

A. INTRODUCTION

The proposed project would create a new building near the western end of the Midtown block bounded by West 53rd and 54th Streets and Fifth Avenue and Avenue of the Americas (see **Figure 1-1**). The approximately 786,562 gross-square-foot (gsf) building would provide approximately 68,097 gsf for The Museum of Modern Art (MoMA), including gallery, storage, and mechanical space; between 518,645 and 618,465 gsf of residential space; and between 100,000 and 200,000 gsf of hotel space.

To develop the proposed building, W2005/Hines West Fifty-Third Realty, LLC (the applicant) is seeking a special permit to allow the transfer of development rights from the University Club at 1 West 54th Street to the project site for utilization on the development site and an additional special permit to allow (in connection with the use of excess development rights from St. Thomas Church) the distribution of floor area without regard to zoning district boundaries and to allow the modification of certain bulk requirements relating to height and setback requirements, pedestrian circulation space, and rear yard equivalent requirements. These two proposed discretionary actions require approval from the New York City Planning Commission (CPC) and are subject to review under the Uniform Land Use Review Procedure (ULURP) and City Environmental Quality Review (CEQR). The New York City Department of City Planning (DCP) is acting as the CEQR lead agency for this proposal.

The project is expected to have an approximately 44-month construction period and be complete by 2013.

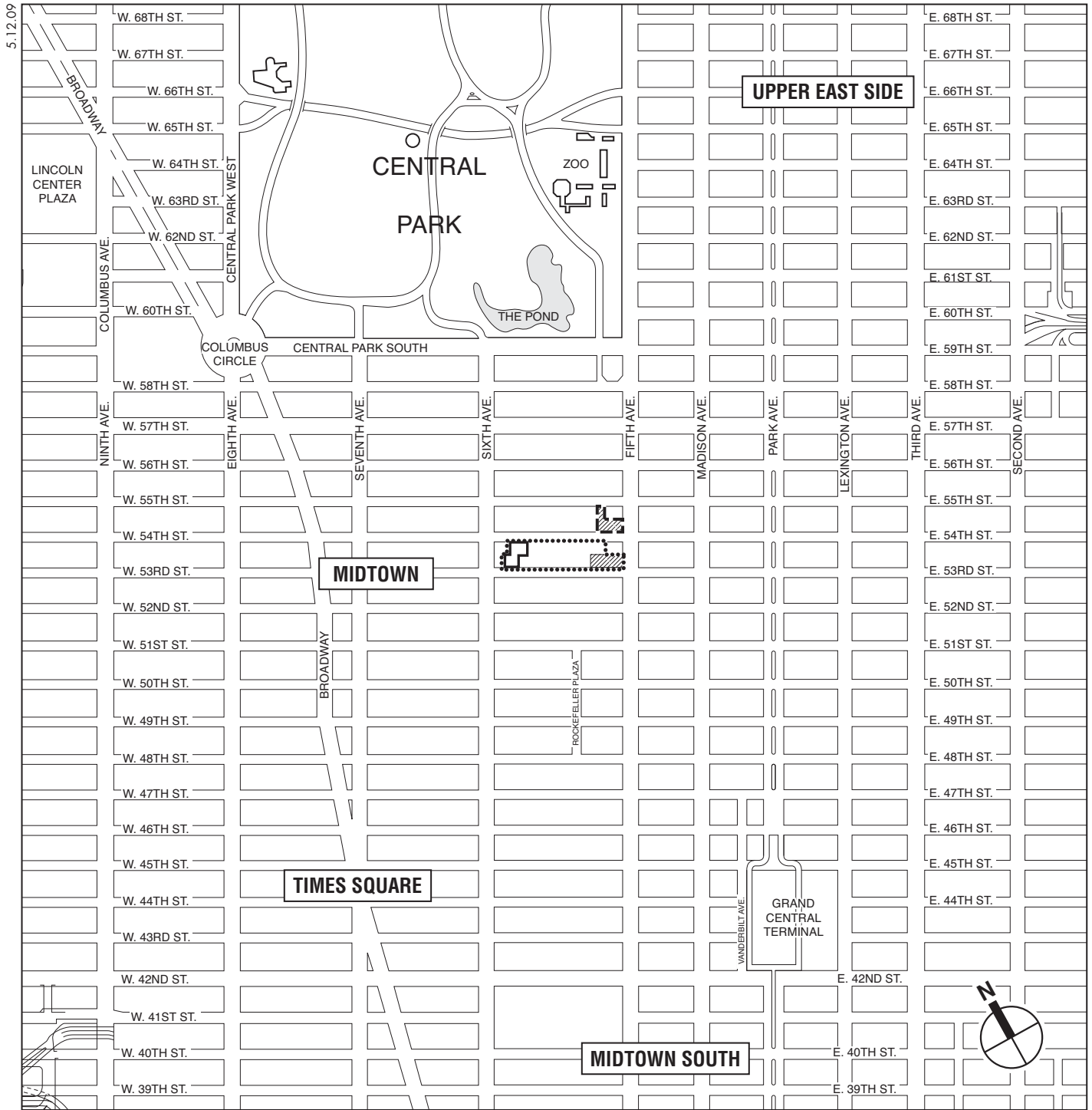
Absent approval of the proposed actions, the applicant would develop either of two as-of-right projects, which could be built without any discretionary approvals:





- The **Previously Approved Project** would be a 250,000-gsf building located on Lots 5, 6, 7, 8, 66, and 69 of Block 1269, and a smaller infill building on Lot 165 and a portion of Lot 58. Together, these buildings would contain 68,097 gsf of museum-related space, 180,000 gsf of commercial office use, and 10,000 gsf of ground-floor retail space.
- The **Expanded Development Scenario** would result in the construction of a 508,012-gsf building containing 68,097 gsf of museum-related space, 125,679 gsf of hotel use, and 314,236 gsf of residential space.

B. DEVELOPMENT SITE AND PROJECT SITE

The project site (see **Figures 1-2 and 1-3**) consists of a combined zoning lot that includes:

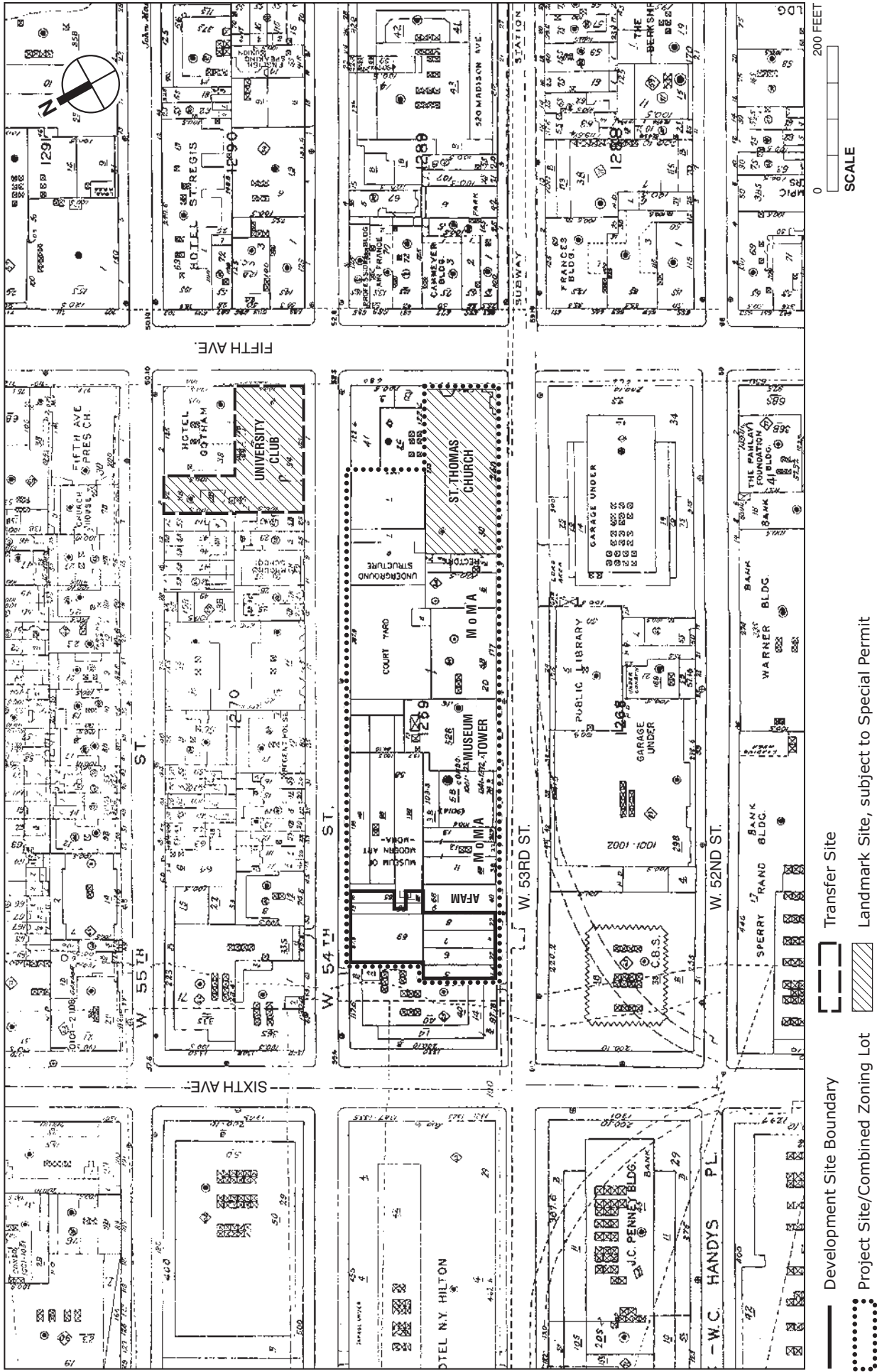
- The development site (Lots 5-8, 66, 69, 165, and a portion of Lot 58 on Block 1269), which is vacant and located near the western end of the block;
- The American Folk Art Museum (AFAM) (Lot 9);
- MoMA (Lots 11-14, 20, and 58), which occupies most of the midblock;



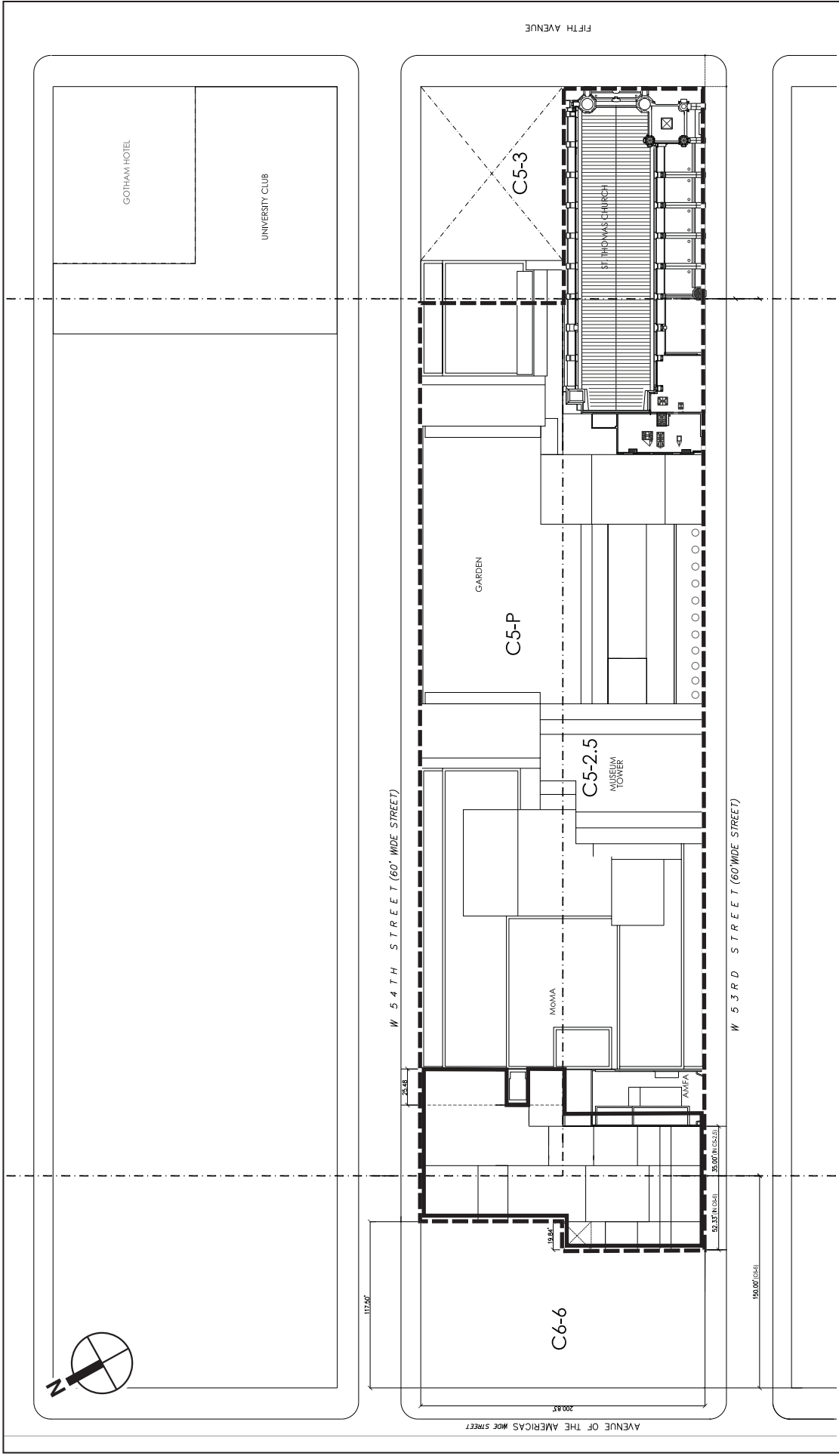
-  Development Site Boundary
-  Project Site/Combined Zoning Lot
-  Transfer Site
-  Landmark Site, subject to Special Permit

Project Location
Figure 1-1

53 West 53rd Street



Project Site
Figure 1-2



Source: SLCE Architects

- Development Site Boundary
- ▤ Project Site/Combined Zoning Lot
- - - - - Zoning District Boundary

NOTES:

- In order to ensure an acceptable interior noise environment, the building will include the use of well-sealed double-glazed windows and central air conditioning. The facades of the proposed building will provide 30 cBA of window/wall attenuation. The proposed building will be designed with a composite Outdoor-Indoor Transmission Class (OITC) to meet these attenuation requirements.
- The building will utilize heat and hot water provided by Con Edison steam and electric chillers for its HVAC systems.
- No more than 300 residential units and 167 hotel units will be provided in the proposed building.

- A residential high-rise building (Museum Tower) on West 53rd Street (Lot 7501); and
- St. Thomas Church at the corner of Fifth Avenue and West 53rd Street (Lot 30).

The project block also contains a 40-story commercial office building that fronts on the Avenue of the Americas and a 26-story commercial office building at the southwest corner of Fifth Avenue and West 54th Street, neither of which are part of the project site.

The project site lies in several different commercial zoning districts: C5-2.5, C5-P, C5-3, and C6-6. The project site is also located within the Special Midtown District.

C. PROPOSED ACTIONS

To facilitate the proposed project, the applicant would seek a special permit pursuant to Sections 74-79 and 81-212 of the New York City Zoning Resolution (ZR) to allow the transfer of development rights from the University Club to the project site for utilization on the development site (see Figure 1-2, above). In addition, in connection with the use of excess development rights from St. Thomas Church, the applicant would seek a special permit pursuant to Sections 74-711 and 81-277 of the New York City Zoning Resolution to permit the distribution of floor area without regard to zoning district boundaries and to allow the modification of certain bulk requirements relating to height and setback requirements, pedestrian circulation space, and rear yard equivalent requirements. Both the University Club and St. Thomas Church are New York City Landmarks (NYCL). On May 13, 2008, the New York City Landmarks Preservation Commission (LPC) voted to issue favorable reports regarding the Continuing Maintenance Programs for the University Club and St. Thomas Church and regarding the relationship between the landmarks and the proposed project. Certificates of No Effect (CNEs) were issued by LPC for St. Thomas Church on October 6, 2008 and the University Club on November 28, 2008. On October 22 and November 28, 2008, LPC issued reports to CPC in support of the project's application for these special permits (see Appendix B). Both the St. Thomas Church owner and the University Club owner will enter into a restrictive declaration that will run with the deed on the property in perpetuity. As part of the restrictive declaration, each has agreed to put aside five percent of the proceeds from the sale of its development rights in a dedicated account to provide for the future maintenance of its own building.

