



**DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK**

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January 6, 2017

James G. Clynes
Chairperson
Manhattan Community Board 8
505 Park Avenue, Suite 620
New York, NY 10022

RECEIVED

JAN 12 2017

BY COMMUNITY BOARD 8

Re: **N 170187 ZRM and C 170187 ZSM**
Greater East Midtown

Dear Mr. Clynes:

The Department of City Planning is referring to you the above-referenced application to amend the provisions of Sections 81-00, 81-60, 81-61, 81-62, 81-63, 81-64, 81-65, 81-66, 81-67, 81-68 of Article VIII, Chapter 1 (Special Midtown District) of the New York City Zoning Resolution.

The proposed text amendment (N 170186 ZRM) would principally modify Section 81-60 of the Special Midtown District to create the East Midtown Subdistrict. Within the proposed East Midtown Subdistrict, new development on qualifying sites would be able to seek higher densities. Areas of increased density would be focused near transit stations and along wide streets. Development generated through the proposed mechanisms would be primarily commercial in nature and provide greater opportunity for landmarks to transfer unused development rights throughout the district and would provide for area-wide public realm improvements. The proposed East Midtown Subdistrict would supersede the existing Grand Central Subdistrict, and most of the existing zoning regulations of the Grand Central Subdistrict would be incorporated into the proposed text amendment.

The application also includes a proposed map amendment (C 170187 ZSM) to rezone a portion of Block 1316 – which is bounded by Second Avenue, Third Avenue, East 42nd Street, and East 43rd Street – in Community District 6. The proposed map amendment would replace a C5-2 District with a C5-3 District. It would also establish the Special Midtown District and the proposed East Midtown Subdistrict within the proposed C5-3 District.

If you have any comments or recommendations on this application (N 170187 ZRM and C 170187 ZSM), please send them by March 13, 2017 to:

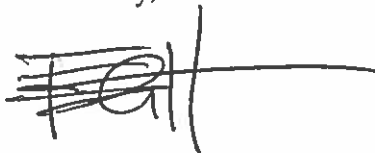
CalendarOffice@planning.nyc.gov

OR

City Planning Commission
Calendar Information Office
120 Broadway – 31st Floor
New York, NY 10271

If you have any questions on the proposed text amendment, please contact one of the Manhattan Office project managers, Ezra Moser at (212) 720-3521 or Bob Tuttle at (212) 720-3262.

Sincerely,

A handwritten signature in black ink, appearing to be 'Edith Hsu-Chen', with a long horizontal line extending to the right.

Edith Hsu-Chen

ENCLOSURE

cc: Raju Mann, Director, Land Use Review Division, City Council
James Caras, Manhattan Borough President's Office
Jacquelyn Harris, DCP (w/o Enc)
James Merani, DCP (w/o Enc)
Beth Lebowitz, DCP (w/o Enc)

N 170186 ZSM, N 170187 ZMM
Proposal for Greater East Midtown
LR Item 3: Project Description
12/29/16

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BY COMMUNITY BOARD 8

1.1 Introduction

The New York City Department of City Planning (DCP) proposes zoning text and zoning map amendments (collectively, the "Proposed Action") within the East Midtown neighborhood of Manhattan Community Districts 5 and 6. The rezoning area is generally bounded by East 57th Street to the north, East 39th Street to the south, a line generally between 150 and 200 feet easterly of Third Avenue and a line 250 feet westerly of Madison Avenue. Known as the Greater East Midtown Rezoning project, the Proposed Action includes a zoning text amendment to establish the East Midtown Subdistrict within an approximately 78-block area. The Proposed Action is intended to reinforce the area's standing as a premier- central business district, support the preservation of landmarked buildings, and provide for public realm improvements.

The Proposed Action encompasses the following discretionary actions that are subject to review under the Uniform Land Use Review Procedure (ULURP), as well as pursuant to Section 200 of the City Charter:

- **Zoning Text Amendment** - The East Midtown Subdistrict (the "Subdistrict") would be within the Special Midtown District. The proposed Subdistrict would supersede the existing Grand Central Subdistrict, and would allow for increased floor area ratios (FARs) between 18.0 and 27.0. The text amendment would also create five new discretionary mechanisms within the Subdistrict. Two of the special permits would enable additional floor area bonuses in connection with developments that provide public concourses and transit improvements, one special permit would allow new or enlarged hotels and one would allow modifications to the subdistrict's bulk and Qualifying Site regulations as appropriate, and one CPC Authorization would allow enlargements that make significant renovations to use the Subdistrict's increased FAR framework.
- **Zoning Map Amendment** - An existing C5-2 district (bounded by East 43rd Street to the north, East 42nd Street to the south, Second Avenue to the east, and a line 200 feet easterly of Third Avenue to the west) would be replaced by a C5-3 district, and would be included in the proposed East Midtown Subdistrict. The Special Midtown District would be extended to encompass the proposed C5-3 district.

1.2 Background and Description of Project Area

The Greater East Midtown business district is one of the largest job centers in New York City and one of the highest-profile business addresses in the world. The area between Second and Fifth Avenues and East 39th and East 57th Streets contains more than 60 million square feet of office space, more than a quarter million jobs, and numerous Fortune 500 companies.

This area is anchored by Grand Central Terminal (the “Terminal” and “Grand Central”), one of the city’s major transportation hubs and most significant civic spaces. Around the Terminal and to the north, some of the city’s most iconic office buildings, such as Lever House, Seagram Building, 550 Madison (formerly AT&T then Sony Building), 601 Lexington (formerly the Citigroup Building) and the Chrysler Building, line the major avenues—Park, Madison, and Lexington Avenues—along with a mix of other landmarks, civic structures and hotels.

The area’s transportation network is currently under expansion through two major public infrastructure projects: East Side Access and the Second Avenue subway. East Side Access will, for the first time, permit Long Island commuters one-seat access to East Midtown through a new below-grade Long Island Railroad station at Grand Central. Construction is expected to be completed in 2022. The Second Avenue subway—whose first phase from East 63rd to East 96th Streets is planned for passenger service at the end of 2016—is expected to alleviate congestion on the Lexington Avenue subway line, which runs through the Greater East Midtown office district.

Current Status and Recent Trends

Greater East Midtown continues to be one of the most sought-after office addresses in the New York City metropolitan region. The area straddles two Midtown office submarkets: Grand Central and the Plaza districts. The Grand Central district is typically considered an older submarket, with a higher vacancy rate and lower rents than the overall Midtown market. The Plaza district, centered on the Park and Madison Avenues near 57th Street, is one of the most expensive submarkets in the country, and generally has more recent construction. Nonetheless, it too exhibits a higher than average vacancy rate compared to Midtown as a whole.

Greater East Midtown’s tenants have historically included financial institutions and law firms. The area is home to numerous Fortune 500 companies and serves as the headquarters for many corporations. Recent trends have both reinforced and altered this role. First, the area has become home to the city’s hedge fund and private equity cluster—due, in part, to the area’s cachet and easy access to the Grand Central 42nd Street subway station and the Metro-North Railroad. Rents for high-quality space in the area’s top buildings have greatly increased as this industry competes for these locations. Conversely, as rents dropped with the economic downturn beginning in 2008, the area has developed a more diverse roster of tenants, as non-profits, technology, and media firms that were previously priced out of the Greater East Midtown office market have moved in. Both trends have helped the area recover from the 2008 recession, with vacancy rates beginning to fall within a more stable range.

Other recent trends have affected the overall level of employment in the area, which dropped during the economic downturn but has since risen. In 2000, approximately 255,000 persons worked in the area. As of 2016, employment has increased to almost 257,000 persons working in the area¹, up from a reported drop to 235,000 in 2009. Even with this marginal rise in the area’s employment since 2000, the Grand Central and Plaza districts continue to exhibit higher vacancy rates than other nearby markets. Further, the older office stock of Class B and C office buildings in the Grand Central district has become less competitive, especially compared to the newer office construction in the Plaza District and elsewhere in the City, including Hudson Yards and Lower Manhattan.

¹ 2016, ESRI.com Business Analyst

Additionally, the area has experienced a shift from a singular high travel period—typically at a rush ‘hour’—toward an overall more dispersed daily ridership. This has resulted in part from people working more flexible and varied hours, a trend which has been seen throughout the city.

1.3 Purpose and Need for Proposed Action

While the Greater East Midtown area currently performs well in terms of overall office district cachet, rents, and vacancy rates, DCP has identified a number of long-term challenges that must be addressed in order to reinforce the position of Greater East Midtown as one of the region’s premier job centers and one of the most attractive business districts in the world. A primary challenge is the area’s office building stock, which DCP is concerned may not—in the long run—offer the kinds of spaces and amenities that are desired by tenants, and which can only be provided through new construction. As a result, Greater East Midtown faces several challenges that compromise its long-term competitiveness as a premier business district. These include aging building stock, limited recent office development and few available office development sites, public realm challenges, and an existing zoning framework that hinders new office development. Each long-term challenge is discussed in detail below. In light of these factors, DCP has projected that the area’s importance as a premier- business district could diminish over time and the large investment in transit infrastructure, including the East Side Access and Second Avenue subway projects, will fail to generate its full potential of jobs and tax revenue for the city and region.

Challenges Affecting East Midtown

Aging Building Stock

The Greater East Midtown area contains approximately 475 buildings, of which over 300 are more than 50 years old; the average age of office buildings in the area is approximately 75 years. For an office district competing for tenants regionally and globally, this is a comparatively aged building stock. In the Grand Central district, most buildings are considered to be Class B or Class C type buildings.

Much of the office space in the area’s office buildings is already or may soon become outdated in relation to tenant needs. Today, this is seen in the area with office buildings more than 50 years old having notably higher vacancy rates and lower rents. Reasons for this include limited technology and amenity offerings, which can at least partially be ameliorated through full-scale renovations of the buildings. However, some of the most challenging features cannot be dealt with through renovations, particularly low floor-to-floor heights and the numerous immovable interior columns.

Many prospective tenants looking for office space in Midtown today desire large expanses of column-free space in order to have flexibility in creating office layouts, which are trending toward more open organization. Columns and low floor-to-floor heights cannot accommodate such flexible open layouts or modern technology requirements, and thus older buildings with such features are not desirable. With such a large amount of the office stock having these outdated features, DCP is concerned this area’s buildings cannot offer the kinds of space and amenities that new construction offers, and therefore can no longer compete for the occupants who have typified the Greater East Midtown area.

Instead, DCP believes that in the long term the area’s outdated office buildings may begin to convert to other uses—particularly residential buildings and/or hotels. Given the area’s concentration of rail

public transit infrastructure and the current expansion of this network, this outcome does not align with the city's long-term economic goals. While DCP has undertaken many initiatives over the last decade to accommodate new office construction in the city (including at Hudson Yards, Downtown Brooklyn, and Long Island City), all of these were predicated on East Midtown remaining a center for office jobs, and none contemplated the diminishment of this area as one of the city's premier business districts.

Finally, since most of the area's buildings were constructed before sustainability and energy efficiency became key features of office building design and operation, many of the area's buildings are far less efficient than new construction.

Limited Recent Office Development and Few Available Office Development Sites

With much of the Greater East Midtown's existing office stock aging, the area has also experienced little new office development. Only five office buildings have been constructed in East Midtown since 2001, representing a significant drop from preceding decades. Of the almost 60 million square feet of office space currently in the area, less than three percent was constructed within the last two decades. Whereas the area had an overall annual space growth rate of approximately one percent between 1982 and 1991, the area's growth rate began to decline in the next decade—with an annual growth rate of approximately 0.14 percent. During the last decade, the rate of growth has continued to fall, with the period between 2002 and 2014 exhibiting an annual growth rate of only 0.02 percent.

Since 1982, the area's average age of buildings increased from 52 years to over 70 years—although four major office developments are currently underway or in the planning stages. The most prominent of these, One Vanderbilt Avenue, will be a 30-FAR office building directly west of Grand Central Terminal, and is being developed pursuant to the 2015 Vanderbilt Corridor text amendment's provisions. In exchange for bonus floor area, the development provided numerous transit improvements, a new marquee public space on a pedestrianized portion of Vanderbilt Avenue, and an on-site transit hall with connections to commuter rail lines. The transit improvements were valued at approximately \$225 million. Also contemplated is the redevelopment of 343 Madison Avenue, pursuant to the Vanderbilt Corridor zoning text. Like the One Vanderbilt development, 343 Madison Avenue would contribute to the goal of improving public circulation and transit access in the area around Grand Central Terminal. The other two developments that are underway, 425 Park Avenue and 380 Madison Avenue, are replacing existing office buildings in-kind and do not add office floor area to East Midtown.

The area is highly built up and 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. 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.

Public Realm Challenges – Pedestrian Realm and Transit Network

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. The public realm, however, encompasses more than just iconic or grand civic spaces—it exists both above and below grade, and includes sidewalks, roadways, parks and open spaces, indoor and outdoor privately-owned public spaces (POPS), and publicly-accessible transit-related infrastructure. An example of the below-grade public realm is the extensive subterranean pedestrian network that connects Grand Central Terminal to the Grand Central 42nd Street subway station and to surrounding streets and buildings, allowing for a more efficient distribution of pedestrians in the area.

East Midtown is one of the most transit-rich locations in the city, and the public realm, both above and below grade, is one of the area's unique assets. However, the area faces a number of challenges to creating a pedestrian network that matches the area's role as a premier business district, and allows pedestrians to easily access its public spaces, transit amenities, office buildings and institutions. Specifically, challenges to the above and below grade public realm include:

- The area's below-grade transit system is heavily utilized. Grand Central 42nd Street subway station is one of the busiest, second only to Penn Station, with nearly half a million daily users. Like other stations in the area, Grand Central 42nd Street experiences pedestrian circulation constraints, including platform crowding and long dwell times for the Lexington Avenue line (Nos. 4, 5, and 6), which limits train through-put, creating a subway system bottleneck. The transit upgrades associated with One Vanderbilt will help alleviate pressure on the Lexington Line at the Grand Central 42nd Street station. However, the Flushing line (No. 7) at Grand Central 42nd Street is in need of critical upgrades, and the area's other two transit hubs, at Lexington Avenue-51st/53rd Streets and Fifth Avenue-53rd Street stations, require targeted improvements to improve pedestrian circulation and transfers between train lines.
- Several stations outside the Subdistrict boundaries serve East Midtown, through transfers or as final destinations. These stations face a similar series of connectivity and circulation-related challenges that make it difficult for users to access the area.
- The area's sidewalks and pedestrian circulation spaces can be crowded during the work week. Vehicular congestion can be pronounced in the area, especially during rush hours, which exacerbates these negative aspects of the pedestrian experience. Such crowded spaces include the sidewalks of Madison and Lexington Avenues, which are extremely narrow—both less than 12 feet wide. Effective widths (the unobstructed area available to pedestrians) are even narrower, when subway grates and other sidewalk furniture are considered. The Department of Transportation (DOT) implemented protected sidewalk extensions at key pedestrian crossings on the west side of Lexington Avenue, adjacent to Grand Central, which have helped improve pedestrian safety. However, similar measures are needed throughout the area's north-south corridors, particularly near transit hubs, which are highly trafficked by pedestrians.
- Given the area's built density, there are seemingly limited means to expand its open spaces or public spaces oriented towards passive activities. The city is working to address this issue in publicly owned property through the creation of Vanderbilt Place and the planned pedestrianization of Pershing Square. Over 40 developments in the area contain POPS. Since 2007, nine of these spaces have been redesigned, and one new space has been built. POPS are a key component of East Midtown's above-grade public realm, but the current zoning and

built-out fabric yield few opportunities to add to the inventory of these spaces on private property.

Challenges of Current Zoning

East Midtown's current zoning framework is broadly intended to strengthen the area's role as a central business district and to promote and incentivize high-density development where appropriate. DCP has identified a number of issues with the current framework that serve to limit new construction. One of the most prominent challenges is with permitted density. The increment between a building's maximum permitted FAR and built FAR is a driving factor in whether redevelopment is feasible; the greater the increment, the more feasible redevelopment becomes.

East Midtown is generally zoned C5-3 and C6-6 along wide streets and in Grand Central's vicinity, and C5-2.5 and C6-4.5 along midblocks. The entire area, save a portion of Block 1316 bordering Second Avenue between East 42nd and East 43rd Streets, is located within the Special Midtown District. The C5-3 and C6-6 districts permit a maximum as-of-right density of 15.0 FAR and the C5-2.5 and C6-4.5 districts permit 12.0 FAR.

Existing built densities are commonly higher than the allowable 15.0 and 12.0 FAR, which makes new construction of office space a challenge. As a whole, the area contains approximately 2.3 million square feet more development than currently permitted under zoning. The "overbuilt" condition is particularly true for buildings which were constructed before 1961, when the concept of floor area ratio was first instituted under the Zoning Resolution, and thus these buildings contain more floor area than would be permitted under existing zoning. As discussed above, many of these "overbuilt" buildings contain obsolete features that make them less marketable, but the lesser 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, and the construction issues caused by this requirement make it extremely challenging to undertake. As indicated, two buildings, 425 Park Avenue and 390 Madison Avenue, are being redeveloped in this manner at great cost. These two redevelopments, however, are in-kind replacements and add no new office space to the area.

There are two main options for a development site to increase its on-site density without changing its underlying zoning. One is to transfer and incorporate unused development rights from contiguous area landmarks, and the second is to pursue a floor area bonus through either an as-of-right or discretionary zoning action. In practice, however, it can be difficult for development sites in East Midtown to successfully utilize these mechanisms.

