1). The City needs to secure a replacement site for Site M (west side of Tenth Avenue, West 40th and West 41st Streets), 155 units of affordable housing for moderate and middle income. The site has not been acquired by Hudson Yards Development Corporation as originally planned.

- 2). Hudson Park & Boulevard, an approximately 4 acre system of broad tree-lined parks and open space, will run between Tenth and Eleventh Avenues from West 33rd to West 39th Streets. The Park will extend from West 33rd to West 39th Streets. The Boulevard will extend from West 33rd to West 38th Streets on the east side of the Park and from West 35th to West 38th Streets on the west side, and will be approximately 30 feet wide. The Park & Boulevard will be built in two phases. The first phase, presently under construction, is located between West 33rd and West 36th Streets. The second phase, located between West 36th Street and West 39th Street, has not begun construction. The second phase consists of Blocks 4, 5 and 6. Block 4 (West 36th - West 37th Street) will soon be constructed and completed by the end of 2014. However, there are no plans yet for Blocks 5 (West 37th to West 38th Street) and 6 (West 38th to West 39th Street).

- 3). Restart and finalize efforts to develop affordable housing on the NYCHA Harborview site at West 56th Street, west of Eleventh Avenue.

- 4) Greening of Dyer Avenue between West 34th and West 41st Street.

- Improvements specific to this East Midtown proposal should be described in detailed plans and should be accompanied by a budget. Thus far, the MTA has not studied carefully improvements to the bus network, cross-town circulation on 42nd Street, improved ferry service on East 42nd Street (or other locations) or the E/M/6 stations in East Midtown, among many other improvements. A real transit strategy needs to be developed, not simply a re-statement of commitments that need to be done as a result of prior projects.
- Specific transit connections to new buildings that are located on top of transit access need to be identified and required for those sites. These requirements need to be clearly described in the zoning text so that the public has a clear sense of what the public amenities of these new buildings will be at the time they are built. These entrances should be appropriately sized with clear visibility from the street and appropriate materials and signage. The existing zoning requires “a major improvement of the ... pedestrian circulation network” at Grand Central as part of the special zoning permit that allows increased density. The proposed zoning allows substantial increases in density without an on-site circulation improvement. This should continue to be a requirement for those sites which afford opportunities to connect to transit – which include LIRR in addition to the subway network. LIRR intended to create more entrances to East Side Access than they can afford to build today, requiring new entrances instead of simply an easement would help to address this funding shortfall.
- One of the principles for a better East Midtown identified by the Multi-Board Task Force is that there needs to be a comprehensive strategy for the public realm. Unfortunately, in its proposal to rezone East Midtown, the City has the cart before the horse. There is not yet an agreed upon plan for the public realm as a foundation for the rezoning. The City could have prepared a plan to improve the public circulation system of Terminal City, identified the improvements each development should make to better connect the new building to streets, transit and other buildings and then drafted zoning to implement that plan. Instead the City prepared a plan to collect money from developers and to use that money to make improvements which have yet to be fully identified or budgeted. The logic of incentive zoning is that there is a nexus of proximity and purpose between what is granted and what is required. A plaza is a classic example: an open space for

circulation and repose on the site of a building which is granted additional density in return for an amenity that ameliorates that density. The proposed zoning for East Midtown weakens the nexus of proximity and purpose: funds from DIBs sold in one corner of East Midtown could be used in an opposite corner; funds could be used for work that might more appropriately be paid for out of MTA or City capital budgets; and considerable density could be added to the parcel without it providing a significant improvement to the public circulation system. It is symptomatic that the proposed zoning text for East Midtown deletes Map 4: Network of Pedestrian Circulation (below).

The existing text, Section 81-635, makes a transfer of development rights by special permit conditional on a major improvement to Terminal City's pedestrian circulation system:

"As a condition for granting a special permit pursuant to this Section, the design of the #development# or #enlargement# shall include a major improvement of the surface and/or subsurface pedestrian circulation network in the Subdistrict (as shown on Map 4 in Appendix A of this Chapter). The improvement shall increase the general accessibility and security of the network, reduce points of pedestrian congestion and improve the general network environment through connections into planned expansions of the network. The improvement may include, but is not limited to, widening, straightening or expansion of the existing pedestrian network, reconfiguration of circulation routes to provide more direct pedestrian connections between the #development# or #enlargement# and Grand Central Terminal, and provision for direct daylight access, retail in new and existing passages, and improvements to air quality, lighting, finishes and signage."

The problem this presents is that by not showing what pedestrian circulation improvements would be expected on which parcels, the developer must negotiate improvements with the MTA and the City. The more appropriate approach would be to supplement the existing map with specific improvements, providing predictability for the developer, the MTA, the City and the public. Especially given the new East Side Access network, where fewer entrances are being built that were originally proposed, new development might address this deficiency by providing new connections. A clear set of transit connections needs to be required where connections can be made and needs to be carefully described in the

zoning text, providing both developers and the public a clear understanding of what is required on each site.

- The City should work with building owners that have closed the connections to the transit network to re-open those connections to improve access to the below-grade network. More broadly, the City needs to work with owners of privately owned public space in a far more collaborative way to ensure that improvements can be made to these public spaces in a timely fashion. The City also needs to enforce existing requirements for public accessibility; in some cases, building owners have inappropriately closed off access to spaces which should be public.
- As with other kinds of changes and improvements to the public realm, the City and the MTA need to identify a clearer process for soliciting public input moving forward to ensure the public is well educated and informed of changes being contemplated.
- Currently, the proposed texts in 81-621 says that an increase in FAR is permissible when “either a contribution has been deposited in the #East Midtown District Improvement Fund#, in the amount set forth in paragraph (b) of this Section, or a contribution in-kind has been made in accordance with the provisions of paragraph (c) of this Section.” This use of “either...or” as opposed to just “or” precludes the combined use of paying into the DIF *and* a contribution in-kind for a specific project. Zoning Resolution 12-01 states that “‘or’ indicates that the connected items, conditions, provisions or events may apply singly or in any combination” while “‘either...or’ indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.” We support the inclusive “or” as opposed to the exclusive “either...or” and ask that “either” be stricken from the proposed 81-621 so that a development be able to combine both mechanisms to achieve maximum public benefit within the framework of the proposed new regulations.

Alternative Funding Strategies

While we believe developers should be required to mitigate the various impacts identified in the EIS, we consider DCP’s proposed approach to be unwise. Under the proposed DIF mechanism, there is no assurance that the above- and below-grade infrastructure investment that is needed to

address current, impending (impacts of East Side Access, extension of the 7 line, background population growth) and potential (East Midtown growth due to rezoning) problems will precede development and increased density. While DCP has repeatedly emphasized the fact that dollars will be placed in DIF before a building permit is issued, those dollars would likely be insufficient to fund the totality of the transit improvements essential to mitigate against the increased density of new development. Furthermore, given the time needed to agree on improvements, develop construction drawings, bid the project out and finally construct it and given the MTA’s flexible relationships with deadlines, there is little reason to believe these improvements will be delivered before the building (which contributed funds and therefore density) is constructed.

Calculating a scenario vividly demonstrates how the DIF is an inadequate way to fund infrastructure. Mary Ann Tighe, former chairperson of REBNY and one of the principal supporters⁴ of this rezoning, said “we would be lucky if, in a 10-year period, we got three buildings out of this.” If we take this real estate expert’s opinion as a reasonable possibility, basic arithmetic demonstrates why DCP’s approach fails to bring sufficient funds for below-grade transit infrastructure improvements. Since sites #4 (Block 1277), #7 (Block 1279) and #9 (Block 1281) are projected by DCP to be developed in the next 20-year period, it’s conceivable that these could be the three buildings to be built in the next ten years.

Site #	Lot Sq Ft	Built Sq Ft	Built FAR	Future Sq Ft (with 30 FAR)	Discounted DIB # Sq Ft	Regular DIB # Sq Ft	TDR # Sq Ft
4	43,291	688,488	15.90	1,298,730	0	389,619.00	259,746
7	43,261	700,346	16.19	1,297,830	51,480.59	337,868.41	259,566
9	43,313	598,248	13.81	1,299,390	0	389,817.00	259,878
Total	129,865	1,987,082		3,895,950	51,480.59	1,117,304.41	779,190
Type DIB Sq Ft		# Sq Ft	\$ per Sq Ft	Total \$			
Regular		1,117,304.41	\$250	\$ 279,326,102.50			
Discounted		51,480.59	\$125	\$ 6,435,073.75			
				\$ 285,761,176.25			

For each site, we show the lot sq ft, the built sq ft on the site, the FAR that built sq ft represents and the # of sq ft that can be built with 30 FAR.

Discounted FAR for Site #7’s Non-Complying FAR:

Since site #7 is overbuilt by 1.19 FAR, the # of discounted sq ft that would be purchased is calculated by multiplying the lot sq ft by 1.19.

⁴ Please see REBNY video on East Midtown with Department of City Planning.

15 FAR → 18 FAR & 24 → 30 FAR through DIB:

To go from a base of 15 FAR to 18 FAR and then from 24 FAR to 30 FAR, developers must purchase DIB FAR. Consequently, the regular DIB sq ft is calculated for each site by multiplying the lot sq ft by 9. For site #7 however, the regular DIB sq ft is calculated by taking the lot sq ft multiplied by 9 and then subtracting the discounted DIB sq ft #.

18 FAR → 24 FAR through TDR:

To go from 18 to 24 FAR, developers can either purchase TDRs from a landmark or purchase DIB FAR. Since the DIB FAR price is statutorily set under the proposed rezoning, the TDR sellers will most probably price their sq ft under the DIB price and a developer therefore will purchase TDR sq ft before DIB sq ft. Consequently, we assume (and DCP agreed with this assumption previously) that FAR between 18 and 24 will not come through DIB purchases until all available TDRs have been purchased.

To recap, in this scenario three properties in the proposed Grand Central Core have been built to maximum FAR and the DIF generates \$286 million. Estimates for the Grand Central Subway Station and the Intermodal Connection in GCT projects are \$375 million. This reasonable scenario proves that over a ten year period we can have over 1.1 million new sq ft of commercial office space with insufficient DIF revenue to fund the two Grand Central infrastructure projects the MTA presented as critical to alleviating current and impending demand with East Side Access and the 7 train extension.

<u>Project</u>	<u>Est. Cost (millions)</u>
Grand Central Subway Station	\$ 175-225
5 Av/53 St	\$ 50
Lexington Av/51-53 St	\$ 40
Intermodal Connection in GCT	\$ 75-150
Total	\$ 340-465



It should be further noted that under this scenario, no improvements to the public realm would necessarily come about with these three developments. This scenario would see no on-site improvements and no additional in-kind transfers to the pedestrian or transit networks. This scenario also assumes the MTA will not exceed the cost they are currently projecting for

construction, which is a significant, and dubious, assumption. If the project costs were to increase because of inflation or cost overruns then this analysis only further illustrates the insufficiency of the City's approach more dramatically.

As we have shown, based on REBNY's estimates of development, the proposed DIF is an inadequate mechanism to ensure that new density resulting from a rezoning will be adequately mitigated by 2027 (10 years after the sunrise, the time REBNY suggests three new buildings will be complete). Irrespective of increased density, there is an urgent need for this transit infrastructure given both current overcrowding and the impending strains that will come with East Side Access and the extension of the 7 line. By failing to predictably address the existing infrastructure issues (mitigation for Hudson Yards & East Side Access) and the extraordinarily congested 4/5/6 lines (116% of transit capacity) and by failing to predictably fund infrastructure, we are not creating the kind of 21st century office district New York City needs.

A further problem with the proposed DIF is its structure. The flexibility desired by DCP necessarily means there is uncertainty as to what the DIF Committee will choose to fund. Funding could, in theory, be used for street resurfacing and other basic at-grade improvements that would normally be undertaken through general city maintenance. In addition, as is the case with the Penn Center Subdistrict Fund⁵, the money may languish⁶ and not be spent at all for a variety of political and bureaucratic reasons – as Dan Biderman noted at a ULI Forum on the rezoning, the money has been in an escrow account for over 10 years.

Furthermore, the existing TDR special permit allows a development to buy and transfer floor area from Grand Central Terminal to the development site. 5% of the purchase price goes to the maintenance of the landmark terminal; again there is little clarity or public understanding of how or if this money is being spent. Budget decisions that don't involve transparent processes and public engagement are an invitation to poor decision making and seem to be more a reflection of negotiating position than a sincere attempt to solve these problems in a collaborative and constructive manner. Despite the original intent, there is little indication that these funds are well managed.

⁵ http://www.comptroller.nyc.gov/bureaus/audit/06-13-05_FM05-113A.shtm

⁶ This issue was raised by Dan Biderman at a ULI Forum in March of 2013. See 81-52 (b) 8 of the ZR: <http://www.nyc.gov/html/dcp/pdf/zone/art08c01.pdf>

Potential Solution: Infrastructure Through Bonding

We have demonstrated that the MTA transit improvements need to be made now (as has been stated by the City and the MTA) and not at some later date contingent on the vagaries of future private sector development. Since these improvements are not part of the MTA Capital Plan, the City or a creature of the City should bond out the value of these improvements and enter into an agreement by which the MTA receives these funds for purposes of undertaking these East Midtown transit improvements, as was done with Hudson Yards.

Any financing mechanism in a proposed rezoning of East Midtown must include secured commitments for all the capital funds that are required to create a 21st Century infrastructure worthy of East Midtown. Further study is needed to identify the full scope of potential improvements but they could include: a river to river transit strategy for 42nd Street, Bus Rapid Transit, improved bus service on Midtown avenues, improved ferry service and completion of Phase II and III of the 2nd Avenue subway. However, in order to illustrate the point, let us use the figure the MTA identified in 2012 for required improvements - \$465 million - and add to that figure additional costs associated with public realm investments of an additional \$50-\$75 million dollars.

Under a bonding scheme, either the City or a City-created creature like the Hudson Yards Infrastructure Corp would bond out approximately \$540 million (\$465 +\$50-75 million) to make the needed improvements. The City would by local law create an assessment district coterminous with the lots included in the proposed East Midtown Subdistrict in which commercial property owners would pay debt service on these bonds in accordance with their assessed value. While we do not take a position on the length of bond maturity, the 40 year repayment period used for Hudson Yards could be a model. The \$465 million in today's dollars represents about 1.6% of the value of all properties impacted by the proposed rezoning or 1.8% of the value of all the properties fully within the proposed rezoning borders. As revenue comes in from the DIB, the property owners could then be paid back through a similarly discounted tax mechanism if needed.

Is world-class transit access worth 2% of the property value of East Midtown property owners? Better said—would it be worth it for property owners to ensure world-class transit through

paying less than 2% of their value amortized over 40 years—to prevent further degradation of neighborhood transit conditions? We think so. The bonding out of an improvement and collection of debt service from property owners who most acutely benefit is fully authorized by New York State’s “General City Law”

§ 20. Grant of specific powers. Subject to the constitution and general laws of this state, every city is empowered:

11. To construct and maintain public buildings, public works and public improvements, including local improvements, and assess and levy upon the property benefited thereby the cost thereof, in whole or in part.

