

TECHNICAL MEMORANDUM 003
GREATER EAST MIDTOWN REZONING
CEQR No. 17DCP001M
ULURP Nos.: N 170186(A) ZRM and C 170187 ZMM
August 4, 2017

A. 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 premiere Central Business District, support the preservation of landmarked buildings, and provide for public realm improvements.

The Draft Environmental Impact Statement (DEIS) for the Proposed Action was accepted as complete on December 30, 2016 by DCP, acting on behalf of the City Planning Commission (CPC) as lead agency. An amended zoning text amendment filed by DCP on March 27, 2017 (pursuant to ULURP No. N 170186(A) ZRM) after the issuance of the DEIS, was evaluated in a Technical Memorandum to the DEIS (TM 001). A public hearing for the DEIS was held on April 26, 2017, and written comments were accepted until May 8, 2017. The Notice of Completion for the Final Environmental Impact Statement (FEIS), which included a full analysis of the amended application, was issued on May 26, 2017 (CEQR No. 17DCP001M, No. 170186 ZRM, C170187ZMM and ULURP No. N 170186 (A) ZRM).

Following the issuance of the Notice of Completion of the FEIS, additional modifications were made to the Proposed Action by the CPC, which were evaluated in a Technical Memorandum (TM 002), published by DCP on June 2, 2017, which determined that the CPC modifications would not result in new or different significant adverse environmental impacts other than those already identified in the FEIS. The CPC adopted the Proposed Action (consisting of the amended application with modifications) on June 7, 2017 (hereafter referred to as the “Approved Application,”) and referred it to the City Council.

Since the CPC’s adoption of the Approved Application, the City Council has identified additional modifications to the Greater East Midtown zoning text amendment for consideration (the “Potential City Council Modifications”) which are summarized below. The modified zoning text is contained in its entirety in Appendix 1. This technical memorandum examines whether these Potential City Council Modifications would result in any new or different significant adverse environmental impacts not already identified in the FEIS as pertains to the Approved Application.

As set forth below, this technical memorandum concludes that the application as approved by the CPC with the Potential City Council Modifications would not result in any new or different significant adverse impacts not already identified in the FEIS. It is noted that in this review of the Potential City Council Modifications, the “Proposed Action” and the “Approved Application” which was adopted by the CPC are used interchangeably.

B. POTENTIAL CITY COUNCIL MODIFICATIONS

The Potential City Council Modifications consist of substantive and procedural changes for the Proposed Action in the following areas: modification of the Public Realm Improvement Fund Governing Group procedure and appointments; clarifications and changes pertaining to the minimum contribution for landmark transfer development rights, daylight scoring on Qualifying Sites; qualifying site criteria; modified floor area ratio (FAR) provisions for the east side of Third Avenue; addition of a new authorization to modify or waive certain streetwall and other ground floor requirements; hotel vesting; and mandatory public space requirements for certain qualifying sites. The Potential City Council Modifications (or “potential modifications”) have been organized into three groups for purposes of evaluation. The first group consists of modifications that have been developed to provide clarifications, corrections, or to add procedural requirements within the Zoning Resolution to increase public participation and awareness as certain applications that would be made pursuant to the Proposed Action are advanced. The second group consists of modifications that add zoning definitions or language, or changes to development parameters within the proposed East Midtown Subdistrict. As provided later in this technical memorandum, these are assessed in comparison to the reasonable worst-case development scenario (RWCDS) to determine whether these modifications could alter the analysis framework and/or findings of the FEIS. The third group, which consists of a single modification, is additional language to establish Mandatory Public Space Requirements, which is assessed below in comparison to the significant adverse impacts disclosed in the FEIS. Each of the modifications is described in detail below.

Clarifications, Corrections or Additional Procedures to Increase Public Participation and Awareness

In the FEIS, the membership of the Governing Group was described and an overview of its role and responsibilities was provided. As reported in the FEIS, the Governing Group would consist of 11 members: six 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, a representative of Manhattan Community Board 6 and a representative of a civic organization; this is reported in Zoning Resolution (ZR) Section 81-613 (Definitions)

The potential modifications adds to Governing Group membership, to include two additional members—one appointed by the Office of the Manhattan Borough President and one a representative of the City Council Speaker—bringing total membership to 13, and specifies that the Manhattan Borough President will name the representative of the civic organization representative. The potential modifications provide several areas of clarification regarding the procedures of the Public Realm Improvement (PRI) Fund Governing Group, as well as the Concept Plan and List of Priority Improvements and specifics on improvements to Metropolitan Transportation Authority public realm, identical to those provided in the FEIS. Other procedural clarifications on the operations of the Governing Group are also included, as are draw-down requirements on PRI funds.

The FEIS and subsequent technical memoranda found that the constitution of the Governing Group and the requirements for its operations would not affect the RWCDS analyzed for the Proposed Action, and would therefore neither introduce new or different environmental impacts, and the same conclusion can be made for this segment of the potential modifications.

The potential modifications also include additional clarifications related to the pricing of office transfer development rights (TDR) transactions, which result in a change in the contribution from \$78.60 per square foot to \$61.49 per square foot. The potential modifications also provide a definition of that sales price. In addition, all development-related certifications under the Proposed Action (e.g., for landmark TDRs, subway improvements or overbuilt-rebuilds) must be simultaneously referred to the Community Board, City Council and the Manhattan Borough Presidents Office for a period of not less than 60 days.

Within this group of modifications, the City Council has specified that Qualifying Sites using solely the overbuilt-rebuild provisions will no longer be able to grandfather their existing daylight evaluation score—they must conform to the standards set for developments on Qualifying Sites. These modifications pertaining to the above clarifications and/or procedural changes would also not affect the RWCDs analyzed in the FEIS.

Additional Zoning Definitions or Changes to Development Parameters within the Proposed East Midtown Subdistrict

Hotel Vesting

Pursuant to proposed ZR Section 81-621, transient hotels are permitted only by special permit. Hotels that have been approved by the Department of Buildings (DOB) and have substantially completed their foundation by the date of the Proposed Action's adoption are exempted from this restriction.

The potential modifications would extend this vesting provision to building applications for such developments that were filed at DOB after June 9, 2016 and partial permits for such applications that were issued by the DOB on or prior to July 20, 2017, and to buildings with temporary certificate of occupancy that has been granted prior to January 31, 2020.

Qualifying Site Criteria

The potential modifications would amend the criteria pursuant to ZR Section 81-613 (Definitions) that allow a zoning lot to be considered a Qualifying Site. Pursuant to these modifications, Qualifying Sites must have at least 75 feet of wide street frontage, which must be cleared of existing buildings or structures at the time of certification. Under the CPC modifications, there was no minimum dimensional requirement for a Qualifying Site's cleared wide street frontage. This would ensure that new development on Qualifying Sites sufficiently engages the avenues and major thoroughfares in East Midtown. Consistent with the Approved Application, a site could still be considered a Qualifying Site if the site's entire full-block, wide street frontage is occupied by a landmark, and such landmark is included within the zoning lot.

Modified FAR provisions for East Side of Third Avenue

Under ZR Section 81-641 (Additional floor area for transit improvements on Qualifying Sites), the potential modifications include changes to the maximum FAR provisions for an area on the east side of Third Avenue, from the centerline of East 46th Street north to East 51st Street. This area is located within the Northern Subarea, which permits a maximum FAR of 18.0. Under this modification, these several blocks would remain in the Northern Subarea, but would be restricted from achieving a maximum FAR above the

15.0 base, in order to provide a buffer between the higher density commercial districts to their west, and the lower-density residential districts to the east. Legally non-complying buildings built under the pre-1961 zoning text would still be permitted to rebuild to their previous, overbuilt density pursuant to the provisions of ZR Section 81-643.

New Authorization

The potential modifications include a new authorization pursuant to the proposed provisions under ZR Section 81-684(b) (Authorization for a qualifying site providing publicly accessible space) to modify or waive certain street wall, ground floor use, retail continuity and similar district plan elements of the Special Midtown District. In order to grant such authorization, the CPC shall find, among other requirements, that such proposed waivers will result in a superior urban design relationship with surrounding streets, buildings and other open areas; provide connections to pedestrian circulation spaces in the immediate vicinity and enhance the pedestrian network of the surrounding area; and that such waiver is necessary due to constraints or conditions of the configuration of the site.

The purpose of this new authorization is to provide the flexibility to waive street wall regulations and mandatory district plan elements, among other regulations. The type of flexibility provided under this authorization is comparable to the Special Permit to Modify Qualifying Site Provisions proposed at ZR Section 81-685, which was considered in the FEIS in Chapter 21, "Conceptual Analysis." Specifically, the conceptual analysis was performed for an assumed development on Projected Development Site 6. This site has a lot area of 24,969 square feet, and is a relatively small lot, but is bounded by streets on all four of its lot lines, which make compliance with the as-of-right height and setback provisions extremely difficult. In FEIS Chapter 21, "Conceptual Analysis," the site would develop as a larger 30.0 FAR building pursuant to the Transit Improvement Special Permit, and utilize the special permit modification of subdistrict regulations to modify or waive the applicability of the as-of-right height and setback rules.

Mandatory Public Space Requirements for Certain Qualifying Sites

The potential modifications would require that certain Qualifying Sites provide an on-site, non-bonusable "Publicly Accessible Space" either unenclosed or enclosed, similar to the Mandatory Privately Owned Public Space (POPS) Alternative included in the FEIS – refer to Chapter 20, "Alternatives." The design standards for unenclosed Publicly Accessible Spaces will be tied to those for Public Plazas pursuant to ZR Section 37-70. Enclosed Publicly Accessible Spaces will be subject to the design guidelines of proposed ZR Section 81-681(b)(2) (Design requirements for physically accessible spaces).

Under this modification, developments on Qualifying Sites with more than 30,000 square feet of lot area would be required to provide an enclosed or unenclosed Publicly Accessible Space. Qualifying Sites with between 30,000 and 45,000 square feet of lot area will have the option of providing either an Unenclosed Publicly Accessible Space or an Enclosed Public Space. Qualifying Sites with greater than 45,000 square feet will be required to provide an unenclosed Publicly Accessible Space unless the site cannot meet the orientation requirements of Section 37-713. Publicly Accessible Spaces are required to have a minimum size equal to ten percent of the Qualifying Site's lot area, whether enclosed or unenclosed. Qualifying Sites with more than 65,000 square feet of lot area are required to provide an unenclosed Publicly Accessible Space with at least 10,000 square feet of area.

C. ANALYSIS FRAMEWORK

The Potential City Council Modifications have been organized into three groups for purposes of evaluation. Due to the administrative nature of the modifications and the fact that they would not result in changes to the RWCDs analyzed in the FEIS, the first two groups were found not to have the potential for new or different significant adverse impacts. The third modification, to establish Mandatory Public Space Requirements, is evaluated further and is the main focus of this Technical Memorandum.

Clarifications, Corrections and Procedural Modifications

The first group consists of potential modifications that have been developed to provide clarifications, corrections, or to add procedural requirements within the Zoning Resolution to increase public participation and awareness as certain applications under the Proposed Action are advanced. Specifically, as described above in Section B, these include clarifications to the text regarding the Governing Group membership and procedures. Additionally, clarification is provided regarding the procedures related to the Public Realm Improvement Fund as well as the Concept Plan and list of Priority Improvements. Modifications have also been made to the text regarding the pricing and procedures related to the TDRs. All of the modifications in this first group have no potential to change the development assumptions of the RWCDs analyzed in the FEIS because they are administrative in nature and do not alter the size, type or placement of the new development that has been projected. The Proposed Modifications would not introduce new or different environmental impacts, and therefore the findings of the FEIS would be unchanged by these potential modifications.

Additional Zoning Definitions and Changes to Development Parameters within the Proposed East Midtown Subdistrict

The second group consists of potential modifications that add zoning definitions or language, or changes to development parameters within the Proposed Action, which are described in detail in Section B above. Specifically, these modifications include changes to the text regarding Hotel Vesting, Qualifying Site Criteria and modifications to the FAR provisions for the east side of Third Avenue.

Hotel Vesting

The proposed modifications to the provisions regarding hotel vesting would extend the vesting provisions for hotels with filed DOB applications, partial permits and buildings with the temporary certificates of occupancy. This Potential City Council Modification was evaluated to determine whether this proposed change in vesting schedule could result in the change of the RWCDs through the addition or removal of any of the Projected or Potential Development Sites, resulting in a consequent alteration of the Proposed Action evaluated in the FEIS. Based on this analysis and a review of the 2036 No-Action Condition developed in the FEIS, which identified all hotels applications that had approved DOB permits such that they are assumed to be in place whether or not the Proposed Action went forward, it was determined that this modification would not result in a change to the RWCDs. The potential modification provides that these hotel projects would be able to continue development and receive certificates of occupancy following the requirements of the DOB and as otherwise required. As this modification would not result in a change

to the Proposed Action's RWCDs, no new or different significant adverse impacts from those identified in the FEIS would result and therefore the findings of the FEIS would remain unchanged.

