



# 21

## Response to Comments on the DEIS

### Introduction

This document summarizes and responds to comments on the Draft Environmental Impact Statement (DEIS) for the 343 Madison Avenue project published on April 16, 2021.

City Environmental Quality Review (CEQR) requires a public hearing as part of the environmental review process. Oral and written comments were received during the meeting held by the New York City Planning Commission on August 18, 2021. Written comments were accepted from issuance of the DEIS through the close of the public comment period, which ended on August 30, 2021. **Appendix C** contains the written comments received on the DEIS. Where relevant and appropriate, the Final Environmental Impact Statement (FEIS) has been modified to incorporate and address substantive public comment on the DEIS.

**Section 1** of this document lists the elected officials, organizations, and individuals that provided relevant comments on the DEIS. **Section 2** contains a summary of these relevant comments and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the chapter structure of the DEIS. Where more than one commenter expressed similar views, those comments have been grouped and addressed together.

## 1. List of Elected Officials, Organizations, and Individuals who Commented on the Draft Scope of Work

### Elected Officials

1. Manhattan Borough President Gale A. Brewer, written statement dated August 3, 2021 and oral testimony delivered on August 18, 2021 (Brewer)

### Organizations and Interested Public

1. 32BJ, Marrison Williams, oral testimony delivered on August 18, 2021 (32BJ)
2. Grand Central Partnership, Ryan Pukos, oral testimony delivered on August 18, 2021 (GCP)
3. Kramer Levin, Partner Paul Selver, written statement dated August 27, 2021 (Kramer Levin)
4. Building and Construction Trades Council of Greater New York, Santos Rodriguez, oral testimony delivered on August 18, 2021 (Building and Construction Trades Council)
5. Manhattan Community Board 6, written statement dated June 10, 2021 (CB 6)
6. Manhattan Community Board 5, written statement dated June 14, 2021 (CB 5)
7. New York Building Congress, President & CEO Carlo A. Scissura, written statement dated August 17, 2021 (NYBC)

## 2. Comments and Responses on the DEIS

### Comments Received in Support of the Proposed Action

The following organizations and members of the interested public submitted testimony in support of the Proposed Action: 32BJ, Kramer Levin, New York Building Congress, Building and Construction Trades Council, and Grand Central Partnership.

### Comments Relating to EIS Analyses

#### Land Use, Zoning, and Public Policy

- c.1 **The proposed project will have a weighted daylight score of -108.9, whereas a daylight score of 75 is required without a special permit. The proposed daylight evaluation score of -108.9 constitutes a substantial variation from the "reasonable but firm" daylighting standard and will severely impair access to light and air in the surrounding area.**

**The project should meet the daylighting requirements of the current zoning, which can be achieved with a lower street wall, standard setback, smaller floor plate or some combination thereof, and still provide a desirable building that is less impactful to the character of the area. (CB 5, CB 6)**

*Response:* As detailed in the Project Purpose and Need section in **Chapter 1, Project Description** of the EIS, the Applicant believes the Proposed Action requested special permit to modify the maximum street wall height and height and setback regulations is necessary

due to the constrained footprint of the building and complexities of the ground floor program resulting from the East Side Access (ESA) ventilation structure and the planned ESA entrance to be located at the corner of Madison Avenue and East 45th Street. The special permit would facilitate a better site plan and building design given these site-specific limitations, and the incremental shadows would not result in significant adverse environmental impacts. The proposed street wall height would facilitate the provision of floor plates that are appropriately sized for Class A office space. The small footprint of the Project Site also necessitates modifications to height and setback requirements for optimal floor plates. The requested actions would enable the building to both accommodate the proposed circulation and mass transit improvements and meet the standards of a world-class office building in East Midtown, supporting the stated goals of the Vanderbilt Corridor Subarea and East Midtown Subdistrict.