When comparing a bonding / assessment with the DIF plan there are three principal differences:

1. With bonding-assessment, funding is sufficient for transit. With the DIF, it is not.
2. With bonding-assessment, investment comes now to alleviate current problems and mitigate future density. With the DIF, there is no such guarantee.
3. With bonding-assessment, we ask all those commercial property owners whose bottom line dips with inadequate transit and rises with world-class transit—to contribute to improving their district. This is the same principle as a BID. With the DIF, we ask for a handful of new developments to pay for all of the cost of fixing today’s problems and mitigating parts of the East Side Access and 7 Train extensions. In both cases, we’re asking the private sector to pay for important transit improvements that benefit their neighborhood; in the bonding/assessment approach however, these improvements can commence immediately and will be fully funded with the burden distributed evenly with the benefit.

Urban Design/Bulk Rules

Density needs to be more carefully tailored to an urban design framework for the neighborhood and needs to include far more public oversight and review.

- Some density increases are appropriate but only to 24FAR in the GCT Subdistrict (which is still an increase over 21.6FAR) but should only apply to those sites that have potential connections to transit. Those sites that can provide meaningful connections to transit should be allowed to build larger buildings because of the benefit derived to the public from better transit access. A reduction in density to 21.6FAR in the Park Avenue corridor (still an increase in the allowable density) better reflects the context of the largest buildings along Park Avenue. There is no compelling reason to increase the density beyond this amount; these densities are consistent with the largest buildings in East Midtown. The MetLife building, for instance, is 18FAR; the former Bear Stearns building is approximately 21.6FAR. These densities would still be consistent with many of the goals of the rezoning and would better tailor the bulk of the buildings to many of the narrow streets on which they would be located. The Department is proposing 30FAR on sites which are incredibly narrow streets such as 43rd Street or 44th Street and Madison. This contradicts the underlying urban design rationale of the Zoning Resolution which allows the highest densities on wide streets. A reduction in the allowable FAR also reduces potential shadow impacts and limits the impact new buildings may have on the skyline. The other buildings the Department has cited in their presentations – the Bank of America building on 42nd Street & Sixth Avenue or the new Goldman building on West Street - are on corridors which are suitable for extraordinary density given the width and openness of the urban design context. The same cannot be said for the buildings along the cramped and narrow side streets of East Midtown. And even these buildings do not approach the 30FAR the Department is proposing in the GCT Subdistrict, which the Department has not been able to justify as an appropriate density.
- A special permit process for all buildings over 18FAR which allows the public an opportunity to evaluate transit connectivity, its relationship to the public realm strategy, its architectural relationship to Grand Central (if in the Grand Central Subdistrict) and the building's impact on the skyline. The following images developed by Michael Kwartler, an expert on NYC Zoning and one of the principal authors of the Special Midtown Zoning text, make clear that the urban design implications are profound and need to be considered as development occurs. The Department's insistence on as-of-right construction is not consistent with the planning framework in the rest of Midtown and the

public has the right and responsibility to be engaged with the future of this neighborhood. The elimination of certain special permits, and the administrative granting of the right to purchase air rights, would result in an attendant decrease in the role of ULURP and an undermining of public engagement no matter how idealistic the stated goals. There is no substitute provided for the role that public process currently plays in these actions. It is being diminished and/or eliminated and, along with it, the role of public input in shaping our city. This will also address many of the concerns raised by the Hotel and Motel Trades Council about the need for a more careful review of new hotels in East Midtown because it will permit review for those buildings which from an urban design, streetscape and transit perspective require such a review. It is also unfair to allow as-of-right floor area increases for the DIB but require a landmark property owner to go through a special permit process. This poses an even greater burden on landmark buildings.

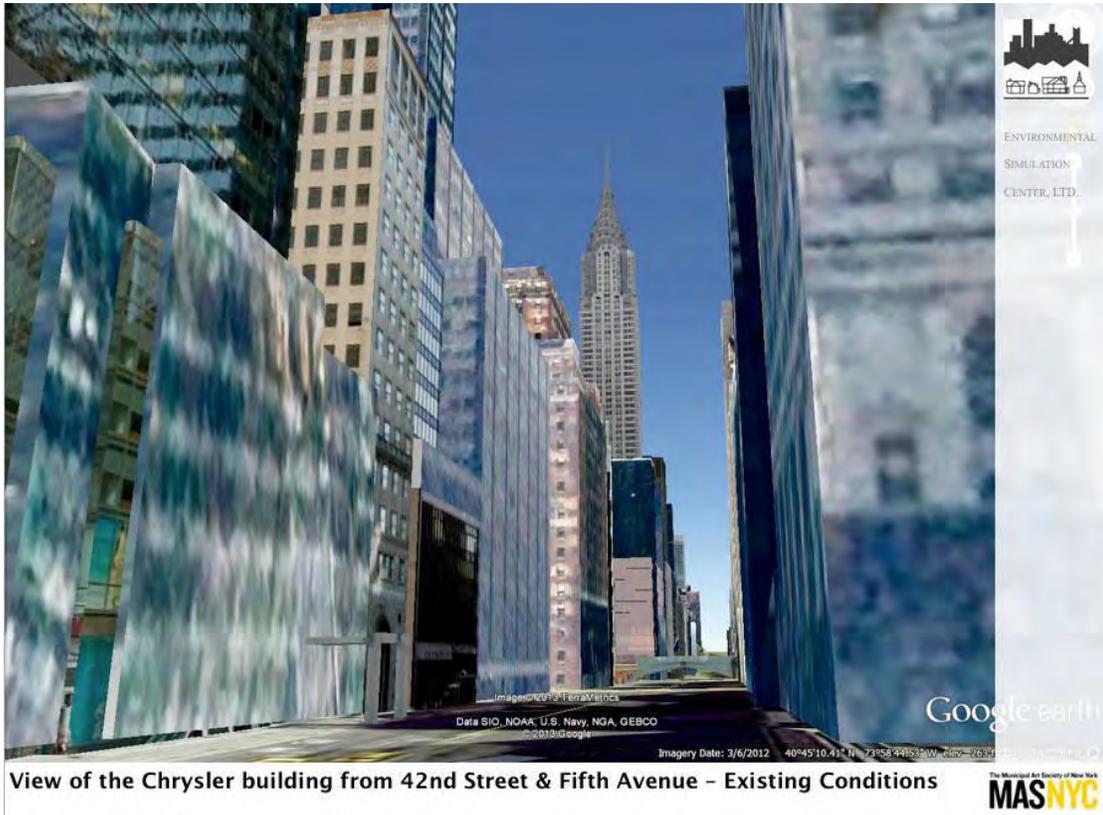


View of East Midtown from the Southwest - Existing Conditions

MASNYC



View of East Midtown from the Southwest- Potential build-out (30.0 FAR) under City's proposal
02/24/2013

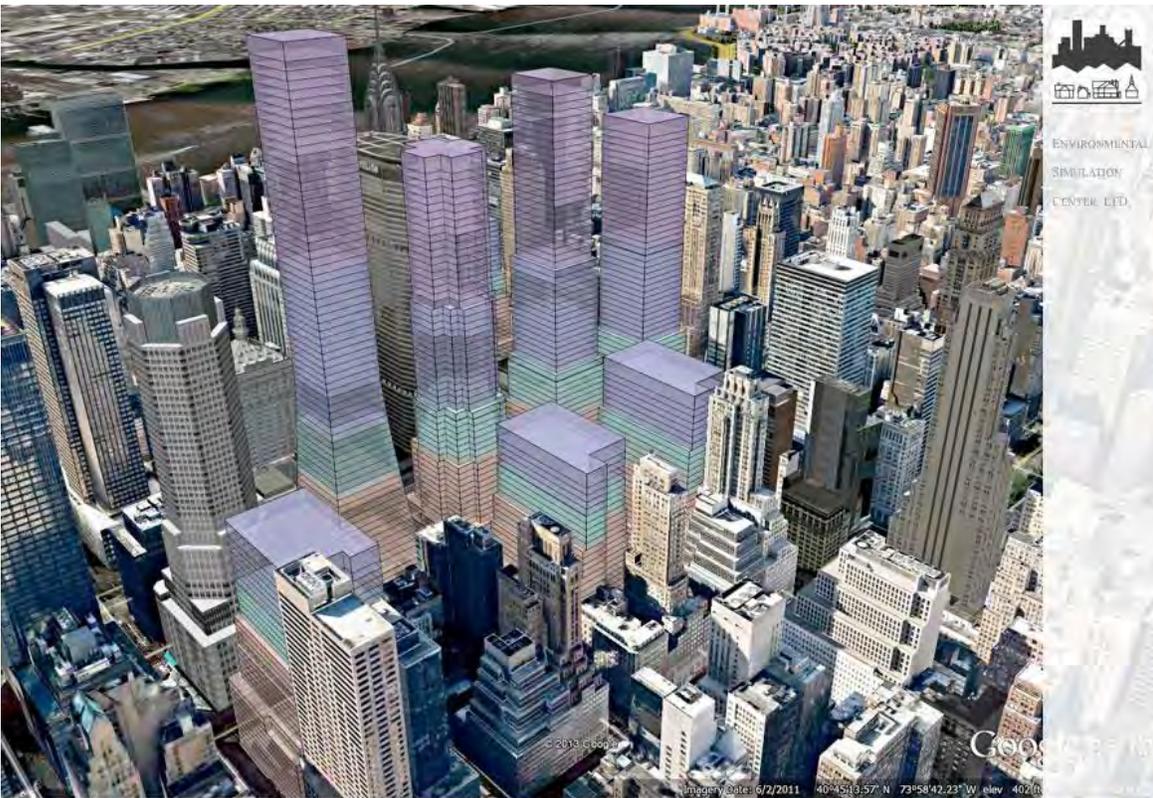


⁷ Views courtesy of MAS & the Environmental Simulation Center – developed using height & setback envelopes and a slightly modified version of the Reasonable Worst Case Development Scenario outlined in the DEIS.



View of East Midtown from the Northwest- Existing Conditions

MASNYC



View of East Midtown from the Northwest- Potential build-out (30.0 FAR) under City's proposal

MASNYC

- Bulk flexibility for Park Avenue. Given the lack of streetwalls on this corridor, a rigid streetwall requirement is not “contextual” nor will it create the kind of experimental and dynamic architecture Park Avenue has seen and could see. L&L Holding’s design for 425 Park Avenue is an example of a site that would benefit from a more dynamic set of rules and where the public would gain a new signature open space on Park Avenue. The Park Avenue context above East 46th Street is not one of the substantial street wall uniformity that characterizes Park Avenue north of East 57th Street. 30% of the block fronts on the west side of the street and 70% of the block fronts on the east side of the street (where 425 Park is situated) have buildings that do not provide the street wall required by the proposed text. More flexibility should be permitted.
- View Corridors. The street wall orthodoxy is applied too rigidly in the East Midtown zoning, as discussed above. Park Avenue is a location where bulk flexibility should be encouraged. 42nd Street, given the location of two of the most iconic buildings in New York City - Grand Central Terminal and the Chrysler Building - deserves a more finely calibrated urban design study which is absent from the proposed rezoning. The Department should put in place bulk rules which seek to pull buildings back from 42nd Street in order to allow east/west views of Grand Central and Chrysler. This will not only serve tourists and New Yorkers alike as a clear wayfinding mechanism, but it will allow for the kinds of views which inspire us and create an incredible connection to the City. The kinds of views that have inspired generations of New Yorkers - artists, filmmakers, tourists - and that create a unique visual identity (the kind of identity other cities like Shanghai and Tokyo are searching for but New York already has), is in danger of being lost if we don’t consider the urban design context more carefully. This approach is used along the waterfront and is no less important here to help with wayfinding, to protect architectural context and to allow new development which is compatible with the existing built form.
- An environmental requirement that mandates new buildings exceed the energy code by 20% at the time of the building’s construction. Given that building codes undergo intense scrutiny from the private sector and represent the absolute minimum that all buildings must achieve, and given that LEED certified buildings must, at a minimum,

beat this code by 10% or more when including all building loads in the calculation, it is entirely reasonable to expect that a handful of new, iconic buildings designed to make East Midtown a globally competitive, 21st century commercial district can exceed code requirements by 20%. It is especially important to ensure that buildings are required to exceed the energy code in place *at the time the buildings are constructed*. For example, a building built in 2017 would need to exceed the 2017 energy code requirements by 20%. The rationale for this provision is that as time passes and technology advances, building codes will require greater and greater efficiency; these new buildings should be expected to exceed the standards of the time, not the energy code of 2013. In fact, based upon analysis by the US Department of Energy, the new New York State energy code that will go into effect this fall will require energy savings of about 20% *more* than the current code for large office buildings. Therefore, the 15% improvement suggested by City Planning in the zoning text amendment will become irrelevant, since it will require less improvement than will be already required by code. Tying the 20% mandate to the code in effect *at the time the building is constructed*, thus keeping the requirement "evergreen," is the simplest way to avoid being overtaken by events. If this is not done, the energy performance portion of the zoning text amendment will be outdated almost as soon as it is adopted. In addition, a minimum façade performance requirement should also be introduced. This requirement will ensure that the facades of buildings, which over time will account for a more significant piece of a building's energy footprint, will be regulated more tightly.

- A retail or public use requirement for the top floors of new buildings – one of the elements of these buildings historically is that the public is allowed some measure of access, whether on observation decks or restaurants/bars. For all buildings over 18 FAR public access to the skyline should be evaluated. The Department has noted the need to build more “iconic” buildings in NYC and this is indeed a feature of many of these iconic buildings worldwide including Renzo Piano’s Shard, a building that the Department has often cited in their presentations. It’s also been a part of the development history of many buildings from the Windows on the World, to the Cloud Club, to the Rainbow Room etc. By allowing some form of public access, whatever views and experiences are lost of the NYC skyline will be replaced by new ones which the public can enjoy. It would be a missed opportunity for these towers to only have corporate board rooms on

top of the buildings instead of a more public use.

Public Realm

The Multi-board Task Force Principles for East Midtown assert that a Comprehensive Public Realm Strategy is needed as part of this zoning plan. Although a plan to create a plan was announced at the start of ULURP, after the Multi-Board Task Force and others have requested it for over one year, such a plan is not included in the ULURP application, and we will not have the opportunity to comment on it, or to provide meaningful input as a part of our recommendation on the ULURP actions. In addition, Community Boards were not involved in the development of the scope of work or the selection of a consultant – gestures that would have suggested some real interest and concern for engaging with the community in these conversations. This lack of transparency has plagued the process from the beginning and continues to erode trust in the process moving forward.

The text amendment as written in the ULURP documents addresses public realm improvements very specifically for "qualifying sites," while the remainder of the public realm is either unaddressed or vaguely identified as a possible improvement utilizing District Improvement Funding. The zoning text amendment is not a plan - it does well with zoning increases while providing little specificity for the public realm.