Qualifying Site Criteria

The potential modifications to the Qualifying Site Criteria would require that Qualifying Sites must have at least 75 feet of wide street frontage which must be cleared of existing buildings or structures at the time of certification, which differs from the Approved Application which did not have any such minimum dimensional requirement. The provisions that apply when landmark buildings are present on the full wide street frontage would not be modified by the City Council.

This modification was evaluated to determine whether the change in Qualifying Site definition could result in the change of the RWCDs through the addition or removal of any of the Projected or Potential Development Sites, resulting in a consequent alteration of the Proposed Action evaluated in the FEIS.

Based on this analysis, it was determined that this modification would not result in a change to the RWCDs; further this is the type of change accommodated by the Approved Application as adopted by the CPC. As this modification would not result in a change to the Proposed Action's RWCDs, no new or different significant adverse impacts from those identified in the FEIS would result, and therefore the findings of the FEIS would be unchanged.

Modified FAR Provisions for the East Side of Third Avenue

The modification to the FAR provisions on the east side of Third Avenue, described in detail in Section B above, would reduce the maximum FAR from 18.0 to 15.0. Specifically, this change would apply to the east side of Third Avenue, from the centerline of East 46th Street north to East 51st Street.

This modification was evaluated to determine whether the change in FAR provision along the east side of Third Avenue in this segment between East 46th and East 51st Streets could result in the change of the RWCDs through the addition or removal of any of the Projected or Potential Development Sites, resulting in a consequent alteration of the Proposed Action evaluated in the FEIS.

Based on this analysis, it was determined that this modification would not result in a change to the RWCDs as analyzed in the FEIS. As this modification would not result in a change to the Proposed Action's RWCDs, no new or different significant adverse impacts from those identified in the FEIS would result, and therefore the findings of the FEIS would be unchanged.

Mandatory Publicly Accessible Space Requirements for Certain Qualifying Sites

The third group, which consists of a single modification, is additional language to establish Mandatory Publicly Accessible Space Requirements, which is assessed in comparison to the significant adverse impacts disclosed in the FEIS. This potential modification would result in physical changes to certain development sites in the RWCDs, and is therefore evaluated in further detail below, in Section D, "Environmental Effects of the Proposed Modification." Table TM3.1 presents how this modification would affect the Projected and Potential Development Sites of the RWCDs.

Table TM3.1: Potential Modification - Required Publicly Accessible Space by Development Site

Projected /Potential Development Site	Lot Area (sf)	Enclosed or Unenclosed area (sf)	Unenclosed Area (sf)
Lots of 30,000-45,000 sf			
1	33,470	3,347	
2	36,170	3,617	
5	34,144	3,414	
7	34,050	3,405	
10	41,170	4,117	
13	30,120	3,012	
16	43,684	4,368	
K	31,532	3,153	
L	31,129	3,112	
O	32,625	3,262	
Lots of 45,000-65,000 sf*			
3	50,749		5,074
4	49,600		4,960
9	46,125		4,612
17	46,945		4,694
I	46,703		4,670
* Publicly Accessible Space must be unenclosed unless precluded by streetwall or other provisions			
Lots of greater than 65,000 sf			
15	76,318		10,000
Total Publicly Accessible Space Area		31,190	34,010

The RWCDs Projected and Potential Development Sites with a lot area of less than 30,000 sf would not be required to provide Publicly Accessible Space. These excluded sites are Projected Development Sites 6, 8, 11, 14 and Potential Development Sites A-H, J, M-N and P.

The sites that are affected by the proposed modification, are listed in Table TM3.1, above, and are Projected Development Sites 3, 4, 9, 15 and 17, and Potential Development Site I. Specifically, the height changes are projected to be modified as follows:

- Projected Development Site 3: Increase of 112 feet (720 to 832 feet)
- Projected Development Site 4: Increase of 98 feet (678 to 776 feet)
- Projected Development Site 9: Increase of 84 feet (846 to 930 feet)
- Projected Development Site 15: Increase of 42 feet (720 to 762 feet)
- Projected Development Site 17: Increase of 126 feet (482 to 608 feet)

- Potential Development Site I: Increase of 42 feet (566 to 608 feet)

As indicated, the design guidelines of Section 81-681(c) which govern enclosed Publicly Accessible Spaces have been added to the proposed text as part of the potential modifications. The modifications would remove the applicability of Section 37-712 to Publicly Accessible Spaces, which governs locational criteria and restrictions for Public Plazas, notably that one cannot be located within 175 feet of a publicly accessible open area. Modification of this provision would allow more sites to provide Publicly Accessible Spaces, particularly unenclosed ones. Unenclosed Publicly Accessible Spaces would still be required to meet the orientation provisions of Section 37-713, which require, amongst other things, that such an unenclosed space may not be solely north-facing. The area of an Enclosed Publicly Accessible Space may count towards the Pedestrian Circulation Space requirements of Article 8, Chapter 1, and does not count as floor area. Enclosed Publicly Accessible Spaces must be climate controlled if enclosed, and be open to the public from 7 am to 10 pm.

Under this Potential Modification, there would be an addition of more than 65,000 square feet of publicly accessible space.

D. ENVIRONMENTAL EFFECTS OF THE POTENTIAL MODIFICATION

The Potential City Council Modification to require mandatory Publicly Accessible Space on certain development sites would not substantially alter the RWCDs evaluated in the Proposed Action, and most environmental analyses would be the same or similar to the Proposed Action. The practical implications of the modification are limited to adding new open space to certain sites, which alters the building massings slightly and results in an increased building height than previously analyzed. No new development would be induced by the change and the overall FAR of the buildings would remain the same as in the FEIS. Therefore, due to the nature of this modification, the following areas are screened from further analysis: land use, zoning and public policy, socioeconomic conditions, community facilities, natural resources, hazardous materials, water and sewer infrastructure, solid waste and sanitation services, energy, greenhouse gas emissions, noise, public health and neighborhood character. Further analysis was conducted on the following areas: open space, shadows, historic resources, urban design and visual resources, transportation, stationary source air quality and construction impacts.

In summary, the environmental analysis of the modification indicates that no new significant adverse environmental impacts would result, as described below.

Open Space

To provide a conservative analysis, only the unenclosed Publicly Accessible Spaces that would be created under this modification are considered in the calculation of the modified open space ratios, which are determined using the *CEQR Technical Manual* guidance applied in the FEIS. The Approved Application included modifications that resulted in no significant adverse impact to open spaces ratios. By providing additional passive open space resources through Publicly Accessible Spaces, this proposed modification would result in an improved open space ratio, and as such, an improvement in the open space ratio compared to the Approved Application.

The requirement of mandatory Publicly Accessible Spaces across the eligible Projected Development Sites would result in approximately 0.67 additional acres of publicly accessible unenclosed space over the sites and an overall passive open space inventory of 40.46 acres, compared to a total of 39.79 acres of passive

open space under the Amended Action’s With-Action Condition. As shown in Table TM3.2, with the inclusion of the mandatory Publicly Accessible Spaces, the non-residential passive open space ratio would be 0.65 acres per 1,000 non-residents, fractionally greater than the Amended Action’s With-Action Condition at 0.64, and would result in a reduction of the non-residential open space ratio by 2.53 percent, which is less than the Amended With-Action Condition. The combined open space ratio would be 0.58 acres per 1,000 residents and non-residents, again slightly greater than the Amended Action’s With-Action Condition at 0.57. The requirement of mandatory Publicly Accessible Spaces would result in a reduction of the combined passive open space ratio by 2.02 percent which is slightly less than the reduction under the Approved Application.

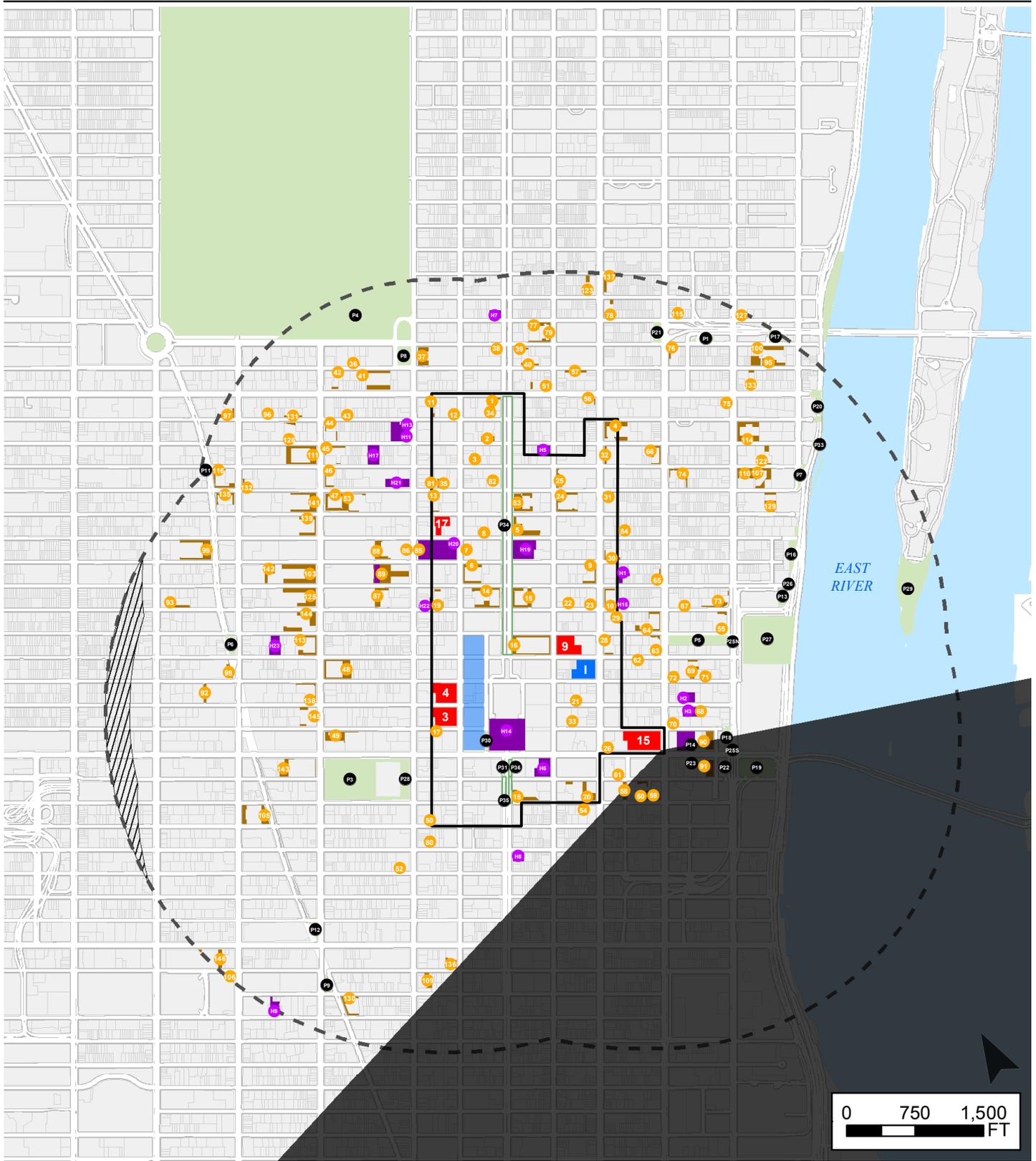
Table TM3.2: Open Space Ratios with Potential Modification - Required Publicly Accessible Space

	Total Population	Open Space Acreage			Open Space Ratios Per 1,000 People			CEQR Open Space Ratio Benchmark		
		Total	Passive	Active	Total	Passive	Active	Total	Passive	Active
Non-Residents	625,626	40.67	40.46	0.21	N/A	0.065	N/A	N/A	0.15	N/A
Combined Non-Residents and Residents	699,329				N/A	0.058	N/A	N/A	0.187 ¹	N/A

Shadows

This Potential City Council Modification would not result in additional shadowing impacts over those of the Proposed Action. As modified, the same significant unavoidable adverse impacts would occur under the Potential Modification as with the Proposed Action, to St. Bartholomew’s Church and Community House. There would be minor increases in incremental shadows on a limited number of resources, described further below in Table TM3.3. All the sunlight sensitive resources that fall within the area of the longest shadow for the Proposed Modification are indicated in Figure 1. Additionally, figures illustrating those new incremental shadows of a duration of approximately one hour or longer as a result of the Potential Modification are provided in Figures 2 to 7. While there would be limited increases in shadows on some POPS within the area of the longest shadow, the new incremental shadows would be minimal to non-existent, as in the case with Greenacre Park, and therefore were also screened out from further analysis.

Appendix 2 contains three tables, including: (1) a table of all identified incremental shadows on sunlight sensitive resources within the area of the longest shadow; (2) a list of all sunlight sensitive resources within the area of the longest shadow not affected by new incremental shadows; and (3) a complete list of POPS that fall within the area of the longest shadow.