### Urban Design and Visual Resources

**c.2 The loading facilities on East 45th Street should be relocated to maintain retail frontage and pedestrian interest at street level. (Brewer, CB 6)**

*Response:* **Chapter 6, Urban Design and Visual Resources**, of the EIS includes a description of the design of the Proposed Project and an assessment of its effects on urban design and nearby visual resources. As detailed, the loading facilities would be provided along East 44th Street, adjacent to the existing ventilation structure. The ground floor of the Proposed Project was designed to provide an active street-front appropriate for a highly trafficked location within East Midtown, while accommodating the necessary building loading facilities. Entrances to the Proposed Project's office lobby, as well as the proposed ground-floor retail spaces, would be provided along Madison Avenue and East 45th Street to maintain vibrancy along these street frontages and adjacent to the new East Side Access (ESA) entrance. Given the additional pedestrian traffic anticipated at the new ESA entrance location, the loading entrance would be located at the opposite side of the building along East 44th Street.

**c.3 While a street wall height in excess of the compliant 150 feet may be appropriate, the proposed 321-foot street wall height is excessive and should be lowered. (CB 5)**

*Response:* As detailed in **Chapter 6, Urban Design and Visual Resources**, the base height of the building is proposed to be reduced to 295 feet, which is similar to or shorter than the overall height of several neighboring buildings, including the building directly south of the Project Site at 333 Madison Avenue and the adjacent building to the east. From a pedestrian's perspective, the design of the Proposed Project would not significantly alter the character of the surrounding area compared with the No-Action condition, which considers the compliant base height of 150 feet. The EIS finds that the Proposed Project base height is not anticipated to have significant adverse impacts to urban design or visual resources.

See also response to Comment C.5 regarding the design justification for the proposed base height of the Proposed Project.

- c.4 **Retail frontage on Madison Avenue is a priority to maintain a vibrant and welcoming street experience for pedestrians, and the proposed lobby width is unnecessary and should be reduced to comply with the existing zoning. (Brewer, CB 6)**

*Response:* As detailed in **Chapter 6, Urban Design and Visual Resources**, the proposed location and width of the Madison Avenue lobby entrance is driven by certain Project Site and design constraints, including the proposed ESA entrance which would occupy a significant portion of the ground floor footprint along Madison Avenue and 45th Street. The proposed width of the lobby was designed to support the needs of future building tenants and guests with appropriate capacity for queuing and health screenings, as may be necessary. However, as designed, the Applicant believes the ground floor of the Proposed Project would provide an active street-front appropriate for its location within East Midtown, including retail uses along East 45th Street, a generous building entrance recess area along Madison Avenue to facilitate pedestrian circulation, and the ESA entrance, which would feature a glass façade to create an open and welcoming gateway to the LIRR service.

### Greenhouse Gas Emissions

- c.5 **The project team should develop a building enclosure that meets or exceeds the requirements of the 2020 New York City Energy Code. (Brewer, CB 6)**

*Response:* As described in **Chapter 11, Greenhouse Gas Emissions and Climate Change**, the Proposed Project has been designed to meet the 2020 Energy Conservation Construction Code of New York State and 2020 New York City Energy Conservation Code, which govern performance requirements of heating, ventilation, and air conditioning systems, as well as the exterior building envelope of new buildings. In addition to these measures, the Proposed Project would be located next to Grand Central Terminal, reducing additional demand for vehicular travel, and would incorporate measures to encourage the use of public transportation, including the proposed entrance to the Long Island Rail Road (LIRR) East Side Access (ESA) concourse and proposed measures to improve passenger circulation at Grand Central – 42nd Street Subway Station.

### Transportation

- c.6 **The transit improvements as proposed are not sufficient to justify the additional FAR requested given the substantial density the building will bring to the area and the resulting increased demands on public transit in a corridor that already is experiencing a significant increase in density from the East Midtown and Vanderbilt Corridor rezonings. (CB 5) A further assessment is needed to determine whether the transit improvements and public benefits are truly commensurate with the bonus being sought, whether the proposal is consistent and justifiable, and whether the public benefits merit the floor area bonus (Brewer)**

*Response:* The potential public transit effects of the additional density that would be facilitated by the Proposed Action and the benefits of the proposed public transit improvements have been analyzed and are disclosed in the EIS in **Chapter 9, Transportation**, and **Chapter 16, Mitigation**. Subway analyses were conducted for the 42nd Street – Grand Central subway station elements (stairways, escalators, fare control areas, and passageways) during the AM and PM commuter peak hours and found that the project improvements would reduce passenger crowding and congestion at the Flushing

platform stairway elements, particularly in the center and at the east end of the platform where two platform stairs (PL6 and PL9) are expected to operate at Level of Service (LOS) E (congested conditions) during at least one of the commuter peak hours in the future absent the project improvements.