Examples of the type of analysis and planning that should take place include:

- 1) Sidewalk widening along Madison, Lexington and Third Avenues as well as 42nd and 53rd Street. While not easy, we would expect at least a study of pedestrian and vehicular traffic along these major avenues and streets to generate creative ideas to improve the already over-congested pedestrian network on existing sites. Ideas could include some kind of hierarchical pattern of street use, such as "through streets," which the City has implemented already. This may offer the opportunity to narrow the right-of-way through "bulb-outs" at corners in strategic areas and on strategic frontages in East Midtown. This could also include reducing the vehicular right of way.

- 2) An expansion of Pershing Square a block to the south to 40th Street.

- 3) The possible expansion of the Park Avenue median.
- 4) Traffic calming on 42nd Street in front of Grand Central to create a more vehicular/pedestrian shared space.
- 5) The inclusion of required public space on particular development sites.
- 6) The reprogramming of existing Privately Owned Public Space to better serve the needs of East Midtown.

During the last DCP presentation, streetscape improvements were discussed with little specificity in terms of location. Further study of creative strategies such as those suggested would allow urban design improvements to the pedestrian network and greatly enhance the experience of pedestrians in East Midtown.

- Transparency and consultation for the public realm study needs to be a critical priority of the work otherwise it will not enjoy the support of community members and will therefore be very difficult to implement. A clear plan for consultation and collaboration needs to be developed immediately. It is unfortunate that the public outreach for the plan only begins after the Community Board has offered its recommendation on the rezoning.
- Just as with infrastructure, a complete funding plan (not completely dependent on the DIB) should be developed which does not rely on development happening in order to produce funding for investments needed immediately (please refer to discussion above on alternate funding strategies in the infrastructure discussion).
- Mandatory building setbacks on 42nd Street to widen the sidewalk along 42nd Street and to improve the view corridors to Grand Central from the east and the west as those buildings adjacent to Grand Central are redeveloped on those qualifying sites.
- Vanderbilt Avenue is not a priority - remove reference in the ZR text. The Task Force has indicated to the Department of City Planning that a comprehensive strategy is the

priority and the explicit inclusion of Vanderbilt Avenue in the zoning text prior to the completion of a public realm plan by the consultants and contrary to the stated desire of the Task Force is not productive. How can we prioritize prior to the completion of a plan/study?

- The consultant team should include a landscape architect in order to ensure that any planting strategy would be carefully developed, given the extraordinary density and limited sunlight in much of this area. Moreover, a clear strategy for implementation and maintenance needs to be described, there is little to no information on either.
- A clear strategy to connect the new East Side Access Concourse to new developments and sidewalks, East Side Access will drop people in a terminal which is deep below-grade (approximately 140' below sidewalk level) and the public realm plan needs to include a clear understanding of how those people will be able to get to the sidewalk or subway levels and which new buildings will provide new connections.

Use Regulations

We appreciate the City's interest in maintaining New York's economic vitality through the proposed East Midtown Rezoning; however, we regret that the proposal is not more forward looking and that a stronger effort is not made to comprehensively consider East Midtown as a place.

In particular, we are concerned about the emphasis on commercial development, at the expense of residential or community facility development. The proposal establishes special floor area provisions for three categories of sites within the new Subdistrict: qualifying sites, sites retaining non-complying floor area and all other sites.

Those first two, qualifying sites and those sites retaining non-complying floor area, are allowed to build above the base floor area ratio as-of-right under the proposal - but, the buildings' floor area on both types of sites must be composed entirely of commercial uses.

This narrow focus in the proposal and in the Draft Environmental Impact Statement on

expanding commercial use without allowing for the possibility of residential use is antiquated and not reflective of the trend toward mixed-use development seen in other cities' model business districts. The Financial Times recently ran an article about the City of London, which is rapidly building residential units in a heavily commercial district because city officials have found that people want to live and socialize where they work.

The proposed rezoning would be more cohesive in the short term and more successful in the long term if it accounted for the pivotal role mixed-use development has on the vitality of a desirable and successful business district.

The proposed text should be strengthened by removing the requirement that buildings be composed entirely of commercial uses in order to achieve the qualified site designation or to retain non-complying floor area.

- An allowance for residential use in all new buildings. If the Department continues to be concerned with residential outcompeting commercial space then a cap on the residential percentage of the building would be appropriate. Based on other precedents and buildings (Time Warner & Bloomberg), 25% is an appropriate restriction. In addition, if the Department really believes that residential conversion is a threat to the future of Midtown – a concern that the Task Force does not share – then the Department should include a restriction on the ability to convert to residential. This kind of requirement is in place in other neighborhoods and could readily be applied in East Midtown. Residential floor plates also allow for more flexibility with respect to building design and will create a more varied skyline and will support the creation of the kind of architecturally “iconic” or “superior” buildings the Department is seeking. This mixed use provision enjoys the support of the community boards, civic planning groups, elected officials, and the real estate industry.
- A retail requirement for all avenues that permit building lobbies but require a certain percentage (no less than 60%) of a building’s street frontage should have active retail uses.

Landmarks

One over-riding concern with the DEIS is the lack of protection for historical buildings in the proposed rezoned area identified by LPC as possible designations. While the designated landmarks in the area will continue to be protected from the wrecking ball, the real challenge is how to preserve the eligible historic resources.

According to the EIS, of the 56 eligible resources in the area, 14 are in projected or potential development sites. Of these, 11 are LPC eligible and three are New York State eligible. A list of the 11 LPC eligible buildings is below. The EIS states that these buildings could be partially or completely demolished and will not be protected under the proposed rezoning. Just by listing these buildings in the EIS, the problems have already started. One of the endangered resources, the American Encaustic Tile Company Building at 16 East 41st Street, is currently having its façade stripped. Also, the former Hoffman Auto Showroom by Frank Lloyd Wright, at 430 Park Avenue, after receiving a letter from LPC that it was interested in a possible interior landmark designation, was demolished within days.

Unless something is done immediately, the remaining non-designated historic resources are in danger of being altered or demolished.

- LPC should immediately calendar the remaining buildings it considered for possible designation.
- LPC should consider using standstill agreements to protect the remaining 10 buildings. Such agreements provide that the owner agrees not to alter or demolish the building and LPC agrees not to calendar the building during the term of the agreement. In the past, LPC has successfully used this method to provide continuing protection for possible eligible buildings.
- DCP and LPC should meet with the Department of Buildings and work out a procedure for the remaining 10 buildings so that if any permits are requested, DOB will give LPC notice and will not issue any permits for an agreed period of time.

- We would also urge that LPC reconsider the remaining 40 buildings that were listed by several preservation organizations as potential eligible landmarks in the proposed rezoned area and to respond in writing, as we have repeatedly requested, with an explanation as to why these buildings are not being pursued for designation.

The 11 Endangered Buildings:

- 22-24 East 41st Street
 - 100 East 42nd Street
 - Six East 45th Street
 - 45 East 45th Street
 - 509-511 Lexington Avenue
 - 525 Lexington Avenue
 - 250 Park Avenue
 - 830 Third Avenue
 - 50 Vanderbilt Avenue
 - 16 East 41st Street
 - 18-20 East 41st Street
-
- A broader landmark transfer alternative which allows landmarks in the non-Grand Central Subdistrict the ability to transfer their air rights within the Park Avenue corridor through a special permit process which will require LPC and CPC approval. This provision is only needed if a DIB is created which will compete with landmark air rights. Adoption of the proposal in its present form will greatly disadvantage those who are responsible for the landmarks' preservation. These landmarks will have a much smaller set of sites to sell to and in order to sell to all but adjacent sites will need to go through a ULURP (74-79), unlike the as-of-right DIB mechanism.

Few developers will choose to go through ULURP when they can proceed as-of-right by contributing to the DIF. It is unreasonable to treat landmarks located within the Grand Central Subarea differently and better than landmarks located in the Park Avenue Subarea.

While we support desperately needed improvements to the transit infrastructure, it is inherently

unfair to put landmarks at a disadvantage – we need to find appropriate mechanisms for funding transit (see infrastructure discussion) and protecting landmarks. These two goals cannot and do not have to compete against one another. Preserving and upgrading landmarks is also an important public policy goal that can easily co-exist with revenue generation for transit improvements.

There are several ways to achieve this:

1. Give landmarks outside the GCT Subarea the ability to transfer air rights within the Park Avenue Subarea. The allowance of some additional density on Park Avenue is appropriate and allowing landmarks like St. Patrick's, St. Bart's or Lever House the ability to transfer their development rights there will address the serious concerns they have rightfully raised with the proposal.
2. Permit developers in the Park Avenue Subarea to mix DIB and 74-79 air rights from Landmarks.

Citywide Planning

- Based on reporting by the NY Times, the sunrise provision was introduced to ensure that rezoning East Midtown does not compete with developments happening elsewhere in New York City at the request of the Office of Management and Budget. Rather than setting an arbitrary date of July 2017 for development, the sunrise provision should be tied to development goals being met in Lower Manhattan and Hudson Yards and to key infrastructure milestones such as the completion of necessary improvements to the 4/5/6/7 and E/M stations the MTA has identified.
- Though many people commented on the draft scope that the DEIS should examine how the East Midtown rezoning would affect development of Hudson Yards and Lower Manhattan, the DEIS has almost no analysis of this issue. Page ES-3 states, “The level of development projected for the 2033 analysis year is based on long-term projections of the area’s potential to capture a proportionate share of the City’s new office development over the next 30 years,” but there is no discussion of what “a proportionate share means”

or which neighborhood gets what. One of the goals of the proposal is to “complement ongoing office development in Hudson Yards and Lower Manhattan to facilitate the long-term expansion of the City’s overall stock of office space” (pp. ES-9, 1-11), but no clue is given as to what “complement” means. The DEIS states that “tenants of Class A office space, who have been attracted to the area in the past, would [in the absence of this rezoning] begin to look elsewhere for space” (p. 1-10). The “elsewhere” is likely to be Hudson Yards or Lower Manhattan – not Shanghai or London.

- The closest the DEIS gets to a market analysis is the reference on p. 1-31 to a study prepared by Cushman and Wakefield with regard to the 2011 Hudson Yards financing. Scoping comments called for an independent market analysis, but the Response to Comments again relied on the Cushman and Wakefield study (Comment B1.23 p. 11; Comment B2.1 pp. 17-18). The study is only briefly summarized and a copy is not provided. When considering such a central issue as the effect of the proposed action on two other important neighborhoods, such complete and uncritical reliance should not be placed on a study prepared by a different entity for an entirely different purpose, especially a study that did not itself undergo public review. This is an inappropriate delegation of analysis. It is ironic that while the DEIS speaks of competition from Shanghai and London (but provides no evidence of that), there is no mention of competition between East Midtown and these other parts of Manhattan (where it is clear that the competition is quite real).
- The rebuilding of Lower Manhattan is a long-term process and is vital to the restoration and revitalization of that neighborhood. Currently, the redevelopment of the World Trade Center site is on track. As a result of the terrorist attacks on the World Trade Center on September 11, 2001, 14 million square feet of commercial office space in Lower Manhattan was destroyed or damaged, 65,000 jobs were lost or relocated and more than 20,000 residents were displaced. Now, almost twelve years after the attacks of 9/11, Lower Manhattan is in the middle of a renaissance as more residents and businesses have come to the area than were lost during the attacks. By 2012, Lower Manhattan had 8,484 companies, 186 more than were there on the day of the attacks. Employment is also on an upward trend with a current total of 309,500 employees, a trend that is expected to continue to grow as office space comes on line at the World Trade Center

site. The 4, 5 and 6 train lines are currently at 116% capacity. It is currently utilized by many residents, workers and students, and is expected to draw even more riders after the build out of the World Trade Center site. We strongly urge the City Planning Commission to conduct a comprehensive review of how the proposed East Midtown Rezoning would affect Lower Manhattan, with a particular emphasis on the extent to which an upzoning of office and commercial space in Midtown would adversely impact the ongoing redevelopment of Lower Manhattan and Hudson Yards.

Comments on the DEIS

Worst case – Sec. 1.5.1 of the DEIS presents what it calls the Reasonable Worst-Case Development Scenario (RWCDS) and bases much of its analysis on that scenario. The RWCDS does not reflect the new special permit for “superior development” (p. 21-1).

Unmitigatable impacts – The DEIS projects a large number of impacts, proposes mitigation measures for them and identifies several impacts that cannot be mitigated. These fall into four categories: shadows; destruction of architectural resources; some transportation congestion (traffic, transit, pedestrians); and construction impacts.

The third of the unmitigatable impacts – transportation congestion – for the most part results from the cumulative effect of all of the projected development. Thus reducing them would largely involve reducing the scale of the overall rezoning. The fourth impact – construction – is temporary, and serious construction impacts are generally accepted as the price of development.

On the other hand, the first two – shadows and the destruction of significant architectural resources – are permanent, and they tend to be tied to specific new buildings. (The shadow impacts are summarized in Sec. 5.2; the historic resource impacts are summarized in Sec. 6.2.). To address this and other issues the City should require special permits for every new building that would have one of these kinds of permanent unmitigatable impacts. That would mean that a building-specific analysis would be required of whether the benefits of a new building are worth the impacts. This analysis would be conducted at the time when the proposed building is being actively contemplated, rather than possibly decades in advance.

The DEIS contains a very detailed shadows analysis that finds numerous impacts. But the rezoning is so large that any given shadow impact gets lost in the overall consideration of the proposal. Likewise, the DEIS says the rezoning could lead to the partial or complete demolition of 14 historic resources that are eligible for New York City Landmark designation and/or inclusion on the State and/or National Register of Historic Places (pp. ES-56, 6-2).

Creating today the ability to construct a large number of massive as-of-right buildings will tie the City's hands for the next generation or two and will limit future officials to merely ensuring that building code requirements and the like are met. We are now seeing the unanticipated phenomenon of a proliferation of luxury residential towers. They are as-of-right; if the City had the ability now to think through whether all these towers are in the best interests of the city, it is quite possible that not all of them would be allowed, at least in their current configuration. It is not clear why the City should agree now to bind its own hands through a massive rezoning that will allow unmitigatable adverse impacts with no opportunity for further reflection on whether these impacts are worth enduring.

The DEIS needs to analyze an additional alternative of requiring a special permit for any building over 18FAR – the framework in place for most of Midtown and a provision that would allow for the evaluation of unmitigatable impacts related to shadows or historic resources. The DEIS states that “special permits are utilized under the Zoning Resolution where a use should be permitted only where it meets findings and conditions necessary to avoid potential land use impacts which have been identified as associated with the use” (p. 20-5). This proposal fits well within that criterion.