SPECIAL PERMIT PURSUANT TO ZR SECTIONS 74-79 AND 81-212

The special permit pursuant to Sections 74-79 and 81-212 would allow the transfer of 136,000 square feet of unused floor area from the University Club to the project site for utilization on the development site and incorporation into the proposed building. Section 74-79 permits the transfer of development rights from lots occupied by landmark buildings to adjacent lots. An adjacent lot is defined as a lot that is contiguous to the lot occupied by the landmark building or that is across a street and opposite to the lot occupied by the landmark building. Within the C6-6 commercial district, adjacent lots are defined as a lot contiguous or one that is across a street and opposite to another lot that except for the intervention of streets or street intersections, form a series extending to the lot occupied by the landmark building. Section 74-79 defines a landmark building as any structure designated as a landmark by LPC.

ZR Section 74-79 requires as a precondition that LPC issue a report on the proposed transfer of development rights, any zoning modifications or waivers requested, and the Continuing Maintenance Plan for the landmark building. As stated above, on November 28, 2008 LPC issued a CNE for restorative work and other general, non-restoration work at the University Club.

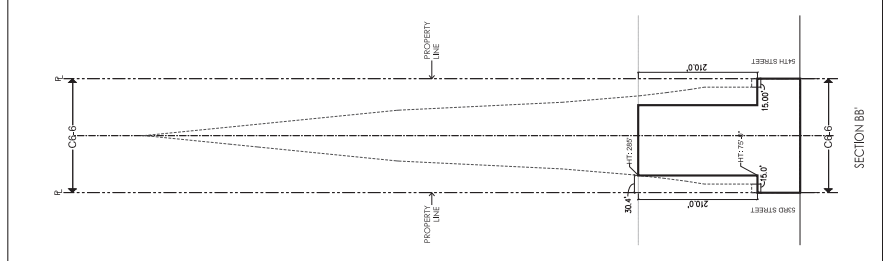
SPECIAL PERMIT PURSUANT TO ZR SECTIONS 74-711 AND 81-277

The project would also involve the use of 275,000 square feet from St. Thomas Church, which would be made available to the development site through a zoning lot merger (the zoning lot merger has not yet occurred). Of the 275,000 square feet, most of the square footage can be used-of-right. To permit the use of the remainder of the development rights (52,429 sf) on the development site, and to facilitate the use of the entire 275,000 sf of floor area in the proposed building, a Section 74-711 special permit would be sought to allow certain zoning modifications, including the distribution of floor area without regard to zoning district boundaries; the height and setback requirements in the Special Midtown District; the rear yard equivalent requirements; and the pedestrian circulation space requirements. Section 74-711 permits the modification of the use and bulk regulations governing zoning lots that contain landmarks provided that certain conditions are met. The application must include a report from LPC stating that a program has been established to preserve the landmark building and that this maintenance program or any use or bulk modifications will contribute to a preservation purpose. The application must also include a Certificate of Appropriateness, other permit, or a report from the LPC stating that bulk modifications relate harmoniously to the historic building. As stated above, on October 6, 2008 LPC issued a CNE for the repair and restoration work at St. Thomas Church. The CPC will grant a special permit if it finds that bulk modifications will have minimal adverse impacts on buildings or open space within the area and if use modifications will have minimal adverse effects on the conforming uses within the historic building and in the surrounding area.

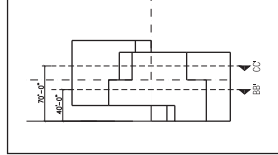
The special permit pursuant to ZR Section 74-711 and 81-277 would permit the distribution of floor area on the development site without regard to zoning district boundaries, as follows:

- There are 52,429 square feet of development rights available from the C5-3 portion of the St. Thomas Church site that may only be used for commercial or community facility uses, and their transfer for use in another zoning district requires a special permit.
- In addition, the proposed special permit would allow the transfer of approximately 68,240 square feet of floor area from the C5-P portion of the zoning lot to those portions of the zoning lot located in the higher density C5-2.5 zoning districts, such that the C5-P portion of the zoning lot would remain underbuilt. This transfer across district boundary lines would result in more of the floor area being located away from the lower density C5-P district and from St. Thomas Church and the University Club. This floor area would be developed within the higher density C5-2.5 (12 FAR) zoning district on West 53rd Street and the C6-6 (15 FAR) Sixth Avenue zoning district, which comprise the greatest portion of the footprint of the proposed building.

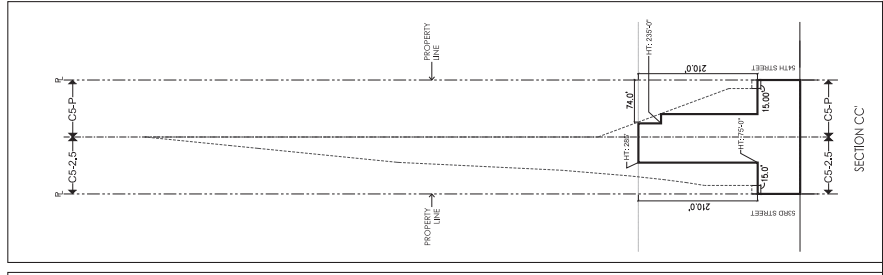
In addition, the special permit would allow the modification of height and setback requirements, which would allow the proposed project to extend its volume beyond the limits of the zoning envelope along portions of the north and east façades of the building, and beyond the limits of the midtown setback lines on West 53rd and West 54th Streets (see **Figures 1-4 and 1-5**). The applicant believes that this would allow a more usable and efficient floor plate and would enable the project to provide useable circulation areas around the elevator and stair shafts at the upper levels where the proposed building narrows. In addition, the proposed building would not achieve the minimum score under the Special Midtown District Daylight Evaluation requirements because the distribution of floor area would be skewed toward the western end of the site, away from the landmarks and away from the MoMA Garden, as shown in **Figures 1-2 and 1-3**. The special permit would allow this distribution, with the goal of underbuilding the portion of the zoning lot located within the C5-P zoning district and moving development to the



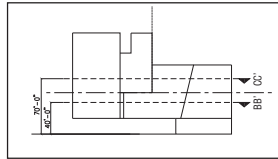
Previously Approved Project



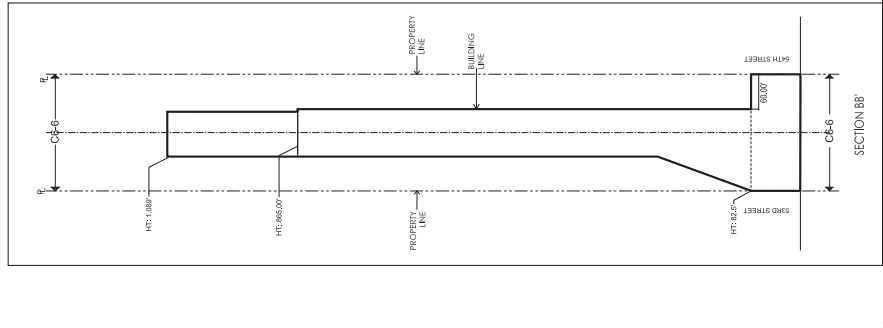
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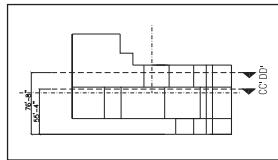
Expanded Development Scenario



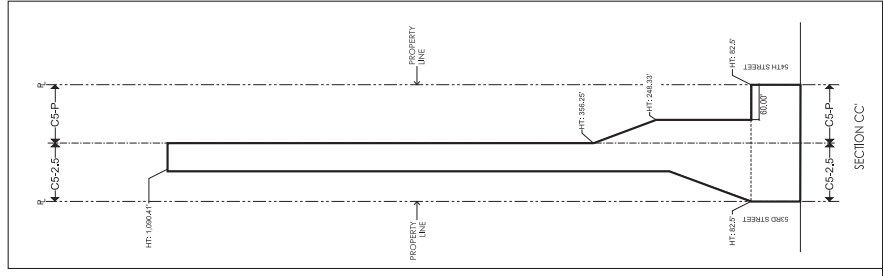
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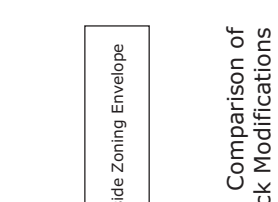
Proposed Project



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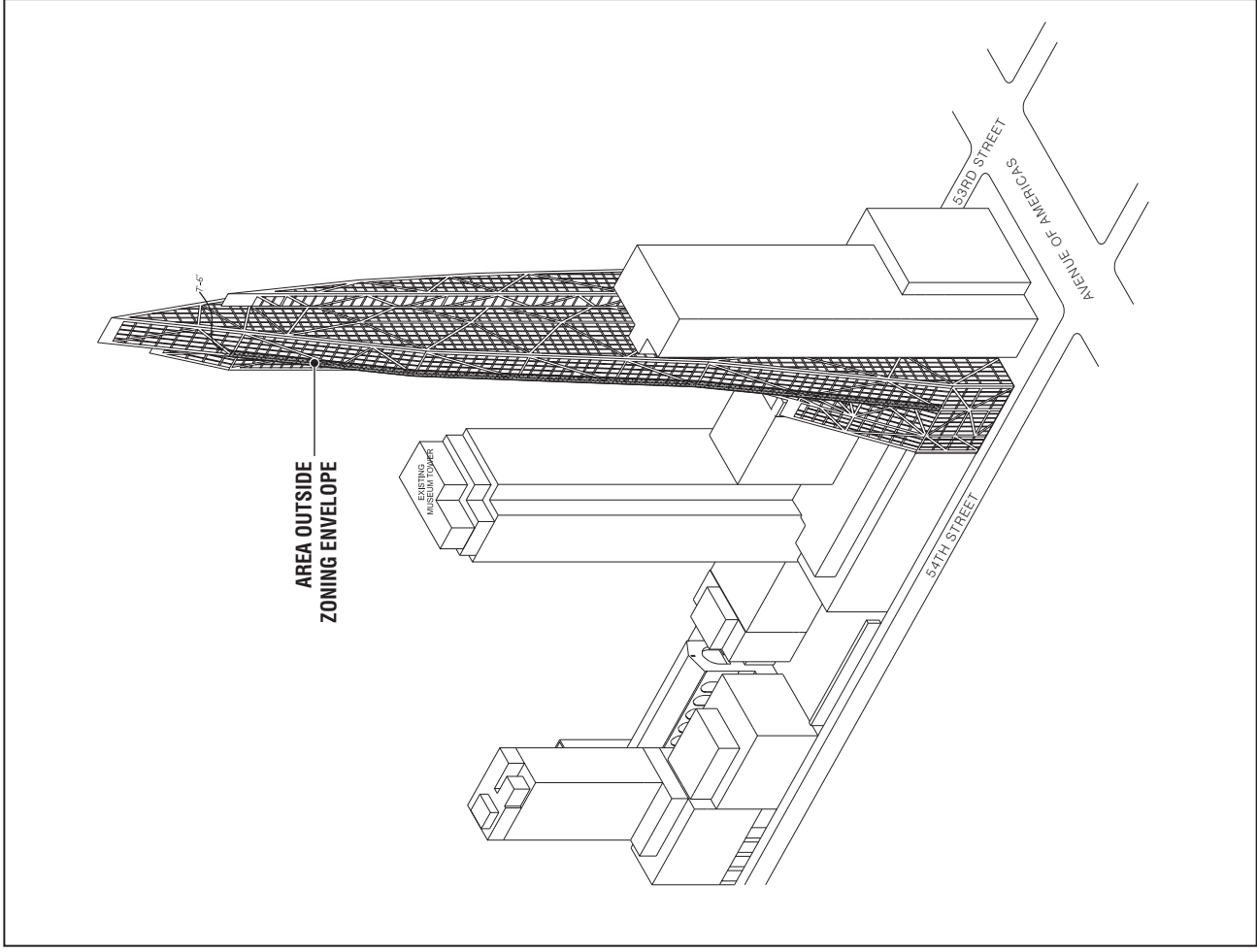
Proposed Project



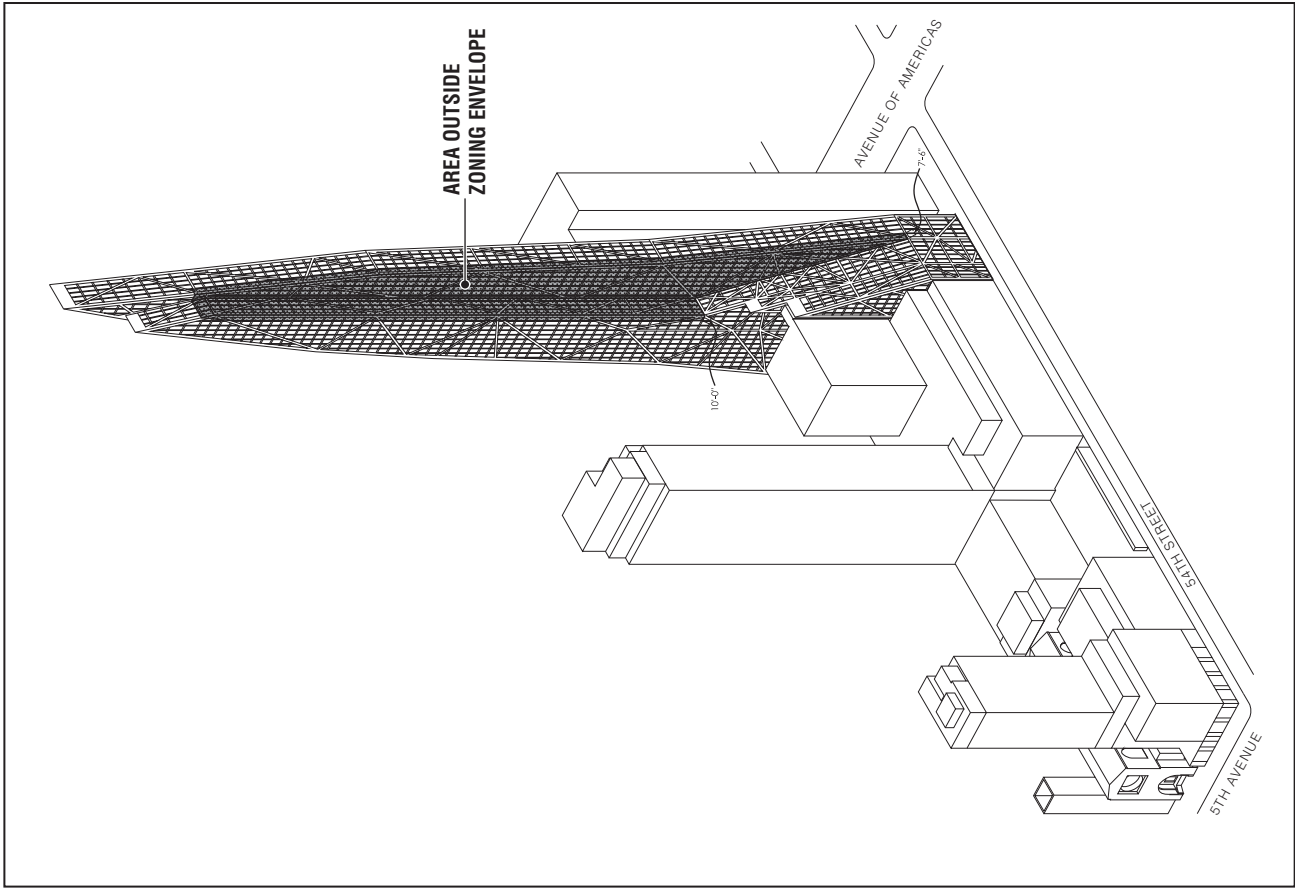
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Area Outside Zoning Envelope

Comparison of Height and Setback Modifications —Section Views Figure 1-4



Source: SLCE Architects



Proposed Project: Area of Outside Zoning Envelope in C5-P District (Axonometric View)
Figure 1-5

higher density C6-6 (15 FAR) and C5-2.5 (12 FAR) districts, closer to West 53rd Street and the Avenue of the Americas.