- Proposed Greater East Midtown Rezoning Boundary -
- Vanderbilt Corridor (Existing Regulations Apply)
- 3 Projected Development Site (w/ Site No.)
- 1 Potential Development Site (w/ Site No.)
- Combined Maximum Shadow Screening Radius - City Council Modifications
- New Area Considered in Shadows Analysis Beyond the Approved Application
- Area that Cannot be Shadowed by the City Council Modification
- H1 Sunlight Sensitive Historic Resource (w/ I.D. Label)
- P1 Open Space and Recreation (w/ I.D. No.)
- 10 Privately-Owned Public Space (w/ I.D. No.)
- P36 Project-Generated Public Realm Improvement (w/ I.D. Label)

Greater East Midtown Rezoning
Manhattan, New York

Tier 1 & 2 Shadows Screening Analysis:
Proposed City Council Modifications
Combined Maximum Shadow Screening Radii

Figure
1



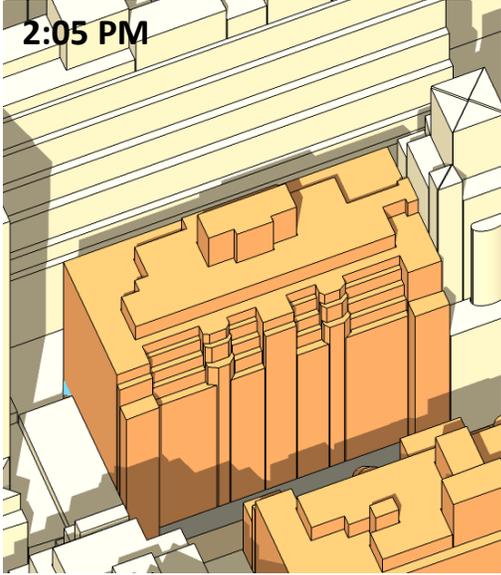
- Historic Resource
- Open Space and Recreation
- Privately Owned Public Space (POPS)
- No-Action Shadow - Historic Resource
- No-Action Shadow - Open Space and Recreation
- No-Action Shadow - POPS
- Incremental Shadow - Approved Application
- New Incremental Shadow

Greater East Midtown Rezoning
Manhattan, New York

P3 - Bryant Park
Representative Worst-Case Incremental Shadows
June 21 Analysis Day, 6:36 AM to 8:06 AM

Figure 2





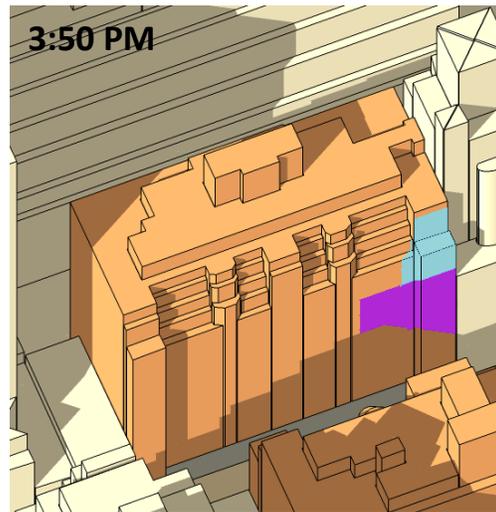
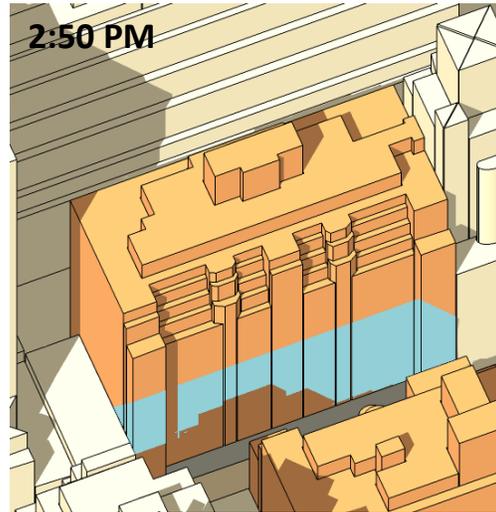
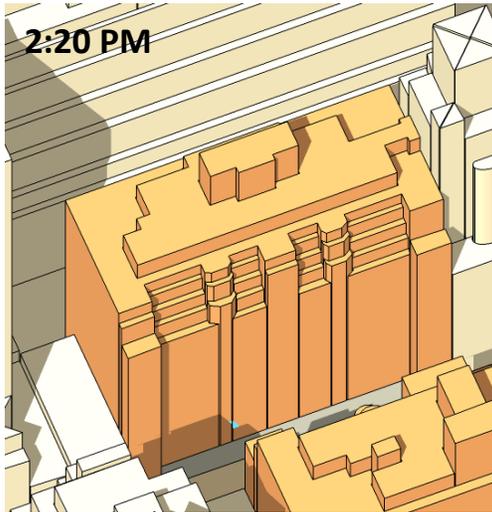
- Historic Resource
- Open Space and Recreation
- Privately Owned Public Space (POPS)
- No-Action Shadow - Historic Resource
- No-Action Shadow - Open Space and Recreation
- No-Action Shadow - POPS
- Incremental Shadow - Approved Application
- New Incremental Shadow

Greater East Midtown Rezoning
 Manhattan, New York

H2 - Beaux-Arts Apartments North
 Representative Worst-Case Incremental Shadows
 May 6 / August 6 Analysis Day, 2:05 PM to 3:27 PM

Figure 3a



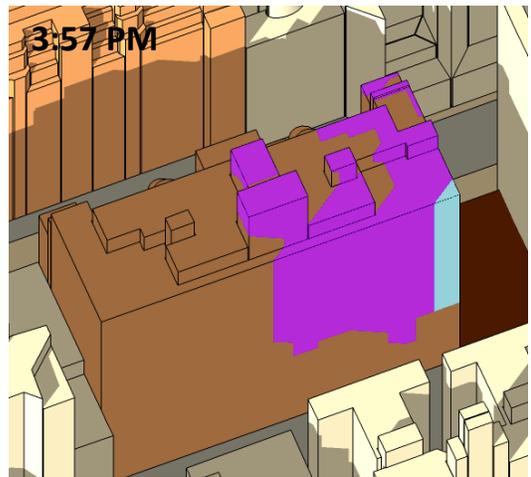
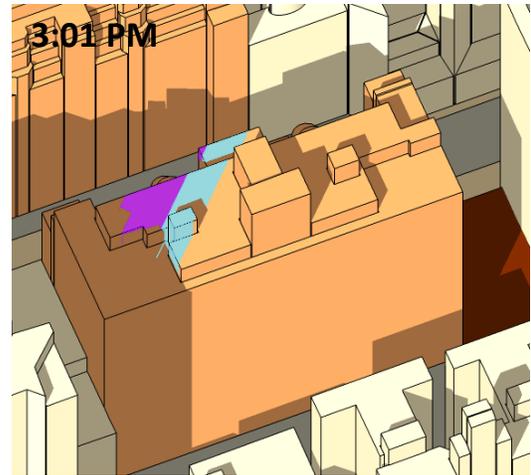


- Historic Resource
- Open Space and Recreation
- Privately Owned Public Space (POPS)
- No-Action Shadow - Historic Resource
- No-Action Shadow - Open Space and Recreation
- No-Action Shadow - POPS
- Incremental Shadow - Approved Application
- New Incremental Shadow

Greater East Midtown Rezoning
Manhattan, New York

H2 - Beaux-Arts Apartments North
Representative Worst-Case Incremental Shadows
June 21 Analysis Day, 2:20 PM to 3:50 PM

Figure
3b

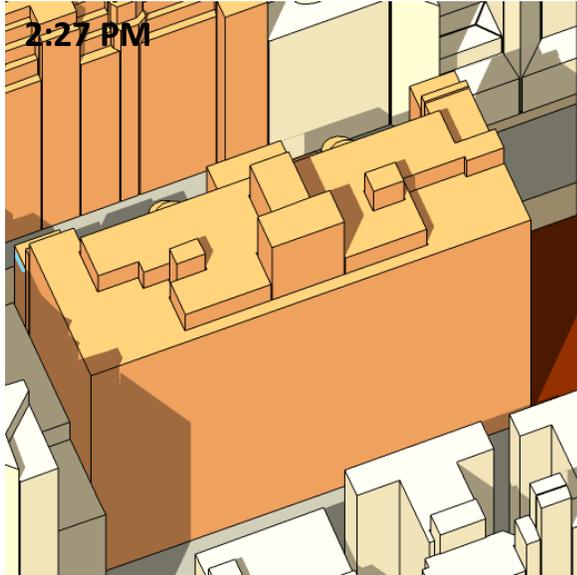


- Historic Resource
- Open Space and Recreation
- Privately Owned Public Space (POPS)
- No-Action Shadow - Historic Resource
- No-Action Shadow - Open Space and Recreation
- No-Action Shadow - POPS
- Incremental Shadow - Approved Application
- New Incremental Shadow

Greater East Midtown Rezoning
Manhattan, New York

H3 - Beaux-Arts Apartments South
Representative Worst-Case Incremental Shadows
May 6 / August 6 Analysis Day, 2:31 PM to 3:57 PM

Figure
4a

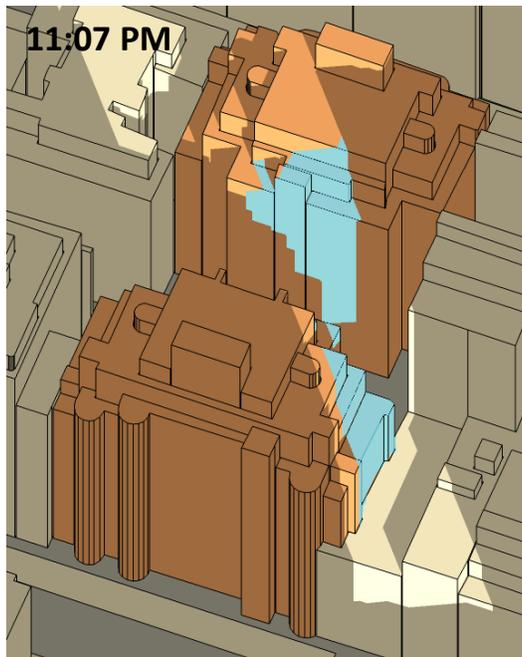
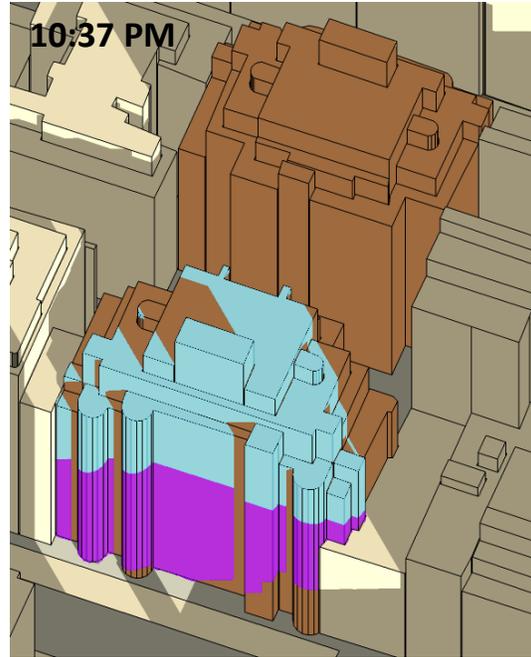
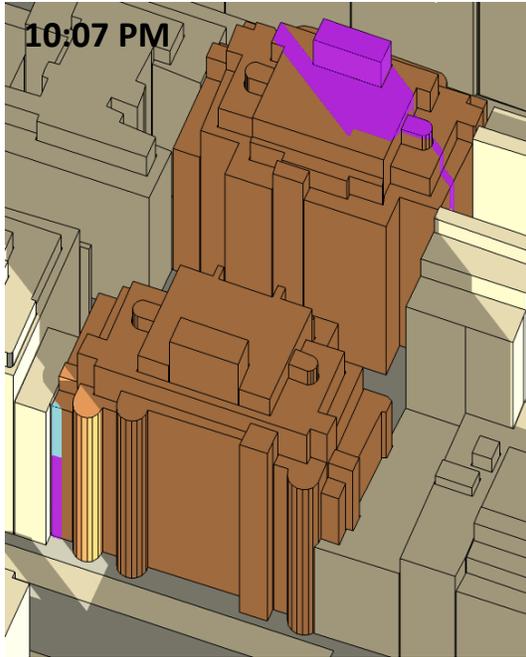


- Historic Resource
- Open Space and Recreation
- Privately Owned Public Space (POPS)
- No-Action Shadow - Historic Resource
- No-Action Shadow - Open Space and Recreation
- No-Action Shadow - POPS
- Incremental Shadow - Approved Application
- New Incremental Shadow