Underlying purpose – A major purpose for the East Midtown rezoning is given as preserving New York City's competitiveness against such other major cities as Shanghai, London, Tokyo and Chicago. The term “competitor cities” is often used. E.g., pp. ES-8, 1-9. However, no evidence whatsoever is given that there is any competition between New York and these other cities based on the building stock. A large number of economic, geopolitical, and other factors determine the locus of the sort of economic activity that occupies major office buildings, but no evidence is presented that the nature of the building stock is a cause rather than an effect. In a somewhat different context, page 3-14 states that the amount of office development that would be allowed by the rezoning “would not be enough to alter or accelerate existing economic

trends,” which seems to run counter to the claim that the rezoning would make New York more competitive against these other cities.

Impact on Other Areas – Though many during the scoping discussion that the DEIS should examine how the East Midtown rezoning would affect redevelopment of Hudson Yards and Lower Manhattan, the DEIS has scant analysis of this issue. Page ES-3 states, “The level of development projected for the 2033 analysis year is based on long-term projections of the area’s potential to capture a proportionate share of the City’s new office development over the next 30 years,” but there is no discussion of what “a proportionate share means” or which neighborhood gets what. One of the goals of the proposal is to “complement ongoing office development in Harlem Yards and Lower Manhattan to facilitate the long-term expansion of the City’s overall stock of office space” (pp. ES-9, 1-11), but no clue is given as to what “complement” means. The DEIS states that “tenants of Class A office space, who have been attracted to the area in the past, would [in the absence of this rezoning] begin to look elsewhere for space” (p. 1-10). The “elsewhere” is likely to be Hudson Yards or Lower Manhattan – not Shanghai or Tokyo.

The closest the DEIS gets to a market analysis is the reference on p. 1-31 to a study prepared by Cushman and Wakefield with regard to the 2011 Hudson Yards financing. We believe an independent market analysis is needed, but the Response to Comments again relied on the Cushman and Wakefield study (Comment B1.23 p. 11; Comment B2.1 pp. 17-18). The study is only briefly summarized and a copy is not provided. When considering such a central issue as the effect of the proposed action on two other important neighborhoods, such complete and uncritical reliance should not be placed on a study prepared by a different entity for an entirely different purpose, especially a study that did not itself undergo public review. This is an inappropriate delegation of analysis.

It is ironic that while the DEIS speaks of competition from Shanghai and London (but provides no evidence of that), there is no mention of competition between East Midtown and these other parts of Manhattan (where it is clear that the competition is quite real).

The “Sunrise” provision is the proposal’s principal method of protecting these other neighborhoods. However, the DEIS (pp. ES-22, 1-24) provides only that no building permits may be issued under the new zoning mechanisms until July 1, 2017. This has little meaning; if

the rezoning is approved in late 2013, it is unlikely that the land assembly, planning, architectural designs and building plans would be ready for many new buildings to seek building permits much before July 1, 2017 anyway. The DEIS lacks any analysis of how that date was chosen or how it fits with the construction sequence, the planning for the other neighborhoods, etc. The discussion of how that date was selected is extremely brief and unilluminating,⁸ and it relies on inappropriate benchmarks, such as the scheduled opening of the extended Number 7 line (p. 20-8). However, the East Midtown rezoning would have an impact on the prospects for development in Hudson Yards and Lower Manhattan as soon as it is adopted (if not already) as proposed tenants would immediately see the prospect of alternative locations that will soon be available. The Response to Comments (Comment B1.22 p. 11) states that “the relationships among various city initiatives need to be coordinated,” but the DEIS does not reflect or describe such coordination.

“Superior development” – DEIS chapter 21 is devoted to the “Special Permit for superior development.” The impact of this device is obscured. It is not included in the RWCDs (as acknowledged on p. 21-1). The DEIS contains tables (p. 21-15) comparing trips under the proposed rezoning with and without the special permit scenario but nowhere do we see trips without the proposed rezoning as compared to trips with the proposed rezoning plus the special permit scenario. Likewise, there is a table (p. 21-17) showing the number of intersections and approaches with significant adverse traffic impacts under the rezoning, with and without the special permits, but we are not told the magnitude of traffic disruptions (e.g. delay times) without the rezoning as compared to the rezoning plus the special permit scenario. The discussions of transit and pedestrian impacts have the same deficiency. (Some additional information that may be useful for such analysis is found in Appendix 7.)

The special permit mechanism itself is set forth only vaguely. The proposed zoning text amendment is printed in Appendix 1 to the DEIS. The “Special permit for superior development” is the subject of Sec. 81-624 (starting on p. 25 of Appendix 1). The introductory text says the special permit’s purpose is “to facilitate the development of exceptional buildings that substantially contribute to the East Midtown Subdistrict through urban design excellence and architectural distinctiveness, outstanding energy performance, the provision of high-quality public space and streetscape amenities and significant enhancements to the pedestrian circulation

⁸ The Response to Comments is similarly unilluminating – Comment B1.19, p. 10. See also Comment B21.20 p. 61.

network.” Some detail is provided on the desired kinds of pedestrian circulation improvements, but not the other characteristics. Issuance of a special permit requires a finding by the Commission that “the public benefit derived from the proposed development merits the proportional amount of additional floor area being granted pursuant to this Section,” Sec. 81-624(c), but that is terribly vague.

District improvement bonus – The DEIS relies heavily on funds from the DIB mechanism to pay for necessary mitigation measures (e.g., the improvements to the Grand Central subway station complex, pp. 12-5, 12-164). However, there is very little discussion of how much money the DIB will generate and when, or how the cash flow from the DIB will correspond to the need for funds for the improvements that are counted toward mitigation. Nor is there a discussion of contingency plans in case the DIB falls short.

Many of those who submitted comments on the Draft Scope called for disclosure of quite a few specified details about the DIB. The Response said that details would be provided in the DEIS. (Response to Comments, Comment B1.29 p. 13.) However, few such details were provided in the relevant pages of the DEIS (pp. 1-19 – 1-20). The call for a contingency plan in case the DIB falls short was specifically rejected (Response to Comments, Comment B1.30 p. 14). The comments about constructing improvements before new density is introduced received only a vague response (Comment B1.36, p. 16).

Miscellaneous comments

P. ES-4 – “buildings in London’s City district, a comparable historic office core, have an average age of approximately 40 years.” – This is presumably in part because many of the older buildings there were destroyed during World War II.

P. ES-68 – With reference to mitigation of certain kinds of historic impacts, the DEIS states, “DCP, as lead agency, will explore the viability of these mitigation measures between the Draft EIS and Final EIS.” This method deprives the public of a meaningful opportunity to comment on the results of this exploration.

P. 1-11 – One of the rezoning’s goals is to “improve the area’s pedestrian and built environments to make East Midtown a better place to work and visit.” The increased pedestrian congestion that the DEIS projects (Sec. 19.7) casts doubt on whether this goal will be achieved.

P. 2-1 – “No significant adverse impacts on land use, zoning, or public policy would occur due to the Proposed Action.” We could not disagree more.

P. 2-23 – The DEIS states that “a project is generally considered consistent with PlaNYC’s water quality goals if it includes” one or more of several listed elements. It is not clear that the proposed rezoning has any of them. Page 2-43 states, “All development facilitated by the Proposed Action would comply with the City’s laws and regulations. Therefore, the Proposed Action is consistent with PlaNYC’s water quality goals.” But the elements listed on p. 2-23 go well beyond compliance with the City’s laws and regulations; the “therefore” on p. 2-43 is inappropriate.

As a related matter, calls for a detailed review of the Proposed Action’s consistency with PlaNYC have been met with a perfunctory response. Comment B2.6 pp. 19-20. Likewise very brief were the responses to the extensive comments about reducing energy demand, Comments B12.1 – B12.11 pp. 39-42; Comment B21.24 p. 62, and about climate resilience, Comments B15.1-B15.2 p. 51.

P. 4-35 – The open space ratios are calculated and compared to the CEQR benchmark and “the With-Action deficiency would be only slightly larger than that in the No-Action condition.” This seems contrary to the claim that the rezoning would improve the quality of the pedestrian experience. More importantly, there is no discussion of the consequences of falling so far short of the benchmark. The benchmark for passive open space is 0.187 acres per thousand people; the “With-Action Condition” has a ratio of 0.064 acres per thousand people, or one-third of the benchmark. (The figures are only very slightly different under the special permit scenario – Appendix 7 p. 5.)

P. 13-24 – The air quality analysis concludes that for 35 development sites, it will be necessary to use Con Edison utility steam; the buildings cannot generate their own heat and hot water without causing air quality problems. However, the Energy section of the DEIS (Chapter 11) does not discuss the adequacy of the Con Edison steam system to handle this load.

In chapter 9 of the Draft Environmental Impact Statement on East Midtown Rezoning and Related Action, the New York City Planning Department (DCP) draws a number of “principal conclusions” that the Proposed Action would not result in a significant adverse impact on the city’s water and sewer infrastructure. The DEIS further states in section 9.2.3 (Stormwater Drainage and Management) that “due to the New York City Department of Environmental Protection’s (DEP) new storm water management requirements established in July 2012, stormwater runoff from new developments is expected to substantially decrease as compared to existing conditions.” That conclusion is inaccurate; in fact, the opposite is most likely the case for the following reasons:

- The conclusion is based on the implementation of DEP’s new stormwater management requirements established in July 2012 for new developments. DEP’s “Guidelines for the Design and Construction of Stormwater Drainage and Management Systems” (page two) requirement applies to "proposed developments that require a New Building permit from DOB (‘new development’) and for proposed redevelopments in combined sewer areas of the city. A different requirement applies to ‘alterations,’ as defined in the Construction Codes and related requirements, for any *horizontal building enlargement* (italics added) or any proposed increase in impervious surfaces.” Many alteration (redevelopment) projects would be excluded because they do not increase the foot print, as per DEP’s requirements. However, these redevelopments that would add office floors would increase the number of people utilizing the building and thereby likely increase water consumption and the burden on the city sewer system.
- New development projects that would be subject to DEP’s new stormwater management requirements would not significantly reduce stormwater runoff into the city’s sewer system. That is because the new projects in the proposed rezoning area could not physically implement fully the most important features of the requirements to help reduce stormwater runoff. The most important features stated in the Guidelines for the Design and Construction of Stormwater Drainage and Management Systems are:
 - Water storage systems
 - Gravel bed systems
 - Perforated pipe systems
 - Stormwater chamber systems

- Rooftop systems
 - Blue roofs
 - Green roofs
 - Multilevel green roofs
 - Uni-directional sloped roof

Most new development projects could only accommodate rooftop systems since all other systems would require a great deal of ground space to be effective. The increased density, water and sewage usage resulting from developments that take advantage of increased FAR to increase office space and density would more than overcome whatever reductions resulted from having a rooftop system that complies with DEP requirements. DCP's own Table 9-8 (Water Consumption and Wastewater Generation in the Future Without and With the Proposed Action) on page 9-14 of the DEIS indicates that the proposed action would generate an additional water consumption of 1,057,071 gallons per day.

The DEIS, at the top of page 9-10, acknowledges that as many existing "buildings in the area most likely pre-date DEP requirements, it is expected that there is little or no on-site detention of stormwater on any of the projected development sites."

Therefore, it is our conclusion that the proposed action stated in the DEIS would increase runoff to the city's sewer system and worsen existing conditions such as street flooding, surcharging sewers downstream, sewer back-ups or combined sewer overflows in surrounding water bodies, all of which are public health and natural resources concerns. Such concerns were made evident by Hurricane Sandy when as much as ten billion gallons of raw and partially treated sewerage gushed into waterways and bubbled up onto streets (*New York Times*, April 30, 2013). In addition, many sewerage pumps lost power due to utility power failures, forcing sewerage backups. Newtown Creek was inches away from overflowing during Hurricane Sandy. The pumping station on Canal Street was overwhelmed, allowing 143 million gallons of sewerage to overflow into the Hudson River.

The Newtown Creek Water Pollution Control Plant (WPCP) is controlled by the State Pollution Discharge Elimination System (SPDES) which permits a total up to 310 million gallons per day (mgd) of wastewater. According to Table 9-3 (Monthly Average Dry

Weather Flows from the Newtown Creek WPCP) page 9-6, on a dry day during July of 2011, Newtown Creek WPCP treated 276 mgd of wastewater and, for the six-month period between July and December of 2011, treated 241.5 mgd. This represents 77% of capacity for the Newtown Creek facility leaving only 23% of capacity for wet days, before even considering the increased wastewater generated by the proposed action.

Energy

On page 11.1 the DCP cites a conclusion that the proposed action would only result in a “minor” increase in demand on the city’s electrical system. The DEIS further states that since new development under the Proposed Action would have to comply with the New York City Energy Conservation Code (NYCECC) of 2010 (Local Law 48), the proposed action would “not result in a significant adverse impact on (the city’s) energy systems”. This conclusion is overly optimistic because it does not take into consideration the code non-compliance elements for redevelopment of existing buildings.

New York City Energy Conservation Code of 2010 allows exemptions for:

- National- or State-designated historic buildings
- Contributing buildings in National or State designated historic districts
- Temporary structures
- Existing buildings that undergo alterations that require a replacement of less than fifty percent of its building system or subsystem

As a result of these loopholes in the building code, the city would not reap the full benefits from energy improvements to conserve energy.

According to Con Edison’s Online Sustainability Report, on July 22, 2011 New York City’s peak demand was about 13,189 megawatts (MW) of electrical energy, breaking the previous high mark of 11,209 megawatts set on July 24, 2010. The peak demand would have soared higher if not for the Load Curtailment Program in place, under which Con Edison pays customers to cut back on power use during heat waves resulting in a reduction of about 500 MW or 3 percent of demand. In addition, appeals were made to the public to reduce electrical energy usage. Despite these efforts, 71,000 customers experienced outages as a result of the heat wave. According to Con Edison’s report, peak demand is projected to increase by about 25 percent over 20 years.

According to New York State Energy Research and Development Authority (NYSERDA), The New York Independent Operator (NYISO) and NYC Economic Development Corporation (EDC) projections indicates that NYC peak demand will soon overtake current capacity. New York City has 9,000 MW installed electrical generating capacity (within the city) and 4,000 MW of imported electrical generating capacity into the city’s power grid but, due to transmission constraints, it can be increased to 5,000 MW maximum. NYSERDA estimates that NYC will require between 6,000 and 8,000 MW of increased capacity over the next 20 years just to keep up with demand. This does not account for 54 MW of projected peak demand by the year 2030 for electric vehicles. Con Edison’s report, “*Electrical System Long Range Plan Assessment Document*,” forecasts that about 380,000 residential electrical vehicles will be registered in New York City. In addition, NYISO calls for “18 percent of reserve capacity above demand, which is not currently being met.”

The assumption that there will be a net decrease of residents is questionable. The recent proposal to convert the SONY Building into a mixed-use building to include residential, the extension of the City’s rent control law due to “an emergency housing shortage” and the unrelenting demand for residential dwellings are all proof that the market will continue to develop housing in East Midtown. And finally – because the assumption that the neighborhood demographic could not shift upward by such a small number as 50 residents in this underserved area is flawed – it is unquestionable that a residential analysis should have been undertaken and its exclusion undermines conclusions presented with respect to open space.