The special permit would also allow the modification of the pedestrian circulation space requirements, which would accommodate the unique constraints of this site and design of this building (see **Figure 1-6**). The applicant is seeking this with the goal of creating an active and engaging street frontage.

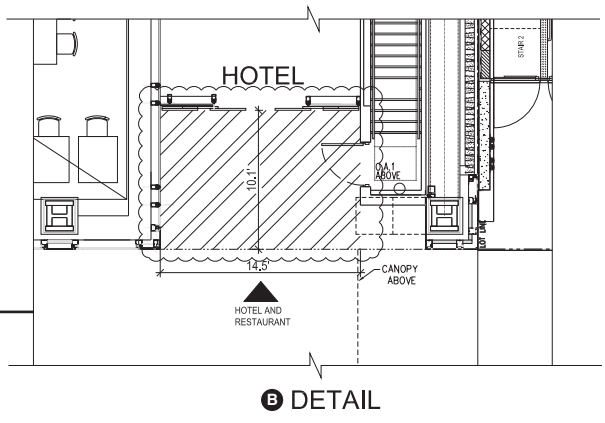
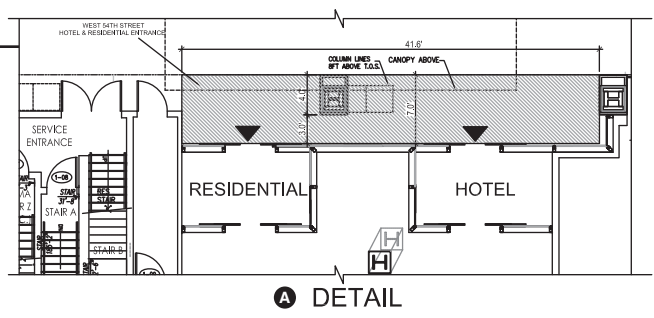
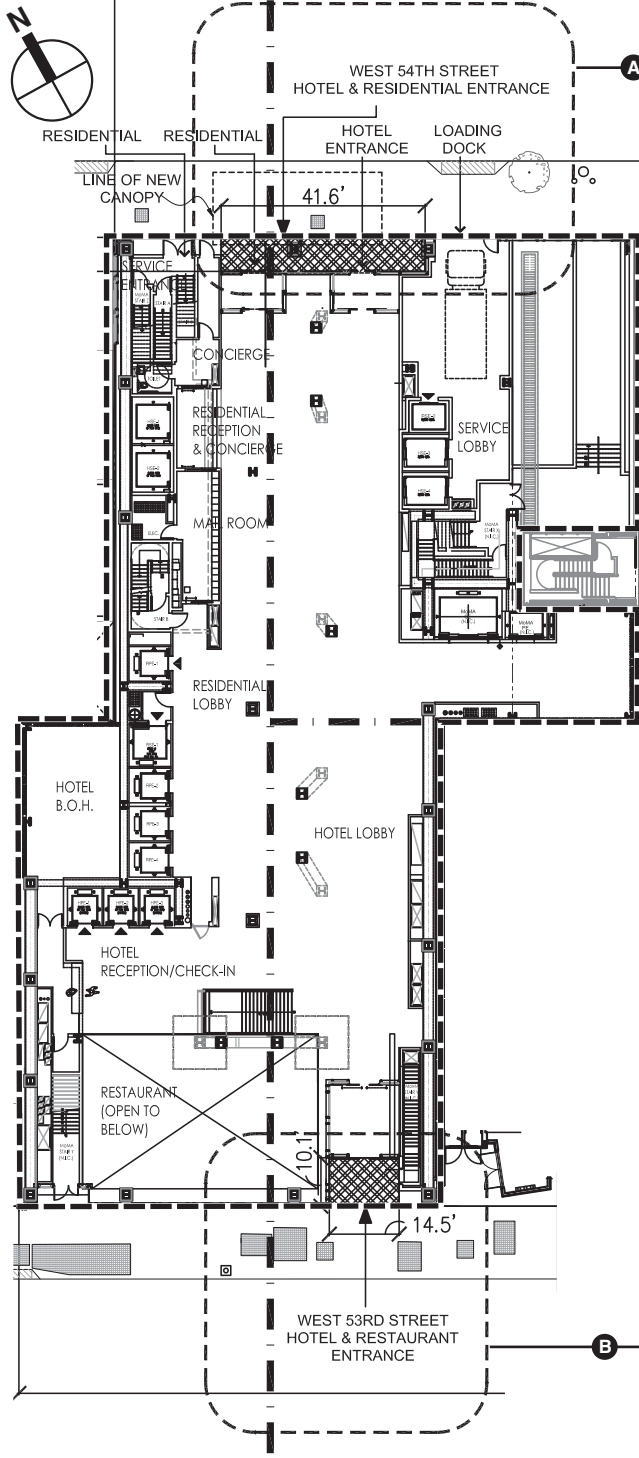
The special permit would also allow the modification of the rear yard equivalent requirements. As proposed, the building would encroach into a portion of the required rear yard equivalent facing West 54th Street (see **Figures 1-7 and 1-8**). The special permit would enable the building to rise in a tapering spire above an 85-foot streetwall.

On May 13, 2008, LPC voted to issue favorable reports regarding the continuing maintenance programs for the University Club and St. Thomas Church and regarding the relationship between the landmarks and the proposed project; these reports were issued on October 22 and November 28, 2008. Both the St. Thomas Church owner and the University Club owner will enter into a restrictive declaration that will run with the deed on the property in perpetuity. As part of the restrictive declaration, each has agreed to put aside five percent of the proceeds from the sale of its development rights in a dedicated account to provide for the future maintenance of its own building.



D. PROJECT PROGRAM AND DESIGN

It is the applicant's intention to develop the 786,562 gsf building to include approximately 68,097 gsf of museum-related space and 718,465 gsf of space that would be divided between hotel and residential use (see **Table 1-1**).¹ This floor area would include the as-of-right use of 31,389 square feet from the AFAM site, which is part of the project site. The hotel use would occupy between 100,000 and 200,000 gsf of space and include approximately 7,000 gsf of associated restaurant space. The residential use would occupy between 518,465 and 618,465 gsf of space. The project sponsor has stated that no more than 150 residential units and 120 hotel rooms would be constructed (however, for purposes of environmental review, it is assumed that the proposed project would include up to 300 residential units and 167 hotel rooms; see section G, "Analysis Framework for Environmental Review," below). The applicant will enter into a Restrictive Declaration to be recorded against the project's zoning lot, which will require that the proposed building be built in accordance with the plans and drawings approved as part of the special permit approval (this will include certain design elements, including cladding materials), and will tie the issuance of certificates of occupancy for certain floors in the proposed building to the completion of the restoration work to St. Thomas Church and the University Club proposed in connection with the Section 74-711 and 74-79 special permits. The Restrictive Declaration will also contain certain conditions on the project imposed as a result of the ULURP and CEQR review processes, including the requirement that no more than 167 hotel units and no more than 300 residential units will be constructed on the development site.

¹ The museum space use, which would connect to the existing MoMA building, was approved as part of a previous project and would be permitted without the proposed actions (see sections F, "Development History," and G, "Analysis Framework for Environmental Review." However, the entire building envelope is under review since the proposed actions (e.g., pedestrian circulation space, building setback waivers, etc.) would apply to the full site.



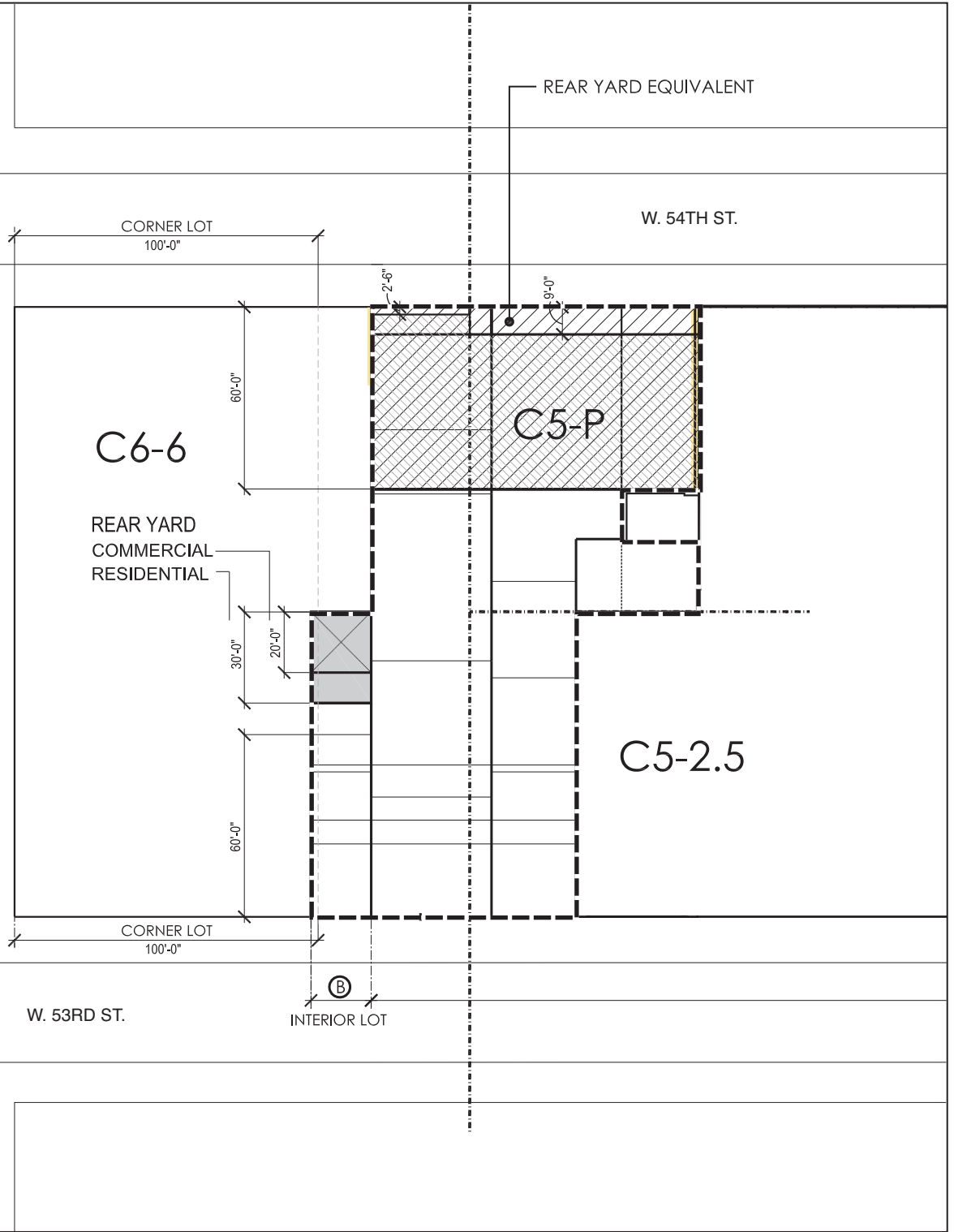
Source: SLCE Architects






-  Development Site
-  Pedestrian - Circulation Space at New Building

Interior Layout and Uses for Illustrative Purposes Only

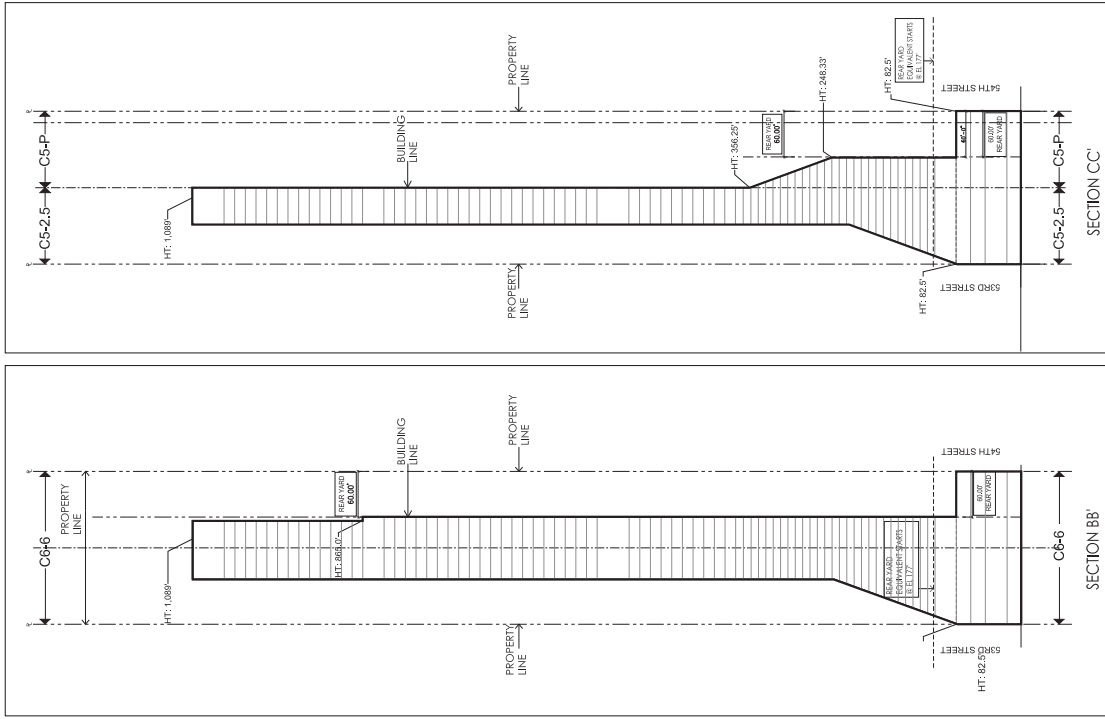


AVENUE OF THE AMERICAS



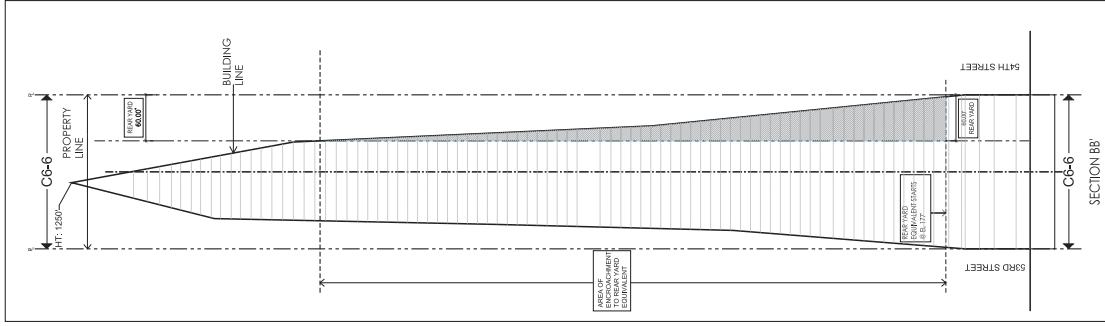
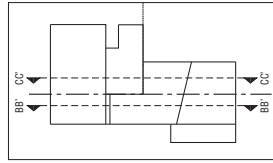
-  Development Site Boundary
-  Zoning District Boundary
-  Rear Yard
-  Rear Yard Equivalent
-  Rear Yard Equivalent Non Complying





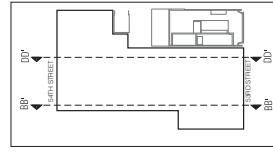
Source: SLCE Architects

Key to Sections
Expanded Development Scenario




Source: SLCE Architects

Key to Sections
Proposed Project



Proposed Project

 Area Outside Zoning Envelope
Note: No rear yard or rear yard equivalent is required for the previously approved project

Comparison of Rear Yard and Rear Yard Equivalents—Sections Figure 1-8

Expanded Development Scenario

**Table 1-1
Proposed Project by Use**

| Use | Gross Square Feet |
|--------------------------------------|---|
| Museum space | 68,097 |
| Hotel | 100,000 to 200,000 (includes 7,000 gsf of restaurant use) |
| Residential use | 518,465 to 618,465 |
| Total | 786,562 |
| Source: SLCE Architects, LLC. | |