East Midtown's landmarked properties with unused development rights (i.e., potential "granting sites") hold considerable reserves of unused floor area—approximately 3.5 million square feet in total. Among the largest granting sites are Grand Central Terminal, St. Patrick's Cathedral and St. Bartholomew's Episcopal Church, each containing between 850,000 and 1.2 million square feet of unused development rights. As-of-right granting sites may only transfer development rights to contiguous "receiving sites" via zoning lot merger. Section 74-79 of the Zoning Resolution allows landmarked properties to transfer unused development rights to receiving sites that are adjacent or across the street via CPC Special Permit. In high-density locations, the CPC can require public improvements as a condition to the special permit's approval, such as public open spaces and plazas, arcades or below-grade connections to public transit. Even with this expanded range of potential

receiving sites, only two developments in East Midtown (610 Lexington Avenue and 120 Park Avenue) have utilized this action, and the majority of the area's landmark development rights remain unused with limited prospects for transfer.

The Grand Central Subdistrict of the Special Midtown District was adopted in 1992, in part to address this issue by permitting the transfer of development rights from Grand Central Terminal and other nearby landmarks to a wider range of surrounding development sites, and to create an improved pedestrian realm in the area. In the Core area of the subdistrict (between Madison and Lexington Avenues, from East 41st to East 48th Streets), the maximum permitted FAR through transfer is 21.6 and requires a special permit from CPC that finds that a significant pedestrian improvement is being provided as part of the project. Only one building, 383 Madison Avenue, has utilized this provision, providing covered circulation space and transit access improvements as part of the approval for a 6.6 FAR beyond the permitted base FAR. Additionally, through a certification process, 1.0 FAR transfers are permitted in the Core and a larger area which includes the other sides of Madison and Lexington Avenues. This mechanism has been used three times since 1992. In total, more than 1.2 million square feet of development rights remain unused on the Grand Central Terminal site.

Besides Section 74-79 and the Grand Central Subdistrict mechanisms, the current zoning framework provides two land use actions that permit increased density. First, subway bonuses are permitted for sites directly adjacent to subway entrances (up to 20 percent more than the permitted base FAR) through the provision of an improvement to the subway network (pursuant to Sections 81-292 and 74-634 of the Zoning Resolution). However, the geographic applicability, discretionary nature of the action, and long-term collaboration requirement with the Metropolitan Transportation Authority (MTA) make this mechanism comparatively challenging to pursue. To date, two developments over 20 years apart, 599 Lexington Avenue and 885 Third Avenue, have been granted this special permit.

Additionally, in the portions of East Midtown outside the Grand Central Subdistrict, as-of-right bonuses of 1.0 FAR are permitted through the provision of public plazas.

The Special Midtown District formerly provided a 20 percent bonus via special permit for the provision of publicly accessible Covered Pedestrian Spaces (CPS) pursuant to Section 74-87. This permit was responsible for notable indoor public spaces at the Sony/ATT building (550 Madison Avenue), and IBM building (590 Madison Avenue). In 1998, this typology was prohibited in the Special Midtown District along with the Through Block Arcade, another type of bonusable public space that was popular during the 1970s and 1980s.

Beyond density regulations, the provisions governing height and setback in the Special Midtown District can limit new development. The District has two alternative sets of as-of-right height and setback regulations—daylight compensation and daylight evaluation. They were developed over thirty years ago in 1982 in response to concerns that midtown's built density and future development would compromise the public's access to light and air. These regulations were crafted with larger, regularly shaped development sites in mind, and have proven restrictive on smaller or irregular sites, particularly for the development of high-density office buildings.

Consequences of Long Term Challenges

DCP believes that the long-term consequence of failing to address the aging of the existing office stock, the lack of replacement office development, the area's public realm issues, and the challenges of its current zoning would be a decline in the diverse and dynamic business district 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.

Prior Studies in the East Midtown Area

2013 Proposed Action

Acknowledging the challenges discussed above, the City created an East Midtown Proposal in 2013 (the "2013 Proposed Action") to reinforce the area's standing as a premier business district. It was developed to encourage new, predominantly office development in Greater East Midtown. To do so, it proposed modified zoning regulations for a 70-block area of the Special Midtown District to be known as the East Midtown Subdistrict, which would have superseded the Grand Central Subdistrict. The East Midtown Subdistrict's primary features included the following:

- Focused new commercial development on large sites with full block frontage on avenues around Grand Central Terminal and its concentration of transit access by permitting the highest as-of-right densities for these sites and slightly lesser densities allowed along the Park Avenue corridor and elsewhere.
- Provided a District Improvement Bonus mechanism to generate funding for area-wide pedestrian network improvements through new development.
- Streamlined the process for landmarked buildings to transfer their unused floor area.

The 2013 Proposed Action was approved by CPC in September 2013, but was withdrawn by the City in November of that year before reaching the City Council vote with the understanding that the project lacked City Council support for adoption. After taking office in 2014, Mayor Bill de Blasio committed the City to developing a new plan to ensure the area's long-term success as a business district. This new plan included a stakeholder-driven process to determine a new framework for the overall East Midtown area.

Although the 2013 Proposed Action was withdrawn, it garnered stakeholders' broad consensus and agreement with DCP's analysis that the current zoning impedes replenishment of office space and that without a change in 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. Key concerns raised by stakeholders during the public review process included:

- The effectiveness of the district improvement bonus mechanism in providing the critically needed infrastructure improvements in the area, coupled with uncertainty over which above and below grade public realm improvements the public could expect.
- The need to balance new development with preservation of the area's existing buildings, and to identify ways for the area landmarks to transfer their unused development rights.

- The specific uses that should be allowed in new development in the area, with particular concern about as-of-right hotel development.

The Vanderbilt Corridor

In 2014, DCP sought to address the challenges to East Midtown in a more targeted area, as a first phase of the East Midtown rezoning effort. A five-block area along the west side of Vanderbilt Avenue between East 42nd and East 47th Streets, (the “Vanderbilt Corridor”) was the subject of a 2015 zoning text amendment (N 150127 ZRM). In particular, the text amendment created mechanisms to increase density in exchange for substantial public realm improvements, and permitted greater transfer of unused landmark development rights in order to allow them to be a primary driver of growth. Sites in the corridor could apply for one or a combination of both special permits to achieve a maximum of 30.0 FAR. Creation of the Vanderbilt Corridor also included a City Map amendment (C 140440 MMM) to designate the portion of Vanderbilt Avenue between East 42nd and East 43rd Streets as a “public place” dedicated to pedestrian uses, in part to alleviate the public realm challenges identified earlier.

The Vanderbilt Corridor plan addressed several development sites along Vanderbilt Avenue that met the criteria to provide modern commercial space in the immediate vicinity of Grand Central Terminal, and created a special permit mechanism linking new commercial development to significant transit and public realm improvements in the overall Grand Central area. In particular, this process facilitated the development of One Vanderbilt Avenue, a new 30 FAR, 1.3 million square foot commercial tower that received a special permit floor area bonus for the provision of approximately \$225 million in improvements to transit and the public realm in the Grand Central area. Construction is underway on this new building and the public place at Vanderbilt Avenue. Also contemplated in conformance with the Vanderbilt Corridor zoning text is the redevelopment of 343 Madison Avenue. Like the One Vanderbilt development, 343 Madison Avenue would contribute to the goal of improving public circulation and transit access in the area around Grand Central Terminal. Since the 343 Madison Avenue development would be subject to a separate discretionary approval process, with project-specific analysis, the associated transit improvements are not assigned to this development site in this analysis. While the Vanderbilt Corridor area would be included in the proposed East Midtown Subdistrict, the Proposed Action does not contemplate any modifications to the provisions currently applicable in the corridor.

East Midtown Steering Committee

Following the withdrawal of the 2013 Proposed Action, Mayor de Blasio established the East Midtown Steering Committee in May 2014 and requested that the Manhattan Borough President and local City Council member serve as co-chairs. The Steering Committee included representatives from Community Boards 5 and 6, real estate and business interests, and citywide civic and labor organizations. It was tasked with developing a new planning agenda for the future of East Midtown that would inform future rezoning, funding and capital commitments, and other policy decisions there.

The Steering Committee met 19 times between 2014 and 2015, and met several more times in 2016. The Steering Committee report included a set of recommendations intended to serve as a framework for the Proposed Action. Their recommendations covered the following topics.

Land Use and Density:

- Higher as-of-right densities should be permitted dependent upon both the location of a development site (such as proximity to transit), and upon proposed improvements to transit and the wider public realm.
- Designated landmarks should be permitted to transfer their existing unused development rights throughout the entire district on an as-of-right basis.
- A percentage of the sale of landmark transfer development rights (TDR) would be made as a contribution to an "Improvement Fund" for area-wide public realm improvements, with a per-square-foot minimum contribution.

Improvement Fund and Place-making:

- Revenue secured through a percentage of sale of landmark TDRs should be held in the Improvement Fund. A Governing Group with appointees from the Mayor, local elected officials and representation by Community Boards and other stakeholders should set planning and project management priorities, as well as the use of funding for specific projects once available.
- Parameters should be employed to ensure funding for both above- and below-grade improvements over time.
- Key corridors should receive special attention for place-making and pedestrian improvements.

Landmark Designation:

- The New York City Landmarks Preservation Commission (LPC) should calendar for landmarks designation as many historic resources as it deems appropriate and do so by the certification date of the rezoning of Greater East Midtown.

In response to the Steering Committee's recommendations, DCP, in concert with other city agencies and the MTA, collaborated to produce an interagency Proposed Action for Greater East Midtown, of which the Proposed Action is a main component. These included:

- LPC reviewed the area's buildings and calendared 12 buildings within the proposed Subdistrict, and intends to designate all 12 before the end of 2016.
- MTA studied the area's transit network to identify its primary issues, and conducted extensive engineering and costing analyses to deliver a list of feasible transit improvements to address them.
- DOT examined the Steering Committee's recommendations regarding sidewalks, roadways and similar elements of the above-grade public realm. Their study provided cost estimates and a list of improvements and place-making strategies.

Based upon the previous work prepared by DCP, the development strategies established through the Vanderbilt Corridor rezoning and the guidance provided by the East Midtown Steering Committee, DCP has developed the Proposed Action as described following.

1.4 The Proposed Action

The City's vision for Greater East Midtown is that it will continue to be a premier central business district that complements office development throughout the city and facilitates the long-term expansion of the city's overall office stock. The addition of new office buildings would reinforce the area's standing, support the preservation and continued maintenance of cherished landmarks, provide for public realm improvements essential for both a functional and dynamic commercial district, and reflect the public commitment to the area commensurate with the major infrastructure investments already under construction (East Side Access and Second Avenue Subway). It is envisioned that the majority of buildings would continue to be used as offices.

Goals of the Proposed Action

The goals of the Proposed Action are to develop a largely as-of-right framework which produces predictable results that:

- Protect and strengthen Greater East Midtown as a regional job center and premier central business district by seeding the area with new modern and sustainable office buildings;
- Help preserve and maintain landmarked buildings by permitting their unused development rights to transfer within the district's boundary;
- Permit overbuilt buildings to retain their non-complying floor area as part of a new development;
- Upgrade the area's public realm through improvements that create pedestrian friendly public spaces and that facilitate safer, more pleasant pedestrian circulation within the transit stations and the street network; and
- Maintain and enhance key characteristics of the area's built environment such as access to light and air, active retail corridors, and the iconic street wall character in the area surrounding Grand Central Terminal.

To accomplish these goals, the City is proposing a zoning text amendment and a zoning map amendment (collectively the "Proposed Action"), described below.

Description of the Proposed Action

Proposed Zoning Text Amendment

The proposed zoning text amendment (the "Amendment") would establish an East Midtown Subdistrict (the "Subdistrict") within the Special Midtown District. The proposed Amendment would focus new development on sites that are near transit stations and along wide streets. The greatest as-of-right density would be around Grand Central Terminal with lesser densities dissipating out from the Grand Central core. Development generated through the proposed mechanisms would provide greater opportunity for landmarks to transfer unused development rights throughout the Subdistrict and would provide district-wide public realm improvements. The proposed Subdistrict would

supersede the existing Grand Central Subdistrict, and most of the existing zoning regulations of the Grand Central Subdistrict would be incorporated into the proposed Amendment.

Density Framework to Permit and Promote New Development

The Proposed Action addresses the limited growth potential (due to the current maximum permitted FARs), and development challenges associated with the special permit process through a primarily as-of-right framework. The Proposed Action would permit additional density by varying degrees based on locational criteria such as proximity to transit and adjacency to wide streets. This would create a scenario whereby the public can be assured that the densest new developments will be appropriately located (i.e., near transit and along wide streets), and whereby the predictable as-of-right process and increased permitted densities will serve as incentives for developers to undergo the resource intensive effort associated with redevelopment projects in this area. The as-of-right process is elaborated upon throughout this section of the document and the proposed maximum densities are detailed here.

The area around Grand Central Terminal is mapped as a C5-3 zoning district on both wide and narrow streets. This designation permits a maximum of 15.0 FAR. The remainder of the area is mapped with C5-3 and C6-6 districts along the avenues, which permit a maximum of 15.0 FAR, and C5-2.5 and C6-4.5 districts along the midblocks, which permit a maximum of 12.0 FAR. The Proposed Action would enable sites to utilize three as-of-right mechanisms to achieve specific maximum densities in excess of these base FARs.

New as-of-right maximum densities proposed for the Subdistrict range from 18.0 to 27.0 FAR based on geography. Broadly, this translates to higher permitted FARs in locations proximate to transit nodes and along Park Avenue, an especially wide street. In the area immediately surrounding Grand Central Terminal, the as-of-right maximum density would be 27.0 FAR. This would be the highest as-of-right density allowance in the East Midtown Subdistrict, reflecting DCP's planning policy of focusing density in areas with excellent access to transit. In the area east and west of the Grand Central core and the area surrounding the Fifth Avenue-53rd Street and Lexington Avenue-51st/53rd Streets subway stations, the as-of-right maximum density would be 23.0 FAR. These areas of the district with a 23.0 or 27.0 FAR are further defined as Transit Improvement Zones, which is explained in further detail below. In the area encircling the Grand Central Transit Improvement Zone, the as-of-right maximum density would be 21.6 FAR for the blocks nearest Grand Central Terminal's below-grade network and 18.0 FAR for blocks further away. Generally, the areas that flank the Fifth Avenue-53rd Street and Lexington Avenue-51st/53rd Streets Transit Improvement Zones would have as-of-right maximum densities of 18.0 FAR. The exception is along Park Avenue, where the as-of-right maximum density would be 25.0 FAR (see Figure 1-2).

Qualifying Site Requirements

Development of new high-quality office space requires appropriate sites. Consequently, sites that are eligible for the proposed Subdistrict's as-of-right framework must have cleared frontage along a wide street, dedicate no more than 20 percent of the building's floor area for residential use, and comply with environmental standards in order to be considered a Qualifying Site. Qualifying Sites may use three new as-of-right zoning mechanisms to achieve additional floor area: (1) the transfer of landmark development rights, (2) the rebuilding of legally non-compliant floor area, and (3) the completion of direct improvements to below-grade transit infrastructure.

Transfer of Landmark Development Rights

Under existing regulations, a landmark is only permitted to transfer its unused floor area to “adjacent” sites via a special permit. Adjacency is defined pursuant to Zoning Section 74-79, which governs landmark transfers, as those lots that abut the landmark’s zoning lot or are located across a street. The Proposed Action would permit greater flexibility in the transfer of those development rights by allowing landmarks the ability to transfer to development sites anywhere in the proposed Subdistrict. This mechanism would allow for the redistribution of unused floor area for the construction of office space, support the restoration and continued maintenance of landmarks, and generate funds for public realm improvements.

Redistribution of unused commercial floor area – Unused floor area from landmark sites could conceivably be built, however, is not, due to regulations that curtail modifications to landmarked structures. The redistribution of this unused floor area presents an opportunity to require that transferred floor area from these sites be developed for office use in the most appropriate portions of the proposed Subdistrict.

Landmark restoration and maintenance – As is the procedure under Zoning Section 74-79, landmarks that transfer development rights will be required to develop a restoration and continuing maintenance plan that is approved by LPC. The sale of development rights will aid landmark property owners in funding these preservation plans and help ensure that landmarked structures continue their significant contribution to the area’s overall character.

Public realm improvements – Each landmark development rights transfer transaction will generate a contribution to the Public Realm Improvement Fund that will facilitate improvements to the area. The contribution rate will be 20 percent of the sale of each development rights transfer from a landmark, or a minimum floor contribution of \$78.60 per square foot, whichever is greater. This will help to ensure that new developments appropriately support public realm improvements. The City Planning Commission will, by rule, review and adjust the floor pursuant to the City Administrative Procedure Act every three to five years.

This as-of-right mechanism alleviates the need for a discretionary process by CPC to require improvements as part of floor area transfers in high density locations, which is the only mechanism available under current zoning. The public realm improvements are more fully described below.

Rebuilding Overbuilt Buildings

There are a number of pre-1961 buildings in East Midtown that do not comply with current zoning regulations, particularly with regard to the amount of floor area permitted, since they were constructed prior to introduction of FAR regulations in the Zoning Resolution. This Proposed Action would allow for the amount of floor area that exceeds the base FAR to be utilized as-of-right in a new development on the site and in conjunction with a contribution to the Public Realm Improvement Fund, which is detailed below.