ATTACHMENTS

- A. Multi-Board Task Force’s “Principles for a New East Midtown”
November 8, 2012
- B. Councilmember Garodnick letter to Chair Burden **August 16, 2012**
- C. Councilmember Lappin letter to Chair Burden **September 7, 2012**
- D. Public Advocate de Blasio scoping testimony
- E. Borough President Stringer scoping testimony **September 27, 2012**
- F. Councilmember Brewer scoping testimony **October 9, 2012**
- G. State Senators Krueger and Hoylman, Assemblymember Quart and
Congresswoman Maloney letter to Mayor Bloomberg **January 9, 2013**
- H. State Senators Krueger and Hoylman, Congresswoman Maloney and
Councilmember Garodnick letter to Deputy Mayor Steel **March 13, 2013**
- I. Transportation Advocates letter to Mayor Bloomberg and Chairman Ferrer
March 29, 2013
- J. Preservation Advocates letter to Chair Tierney **April 29, 2013**
- K. Senator Schumer letter to Deputy Mayor Steel **May 6, 2013**
- L. JPMorgan Chase Letter to Multi-Board Task Force **June 12, 2013**

Attachment A:



MULTI-BOARD TASK FORCE ON EAST MIDTOWN

MANHATTAN COMMUNITY BOARDS ONE, FOUR, FIVE, & SIX

Catherine McVay Hughes, *Chair, Community Board One*
Cozey Johnson, *Chair, Community Board Four*

Vikki Barbero, *Chair, Community Board Five*
Sandro Sherzod, *Chair, Community Board Six*

November 8th 2012

PRINCIPLES FOR A NEW EAST MIDTOWN

From the beginning we, as Community Boards, have aspired to be partners in planning the future of East Midtown. We are open to considering new development but it needs to be in the context of a carefully developed plan. As we have stated several times, the issues involved are too important to hastily reach conclusions that will affect New Yorkers for decades to come.

Unfortunately, the approach the Department of City Planning has taken thus far sends a clear signal that a political timetable is guiding this work, not an effort to study the issues carefully and reach a consensus on Midtown's many challenges and opportunities. More time is needed to consider the implications of the issues we and others have raised and we continue to urge the City to carefully address these questions before putting forward a ULURP application.

A class "A" Office District is not just about Class "A" Office *buildings*. It's about efficient, comfortable, and convenient transportation options. It's about diversity of tenants, populations, and ideas. It's about having a civic experience that is worthy of the grandeur of Grand Central Terminal. It's about protecting critical buildings. The focus of this proposal is overwhelmingly on facilitating real estate development. Instead, we should start from what we want to see in East Midtown, what kind of experience we want office workers, tourists, and residents to have, and *then* determine the kind of development that can provide this experience and how best to encourage it.

In order to help frame our vision of Midtown and guide the work of the Department of City Planning, we have developed the following principles that we believe should guide a more careful and comprehensive plan.

These principles will, in part, help shape our response to future land use applications.

- **Infrastructure should precede development**
 - o The MTA made clear in their presentation that even in the absence of any new development there is an overwhelming need for transit improvements in this area. Given the overcrowded subway platforms, the train delays, and poor rider circulation, the additional density that would be added as a result of the City's proposal would only exacerbate the need for improvements. There is no clear commitment that sufficient funds will be available to address this infrastructure need which the MTA has estimated to be approximately \$350-500 million in 2012 dollars. We need to explore alternate funding sources to ensure that East Midtown gets the comprehensive improvements to the infrastructure network it needs in order to be a competitive Class A office district before additional density is added. Among the options we believe merit consideration include the

creation of a tax increment finance mechanism which we understand from the Department would require modifications to state legislation, the creation of a PILOT mechanism, the creation of a special assessment district, or a mixture of New York City capital funding, MTA funding, and federal funding. We trust the Department, in conjunction with the MTA, could develop even more sophisticated approaches to garner the financial resources required. In a neighborhood that is competitive because of the historic commitment to infrastructure represented by Grand Central, we need to continue to innovate. The need to study these possibilities provides a clear rationale for taking more time before moving to ULURP.

- **A comprehensive public realm strategy**

- We support the concept of incentivizing developers to make public improvements. However, the public realm improvements are simply too vague. How can we begin to assess the virtues of a zoning plan when one of the plan's principle objectives is left completely undefined? Without a clear concept of what we're trying to accomplish with this rezoning, we may lose a critical opportunity to reshape East Midtown for the better. In addition to the reconfiguration of Vanderbilt Avenue, we believe studies should be done to examine the following: potential improvements to Pershing Square; widening sidewalks along 3rd Avenue, Lexington, and Madison; widening the Park Avenue Malls; and improving key crosstown streets including 42nd, 47th, 48th, and 53rd Streets. We would welcome the opportunity to have a more detailed conversation with DOT, DCP, and DPR about how to think more creatively and ambitiously about open space. Furthermore, we believe that incentivized zoning can be used to address not only mass transit and pedestrian needs, but also to mitigate adverse impacts of a rezoning and support community initiatives more broadly.

- **A mixed use future**

- We have seen numerous areas of the city shift toward mixed use with great success. The financial district is an example of how injecting a variety of uses (residential, hotel, cultural, etc.) into a primarily office-dominated area can enliven and improve it. Mixed use can be and has been an effective tool within buildings - the Bloomberg building and the Time Warner Center are examples of buildings that have proved successful without compromising their commercial character. It is time to recognize that a diverse mix of uses supports rather than impedes the development of a Class A office district.

- **Protecting potential landmarks**

- We are concerned that the proposal's process does not protect historically valuable buildings. While landmarked buildings are protected, potential landmarks are not. There are scores of buildings throughout the proposed area that are not landmarked (e.g. The Graybar Building and the Roosevelt Hotel) that contribute greatly to the legacy and wonder of East Midtown. A clear preservation plan needs to be described before ULURP to understand what resources will be protected. One method of preservation is to carve out certain sites in order to protect important buildings from development pressure created by this re-zoning. We strongly believe that the preservation of key buildings will enhance this vibrant, uniquely New York commercial district.

- **An environmentally class "A" district**

- We believe the proposal fails to clearly layout an environmental agenda for Midtown. We need to continue to push the boundaries of what is possible and show the world that a successful partnership between private and public interests can create a responsible legacy for future generations. If the existence of aging building stock is truly problematic, there

should be incentives for developers to reach energy efficiency targets and minimize their negative environmental impact. There are no particular features of this proposal which exhibit an innovative approach to thinking about the environment, such as net-zero construction or co-generation.

- **Careful citywide planning**
 - o This proposal, while aimed at addressing the purported needs of East Midtown, lacks cohesion with any development plan for the rest of New York. The effect this proposed development would have on the growth and ongoing change in newer office districts such as downtown Brooklyn and Long Island City should be studied and taken into consideration. We need to meaningfully support a strategy that capitalizes on the underutilized transit capacity of other parts of our city through a comprehensive five borough economic strategy. We cannot afford to move backward by upending our policy of encouraging development in places outside of East Midtown.

- **Protecting public investments**
 - o The City (and indeed the State and Federal government) has made a large investment in office development in both Lower Manhattan and Hudson Yards. The structure and timing of this proposal has the potential to threaten those investments. If new development falters at Hudson Yards, the City could face higher interest rates on bonds that were floated to pay for the number 7 line transit improvements, increasing the project's cost and delaying its completion. During a time of slow economic growth, when many of these new office developments are having trouble finding tenants, we fail to see the urgency to redevelop East Midtown. The "sunrise" provision is designed to prevent this sort of harmful competition, however with such an uncertain economic future ahead of us, a three and half year sunrise after the adoption of the proposal is hardly enough time to predict with certainty that Hudson Yards and Lower Manhattan will be on their feet. We should not put tax payers at such risk.

- **How about our skyline?**
 - o This proposal encourages the development of buildings that will be among the tallest and largest buildings in New York City. Does this proposal consider the effect on our skyline? Does the Chrysler or Empire State Building deserve any special protections? The creation of the extraordinary or iconic building special permit raises many profound concerns about the role (or lack thereof) of design review. Furthermore, the lack of public review for most of the buildings that will result from this proposal will ensure that the public has no role in shaping the future of our skyline. The proposal needs to be re-thought to allow for additional discretion in the review of these extraordinarily large buildings and needs to carefully consider the implications for our skyline.

We firmly believe that meaningful engagement with all the challenging questions we have outlined here must come before a full-fledged proposal is certified.

Attachment B:

DANIEL R. GARODNICK
COUNCIL MEMBER, 4TH DISTRICT

DISTRICT OFFICE
211 EAST 43RD STREET, SUITE 1205
NEW YORK, NY 10017
(212) 818-0580
FAX: (212) 818-0706

CITY HALL OFFICE
250 BROADWAY, ROOM 1880
NEW YORK, NY 10007
(212) 788-7393
FAX: (212) 442-1457

garodnick@council.nyc.gov

Via Electronic Mail and U.S. Mail



THE COUNCIL
OF
THE CITY OF NEW YORK

CHAIR
CONSUMER AFFAIRS

COMMITTEES
LAND USE
EDUCATION
TRANSPORTATION
PUBLIC SAFETY
ZONING & FRANCHISES

August 16, 2012

Amanda Burden
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Chair Burden:

Yesterday I received a copy of the August 10 letter from Edith Hsu-Chen to Vikki Barbero, the Chair of Manhattan's Community Board 5 on the subject of the rezoning of East Midtown. Thank you for your office's detailed responses to a number of issues raised by the Community Board. While we will review all of your responses carefully, I write today to express my continued concern about the speed of this application.

Not only are you putting out your draft scope a week before Labor Day – when many New Yorkers are totally disengaged from the political process – but you also have signaled an accelerated overall timeframe for this project which I believe is unnecessary. Accordingly, I ask you to slow this process down by postponing the date of your scoping session for six months, to March 27. This will give the community sufficient time to review your most recent responses, to react to them intelligently and to adequately prepare for their testimony at the scoping session.

I could not agree more with City Planning's argument that in order to stay competitive, the area around Grand Central needs to develop new office space and to improve the pedestrian network above and below grade. But to say that acting in late 2013, as opposed to early 2014, is "a necessary precursor for investment decisions to be made" overstates the case, especially when you have indicated that this is a build out that will take one or more decades. I understand that the Mayor's term has only 502 days remaining, but that should not be the prime factor driving the timeframe for such an important proposal. Indeed, there is no harm in having this proposal be initiated by the Bloomberg Administration and finalized by the next Mayor, whoever it may be, and for it to be a shared legacy.

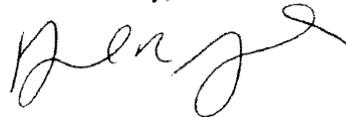


I appreciate that the Department of City Planning (DCP) is considering the potential impacts of this rezoning on other emerging commercial areas by proposing a five-year "sunrise" clause. At the same time, it troubles me that the measuring date for the sunrise provision has started well before the public review even begins. Furthermore, the care that DCP is exhibiting in slowing down the applicability of the zoning changes undercuts the claim that we need to formally start the process a mere thirteen days from today. The substance of these changes is already years away, arguably even decades away, and there is no reason to move at this pace.

Thank you for your staff's willingness to work with the community boards and my office thus far, and I hope that this continues for the duration of the proposal. In that vein, I hope that you will allow the community, and all affected stakeholders in the ULURP process, the opportunity to evaluate your plans thoughtfully and give us more time. We do not want to postpone this to "some unknown future date," as suggested in the most recent letter. I think it would be prudent to simply slow down this process by six months, and feel confident that the local Community Boards would agree with this approach.

Thank you for your attention to this matter. Should you have any questions about this request, please do not hesitate to contact me directly, or to call Ilona Kramer in my district office at (212) 818-0580.

Sincerely,



Daniel R. Garodnick

CC: Christine Quinn, Speaker, The New York City Council
Jessica Lappin, Member, The New York City Council
John Liu, New York City Comptroller
Scott Stringer, Manhattan Borough President
Bill de Blasio, Public Advocate for The City of New York
Joseph Lhota, Chairman and Chief Executive Officer, Metropolitan Transit Authority
Vikki Barbero, Chair, Community Board Five
Mark Thompson, Chair, Community Board Six
Terrence O'Neal, Chair, Land Use & Zoning, Community Board Six
Corey Johnson, Chair, Community Board Four
J. Lee Compton, Co-Chair, Chelsea Land Use Committee, Community Board Four

Attachment C:

JESSICA S. LAPPIN

COUNCIL MEMBER • 5TH DISTRICT

DISTRICT OFFICE
330 EAST 63RD STREET, SUITE 1K
NEW YORK, NY 10065
(212) 980-1808
FAX (212) 980-1828

lappin@council.nyc.gov



THE COUNCIL
OF
THE CITY OF NEW YORK

CHAIR - COMMITTEE ON

AGING

COMMITTEES

LAND USE
EDUCATION
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CULTURAL AFFAIRS
ZONING & FRANCHISES SUBCOMMITTEE

September 7, 2012

Ms. Amanda Burden
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Chair Burden:

I am writing regarding the proposed rezoning of East Midtown. While I embrace your goal of modernizing our increasingly outdated commercial office space in that area, I would like to share some of my concerns with you.

First and foremost, I am troubled by your timetable. While I understand the desire to get this done before the end of the Bloomberg administration, I do not think expediting the rezoning is in our collective best interest. I join with Council Member Garodnick in requesting a delay of your scoping session for 6 months from September 27, 2012 to March 27, 2013. The best argument for this delay is illustrated in your agency's comprehensive responses of August 10, 2012, to the extensive list of complex questions put forth to you by Community Board 5. The letter is 22 pages long and illustrates that the issues are many and complex. They require due diligence and thoughtful review. Affected stakeholders deserve more time to analyze and respond to the data.

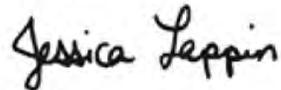
As you are undoubtedly aware, this rezoning will have a significant impact on those who live, work, and visit the area. I understand that an extensive environmental review will be undertaken. However, those who live in the area are deeply concerned about specific issues, including: the affect on city services such as sanitation, sewer and water; on open space - of which there is very little in this area; on their quality of life, including construction impacts, air quality, light, shadows and the changing streetscape.

Residents of the Turtle Bay area are also determined to maintain the existing residential and mixed use aspects of Second Avenue. The Sutton Area Community (SAC) at the northern tip of the area shares that concern. And last, and perhaps most importantly, residents are worried about traffic and public transportation.. Moving

forward, a continuing, open dialogue must be maintained among stakeholders, elected officials and City Planning in order to effectuate a plan that will enable us to compete on a global stage without ignoring the needs of current residents.

I appreciate the extensive outreach your staff has provided to the community, including the substantive presentations, frank discussions and thoughtful feedback. I look forward to continuing these discussions as we go forward on a rezoning for East Midtown that will help make the world's greatest city better than ever.

Sincerely,

A handwritten signature in black ink that reads "Jessica Lappin". The signature is written in a cursive, flowing style.