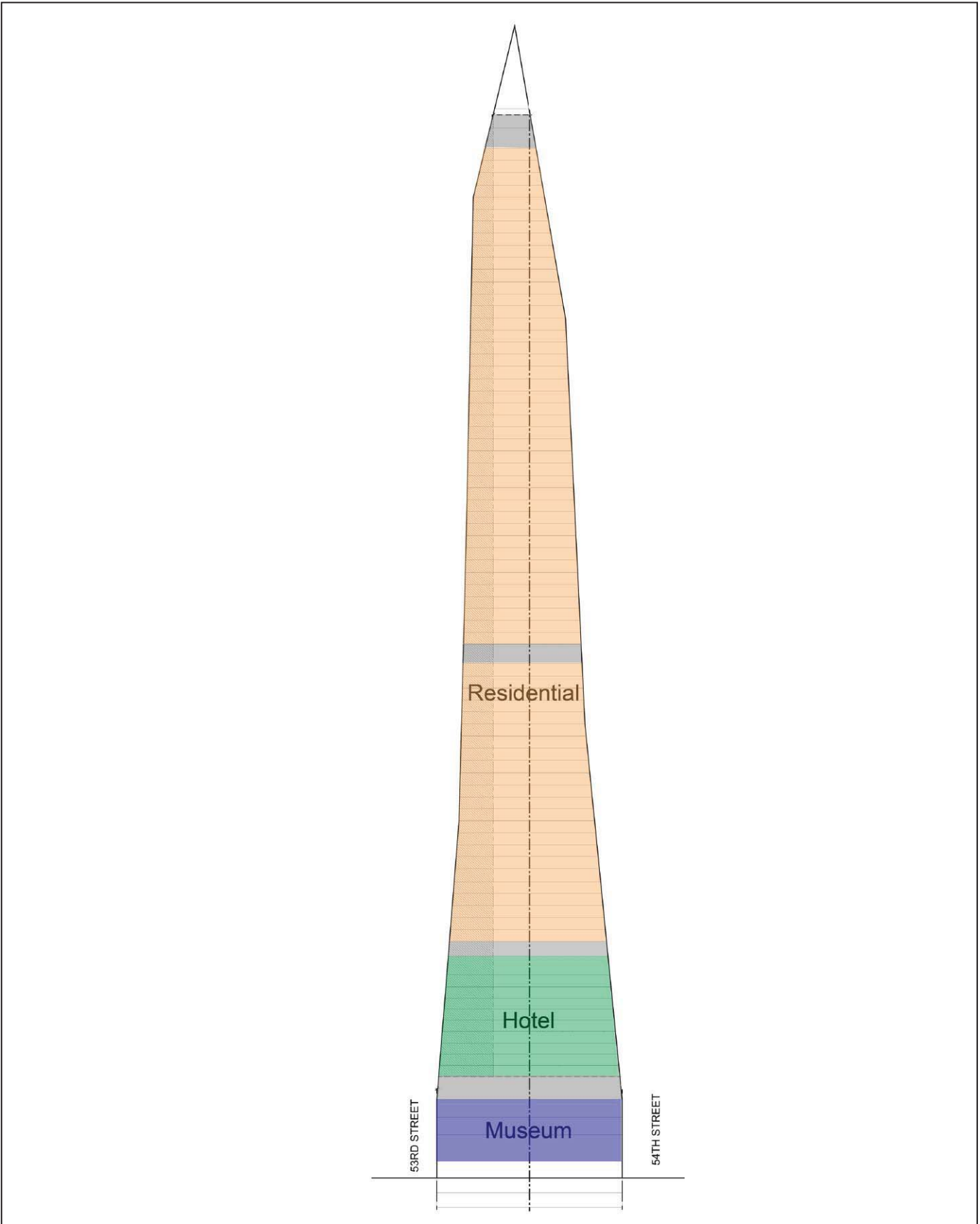
The number of residential units and hotel rooms within the building would be limited because of the building’s tapering design, along with its side-core configuration due to The Museum of Modern Art’s open gallery space prerequisite, the elevating requirements, code required light and air standards, and layout efficiency considerations. Specifically, the building’s multiple uses (hotel, residential, and museum) require a certain number of elevators and exit stairs that in combination with the need for an open floor plan for the gallery space necessitates placing the building’s core along the west side of the development site. This core placement and configuration, in turn, affect the building’s access to light and air, particularly on the lower floors, since windows cannot be provided on all four sides of the building as in a typical building with a central core. In addition, because of the building’s height and its small floorplates (particularly in the upper floors), the number of elevators that can be located within the building is limited; this in turn also limits the number of hotel and residential units that can be developed. The number of units is also limited because of the building’s tapering design, which creates irregularly shaped floors. For efficiency, the residential units are planned to be full floor or duplex apartments; this further reduces the number of units that can be developed in the building.

The proposed building would expand and connect MoMA’s existing gallery space into a new wing of galleries to be located on the second, fourth, and fifth floors of the proposed project. The new second floor would have the same double height space as in the museum’s current galleries; there would be no third floor. These new galleries would enable MoMA to showcase more works of art, including large-scale works, from its permanent collection, as well as special exhibitions. MoMA would have approximately 9,400 gsf of below-grade space, which would connect to its existing basement space, as well as some sixth-floor mechanical space.

As currently contemplated, the hotel portion of the project would be located above the museum portion and include a substantial number of suites. The residential use would be located above the hotel portion of the building (see **Figure 1-9**). An amenity floor of approximately 16,672 gsf, to be shared by the hotel and residential uses, would be located within the building. An approximately 7,000 gsf restaurant and restaurant kitchen would be located on the first and second basement level.

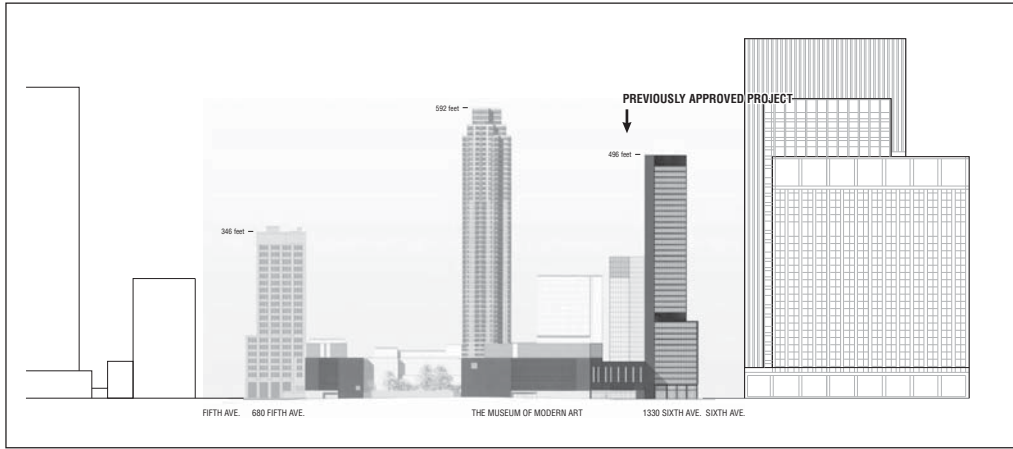
The main hotel lobby would be located on West 53rd Street, just west of the American Folk Art Museum. A through-block lobby to allow hotel patrons to exit on West 54th Street would also be provided. The residential entrance would be located on West 54th Street west of the secondary hotel entrance. A residential service entrance would be located west of the residential entrance. The project’s required loading dock would be located on West 54th Street just west of the existing MoMA loading docks.

The proposed building would rise to a height of approximately 1,250 feet, including a decorative spire. The building would have a faceted, tapered shape, resulting in smaller floorplates at the higher levels of the building (see **Figures 1-10 through 1-12**). Plans call for the building’s



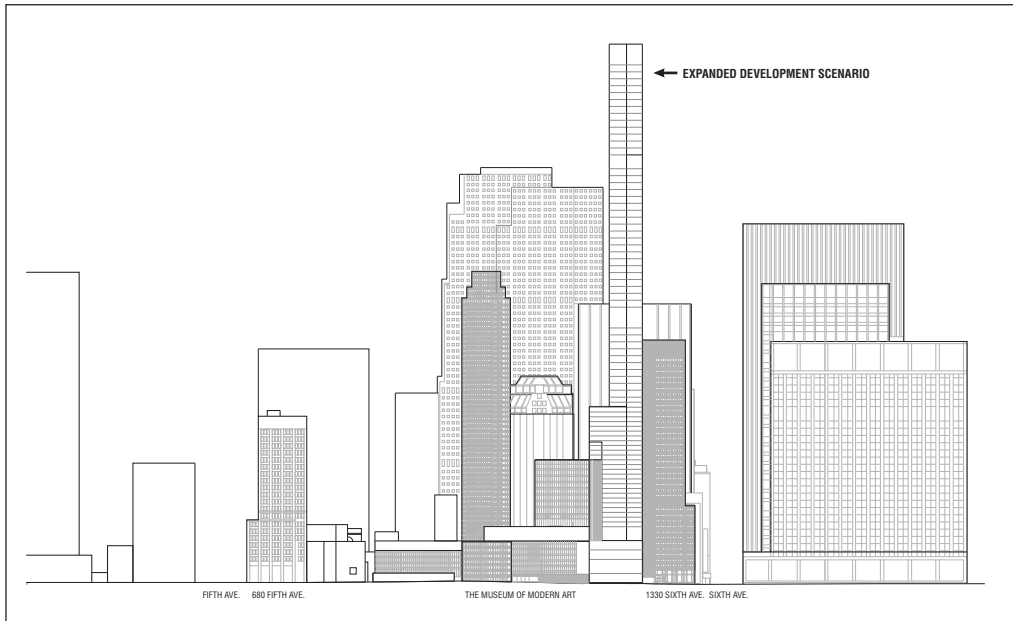
Note: The museum space was approved under a previous project and would be permitted without the proposed actions.

Source: Kohn Pedersen Fox Associates P.C.



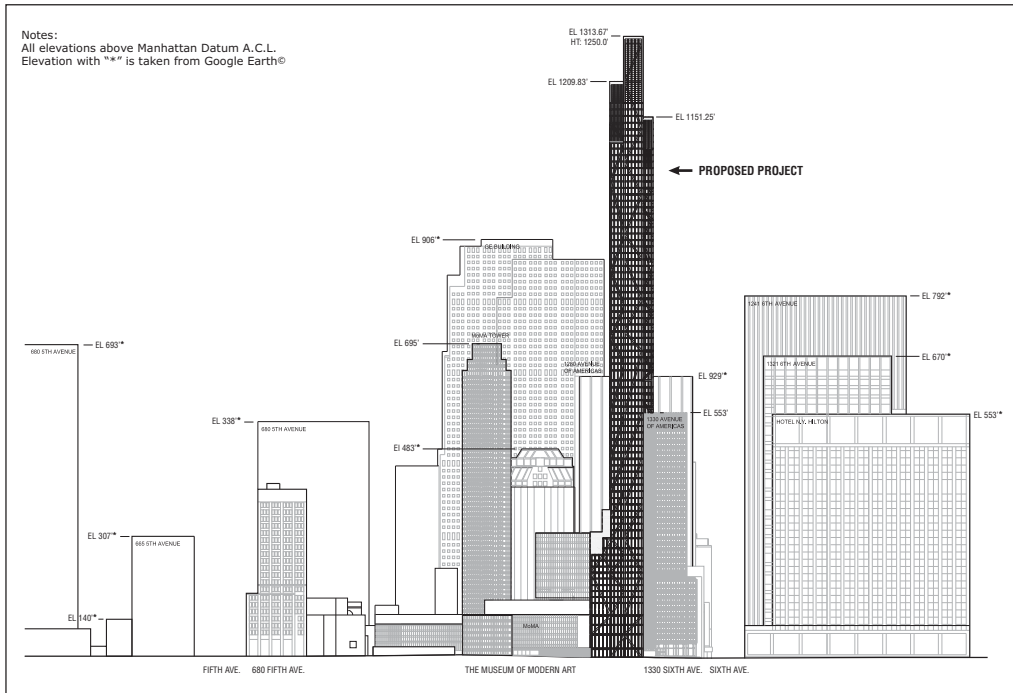
Previously Approved Project

Source: SLCE Architects



Expanded Development Scenario

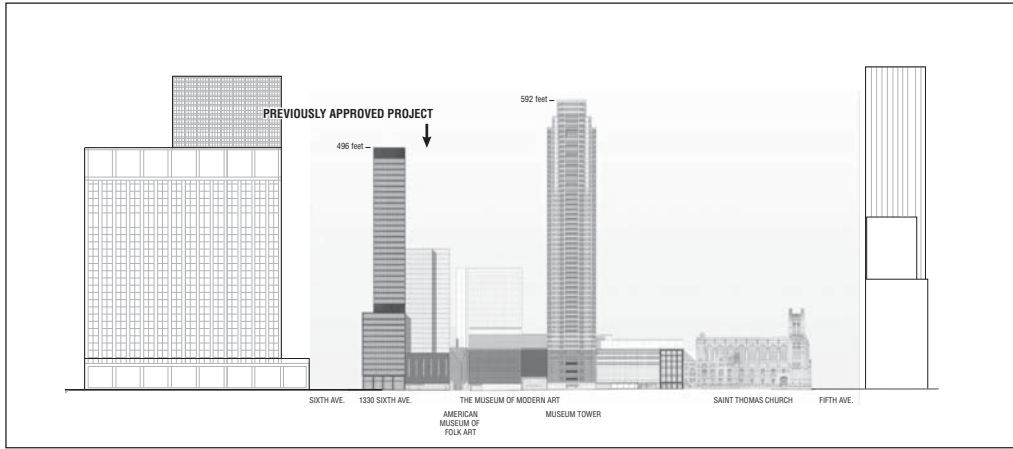
Source: SLCE Architects



Proposed Project (with building heights)

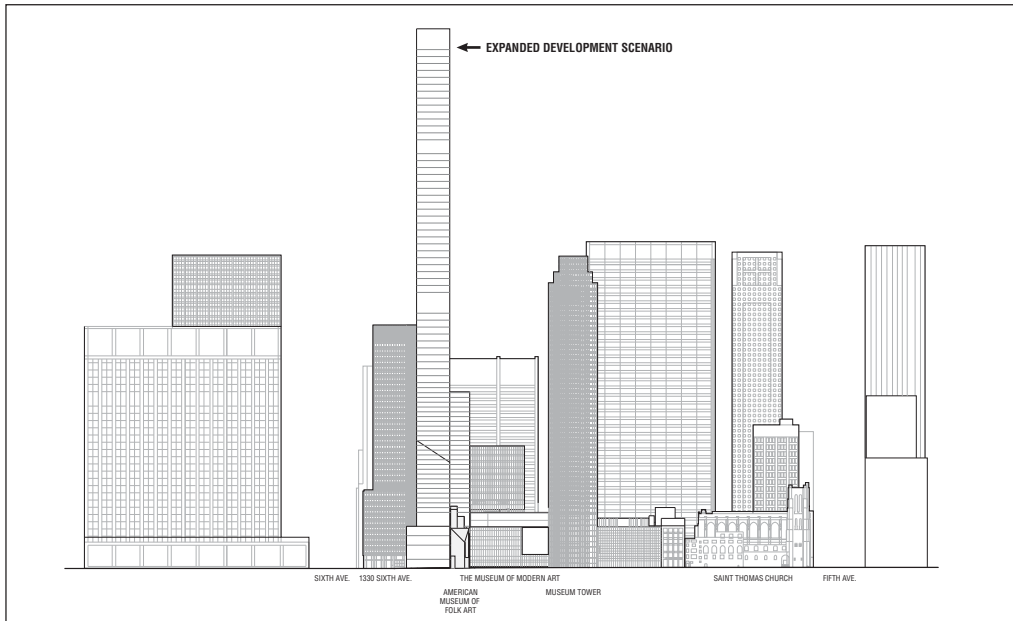
Building Materials shown for Illustrative Purposes Only

Source: Kohn Pedersen Fox Associates P.C.