Greater East Midtown Rezoning
Manhattan, New York

H3 - Beaux-Arts Apartments South
Representative Worst-Case Incremental Shadows
June 21 Analysis Day, 2:27 PM to 3:35 PM

Figure
4b



- Historic Resource
- Open Space and Recreation
- Privately Owned Public Space (POPS)
- No-Action Shadow - Historic Resource
- No-Action Shadow - Open Space and Recreation
- No-Action Shadow - POPS
- Incremental Shadow - Approved Application
- New Incremental Shadow

Greater East Midtown Rezoning
Manhattan, New York

H17 - Rockefeller Apartments
Representative Worst-Case Incremental Shadows
December 21 Analysis Day, 10:07 AM to 11:07 AM

Figure
5

Table TM3.3: Additional Incremental Shadows, Proposed Action vs. City Council Modifications

Resource ID	Resource Name	ANALYSIS DAYS			
		December 21: 8:51 AM – 2:53 PM	March 21 / September 21: 7:36 AM – 4:29 PM	May 6 / August 6: 6:27 AM – 5:18 PM	June 21: 5:57 AM – 6:01 PM
OPEN SPACE RESOURCES – PUBLIC PARKS					
P3: Bryant Park	<i>Proposed Action – Projected Total Incremental Shadow Duration</i>				
	Shadow Enter-Exit Time	N/A ¹	N/A	6:27 AM – 7:28 AM	6:42 AM – 7:45 AM
	Incremental Shadow Duration			1 hour, 1 minute	1 hour, 3 minutes
	<i>City Council Modifications – Projected Additional Incremental Shadows</i>				
	New Shadow Enter-Exit Time	N/A	N/A	7:21 AM – 7:49 AM	6:36 AM – 8:07 AM
	Incremental Shadow Duration			28 minutes	1 hour, 31 minutes
COMBINED TOTAL DURATION (PROPOSED ACTION + CITY COUNCIL MODIFICATIONS):		No Change from Proposed Action	No Change from Proposed Action	1 hour, 22 minutes	1 hour, 31 minutes
SUNLIGHT SENSITIVE HISTORIC RESOURCES					
H2: Beaux-Arts Apartments - North	<i>Proposed Action – Projected Total Incremental Shadow Duration</i>				
	Shadow Enter-Exit Time	N/A	N/A	2:18 PM – 4:36 PM	2:50 PM – 4:02 PM
	Incremental Shadow Duration			2 hours, 18 minutes	1 hour, 12 minutes
	<i>City Council Modifications – Projected Additional Incremental Shadows</i>				
	Shadow Enter-Exit Time	N/A	N/A	2:05 PM – 3:27 PM	2:20 PM – 3:54 PM
	Incremental Shadow Duration			1 hour, 22 minutes	1 hour, 34 minutes
COMBINED TOTAL DURATION (PROPOSED ACTION + CITY COUNCIL MODIFICATIONS):		No Change from Proposed Action	No Change from Proposed Action	2 hours, 31 minutes	1 hour, 42 minutes
H3: Beaux-Arts Apartments - North	<i>Proposed Action – Projected Total Incremental Shadow Duration</i>				
	Shadow Enter-Exit Time	N/A	N/A	2:48 PM – 4:53 PM	2:45 PM – 4:53 PM
	Incremental Shadow Duration			2 hours, 5 minutes	2 hours, 8 minutes
	<i>City Council Modifications – Projected Additional Incremental Shadows</i>				
	Shadow Enter-Exit Time	N/A	N/A	2:31 PM – 3:57 PM	2:27 PM – 3:35 PM
	Incremental Shadow Duration			1 hour, 26 minutes	1 hour, 8 minutes
COMBINED TOTAL DURATION (PROPOSED ACTION + CITY COUNCIL MODIFICATIONS):		No Change from Proposed Action	No Change from Proposed Action	2 hours, 22 minutes	2 hours, 26 minutes
Note: ¹ If no additional incremental shadows were identified as part of the City Council Modifications, incremental shadow duration data is not provided.					

Table TM3.3: Additional Incremental Shadows, Proposed Action vs. City Council Modifications

Resource ID	Resource Name	ANALYSIS DAYS			
		December 21: 8:51 AM – 2:53 PM	March 21 / September 21: 7:36 AM – 4:29 PM	May 6 / August 6: 6:27 AM – 5:18 PM	June 21: 5:57 AM – 6:01 PM
H17: Rockefeller Apartments	<i>DEIS – Projected Incremental Shadows</i>				
	Shadow Enter-Exit Time	10:07 AM – 11:04 AM	N/A	N/A	N/A
	Incremental Shadow Duration	57 minutes	N/A	N/A	N/A
	<i>A-Text Memo: Additional Incremental Shadow Duration and Coverage, New Projected Development Site 17</i>				
	Shadow Enter-Exit Time	10:07 AM – 11:15 AM	N/A	N/A	N/A
	Incremental Shadow Duration	1 hour, 8 minutes	N/A	N/A	N/A
COMBINED TOTAL DURATION (PROPOSED ACTION + CITY COUNCIL MODIFICATIONS):		1 hour, 8 minutes	No Change from Proposed Action	No Change from Proposed Action	No Change from Proposed Action
Note: ¹ If no additional incremental shadows were identified as part of the City Council Modifications, incremental shadow duration data is not provided.					

As indicated in Table TM3.3 above, four sunlight sensitive resources, including one public park and three sunlight sensitive historic resources, would experience new, additional incremental shadows of approximately one hour or greater as a result of the Proposed Modification, described in more detail below.

P3: Bryant Park

As indicated in Table TM3.3, new additional incremental shadows as a result of the Proposed Modification would fall on Bryant Park during the early morning hours of the June 21 analysis period from 6:36 AM to 8:07 AM, for a duration of 1 hour, 31 minutes (which also represents to total incremental shadow duration on Bryant Park during the June 21 analysis period when considered in combination with the Proposed Action, indicated in table TM3.3 as well). As shown Figure 2, the new incremental shadows would cover relatively small areas of Bryant Park during this analysis period, and would not significantly augment the coverage of incremental shadows associated with the Proposed Action. Further, these new incremental shadows would be cast in the early morning hours of the analysis period, when park utilization is expected to be lowest. Based on the foregoing, new incremental shadows associated with the Proposed Modification would not compromise the public's use and enjoyment of Bryant Park or the viability of its vegetation.

It is noted that a small duration of new incremental shadows associated with the Proposed Modification would increase the total duration of incremental shadows on Bryant Park during the May 6 / August 6 analysis period (a 21-minute increase in total incremental shadow duration, from 1 hour, 1 minute, to 1 hour, 22 minutes during the early morning hours of the analysis period – see Table TM3.3). This total incremental shadow duration associated with the Proposed Modification is similar in both time and total coverage to that duration associated with the Approved Application, which was not considered a significant adverse shadow impact. As such, the total new incremental shadow duration on Bryant Park during the May 6 / August 6 analysis period is not considered significant.

H2: Beaux Arts Apartments – North

Additional incremental shadows would fall on this historic resource during the May 6 / August 6 and June 21 analysis periods for durations of 1 hour, 22 minutes (from 2:05 PM to 3:27 PM) and 1 hour, 34 minutes (from 2:20 PM to 3:54 PM), respectively (see Table TM3.3). These new incremental shadows would result in total incremental shadow durations of 2 hours, 31 minutes and 1 hour, 42 minutes during these respective analysis period. As illustrated on Figures 3a and 3b, these new incremental shadows would cover additional portions of the sunlight sensitive building façades (which features an alternating brick pattern). However, incremental shadows (both the new and those associated with the Proposed Action) would generally fall on the upper stories of these facades, such that the public's use and enjoyment of the most visible portions of these façades (i.e., those portions at ground and eye level) would not be jeopardized, and therefore there would be no new significant adverse shadows impacts.

H3: Beaux Arts Apartments – South

During the May 6 / August 6 and June 21 analysis periods, new incremental shadows would fall on this historic resources from 2:31 PM to 3:57 PM (1 hour, 26-minute duration) and from 2:27 PM to 3:35 PM (1 hour, 8-minute duration), respectively (see Table TM3.3). The new incremental shadows associated with the Proposed Modification would result in total incremental shadow durations of 2 hours, 22 minutes and 2 hours, 26 minutes during these respective analysis periods (see Table TM3.3). However, as illustrated in Figures 4a and 4b, new incremental shadows during both of these analysis periods would be limited to either the roof (which is not considered sunlight sensitive) or the western and southern façades of the

building, which feature an alternative brick pattern that is considered sunlight sensitive but are almost completely obscured from the public's view due to surrounding buildings. Thus, new incremental shadows associated with the Proposed Modification would not diminish the public's use and enjoyment of the sunlight sensitive features of this historic resource, and there would be no new significant adverse shadow impacts.

H17: Rockefeller Apartments

A new one hour, 8-minute incremental shadow duration would fall on the Rockefeller Apartments during the late morning hours of the December 21 analysis period, from 10:07 AM to 11:15 AM as result of the Proposed Modification (see Table TM3.3 – this new incremental shadow duration also represent the length of the total incremental shadow duration on this historic resource when considered in conjunction with the Proposed Action). As shown in Figure 5, while new incremental shadows would be cast on various portions of this historic resources, they would only fall on the sunlight sensitive turreted windows on the southern façade for relatively short periods of time. Based on this analysis, the public's use and enjoyment of the sunlight sensitive features of this historic resources would not be compromised as a result of new incremental shadows associated with the Proposed Modifications, and there would be no new significant adverse shadow impacts.

Historic Resources

The addition of the Potential Modification would not alter the identified significant adverse impacts to Historic Resources, as the same properties would be affected.

Urban Design and Visual Resources

As with the Proposed Action, this modification is not expected to result in any adverse impacts to urban design or visual resources.

With the potential modification, development would occur on the same Projected and Potential Development Sites as identified in the Proposed Action. They would primarily comprise high-density commercial uses, which would conform to the built context of the East Midtown area. The building bulks of the developments that are expected with the Proposed Modifications for Mandatory Publicly Accessible Spaces would not change the built environment's arrangement, appearance, or functionality, and the height of new buildings would generally be consistent with that of other high-rise buildings in the East Midtown area, although building heights for sites with required unenclosed Publicly Accessible Spaces would be increased to accommodate the required uncovered publicly accessible space. Given that the incremental change in building height would occur well above the street level, there would be a negligible impact on buildings in terms of urban design. The modifications would provide new publicly accessible open spaces with superior design features, designed in accordance with public plaza regulations, which would be expected add visual variety to the streetscape through the introduction of plaza design elements (i.e., planters, trees, or seating). These new Publicly Accessible Spaces would also provide additional passive enclosed and/or unenclosed space that would be available for public use.

Transportation

No additional significant adverse environmental impacts to traffic, transit pedestrians and parking would result from the Potential Modification. As discussed above, the Potential City Council Modification would add approximately 29,340 square feet of unenclosed Publicly Accessible Spaces space over several

Projected Development Sites, and these spaces would function as passive park space. Based on the weekday daily person trip rate of 44 trips per acre of passive park space provided in the *CEQR Technical Manual*, this amount of open space would be expected to generate at total of 30 daily person trips, which would be spread over the course of the day and distributed among the several sites. If both unenclosed and enclosed Publicly Accessible Spaces on Projected Development Sites are considered together, the total added Publicly Accessible Space is approximately 1.25 acres, and the pedestrian trips would increase to 55 trips over the course of the day to the several sites. The minimal increase in trips are not expected to result in any different or additional transportation-related significant impacts compared to the Proposed Action.

Stationary Source Air Quality

With the projected change in building heights for those sites where an unenclosed Publicly Accessible Spaces would be required (Projected Development Sites 3, 4, 9, 17 and Potential Development Site I); the stationary source HVAC screening analysis was recalculated to determine whether the changes in building heights would result in new or different environmental impacts. This analysis determines potential impacts from these modified sites onto surrounding buildings, as well as the potential impacts from surrounding buildings onto these sites. The analysis determined that there would be no significant change in the impacts, but the (E) designations developed for two of the Projected Development Sites 9 and 15 would have to change to reflect a modified stack height. Specifically, the (E) designation for Projected Development Site 9 would increase the stack height to 933 feet, and the stack height for Projected Development Site 15 would increase to 765 feet. Appendix 3 contains the updated (E) designation text for the Proposed Action.

Although these changes differ from the stack heights reported in the FEIS (refer to Appendix K, “E Designations”) they do not represent a new or different environmental impacts; rather they are the same type of environmental requirement as previously established for these sites in the Proposed Action. No new significant adverse impacts would result.

Construction Impacts

Overall, the amount of new construction with this Potential City Council Modification would be the same as that with the Proposed Action. It would require the same mitigation measures as the Proposed Action, and the same unmitigated construction noise impacts in the vicinity of Projected Development Sites 4 (unenclosed Publicly Accessible Space) and 5 (enclosed Publicly Accessible Space) would occur. The potential construction impacts related to pile driving at Projected Development Site 15 would be somewhat reduced with this Potential Modification, as the building footprint would be reduced and thus the need for pile driving would be marginally less than that contemplated in the FEIS.