JESSICA LAPPIN
Council Member
5th District – Manhattan

CC: Mark Thompson, Chair, Community Board Six
Terrence O'Neal, Chair, CB 6 Land Use and Waterfront Committee
Vicky Barbero, Chair, Community Board Five
Bruce Silberblatt, Vice President, Zoning/Land Use/Transportation Chairman

JESSICA S. LAPPIN

COUNCIL MEMBER • 5TH DISTRICT

DISTRICT OFFICE
330 EAST 63RD STREET, SUITE 1K
NEW YORK, NY 10065
(212) 980-1808
FAX (212) 980-1828

lappin@council.nyc.gov



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CHAIR - COMMITTEE ON

AGING

COMMITTEES

LAND USE
EDUCATION
TRANSPORTATION
CULTURAL AFFAIRS
ZONING & FRANCHISES SUBCOMMITTEE

September 12, 2012

Ms. Amanda Burden
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Chair Burden:

I am writing with an addendum to the letter that I sent to you last week regarding the proposed rezoning of Midtown East. In that letter I outline a number of issues that concern area residents. I would also like to express a desire to see hotel uses allowed by special permit rather than as-of-right.

Zoning that allows hotels only by special permit seems obvious for the area. The proposed rezoning is likely to encourage more hotel development. New York has long been in the midst of a hotel room boom, recovering from the recession faster than other cities. Hotel financing is some of the easiest real estate financing to obtain, and obtaining it is much easier than financing for office buildings, especially since hotels do not have the burden of finding anchor tenants. As building owners find themselves newly able to redevelop their buildings, I am concerned that many of them will choose to build hotels instead of office space.

While nobody disputes that hotels are a commercial use that should be allowed in commercial zones, it is important that hotels do not dominate the redevelopment of the area. The City needs office space, with current vacancy rates being half the national average, and we must make sure we do not lose office space at the expense of hotels as buildings renovate. The stated goal of the rezoning is to create office space that makes New York more competitive with other global cities, and so it makes sense for the City to have more control over competing uses like hotels. Requiring hotels only by special permit in the new zone would allow the community and the City to guide the type and quality of future hotel development in the area.

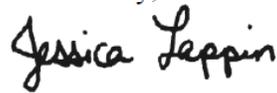
I am also concerned about the strain additional hotels might pose on residential communities in the area to be rezoned. Hotels have a greater impact on the nearby area

and put a greater strain on services than virtually any other use. Hotels are designed to be densely occupied. They operate 24 hours a day and generate an enormous amount of both pedestrian and vehicular traffic at both peak and non-peak hours. Laundry and catering services, if any, require substantial truck traffic at most hotels. And hotels larger than 100 rooms are entitled to “no standing” zones in front of the hotel, which reduces available parking or loading zones in the area. If the rezoning creates an influx of new hotels, as I believe it will, the community should have a voice in their development.

Allowing hotels only by special permit will help ensure that Midtown East becomes a real office destination. As such, I hope they will be included in any modified proposal.

Thanks for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Jessica Lappin". The signature is written in a cursive, flowing style.

JESSICA LAPPIN

Council Member

5th District – Manhattan

Cc. Deputy Mayor Howard Wolfson
Deputy Mayor Robert K. Steel
Mark Thompson, Chair, Community Board 6
Vikki Barbero, Chair, Community Board 5
Bruce Silberblatt, Turtle Bay Association

Attachment D:



THE PUBLIC ADVOCATE FOR THE CITY OF NEW YORK Bill de Blasio – PUBLIC ADVOCATE

My name is Bill de Blasio and I am the Public Advocate of New York City. I would like to thank the Department of City Planning for the opportunity to testify on the proposed scope of the East Midtown Rezoning.

The rezoning area between Second and Fifth avenues, and East 39th to East 57th streets contains more than 70 million square feet of office space, more than 200,000 jobs and hundreds of business. The area is home to many of the City's most important assets; Grand Central Terminal, the Chrysler Building and some of the most recognized streets like Park and Madison Avenues. The area will also be home to future important assets with the completion of the East Side access and the 2nd Ave subway line.

Even with these assets this area is in danger of falling behind as a premier office district. Many of these buildings are over 50 years old and have high vacancy rates compared to other areas of the City. There has been lack of development of the Class A, high-tech office space that is in demand.

City Planning understands the long-term development challenges which threaten the area's attractiveness of being a world-class business district. The rezoning looks to address the challenges of an aging office building stock, a crowded and burdened pedestrian network and limited development potential. City Planning has created a rezoning that provides the Floor Area Ratio (FAR) to allow for the development of Class A office space and tailored zoning districts to reflect the neighborhood character. And the District Improvement Bonus (DIB) unlocks additional square footage at the same time, using these funds to improve public amenities for the area. I believe that this rezoning will help address the challenges currently facing East Midtown and promote more development and job growth in an area that can and should compete on a global scale.

In this testimony, I would like to raise several questions and areas for concern that are critical in order to optimally accomplish this rezoning. The specific issues I raise today will focus on the proposed scope of the project, the District Improvement Bonus plan, the impact on local businesses, and the use of hotel special permits.

First, the additional FAR and creation of iconic buildings will surely impact the surrounding community. A thorough and fair analysis of the plan in the Environmental Impact statement will allow Community Boards 5 and 6 to fully understand the impact this rezoning will have on their neighborhoods. I am concerned that the proposed scope of the EIS too narrowly defines qualifying sites, excluding sites within the area that may be attractive to new development. I urge City Planning to consider broadening the scope of the EIS, enabling the community to better understand how the rezoning may affect open space, infrastructure and other important considerations.

Second, I ask that City Planning describe the District Improvement Bonus plan in greater detail, including a plan on how the DIB would be implemented and structured and how funds will be allocated.

Third, I want to make sure we are protecting existing local businesses and jobs in East Midtown. City Planning should conduct a thorough analysis on businesses that may be forced to leave because of the loss of Class B and C space, and the City should make every possible effort to protect against the displacement of local businesses.

Finally, the current rezoning areas contain 1.7 million square feet of hotel space which are located primarily along Lexington Avenue. Even without the rezoning City Planning recognizes that this area is attractive for the development of hotels. While nobody disputes that hotels are a commercial use that should be allowed in commercial zones, hotels should not dominate the redevelopment of the area, placing a greater strain on services than virtually any other use. Allowing hotels only by special permit will help ensure that East Midtown develops the Class A office space it needs and will give the community a say in local development. City Planning should study an alternative scenario in which there is a Special Permit for hotels all hotels in the rezoning.

Thank you for considering these recommendations, and I invite further discussion on these important issues.

1 CENTRE STREET NEW YORK NY 10007 TEL 212 669 7200 FAX 212 669 4701 PUBADVOCATE.NYC.GOV

Attachment E:



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

**Testimony at Scoping Session for East Midtown Rezoning
Before the Department of City Planning**

September 27, 2012

I would like to thank the Department of City Planning for the opportunity to testify on the proposed scope of work for environmental review on the East Midtown Rezoning. I would also like to thank and commend the members of Community Boards 4, 5 and 6, and their respective chairs, Corey Johnson, Vikki Barbero and Mark Thompson, for their diligent work in thoughtfully and thoroughly responding to the Department of City Planning's ("DCP") proposal.

The existing Midtown special permits granting the transfer of development rights from landmarks and allowing new density in exchange for mass transit improvements have proven to be too cumbersome to generate new construction and associated public realm improvements. The special permits are rarely used and, as a result, new development in the area has been slow. The building stock averages more than 70 years of age and there is concern that aging office buildings could undermine East Midtown's prestige as a premier central business district. Midtown Manhattan is advantaged by exceptional transit connectivity and will benefit from new local and regional transit improvements such as East Side Access and the extension of the 7 subway line. The proposed rezoning aims to fortify the commercial center; introduce modern, sustainable office buildings; improve the pedestrian and built environment; and complement the growth of New York's other central business districts.

Today's hearing offers the public an opportunity to comment on the scope of the East Midtown Rezoning's environmental study. Scoping hearings are essential for determining a framework that will ensure fair disclosure of potential environmental impacts and identifying appropriate alternative development scenarios. As a participant in the ULURP process, I will not issue a formal position until the project is before me for review. However, I believe any potential rezoning must balance citywide goals with potential impacts. Over the past several months, I have heard concerns from community members, many of which will be voiced today. The matters raised have informed the comments that follow and I, therefore, ask that the study be modified as outlined below.

Alternatives

While many alternatives may be offered through the course of this hearing, the community and the Community Boards have explored several variations of the proposed plan. In order to ensure that these modifications remain feasible through the ULURP process, they should be studied as alternative development scenarios in the Environmental Impact Statement (EIS). Based on community feedback, I

MUNICIPAL BUILDING ♦ 1 CENTRE STREET ♦ NEW YORK, NY 10007
PHONE (212) 669-8300 FAX (212) 669-4305
www.mbpo.org bp@manhattanbp.org

ask DCP to study these alternative development scenarios in the EIS: the incorporation of mixed uses in the study area; the addition of a hotel special permit in the text; the inclusion of a Landmark Transfer mechanism in subareas other than the Grand Central Subarea; and the potential inclusion of additional findings in the special permit for “superior” buildings.

One aim of the East Midtown Rezoning is to safeguard the vitality of the commercial district by only allowing the bonus structure to apply to commercial development. Office-dominated neighborhoods often become deserted after 5:00 pm, with vacant shop fronts, few pedestrians and a stark lack of activity to keep the streets safe and integrated into the functioning of the city. As a result, commercial uses often lack the amenities associated with residential districts, like 24-hour retail. It is therefore important to consider the potential benefits of introducing limited residential uses to East Midtown as has been successfully done in other commercial districts. Most notably, Lower Manhattan is one of New York’s fastest-growing residential areas, while maintaining its central role as a commercial core. The inclusion of residential uses has benefited these commercial districts by promoting activity essential to the streetscape, safety and economic health of this area. As the potential impacts of adding new residential uses are not known, it should be studied as a potential alternative. Specifically, a development scenario should be examined to incorporate mixed-use buildings in the bonus structure.

To further balance the land use composition in East Midtown, the inclusion of a hotel special permit in the zoning text should be examined. Due to the relative ease of financing for hotels, there is a risk that they may out-compete other commercial uses, resulting in unintended consequences and a proliferation of hotels on large sites. A hotel special permit should be considered as an alternative development scenario.

The proposal includes increased flexibility to transfer development rights from landmarks. However, the Landmark Transfer is only available in the Grand Central Subarea. The remaining subareas only allow the DIB bonus mechanism. The East Midtown study area is rich with New York City-designated landmarks and many are not located in the Grand Central Subarea. Several representatives of landmarked buildings have raised concern that they lack receiving sites to transfer their density and have requested that the Landmark Transfer is expanded to subareas beyond Grand Central. While the potential impact of the proposal is not known, it may have several positive benefits. Applying the Landmark Transfer would not only give developers increased flexibility, but could assist landmark owners in maintaining these historic structures to the standard that befits the neighborhood. The city should study applying the Landmark Transfer to the entire Special Midtown District to understand the potential impacts and benefits.

The only discretionary component of the proposed East Midtown Rezoning is the special permit for superior buildings. The criteria and findings for such a permit have not been established. As the proposed rezoning moves forward, many stakeholders will suggest appropriate criteria for determining the qualities of a superior building. As such, it is important to create a framework now that allows these criteria to be included in the special permit. One such criterion, green standards, should be included in this framework. New York’s building stock emits 75% of the city’s greenhouse gases.¹ Constructing without concern for energy consumption creates further local and global environmental impacts. Recent development trends in New York City have demonstrated that superior buildings can meet exceptional environmental performance standards. The inclusion of high performance criteria should remain in scope as the special permit is analyzed throughout the ULURP process.

Reasonable Worst-Case Development Scenario

The Reasonable Worst-Case Development Scenario identifies projected and potential development sites

¹ New York City. Office of Long-Term Planning and Sustainability. *PlaNYC 2030*. New York City: 2011.

in calculating the amount of expected new development. Several criteria are applied to determine which sites are most likely to be affected by the proposed actions.

Five criteria were applied to exclude sites from analysis. Among these, buildings with six or more rent-stabilized units were excluded. There are relatively few residential buildings in the study area. Still, many are on or near avenues. As the proposed development scenario is over a 20 year period, the Reasonable Worst-Case Development Scenario should acknowledge that buildings with rent-stabilized units may be vacated through attrition or legal buy-outs. Therefore, likely development sites should not exclude residential buildings.

Additionally, the qualifying site identification criteria have excluded newer buildings – those constructed after 1982 and those built between 1961 and 1982 to maximum allowable bulk. As a result, non-landmarked buildings built before 1961 are included among likely development sites. The proposal is meant to allow for the redevelopment of buildings with archaic configurations, low floor-to-ceiling heights and awkward columns that prove disadvantageous in leasing these spaces. However, as the proposal aims to redevelop buildings built before 1960, it risks targeting many historic buildings. Unfortunately, historic buildings are typically considered for landmark status outside of the ULURP process, which strains preservation efforts. DCP should work with the Landmarks Commission not only to study individual, potential landmarks, but to complete a comprehensive analysis of potential impacts on the area's historic fabric and how it relates to economic development goals.

District Improvement Bonus

The District Improvement Bonus (“DIB”) is proposed in the Special Midtown District as a mechanism for allowing increased floor-area-ratios (“FAR”), while generating funds dedicated to public realm improvements, both over- and underground. The second mechanism for achieving higher FARs, currently applicable in just the Grand Central Subarea, is the Landmark Transfer, which is a private market transaction with no direct contribution to public funds.

The DIB has not been assigned a value. It is uncertain, based on the 4.4 million net square feet of new development identified in the scoping documents, how much funding this growth would generate. It is imperative that the DIB is valued before certification. Scoping documents present that public realm improvements funded by the DIB will mitigate potential adverse impacts. To determine the extent of the improvements and the extent of mitigation, it is necessary to clarify the amount of financing expected to be generated by the DIB bonus structure.

Another factor that obscures the amount of contribution available through the DIB is the availability of the Landmark Transfer. The transfer of development rights from landmark buildings will be negotiated in the private market. Where an option between the two bonus mechanisms exists, the Landmark Transfer risks competing with the DIB. A reduced DIB reduces the money available for public improvements, thereby limiting potential mitigation.

The public realm improvements to be funded by the DIB are yet to be determined, but DCP has suggested pedestrian circulation upgrades in the Grand Central Terminal and the mapping of Vanderbilt Avenue as a public place. This scale of projects can be costly and depends on a reliable flow of money to be efficiently completed. Financing these public realm improvements should be made a priority by New York City if they are necessary to mitigate potential impacts. Therefore, the city should create a conservative account of DIB funds in order to determine what mitigation is feasible. Further, if mitigation is not achievable with a conservative DIB estimate, then the city should consider alternative mitigation strategies. Such mitigation could include, but is not limited to, alternative financing, bond structures or a threshold for total funds that must be generated by the DIB before permitting use of

Landmark Transfer for additional FAR.