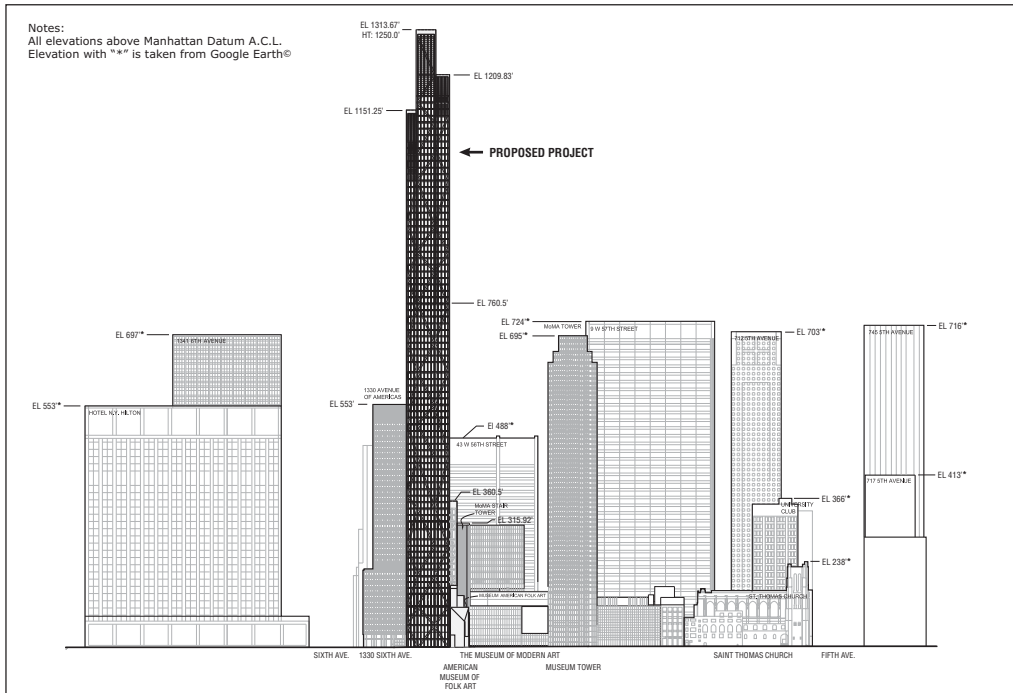
Previously Approved Project

Source: SLICE Architects



Expanded Development Scenario

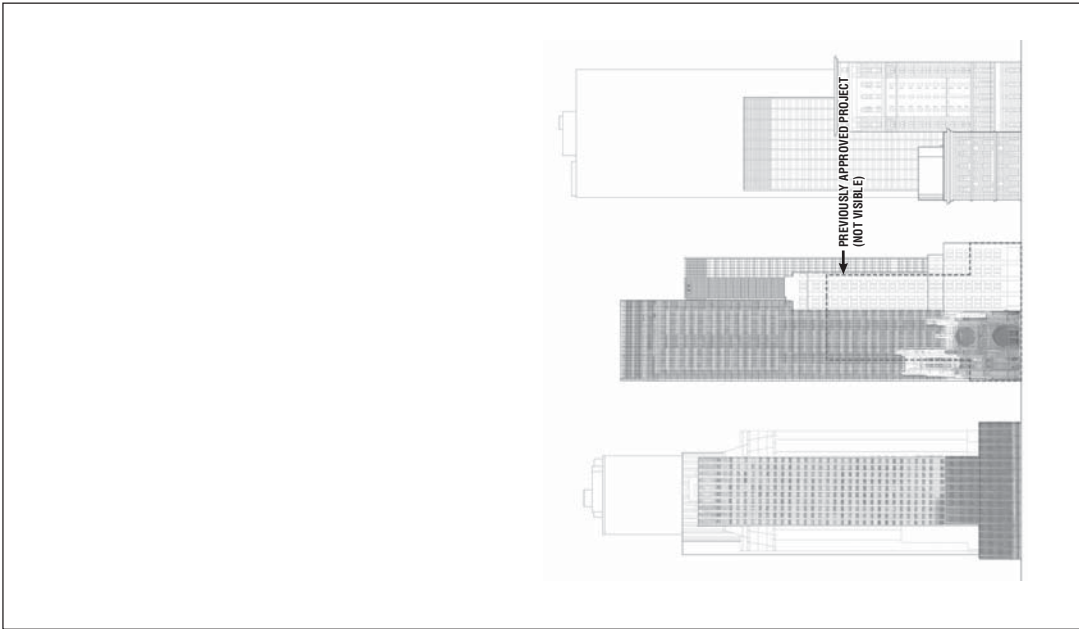
Source: SLICE Architects



Proposed Project (with building heights)

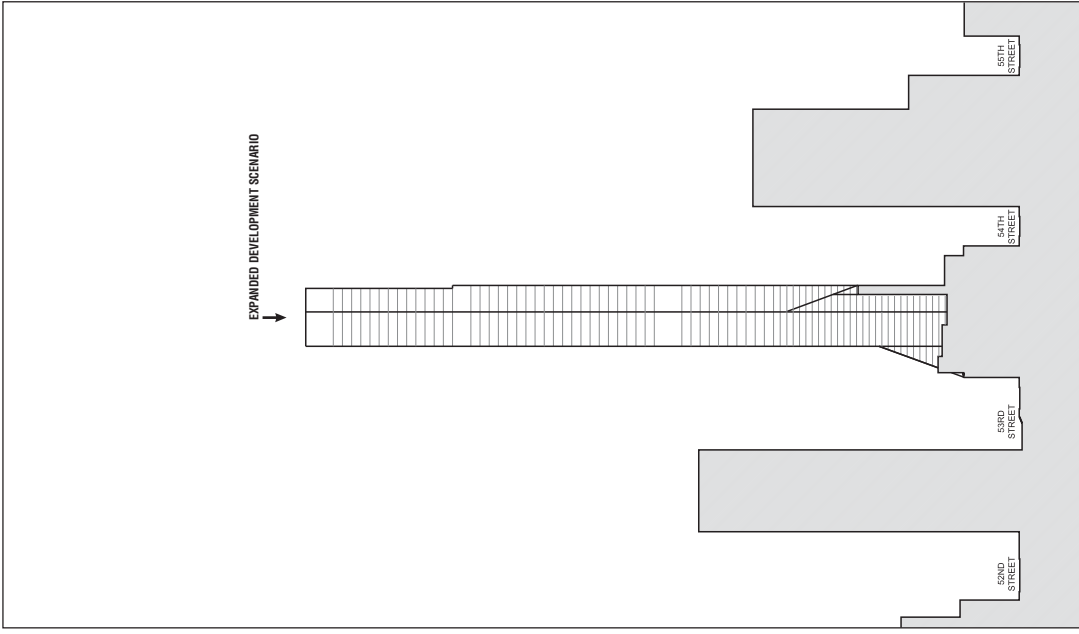
Notes:
 All elevations above Manhattan Datum A.C.L.
 Elevation with "*" is taken from Google Earth®

Building Materials shown for Illustrative Purposes Only



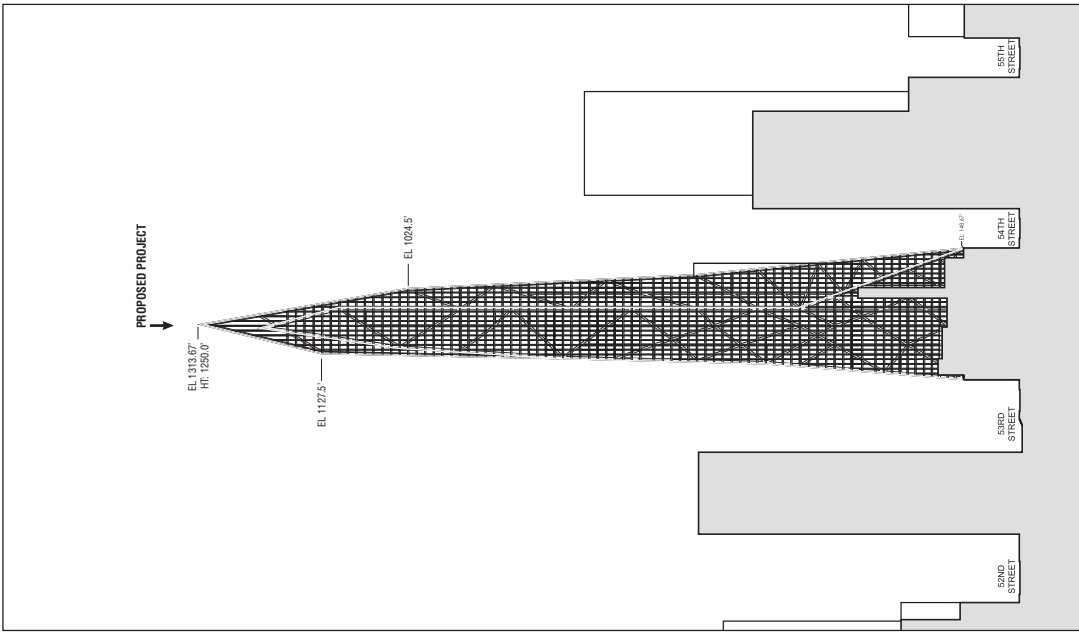
Source: Kohn Pedersen Fox Associates P.C.

Previously Approved Project



Source: SLCE Architects

Expanded Development Scenario



Source: SLCE Architects

Proposed Project

Building Materials shown for Illustrative Purposes Only

Comparison of East Elevations Figure 1-12

structural frame to be expressed on its façade in a pattern of crisscrossing beams; this system was developed because of the narrowness of the development site and the height of the building (see **Figure 1-13**). The building would slope back on one side to yield views past the Museum Tower, and its northeast corner would be cut away to conform to zoning regulations. It is expected that the building would be clad with gray glass and aluminum mullions. The structural frame would be just behind the glass, and the intent of the design is that the transition between the glass skin and the structure would not be visible. The design of the building is by Pritzker Prize-winning architect Jean Nouvel (see **Figures 1-14 and 1-15**).

E. PROJECT PURPOSE AND NEED

The proposed project would make use of a vacant site adjacent to MoMA. Among the applicant's goals and objectives for this project is to add to the Midtown Manhattan skyline (see **Figure 1-16**), and complement the architectural heritage represented on West 53rd Street, which includes on this block of West 53rd Street the 1939 MoMA building designed by Goodwin and Stone, the Philip Johnson wing from 1953, César Pelli's Museum Tower from 1984, the 2004 expanded MoMA building by Yoshio Taniguchi, and the American Folk Art Museum, designed by Tod Williams and Billie Tsien. In addition, across the street is Eero Saarinen's "Blackrock."

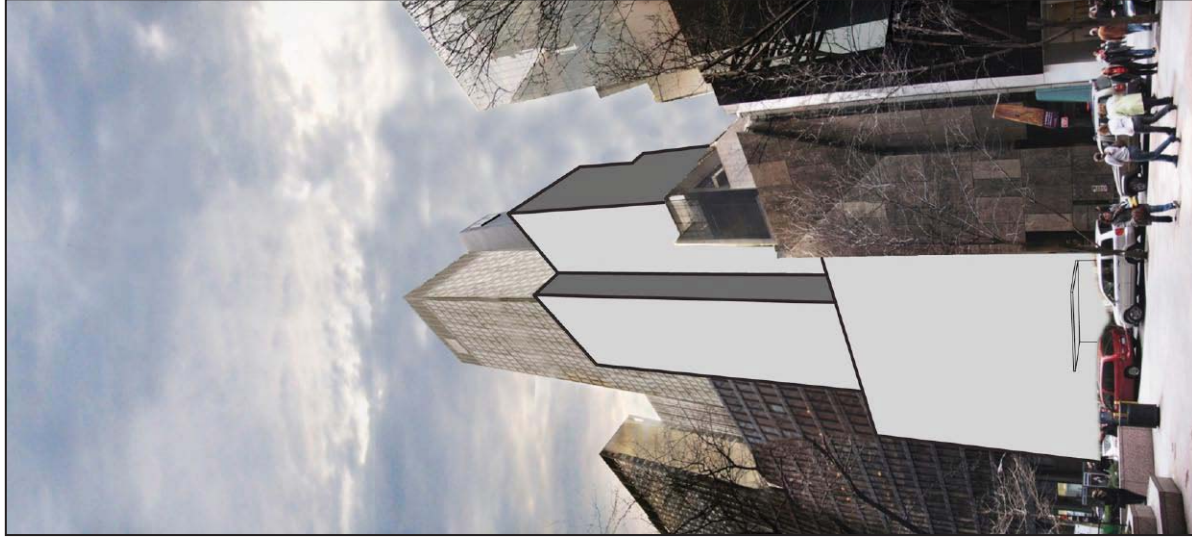
The special permit pursuant to ZR Sections 74-79 and 81-212 would allow the transfer of 136,000 square feet of floor area from the zoning lot containing the University Club (1 West 54th Street, Block 1270, Lot 34) to the project site for use on the development site. As a condition of the ZR Section 74-79 special permit, the landmark building would be required to be renovated to a sound, first-class condition, and would be required to establish a Continuing Maintenance Plan for the landmark.

As a condition of the ZR Section 74-711 special permit, St. Thomas Church would be required to be renovated to a sound, first-class condition, and would be required to establish a Continuing Maintenance Plan to guarantee that the landmark remains in such condition forever. The work at St. Thomas includes the largest stained glass restoration project ever undertaken in the United States, and is also, in dollar terms, one of the largest restoration program ever associated with a 74-711 application.

The owners of St. Thomas Church and the University Club would enter into a restrictive declaration that would run with the deed on the property in perpetuity. As part of the restrictive declaration, each building owner has agreed to put aside 5 percent of the proceeds from the sale of its development rights in a dedicated account to provide for the future maintenance of the buildings. Each owner would be required to conduct a facade inspection at least once every five years, and any work necessary to maintain the exterior elements of the building in a sound first-class condition would be required to be undertaken at the expense of the owner. LPC will also have the right to access the buildings to conduct inspections of its own, and will be empowered to undertake repairs (at the owner's expense) if the owner fails to maintain the building in sound first-class condition.

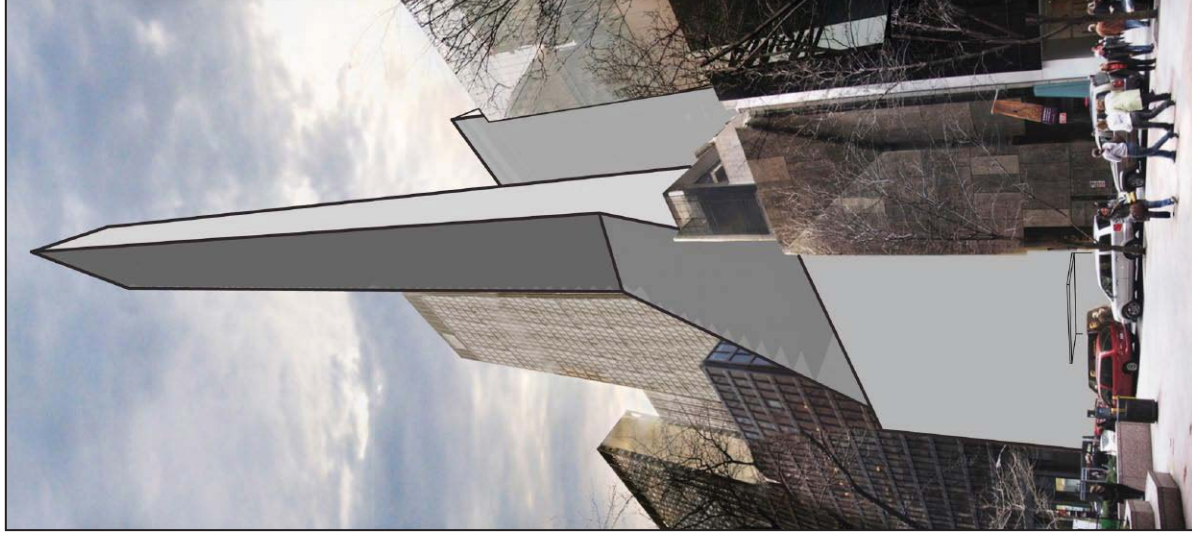
As mentioned above, on May 13, 2008, LPC voted to issue favorable reports regarding the Continuing Maintenance Programs for the University Club and St. Thomas Church and regarding the relationship between the landmarks and the proposed project.