E. CONCLUSIONS

As described above in Section B, “Potential City Council Modifications,” there are three groups of potential modifications to the Zoning Resolution, consisting of: (1) clarifications, corrections, or additional procedures to increase public participation and awareness; (2) regarding definitions or changes to development parameters within the Proposed East Midtown Subdistrict, and (3) establishing new Mandatory Publicly Accessible Space Requirements.

Accordingly, the Potential City Council Modifications would not otherwise alter the development assumptions in the RWCDs for the Approved Application evaluated in the FEIS or result in any new or

different significant adverse environmental impacts than those already identified and set forth in the FEIS. The same mitigation measures would continue to be available and applicable, including those additional measures identified in the FEIS as modifications under consideration by the City Council.

Appendix 1
Modified Zoning Text



Matter in underline is new, to be added;
 Matter in ~~strikeout~~ is to be deleted;
 Matter with # # is defined in Section 12-10 or 81-613;
 Matter in double ~~strikeout~~ is old, deleted by the City Council;
 Matter in double underline is new, added by the City Council;
 * * * indicates where unchanged text appears in the Zoning Resolution

Article VIII – Special Purpose Districts

**Chapter 1
 Special Midtown District**

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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 its 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).

* * *

81-02

General Provisions

81-022

Applicability of Special Transit Land Use District regulations

Except as otherwise provided in paragraphs (a), ~~and (b)~~ or (c) of this Section, wherever the #Special Transit Land Use District# includes an area which also lies within the #Special Midtown District#, as ~~described in paragraph (c)~~ designated on the #zoning map# by the letters "MiD - TA", the requirements of the #Special Transit Land Use District#, as set forth in Article IX, Chapter 5, shall apply.

- (a) However, the requirements of Article IX, Chapter 5, shall be waived where the City Planning Commission certifies, in the case of a specific #development# otherwise subject to those requirements, that:
 - (1) the developer has agreed in a writing recorded against the property to implement a plan approved by the City Planning Commission and New York City Transit for off-street relocation of a subway stair entrance, in accordance with the requirements of Section 81-46 (Off-Street Relocation or Renovation of a Subway Stair); or
 - (2) the developer has agreed in a writing recorded against the property to implement a plan approved by the Commission and New York City Transit for the provision of a subway station improvement in accordance with the provisions of Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).
- (b) Where the requirements of Article IX, Chapter 5, are not waived, modifications of the underlying district #bulk# regulations as set forth in this Chapter shall prevail over any inconsistent #bulk# regulations in Article IX, Chapter 5.
- (c) In the East Midtown Subdistrict, the provisions of paragraph (c) of Section 81-673 (Mass transit access) shall supersede the provisions of Section 95-031 (Selection of transit easement) and 95-052 (Special access facilities for persons with disabilities).

(e) ~~Within the #Special Midtown District#, the #Special Transit Land Use District# includes the area bounded by a line 100 feet west of Third Avenue, a line midway between East 53rd Street and East 54th Street, a line 160 feet east of Third Avenue (the #Special Midtown District# boundary) and a line midway between East 52nd Street and East 53rd Street.~~

* * *

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
- Map 4 East Midtown Subdistrict and Subareas

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 of this Chapter.

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

Subdistricts	Sections Having Special Application
--------------	----------------------------------------

Penn Center Subdistrict	81-50
<u>East Midtown</u> 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

Northern Subarea

Other Transit Improvement Zone Subarea

Park Avenue Subarea

Southern Subarea

Vanderbilt Corridor Subarea

The entirety of the Vanderbilt Corridor Subarea and the Grand Central Transit Improvement Zone Subarea as well as the portions of the Other Transit Improvement Zone Subarea south of East 47th 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), ~~81-62~~ 81-671 (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 23-66 and 35-65 (Height and Setback Regulations for Quality Housing Buildings).

* * *

81-10 USE REGULATIONS

81-11 Modifications of Use Regulations in Subdistricts

The #use# regulations of the underlying districts are modified in:

- (a) the East Midtown Subdistrict in accordance with the provisions of Section 81-62 (Special Use Provisions), inclusive;
- (b) 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~~
- (c) 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
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	—	—
Maximum Total FAR with As-of-Right Incentives							
	8.0	11.0 ^{1,2,7,8}	13.0 ^{1,3}	14.0	16.0	12.0	15.0
D. Maximum Special Permit #Floor Area# Allowances:(District-wide Incentives), Subway station 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 a landmark #zoning lot# that may be utilized on: <u>an "adjacent lot"</u> (Section 74-79)							
(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
O. P. — 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~~

^{6.7} 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 spaces)

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 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea), Section 81-653 (Special permit for transfer of development rights from landmarks to non-qualifying sites), 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 PROVISION 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 PROVISION 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 C5P District within the Preservation Subdistrict;
- (b) within 50 feet of a #street line# of a designated #street# on which retail or #street wall# continuity is required, pursuant to Sections 81-42 (Retail Continuity Along Designated Streets) or 81-43 (Street Wall Continuity Along Designated Streets);
- (c) on a #zoning lot#, any portion of which is within the Theater Subdistrict Core, as defined in Section 81-71 (General Provisions); and
- (d) on #zoning lots#, any portion of which is in the Grand Central ~~Subdistrict~~ 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.

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 ~~Grand Central~~ the East Midtown, Theater, Fifth Avenue, Penn Center and Preservation Subdistricts

The provisions of Sections 81-26 (Height and Setback Regulations – Daylight Compensation) and 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation) 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 ~~Grand Central~~ East Midtown Subdistrict as set forth in Sections 81-61 (General Provisions), ~~81-621~~ (Special street wall requirements) and ~~81-622~~ (Special height and setback requirements) 81-66 (Special Height and Setback Regulations), inclusive, or Section 81-671 (Special street wall 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)

Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea)

Section ~~81-64~~ 81-633 (Special ~~Permit~~ permit for Grand Central public realm improvements ~~Public Realm Improvement Bonus~~)

Section 81-685 (Special permit to modify qualifying site provisions)

~~Section 81-635~~ (~~Transfer of development rights by special permit~~).

* * *

81-27

Alternative Alternate 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 – Daylight Evaluation). The three #daylight evaluation charts# are ~~presented~~ located in Appendix ~~A~~ B of this Chapter. A fourth chart, also located 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.

* * *

81-40
MANDATORY DISTRICT PLAN ELEMENTS

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~~ 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 ~~Grand Central East Midtown~~ Subdistrict are set forth in Section 81-60 (SPECIAL REGULATIONS FOR THE ~~GRAND CENTRAL EAST MIDTOWN~~ 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).

* * *

81-412
Directions Directional signs

* * *

81-42
Retail Continuity ~~along~~ 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

~~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.~~

Special regulations are set forth in this Section to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers; creating successful pedestrian-friendly public spaces; 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 Grand Central 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.

The regulations of Sections 81-60 (SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT), inclusive, are applicable only in the ~~Grand Central~~ East Midtown 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

Special use provisions

Applicability of regulations

[EXISTING PROVISIONS 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.~~

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

- (i) Section 81-61, inclusive, sets forth general provisions, applicability and definitions for the East Midtown Subdistrict;
- (ii) Section 81-62, inclusive, sets forth special use provisions;
- (iii) Section 81-63, inclusive, sets forth special #floor area# provisions for the Vanderbilt Corridor Subarea;
- (iv) Section 81-64, inclusive, sets forth special #floor area# provisions for #qualifying sites#;
- (v) Section 81-65, inclusive, sets forth special #floor area# provisions for all other #zoning lots#;
- (vi) Section 81-66, inclusive, sets forth certain height and setback modifications to the provisions of Sections 81-26 and 81-27;
- (vii) Section 81-67, inclusive, sets forth certain modifications to the mandatory district plan elements of Section 81-40, inclusive; and
- (viii) Section 81-68, inclusive, sets forth additional provisions pertaining to #qualifying sites#.

81-612

Applicability along district boundaries

For #zoning lots# divided by district boundaries, the underlying provisions shall apply, except as follows:

- (a) For #qualifying sites# divided by district boundaries where both districts have the same maximum #floor area ratio# set forth in Rows E and H of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the provisions of Section 33-16 (Special Provisions for Zoning Lots Divided by District Boundaries) shall not apply to a #building developed# or, where permitted, #enlarged#, to exceed the basic maximum #floor area# in Row A of Section 81-64. In lieu thereof, the #floor area# ~~resulting from the provisions of Section 81-64, inclusive, may be located anywhere on the #zoning lot#~~ of such #building on a #qualifying site# may be located anywhere on the #zoning lot#, regardless of the district boundary.
- (b) 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. However, for #zoning lots# divided between the East Midtown Subdistrict and the Fifth Avenue Subdistrict, the provisions of Article VII, Chapter 7 shall apply.

- (c) For #zoning lots# divided by subarea boundaries, the provisions of Article VII, Chapter 7 shall apply.
- (d) For #zoning lots# with #landmark buildings or other structures# where more than 50 percent of the #lot area# is located within the #Special Midtown District#, and which #abut# the East Midtown Subdistrict boundary, such #zoning lot# may be considered as part of the Subdistrict for the purposes of transferring development rights pursuant to the applicable provisions of Sections 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). 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.

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 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 #zoning lot# that is contiguous to, or across a #street# and opposite 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.

Public Realm Improvement Fund

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund” (the “Fund”) shall be a separate interest-bearing account established for the deposit of contributions made when #developments# or, where permitted, #enlargements# on #qualifying sites# in the East Midtown Subdistrict will exceed the basic maximum #floor area ratio# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) through their utilization of the provisions of either Sections 81-642 (Transfer of development rights from landmarks to qualifying sites) or 81-643 (Special provisions for retaining non-complying floor area). The Fund shall be utilized, at the discretion of the #Public Realm Improvement Fund Governing Group#, to provide funding to implement improvements to the East Midtown Subdistrict, and its immediate vicinity, in the Borough of Manhattan. Upon receipt of any contributions, the #Public Realm Improvement Fund Governing Group# or the Department of City Planning shall notify the Comptroller and the Speaker and promptly deposit into the Fund.

Public Realm Improvement Fund Development Rights Valuation

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund Development Rights Valuation” (“Development Rights Valuation”) shall be a value per square foot of transferable

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 Development Rights Valuation shall be set at \$307.45~~\$393.00~~ per square foot.

When proposing an adjustment to the Development Rights Valuation, 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 Development Rights Valuation, pursuant to the City Administrative Procedures Act not more than once every three years and not less than once every five years.

An applicant, upon written request to the Commission, may request a transferable development rights valuation study to ~~determine~~ evaluate whether the Development Rights Valuation should be modified for a particular #qualifying site# based upon 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. Where the study demonstrates that the value of the development rights for the #qualifying site# is less than the Development Rights Valuation, the Commission shall, by certification, and in connection with a certification pursuant to Section 81-642, modify the required contribution to 20 percent of the adjusted valuation. ~~and the Commission shall, by rule, review and adjust the Development Rights Valuation 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# (the “Fund”), and shall consist of ~~13~~~~11~~ members: ~~seven~~~~six~~ members shall be representatives of City agencies, appointed by and serving at the pleasure of the Mayor; one member shall be a representative of a citywide civic organization, appointed by the Office of the Manhattan Borough President; 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 the Speaker of the City Council; 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 shall be a local development corporation, organized pursuant to the New York State Not-for-Profit Corporation Law, and affiliated with City government for purposes of the New York State Public Authorities Law, whose organizational purpose shall be limited solely to the purposes set forth in this Chapter. Each member shall have one vote, and all Governing Group decisions, as set forth below, shall be upon a majority vote at a public meeting at which a quorum is present. A quorum shall consist of a majority of the members.

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 Fund to implement 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).

Establishment of the Concept Plan, amendment of the Concept Plan, calendaring of items for a vote to fund, and designation of funding for a specific public realm improvement on the Concept Plan shall be decisions requiring a majority vote of the Governing Group at a meeting at which a quorum is present. If only members of the Governing Group appointed by the Mayor vote to calendar a particular public realm improvement for a vote to fund it, the Governing Group shall conduct a public hearing on the matter prior to such improvement being placed on the calendar for vote. In addition, if any member of the Governing Group puts forth a proposed public realm improvement, discussion of such improvement shall be added to the agenda of the next public meeting. Establishment of the initial Concept Plan shall be completed no later than November 1, 2017.

In the event that more than 20 million dollars remains in the Fund for more than three years, the Governing Group shall be required to hold a vote either to fund a public realm improvement project or to retain the funds.