Rebuilding non-complying floor area – This Proposed Action would eliminate the requirement that 25 percent of a building’s structure be retained in order to utilize the building’s non-complying (i.e., overbuilt) floor area as part of a new development. Instead, it would allow the amount of overbuilt floor area to be utilized in a new development as-of-right, and would permit additional floor area to be attained through a landmark development rights transfer and/or a transit infrastructure project. All floor area would be subject to the Proposed Action’s use regulations.

Public realm improvement support – The amount of non-complying floor area rebuilt on these sites would be subject to a contribution into the Public Realm Improvement Fund. The contribution amount would be the same as the minimum floor contribution (i.e., \$78.60 per square foot and adjusted every three to five years). This will facilitate improvements to the area that are designed to address the increased density generated by these new developments, which traditionally have lower vacancy rates and more efficient floor layouts that allow for a greater number of workers per square foot than the existing building they would replace.

Pre-identified Transit Improvements

Under the Proposed Action, developments on Qualifying Sites within a Transit Improvement Zone (TIZ) would be required to undertake one or more pre-identified transit improvements in exchange for increases to their permitted floor area. Development sites located outside of a TIZ would not be required, or permitted, to undertake transit improvements.

Eligible Stations and Improvements – The Subdistrict is one of the most transit-rich in the city due to its access to Metro-North Railroad and the Grand Central 42nd Street subway station, the Fifth Avenue-53rd Street subway station, and the Lexington Avenue-51st/53rd Streets subway station. Three additional stations also function as critical components of Greater East Midtown's interdependent transit network by serving as stations from which riders enter and exit the Subdistrict on foot and as stations from which riders transfer to and from trains that are entering and exiting the Subdistrict. These subway stations include 42nd Street Bryant Park-Fifth Avenue, 47th-50th Streets-Rockefeller Center, and Lexington Avenue-59th Street.

The MTA has identified specific improvements that would most benefit Greater East Midtown office workers, visitors, and residents. These projects will address current issues that impact the area's transit network and anticipate potential needs of the area based on future development. As detailed below, the types of projects identified relate to handicap accessibility, improved access within station areas and circulation between platforms, and new points of access into subway stations from street level.

To facilitate this requirement, the pre-identified transit improvements are assigned a standardized amount of floor area. Transit improvements fall into three categories of floor area, based upon project scope and public benefit ranging from 40,000 sf, 80,000 sf or 120,000 square feet.

New developments built pursuant to this proposed framework that are located in the Transit Improvement Zones would be required to generate between 10 and 20 percent of the development's maximum permitted floor area by completing one or more pre-identified transit improvements. For developments in 23.0 FAR districts, this would equate to between 2.3 and 4.6 FAR of transit improvements, and for developments in the 27.0 FAR district this would equate to between 2.7 and 5.4 FAR of transit improvements. All permitted floor area above these amounts would be through the transfer of unused floor area from the area's landmarks. The exception to this would be for any eligible development that undertakes the improvements identified for the Fifth Avenue-53rd Street (E-M) station, detailed below. It is expected that these improvements need to be completed simultaneously in order to prevent operational complications for NYC Transit in the station. Therefore, a development would be permitted, as-of-right, to increase their additional floor area beyond 20 percent to complete improvements at this station. The Zoning Resolution will detail how individual developments select transit improvements, with priority given to those improvements closest to the development site.

Pre-identified Transit Improvement List – Projects on the pre-identified transit improvement list will be included in the zoning text. As shown on Figure 1-3 and detailed in Chapter 12, “Transportation,” these improvements include:

Grand Central 42nd Street (4-5-6-7-S): Suites of improvements are contemplated to improve accessibility to and from the Flushing Line platforms, including a new platform staircase to the escalator core serving the upper mezzanine, widening of staircases leading down from the Lexington Avenue Line platforms, and a widening of the platform stair at the east end of the station.

Lexington Avenue-51st/53rd Streets (E-M-6): Proposed improvements include widening an escalator at the 53rd Street portion of the station, replacement of an escalator at the 51st Street portion of the station with a wider staircase, and the addition of new street entrance to the uptown Lexington Avenue Line platform at 50th Street.

Lexington Avenue-59th Street (N-Q-R-4-5): At this station, proposed improvements include adding more stair capacity between the N-Q-R and Lexington Avenue Line express platforms and the provision of ADA access.

Fifth Avenue-53rd Street (E-M): Proposed improvements include a new street entrance on the west side of Madison Avenue, a new mezzanine and fare control area, and new vertical circulation elements to the upper and lower platform levels. In addition, a new elevator would make the station fully accessible.

47th-50th Streets-Rockefeller Center (B-D-F-M): Capacity improvements at this station would result from the addition of two new platform stairs and the widening of existing platform stairs.

42nd Street Bryant Park-Fifth Avenue (B-D-F-M-7): Proposed improvements at this station include a new street entrance to the Flushing Line mezzanine from the north side of West 42nd Street, midblock between Fifth and Sixth Avenues. ADA access would also be provided between the mezzanine level and the Flushing Line platform as well as between the mezzanine level and the Sixth Avenue Line platform.

Above Grade Pedestrian Improvements

A suite of above-grade public realm improvements has been prepared by DOT. As shown on Figure 1-3, the above-grade public realm improvements fall into four categories that include: (1) plazas, (2) shared streets, (3) median widenings, and (4) thoroughfare improvements. For analysis purposes, a conceptual plan has been developed that locates the various improvements throughout the district. This analysis is designed to provide an understanding of how these types of improvements will affect the area. This analysis can then be utilized to manage the list of improvements in the Public Realm Improvement Concept Plan (the “Concept Plan”) and to prioritize the funding of projects.

The public realm improvements are considered as part of the Proposed Action, and they are evaluated qualitatively as appropriate in the DEIS chapters.

East Midtown Public Realm Improvement Fund, Governing Group and Concept Plan

As indicated, the Proposed Action would establish the East Midtown Public Realm Improvement Fund (the “Public Realm Improvement Fund” or “Fund”) for the deposit and administration of contributions generated by the transfer of landmark development rights, or the redevelopment of overbuilt buildings with legally non-complying floor area. The Fund shall be utilized, at the discretion of a Public Realm

Improvement Governing Group (the "Governing Group"), to implement improvements within the proposed Subdistrict, and in its immediate vicinity.

The Governing Group will consist of nine members: five members shall be mayoral appointees from City agencies, a representative of the Office of the Manhattan Borough President, a representative of the New York City Council Member representing Council District 4; a representative of Manhattan Community Board 5; and a representative of Manhattan Community Board 6.

The Governing Group will adopt procedures for the conduct of its activities, which shall be consistent with the goals of the proposed Subdistrict. The Governing Group will *also* adopt and maintain a Concept Plan containing a list of priority above- and below-grade improvements (the "Concept Plan"). To inform the initial Concept Plan, a suite of conceptual above- and below-grade public realm improvements have been prepared by DOT and MTA. The MTA improvements are those listed in the previous section, titled "Pre-identified Transit Improvements." The DOT improvements fall into four general categories: (1) plazas, (2) shared streets, (3) median widenings, and (4) thoroughfare improvements. Illustrative examples of their locations are shown on Figures 1-4 and 1-5.

The above- and below-grade public realm improvements are evaluated as appropriate in the following DEIS chapters. This analysis will provide an understanding of how these types of improvements might affect Greater East Midtown if implemented. The above-grade improvements serve as illustrative examples of the types of projects that could be included in the Concept Plan and where those types of projects might be located. The Governing Group will have the ability to amend, add, or remove projects on the Concept Plan, and to prioritize the funding of projects. All projects must meet a set of criteria outlined in the Zoning Resolution and be a capital project under Section 210 of the New York City Charter.

Height and Setback Modifications

Compliance with the Special Midtown District's height and setback regulations is based on a calculation of the amount of daylight and openness to the sky made available to pedestrians through the proposed building's design. Under the Section 74-79 Landmark Transfer Special Permit, as well as permits available in the Grand Central Subdistrict, modifications to these regulations are allowed to accommodate the higher FAR made available through the floor area transfer. To extend a similar flexibility to the as-of-right framework included in the Proposed Action, limited modifications to underlying height and setback regulations would be granted to Qualifying Sites so as to permit as-of-right development at the levels allowed through the proposed framework and to better take account of the smaller development sites and higher street walls found in the East Midtown area. Specific modifications would include:

- The requirement that new buildings either meet the existing minimum daylight score for individual Midtown streets (66 percent), or achieve at least the same daylight score of the buildings they replace;
- The removal of unintended penalties for building designs looking to match the area's higher street wall context; provide street wall recesses and at-grade setbacks; or place more of their bulk higher in the air where it has less on-street visual impact; and
- The allowance for buildings along Park Avenue to measure height and setback compliance based on the avenue's actual dimensions. (Current regulations do not recognize Park Avenue's greater width.)

Other Modifications Affecting Qualifying Sites

Environmental standards – In order to ensure that new office construction supports the City's goals for reducing greenhouse gas emissions and achieves a high standard for energy efficiency, all developments on Qualifying Sites shall meet one of the following two requirements. New developments must either (1) utilize a district steam system for the building's heating and hot water systems; or (2), if it does not use district steam, the building's core and shell must exceed the stringent energy efficiency standards of the 2016 New York City Energy Conservation Code (NYCECC) by at least three percent. The CPC may update this standard by rule to keep pace with evolving codes and building practices.

Stacking rules – In order to enliven the program of future buildings, the 'stacking' rules will be relaxed. Under the existing 'stacking' rules, non-residential uses, such as restaurants, observation decks, and other similar uses, are not permitted above or on the same story as residential uses, limiting the ability to develop such uses in mixed-use buildings with residential uses. In order to permit these active uses, the Proposed Action would allow these 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.

Urban design – The Special Midtown District contains a series of requirements tailored to the unique conditions of the area. 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 East Midtown Subdistrict, and would include elements such as the following:

- Sidewalk widening requirement – While existing street wall requirements for Madison and Lexington Avenues permit sidewalk widenings of up to 10 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.
- Retail continuity – Existing retail requirements on wide streets (including Madison and Lexington Avenues) would be maintained, but developments in the area around Grand Central Terminal would also be required to devote a minimum of 50 percent of their side street frontage to retail uses.

Other Modifications Affecting Entire Subdistrict

Hotel use – Hotels in Greater East Midtown provide a vital service to the business community. To ensure that new development, conversion, or enlargement of hotels in the Subdistrict will provide on-site amenities and services that support the area's role as a business district, hotel uses will be permitted only through special permit.

Discretionary Actions

While the vast majority of the Proposed Action provides an as-of-right framework to achieve the development and public realm improvements desired for the area, there are limited scenarios in which a discretionary action, subject to a separate public review process, is the most appropriate mechanism. This is the case for projects that would include any of the following improvements or uses. The following special permit mechanisms and authorization would be created through the Proposed Action, and would occur only through additional discretionary actions:

Public Concourse Special Permit – To create new opportunities for publicly accessible space on Qualifying Sites, the Proposed Action includes a new special permit will be created within the proposed Subdistrict to allow an on-site Public Concourse in exchange for up to 3.0 FAR of additional floor area. A Public Concourse can be an enclosed or unenclosed public space that reflects contemporary best practices in urban design. The 3.0 FAR bonus would be in addition to the proposed as-of-right maximum FAR.

Transit Improvement Special Permits – To allow for new opportunities for transit improvements on Qualifying Sites beyond those made possible through the as-of-right framework, the existing Subway Station Improvements bonus, pursuant to Zoning Sections 74-634 and 81-292, will be permitted within the Transit Improvement Zones of the proposed Subdistrict. These special permits allow 3.0 FAR increase of the maximum permitted FAR in exchange for improvements to transit infrastructure. This bonus of up to 3.0 FAR would be in addition to the proposed as-of-right maximum FAR. .

Special Permit Modification of Subdistrict Regulations – It is anticipated that over the analysis period, some new developments may require modifications to the proposed subdistrict's regulations in order to utilize the new as-of-right FAR framework, or to realize their maximum permitted floor area within the subdistrict's as-of-right envelope. This special permit would primarily allow modifications to the proposed subdistrict's provisions governing height and setback, the definition of a Qualifying Site, and may extend to use and additional bulk regulations as appropriate.

Hotel Special Permit – Hotels in Greater East Midtown must appropriately serve the needs of the business community by providing business-oriented amenities and services, such as conference facilities and advanced telecommunication tools, at a scale proportionate to the needs of the area. To ensure that new floor area for hotel use in the Subdistrict meet these requirements, a special permit, similar to that of the Special Permit for Transient Hotels in the Vanderbilt Corridor, would be created within the proposed Subdistrict.

Authorization for Enlargements – The Proposed Action permits enlargements to use the Qualifying Site provisions by CPC Authorization. Buildings that could not meet the cleared avenue frontage requirement for Qualifying Sites (where, at the time of development, there are no existing buildings or other structures can remain along the site's wide street frontage, or a portion thereof) could utilize this authorization to increase their maximum permitted as-of-right floor area to the equivalent amount for a Qualifying Site in the same subarea. It would allow an enlargement to use the as-of-FAR-increase mechanisms to achieve the maximum permitted FAR, as would any Qualifying Site. The enlargement must include significant renovations to the existing building that will bring it up, to the greatest extent possible, to contemporary standards.

Proposed Zoning Map Amendment

The rezoning area is currently zoned predominantly as high density commercial (zoning districts C5 and C6) within the Special Midtown Subdistrict. 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 Subdistrict generally follows the boundary of Midtown's commercial areas and thus this area would more appropriately be located in the Midtown Subdistrict, and additionally as part of the East Midtown Subdistrict. By incorporating the area into Midtown, the Special Subdistrict 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 district (10.0 FAR) with a C5-3 district (15.0 FAR), and extend the Special Midtown District and the East Midtown Subdistrict over the proposed C5-3 district in the area bounded by East 43rd Street to the north, East 42nd Street to the south, Second Avenue to the east, and a line 200 feet easterly of Third Avenue to the west. As both the existing and proposed designations are C5 districts, they share the same permitted uses. .

As indicated, the subject block and lots (Block 1316, Lots 12, 23 and 30, and most of Lot 7501) are zoned C5-2 (outside the MiD), which permits a maximum commercial FAR of 10.0 The Rezoning Area's eastern frontage on Second Avenue is zoned C5-2 within the Special Transit Area District ("TA District"). The TA District regulations contain specific use and bulk provisions relating to the proposed Second Avenue Subway station at E. 42nd Street, a portion of which will extend underneath the eastern end of the Rezoning Area.

Lots 12 and 23 (219 & 235 E. 42nd Street) are improved with a 9-story, 9.64 FAR building and a 17.6 FAR, 33-story building, respectively. Together, they total 68,787 sf of lot area, 948,702 sf of office floor area, and serve as the corporate headquarters of Pfizer Inc., a large multi-national pharmaceutical company. Lot 30 (801 Second Avenue) contains an 18.78 FAR, 22-story office building with ground floor retail and 141,408 sf of floor area. Lot 7501 (205 E. 42nd Street) is a T-shaped through lot, and is improved with a 14.6 FAR, 21-story office building with ground floor retail. The easterly two-thirds of Lot 7501 is located within the Rezoning Area.

All four sites are in conformance with the applicable use regulations. Currently, only Lot 12 is compliant with the applicable density regulations, which permit a maximum commercial FAR of 10.0. Under the proposed conditions, the Lots 12 and 7501 would be compliant in terms of built FAR, but Lots 23 and 30 would be overbuilt.

PROPOSED
EAST MIDTOWN
TEXT AMENDMENT

December 29, 2016

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 Grand Central Subdistrict by facilitating the development of exceptional and sustainable buildings ~~within the Vanderbilt Corridor~~ and enabling improvements to the pedestrian and mass transit circulation network;
- (o) to ensure that development within the ~~Vanderbilt Corridor~~ East Midtown Subdistrict occurs on sites that meet sound site planning criteria and therefore can accommodate additional density as appropriate;
- (p) to protect and strengthen the role of landmark buildings as important features of the East Midtown Subdistrict;
- ~~(q)~~ (p) to protect and enhance the role of Grand Central Terminal as a major transportation hub within the City, to expand and enhance the pedestrian and mass transit circulation network connecting Grand Central Terminal to surrounding development, to minimize pedestrian congestion and to protect the surrounding area's special character;
- ~~(r)~~ (q) 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;
- ~~(s)~~ (r) 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
- ~~(t)~~ (s) 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 81-613 (Definitions).

* * *

81-03

District Plan

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

The District Plan includes the following four ~~three~~ 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
<u>Map 4</u>	<u>East Midtown Subdistrict and Subareas</u>

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

East Midtown-Grand Central 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 Transit Improvement Zone Subarea

Park Avenue Subarea

Other Transit Improvement Zone Subarea

Southern Subarea

Northern Subarea

Vanderbilt Corridor Subarea

The combination of the Vanderbilt Corridor Subarea, the Grand Central Transit Improvement Zone Subarea and the portions of the Other Transit Improvement Zone Subarea south of E. 48th Street, are hereinafter referred to as the Grand Central Core Area.

These Subareas, as well as the boundary of the Grand Central Core Area, are shown on Map 4 (East Midtown Subdistrict and Subareas) 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), 81-671 (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).