The Special Permit, pursuant to ZR Sections 74-711 and 81-277, would allow the modification of height and setback requirements which would allow the proposed project to extend its volume

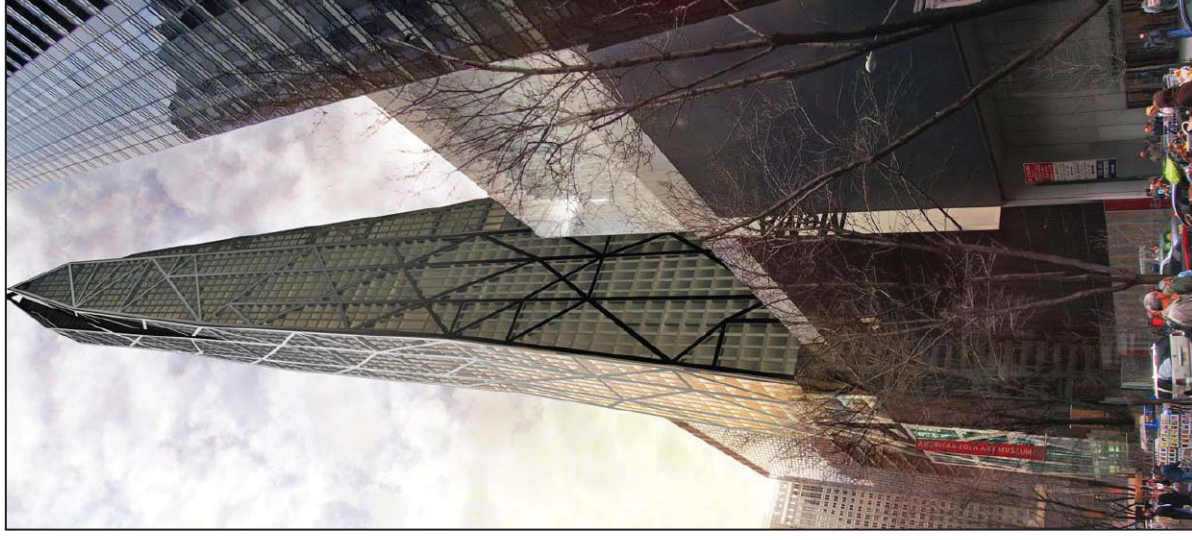


Source: SLCE Architects

Previously Approved Project

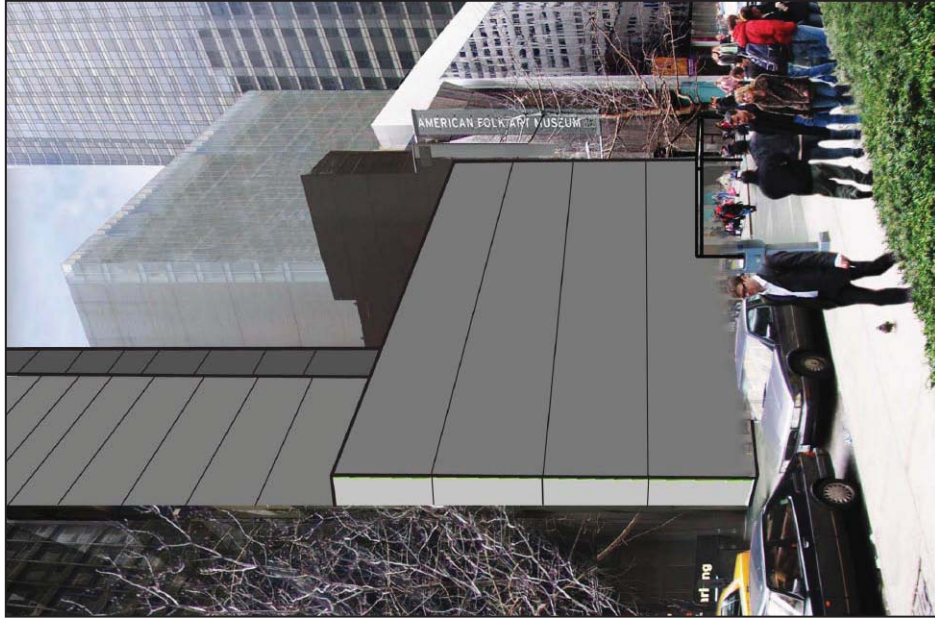


Expanded Development Scenario

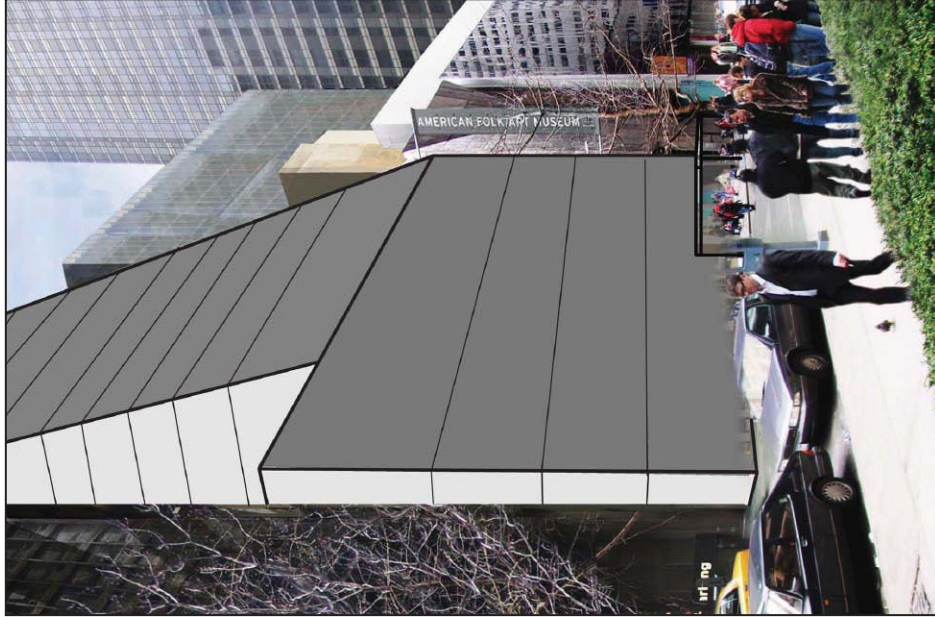


Proposed Project

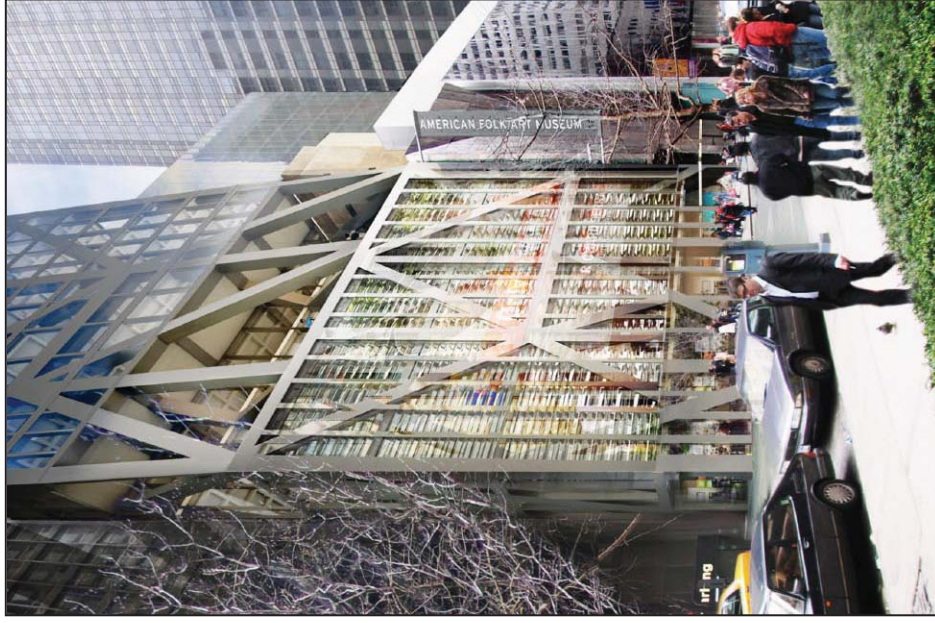
**Comparison of Illustrative Renderings
View from West 53rd Street
Figure 1-13**



Previously Approved Project

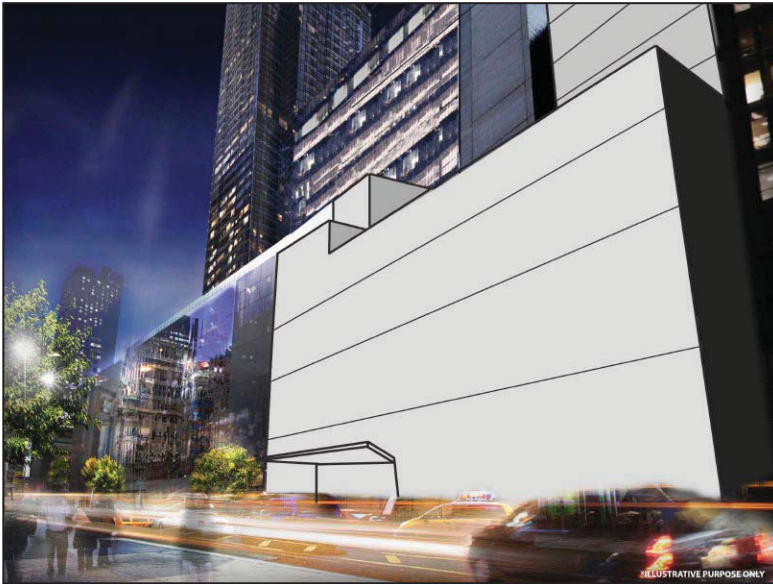


Expanded Development Scenario

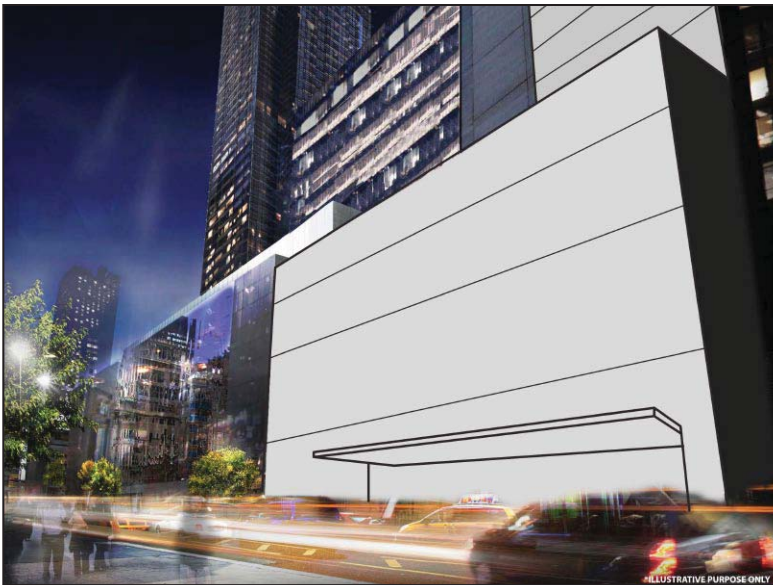


Proposed Project

**Comparison of
Street-Level Illustrative Renderings
View from West 53rd Street
Figure 1-14**



Previously Approved Project



Expanded Development Scenario



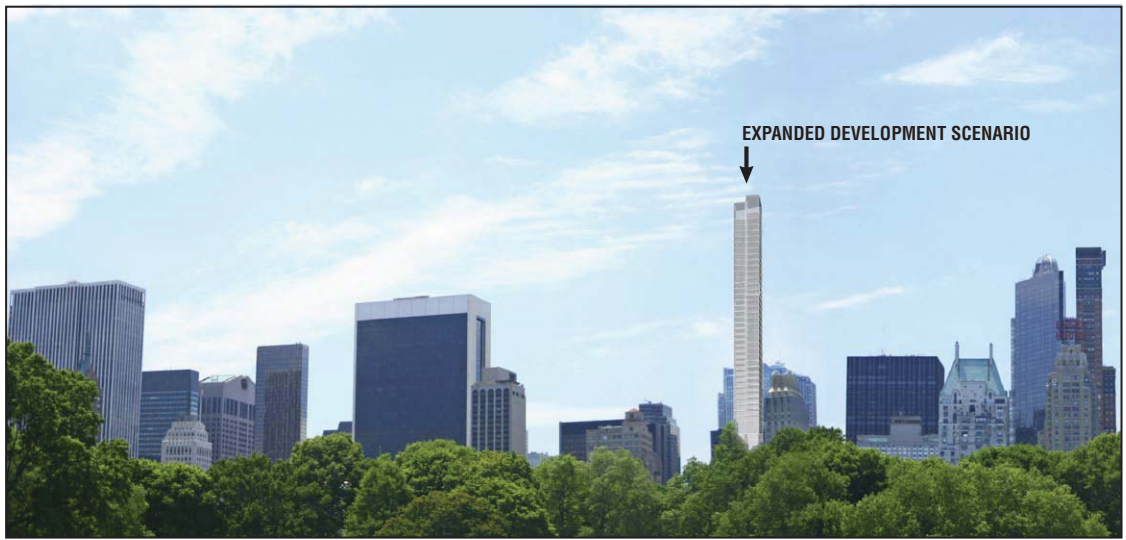
Proposed Project

Comparison of
Street-Level Illustrative Renderings
View from West 54th Street
Figure 1-15

5.12.09



Previously Approved Project



Expanded Development Scenario



Source: SLCE Architects

For Illustrative Purposes Only

Proposed Project

slightly beyond to the limits of the zoning envelope in order to create the unique, faceted, tapered shape proposed.

F. DEVELOPMENT HISTORY

This section presents a development history to set the proposed actions in context and to describe the approvals leading to the Previously Approved Project, which is described in detail in section G, “Analysis Framework for Environmental Review.”

MOMA 1929 TO 1975

Founded in 1929 for the expressed purpose of dramatically reducing the time lag between the artist’s creation and the public appreciation of great art, MoMA moved to 11 West 53rd Street in 1932. At the time other notable buildings in the block included St. Thomas Episcopal Church, the Dorset Hotel at 30 West 54th Street, and two Rockefeller townhouses facing West 54th Street. After acquiring 9, 13, 15, 17 and 19 West 53rd Street, MoMA completed a new museum designed by Philip Goodwin and Edward Durell Stone in 1939. The Rockefellers donated an adjoining 70-foot wide site on West 54th Street, which became a large informal sculpture garden.

In 1950 MoMA expanded with a new seven-story wing to the west on West 53rd designed by Philip Johnson. In 1961, plans for a new wing east of the garden with a connecting corridor to the West 53rd Street building were announced.

MOMA 1976 TO 1984

In 1976, MoMA announced an ambitious expansion plan. Land use approvals granted in 1977 by CPC and the Board of Standards and Appeals (BSA) allowed MoMA to double its gallery space, add a new auditorium, consolidate its bookstore, and construct a new six-story wing with the 42-story Museum Tower residential condominium above. Development of the residential tower was accomplished through a transaction with the Trust for Cultural Resources, which generated tax equivalency payments to finance MoMA’s expansion.

CPC approvals included a special permit pursuant to ZR Section 74-72 to modify height and setback regulations in connection with the Museum Tower and a certification pursuant to ZR Section 26-07 to allow modification of the street tree planting requirement. The special permit allowed the residential tower to be constructed without setbacks from the West 53rd Street property line, which the CPC noted would preserve the continuity of the building facades along West 53rd Street. CPC also noted that the West 53rd Street block was primarily commercial and institutional rather than residential. The approach of the 1977 approvals was to move MoMA’s bulk from primarily residential West 54th Street to West 53rd Street and to maintain the integrity of the MoMA Garden. CPC concluded that placing the tower on West 53rd Street would protect West 54th Street’s residential character and would also reduce the impact of the tower on the MoMA Garden.

BSA approvals consisted of a variance to permit: (i) encroachment into the required rear yards for the Museum Tower and MoMA’s west wing behind the former Dorset Hotel, located at 26 West 54th Street; (ii) encroachment into the required rear yard behind St. Thomas Church, caused by the addition of MoMA’s Garden Wing building on West 54th Street; and (iii) waiver of the required accessory parking for the Museum Tower. In addition, BSA granted a waiver of the required Multiple Dwelling Law rear yard requirements for the Museum Tower.

Completed in 1984, the extensive construction, which required demolition of portions of the buildings existing in 1976 and major alteration to others, gave the MoMA complex a total built floor area of approximately 707,000 square feet. This was 75,740 square feet less than the allowable floor area permitted in 1977 when the midblock was zoned C5-2, which permitted a basic maximum FAR of 10.0 for residential, commercial, or community facility uses, and the avenue frontage of the block was zoned C5-3.