Although the Proposed Project would include increased circulation capacity on the Flushing line platform through the widening of the U2/U4, U6/U8, and PL9 stairways and construction of two new stairs, impacts to the ES208 escalator (at the west end of the Flushing platform) were identified during the PM peak hour. This impact could potentially be mitigated by increasing the escalator operating speed, however, if in future it is determined that there is crowding in the immediate switchback landing as passengers transfers between escalators, NYCT would have to potentially lower the escalator speeds in which case the impact would remain unmitigated. Other transit improvement projects are being proposed by the Metropolitan Transportation Authority (MTA) and once approved and implemented, those improvements could also alleviate this impact in the future. The Applicant believes that overall, the analysis disclosed in the EIS conclude that even if this impact were to remain unmitigated, the overall transit improvements facilitated by Proposed Action, including improvements to enhance passenger circulation conditions at the 42nd Street – Grand Central subway station, would result in substantial benefits.

- c.7 The Applicants have made the commitment to work with the New York City Department of Transportation (NYC DOT) to fund and, at the discretion of NYC DOT, design and construct a sidewalk widening along the north side of 44th Street between Vanderbilt and Madison Avenues as consistent with the East Midtown Governing Group Concept Plan and in consideration of the needs of the Yale Club. (Brewer)**

*Response:* Comment noted. Any widenings along the north side of 44th Street would be subject to review and approval by NYC DOT. If implemented, any such widening would occur within the parking lane along the north side of 44th Street and therefore, the widening would eliminate some on-street parking spaces. The widening would not affect the capacity for vehicular traffic (i.e., would not affect the travel lane) along 44th Street, but would be expected to improve pedestrian conditions.

- c.8 The DEIS and ULURP Application Do Not Provide Sufficient Information to Make an Informed Decision about Whether or Not to Approve the Waiver of Head-in/ Head-out Loading for the Proposed 44th Street Loading Berths.**

**The applicant asks DCP to exempt it from the regulation that requires it to build a head- in/head-out loading bay, but does not provide any data that would enable DCP to understand the impact of the requested action on the environment. There is a reason head-in/head-out loading is required in this Sub-district, which is stated in the June 4, 1992 Grand Central Sub-District Report (N 920260 ZRM). That report notes that “[o]ne of the principal goals of the Sub-district is to improve the pedestrian circulation system for Metro North commuters and subway riders as well as tourists and others who may only be passing through the area” with an emphasis on, among other things, “minimizing loading and trucking conflicts with pedestrians.” June 4, 1992 Grand Central Sub-District Report (N 920260 ZRM) at p. 5. Therefore, to improve pedestrian circulation, one of the controls that applies to all new developments and enlargements in the Sub-district for interior through-lots, is to require loading berths**

**to be arranged “so as to permit head-in and head-out truck movements to and from the zoning lot.” Id. at p. 6. (Kramer Levin)**

*Response:* The Proposed Project is requesting a waiver for head-in/head-out truck requirements due to site constraints. Due to the location of the East Side Access entrance along the northwest quadrant of the site and the proposed building’s vertical circulation core, it is not feasible to provide head-in/head-out operations. The proposed loading dock would be located along East 44th Street to minimize conflicts between delivery vehicles and pedestrians as there are higher levels of pedestrian activities along the other frontages due to transit access (to the Grand Central Terminal entrance along East 45th Street, and to the East Side Access entrance and bus service along Madison Avenue).

It is estimated that the Proposed Project would have 14 deliveries during the midday peak hour, primarily a mix of vans and box trucks. No commercial loading spaces along the south side of East 44th Street would need to be removed to accommodate delivery vehicles. Based on delivery projections from other projects such as the *Vanderbilt Corridor and One Vanderbilt FEIS (2015)*, about 30 percent of these 14 vehicles are estimated to need to access the three loading dock berths (four deliveries during the peak hour) and the building’s loading dock staff would ensure that these vehicles are directed safely into the loading dock. The average dwell time for a delivery is typically less than an hour. Accordingly, it is anticipated that the four deliveries during the peak hours would result in minimal conflicts with pedestrians along the sidewalk and with other loading docks along East 44th Street.