The Governing Group shall adopt procedures for the conduct of its activities. Such procedures shall be consistent with the requirements of the New York State Open Meetings Law (Article 7, NYS Public Officers Law), which procedures shall also be consistent with the goals of the Subdistrict. Those procedures shall be publicly available by posting on the Department of City Planning's website, and shall include rules ~~on requiring reporting and transparency functions~~, including but not limited to the following: procedures on the adoption and amendment of the concept plan and opportunity for public comment thereon; requirements to provide a transcript or recording of all public meetings and hearings; and transparency and annual reporting requirements concerning deposits into and expenditures from the Fund. The Governing Group shall annually update the Concept Plan by providing a list of all projects on the Concept Plan to date, those added or removed in the past year, the dollar amount of funds designated to each project on the Concept Plan, to the extent available, the estimated cost of each project on the Concept Plan, and the schedule for all projects for which a decision to designate funding has been made by the Governing Group. Such annual update shall be posted on the Department of City Planning's website no later than January 15 of each calendar year following the establishment of the initial Concept Plan. All meetings of the Governing Group shall be open to the public with advance public notice provided of all meetings and public hearings. ~~In order for the Board to act, a minimum of six members must approve the action.~~

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# or, where permitted, #enlargement#, either:
- (1) at least 75 feet ~~a portion~~ of such #zoning lot's wide street# frontage is clear of #buildings or other structures#; or
 - (2) the entire #block# frontage along such #wide street# is occupied by one or more #landmark buildings or other structures#; or
 - (3) such #zoning lot's wide street# frontage is occupied by an existing easement volume that is being preserved, or reconfigured in accordance with Section 81-673 (Mass transit access);
- (d) where a #building# is #developed#, or, where permitted, #enlarged#, in accordance with the #floor area# provisions of Section 81-64 (Special Floor Area Provisions for Qualifying Sites), and such #development# or, where permitted, #enlargement# exceeds the basic maximum #floor area# set forth in Row A of the table in such Section and such #building# or publicly accessible space occupies the cleared area in paragraph (c)(1) of this definition, unless the provisions of paragraphs (c)(2) or (c)(3) apply;
- (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#, or, where permitted, #enlarged#, complies with the performance requirements of paragraph (a) and the publicly accessible space requirements of paragraph (b) of Section 81-681 (~~Building energy design requirements for qualifying sites~~) (Mandatory requirements for qualifying sites).

Receiving lot

For the purposes of Section 81-60, inclusive, a “receiving lot” shall mean a #zoning lot# to which development rights of a #granting lot# are transferred. Such #receiving lot# may receive a transfer of development rights pursuant to Sections 81-632 (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).

Sale price

“For the purposes of Section 81-60, inclusive, “sale price” shall mean the total consideration exchanged for transferred #floor area# pursuant to certification to transfer development rights from #zoning lots# occupied by #landmark buildings or other structures# within the East Midtown Subdistrict to a

#qualifying site#. The total consideration shall include all consideration as defined in Chapter 21 of the Administrative Code of the City of New York and Title 19 of the Rules of the City of New York, as they may be amended, or their successor provisions, whether or not subject to tax under that Chapter. The total consideration shall also include any other compensation in whatever form received in exchange for the #floor area# including contingent consideration. A valuation prepared pursuant to procedures established by rule of the City Planning Commission or the New York City Department of Finance shall be required for all consideration in a form other than cash. The application for certification shall include affidavits from the buyer and seller, attesting under penalty of perjury, that all of the terms of the transaction and all the consideration have been disclosed, and may be subject to audit.

81-62

Special Bulk and Urban Design Requirements Use Provisions

[EXISTING PROVISIONS 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

[EXISTING PROVISIONS REPLACED BY TEXT IN 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.

Within the East Midtown Subdistrict, as shown 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 on [date of enactment] in other Subareas, such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit, provided the #floor area# of such reconstructed #building#, less the #floor area# of any other #buildings# on the #zoning lot# does not exceed the applicable basic maximum #floor area ratio# for the #zoning lot# set forth in Section 81-60, inclusive. #Transient hotels# existing on May 27, 2015 within the Vanderbilt Corridor Subarea or on [date of enactment] in other Subareas, shall be considered conforming #uses#.

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.

However, after (effective date of amendment), #development# of a #building# containing a #transient hotel# shall be permitted under the regulations which were in effect prior to (effective date of amendment) if a new building application for such #development# was filed at the Department of Buildings after June 9, 2016 and a partial permit for such application was issued by the Department of Buildings on or prior to July 20, 2017, and a temporary certificate of occupancy for the entire #building# has been granted prior to January 31, 2020. In the event that such temporary certificate of occupancy has not been granted prior to such date, and an application is filed prior to such date, pursuant to this Section, with the Board of Standards and Appeals, the Board may permit the new building permit to be renewed for a term of one year upon the following findings (1) that the applicant has been prevented from

completing such construction by hardship or circumstances beyond the applicant's control; (2) that the applicant has not recovered all or substantially all of the financial expenditures incurred in construction, nor is the applicant able to recover substantially all of the financial expenditures incurred through development that conforms and complies with any applicable amendment to this Resolution; and (3) that there are no considerations of public safety, health and welfare that have become apparent since the issuance of the permit that indicate an overriding benefit to the public in enforcement of the special permit provisions of this Section. In the event that the Board permits the renewal, the temporary certificate of occupancy shall be obtained by no later than January 31, 2021.

81-622

Location of uses in mixed buildings

Special height and setback requirements

[EXISTING PROVISIONS REPLACED BY TEXT IN 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.~~

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 6A, 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 6C;

gymnasiums, used exclusively for basketball, handball, paddleball, racquetball, 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.

For such #uses#, the provisions of Section 32-41 (Enclosure within Buildings) shall not apply.

81-623

Building lobby entrance requirements

[EXISTING PROVISIONS REPLACED BY TEXT IN 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 PROVISIONS REPLACED BY TEXT IN 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 PROVISIONS REPLACED BY TEXT IN 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 PROVISIONS REPLACED BY TEXT IN 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

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

[EXISTING PROVISIONS REPLACED BY TEXT IN 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.~~

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# in the Vanderbilt Corridor Subarea</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>D</u>	<u>Maximum #Floor Area# Allowances by Special Permit for Grand Central public realm improvements (Section 81-633)</u>	<u>15.0</u>
<u>E</u>	<u>Maximum Total FAR of a Lot with Transferred Development Rights on #receiving lots# (Section 81-632) or District-wide Incentives (including Section 81-633)</u>	<u>30.0</u>
<u>F</u>	<u>Maximum Total FAR of a Lot with Transferred Development Rights on an #adjacent lot#(Section 74-79) or District-wide Incentives (other than Section 81-633)</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.

81-631

Requirements for application

Special provisions for transfers of development rights in the Vanderbilt Corridor Subarea

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 also 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 a ~~certification pursuant to Section 81-634 (Transfer of development rights by certification) or special permit pursuant to Section 81-635 (Transfer of development rights by special permit)~~ Section 81-632 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 81-63 Transfer of Development Rights from Landmark Sites)~~ 81-632.

(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 81-63~~ Section 81-632, 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 81-63~~2~~ shall be in addition to the maximum #floor area# allowed by the district regulations applicable to the “~~receiving lot,~~” #receiving lot#, as shown in ~~Section 81-211~~ the table in Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea); and

(e) (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 “~~landmark lot,~~” #zoning lot# with the #landmark building or other structure# is redeveloped, the “~~granting lot,~~” #granting 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

Conditions and limitations

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

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-635]

Within the ~~Grand Central Subdistrict Core Vanderbilt Corridor Subarea~~, as shown on ~~Map 1 (Special Midtown District and Subdistricts)~~ Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may permit the transfer of development rights from a “~~granting lot~~” to a “~~receiving lot~~” #granting lot# in the Grand Central Core Area, as shown on Map 4, 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)~~, ~~81-624 81-671 (Special street wall requirements)~~, ~~81-622 (Special height and setback requirements)~~, ~~81-674 (Ground floor use provisions)~~ ~~81-623 (Building lobby entrance requirements)~~, ~~81-624 81-675 (Curb cut restrictions and loading berth requirements)~~, ~~81-625 81-676 (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), inclusive, or ~~81-624~~ 81-671 (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~~ 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), ~~81-623 (Building lobby entrance requirements)~~ 81-674 (Ground floor use provisions), ~~81-624~~ 81-675 (Curb cut restrictions and loading berth requirements), ~~81-625~~ 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) 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 ~~Subdistrict~~ Grand Central Core Area. 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 ~~81-633~~ 81-64 (Special ~~Permit~~ permit for Grand Central ~~Public Realm Improvement Bonus~~ public realm improvements). 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,~~” ~~#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~~ certificate 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~~ MTA.

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

~~Transfer instruments and notice of restrictions~~

Special permit for Grand Central public realm improvements

[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 1 (Special Midtown District and Subdistricts)~~ Map 4 (East Midtown Subdistrict and Subareas) 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 81-211 (Maximum floor area ratio for non-residential or mixed buildings)~~ Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea), 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 Subdistrict~~ Grand Central Core Area, as shown on Map 4. 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~~ 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 Subdistrict~~ Grand Central Core Area, 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 ~~Grand Central Subdistrict~~ Vanderbilt Corridor Subarea, 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 ~~Grand Central Subdistrict~~ surrounding area 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 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus)~~ Section 81-633 (Special permit for Grand Central public realm improvements) 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

~~Transfer of development rights by certification~~

Permitted modifications in conjunction with additional floor 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.~~

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-642]

In conjunction with the grant of a special permit pursuant to ~~Section 81-641 (Additional floor area for the provision of public realm improvements)~~ Section 81-633 (Special permit for Grand Central 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 ~~81-621~~ 81-671 (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~~ Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, or ~~81-622~~ 81-66 (~~Special height and setback requirements~~ Height and Setback Requirements); or
 - (3) the mandatory district plan elements of Sections 81-42 (Retail Continuity ~~along~~ 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), ~~81-623 (Building lobby entrance requirements)~~ 81-674 (Ground floor use provisions), ~~81-624~~ 81-675 (Curb cut restrictions and loading berth requirements), ~~81-625~~ 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 ~~81-624~~ 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 ~~81-622~~ 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 ~~81-622~~ 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 ~~81-622~~ 81-66.

(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.

81-635

~~Transfer of development rights by special permit~~

[EXISTING TEXT MOVED TO SECTION 81-632]

81-64

**Special Permit for Grand Central Public Realm Improvement Bonus
Special Floor Area Provisions for Qualifying Sites**

[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).~~

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 Subarea¹</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>C6-4.5</u>	<u>C6-6</u>	<u>C6-4.5</u>	<u>C6-6</u>	<u>C6-4.5</u>	<u>C6-6</u>

<u>A</u>	<u>Basic Maximum FAR</u>										
		<u>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>13</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>25</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>28</u>	<u>28</u>	<u>26</u>	<u>26</u>	<u>24.6</u>	<u>24.6</u>	<u>21</u>	<u>21</u>

¹ For #zoning lots# located east of Third Avenue between the centerline of East 46th Street to the centerline of East 51st Street, the maximum #floor area ratio# shall be the basic maximum #floor area ratio# set forth in Row A.

81-641
Additional floor area for the provision of public realm improvements

Additional floor area for Transit Improvements on Qualifying Sites

[EXISTING TEXT MOVED TO 81-633]

All #developments# or, where permitted, #enlargements# 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 maximum #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 the table in Section 81-64, nor more than the maximum specified in Row C of such table, as applicable, and further provided that a transit ~~public realm~~ improvement, or a combination of transit ~~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~~ shall also comply with paragraph (a) of Section 81-682;
- (2) the applicant shall submit ~~concept~~ preliminary plans for the proposed transit improvement to the Chairperson and any applicable City or State agencies with jurisdiction over and control of the proposed transit improvement;
- (3) the applicant shall obtain and provide to the Chairperson a conceptual approval of the proposed transit 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) prior to the issuance of a building permit, as set forth in this Section, 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.

Such agreements and instruments shall be filed and recorded in the Office of the Register of the City of New York (County of New York). Proof of recordation ~~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) all of the materials required pursuant to paragraph (a) of this Section;
- (2) ~~(1)~~ site plans and zoning calculations for the proposed #development# or, where permitted, #enlargement# on the #qualifying site# showing the additional #floor area# associated with the completion of such transit improvement; and
- (3) ~~(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, and any such other information as may be required by the Chairperson of the City Planning Commission.

~~The Chairperson shall allow, by certification, a reduction in, or waiver of, the minimum #floor area ratio# required pursuant to Row B of the table in 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 of the table in Section 81-64, where the Metropolitan Transportation Authority requires improvements to the Fifth Avenue and East 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 ~~the~~ #development# or, where permitted, #enlargement# 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# or, where permitted, an #enlargement# on a #qualifying site# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea. All application pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to sixty days after such referral.

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, 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 and shall be noted on the temporary certificate of occupancy.

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 finally~~ completed in accordance with the approved plans and such final completion has been ~~approved~~ certified by the Chairperson, acting in consultation with the applicable City or State agencies having jurisdiction over and control of the proposed improvement.

In addition, the Chairperson shall allow, by certification, a reduction in, or waiver of, the minimum #floor area ratio# required pursuant to Row B of the table in 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 of the table in Section 81-64, where the Metropolitan Transportation Authority requires improvements to the Fifth Avenue and East 53rd Street Station to be combined in order to adequately phase improvements and avoid practical difficulties in operating the station.