* * *

81-10

USE REGULATIONS

81-11

Modifications of Use Regulations in Subdistricts

The #use# regulations of the underlying districts are modified in the East Midtown Subdistrict in accordance with the provisions of Section 81-62 (Special Use Provisions), inclusive, are modified in the Theater Subdistrict in accordance with the provisions of Sections 81-72 (Use Regulations Modified) and 81-73 (Special Sign and Frontage Regulations) and are modified in the Fifth Avenue Subdistrict in accordance with the provisions of Section 81-82 (Special Regulations on Permitted and Required Uses).

* * *

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 this Section, inclusive, shall not apply to #non-residential buildings# or #mixed buildings# in the East Midtown Subdistrict, where the special #floor area# provisions of Sections 81-62, 81-63, or 81-64 shall apply.

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**

[REMOVE GRAND CENTRAL SUBDISTRICT FROM CHART. PROVISIONS REPLACED BY THOSE IN SECTION 81-60]

Means for Achieving Permit- ted FAR Levels on a #Zoning Lot#	Maximum #Floor Area Ratio# (FAR)						
	Outside the Grand Central Subdistrict					Grand Central Subdistrict	
	C5P	C6-4 C6-5 M1-6	C5-2.5 C6-4.5 C6-5.5 C6-6.5	C6-7T	C5-3 C6-6 C6-7	C5-2.5	C5-3 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 plazas# (Section 81-23)							
	---	1.0 ^{1,2}	1.0 ^{1,3}	---	1.0 ²	—	—
C. Maximum Total FAR with As-of-Right Incentives							
	8.0	11.0 ^{1,2,2,8}	13.0 ^{1,3}	14.0	16.0	12.0	15.0
D. Maximum Special Permit #Floor Area# Allowances:(District-wide Incentives), Subway station improvements (Section 74-634)							

	---	2.0 ^{1,6,7}	2.4 ¹	---	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
(d) — a "receiving lot" located in the Vanderbilt Corridor (Section 81-635)							

	—	—	—	—	—	—	15.0
O. — Maximum #Floor Area# Allowances by Special Permit for Grand Central Public Realm Improvement Bonus (Section 81-64)							
	—	—	—	—	—	—	15.0
<u>O. P.</u> 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, and limited to 30.0 FAR on a #zoning lot# located within the Vanderbilt Corridor, pursuant to Sections 81-635 or 81-64 in the Grand Central Subdistrict~~
- ~~^{6.2} Not available on west side of Eighth Avenue within the Eighth Avenue Corridor~~
- ^{7.8} 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.

[EXISTING TEXT MOVED TO SECTION 81-63]

~~Within the Grand Central Subdistrict, any transfer of development rights from a landmark site may be made pursuant to either Section 74-79, or 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.

* * *

81-214

~~Special provisions within the Vanderbilt Corridor in the Grand Central Subdistrict~~

[EXISTING TEXT MOVED TO SECTION 81-63]

~~For #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) of Appendix A of this Chapter, additional #floor area# may be permitted by the City Planning Commission pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus), or any combination thereof, up to the maximum permitted #floor area# set forth in the table in Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings), respectively. In no event shall the total #floor area ratio# of the #zoning lot# resulting from such proposed #development# or #enlargement# exceed 30.0.~~

* * *

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 CSP 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 in the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, or on #qualifying sites#, as defined in Section 81-613, in any other subarea of the East Midtown Subdistrict ~~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.

* * *

81-24

Floor Area, Lot Coverage and Building Spacing Regulations for Residential Uses

81-241

Maximum floor area ratios for a residential building or the residential portion of a mixed building

* * *

81-25

General Provisions Relating to Height and Setback of Buildings

* * *

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 Height and Setback Regulations), inclusive,

~~or Section 81-671 (Special street wall requirements 81-621 (Special street wall requirements) and 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 81-632</u> | <u>(Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea)</u> |
| Section 81-64 <u>81-633</u> | (Special Permit for-Grand Central <u>public realm improvements</u> Public Realm Improvement Bonus) |
| <u>Section 81-685</u> | <u>(Special Permit to modify Qualifying Site provisions)</u> |
| Section 81-635 | (Transfer of development rights by special permit). |

* * *

81-27

Alternative Height and Setback Regulations - Daylight Evaluation

81-271

Definitions

* * *

Daylight Evaluation Chart (DEC)

A graphic tool which permits objective measurements of portions of sky blocked by a #building# when it is viewed from a #vantage point#. There are three #daylight evaluation charts# for use with #street# widths of 60 feet, 75 to 80 feet and 100 feet and over, respectively. All #buildings# are drawn on the appropriate #daylight evaluation chart# to evaluate their compliance with the regulations of Section 81-27 (Alternate Height and Setback Regulations). The three #daylight evaluation charts# are presented in Appendix B Appendix A of this Chapter. A fourth chart, also presented in Appendix B, is available for use for #qualifying sites# in the East Midtown Subdistrict, as defined in Section 81-613, with frontage along Park Avenue.

* * *

81-41

General Provisions

The provisions of Section 81-40 (MANDATORY DISTRICT PLAN ELEMENTS) specify mandatory planning and urban design features. Requirements which apply generally or with minor specified exceptions throughout the #Special Midtown District# are fully set forth in the provisions of Section 81-40. For requirements which are not generally applicable but tied to specific locations within the District, the locations where these requirements apply are shown on Map 2 (Retail and Street Wall Continuity) or Map 3 (Subway Station and Rail Mass Transit Facility Improvement Areas) in Appendix A of this Chapter.

The provisions of Section 81-40 are all primarily oriented toward the accommodation and well-being of pedestrians. The requirements pertain to a number of elements which are interrelated and complement one another but are set forth in different sections because they can be treated separately. Sections 81-42 (Retail Continuity along Designated Streets), 81-43 (Street Wall Continuity along Designated Streets) and 81-44 (Curb Cut Restrictions) are a group of sections with closely related purposes concerned with amenity and the well-being and safety of pedestrians. Sections 81-45 to 81-48, inclusive, are all concerned primarily with pedestrian traffic circulation. Major #building# entrances are focal points of heavy pedestrian traffic, so that controls on the locations of these entrances, as set forth in Section 81-48, are closely related to the pedestrian circulation space requirements.

Special district plan requirements for the Penn Center Subdistrict are set forth in Section 81-50 (SPECIAL REGULATIONS FOR THE PENN CENTER SUBDISTRICT), for the East Midtown Grand Central Subdistrict are set forth in Section 81-60 (SPECIAL REGULATIONS FOR THE EAST MIDTOWN GRAND CENTRAL SUBDISTRICT), for the Theater Subdistrict are set forth in Section 81-70 (SPECIAL REGULATIONS FOR THEATER SUBDISTRICT), for the Fifth Avenue Subdistrict are set forth in Section 81-80 (SPECIAL REGULATIONS FOR FIFTH AVENUE SUBDISTRICT) and for the Preservation Subdistrict are set forth in Section 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT).

* * *

81-42

Retail Continuity along Designated Streets

For #buildings developed# or #enlarged# after May 13, 1982, where the ground floor level of such #development# or #enlarged# portion of the #building# fronts upon a designated retail #street# (see Appendix A, Map 2), #uses# within #stories# on the ground floor or with a floor level within five feet of #curb level# 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. Museums and libraries shall be permitted. A #building's street# frontage shall be allocated exclusively to such #uses#, except for:

* * *

Special #use# regulations apply along designated retail #streets# located within the boundaries of the Penn Center Subdistrict, the East Midtown Subdistrict, the Theater Subdistrict or the Fifth Avenue Subdistrict and #uses# along such designated #streets# shall be subject to the respective subdistrict retail requirements in Sections 81-531, 81-674, 81-72 and 81-82.

Special ground level and entertainment-related #use# regulations apply to #zoning lots# located within the Theater Subdistrict Core, as defined in Section 81-71 (General Provisions), and such #zoning lots# shall meet the ground level and entertainment-related #use# requirements of Section 81-72 (Use Regulations Modified).

* * *

81-60

SPECIAL REGULATIONS FOR THE EAST MIDTOWN GRAND CENTRAL 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; enabling improvements to the above- and below-grade pedestrian circulation network; protecting and strengthening the role of landmark buildings as important features of East Midtown; protecting and enhancing the role of Grand Central Terminal as a major transportation hub within East Midtown and the city; expanding and enhancing the pedestrian circulation network connecting the Terminal to surrounding development and minimizing pedestrian congestion; and protecting the surrounding area's iconic 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.

~~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 and mass transit circulation network, and to facilitate the development of exceptional and sustainable buildings within the Vanderbilt Corridor, special regulations are set forth in Section 81-60 (SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT), inclusive, governing urban design and streetscape relationships, the transfer of development rights from landmarks, and the improvement of the pedestrian and mass transit circulation network.~~

The regulations of Sections 81-60 (SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT), inclusive, are applicable only in the East Midtown Grand Central Subdistrict, the boundaries of which are shown on Map 1 (Special Midtown District and Subdistricts) and Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter. 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 set forth in Section 81-212 (Special provisions for transfer of development rights from landmark sites), 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.~~

Where the #lot line# of a #zoning lot# coincides with the boundary of the public place located at the southerly prolongation of Vanderbilt Avenue between East 42nd Street and East 43rd Street, such #lot line# shall be considered to be a #street line# for the purposes of applying the #use#, #bulk# and urban design regulations of this Chapter.

81-611

Applicability of regulations

Special-use provisions

The provisions of Section 81-60, inclusive, shall apply in the East Midtown Subdistrict as follows:

- (a) Section 81-61, inclusive, sets forth general provisions, applicability and definitions for the East Midtown Subdistrict;
- (b) Section 81-62, inclusive, sets forth special use provisions;
- (c) Section 81-63, inclusive, sets forth special #floor area# provisions for the Vanderbilt Corridor Subarea;
- (d) Section 81-64, inclusive, sets forth special #floor area# provisions for #qualifying sites#;
- (e) Section 81-65, inclusive, sets forth special #floor area# provisions for all other #zoning lots#;
- (f) Section 81-66, inclusive, sets forth certain height and setback modifications to the provisions of Sections 81-26 and 81-27;
- (g) Section 81-67, inclusive, sets forth certain modifications to the mandatory district plan elements of Section 81-40, inclusive; and
- (h) Section 81-68, inclusive, sets forth additional provisions pertaining to #qualifying sites#.

[EXISTING TEXT REPLACED BY TEXT IN SECTION 81-621]

- (a) ~~Except as provided in paragraph (b) of this Section, within the Vanderbilt Corridor, as shown in on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed by special permit of the City Planning Commission, pursuant to Section 81-65.~~
- (b) ~~In the event a casualty damages or destroys a #building# within the Vanderbilt Corridor, that was used as a #transient hotel# as of May 27, 2015, to an extent greater than the limits set forth in Section 52-53 (Buildings or Other Structures in All Districts), such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit, provided the #floor area# of such reconstructed #building# does not exceed the underlying district #floor area ratio# regulations.~~

81-612

Applicability along district boundaries

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 Section 81-60, inclusive, shall apply to a #zoning lot# having 50 percent or more of its #lot area# within the East Midtown Subdistrict. For the purposes of Section 81-60, inclusive, 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 81-60, inclusive, are in conflict, the regulations of Section 81-60, inclusive, shall govern.

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 for the purposes of transferring development rights pursuant to the applicable provisions of Sections 81-642 or 81-653. 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 Subarea boundaries, the provisions of Article 7, Chapter 7 shall apply.

81-613

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 C5-3 or C6-6 Districts, a lot contiguous to, or across a #street# and opposite to another lot or series of lots that, except for the intervention of #streets# or #street# intersections, extend 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)).

Granting lot

For the purposes of Section 81-60, inclusive, a "granting lot" shall mean a #zoning lot# that contains a #landmark building or other structure#. Such granting lot may transfer development rights pursuant to Sections 81-632 (Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea), 81-642 (Transfer of development rights from landmarks to qualifying sites), or 81-653 (Special Permit for transfer of development rights from landmarks to non-qualifying sites).

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 by the Landmarks Preservation Commission pursuant to the New York City Charter and Administrative Code, but shall not include those portions of #zoning lots# used for cemetery purposes, statues, monuments or bridges. No transfer of development rights is permitted pursuant to this Section from those portions of #zoning lots# used for cemetery purposes, or any structures within historic districts, statues, monuments or bridges.

Non-qualifying site

For the purposes of Section 81-60, inclusive, a "non-qualifying site" shall refer to a #zoning lot# that does not meet the criteria for a #qualifying site# and is located in a Subarea other than the Vanderbilt Corridor Subarea.

Qualifying Site

For the purposes of Section 81-60, inclusive, a "qualifying site" shall refer to a #zoning lot#:

- (a) that is not located in the Vanderbilt Corridor Subarea;
- (b) that has frontage along a #wide street#;
- (c) where, at the time of #development#, there are no existing #buildings or other structures# to remain along such #wide street# frontage, or a portion thereof;
- (d) where a #building# is #developed# in accordance with the #floor area# provisions of Section 81-64 (Special Floor Area Provisions for Qualifying Sites);
- (e) where a maximum of 20 percent of the #floor area# permitted on such #zoning lot# is allocated to #residential uses#; and
- (f) where such #building# being #developed# complies with the performance requirements of Section 81-681 (Building Performance Requirements for Qualifying Sites).

Public Realm Improvement Fund

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund” (the “Fund”) shall be a separate account established for the deposit of contributions made when #developments# on #qualifying sites# in the East Midtown Subdistrict are planned to exceed the basic maximum #floor area ratio# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) by utilizing the provisions of either Sections 81-642 (Transfer of development rights from landmarks to Qualifying Sites) or Section 81-643 (Special provisions for retaining non-complying floor area) . The Fund shall be utilized, at the discretion of the #Public Realm Improvement Governing Group#, to provide funding to implement improvements to the East Midtown Subdistrict, and in its immediate vicinity.

Public Realm Improvement Fund Floor Price

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund Floor Price” (“Floor Price”) shall be a value per square foot of transferrable development rights in the East Midtown Subdistrict, which shall provide a basis for establishing a minimum contribution to the #Public Realm Improvement Fund#. As of (date of enactment) the “Floor Price” shall be set at \$393.00 per square foot.

When proposing an adjustment to the Floor Price, the Department of City Planning shall undertake a transferrable development rights valuation study conducted by qualified professionals utilizing industry best practices. The City Planning Commission shall, by rule, review and adjust the Floor Price pursuant to the City Administrative Procedures Act not more than once every three years and not less than once every five years. When proposing an adjustment to the Floor Price, the Department of City Planning shall undertake a transferrable development rights valuation study conducted by qualified professionals utilizing industry best practices.

An applicant, upon written request to the City Planning Commission, may request a transferrable development rights valuation study to determine any recent changes in market conditions within the Subdistrict. The study must be paid for by the applicant and completed within a one-year timeframe. The Department of City Planning shall initiate the study, to be conducted by qualified professionals utilizing industry best practices and the City Planning Commission shall, by rule, review and adjust the Floor Prince pursuant to the City Administrative Procedures Act.

Public Realm Improvement Fund Governing Group

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund Governing Group” (the “Governing Group”) shall be established to administer the #Public Realm Improvement Fund#, and shall consist of nine members: five members shall be representatives of City agencies, appointed by and serving at the pleasure of the Mayor; one member shall be a representative of the Office of the Manhattan Borough President; one member shall be a representative of the New York City Council member representing the City Council district encompassing the largest portion of the East Midtown Subdistrict; one member shall be a representative of Manhattan Community Board 5; and one member shall be a representative of Manhattan Community Board 6.

The Governing Group's purpose shall be to bolster and enhance East Midtown's status as a premier central business district with a high-quality public realm, by allocating funds from the #Public Realm Improvement Fund# to implement above-grade or below-grade public realm improvement projects. The Governing Group shall establish and maintain a Public Realm Improvement Concept Plan ("Concept Plan"), for the purpose of creating a list of priority improvements, and shall have the authority to amend such Concept Plan, and associated list of improvements, as necessary. All priority improvements in the Concept Plan shall meet the criteria set forth in Section 81-683 (Criteria for Improvements in the Public Realm Improvement Concept Plan).

The Governing Group shall adopt procedures for the conduct of its activities, which shall be consistent with the goals of the Subdistrict. All meetings of the Governing Group shall be open to the public with advance notice of all meetings and public hearings provided.

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 81-632 (Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea), 81-642 (Transfer of development rights from landmarks to qualifying sites), or 81-653 (Special Permit for transfer of development rights from landmarks to non-qualifying sites).

81-62

Special Use Provisions ~~Bulk and Urban Design Requirements~~

[EXISTING TEXT REPLACED BY TEXT IN SECTION 81-611]

~~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 provisions for transient hotels

Special street wall requirements

Within the East Midtown Subdistrict, as shown in on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the #development# of a #building# containing a #transient hotel#, as listed

in Use Group 5, or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed by special permit of the City Planning Commission.

However, in the event a casualty damages or destroys a #building# within the East Midtown Subdistrict that was used as a #transient hotel# as of May 27, 2015 in the Vanderbilt Corridor Subarea or [date of enactment] in other Subareas, and the extent of such damage or destruction is greater than the limits set forth in Section 52-53 (Buildings or Other Structures in All Districts), such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit, provided the #floor area# of such reconstructed #building# does not exceed the applicable basic maximum #floor area ratio# set forth in Section 81-60, inclusive.

In order to permit such a #transient hotel#, the Commission shall find that such #transient hotel# will:

- (a) be appropriate to the needs of businesses in the vicinity of the East Midtown area; and
- (b) provide on-site amenities and services that will support the area's role as an office district. Such business-oriented amenities and services shall be proportionate to the scale of the #transient hotel# being proposed, and shall include, but shall not be limited to, conference and meeting facilities, and telecommunication services.