Finally, the scoping documents suggest the availability of a “payment-in-kind” option for developers to finance and construct their own public improvements in lieu of a contribution to the DIB. Such an option impacts the effectiveness of DIB funds and affects the mitigation of impacts. The City should create criteria for this option that ensure that any payment-in-kind serves as mitigation for adverse impacts.

Conclusion

I look forward to seeing the results of this Environmental Impact Statement and urge that all potential impacts be examined carefully and thoroughly. In the meantime, I encourage DCP to continue working closely with the community to ensure that any future development properly balances the needs of the community and the need for East Midtown to remain strong. Thank you again for the opportunity to testify.

Attachment F:



GALE A. BREWER

COUNCIL MEMBER, DISTRICT 6
MANHATTAN

DISTRICT OFFICE
563 COLUMBUS AVENUE AT 87TH STREET
NEW YORK, NY 10024
(212) 873-0282
FAX (212) 873-0279

CITY HALL OFFICE
250 BROADWAY, SUITE 1744
NEW YORK, NY 10007
(212) 788-6975
FAX (212) 513-7717

gale.brewer@cityofnyc.gov
www.council.nyc.gov

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**TESTIMONY ON THE PROPOSED EAST MIDTOWN REZONING
COUNCIL MEMBER GALE A. BREWER, 6TH DISTRICT, MANHATTAN
OCTOBER 9, 2012**

My name is Gale A. Brewer and I represent the residents of the upper West Side and the northern part of Clinton in the City Council. I am commenting on the scope of the proposal to rezone East Midtown that is before the City Planning Commission in preparation for the Environmental Impact Statement.

This is the largest area of midtown Manhattan to be proposed for rezoning in modern times. Proposals of comparable scale and impact, and many of lesser impact, have been subject to far more lengthy discussion and professional and community input prior to scheduling the certification and scoping process. I recommend slowing down this process- political concerns cannot push aside your obligation to due diligence on behalf of the people of the city.

Millions of people use the public transportation, sidewalks, and streets of the Grand Central area now. During business hours it is one of the city's densest concentrations of pedestrians and traffic. With the planned opening of the LIRR connector into Grand Central Terminal, this immediate area will see further influx of pedestrians, and heightened demands on subways, buses, and taxis. Just to the West is the even busier corridor of Fifth Ave and Bryant Park. A plan to sharply increase densities in this area needs extensive review of infrastructure needs, traffic management, and street level services. None of this can or should be done hastily.

As the Landmarks Conservancy and other preservation groups have testified, the East Midtown area is home to some of our most iconic landmarked buildings, as well as many architecturally significant buildings whose character should not be dismissed cavalierly. It would be a pyrrhic victory for the city if hastily planned development blotted out the views and world-famous silhouettes of the Chrysler Building, Waldorf Astoria, RCA Building, Chanin and Lincoln Buildings, the Ford Foundation, and many others. These towers, like the Empire State Building and Rockefeller Center, are defining of New York. We diminish them at our peril.

By contrast, no one believes that the city is defined by the scores of generic post-modern office buildings that have sprouted around Midtown and Grand Central. To sacrifice our iconic buildings to more generic development- or any development- would be profoundly self-defeating. Surely it is possible to create many new, valuable development sites in East Midtown without endangering our heritage, and surely we can reimagine New York for a new century without degrading the city we have and love.

This plan, if it goes forward, should begin with careful and creative thinking about these legacy issues. I would point to the redevelopment around Bryant Park as a useful model: new, spectacular buildings like those being imagined for Midtown East, older buildings handsomely repurposed and re-cladded and landmarks preserved. The result is a landscape of immense aesthetic value, one that expresses the mix of function and form, new and old, that New York alone provides. Looking a little farther afield, a great deal of effort and public infrastructure investment is now going into the development of the Hudson Yards and lower Manhattan. Will the rezoning of Midtown East hurt the chances of building successful communities in these two areas? We as a city take on large scale projects, but can we actually manage this amount of planning and foresight?

To accomplish anything like the planned re-scaling and increased density of East Midtown, we will need the close collaboration of our planning, preservation, community, and development interests. All around Manhattan we have examples of successes in these endeavors, and also many failures. At the scale being proposed, failure to plan appropriately cannot be an option, and to avoid mistakes adequate time for reflection will be needed.

There are ways to accomplish a positive outcome, including setting aside time to analyze a mixed use alternative which would allow for some new residential development while still protecting the commercial character of the area. The other alternative that Community Board 5 and others have requested is to look at allowing landmarks to transfer their development rights in a broader area so landmark air rights aren't undercut by the air rights the City is creating through the District Improvement Bonus. Finally, the need for a hotel special permit needs to be part of the discussion and final resolution, but that too takes time.

For these reasons, and many more, I urge you to withdraw the East Midtown rezoning as proposed at this time, and take a long, sensible look at your options, to think and plan creatively, and to listen to all of the stakeholders. This is a hundred year legacy. Let's get it right.

Attachment G:



State Senator Liz Krueger
State Senator Brad Hoylman
Assemblymember Dan Quart



Congresswoman Carolyn B. Maloney

Mayor Michael Bloomberg
City Hall
New York, NY 10007

January 9th, 2013

Dear Mayor Bloomberg:

As the state and federal elected officials who represent East Midtown, we have been closely following the East Midtown Rezoning plan that was proposed by the Department of City Planning earlier this year. We fully understand that it is essential to New York City's economic health to maintain East Midtown's position as a premiere business district for companies across the globe. However, we share the concerns expressed by our colleagues in the City Council, Daniel Garodnick and Jessica Lappin, as well as Community Boards 4, 5, and 6, that this proposed rezoning is moving too quickly and fails to comprehensively plan for the many infrastructure and open-space needs of the community.

We are aware that some of East Midtown's current building stock is out of date and is eroding East Midtown's status as the neighborhood with the most sought-after business addresses in the world. We support zoning changes that will be helpful in encouraging the development of new world-class office buildings and the jobs that will come with them. However, we are also concerned about today's businesses, workers and residents. Because this rezoning is so important, it is critical that it is done correctly the first time and is responsive to the concerns of the area's current stakeholders even as it lays the groundwork for the area's future. To accomplish this, we ask that your office and the Department of City Planning allow more time for the community to understand and respond to these plans. As the City's Uniform Land Use Review Procedure imposes a strict timeline for the consideration of applications, we believe that it may be necessary for the Department of City Planning to withdraw the application it submitted this August in order to permit sufficient time for community input.

Indeed, we share the "Principles for a New East Midtown" recently set forth by the Tri-Board Task Force on East Midtown Rezoning. These include: the need for a comprehensive, detailed vision of the public realm improvements which will be completed by the City and developers; a clear preservation plan for potential landmarks within the rezoning area; a special review process for buildings that could disrupt iconic features of New York's skyline such as the Empire State

and Chrysler buildings; and careful study of the potential adverse impact this rezoning could have on demand for office space in the City's emergent business districts, including the Hudson Yards and Lower Manhattan as well as downtown Brooklyn and Long Island City.

In the long term, a particularly important component of this plan will be the City's ability to require developers to increase their commitment to environmental sustainability. New York City building codes are among the greenest in the world, but developers that take advantage of the rezoning to build beyond the limits of as-of-right construction must be held to higher standards of design and community contributions. Similarly, they should be expected to create exceptionally sustainable developments, buildings that model best practices over and above what our building codes require.

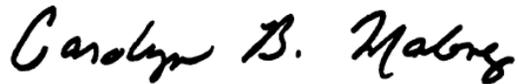
We are also extremely concerned that the City's current proposal fails to adequately protect the many historically and architecturally important buildings in East Midtown that have not yet been landmarked. There are 21 non-landmarked buildings in the proposed rezoning area that the New York State Historic Preservation Office has determined are eligible for listing on the State and National Registers of Historic Places. The New York Landmarks Conservancy recently completed a survey of the area and found an additional 17 historic buildings that it plans to submit to State Historic Preservation Office for consideration. Of this total group of 38 historically significant buildings identified by the Landmarks Conservancy, 16 have been identified as projected or potential development sites in the scoping document prepared by the Department of City Planning. As the Department of City Planning lays the groundwork for the future of East Midtown, it must ensure that the historically important buildings that add to the community's vibrancy and diversity are preserved.

While we support the concept of encouraging the development of more iconic Class A office buildings in East Midtown, we ask that your office and the Department of City Planning heed the community's request to allow more time for deliberation and consideration of the community's questions and recommendations to ensure that this plan serves the neighborhood, both current and future.

Sincerely,



Dan Quart
Assemblymember



Carolyn Maloney
Congresswoman

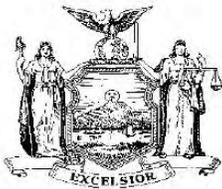


Liz Krueger
State Senator



Brad Hoylman
State Senator

Attachment H:



State Senator Liz Krueger

State Senator Brad Hoylman



Congresswoman Carolyn B. Maloney



Council Member Daniel R. Garodnick

March 13, 2013

Robert Steel
Deputy Mayor for Economic Development
City Hall
New York, NY 10007

Dear Deputy Mayor Steel:

We write to you regarding the proposed rezoning of East Midtown.

A little more than a year after this proposal was first mentioned in the Mayor's 2012 State of the City address, and with just a month remaining before the project's target certification date, we want to make clear a few fundamental points that will be critical for us before we can even consider this proposal.

First, we need a commitment to infrastructure improvements in the Grand Central neighborhood today, not simply an offer to attempt to start them more than five years in the future. We cannot build a 21st century Midtown with early 20th century infrastructure. If the City is serious about our global position with respect to other world cities, serious infrastructure investment should be at the center of any plan for Midtown.

We should be thinking far more ambitiously about potential infrastructure investments and investigating other sources of funding. The MTA has identified \$340 to \$465 million in basic improvements (in 2013 dollars) that will be needed – not desired, but needed – over the next ten years. These are particularly critical in light of the projected completion of East Side Access at the end of the decade, which is projected to add approximately 80,000 additional people each day to the Grand Central area's already-overtaxed pedestrian network and subway and intermodal connections. We can work with the City and the MTA to prioritize needed improvements, but the funding and timetable must be predictable, stable, and not substantially dependent on the hope of development and attendant contributions to the proposed District Improvement Fund. Moreover, we believe it is unacceptable for the MTA and the City of New

York to rely on a local rezoning to fund critical capital transit improvements that will benefit (and should be paid for by) the whole region.

Second, in an area as congested as East Midtown, we need a comprehensive public realm plan, which addresses the area's needs block by block. A rezoning plan must result in more walkable and well-designed streets, open spaces, and seamless connections between the buildings and Grand Central. With the exception of closing off several blocks of Vanderbilt Avenue to car traffic, we do not believe that the City has adequately studied these questions. This is of particular importance given the fact that open space on Vanderbilt Avenue is not, and has never been, a priority for the three affected community boards, as the Tri-Board Task Force has reiterated in correspondence with the Department of City Planning.

In many other places across New York City, the Department of Transportation has made improvements to our streets without adding density – most prominently in Times Square. This administration has demonstrated that making streets into open spaces does not necessarily depend on more density, but it does require more planning than what we have seen in this process thus far. Improvements should be district-wide and not confined to a few blocks.

Simply put, there needs to be much more predictability for the public about the benefits of this rezoning proposal. Just as we hope to make it very clear to the development community what they can expect from the new rules, and what their benefits and obligations will be, we need to do the same for the public.

We note and appreciate that the City has brought in experts to analyze and recommend the fair market value of contributions to the District Improvement Fund, but join community members in questioning the study's premise that one market price should be applied across the entire district. Still, we appreciate that expert scrutiny has been brought to bear on the question of valuation, and we believe at minimum that this same level of scrutiny should be brought to the issue of above-grade pedestrian improvements. Additionally, the City should proactively identify public and private spaces where connections to the transit system can be made, and make it clear to developers that these connections, where possible, will be required for new designs.

Finally, in light of the short timeframe that we are operating under, we strongly recommend that you conduct the broadest possible environmental review. That means that it is critical that you study:

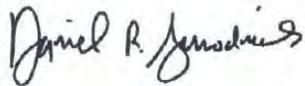
1. The environmental impacts of a mixed-use development alternative – one which allows for residential growth in buildings that are permitted additional density.
2. A broader landmarks transfer alternative outside of the Grand Central Subdistrict.
3. Alternative financing structures to the DIB to fund essential transit and streetscape improvements now, when they are needed.
4. An examination of how the City could allocate or raise funds now and be repaid later (ex: an auction, bonding with repayment to the DIB, tax assessment district, etc.).
5. Alternatives to the proposed, single-number set for the DIB price to allow maximum returns to the City with each sale and transparency for each transaction.
6. A special permit requirement for hotels.

7. A longer or shorter sunrise provision.

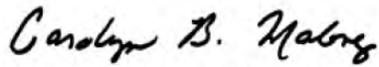
Let us be extremely clear: we will reject any proposal that we feel does not adequately address the infrastructure and public realm needs of the area. These are complicated issues that will take decades to come to fruition, and we are not operating on a 2013 timetable.

We look forward to continued discussions.

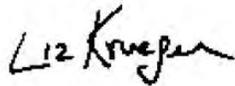
Sincerely,



Council Member Daniel R. Garodnick



Congresswoman Carolyn B. Maloney



State Senator Liz Krueger



State Senator Brad Hoylman

Attachment I:

**New York City Transit Riders Council
NYPIRG Straphangers Campaign
Riders Alliance
Transportation Alternatives
Tri-State Transportation Campaign**

March 29, 2013

Hon. Michael Bloomberg
Mayor
City of New York
City Hall
New York, New York 10007

Hon. Fernando Ferrer
Acting Chairman
Metropolitan Transportation Authority
347 Madison Avenue
New York, New York 10017

Dear Mayor Bloomberg and Chairman Ferrer:

We are writing you to express several of our views about the transportation aspects of the proposal to rezone the East Side of Manhattan:

Riders and pedestrians in the Grand Central area are already suffering intolerable crowding on local subway stations and city streets. For example, the Lexington Avenue line (4, 5 and 6 trains) operates at 116% of capacity during the rush hour. Amazingly, the three routes carry 1.3 million people, nearly one-third of all daily riders in the MTA system.

Long dwell times – caused by crowding – reduce the entire Lexington Avenue line capacity. During the AM peak, only 26 of 29 scheduled trains get through the Grand Central subway station.

Riders don't need these statistics to understand these problems. Anyone who regularly uses the Grand Central subway station or walks in the area knows these conditions from bitter daily experience.

Crowding should be addressed in the very near future. For example, the MTA should proceed as quickly as possible on its delayed capital project to build a new entrance to the Grand Central subway station.

The narrative for the project – identified as T6041405 in the MTA's current 2010 - 2014 capital plan – reads like music to the harried midtown Lexington Avenue subway-area ride: "This project will provide improved access at Grand Central Station on the IRT Lexington Avenue Line located in the borough of Manhattan. Work will include the installation of an additional stair on the west side of the 42nd Street entrance, platform improvements and improvements to a fare control area."