81-642

Permitted modifications in conjunction with additional floor area Transfer of development rights from landmarks to qualifying sites

[EXISTING TEXT MOVED TO SECTION 81-634]

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~~ obtain a certification pursuant to 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) Prior to the issuance of a building permit, as set forth in paragraph (c) of this Section, 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). Proof of recordation, ~~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) Prior to the issuance of a building permit, as set forth in paragraph (c) of this Section, ~~A~~ a non-refundable contribution shall have been~~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 Development Rights Valuation# 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 the #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# showing the additional #floor area# associated with the transfer, and any such other information as may be required by the Chairperson;
- (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# or, where permitted, #enlargement# to Grand Central Terminal.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to sixty days after such referral.

~~When an applicant has submitted materials to the Chairperson that satisfy the requirements of paragraphs (a) and (b) of this Section, the~~The Chairperson shall certify to the Department of Buildings that a #development# or, where permitted, an #enlargement# on a #qualifying site# is in compliance with the provisions of this Section only after the following have been received:;

- (1) the instrument of transfer and notice of restrictions required by paragraph (a) of this Section have been executed and recorded with proof of recordation provided to the Chairperson;
- (2) documents confirming the #sale price# have been provided to the Chairperson of the City Planning Commission, including but not limited to the real property transfer tax return form recorded with the New York City Department of Finance and the details of consideration schedule; and
- (3) payment of a non-refundable contribution to the #Public Realm Improvement Fund# in the amount required by paragraph (a) of this Section has been made.

~~The execution and recording of such instruments and the payment of such non-refundable contribution~~Such certification 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# or, where permitted, #enlargement# on a #qualifying site#. Additional provisions are set forth in Section 81-686 for applicants undertaking a sidewalk improvement immediately adjacent to their #qualifying site#.

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

81-643

Special provisions for retaining non-complying floor area in commercial buildings

For #non-complying commercial buildings# existing on December 15, 1961 with #non-complying floor area#, the provisions of Section 54-41 (Permitted Reconstruction) may be modified to allow such #non-complying building# to be demolished or altered, to the extent of 75 percent or more of its total #floor area#, 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 or alteration, the applicant meets the provisions of paragraph (a) of this Section, as applicable, and, subsequently, prior to reconstruction, the proposed #development# will comply with the applicable provisions of paragraph (b) of this Section. For purposes of this Chapter, the reconstruction of such #non-complying floor area# shall be considered a #development#. Any #enlargement# of a #non-complying commercial building# on a #qualifying site# shall be permitted only pursuant to paragraph (a) of Section 81-684 (Authorizations for qualifying sites), or Section 81-685 (Special permit to modify qualifying site provisions).

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

The Chairperson shall certify the amount of #non-complying floor area# existing within a #non-complying building# that may be reconstructed pursuant to the provisions of paragraph (b) of this Section, based on calculations submitted to the Chairperson. Such calculations shall be based on either the #building's# construction documents previously ~~submitted for approval to~~ approved by 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~~ registered architect.

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 may 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 or alteration permit by the Department of Buildings for a #zoning lot# reconstructing #non-complying floor area#.

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

The amount of #non-complying floor area# established pursuant to paragraph (a) of this Section may be reconstructed, provided that the Chairperson certifies that:

- (1) all requirements for #qualifying sites# set forth in the definition in Section 81-613, inclusive, have been met, except that no publicly accessible space shall be required notwithstanding the provisions of paragraph (f) of the definition of #qualifying site#; and
- (2) a non-refundable contribution has been 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 Development Rights Valuation# multiplied by the amount of such pre-existing #non-complying floor area#.

~~For the purposes of this Chapter, the reconstruction of such #non-complying floor area# shall be considered a #development#.~~

The payment of the non-refundable contribution to the #Public Realm 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 or alteration permit by the Department of Buildings allowing a #development# on a #qualifying site#.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to sixty days after such referral.

Except for #zoning lots# located east of Third Avenue between the centerline of East 46th Street to the centerline of East 51st Street, ~~any proposed #floor area# in the reconstructed~~ ~~#building##development#~~ beyond the amount contained in the pre-existing #non-complying building# may 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#. However, the maximum #floor area ratios# of Row E and Row H shall continue to apply.

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# for #qualifying sites# 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# for #qualifying sites# 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# or, where permitted, #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) Applications shall include information and justification sufficient to provide the Commission with the basis for:

- (1) evaluating the benefits to the general public;
- (2) determining the appropriate amount of increased #floor area# to grant; and
- (3) 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:

- (i) consist of a prominent space of generous proportions and quality design that is inviting to the public;
- (ii) improve pedestrian circulation and provide suitable amenities for the occupants;
- (iii) front upon a #street# or a pedestrian circulation space in close proximity to and within view of, and accessible from, an adjoining sidewalk;
- (iv) provide or be surrounded by active #uses#;
- (v) be surrounded by transparent materials;
- (vi) provide connections to pedestrian circulation spaces in the immediate vicinity;
and
- (vii) 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# or, where permitted, #enlargement#, pursuant to this special permit;

(c) Prior to obtaining a foundation permit or building permit for a #development or, where permitted, an #enlargement# on a #qualifying site#, 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, 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 finally completed in accordance with the approved plans, as determined by the Chairperson.

81-65

Special Permit for Transient Hotels

Special Floor Area Provisions for All ~~Other~~ Non-qualifying Sites

[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.~~

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 (Sections 74-79 and 81-653)</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 and 81-653)</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>

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 (Alternate 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]

For #buildings# on #non-qualifying sites# 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), inclusive, or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, are modified as follows:

- (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 a height of 150 feet, as measured from #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

For #buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight compensation method of height and setback regulations, the provisions of Section 81-26 (Height and Setback Regulations – Daylight Compensation) are modified 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 for the #encroachment# of that 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 the easterly side of Vanderbilt Avenue, a portion of the full width 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 FEET 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 ten feet of height above 710 feet, the depth shall increase by one foot.

81-663

Daylight evaluation modifications for qualifying sites

For #buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight evaluation method of height and setback regulations, the provisions of Section 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation) are modified 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 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, as measured from #curb level#. However, such computation shall include the daylight blockage created by extending the lines representing the outermost edges of the portion of the #building# above a height of 150 feet downwards to such 70 degree line
 - (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 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#.~~ Notwithstanding such modifications, no single #street# frontage shall have a street score of less than 66 percent;
- (b) the reflectivity provisions of Section 81-276 may be utilized to raise both an individual score and the overall score by up to six percentage points;

(c) for #buildings# on #qualifying sites# with frontage along the easterly of Vanderbilt Avenue, a portion the full width 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 of 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

(d) 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, 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 Avenue, Lexington Avenue, Madison Avenue, Vanderbilt Avenue, 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.

However, for #developments# or, where permitted, #enlargements# on #qualifying sites# within an area bounded by East 43rd Street, Second Avenue, East 42nd Street and a line 200 feet east of Third Avenue, such #street wall# location requirements shall not apply to the portion of the frontage where an open publicly accessible space is provided in accordance with paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites).

Beyond 125 feet of the intersection, the maximum height of the #street wall# above #curb level# shall not exceed 120 feet. For such #buildings#, 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 paragraph (a) of Section 81-263 (Standard setback requirements) shall apply only to those portions of the #building# above 120 feet.

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 Circulation 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# or, where permitted, #enlargements# on #qualifying sites# with frontage along Madison and Lexington Avenues, shall provide mandatory sidewalk widenings as follows:

- (1) where such #zoning lot# 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 ten feet, as measured perpendicular to the #street line#;
- (2) where such #zoning lot# 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 ten 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 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive:

- (1) along #narrow streets# in the Grand Central Subarea, as shown on Map 4 (East Midtown Subdistricts and Subareas) in Appendix A of this Chapter, for #developments# or #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).

(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

(a) On #qualifying sites#

Where a #zoning lot# contains an easement volume for pedestrian access to a subway station or rail mass transit facility and such #zoning lot# is proposed to be #developed# or, where permitted, #enlarged# in accordance with the provisions for #qualifying sites#, such existing easement volume shall be preserved, or reconfigured in accordance with standards and terms approved by the Metropolitan Transportation Authority (MTA), as part of such #development# or #enlargement#. Any reconfiguration shall be constructed by the owner of the #development# or #enlargement#.

For such #developments# or, where permitted, #enlargements#, 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 of 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 Chairperson 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 such #development# or #enlargement#.

(b) On #qualifying sites# in the Grand Central Transit Improvement Zone Subarea or the Other Transit Improvement Zone Subarea

For #developments# or, where permitted, #enlargements# involving ground floor level construction 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, in addition to the provisions of paragraph (a) of this Section, as applicable, a transit easement volume may be required on such #zoning lot# for public access between the #street# and a 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 of 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 of 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 Chairperson 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 such #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:

- (1) where such mass transit access improvement is constructed and maintained by the owner of the #development# or #enlargement#:
 - (i) such mass transit access shall be improved to the standards set forth in Section 81-48 and shall be approved by the MTA, and shall comply with the following:
 - (a) 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
 - (b) such mass transit access shall provide directional #signs# in accordance with the provisions of Section 81-412 (Directional signs). Such #signs# shall be exempt from the maximum #surface area# of non-illuminated signs permitted by Section 32-642 (Non-illuminated signs); and

(ii) 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.

(2) where such mass transit access improvement is constructed and maintained by the MTA:

(i) where construction of the transit easement volume by the MTA is not contemporaneous with the construction of the #development#:

(a) any underground walls constructed along the #front lot line# of a #zoning lot# shall contain a knockout panel, not less than 12 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

(b) 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

(ii) 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.

(c) In other locations

For portions of the #Special Midtown District# within the #Special Transit Land Use District#, where, as part of a #development# or #enlargement# involving ground floor level construction, a transit easement volume is required by the MTA to accommodate, whether singly or in any combination, light wells, stairs, ramps, escalators, elevators, passageways, or ancillary facilities required to support the functioning of subway station or rail mass transit facilities, including, but not limited to, emergency egress or ventilation structures, the MTA shall, in consultation with the owner of the #zoning lot# and the City Planning Commission, determine the appropriate type of transit easement and reasonable dimensions for such transit easement volume.

The floor space occupied by any transit easement volume required pursuant to this Section shall not count as #floor area#. Where access improvements are constructed by the owner of the #zoning lot#, 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.

81-674

Ground floor use provisions

- (a) Within the Vanderbilt Corridor Subarea

[RELOCATED TEXT FROM SECTION 81-626]

For #buildings developed# or #enlarged# on the ground floor 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 Avenue, Lexington Avenue 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 #buildings developed# or, where permitted, #enlarged# on the ground floor 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 OFF-STREET 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 (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~~ 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 energy design~~ Mandatory requirements for qualifying sites

- (a) Building energy design requirements for #buildings# on #qualifying sites#

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

- (1) utilize a district steam system for the #building's# heating and hot water systems; or
- (2) 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# or, where permitted, an #enlargement# 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.

(b) Mandatory publicly accessible space requirements for qualifying sites

A #qualifying site# shall provide a publicly accessible space, open or enclosed, as defined herein, in accordance with the size provisions of paragraph (b)(1) of this Section and the design requirements of paragraph (b)(2). Each publicly accessible space shall require a certification by the Chairperson of the City Planning Commission, pursuant to Section 37-78 (Compliance), as modified herein.

For the purposes of this Chapter, a “publicly accessible space” shall be defined as an area, open or enclosed, on a #qualifying site#. An “open publicly accessible space” shall be defined as an open area that is open to the sky on a #qualifying site# intended for public use and enjoyment. An “enclosed publicly accessible space” shall be defined as a fully enclosed, climate-controlled area intended for public use and enjoyment. The design standards contained in paragraph (b)(2) of this Section for an enclosed publicly accessible space are intended to serve the same purposes outlined for #public plazas# in Section 37-70.

(1) Type and minimum size

- (i) A #qualifying site# with a #lot area# of at least 30,000 square feet but less than 45,000 square feet shall provide a publicly accessible space, open or enclosed, with an area of not less than 10 percent of the #lot area# of the #zoning lot#.
- (ii) A #qualifying site# with a #lot area# of 45,000 square feet but less than 65,000 square feet shall provide an open publicly accessible space with an area of not less than 10 percent of the #lot area# of the #zoning lot#, except that where the provisions of Sections 81-40 (Mandatory District Plan Elements), inclusive, and

81-67 (Special Mandatory District Plan Element Requirements), inclusive, are applicable to the #qualifying site# and preclude an open publicly accessible space from being provided on the #qualifying site#, an enclosed publicly accessible space shall be provided in the proposed #building#.