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

[EXISTING TEXT REPLACED BY SECTION 81-671]

~~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

Location of uses in mixed buildings

Special height and setback requirements

For #mixed buildings developed# on #qualifying sites#, 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;

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

#physical culture or health establishments# permitted pursuant to Section 73-36.

[EXISTING TEXT REPLACED BY SECTION 81-661]

~~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

[EXISTING TEXT REPLACED BY PARAGRAPH (B) OF SECTION 81-674]

~~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

[EXISTING TEXT REPLACED BY SECTION 81-675]

~~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~~

[EXISTING TEXT REPLACED BY SECTION 81-676]

~~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;~~
- ~~(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; and~~
- ~~(c) — for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, up to a maximum of 3,000 square feet of on-site improvements to the public realm provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) may be applied toward the pedestrian circulation space requirement.~~

81-626

~~Retail continuity requirements~~

[EXISTING TEXT REPLACED BY PARAGRAPH (a) OF SECTION 81-674]

~~For #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, where a #building# fronts upon a designated retail #street#, as shown on Map 2 (Retail and Street Wall Continuity), any portion of such #building's# ground floor level frontage along such designated retail #street# allocated to above- or below-grade public realm improvements provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) shall be excluded from the retail continuity requirements of Section 81-42 (Retail Continuity along Designated Streets).~~

81-63

Special Floor Area Regulations for the Vanderbilt Corridor Subarea **Transfer of Development Rights from Landmark Sites**

For #non-residential buildings# or #mixed buildings# in the Vanderbilt Corridor Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the basic maximum #floor area ratios# of the underlying-districts shall apply as set forth in this Section. Such 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:

	<u>Means for Achieving Permitted FAR Levels on a #Zoning Lot# for #qualifying sites#</u>	<u>Maximum #Floor Area Ratio# (FAR)</u>
<u>A</u>	<u>Basic Maximum FAR</u>	<u>15</u>
<u>B</u>	<u>Maximum Special Permit #Floor Area# Allowances: (District-wide Incentives), Subway station improvements (Section 74-634)</u>	<u>3.0</u>
<u>C</u>	<u>Maximum FAR of Lots Involving Landmarks:</u>	
	<u>Maximum FAR of a lot containing non-bonusable landmark (Section 74-711 or as-of-right)</u>	<u>15.0</u>
	<u>Development rights (FAR) of a landmark lot for transfer purposes (Section 74-79)</u>	<u>15.0</u>
	<u>Maximum amount of transferable development rights (FAR) from a landmark #zoning lot# that may be utilized on:</u>	
	<u>(a) an #adjacent lot# (Section 74-79)</u>	<u>No Limit</u>
	<u>(b) a #receiving lot# (Section 81-632)</u>	<u>15.0</u>
<u>E</u>	<u>Maximum #Floor Area# Allowances by Special Permit for Grand Central public realm improvements (Section 81-633)</u>	<u>15.0</u>
<u>F</u>	<u>Maximum Total FAR of a Lot with Transferred Development Rights from Landmark #Zoning Lot# and District-wide Incentives</u>	<u>No Limit</u>

Any transfer of development rights from a landmark site may be made pursuant to either Section 74-79 or Section 81-632 (Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea), but not both.

Additional #floor area# may be permitted by the City Planning Commission pursuant to Section 81-632 or Section 81-633 (Special Permit for Grand Central public realm improvements), or any combination thereof, up to the maximum permitted #floor area# set forth in the table above, respectively. In no event shall the total #floor area ratio# of the #zoning lot# resulting from such proposed #development# or #enlargement# exceed 30.0.

[EXISTING TEXT REPLACED BY DEFINITIONS IN SECTION 81-613]

~~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

Special provisions for transfers of development rights

Requirements for application

All applications for transfers of development rights pursuant to the special permit by the City Planning Commission in Section 81-632 (Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea) shall additionally comply with the regulations of this Section.

(a) Requirements for applications

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 81-632 (Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea) ~~Section 81-635 (Transfer of development rights by special permit)~~ shall be made jointly by the owners of the ~~#granting lot# and #receiving lot#~~ “granting lot” and “receiving lot” and shall include:

- (a) (1) site plan and zoning calculations for the #granting lot# and #receiving lot# ~~“granting lot” and “receiving lot”~~;
- (b) (2) a program for the continuing maintenance of the landmark;
- (c) (3) 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) (4) ~~for #developments# or #enlargements# pursuant to Section 81-635,~~ a plan of any required pedestrian network improvement; and
- (e) (5) 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# ~~“receiving lot”~~ pursuant to Section 81-632 ~~81-63~~ (Special Permit for transfer of development rights from landmarks ~~Transfer of Development Rights from Landmark Sites~~).

(b) Conditions and limitations

[INSERT THE FOLLOWING EXISTING TEXT FROM SECTION 81-632]

The transfer of development rights from a #granting lot# to a #receiving lot#, ~~“granting lot” to a “receiving lot,”~~ pursuant to Section 81-632 ~~Section 81-63~~, shall be subject to the following conditions and limitations:

- (a) (1) the maximum amount of #floor area# that may be transferred from a #granting lot# ~~“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) (2) for each #receiving lot#, ~~“receiving lot,”~~ the #floor area# allowed by the transfer of development rights under Section 81-632 shall be in addition to the maximum #floor area# allowed by the district regulations applicable to the #receiving lot#, ~~“receiving lot,”~~ as shown in the table in Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea) ~~Section 81-211~~; and
- (c) (3) each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# ~~“granting lot”~~ by the amount of #floor area# transferred. If the landmark designation is removed, the #landmark #building or other structure# is destroyed or #enlarged#, or the #zoning lot# with the #landmark building or other structure# ~~“landmark lot”~~ is redeveloped, the #granting lot# ~~“granting lot”~~

lot" may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer.

(c) Transfer instruments and notice of restrictions

[INSERT THE FOLLOWING EXISTING TEXT FROM SECTION 81-633]

The owners of the #granting lot# "~~granting lot~~" and the #receiving lot# "~~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# "~~granting lot~~" and the #receiving lot# "~~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.

81-632

Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea

Conditions and limitations

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-635]

Within the Vanderbilt Corridor Subarea ~~Grand Central Subdistrict Core~~, as shown on Map 4 (East Midtown Subdistrict and Subareas) ~~Map 1 (Special Midtown District and Subdistricts)~~ in Appendix A of this Chapter, the City Planning Commission may permit the transfer of development rights from a #granting lot# in the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistricts and Subareas) in Appendix A of this Chapter, to a #receiving lot# "~~granting lot~~" to a "~~receiving lot~~", and, in conjunction with such transfer, the Commission may permit modifications to #bulk# regulations, mandatory plan elements, and provisions regarding #zoning lots# divided by district boundaries, as set forth in paragraph (a) of this Section, provided that the Commission determines that the #development# or #enlargement# complies with the conditions of paragraph (b), the findings of paragraph (c) and the additional requirements of paragraph (d) of this Section.

(a) The Commission may permit:

- (1) a transfer of development rights from a #granting lot# to a #receiving lot# "~~granting lot~~" to a "~~receiving lot~~" provided that:

- (i) ~~for #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 in Appendix A of this Chapter, the resultant #floor area ratio# on the #receiving lot# “receiving lot” does not exceed 30.0; and~~
 - (ii) ~~for #zoning lots# outside the Vanderbilt Corridor, the resultant #floor area ratio# on the “receiving lot” does not exceed 21.6;~~
- (2) 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# or #dwelling 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#;
- (3) in the case of an #enlargement# to an existing #building# utilizing the transfer of development rights from a designated landmark, modifications of the provisions of Sections 81-66 (Special Height and Setback Requirements), 81-671 81-621 (Special street wall requirements), 81-622 (Special height and setback requirements), 81-674 (Ground floor use provisions), 81-623 (Building lobby entrance requirements), 81-675 81-624 (Curb cut restrictions and loading berth requirements), 81-676 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;
- (4) 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; and
- (5) ~~for #zoning lots# located within the Vanderbilt Corridor,~~ modifications, whether singly or in any combination, to:
 - (i) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets), or 81-671 81-621 (Special street wall requirements), inclusive;
 - (ii) 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, or 81-622 (Special height and setback requirements); or
 - (iii) the mandatory district plan elements 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), 81-674 (Ground floor use provisions) ~~81-623 (Building lobby entrance requirements)~~, 81-675 ~~81-624~~ (Curb cut restrictions and loading berth requirements), 81-676 ~~81-625~~ (Pedestrian circulation space requirements) 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 shall be permitted.

(b) Conditions

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 above- or below-grade, pedestrian or mass transit circulation network in the Grand Central Core Area Subdistrict. However, ~~in the case of #developments# or #enlargements# on #zoning-lots# located within the Vanderbilt Corridor,~~ this condition may be waived by the Commission, where appropriate, or may be deemed to have been met by utilization of the provisions of Section 81-634 ~~81-64~~ (Special Permit for Grand Central Public Realm Improvement Bonus). 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.

(c) Findings

In order to grant a special permit for the transfer of development rights to a #receiving lot#, ~~"receiving lot,"~~ the Commission shall find that:

- (1) a program for the continuing maintenance of the landmark has been established;
- (2) for any proposed improvement required pursuant to this Section:

- (i) the improvement to the above- or below-grade pedestrian or mass transit circulation network provided by the #development# or #enlargement# increases public accessibility to and from Grand Central Terminal;
 - (ii) the streetscape, the site design and the location of #building# entrances contribute to the overall improvement of pedestrian circulation within the surrounding area Subdistrict and minimize congestion on surrounding #streets#; and
 - (iii) a program is established to identify solutions to problems relating to vehicular and pedestrian circulation problems and the pedestrian environment within the surrounding area Subdistrict;
- (3) where appropriate, for #developments# or #enlargements# on #zoning lots# located ~~within the Vanderbilt Corridor~~, the design of the #development# or #enlargement# includes provisions for public amenities including, but not limited to, publicly accessible open spaces, and subsurface pedestrian passageways leading to subway or rail mass transit facilities;
- (4) for #developments# or #enlargements# with a proposed #floor area ratio# in excess of 21.6 on #zoning lots# located ~~within the Vanderbilt Corridor~~, the #building# has met the ground floor level, building design, sustainable design measures and, for #zoning lots# not located on two #wide streets#, the site characteristic considerations set forth in the applicable conditions and findings of Section 81-633 (Special Permit for Grand Central public realm improvements) ~~Section 81-641 (Additional floor area for the provision of public realm improvements)~~;
- (5) where the modification of #bulk# regulations is proposed:
- (i) any proposed modification of 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;
 - (ii) for #enlargements# to existing #buildings#, any proposed modifications of height and setback requirements and the requirements of Section 81-66 ~~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

- (iii) for #developments# or #enlargements# on #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, any proposed modifications of #bulk# regulations are necessary because of inherent site constraints and that the modifications are limited to the minimum needed; or
 - (6) ~~for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor,~~ any proposed modifications to #street walls#, height and setback regulations and mandatory plan elements meet the applicable application requirements and findings set forth in Section 81-634 ~~81-642~~ (Permitted modifications in conjunction with additional floor area).
- (d) Additional requirements

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# ~~“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.

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

[MOVE EXISTING TEXT TO SECTION 81-631 (b)]

81-633

Special Permit for Grand Central public realm improvements

Transfer instruments and notice of restrictions

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-641]

For #developments# and #enlargements# on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas), ~~Map 1 (Special Midtown District and Subdistricts)~~ in Appendix A of this Chapter, the City Planning Commission may allow, by special permit, #floor area# in excess of the basic maximum #floor area ratio# established in the table in Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea) ~~Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings)~~, up to the maximum #floor area# set forth in the table, in accordance with the provisions of this Section.

All applications for a special permit for additional #floor area# pursuant to this Section shall include on-site or off-site, above- or below-grade improvements to the pedestrian or mass transit circulation network, or a combination thereof, in the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistricts and Subareas) in Appendix A of this Chapter, ~~Grand Central Subdistrict~~. In addition, requirements pertaining to the ground floor level, building design and sustainable design measures are set forth in this Section in order to ensure that any #development# or #enlargement# receiving additional #floor area# constitutes an exceptional addition to the #Special Midtown District#.

In order for the City Planning Commission to approve a special permit application for additional #floor area#, the Commission shall determine that such #development# or #enlargement# complies with the conditions and application requirements of paragraph (a), the findings of paragraph (b) and the additional requirements of paragraph (c) of this Section.

(a) Conditions and application requirements

All applications for a special permit for additional #floor area# pursuant to this Section shall include the following:

(1) Above- or below-grade improvements to the pedestrian or mass transit circulation network.

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of pedestrian and mass transit circulation in the Grand Central Core Area, ~~Grand Central Subdistrict~~, especially in the vicinity of Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall include above- or below-grade public realm improvements.

(i) Where a #development# or #enlargement# proposes the inclusion of above-grade public realm improvements, such improvements may consist of on-site or off-site improvements to the pedestrian circulation network, or a combination thereof.

On-site, above-grade public realm improvements shall consist of open or enclosed publicly accessible spaces, of ample size, provided for public use and

enjoyment. Such publicly accessible spaces shall include amenities characteristic of #public plazas# or public atriums, as applicable, and include amenities for the comfort and convenience of the public.

Off-site, above-grade public realm improvements shall consist of major improvements to the public right-of-way that support pedestrian circulation in the areas surrounding Grand Central Terminal. Where the area of such improvements is to be established as a pedestrian plaza, such improvements shall be characteristic of best practices in plaza design, as set forth by the Department of Transportation. Where the area of such improvements is along a #street# accommodating both vehicular and pedestrian access, such improvements shall be characteristic of current best practices in #street# design, as set forth by the Department of Transportation, and include improvements to the right-of-way such as pedestrian amenities, or streetscape, sidewalk, crosswalk and median enhancements.

- (ii) Where a #development# or #enlargement# proposes the inclusion of below-grade public realm improvements, such improvements shall consist of on-site or off-site enhancements to the below-grade pedestrian and mass transit circulation network. Such improvements shall be characteristic of current best practice in mass-transit network design, and shall include improvements such as on-site or off-site widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network, additional vertical circulation, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, or providing daylight access, retail #uses#, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways.

Applications shall include information and justification sufficient to provide the Commission with the basis for evaluating the benefits to the general public; determining the appropriate amount of bonus #floor area# to grant; and determining whether the applicable findings set forth in paragraph (b) of this Section have been met. Such application materials shall also include initial plans for the maintenance of the proposed improvements.

Where the Metropolitan Transportation Authority or any other City or State agency has control and responsibility for the area of a proposed improvement, the applicant shall submit concept plans for the proposed improvement to such agency and the Commission. At the time of certification of the application, any such agency with 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.

- (2) Ground floor level

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of the pedestrian circulation network in the surrounding area ~~Grand Central Subdistrict, especially in the vicinity of Grand Central Terminal~~, any #development# or #enlargement# proposed under the provisions of this Section shall provide enhancements to the ground floor level of the #building#, including, but not limited to, sidewalk widenings, streetscape amenities or enhancements to required pedestrian circulation spaces.

Where a #development# or #enlargement# includes #street# frontage along Madison Avenue or a #narrow street# between East 43rd Street and East 47th Street, sidewalk widenings shall be provided as follows:

- (i) where a #development# or #enlargement# is on a #zoning lot# which occupies the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue, 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 need exceed 10 feet, as measured perpendicular to the #street line#;
- (ii) where a #development# or #enlargement# is on a #zoning lot# that does not occupy the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue 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 need exceed 10 feet, as measured perpendicular to the #street line#; or
- (iii) where a #development# or #enlargement# with frontage on a #narrow street# between East 43rd Street and East 47th Street is on a #zoning lot# with a #lot width# of 100 feet or more, as measured along the #narrow street line#, a sidewalk widening shall be provided along such #narrow street#, 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 need exceed 10 feet, as measured perpendicular to the #street line#.

Applications shall contain a ground floor level site plan, and other supporting documents of sufficient scope and detail to enable the Commission to determine the type of proposed #uses# on the ground floor level, the location of proposed #building# entrances, the size and location of proposed circulation spaces, the manner in which such spaces will connect to the overall pedestrian circulation network and the above- or below-grade public realm improvements required pursuant to this Section and any other details necessary for the Commission to determine whether the applicable findings set forth in paragraph (b) of this Section have been met.

(3) Building design

In order to ensure that the proposed #development# or #enlargement# contributes to its immediate surroundings, with particular emphasis on Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall demonstrate particular attention to the building design, including, but not limited to, the proposed #uses#, massing, articulation and relationship to #buildings# in close proximity and within the Midtown Manhattan skyline.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine the proposed #uses# within the #building#, as well as the proposed #building bulk# and architectural design of the #building#, and to evaluate the proposed #building# in the context of adjacent #buildings# and the Midtown Manhattan skyline. Such materials shall include a description of the proposed #uses# within the #building#; measured elevation drawings, axonometric views, and perspective views showing such proposed #building# within the Midtown Manhattan skyline; and any other materials necessary for the Commission to determine whether the applicable findings set forth in paragraph (b) of this Section have been met.

For those ~~#receiving lots#~~ “receiving lots” that are contiguous to a lot occupied by Grand Central Terminal or a lot that is across a #street# and opposite the lot occupied by Grand Central Terminal, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by Grand Central Terminal, applications shall contain a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or #enlargement# to Grand Central Terminal.