1982 ZONING CHANGES

In 1982, the Special Midtown District rezoning changed the C5-2 portion of the MoMA site to C5-P (8 FAR) and moved the C5-P district boundary 50 feet closer to Fifth Avenue. Due to this rezoning, MoMA's zoning lot became overbuilt by 128,500 square feet in its C5-P portion and underbuilt by 36,000 square feet in the C5-3 district (net overbuild of 92,500 square feet).

The Special Midtown District (MiD) also eliminated the need for the 1977 certification regarding the modification of street tree planting requirements pursuant to ZR Section 26-07, as these requirements do not apply in Special Purpose Districts, pursuant to ZR Section 37-01.

AMERICAN MUSEUM OF AMERICAN FOLK ART EXPANSION

Soon after the completion of the MoMA expansion, AFAM, then known as the Museum of American Folk Art, proposed its own expansion. It had located in the rowhouse at 49 West 53rd in 1963 two years after its founding and acquired the rowhouses at 45 and 47 West 53rd Street in 1979. Working with a private developer, AFAM proposed to demolish these and other largely vacant rowhouse structures (45-55 West 53rd Street) to construct a 27-story, mixed-use building. The proposed building would have provided 49,973 gsf for AFAM and 180,490 gsf of commercial office space, for a total of 230,463 gsf. The AFAM space was to have been located at the ground, second, and third levels and also below grade, while the office space was to occupy the upper floors. The building was intended to provide exhibition, administrative, and educational space for AFAM as well as to provide funds for AFAM's operations.

In order to construct this project AFAM requested a rezoning of its property and the entire north midblock on West 53rd Street between Fifth and Sixth Avenues from C5-2 (MiD) and C5-P (MiD) to C5-2.5 (MiD). AFAM's site had been left as C5-2 when the rest of the midblock was rezoned to C5-P in the 1982 establishment of the Special Midtown District. The proposed project and the requested land use actions were the subject of an FEIS completed in November 1989.

In its review CPC expressed concern that the C5-2.5 district would permit an as-of-right development which could include a bonusable urban plaza, thereby weakening the streetwall character of West 53rd Street. Therefore, CPC limited the rezoning to the 75 foot by 100 foot parcel owned by AFAM, and required the execution of a restrictive declaration (affecting Lots 5-9) to impose certain urban design restrictions on the site, including limiting development to a building without an urban plaza or other open space at the street line and with a streetwall of between 60 and 82 feet. The restrictive declaration also required that any building developed on the property contain a "first-class museum" on its lower floors, including the ground floor.

Although the project was approved and the reduced area was rezoned, the AFAM project as proposed in 1988-89 was not realized. However, in 2001 AFAM did complete a building at 45 West 53 Street (Lot 9) in the rezoned C5-2.5 district on a portion of the 1989 AFAM site. The approximately 30,000 square foot building includes eight levels in an 85-foot tall structure.

2000 MOMA EXPANSION

In recognition of the fact that MoMA needed more space to display its world-renowned collection of modern art and to accommodate its growing attendance and educational programs, MoMA had acquired additional property—three row houses at 37, 39 and 41 West 53rd Street, the Dorset Hotel, and a rowhouse at 42 West 54th Street—and proposed a major expansion project to be designed by Yoshio Taniguchi. The MoMA expansion was undertaken pursuant to a special permit, an amendment of the Zoning Map to change the zoning designation of certain portions of MoMA’s zoning lot from a C5-P zoning district to a C5-2.5 zoning district, and an amendment of the text of the Zoning Resolution, Sections 81-066 and Section 81-00 approved by CPC in 2000. In more detail the zoning actions were as follows:

- Rezoning of a portion of the midblock of the southern side of Block 1269 (north side of West 53rd Street) from C5-P to C5-2.5 as already mapped on AFAM’s property as well as in the midblocks to the south, which established a single set of bulk and density controls for midblock properties on both sides of West 53rd Street;
- Zoning text amendments (a) to the Special Midtown district to modify the district map to reflect the elimination of the rezoned area from the Preservation Subdistrict and (b) to ZR Section 81-066 (Special Permit Modification of Section 81-40 and Section 77-00) to allow certain bulk modifications in the Special Midtown District by special permit;
- Special permit pursuant to the proposed ZR Section 81-066 to allow the transfer of bulk across a district boundary, from the C5-P district in the north of the site to the C5-2.5 district in the south, and the waiver of a portion of a required rear yard behind the MoMA Garden Wing; and
- Authorization pursuant to ZR Section 81-90 to modify streetwall requirements, with respect to the West 54th Street frontage of the zoning lot, in order to allow the MoMA Garden and the vacant portion of the site on Lot 165.

The approvals continued the trend of focusing development along West 53rd Street and away from West 54th Street. The special permit allowed 153,339 square feet of floor area from the C5-P zoning district (MoMA Garden location) to be used in the C5-2.5 zoning district. The rezoning to C5-2.5 was designed to restore floor area compliance to MoMA’s zoning lot, which had been downzoned to C5-P in 1982 as part of the Midtown rezoning. Although the southern half of the property was rezoned from C5-P (8 FAR) to C5-2.5 (12 FAR), 86,080 square feet of the available floor area was not utilized in the development, and was “retired” pursuant to a CPC restrictive declaration that prohibited this floor area from being used on MoMA’s property or on any zoning lot that includes MoMA’s property. The restrictive declaration also required MoMA to maintain a through-block lobby in the new museum building.

New construction on the western end of the site replaced the Dorset Hotel and several smaller buildings to the west of the Museum Tower. The Dorset Hotel had 197 feet of frontage on West 54th Street, rose 19 stories from its streetline without setbacks, and was significantly overbuilt under Midtown zoning. The new MoMA building that replaced it has a six-story street wall and complies with the C5-P height and setback requirements. In addition, the massing of the 2000 MoMA expansion on an enlarged zoning lot removed the need for the height and setback modification approved for the Museum Tower in 1977. All of the existing structures on MoMA’s enlarged zoning lot and the new structures proposed as part of the 2000 expansion fully complied with height and setback requirements.

The merger of the MoMA zoning lot with the Dorset Hotel site and other properties made the MoMA's zoning lot a through lot, which eliminated the need for the prior BSA waiver for rear yard encroachments on that portion of the zoning lot. The BSA waiver with respect to the rear yard encroachment behind St. Thomas Church was incorporated in the special permit approval.

This project and the required approvals were considered in an FEIS completed in 2000. They allowed MoMA to provide additional gallery space in a new building and to build a new education wing while at the same time expanding the garden. The expansion as described in the FEIS has been completed, increasing the gross floor area by approximately 223,000 square feet.

2007 MINOR MODIFICATIONS

In 2007, MoMA sought certain modifications of the earlier Special Permit to facilitate development of a six-story infill structure on the West 54th Street frontage on what was MoMA's then-zoning lot and the construction of a proposed 250,000-gross-square-foot primarily office building to be located on the current development site. This project was analyzed in a Technical Memorandum dated March 23, 2007.

The modifications, approved by the CPC on March 26, 2007, permitted the site plan and related drawings approved in 2000 to be amended to show this infill building, which would have utilized approximately 6,615 square feet of floor area that was not used in the 2001 expansion of the museum and not included in the 86,080 square feet of "retired" floor area. In addition, the modifications allowed non-museum uses on the ground floor of the office building. The infill building and the office building are together described below as the Previously Approved Project (see section G, "Analysis Framework for Environmental Review").

The 1989 AFAM restrictive declaration required that a building on the development site have museum use on the ground floor. CPC approval of this modification was conditioned on the new building being constructed substantially in compliance with the plans attached to an amendment to the restrictive declaration, dated as of March 22, 2007 and recorded on April 4, 2007. These plans showed museum uses on the upper floors of the building, connecting to the existing MoMA galleries.

Also included in the amendment to the restrictive declaration were provisions to ensure that no hazardous materials impacts would result from the proposed action. Prior to any soil disturbance for the proposed development, an investigation and, to the extent necessary, remediation of any potential hazardous materials must be performed in a manner satisfactory to the New York City Department of Environmental Protection. This project and the modifications of the earlier special permit were approved; however, the project was never built.

G. ANALYSIS FRAMEWORK FOR ENVIRONMENTAL REVIEW

In disclosing impacts, the EIS considers the proposed project's potential adverse impacts on the environmental. Because the proposed project would be operational in 2013, its environmental setting is not the current environment, but the future environment. Therefore, the technical analyses and consideration of alternatives assess current conditions and forecast these conditions to 2013 for the purposes of determining potential impacts. The EIS will provide a description of "Existing Conditions" for the 2008 analysis year and assessments of future conditions without the proposed project ("Future Without the Proposed Project") and with the proposed project ("Probable Impacts of the Proposed Project").

The future without the proposed project in all technical areas assumes that none of the discretionary actions are approved. In this case, the project sponsor has stated that the development site will be developed with either of two as-of-right projects that can be built without any discretionary approvals. These two projects are referred to as the Previously Approved Project and the Expanded Development Scenario.

PREVIOUSLY APPROVED PROJECT

The Previously Approved Project is a 250,000 gsf building to be located on Lots 5, 6, 7, 8, 66, and 69 of Block 1269 and a smaller infill building to be located on Lot 165 and a portion of Lot 58. Together, these buildings will contain 68,097 gsf of museum-related space, 180,000 gsf of commercial office use, and 10,000 gsf of ground-floor retail space (see **Table 1-2**). The larger building will be 285 feet in height with an office entrance on West 53rd Street and retail entrances on both West 53rd and 54th Streets (see **Figure 1-17**). Access to the museum-related space will be provided through the existing MoMA entrances on the second, fourth, and fifth floors. The infill building will be a 6-story building that will link the existing MoMA space to the additional gallery space to be constructed in the larger building.

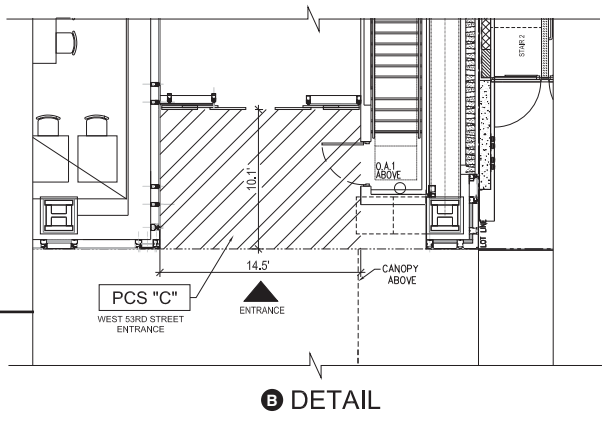
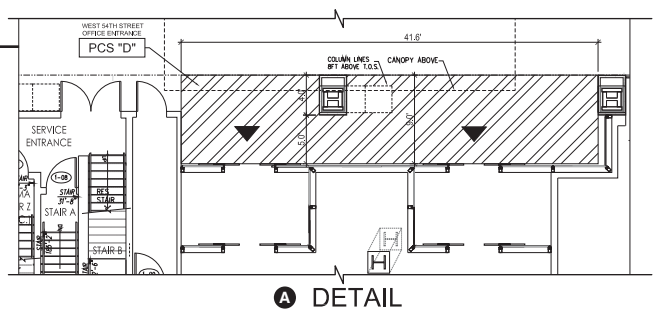
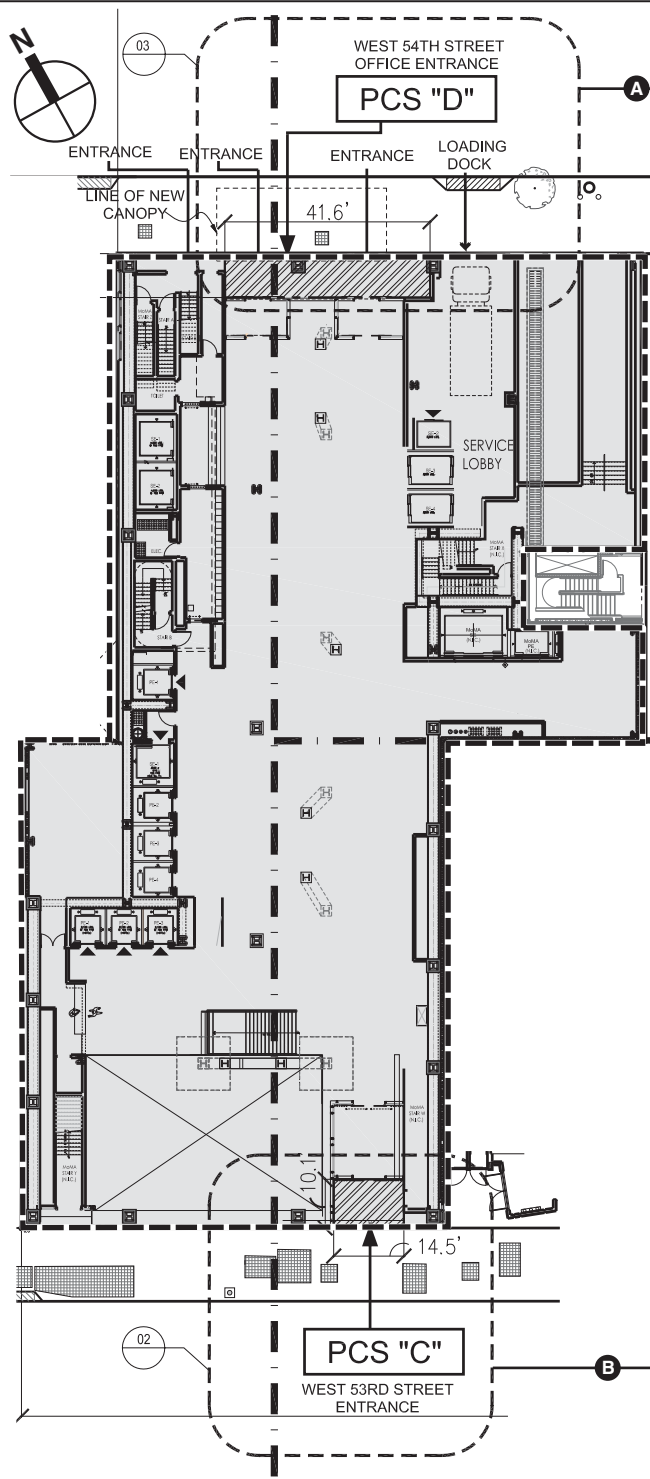
**Table 1-2
Future Without the Proposed Project:
Previously Approved Project**



| Use | Gross Square Feet |
|-------------------|--|
| Museum space | 68,097 |
| Commercial office | 180,000 |
| Retail | 10,000 |
| Total | 258,097 |
| Note: | This program would be located in a larger building of 210,238 zoning square feet and a smaller infill structure. |
| Source: | <i>Museum of Modern Art Technical Memorandum</i> , CEQR No. 00DCP007M, ULURP Nos. C00649ZMN, N000650ZRM, March 23, 2007. |

EXPANDED DEVELOPMENT SCENARIO

The Expanded Development Scenario will produce a 508,013 gsf building containing 68,097 gsf of museum-related space, 125,679 gsf of hotel use, and 314,236 gsf of residential space (see **Table 1-3**). It will be 1,089 feet in height with an entrance on West 53rd Street (see **Figures 1-18 and 1-19**). Access to the museum-related space will be provided through the existing MoMA entrances, with connections at the second, fourth, and fifth floors.¹