Spending on that project was to have been completed this year. But the MTA now says: "The schedule has been delayed to allow for additional time to review alternatives and address constructability issues."

The proposed funding method to accommodate the rezoning is too uncertain and unproven, and will unnecessarily put off desperately needed subway and street improvements. These vital fixes should be made now and in the near future, rather than waiting for developers to begin projects. Great transit helped make New York City's premier business district what it is today; building the needed subway, bus and pedestrian repairs and improvements are critical to the midtown CBD's future.

The MTA has identified \$340 to \$465 million in basic improvements needed over the next ten years. Our groups strongly agree with the views of area officials, who wrote in a March 13th letter to Deputy Mayor Robert Steel: "The funding and timetable [for transit and pedestrian projects] must be predictable, stable, and not substantially dependent on the hope of development and attendant contributions of the proposed District Improvement Fund."

Several of our groups are also concerned that the proposed "DIF committee" – charged with identifying and prioritizing projects – does not include a representative of the Metropolitan Transportation Authority.

We appreciate your consideration of our views.

Sincerely yours,

Andrew Albert
Chair
NYC Transit Riders Council

Gene Russianoff
Senior Attorney
NYPIRG Straphangers Campaign

John Raskin
Executive Director
Riders Alliance

Paul Steely White
Executive Director
Transportation Alternatives

Ryan Lynch
Associate Director
Tri-State Transportation Campaign

CC:

Hon. Robert K. Steel, Deputy Mayor for Economic Development
Hon. Amanda M. Burden, Chair, Department of City Planning
Mr. Stephen J. Morello, Counselor to the MTA Chairman and CEO

Attachment J:



April 29, 2013

Honorable Robert B. Tierney
Landmarks Preservation Commission
One Centre Street, Ninth Floor North
New York, NY 10007

Re: Midtown East

Dear Chair Tierney:

We are pleased that the Commission has identified 32 buildings as potential landmarks as part of the City's Midtown East Zoning proposal.

While our organizations individually submitted numerous buildings for landmark consideration that do not appear on your list, we feel strongly that the Landmarks Preservation Commission should move swiftly on those buildings that the agency has identified.

As you are aware, the owners of the former Hoffman Auto Showroom at 430 Park Avenue, a property in the project area destroyed it after they were alerted to LPC's interest in designation. We have just received notice that another building noted in your list, the American Encaustic Tile Company building at 16 East 41st Street, is having its façade stripped. Given the extreme development expectations that the proposed rezoning places upon the buildings in the area, we urge LPC to act quickly to protect these buildings by calendaring them as soon as possible.

We would greatly appreciate an opportunity to discuss preservation strategies in this important area in greater detail. We will call your office shortly to see if we can schedule a meeting.

Sincerely,

Handwritten signature of Simeon Bankoff in black ink.

Simeon Bankoff
Executive Director
Historic Districts Council

Handwritten signature of Peg Breen in black ink.

Peg Breen
President,
New York Landmarks Conservancy

Handwritten signature of Vin Cipolla in black ink.

Vin Cipolla
President,
Municipal Art Society

Attachment K:

Robert K. Steel
Deputy Mayor for Economic Development
Office of Operations
253 Broadway
10th Floor
New York, NY 10007

May 6, 2013

Dear Deputy Mayor Steel:

I write to offer my support for the needed rezoning of Midtown East and ask that key provisions regarding transportation infrastructure and landmark intuitions are incorporated in the plan. I applaud Mayor Bloomberg's and the City of New York's vision to recognize that New York is an ever-evolving, ever-expanding city that must adapt and grow to stay competitive. Commercial office buildings are the factories of the twenty-first century and we must allow them to modernize and meet the need of today's – and even more importantly, tomorrow's – workers.

Midtown East is one of the preeminent business districts in the world. Seventy million square feet of office space is home to headquarters of fourteen Fortune 500 companies and houses a quarter of a million jobs. This is the greatest density of such companies in the US and one of the greatest in the world. It is one of New York's most storied and oldest commercial districts.

Unfortunately, in the world of commercial office space old is usually not a good thing. Right now, the average age of a Midtown commercial building is 73 years. In comparison, the average age of London office buildings is 43 years. Future development of this aging building stock is constrained by zoning restrictions that limit the construction of new buildings with modern amenities, such as fully wired broadband, column-free floors, greater floor-to ceiling heights and energy-efficient features needed to attract world-class tenants. These issues strike at the heart of Midtown's competitiveness and the Bloomberg Administration's rezoning plan is a proactive way to keep this key district as a place where businesses want to locate.

Midtown East's status as a world-class business district not only relies on world class office-buildings but, as with any business district, the ability of surrounding transportation infrastructure to move people in-and-out and of the district. In the case of Midtown East, there's no question that Grand Central Station, one of the world's greatest transportation hubs, provided the core for development in the district years ago. Currently, massive transportation investments are being made to move even more workers to and from the district, making it a prime target for rezoning. At Grand Central, East Side Access will finally create a much-needed link between the Long Island Railroad and the East Side of Manhattan and it is expected these new tunnels will serve 179,000 daily commuters. On the Upper East Side, the first phase of the 2nd Avenue subway that will reduce overcrowding on the Lexington Avenue line and is projected by the MTA to carry over 200,000 weekday riders is expected to be completed by 2016. To its credit, the Bloomberg Administration had the vision to see that this added transportation capacity be followed by new office capacity.

Midtown East's increasing capacity to move people makes it a prime candidate for rezoning, however more must be done to support and expand infrastructure, particularly pedestrian and commuter upgrades, prior to and concurrent with adding new office density. As someone who has championed game changing transportation projects like East Side Access, 2nd Avenue Subway and the 7 Line Extension, I recognize the need to continue infrastructure upgrades. Currently, Grand Central faces severe overcrowding in the passageways, stairways and escalators. Exiting from the Grand Central subway platform of the Lexington 4/5/6 lines to the street level during rush hour can be a time-consuming challenge. Improvements to platforms, stairways, passageways and escalators need to be made at Grand Central and other stations in the district (the 4/5/6 at 51st, the E/M at 53rd, the E/M at 5th Ave and 53rd). At grade level, street and sidewalk improvements to relieve congestion and crowding at intersections, especially along Lexington Ave, and new open spaces that don't negatively affect pedestrian flow or building operations are also needed.

The current rezoning plan includes a District Improvement Fund (DIF) that will provide funding for infrastructure upgrades paid for by the purchase of air rights from the City. Privately financed infrastructure improvements are a thoughtful and welcome plan, however the problem is timing. Since the DIF is funded by the sale of air rights to private developers, these needed upgrades would not get funded until new buildings were already rising – meaning more workers without adequate upgrades. We simply can't wait for funding from new buildings to start making needed infrastructure improvements. Instead the reverse must occur – begin investing in infrastructure improvements now so we are prepared for bigger buildings and more workers in the future. A number of potential sources for raising revenue sooner should be examined. Bonding, specifically against the District Improvement Fund, is one example source. Why not bond against the future fund of private revenue to raise the resource before buildings go up? Another option would be charging a transfer fee on the sale of air rights that would also allow for bonding. As always, I am open to other well-grounded financing ideas, as well as using this new source of revenue to leverage more federal resources. These are some options worth exploring to provide up front funding for infrastructure upgrades that the increase density of rezoning demands. Making sure some of these needed transportation upgrades are done prior to new buildings opening is the key to making this plan a success.

The rezoning plan should also reexamine its treatment of all landmark institutions in the district, such as St. Patrick's Cathedral, St. Bart's Church, Central Synagogue and Lever House, among others. The current plan does not provide specific provisions for these institutions and therefore they are put at a competitive disadvantage with the other two entities that can sell air rights, the City via the DIF and Grand Central. There are two points that would improve their competitiveness:

1 – Allow landmarks to transfer air rights within a greater geographic area, as Grand Central is allowed with the Grand Central subdistrict. Currently landmarks would only be able to transfer to a development site immediately adjacent to the institution. In the case of St. Patrick's, there would be no opportunity to sell air rights as they are surrounded by sites – Rockefeller Center, Saks Department Store, New York Palace Hotel – which are landmarked themselves or have no requirements for additional space. Transfer of development rights within a larger geographic zone is not unprecedented. Similar zones have been created not just for Grand Central, but also the Theater District, South Street Seaport and the High Line Districts.

2 – Allow air rights purchased from landmarks in the East Midtown District to be utilized in the same manner as DIF or Grand Central air rights, requiring a special permit only for 'Superior Development'

above the 'Earned as of Right' FAR limits. All air rights purchased from landmarks currently require a special permit to allow them to be transferred more broadly.

These changes would adequately support existing landmarks in the district, which, in turn, is a substantial public benefit. There has also been discussion about landmarking additional buildings in the district, including the Yale Club, among others. Before moving forward there should be a second look at existing buildings in the district so we are sure to preserve those deserving.

With these changes, this can be the plan Midtown needs. New York is a city that is ever evolving and we must always reinvent ourselves. While we are working so hard on improving current infrastructure and opening Midtown up to so many more commuters, it naturally follows that commercial real estate stock should also be given the chance to modernize and move New York forward.

Sincerely,



Charles E. Schumer
United States Senate

Attachment L:

JPMORGAN CHASE & CO.

William C. Viets
Managing Director
Global Head of Transactions
Global Real Estate

June 12, 2013

Lola Finkelstein, Chair
Multi-Board Task Force on East Midtown
450 Seventh Avenue
Suite 2109
New York, NY 10123

Dear Ms. Lola Finkelstein,

Thank you for the opportunity to raise before the Multi-Board Task Force on East Midtown JPMorgan Chase's concerns with respect to the treatment of matters affecting it in the Draft Environmental Impact Statement (DEIS) and Uniform Land Use Review (ULURP) application issued by the New York City Department of City Planning regarding the East Midtown Rezoning and Related Actions project.

It is axiomatic that a closure of Vanderbilt Avenue to vehicular traffic and the creation of a pedestrian mall will have a significant impact on the immediate and surrounding areas, the safety and security of those who work in Vanderbilt Avenue buildings, and potentially the general public that uses Grand Central Terminal. While the intent to affect this closure is plainly a key element of the East Midtown Rezoning plan, the impacts of such a closure are neither disclosed nor studied in the DEIS because the City has positioned the City Map amendment designating Vanderbilt Avenue a "Public Place" as something the City "may" do in the future.

JPMorgan Chase submits that the Vanderbilt Avenue conversion to a pedestrian mall is not something that can properly be viewed in isolation at a later time and is clearly a key part of the overall scheme and its impacts, individually and synergistically with the other impacts of the rezoning plan, and should be disclosed and fully studied in the DEIS.

JPMorgan has one major office building, 383 Madison Avenue, on Vanderbilt Avenue, as well as its headquarters at 270 Park Avenue, which abuts the northern terminus of Vanderbilt Avenue. Even today, without the impacts of the rezoning, the traffic on 47th Street between Madison Avenue and Park Avenue (which is adjacent to both buildings) is highly congested. This is compounded by the MTA claiming one lane for a cement pouring station for the Eastside access project. Vanderbilt Avenue runs the length of the west side of Grand Central Terminal, which the DEIS characterizes as one of New York City's busiest transportation hubs (about to be more so with the Eastside access), and provides an access route for emergency vehicles and the Fire and Police Departments which is not only critical on a day-to-day basis, but would be essential in the event of a major emergency or terrorist attack.

NY:R065, 237 Park Avenue - Floor 12, New York, New York 10017-3140
Telephone +1 212 648 1076 Mobile +1 203 610 3031 bill.viets@jpmorgan.com

JPMorgan Chase Bank, N.A.

Between the two properties referenced above, JPMorgan Chase has over 12,000 employees. JPMorgan Chase is very concerned about the safety and security of its employees in an already access constrained environment. The DEIS should provide information to assess these concerns, such as the impact on emergency response times, traffic impacts or other impacts to this environment. The lack of analysis in the DEIS is particularly concerning because our security consultants suspect that emergency response times will be materially impacted. Moreover, the failure to study the impact of a fundamental element of the City's plan by relegating it to the future is counter to the very object of the ULURP process and DEIS report which is structured to holistically view and assess the impacts of a major project.

JPMorgan Chase also takes issue with the identification and discussion in the DEIS of its headquarters building at 270 Park Avenue as a historical resource. Not only is the DEIS erroneous as to the current state of the building and site, but fails to undertake any meaningful analysis which, if conducted, would demonstrate that the building is not appropriate for consideration as a landmark. The building should remain the productive, efficient and secure office facility that JPMorgan Chase has made it and allowed to change and adapt as the business and security environment in Midtown East evolves.

The very features of the building which the DEIS cites in support of its view of the property as a historical resource, in fact no longer exist. First, it talks about an arcade which formerly existed and extended from 47th Street to 48th Street. That arcade was enclosed in a renovation. Second, it cites the setback of the property from Park Avenue to "create a plaza." There have been material changes to the property brought about by security concerns which have essentially eliminated any plaza. Indeed, the open concept of the lower-level of the building, including the plaza, the arcade and a recess of the first floor glazing have all been eliminated by renovations to the property. The DEIS even cites "bright red paneling" on the lower level of the building, a feature which was eliminated years ago.

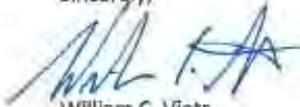
Thus, the DEIS fails to take account of the significant changes that have been made to this building over time. That is just part of the lack of meaningful analysis. The DEIS should have taken into account the following factors before forming a view of the property as a historical resource.

- The loss of significant design integrity in the nearly total redesign of the site, changes to the building form, both exterior and interior and removal of an important building material;
- The derivative character of the design and its lesser importance in the architect's career - it's design is derivative of the Seagram Building and Lever House, both of which are already landmarks;
- Its historical position after the critical era of Skidmore, Owings & Merrill's work and skyscraper development;
- The general lack of acclaim or professional recognition for the design and generally negative and even hostile views of historians and critics.

JPMorgan Chase has invested a significant amount of capital and time to develop 270 Park Avenue into a first class, modern, efficient and secure workplace. This renovation earned the building LEED Platinum recognition as the largest renovation project to date. JPMorgan Chase should be free to continue to utilize and adapt this asset free of constraints which are plainly unwarranted.

As one of the largest private employers in New York City, employing nearly 30,000 people in New York City, 15,000 who are located in Midtown East in our global headquarters as well as other locations, and serving over 4,000,000 customers, our firm is invested in the betterment of New York City. We appreciate the consideration of Community Boards One, Four, Five and Six on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. C. Viets', with a stylized flourish at the end.

William C. Viets
Managing Director
JPMorgan Chase Bank, N.A.

cc: David Arena, Global Head of Real Estate, JPMorgan Chase Bank, N.A.
Karen Keogh, Director of State and Government Relations, JPMorgan Chase Bank, N.A.
Michael Regan, Global Head of Security, JPMorgan Chase Bank, N.A.