(4) Sustainable design measures

In order to foster the development of sustainable #buildings# in the Vanderbilt Corridor Subarea ~~Grand Central Subdistrict~~, any #development# or #enlargement# proposed under the provisions of this Section shall include sustainable design measures, including, but not limited to, enhancements to the energy performance, enhanced water efficiency, utilization of sustainable or locally sourced materials and attention to indoor environmental air quality of the #building#.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine whether the applicable findings in paragraph (b) of this Section have been met. In addition, any application shall include materials demonstrating the sustainable design measures of the #building#, including its anticipated energy performance, and the degree to which such performance exceeds either the 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) Findings

The Commission shall find that:

- (1) for a #development# or #enlargement# not located on two #wide streets#, the amount of additional #floor area# being granted is appropriate based on the extent to which any or all of the following physical factors are present in the #development# or #enlargement#:
 - (i) direct access to subway stations and other rail mass transit facilities;
 - (ii) the size of the #zoning lot#;
 - (iii) the amount of wide #street# frontage; and
 - (iv) adjacency to the open area above Grand Central Terminal;
- (2) for above-grade improvements to the pedestrian circulation network that are located:
 - (i) on-site, the proposed improvements will, to the extent practicable, consist of a prominent space of generous proportions and quality design that is inviting to the public; improve pedestrian circulation and provide suitable amenities for the occupants; front upon a #street# or a pedestrian circulation space in close proximity to and within view of and accessible from an adjoining sidewalk; provide or be surrounded by active #uses#; be surrounded by transparent materials; provide connections to pedestrian circulation spaces in the immediate vicinity; and be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space; or
 - (ii) off-site, the proposed improvements to the public right-of-way, to the extent practicable, will consist of significant street and sidewalk designs that improve pedestrian circulation in the surrounding area; provide comfortable places for walking and resting, opportunities for planting and improvements to pedestrian safety; and create a better overall user experience of the above-grade pedestrian circulation network that supports the surrounding area Grand Central Subdistrict as a high-density business district. Where the area of such improvement is to be established into a pedestrian plaza that will undergo a public design and review process through the Department of Transportation subsequent to the approval of this special permit, the Commission may waive this finding;

- (3) for below-grade improvements to the pedestrian or mass transit circulation network, the proposed improvements will provide:
- (i) significant and generous connections from the above-grade pedestrian circulation network and surrounding #streets# to the below-grade pedestrian circulation network;
 - (ii) major improvements to public accessibility in the below-grade pedestrian circulation network between and within 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 reconfiguration of existing connections; or
 - (iii) significant enhancements to the environment of subway stations and other rail mass transit facilities including daylight access, noise abatement, air quality improvement, lighting, finishes, way-finding or rider orientation, where practicable;
- (4) the public benefit derived from the proposed above- or below-grade improvements to the pedestrian or mass transit circulation network merits the amount of additional #floor area# being granted to the proposed #development# or #enlargement# pursuant to this special permit;
- (5) the design of the ground floor level of the #building#:
- (i) contributes to a lively streetscape through a combination of retail #uses# that enliven the pedestrian experience, ample amounts of transparency and pedestrian connections that facilitate fluid movement between the #building# and adjoining public spaces; and demonstrates consideration for the location of pedestrian circulation space, #building# entrances, and the types of #uses# fronting upon the #street# or adjoining public spaces;
 - (ii) will substantially improve the accessibility of the overall pedestrian circulation network, reduce points of pedestrian congestion and, where applicable, establish more direct and generous pedestrian connections to Grand Central Terminal; and
 - (iii) will be well-integrated with on-site, above or below-grade improvements required by this Section, where applicable and practicable;
- (6) the design of the proposed #building#:
- (i) 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) demonstrates an integrated and well-designed facade, taking into account factors such as #street wall# articulation and fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area, especially Grand Central Terminal; and
 - (iii) involves a program that includes an intensity and mix of #uses# that are harmonious with the type of #uses# in the surrounding area;
- (7) the proposed #development# or #enlargement# comprehensively integrates sustainable measures into the #building# and site design that:
 - (i) meet or exceed best practices in sustainable design; and
 - (ii) will substantially reduce energy usage for the #building#, as compared to comparable #buildings#; and
- (8) in addition:
 - (i) the increase in #floor area# being proposed in the #development# or #enlargement# will not unduly increase the #bulk#, density of population or intensity of #uses# to the detriment of the surrounding area; and
 - (ii) all of the separate elements within the proposed #development# or #enlargement#, including above- or below-grade improvements, the ground floor level, #building# design, and sustainable design measures, are well-integrated and will advance the applicable goals of the #Special Midtown District# described in Section 81-00 (GENERAL PURPOSES).
- (c) Additional requirements

Prior to the grant of a special permit pursuant to this Section, and to the extent required by the Metropolitan Transportation Authority (MTA) or any other City or State agencies with control and responsibility for the area in which a proposed improvement is to be located, the applicant shall execute an agreement, setting forth the obligations of the owner, its successors and assigns, to establish a process for design development and a preliminary construction schedule for the proposed improvement; construct the proposed improvement; where applicable, establish a program for maintenance; and, where applicable, establish a schedule of hours of public access for the proposed improvement. Where the MTA, or any other City or State agencies with control and responsibility for the area of a proposed improvement, deems necessary, such executed agreement shall set forth obligations of the applicant to provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA or any other such agencies.

Where the proposed #development# or #enlargement# proposes an off-site improvement located in an area to be acquired by a City or State agency, the applicant may propose a phasing plan to sequence the construction of such off-site improvement. To determine if such phasing plan is reasonable, the Commission may consult with the City or State agency that intends to acquire the area of the proposed improvement.

Prior to obtaining a foundation permit or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, setting forth the obligations of the owner to construct, and, where applicable, maintain and provide public access to public improvements provided pursuant to 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 in a form acceptable to the Department of City Planning.

Except where a phasing plan is approved by the City Planning Commission, 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 Section 81-633 (Special Permit for Grand Central public realm improvements) ~~Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus)~~ until the 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 control and responsibility for the area where a proposed improvement is to be located, where applicable, and such improvements are usable by the public. Such portion of the #building# utilizing bonus #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson, acting in consultation with the MTA, or any other City or State agencies with control and responsibility for the area where a proposed improvement is to be located, where applicable.

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

[MOVE EXISTING TEXT TO SECTION 81-631 (c)]

81-634

Permitted modifications in conjunction with additional floor area

Transfer of development rights by certification

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-642]

In conjunction with the grant of a special permit pursuant to Section 81-633 (Special Permit for Grand Central public realm improvements) ~~Section 81-641 (Additional floor area for the provision of public realm improvements)~~, the City Planning Commission may permit modifications to #street walls#, height and setback regulations and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

- (a) The Commission may modify the following, whether singly or in any combination:
- (1) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets) or 81-671 81-621 (Special street wall requirements), inclusive;
 - (2) 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, or 81-66 81-622 (Special height and setback requirements); or
 - (3) the mandatory district plan elements 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), 81-674 (Ground floor use provisions) 81-623 (Building lobby entrance requirements), 81-675 81-624 (Curb cut restrictions and loading berth requirements), 81-676 81-625 (Pedestrian circulation space requirements) 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 shall be permitted.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

- (1) drawings, including but not limited to, plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43 (~~Street Wall Continuity Along Designated Streets~~), or as such provisions are modified pursuant to Section 81-671 81-621 (Special street wall requirements), as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation) or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), or as such provisions are modified pursuant to Section 81-66 81-622 (Special height and setback requirements), as applicable;

- (2) 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 81-66 ~~81-622~~; and
- (3) 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 81-66 ~~81-622~~.

(c) Findings

The Commission shall find that such proposed modifications:

- (1) to the mandatory district plan elements will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions); and
- (2) to the #street wall# or height and setback regulations will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations).

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

[EXISTING TEXT DELETED]

~~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# or #dwelling 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# or #dwelling 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# of the district in which such #bulk# is to be located.

81-635

Transfer of development rights by special permit

[EXISTING TEXT MOVED TO SECTION 81-632]

81-64

Special Floor Area Provisions for Qualifying Sites

Special Permit for Grand Central Public Realm Improvement Bonus

For #non-residential buildings# or #mixed buildings# on #qualifying sites# in the East Midtown Subdistrict, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section. Such 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 RATIOS AND ALLOWANCES FOR QUALIFYING SITES

	<u>Means for Achieving Permitted FAR Levels on a #Zoning Lot# for #qualifying sites#</u>	<u>Grand Central Transit Improvement Zone Subarea</u>		<u>Park Avenue Subarea</u>		<u>Other Transit Improvement Zone Subarea</u>		<u>Southern Subarea</u>		<u>Northern Subarea</u>	
		<u>C5-2.5</u>	<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>	<u>C5-2.5</u>	<u>C5-3</u>
<u>A</u>	<u>Basic Maximum FAR</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>12</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>12</u>	<u>15</u>
<u>B</u>	<u>Minimum #Floor Area# Allowances through identified transit improvements (Section 81-641) if exceeding base maximum FAR</u>										
		<u>2.7</u>	<u>2.7</u>	=	=	<u>2.3</u>	<u>2.3</u>	=	=	=	=

<u>C</u>	<u>Maximum #Floor Area# Allowances through identified transit improvements (Section 81-641)</u>										
		<u>5.4</u>	<u>5.4</u>	=	=	<u>4.6</u>	<u>4.6</u>	=	=	=	=
<u>D</u>	<u>Maximum amount of transferable development rights (FAR) from landmark #zoning lots# that may be utilized on a #qualifying site# (Section 81-642)</u>										
		<u>12.3</u>	<u>9.3</u>	<u>11</u>	<u>10</u>	<u>8.7</u>	<u>5.7</u>	<u>9.6</u>	<u>6.6</u>	<u>6</u>	<u>3</u>
<u>E</u>	<u>Maximum as-of-right #Floor Area Ratio# on #qualifying sites#</u>										
		<u>27</u>	<u>27</u>	<u>23</u>	<u>25</u>	<u>23</u>	<u>23</u>	<u>21.6</u>	<u>21.6</u>	<u>18</u>	<u>18</u>
<u>F</u>	<u>Maximum FAR for transit improvement special permit (Section 81-644)</u>										
		<u>3</u>	<u>3</u>	=	=	<u>3</u>	<u>3</u>	=	=	=	=
<u>G</u>	<u>Maximum FAR for public concourse special permit (Section 81-645)</u>										
		<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>
<u>H</u>	<u>Maximum Total FAR on a #qualifying site#</u>										
		<u>30</u>	<u>30</u>	<u>26</u>	<u>28</u>	<u>26</u>	<u>26</u>	<u>24.6</u>	<u>24.6</u>	<u>21</u>	<u>21</u>

[EXISTING TEXT DELETED]

~~In order to facilitate the development of exceptional and sustainable #buildings# within the Vanderbilt Corridor as well as improvements to the pedestrian and mass transit circulation network in the vicinity of Grand Central Terminal, for #developments# and #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown in on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the City Planning Commission may permit:~~

- ~~(a) — additional #floor area# for the provision of on-site or offsite, above or below grade improvements to the pedestrian or mass transit circulation network in the Grand Central Subdistrict, in accordance with the provisions of Section 81-641 (Additional floor area for the provision of public realm improvements); and~~
- ~~(b) — in conjunction with additional #floor area# granted pursuant to Section 81-641, modifications to #street wall# regulations, height and setback regulations and mandatory district plan elements, provided such modifications are in accordance with the provisions of Section 81-642 (Permitted modifications in conjunction with additional floor area).~~

81-641

Additional floor area for Transit Improvements on Qualifying Sites

Additional floor area for the provision of public realm improvements

All #developments# on #qualifying sites# located within the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, that exceed the basic #floor area ratio# set forth in Row A of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) shall comply with the provisions of this Section.

The Chairperson of the City Planning Commission shall allow, by certification, #floor area# on a #qualifying site# to be increased above the applicable basic maximum #floor area ratio# provided that such resulting increase in #floor area ratio# is not less than the minimum specified in Row B of Section 81-64, nor more than the maximum specified in Row C of such table, as applicable, and further provided that a public realm improvement, or a combination of public realm improvements, will be constructed in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, in accordance with the provisions of this Section.

- (a) The following requirements shall be completed prior to application for certification by the Chairperson:
- (1) The applicant shall select a public realm transit improvement project that has been identified on the Priority Improvement List in Section 81-682 (Priority Improvement List for Qualifying Sites) and is commensurate with the minimum #floor area# required, and results in a #floor area ratio# increase not exceeding the maximum #floor area ratio# permitted to be achieved through the provisions of this Section. The process for such selection is also set forth in Section 81-682;
 - (2) The applicant shall submit concept plans for the proposed transit improvement to the Chairperson and any applicable City or State agencies with jurisdiction over and control of the proposed improvement;
 - (3) The applicant shall obtain and provide to the Chairperson a conceptual approval of the improvement from any applicable City or State agencies with jurisdiction over and control of the proposed improvement in letter form, wherein such agencies state that such improvements meet the technical requirements set forth in Section 81-682; and
 - (4) 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. A certified copy of such legal instruments shall be sent to the Chairperson.

(b) The following items shall be submitted to the Chairperson as part of an application for certification:

- (1) zoning calculations for the proposed #development# on the #qualifying site# showing the additional #floor area# associated with the completion of such transit improvement; and
- (2) drawings, including but not limited to plans, sections, elevations, three-dimensional projections or other drawings deemed necessary or relevant by the Chairperson for the transit improvement.

The Chairperson shall allow, by certification, a reduction in, or waiver of, the minimum #floor area ratio# required pursuant to Row B of Section 81-64, where there are an insufficient number of available projects on the Priority Improvement List in Section 81-682. The Chairperson shall also allow, by certification, the maximum #floor area ratio# for a #qualifying site# to be increased beyond the limit set forth in Row C in the Table of Section 81-64, where the Metropolitan Transportation Authority requires improvements to the 5th Avenue and E. 53rd Street Station to be combined in order to adequately phase improvements and avoid practical difficulties in operating the station.

When an applicant has submitted materials to the Chairperson that satisfy the requirements of paragraphs (a) and (b) of this Section, the Chairperson shall certify to the Department of Buildings that a #development# on a #qualifying site# is in compliance with the provisions of this Section. Such certification 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# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea.

No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# identified as utilizing the additional #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 applicant in drawings included in the instruments filed pursuant to paragraph (b) of this Section.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing such additional #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.

[EXISTING TEXT MOVED TO 81-633]

81-642

Transfer of development rights from landmarks to Qualifying Sites

Permitted modifications in conjunction with additional floor area

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 East Midtown Subdistrict to a #qualifying site#, provided that the provisions of this Section are met.

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

- (1) For #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas), the applicant shall comply with the provisions of Section 81-641 (Additional floor area for Transit Improvements) prior to, or in conjunction with, meeting the requirements of this Section.
- (2) 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 Section 81-64 (Special Floor Area Provisions for Qualifying Sites), 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 the provisions of this Chapter, or any preceding regulations.
- (3) For each #receiving lot#, the increased #floor area# allowed by the transfer of development rights pursuant to this Section shall not exceed the amount resulting in the maximum #floor area ratio# set forth in Row D of the table in Section 81-64.
- (4) Each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred. If the landmark designation is removed from the #landmark building or other structure#, the #landmark building or other structure# is destroyed or #enlarged#, or the #zoning lot# with the #landmark building or 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.
- (5) The owners of the #granting lot# and the #receiving lot# shall submit to the Chairperson a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the #granting lot# and the #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York (County of New York), a certified copy of which shall be submitted to the Chairperson.

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

- (6) A contribution shall be deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be equal to the greater of:
- (i) 20 percent of the sales price of the transferred #floor area#; or
 - (ii) an amount equal to 20 percent of the #Public Realm Improvement Fund Floor Price# multiplied by the amount of transferred #floor area#.
- (b) An application filed with the Chairperson for certification pursuant to this Section shall be made jointly by the owners of the #granting lot# and #receiving lot#. The following items shall be submitted to the Chairperson as part of an application for certification:
- (1) For #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, materials that are sufficient to demonstrate compliance with the provisions of Section 81-641 (Additional floor area for transit improvements on qualifying sites);
 - (2) site plans and zoning calculations for the #granting lot# and #receiving lot#;
 - (3) materials to demonstrate the establishment of a program for the continuing maintenance of the #landmark building or other structure#;
 - (4) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the #landmark building or other structure#; and
 - (5) for those #receiving lots# that are contiguous to a lot occupied by Grand Central Terminal or a lot that is across a #street# and opposite the lot occupied by Grand Central Terminal, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by Grand Central Terminal, a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# to Grand Central Terminal.

When an applicant has submitted materials to the Chairperson that satisfy the requirements of paragraphs (a) and (b) of this Section, the Chairperson shall certify to the Department of Buildings that a #development# on a #qualifying site# is in compliance with the provisions of this Section.

The execution and recording of such instruments and the payment of such non-refundable contribution shall be a precondition to the filing for or issuing of any building permit allowing more than the basic maximum #floor area ratio# for such #development# on a #qualifying site#.

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

[EXISTING TEXT MOVED TO SECTION 81-634]

81-643

Special provisions for retaining non-complying floor area

A #non-complying commercial building# with #non-complying floor area# constructed prior to December 15, 1961 may be demolished and reconstructed on a #qualifying site# 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, prior to reconstruction, the proposed #development# complies with the applicable provisions of paragraph (b) of this Section.