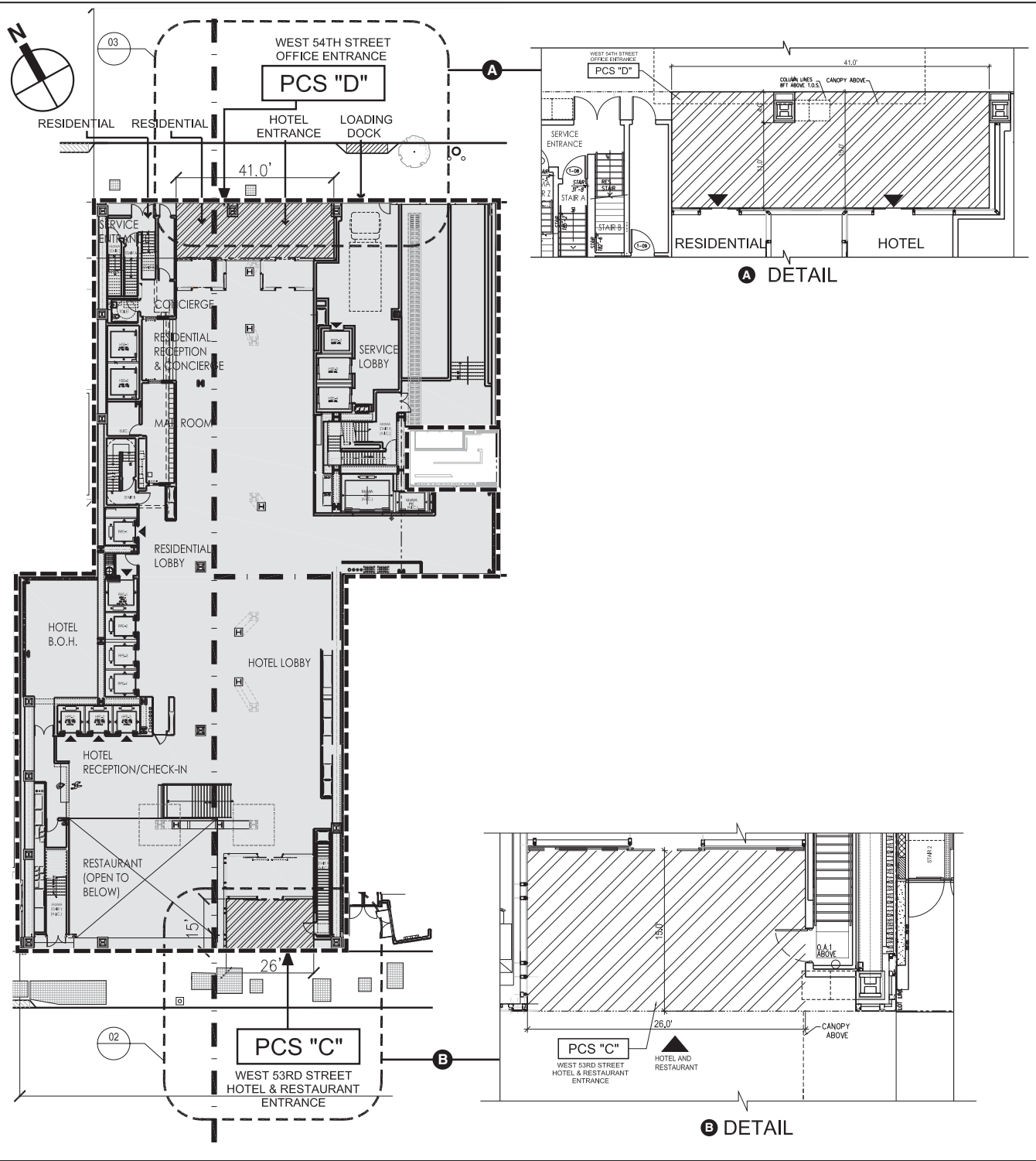
¹ This no action scenario will contain more floor area than the Previously Approved Project because the zoning lot for this scenario will include the existing MoMA zoning lot, the American Museum of Folk Art, and St. Thomas Church. It will be smaller than the proposed project because it would not use development rights from the University Club, and it would not use all of the development rights from St. Thomas Church (see “Purpose and Need”). In addition, the height and setback requirements of the C5-P zoning district effectively limit the amount of floor area that can be developed on the development site on an as-of-right basis.




-  Development Site
-  Pedestrian - Circulation Space at New Building

Interior Layout and Uses for Illustrative Purposes Only

Previously Approved Project:
Ground Floor and Pedestrian Circulation Space
Figure 1-17



-  Development Site
-  Pedestrian - Circulation Space at New Building

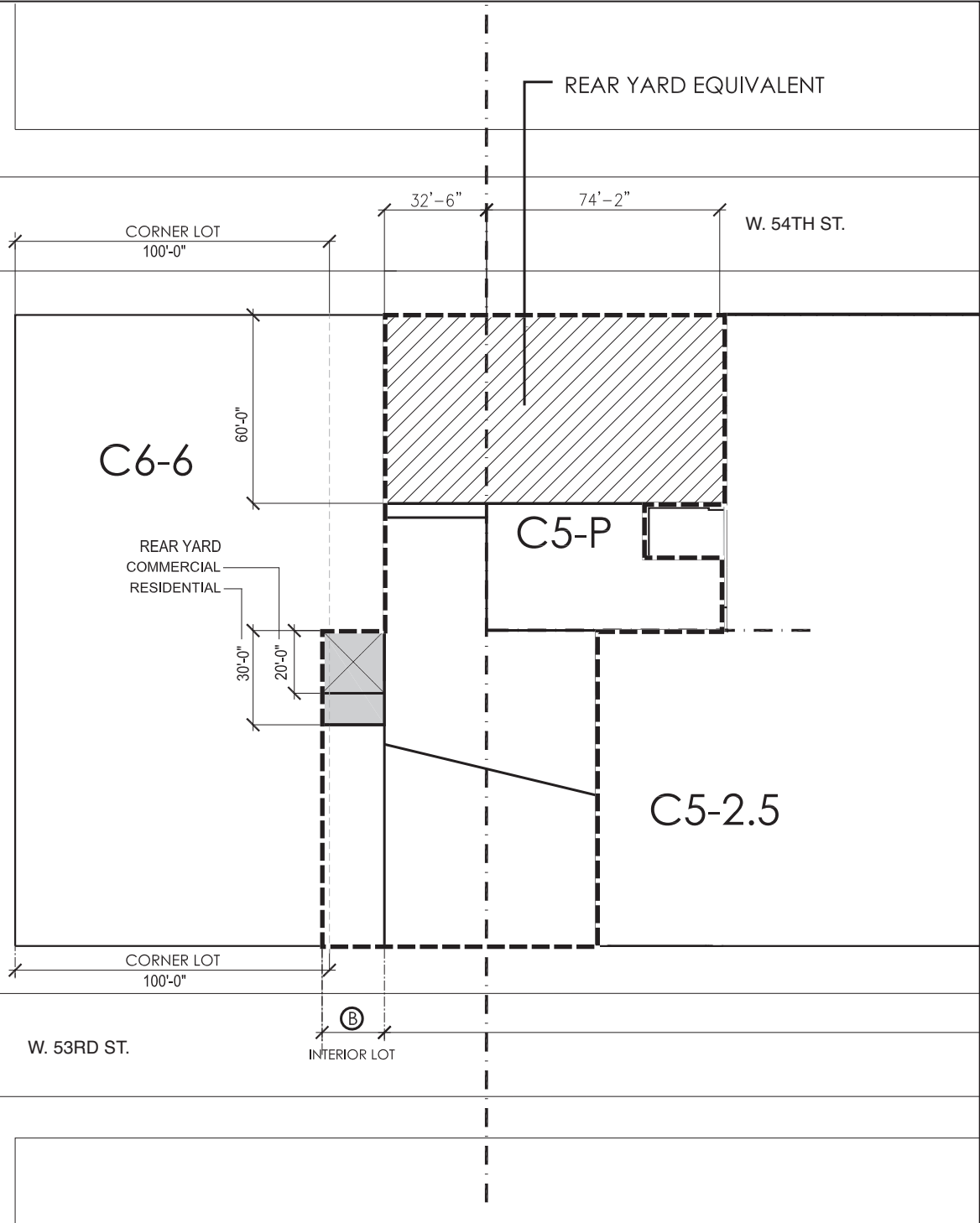
Interior Layout and Uses for Illustrative Purposes Only

Expanded Development Scenario:
 Ground Floor and Pedestrian Circulation Space
 Figure 1-18





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AVENUE OF THE AMERICAS



Source: SLCE Architects

-  Development Site Boundary
-  Zoning District Boundary
-  Rear Yard
-  Rear Yard Equivalent



Expanded Development Scenario:
Rear Yard and Rear Yard Equivalents—Plan View
Figure 1-19

**Table 1-3
Future Without the Proposed Project:
Expanded Development Scenario**

| Use | Gross Square Feet |
|-----------------|---|
| Museum space | 68,097 |
| Hotel use | 125,679 |
| Residential use | 314,236 |
| Total | 508,012 |
| Notes: | This building would total 424,843 zoning square feet. Approximately 35,980 gross square feet of the total space would be located in the building's two basement levels. |
| Source: | SLCE Architects, LLC. |

While this development scenario is similar to the proposed project in terms of building program and size, as described above, it would not allow the creation of the unique, faceted, tapered shape proposed. Further, the Expanded Development Scenario would not provide Continuing Maintenance Programs for the University Club and St. Thomas Church.

INCREMENT FOR ANALYSIS

The proposed actions would allow the development of an approximately 786,562-gsf building containing museum, hotel, and residential uses.

As discussed above, the applicant has stated that no more than 150 residential units and 120 hotel rooms would be constructed. For the purposes of environmental review, it is assumed that the proposed project would include up to 300 residential units and 167 hotel rooms (see **Table 1-4**). The applicant will enter into a Restrictive Declaration to be recorded against the project's zoning lot, which will require that the proposed building be built in accordance with the plans and drawings approved as part of the special permit approval, and will tie the issuance of certificates of occupancy for certain floors in the proposed building to the completion of the restoration work to St. Thomas Church and the University Club proposed in connection with the Section 74-711 and 74-79 special permits. The Restrictive Declaration will also contain certain conditions on the project imposed as a result of the ULURP and CEQR review processes, including the requirement that no more than 167 hotel units and no more than 300 residential units will be constructed on the development site. This provides a reasonable worst-case assumption for purposes of analysis. The number of residential units and hotel rooms within the building is limited because of the building's tapering design, along with its side-core configuration due to MoMA's open gallery space prerequisite, the elevating requirements, code required light and air standards, and layout efficiency considerations.

**Table 1-4
Reasonable Worst-Case Development Scenario for Analysis**

| Use | Proposed Project (gsf) |
|----------------|---|
| Museum | 68,097 |
| Hotel | 100,000 to 200,000 (up to 167 rooms) (includes 7,000 gsf of restaurant use) |
| Residential | 518,465 to 618,465 (up to 300 units) |
| Total | 786,562 |
| Note: | Project component measurements are approximate and measured in gross square feet. |
| Source: | SLCE Architects, LLP. |

In each of the technical areas of this EIS, the proposed project is compared to both of the No Build scenarios (to the Previously Approved Project and to the Expanded Development Scenario). **Table 1-5** summarizes the increments for analysis.

**Table 1-5
Increment for Analysis**

| Use | Reasonable Worst-Case Development Scenario (RWCDS) | Increment (Comparison of RWCDS to Previously Approved Project) | Increment (Comparison of RWCDS to Expanded Development Scenario) |
|--|--|--|--|
| Museum space | 68,097 | No increment | No increment |
| Hotel use | 167 rooms (100,000 to 200,000 gsf, including 7,000 gsf of restaurant use) | 167 hotel rooms | 62 hotel rooms |
| Residential use | 300 residential units (518,465 to 618,465 gsf) | 300 residential units | No increment |
| Commercial office | 0 | (180,000) | 0 |
| Retail | 0 | (10,000) | 0 |
| Note: Square footages are in gsf. | | | |

H. PUBLIC REVIEW PROCESS

The actions described in section C, “Proposed Actions,” are subject to both the City’s ULURP and CEQR procedures. These review processes are described below.

UNIFORM LAND USE REVIEW PROCEDURE (ULURP)

The City’s ULURP, mandated by Sections 197-c and 197-d of the City Charter, is a process specially designed to allow public review of proposed actions at four levels: the Community Board, the Borough President, and (if applicable) Borough Board, the City Planning Commission, and the City Council. The procedure sets time limits for review at each stage to ensure a maximum total review period of approximately seven months.

The ULURP process begins with a certification by CPC that the ULURP application is complete, which includes satisfying CEQR requirements (see the discussion below). The application is then forwarded to the Community Board (in this case, Manhattan CB5), which has 60 days to review and discuss the proposal, hold public hearings, and adopt recommendations regarding the application. Once this step is complete, the Borough President reviews the application for up to 30 days. CPC then has 60 days to review the application, during which time a ULURP/CEQR public hearing is held. Comments made at the Draft Environmental Impact Statement (DEIS) public hearing (the record for commenting remains open for 10 days after the hearing to receive written comments) are incorporated into a Final Environmental Impact Statement (FEIS); the FEIS must be completed at least 10 days before CPC makes its decision on the application. CPC may approve, approve with modifications, or deny the application. If the ULURP application is approved, or approved with modifications, it moves to the City Council for review. The City Council has 50 days to review the application and during this time will hold a public hearing on the proposed actions, through its Land Use Subcommittee. The Council may approve, approve with modifications, or deny the application. If the Council proposes a modification to the proposed actions, the ULURP review process stops for 15 days, providing time for a CPC determination on whether the modification is within the scope of the environmental review and ULURP review. If it is, then the Council may proceed with the modification; if not, then the Council may only vote on

the actions as approved by CPC. Following the Council's vote, the Mayor has 5 days in which to veto the Council's actions. The City Council may override the mayoral veto within 10 days.

NEW YORK CITY ENVIRONMENTAL QUALITY REVIEW (CEQR)

Pursuant to the State Environmental Quality Review Act (SEQRA) and its implementing regulations, New York City has established rules for its own environmental quality review, abbreviated as CEQR. The environmental review process provides a means for decision-makers to systematically consider environmental effects along with other aspects of project planning and design, to propose reasonable alternatives, and to identify, and when practicable, mitigate significant adverse environmental effects. CEQR rules guide environmental review, as follows.

Establishing a Lead Agency. Under CEQR, the "lead agency" is the public entity responsible for conducting the environmental review. Usually, the lead agency is also the entity principally responsible for carrying out, funding, or approving the proposed actions. In accordance with CEQR rules (62 RCNY §5-03), DCP, acting on behalf of the CPC, assumed lead agency status for this application and indicated it was initiating the CEQR review in a letter dated August 18, 2008.

Determination of Significance. The lead agency's first charge is to determine whether the proposed actions may have a significant adverse impact on the environment. To do so, it must prepare an Environmental Assessment Statement (EAS). The proposed project was the subject of an EAS. Based on that EAS, the CPC determined that the proposed actions may have a significant adverse impact on the environment and issued a Positive Declaration, requiring that an EIS be prepared.

Scoping. Once the lead agency issues a Positive Declaration, it must then issue a draft scope of work for the EIS. "Scoping," or creating the scope of work, is the process of identifying the environmental impact analyses, the methodologies to be used, and the key issues to be studied. CEQR requires a public scoping meeting as part of the process. A public scoping meeting was held on the proposed plan and DEIS Scope of Work on November 18, 2008. Based on the comments received at that scoping meeting, DCP issued a Final Scope of Work on May 18, 2009.

DEIS. The DEIS is prepared in accordance with the Final Scope of Work. The lead agency reviews all aspects of the document, relying on other City agencies to assist, as appropriate. Once the lead agency is satisfied that the DEIS is complete for public review, it issues a Notice of Completion and circulates the DEIS for public review. When a DEIS is required, it must be deemed complete before the ULURP application can also be found complete. The Notice of Completion for the DEIS was issued on May 18, 2009.

Public Review. Publication of the DEIS and issuance of the Notice of Completion signals the start of the public review period. During this time, the public has the opportunity to review and comment on the DEIS either in writing or at a public hearing convened for the purpose of receiving such comments. As noted above, when the CEQR process is coordinated with another City process that requires a public hearing, such as ULURP, the hearings are held jointly. The lead agency must publish a notice of the hearing at least 14 days before it takes place, and must accept written comments for at least 10 days following the close of the hearing. All substantive comments received at the hearing become part of the CEQR record and must be summarized and responded to in the FEIS. A public hearing on the DEIS was held by CPC at 22 Reade Street on July 22, 2009, and written comments were received during the public comment period, which closed on August 3, 2009. Chapter 25 of this FEIS, "Response to Comments on the Draft Scope

of Work and DEIS” summarizes and responds to substantive comments made on the DEIS. Comments received on the DEIS are included in Appendix D.

FEIS. After the close of the public comment period for the DEIS, the lead agency prepares an FEIS. The FEIS must incorporate relevant comments on the DEIS, either in a separate chapter or in changes to the body of the text, graphics, and tables. Once the lead agency determines the FEIS is complete, it issues a Notice of Completion and circulates the FEIS. As previously noted, the FEIS must be issued (with the notice of completion) at least 10 days before the decision-maker can make a decision on the proposed actions. The Notice of completion for this FEIS was issued on August 28, 2009. *