For additional information on loading dock operations, refer to **Chapter 9, Transportation**, of this FEIS.

- c.9 **Neither the Application nor the DEIS analyze the impact of the busy existing or future conditions on vehicular or pedestrian movement on East 44th Street and on Vanderbilt Avenue to assess whether, either individually or collectively, the friction created by the high pedestrian and vehicular activity levels could have an impact on their nominal level of service. Nor does either analyze the impact of the waiver itself on vehicular and pedestrian movement. (Kramer Levin)**

**Chapter 9, Transportation**, of the FEIS includes a traffic analysis of the four intersections at the corners of the Proposed Project block and a pedestrian analysis of the pedestrian elements (crosswalks, sidewalks, and corner reservoir areas) along the site’s three frontages along Madison Avenue, East 45th Street, and East 44th Street (where the loading dock would be located). The Proposed Project would not have frontage access along Vanderbilt Avenue. The analyses assessed existing and future conditions for the weekday AM, midday, and PM peak hours, and the analyses incorporated deliveries, vehicle/pedestrian conflicts, and other roadway activities. The analyses were conducted in accordance with the methodologies from the *City Environmental Quality Review Technical Manual* and were reviewed by New York City Department of City Planning as lead agency in consultation with the Department of Transportation.

East 44th Street between Madison and Vanderbilt Avenues is a 35-foot wide one-way eastbound roadway. East 44th Street features one travel lane with parking lanes on both sides; the north side of East 44th Street is allocated for MTA Police parking and the south side of East 44th Street features metered parking spaces and is limited to commercial vehicle parking on weekdays between 7 AM and 6 PM.

As analyzed in the FEIS' existing conditions, East 44th Street traffic volumes are modest with the highest volume during the midday peak hour, approximately 330 vehicles (on average five to six vehicles a minute), and lower volumes during the AM and PM peak hours. In the midday peak hour, approximately 30 vehicles are classified as heavy vehicles, primarily box trucks making deliveries along the block or en route to nearby buildings. As analyzed in the FEIS, the western half of East 44th Street is reduced to one travel lane with no curbside parking due construction of the East Side Access project and there is only enough roadway clearance to provide for one travel lane without parking. The effect of the East Side Access project's construction activities has been incorporated into the FEIS. Due to these construction activities and the loss of curbside space for commercial vehicles, double parking of delivery vehicles and queuing from the midblock to Madison Avenue periodically occur as noted.

However, once the Proposed Project is built and occupied, the East Side Access construction would also be completed, and East 44th Street would be reopened providing additional curbside spaces for delivery vehicles and enough roadway width for through vehicles to maneuver past double parked vehicles. As noted in response to comment C.8, it is estimated that there would be four deliveries using the loading dock during the Proposed Project's delivery peak hour which would result in minimal conflicts with pedestrians along the sidewalk and with other loading docks along East 44th Street.

**Chapter 9, Transportation**, of the FEIS provides further information of the existing East 44th Street conditions.

- c.10 **Other than the comment in the Application that compliance with ZR 81-675 is "not feasible," neither the DEIS nor the Application explain why a modification to the Project's loading berth requirements, which run afoul of City Planning's goals for the Sub-district, is necessary and why head-in and head-out truck movements cannot be accommodated.**

**CEQR requires that alternatives to a proposed project be identified and evaluated in an EIS "so that the decision-maker may consider whether alternatives exist that would minimize or avoid adverse environmental effects." See 6 NYCRR 617.9(b)(5). "The EIS should consider a range of reasonable alternatives to the project that have the potential to reduce or eliminate a proposed project's impacts and that are feasible, considering the objectives and capabilities of the project sponsor." Tech Manual, p. 23-1.**

**Among the types of alternatives to be considered are those providing for alternative designs or configurations. The DEIS does not identify any such alternatives, does not discuss whether any were considered, and does not explain why they were either never considered or considered and rejected. This omission prevents the decision-maker and the public from understanding why the Application states that compliance with ZR 81-675 is "not feasible," and it should be addressed in the FEIS and the final Application. (Kramer Levin)**

*Response:* As discussed in response to comment C.8, due to the site constraints and location of transit access along the Proposed Project block, the only feasible location for the loading docks is along East 44th Street. There is no other feasible alternative location for the loading dock. Furthermore, as the number of deliveries using the loading dock would be modest (four deliveries during the delivery peak hour) and would be sufficiently accommodated by



the loading dock, the location and operation of the loading dock is not expected to have significant impacts on traffic or pedestrians and therefore, an alternative to reduce or eliminate impacts is not required.