- (a) A #non-complying commercial building# may be demolished to reconstruct pre-existing #non-complying floor area# pursuant to the provisions of paragraph (b) of this Section, provided that calculations of the amount of #non-complying floor area# in such existing #non-complying commercial building# to be replaced in such reconstructed #building# 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, the maximum amount of #non-complying floor area# that is able to be reconstructed shall be equivalent to the #floor area# of the #zoning lot# at the time of application, less the total #floor area# of all existing #buildings# to remain.

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) 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:

(1) All requirements for #qualifying sites# set forth in the definition in Section 81-613 (Definitions), inclusive are met; and

(2) A contribution shall be deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be an amount equal to 20 percent of the #Public Realm

Improvement Fund Floor Price# multiplied by the amount of such pre-existing #non-complying floor area#.

The payment of the non-refundable contribution to the #East Midtown District Improvement Fund# pursuant to the provisions of paragraph (b) of this Section, 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.

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 81-64 (Special Floor Area Provisions for Qualifying Sites). For the purposes of applying the provisions of such Section, the reconstructed #floor area ratio# shall be considered the basic maximum #floor area ratio#.

81-644

Special Permit for Transit Improvements

For #qualifying sites# located in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row F of the table in Section 81-64 (Special Floor Area Provisions for Qualifying 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).

As a pre-condition to applying for such special permit, an applicant shall demonstrate that the maximum as-of-right #floor area ratio# set forth in Row E of the table in Section 81-64 has been achieved prior to, or in conjunction with the special permit application.

81-645

Special Permit for a Public Concourse

For #qualifying sites#, the City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row G of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), as applicable, where an above-grade public concourse, in the form of an open or enclosed, publicly accessible space for public use and enjoyment, is provided on the #qualifying site#. Such publicly accessible spaces shall include amenities that are characteristic of #public plazas# or public atriums, as applicable, for the comfort and convenience of the public.

As a pre-condition to applying for such special permit, an applicant shall demonstrate that the maximum as-of-right #floor area ratio# set forth in Row E of the table in Section 81-64 has been achieved prior to, or in conjunction with the special permit application.

In order for the City Planning Commission to approve a special permit application for additional #floor area#, the Commission shall determine that such #development# complies with the conditions and application requirements of paragraph (a), the findings of paragraph (b) and the additional requirements of paragraph (c) of this Section.

- (a) Applications shall include information and justification sufficient to provide the Commission with the basis for: evaluating the benefits to the general public; determining the appropriate amount of increased #floor area# to grant; and determining whether the applicable findings set forth in paragraph (b) of this Section have been met. Such application materials shall also include initial plans for the maintenance of the proposed improvements.
- (b) The Commission shall find that:

 - (1) to the extent practicable, the open or enclosed public concourse will: consist of a prominent space of generous proportions and quality design that is inviting to the public; improve pedestrian circulation and provide suitable amenities for the occupants; front upon a #street# or a pedestrian circulation space in close proximity to and within view of, and accessible from, an adjoining sidewalk; provide or be surrounded by active #uses#; be surrounded by transparent materials; provide connections to pedestrian circulation spaces in the immediate vicinity; and be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space; and
 - (2) the public benefit derived from the proposed public concourse merits the amount of additional #floor area# being granted to the proposed #development# pursuant to this special permit;
- (c) Prior to obtaining a foundation permit or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, setting forth the obligations of the owner to construct, and, where applicable, maintain and provide public access to public improvements provided pursuant to 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 in a form acceptable to the Department of City Planning.

No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing increased #floor area# granted pursuant to the provisions of this Section until the required improvements have been substantially completed, as determined by the Chairperson of the City Planning Commission, and such improvements are usable by the public. Such portion of the #building# utilizing increased #floor area# shall be designated by the

Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing increased #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson.

81-65

Special Floor Area Provisions for All Other Sites

Special Permit for Transient Hotels

For #non-residential buildings# or #mixed buildings# on #non-qualifying sites# in the East Midtown Subdistrict, the basic maximum #floor area ratios# of the underlying-districts shall apply as set forth in this Section. Such 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:

<u>Row</u>	<u>Means for achieving permitted FAR on a #zoning lot# for all other sites</u>	<u>Grand Central Core Area</u>		<u>Any other Areas</u>	
		<u>C5-3</u> <u>C6-6</u>	<u>C5-2.5</u> <u>C6-4.5</u>	<u>C5-3</u> <u>C6-6</u>	<u>C5-2.5</u> <u>C6-4.5</u>
<u>A</u>	<u>Basic Maximum FAR</u>	<u>15</u>	<u>12</u>	<u>15</u>	<u>12</u>
<u>B</u>	<u>Additional FAR for provision of a #public plaza# (Section 81-651)</u>	<u>-</u>	<u>-</u>	<u>1</u>	<u>1</u>
<u>C</u>	<u>Total as-of-right FAR</u>	<u>15</u>	<u>12</u>	<u>16</u>	<u>13</u>
<u>D</u>	<u>Additional FAR for subway station improvements through special permit (Section 81-652)</u>	<u>3</u>	<u>2.4</u>	<u>3</u>	<u>2.4</u>
<u>E</u>	<u>Maximum FAR of a #landmark or other structure# for transfer purposes (Section 74-79)</u>	<u>15</u>	<u>12</u>	<u>16</u>	<u>13</u>
<u>F</u>	<u>Maximum amount of transferable development rights from a landmark #zoning lot# that may be utilized on an #adjacent lot# (Sections 74-79)</u>	<u>No limit</u>	<u>2.4</u>	<u>No limit</u>	<u>2.4</u>

<u>G</u>	<u>Maximum FAR permitted on an #adjacent lot#</u>	<u>No limit</u>	<u>14.4</u>	<u>No limit</u>	<u>14.4</u>
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[EXISTING TEXT REPLACED BY TEXT IN SECTION 81-621]

~~Within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the City Planning Commission may permit the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or may permit the #conversion# or change of #use# within an existing #building# to a #transient hotel#, provided the Commission finds that the proposed #transient hotel# will:~~

- ~~(a) be appropriate to the needs of businesses in the vicinity of Grand Central Terminal; and~~
- ~~(b) provide on-site amenities and services that will support the area's role as an office district. Such business-oriented amenities and services shall be proportionate to the scale of the #transient hotel# being proposed, and shall include, but shall not be limited to, conference and meeting facilities, and telecommunication services.~~

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

81-651

Floor area bonus for public plazas

For #non-qualifying sites# in Subareas outside the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) 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 81-65 (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).

81-652

Floor area bonus for subway station improvements

For #non-qualifying sites#, the City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row D of the table in Section 81-65 (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).

81-653

Special Permit for transfer of development rights from landmarks to non-qualifying sites

For #non-qualifying sites#, the City Planning Commission may permit the transfer of development rights from a #granting lot# to a #receiving lot#, pursuant to the provisions of Section 74-79 (Transfer of Development Rights from Landmark Sites), provided that:

- (a) 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 Section 81-65 (Special Floor Area Provisions for All Other Sites), 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 the provisions of this Chapter, or any preceding regulations;
- (b) for each #receiving lot#, the increased #floor area# allowed by the transfer of development rights pursuant to this Section shall not exceed the amount resulting in the maximum #floor area ratio# set forth in Row F of the table in Section 81-65; 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.

81-66

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, are modified by the provisions of this Section, inclusive.

81-661

Height and setback modifications for buildings in the Grand Central Core Area

[RELOCATED TEXT FROM SECTION 81-622]

Within the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistricts and Subareas) in Appendix A of this Chapter, 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.

81-662

Daylight Compensation modifications for qualifying sites

#Buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight compensation method of height and setback regulations may modify the provisions of Section 81-26 (Height and Setback Regulations-Daylight Compensation) as follows:

- (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) For #buildings# on #qualifying sites# with frontage along Vanderbilt Avenue, a portion of Vanderbilt Avenue may be considered part of the #zoning lot# for the purposes of determining permitted #encroachments# and #compensating recesses#. Such modified #zoning lot# shall be constructed by shifting the westerly boundary of the #zoning lot# to the westerly #street line# of Vanderbilt Avenue, and by prolonging the #narrow street lines# to such new westerly 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 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#, and further provided that the #street frontage zone# calculation along Park Avenue shall not include Vanderbilt Avenue;

- (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#; and
- (c) for #buildings# on #qualifying sites# with frontage along Park Avenue, as an alternative to the setback requirements of Table A, B, or C in paragraph (b) of Section 81-263 (Standard setback requirements), 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.

81-663

Daylight Evaluation modifications for qualifying sites

#Buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight evaluation method of height and setback regulations may modify the provisions of Section 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation) as follows:

- (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#;
 - (2) the computation of unblocked daylight squares which are below the curved line representing an elevation of 70 degrees, pursuant to paragraph (c) of Section 81-274, may apply along designated #streets# where #street wall# continuity is required;
 - (3) the profile penalty for #profile encroachment#, set forth in paragraph (a) of Section 81-274, shall not apply; and
 - (4) the provisions of paragraph (i) of Section 81-274 shall be modified to require an overall passing score of 66 percent. However for #qualifying sites# with existing #buildings# with #non-complying floor area# to be reconstructed pursuant to the provisions of Section 81-643 (Special provisions for retaining non-complying floor area), the overall passing score of the #zoning lot#, as existing on [date of enactment], may be utilized as the passing score for the proposed #development# on the #qualifying site#;
- (b) for #buildings# on #qualifying sites# with frontage along Vanderbilt Avenue, a portion of Vanderbilt Avenue may be considered part of the #zoning lot# for the purposes of constructing the #daylight evaluation chart# pursuant to Section 81-272 (Features of the Daylight Evaluation Chart). Such modified #zoning lot# shall be constructed by shifting the westerly boundary of the #zoning lot# to the westerly #street line# of Vanderbilt Avenue, and by prolonging the #narrow street lines# to such new westerly 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#;
 - (2) #vantage points# along Vanderbilt Avenue are taken 30 feet west of the westerly #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#; and
- (c) for #buildings# with frontage along Park Avenue:
- (1) 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#; and
 - (2) 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 B of this Chapter, shall be utilized in lieu of the chart for #streets# 100 feet or more in width.

81-67

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.

81-671

Special street wall requirements

[RELOCATED TEXT FROM SECTION 81-621]

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 in the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, 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.

81-672

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 along Madison and Lexington Avenues

#Developments# on #qualifying sites# with frontage along Madison and Lexington Avenues, shall provide mandatory sidewalk widenings as follows:

- (1) where such #development# is on a #zoning lot# which occupies the entire #block# frontage, a 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 need exceed 10 feet, as measured perpendicular to the #street line#;
- (2) where such #development# is on a #zoning lot# which does not occupy the entire #block# frontage, a sidewalk widening 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 need exceed 10 feet, as measured perpendicular to the #street line#.

(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 81-671 (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.

81-673

Mass transit access

For #developments# on #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistricts and Subareas) 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.

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:
 - (i) such mass transit access shall be improved to the standards set forth in Section 81-48 and shall be approved by the MTA;
 - (ii) 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
 - (iii) 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#.

81-674

Ground floor use provisions

- (a) Within the Vanderbilt Corridor Subarea

[RELOCATED TEXT FROM SECTION 81-626]

For #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, where a #building# fronts upon a designated retail #street#, as shown on Map 2 (Retail and & Street Wall Continuity), any portion of such #building's# ground floor level frontage along such designated retail #street# allocated to above- or below-grade public realm improvements provided in accordance with a special permit pursuant to Section 81-632 (Special Permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea) or Section 81-633 (Special Permit for Grand Central public realm improvements) shall be excluded from the retail continuity requirements of Section 81-42 (Retail Continuity along Designated Streets).

- (b) Within the Grand Central Core Area

[RELOCATED TEXT FROM SECTION 81-623]

For #buildings developed# or #enlarged# on the ground floor after August 26, 1992 in the Grand Central Core Area, as shown on Map 4, #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.

(c) Along #narrow streets# of #qualifying sites# in the Grand Central Core Area

For #developments# on #qualifying sites# in the Grand Central Core Area, as shown on Map 4, 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 comply with the transparency provisions of Section 81-42.

81-675

Curb cut restrictions and loading berth requirements

[RELOCATED AND MODIFIED TEXT FROM SECTION 81-624]

For #developments# or #enlargements# within the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) 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.

81-676

Pedestrian circulation space requirements

[EXISTING TEXT FROM SECTION 81-625]

Any #development# or #enlargement# within the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, 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;~~
- (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; and
- (c) for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas) 1-(Special Midtown District and Subdistricts) in Appendix A of this Chapter, up to a maximum of 3,000 square feet of

on-site improvements to the public realm provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) may be applied toward the pedestrian circulation space requirement.

81-68

Additional Provisions for Qualifying Sites

81-681

Building Performance Requirements for Qualifying Sites

In order to ensure advancement of goals for the reduction of greenhouse gas emissions, #buildings# on #qualifying sites# shall either:

- (a) utilize a district steam system for the #building's# heating and hot water systems; or
- (b) the core and shell of such #building# shall exceed the standards of the chosen commercial building energy-efficiency compliance path within the 2016 New York City Energy Conservation Code (NYCECC), by three percent.

Compliance with the provisions of this Section shall be demonstrated to the Department of Buildings at the time of issuance of a new building permit for a #development# on a #qualifying site#.

The City Planning Commission may, by rule, modify the standards of this Section, as necessary, to ensure that the environmental standards established herein, meet or exceed the current best practices in reducing greenhouse gas emissions.

81-682

Priority Improvement List for Qualifying Sites

In accordance with the provisions of Section 81-641 (Additional floor area for Transit Improvements), any applicant for a #development# on a #qualifying site# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, shall select a transit improvement, or combination thereof, to be completed in accordance with the provisions of this Section.

- (a) Selecting an Improvement

An applicant shall select a transit improvement from the Priority Improvement List in paragraph (b) of this Section based on the #floor area# such improvement generates relative to the minimum #floor area# required and maximum #floor area# permitted for completion of such improvement

pursuant to Section 81-641, and based on the following geographical and technical considerations:

- (1) First, the applicant shall select a transit improvement in the same Subarea of the East Midtown Subdistrict as the proposed #development# on a #qualifying site#;
- (2) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraph (a)(1) of this Section, the applicant shall select a transit improvement on a transit route that passes through, and has stations or other facilities in the same Subarea of the East Midtown Subdistrict as the proposed #development# on a #qualifying site#;
- (3) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraphs (a)(1) or (a)(2) of this Section, the applicant shall select any remaining improvement on the list.

In addition, applicants shall consult with the applicable City or State agencies with jurisdiction over and control of the proposed improvement to ensure that the selected improvement will meet the operational and long-term planning needs of the station or transit route, including any phasing requirements, and compliance with the Americans with Disabilities Act (ADA).

(b) The Priority Improvement List

The Priority Improvements List (the "Improvements List"), set forth in the tables below, details physical improvements to subway stations and other rail mass transit facilities in, or adjacent to, the East Midtown Subdistrict, that an applicant on a #qualifying site# may complete for additional #floor area#.

Three levels of improvements are available for completion, which, accordingly, generate three different amount of additional #floor area#:

- (1) Type 1 Improvements generate 40,000 square feet of #floor area#, and include new or expanded on-street station entrances, new or expanded on-street station entrances, new or expanded accessible routes for persons with physical disabilities between two levels of a station, and four or less new or reconfigured station stairs.
- (2) Type 2 Improvements generate 80,000 square feet of #floor area#, and include new or expanded station escalators, new or expanded accessible routes for persons with physical disabilities between three or more station levels, new or expanded paid areas of a station, including widened platforms or mezzanine levels, and more than four new or reconfigured station stairs.
- (3) Type 3 Improvements generate 120,000 square feet of #floor area#, and include large-scale renovations that significantly improve the environment of stations, and new connections between two or more stations.

In consultation with the Metropolitan Transportation Authority (MTA), the City Planning Commission may, by rule, modify such Improvements List to reflect new improvements needed in the transit network.

TABLE 1
PRIORITY IMPROVEMENT LIST

<u>TYPE 1 IMPROVEMENTS</u>		
<u>Location</u>	<u>Type of Improvement</u>	<u>Transit Line</u>
<u>Lexington / 53rd Street station</u>	<u>Replace escalator and stair connecting downtown Lexington platform to station with widened stair</u>	<u>Lexington Avenue Line / 53rd Street Line</u>
<u>Lexington / 53rd Street station</u>	<u>Provide new street entrance to uptown Lexington platform from 50th Street</u>	<u>Lexington Avenue Line / 53rd Street Line</u>
<u>Bryant Park station</u>	<u>Provide ADA access between Flushing platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>Bryant Park station</u>	<u>Provide new street entrance from north side of West 42nd street</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>Bryant Park station</u>	<u>Provide ADA access between Sixth Avenue northbound platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>Bryant Park station</u>	<u>Provide ADA access between Sixth Avenue southbound platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>59th Street station</u>	<u>Provide new street entrance from north side of 60th Street</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>59th Street station</u>	<u>Provide ADA access between local southbound platform and street level</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>59th Street station</u>	<u>Provide ADA access between 60th Street line platform and mezzanine level</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>59th Street station</u>	<u>Provide new platform stair and widen existing stairs between 60th Street line platform and mezzanine level</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>

<u>5th and 53th Street station</u>	<u>Provide new street entrance on west side of Madison Avenue</u>	<u>53rd Street Line</u>
<u>Grand Central / 42nd Street</u>	<u>Widen platform stairs at east end of Flushing platform</u>	<u>Flushing Line</u>
<u>Grand Central / 42nd Street</u>	<u>Widen stairs between Flushing and Lexington platforms</u>	<u>Flushing Line</u>

TYPE 2 IMPROVEMENTS

<u>Location</u>	<u>Type of Improvement</u>	<u>Transit Line</u>
<u>Lexington / 53rd Street station</u>	<u>Provide widened escalator between 53rd street platform and mezzanine</u>	<u>Lexington Avenue Line / 53rd Street Line</u>
<u>59th Street station</u>	<u>Provide ADA access between northbound platforms and 60th Street line mezzanine</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>59th Street station</u>	<u>Provide ADA access between southbound platforms and 60th Street line mezzanine</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>47th / 50th Street station</u>	<u>Provide two platform stairs and widen remaining platform stairs</u>	<u>6th Avenue Line</u>
<u>5th and 53th Street station</u>	<u>Provide new stairs to multiple levels of station</u>	<u>53rd Street Line</u>
<u>5th and 53th Street station</u>	<u>Provide ADA access to multiple levels of station</u>	<u>53rd Street Line</u>
<u>5th and 53th Street station</u>	<u>Provide escalators to multiple levels of station</u>	<u>53rd Street Line</u>
<u>5th and 53th Street station</u>	<u>Provide new mezzanine area</u>	<u>53rd Street Line</u>
<u>5th and 53th Street station</u>	<u>Provide new access core between platforms and street level</u>	<u>53rd Street Line</u>
<u>Grand Central / 42nd Street station</u>	<u>Expand paid area and add new platform stair between Flushing platform and upper mezzanine</u>	<u>Flushing Line</u>

TYPE 3 IMPROVEMENTS

<u>Location</u>	<u>Type of Improvement</u>	<u>Transit Line</u>
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Grand Central / 42nd Street
station

Renovation of remaining portions of
Lexington mezzanine

Flushing Line / Lexington
Avenue Line

81-683

Criteria for Improvements in the Public Realm Improvement Concept Plan

The #Public Realm Improvement Fund Governing Group# shall select priority improvements for the Public Realm Improvement Concept Plan (the “Concept Plan”) in accordance with the provisions of this Section.

All improvements in the Concept Plan, which may be funded through contributions to the #East Midtown Public Realm Improvement Fund#, shall:

- (a) be within the East Midtown Subdistrict, a location immediately adjacent thereto, or in a subway or rail mass transit facility with significant ridership into and out of the Subdistrict;
- (b) have a sponsoring agency a City or State agency as a project sponsor;
- (c) meet the definition of a capital project under Section 210 of the New York City Charter; and
- (d) consist of either:
 - (1) below-grade public realm improvements, including, but not limited to widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network, additional vertical circulation, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, or providing daylight access, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways, or improved or new disabled access; or
 - (2) above-grade public realm improvements, including, but not limited to, pedestrian plazas that provide opportunities for passive recreation, or improvements along a street accommodating both vehicular and pedestrian access that may include pedestrian amenities, or streetscape, sidewalk, crosswalk and median enhancements.

81-684

Authorization to allow enlargements on qualifying sites

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may authorize modifications to the definition of #qualifying site# set forth in Section 81-613, to allow #enlargements# on #qualifying sites#, provided that

the Commission finds that such #enlargement# includes significant renovations to the existing #building# that will bring it, to the greatest extent feasible, up to contemporary space standards.

81-685

Special Permit to modify qualifying site provisions

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may permit modifications to the certain criteria necessary to be considered a #qualifying site#, as well as height and setback regulations and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

(a) The Commission may modify the following, whether singly or in any combination:

- (1) the following #qualifying site# criteria:
 - (i) the requirement for #wide street# frontage, including the requirement that no existing #buildings# will remain on such #wide street# frontage, set forth in paragraphs (b) and (c) of the definition of a #qualifying site# in Section 81-613;
 - (ii) the #building# performance requirements in the paragraph (f) of the definition of a #qualifying site# and Section 81-681 (Building Performance Requirements for Qualifying Sites); or
 - (iii) the requirement that the additional #floor area# permitted through the provisions of Section 81-64 be achieved exclusively through a #development#;
- (2) the provisions for #zoning lots# divided by district boundaries set forth in Sections 77-02 (Zoning Lots no Existing Prior to Effective Date of Amendment of Resolution), 77-21 (General Provisions) or 77-22 (Floor Area Ratio);
- (3) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets) or 81-671 (Special street wall requirements), inclusive;
- (4) 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, or 81-66 (Special height and setback requirements); or
- (5) the mandatory district plan elements 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), 81-674 (Ground floor use provisions), 81-675 (Curb cut restrictions and loading berth requirements), 81-676 (Pedestrian circulation space requirements) 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 shall be permitted.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

- (1) drawings, including but not limited to, plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43 (Street Wall Continuity Along Designated Streets), or as such provisions are modified pursuant to Section 81-671 (Special street wall requirements), as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation) or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), or as such provisions are modified pursuant to Section 81-66 (Special Height and Setback Requirements), as applicable;
- (2) 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 81-66; and
- (3) 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 81-66.

(c) Findings

The Commission shall find that such proposed modifications:

- (1) to the definition of #qualifying site# are the minimum extent necessary, and are harmonious with the Subdistrict objective to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers;
- (2) to the requirement for #wide street# frontage in the definition of #qualifying ground floor# will not unduly concentrate #bulk# towards the middle of the #block# to the detriment of the surrounding area;

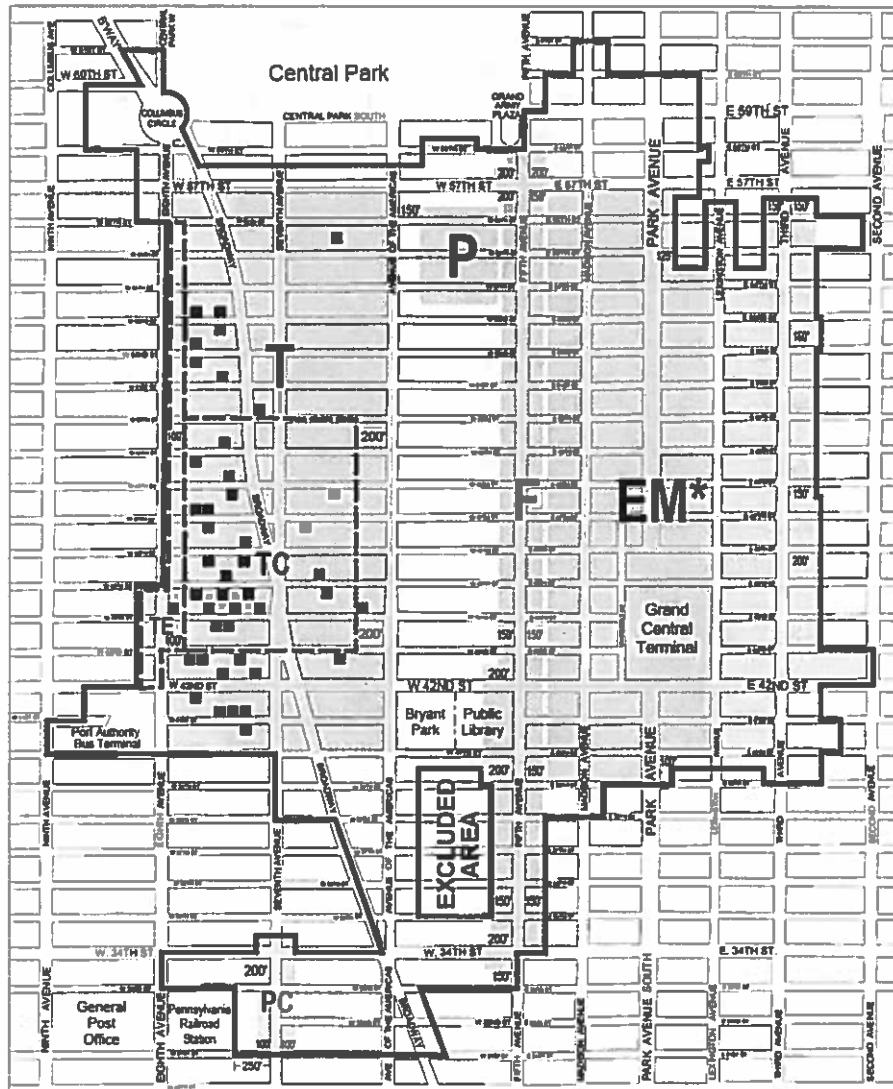
- (3) to the #building# performance requirements in the definition of #qualifying ground floor# and Section 81-681:
 - (i) are necessary due to the presence of existing #buildings# on the site; and
 - (ii) will not detract from the incorporation of innovative sustainable design measures;
- (4) to regulations pertaining to #zoning lots# divided by district boundaries will result in better site planning;
- (5) to the mandatory district plan elements:
 - (i) will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions); and
 - (ii) any adverse impact on retail continuity is minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any open or enclosed public areas within the #zoning lot#;
- (6) to the #street wall# or height and setback regulations:
 - (i) are necessary due to constraints or conditions of the #development# or #enlargement# and conditions imposed by the configuration of the site;
 - (ii) will not unduly obstruct the access of light and air to surrounding properties; and
 - (iii) will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations); and
 - (iv) the overall design of the #building# demonstrates an integrated and well-considered façade, taking into account factors such as #street wall# articulation, and fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area; and constitutes a distinctive addition to the Midtown Manhattan skyline.

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

Appendix A Midtown District Plan Maps

Map 1: Special Midtown District and Subdistricts

[REPLACE EXISTING MAP WITH THIS]



MIDTOWN DISTRICT PLAN

MAP 1 - Special Midtown District and Subdistricts

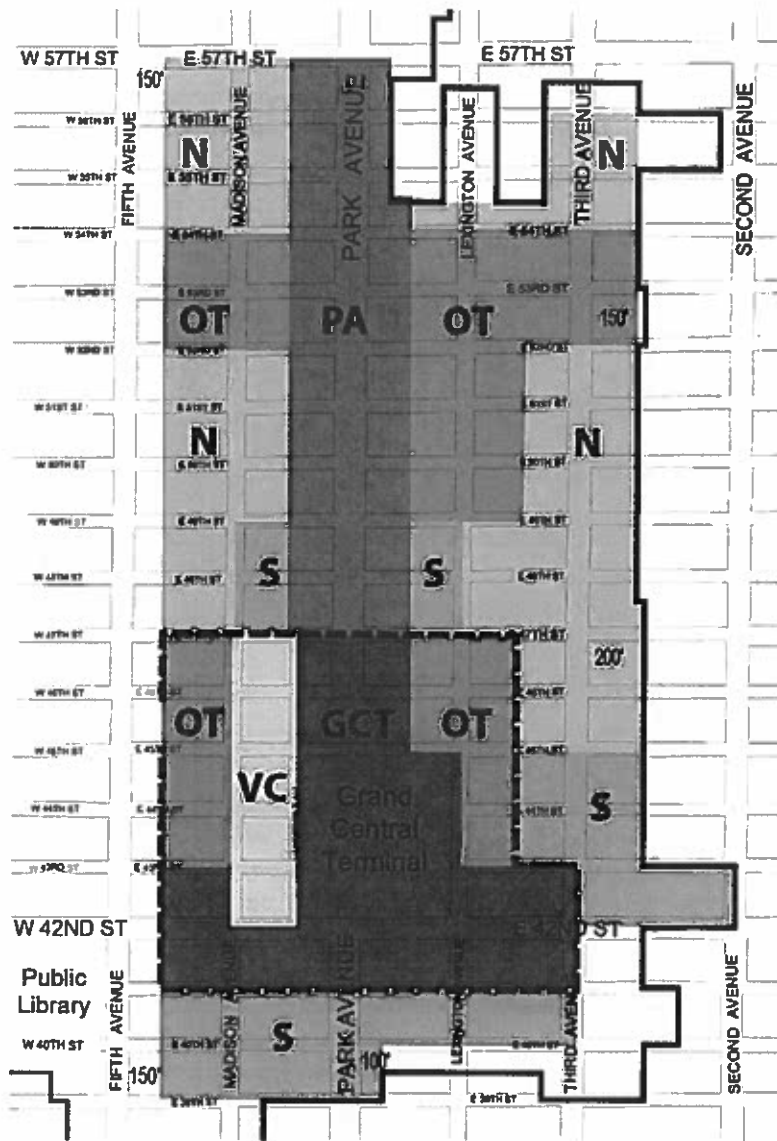
- | | |
|------------------------------------|--|
| F Fifth Avenue Subdistrict | TC Theater Subdistrict Core |
| EM East Midtown Subdistrict | TE Theater Subdistrict Eighth Avenue Corridor |
| PC Penn Center Subdistrict | ■ Listed Theaters |
| P Preservation Subdistrict | — Special Midtown District |
| T Theater Subdistrict | |

* East Midtown Subareas are shown on Map 4

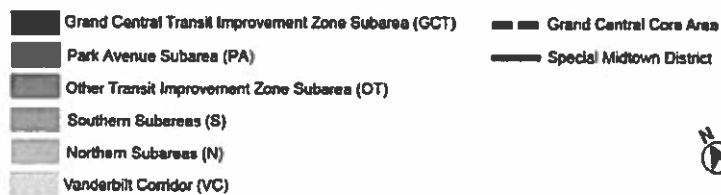


Map 4: East Midtown Subdistrict and Subareas

[NEW MAP TO BE ADDED]



MIDTOWN DISTRICT PLAN
MAP 4 - East Midtown Subdistrict and Subareas



Appendix B
Daylight Evaluation Diagrams

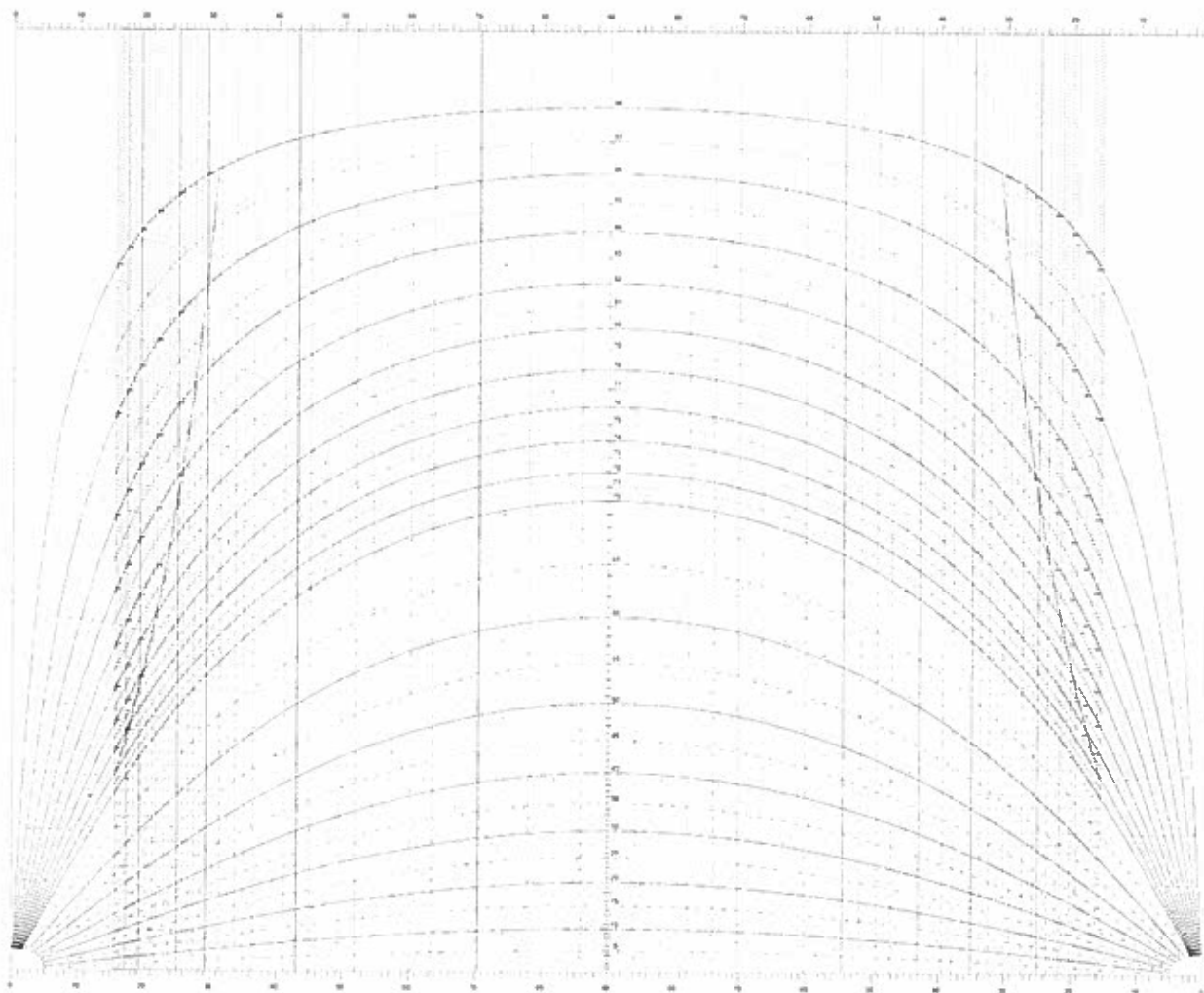
[MOVE EXISTING DAYLIGHT EVALUATION CHARTS INTO APPENDIX B]

* * *

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