- c.11 **To the extent that there are no feasible alternatives that would avoid or minimize impacts from the loading bay waiver, the FEIS and the Application should consider whether there are actions that the Project sponsor or the City can take that would reduce or otherwise mitigate adverse impacts arising out of the waiver. These actions could include, by way of example but not of limitation, a binding commitment on the part of the Project sponsor to regulate the hours during which the berths could be used for deliveries and other activities; collaboration with other owners to minimize conflicts between the proposed uses of the Project's loading bays and existing loading and unloading operations on 44th Street and Vanderbilt Avenue; and/or changes to traffic operation, street geometry and/or parking regulations. The determination of what measures would be both feasible and effective depends upon, and it reinforces the importance of our comment that it will be necessary to conduct, an analysis of the Project's loading operations that is based on real world conditions in the FEIS and the final Application. (Kramer Levin)**

*Response:* It is estimated that the proposed building's loading dock activity would be modest, approximately four deliveries during the midday peak hour, and would not result in significant adverse environmental impacts as discussed in **Chapter 9, Transportation**, of this FEIS. The Applicant has met with the building operator for the building at 335 Madison and intends to coordinate with the building operators to minimize any potential delivery conflicts between the two buildings

- c.12 **Vanderbilt Avenue consists of one travel lane in each direction. Although the DEIS acknowledges that Vanderbilt Avenue between East 43rd and East 47th Streets features "No Standing Anytime" regulations "except for authorized vehicles" on the west curb south of East 44th Street and the east curb along the Grand Central Terminal frontage, it fails to acknowledge that under the existing condition, NYPD, MTA police, and MTA official vehicles often park in these no standing areas. Although legal, parking by authorized vehicles is currently, and will be, an impediment for goods deliveries in the Vanderbilt Corridor. Some of the identified impacts might be reduced, and additional space made available, by banning all parking to allow for improved traffic and pedestrian movement along this corridor. We urge analysis of the mitigating effects of such a parking ban on all vehicles, including authorized plaques. (Kramer Levin)**

*Response:* The traffic analysis provided in the EIS analyzed two intersections along Vanderbilt Avenue- at East 44th Street and at East 45th Street. Parking maneuvers and other curbside activities were incorporated into the traffic analysis. No traffic impacts were identified at these two intersections; therefore, mitigation measures are not needed.

- c.13 **The DEIS does not accurately address the issues raised by the right turn movement from Madison Avenue onto 44th Street, which operates at Level of Service F in both the future "no-build" and "build" conditions. Madison Avenue consists of "two bus lanes" starting at 42nd Street going northbound with the location of the first bus stop in front of 335 Madison. Under the current conditions, to turn right from Madison Avenue into 44th Street a car or delivery truck may sometimes need to make the turn**



**from either the second or third lane and cross the two bus lanes. The impacts of this problem would be exacerbated by the increased vehicular traffic demand for right turns into 44th Street resulting from the proposed Project, and, together with the additional pedestrian demand from the proposed Project, a potentially unsafe traffic condition will be created. Because the DEIS fails to address this issue, there is no mitigation proposed to alleviate this condition. Additional measures that may ease these conditions that should be considered. (Kramer Levin)**

*Response:* Per the existing roadway signage, northbound Madison Avenue right turns at East 44th Street should be made from the bus lane. No right turns are permitted across the bus lanes. **Chapter 9, Transportation**, of the FEIS identifies that due to the increase in traffic and pedestrian volumes in future conditions, this movement would operate at level of service F and would be significantly impacted during the three analysis peak hours. The traffic analysis was reviewed by New York City Department of Transportation and concludes, as discussed in **Chapter 16, Mitigation**, and **Chapter 18, Unavoidable Significant Adverse Impacts**, that no practicable measure could be identified to fully mitigate traffic impacts at the intersection of Madison Avenue and East 44th Street during the AM and PM peak hours; impacts to this intersection could be fully mitigated during the midday peak hour.