In addition to complying with paragraphs (a) through (d) of Section 37-78, each application for an enclosed publicly accessible space shall demonstrate which of the applicable provisions of Sections 81-40 and 81-67, inclusive, conflict with the design requirements set forth in 37-70, inclusive, and that they necessitate the provision of the enclosed publicly accessible space in lieu of an open publicly accessible space.

(iii) A #qualifying site# with a #lot area# of 65,000 square feet or greater shall provide an open publicly accessible space with an area of not less than 10,000 square feet. Where such #qualifying site# has a #through lot# portion, such #qualifying site# shall provide an open publicly accessible space across the #through lot# portion.

(2) Design requirements for publicly accessible spaces

For open publicly accessible space, the provisions of Section 37-70, inclusive, shall apply, except that the provisions of Section 37-713 (Locational restrictions) shall not apply.

For enclosed publicly accessible spaces, the following shall apply:

(i) An enclosed publicly accessible space shall have a minimum height of 30 feet or the height of the ground floor level, whichever is greater, and a minimum width and depth, at any point, of 30 feet. Such enclosed publicly accessible space shall be located on the ground floor level of the #building# and shall be directly accessible from an adjoining #street# or #publicly accessible open area# that the area fronts. A minimum of one entrance to the enclosed publicly accessible space shall be provided from the adjoining #street# on which it fronts, however if it fronts on more than one #street#, such entrance shall be from the #street# with the longer frontage. The aggregate width of doorways accessing such enclosed publicly accessible space shall not be less than 10 feet in width.

(ii) All ground floor level #street walls# enclosing the enclosed publicly accessible space shall be treated with clear, untinted, transparent material. Such transparent materials shall occupy at least 70 percent of the surface area of such ground floor level #street wall# between a height of two feet and 30 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Such enclosed publicly accessible space shall be heated or air-

conditioned, and the standards for heating, ventilating and air-conditioning shall be at least equal to those of the lobby for the principal #use# of the #building#.

- (iii) Public access to the enclosed publicly accessible space shall be provided, at a minimum, from 7:00 a.m. to 10:00 p.m. However, if a café or kiosk, pursuant to Section 37-73 (Kiosks and Open Air Café), is provided within, such enclosed publicly accessible space shall remain open to the public during the hours of operation of the café or kiosk, if such hours are longer than otherwise required by this Section.

The hours of access shall be included on all required entry plaques and information plaques in accordance with the provisions of Section 37-751 (Public space signage systems) and for through #block# enclosed publicly accessible spaces, an information plaque shall be provided in accordance with paragraph (h)(viii) of Section 37-53 (Design standards for Pedestrian Circulation Spaces).

- (iv) The provisions of Sections 37-718 (Paving), 37-722 (Level of plaza), 37-728 (Standards of accessibility for persons with disabilities), 37-744 (Litter receptacles), 37-745 (Bicycle parking), 37-746 (Drinking fountains), 37-748 (Additional amenities), 37-752 (Prohibition signs), 37-753 (Accessory signs) and 37-77 (Maintenance) shall apply to enclosed publicly accessible spaces.

- (v) The provisions of Section 37-723 (Circulation paths) shall apply to enclosed publicly accessible spaces. In addition, for enclosed publicly accessible spaces provided in conjunction with subway entrances and/or designed to provide connection to above- and/or below-grade improvements, an unobstructed pedestrian circulation path shall be provided from at least one entrance of the enclosed publicly accessible space to such subway entrance and to such above- and/or below-grade improvements.

- (vi) The provisions of paragraphs (a) and (b) of Section 37-726 (Permitted obstructions) shall apply to enclosed publicly accessible spaces and are modified as follows:

(aa) structural columns shall be considered permitted obstructions. The area occupied by such structural columns shall be excluded from the area calculations for the enclosed publicly accessible space. In addition, interior structural columns shall have an aggregate area of no more than two percent of the total enclosed publicly accessible space. Such columns shall not be considered permitted obstructions in any circulation path; and

- (bb) a café or kiosk permitted by certification pursuant to Section 37-73 (Kiosks and Open Air Cafés) shall be considered a permitted obstruction within an enclosed publicly accessible space and may not occupy more than 20 percent of the enclosed publicly accessible space area.
- (vii) The provisions of Section 37-741 for seating shall apply to enclosed publicly accessible spaces, except that such provisions are modified as follows:

 - (aa) the requirements of seating within 15 feet of a #street line# shall not apply;
 - (bb) all of the linear seating capacity may be in moveable seats. All such moveable seats must remain in the enclosed publicly accessible space during the hours of operation; and
 - (cc) the requirement that seats facing walls be located a minimum of six feet from such wall shall only apply to fixed seating.
- (viii) The requirements of Section 37-742 for planting and trees shall apply to enclosed publicly accessible spaces, except that the surface area of any vertical planting may be included in the calculation of the total area of planting beds that are provided, and trees shall not be required.
- (ix) All enclosed publicly accessible spaces shall be illuminated with a minimum level of illumination of not less than five horizontal foot candles (lumens per foot) throughout the space). The requirements of Section 37-743 for a lighting schedule, a diagram of light level distribution and electrical power shall apply.
- (x) At least 50 percent of the total frontage of all #building# walls fronting on an enclosed publicly accessible space, excluding such frontage occupied by #street walls#, #building# lobbies, or #building# walls abutting #lot lines#, 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 banks, automobile showrooms or plumbing, heating or ventilating equipment showrooms. For such #building# walls, the transparency provisions of paragraph (c) of Section 37-76 shall apply.
- (xi) The area of the enclosed publicly accessible space shall be exempt from calculations for #floor area# as defined in Section 12-10 (Definitions).

In addition, a maximum of 30 percent of the area of the publicly accessible space, whether open or enclosed, may be counted towards meeting the pedestrian circulation space requirement, up to a maximum of 3,000 square feet.

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# or #enlargement# 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# or #enlargement# 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# or #enlargement# 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 from 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 Improvement List (the “Improvement 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 for a #development# or, where permitted, an #enlargement# on a #qualifying site# may complete to obtain 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~~off-street station entrances, new or expanded accessible routes for persons with physical disabilities between two levels of a station, and four or fewer 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 Avenue / 53rd – 51st Street station</u>	<u>Replace escalator and stair connecting downtown Lexington platform to station underpass with widened stair</u>	<u>Lexington Avenue Line / 53rd Street Line</u>
<u>Lexington Avenue / 53rd – 51st 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>42 St - Bryant Park / 5th Ave station</u>	<u>Provide ADA access elevator between Flushing platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>42 St - Bryant Park / 5th Ave station</u>	<u>Provide new street entrance from north side of West 42nd street</u>	<u>Flushing Line / 6th Avenue Line</u>

<u>42 St - Bryant Park / 5th Ave station</u>	<u>Provide ADA access elevator between Sixth Avenue northbound platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>42 St - Bryant Park / 5th Ave station</u>	<u>Provide ADA access elevator between Sixth Avenue southbound platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>Lexington Av - 59th Street station</u>	<u>Provide new street entrance from north side stair capacity at northeast and northwest corners of East 60th Street and Lexington Avenue</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>Lexington Av - 59th Street station</u>	<u>Provide ADA access elevator between local southbound IRT platform and street level</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>Lexington Av - 59th Street station</u>	<u>Provide ADA access elevator between 60th Street (BMT) line platform and mezzanine level</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>Lexington Av - 59th Street station</u>	<u>Provide new platform stair and widen existing stairs between 60th Street (BMT) line platform and mezzanine level</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>Fifth Avenue / and 53rd Street station</u>	<u>Provide new street entrance on East 53rd Street west side of Madison Avenue</u>	<u>53rd Street Line</u>
<u>Grand Central / 42nd Street station</u>	<u>Widen platform stairs at east end of Flushing platform</u>	<u>Flushing Line</u>
<u>Grand Central / 42nd Street station</u>	<u>Widen two stairs between uptown Lexington platform and 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 Avenue / 53rd – 51st Street station</u>	<u>Provide widened escalator between 53rd street platform and mezzanine</u>	<u>Lexington Avenue Line / 53rd Street Line</u>
<u>Lexington Av - 59th Street station</u>	<u>Provide ADA access elevator between northbound local Lexington Avenue Line platforms, northbound express</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>

	<u>Lexington Ave Line platform, and the 60th Street (BMT) line mezzanine</u>	
<u>Lexington Av - 59th Street station</u>	<u>Provide ADA access elevator between southbound local Lexington Avenue Line platforms, southbound express Lexington Avenue Line platform, and the 60th Street (BMT) line mezzanine</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>47th / 50th Streets – Rocketfeller Ctr station</u>	<u>Provide two new platform stairs and widen seven remaining platform stairs</u>	<u>6th Avenue Line</u>
<u>Fifth and Av / 53rd Street station</u>	<u>Provide a new stairs from mezzanine level to upper platform, and a new stair from upper platform to lower platform to multiple levels of station</u>	<u>53rd Street Line</u>
<u>Fifth and Av / 53rd Street station</u>	<u>Provide ADA access elevator from mezzanine to multiple levels of station upper platform, and to lower platform</u>	<u>53rd Street Line</u>
<u>Fifth and Av / 53rd Street station</u>	<u>Provide two escalators from mezzanine to multiple levels of station upper platform</u>	<u>53rd Street Line</u>
<u>Fifth and Av / 53rd Street station</u>	<u>Provide new mezzanine area under East 53rd Street with fare control to accommodate street entrance and new access core</u>	<u>53rd Street Line</u>
<u>Fifth and Av / 53rd Street station</u>	<u>Provide new access core between platforms and street level to accommodate escalators, elevator, and stairs</u>	<u>53rd Street Line</u>
<u>Grand Central / 42nd Street station</u>	<u>Expand paid area and add platform stair between Provide new Flushing platform and upper mezzanine stair and expand transfer passageway to accommodate the addition of the stair</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~~ Renovate to contemporary standards the south end of the Grand Central Lexington Subway of remaining portions of Lexington mezzanine from the Shuttle Passageway and 125 Park Avenue entrances to join the renovated areas on the north end of the 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 in the Borough of Manhattan which has ~~with~~ significant ridership into and out of the Subdistrict;
- (b) have 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) 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; or
 - (2) 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, improved or new disabled access, or providing daylight access, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways, within the East Midtown Subdistrict, a location immediately adjacent

thereto, or in a subway or rail mass transit facility identified on the Priority Improvement List in Section 81-682 (Priority Improvement List for qualifying sites).

The Governing Group shall first consider the selection and funding of the above-grade public realm improvements set forth in the table below within the East Midtown Subdistrict prior to consideration and selection of any other above- or below-grade public realm improvements.

TABLE 1

PEDESTRIAN PLAZAS

Pershing Square East

East side of Park Avenue between East 40th Street and East 41st Street

West side of Park Avenue between East 40th Street and East 41st Street

SHARED STREETS

East 41st Street between 5th Avenue and Lexington Avenue

Vanderbilt Avenue between East 43rd Street and East 47th Street

East 43rd Street between Lexington Avenue and 3rd Avenue

East 44th Street between Lexington Avenue and 3rd Avenue

MEDIAN WIDENINGS

Expansion of Park Avenue medians between East 46th Street and East 57th Street

THOROUGHFARE IMPROVEMENTS

Five blocks of East 53rd Street between 2nd Avenue and 5th Avenue

81-684

Authorization to allow enlargements on for qualifying sites

(a) 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 requirement in the definition of #qualifying site# in Section 81-613 that the additional #floor area# permitted through the provisions of Section 81-64 be achieved exclusively through a #development#, and may to allow an #enlargements# on #qualifying sites# to an existing #building# with a frontage along a #wide street#. The Commission may also waive the requirement that such #qualifying site# provides publicly accessible space in accordance with the provisions of paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites). In order to permit such modifications, ~~provided that~~ the Commission shall find that such #enlargement# includes significant renovations to the existing #building# that will bring it up to contemporary space standards.

Where the existing #building# includes #non-complying floor area#, 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 Development Rights Valuation# multiplied by the amount of such pre-existing #non-complying floor area#. For the purposes of such calculation, the amount of existing #non-complying floor area# shall not include any bonus #floor area# associated with a #publicly accessible open area# to remain on the #zoning lot#. The payment of the non-refundable contribution to the #Public Realm Improvement Fund#, shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing the #enlargement# on a #qualifying site#.

For such #enlargements# to #buildings# with #non-complying floor area#, the proposed #floor area# 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#. However, the maximum #floor area ratios# of Row E and Row H shall continue to apply.

However, an alternation of an existing #building# resulting in both the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any amount of #floor area#, shall be considered a #development#.

Applications for authorizations shall be referred to the affected Community Board for a period of at least 30 days for comment. The City Planning Commission shall grant in whole or in part or deny the application within 60 days of the completion of the Community Board review period.

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

(b) Authorization for a qualifying site providing publicly accessible space

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# on a #qualifying site# set forth in Section 81-64 (Special Floor

Area Provisions for Qualifying Sites) and providing publicly accessible space, open or enclosed, pursuant to paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites), the City Planning Commission may authorize the waiver of the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Retail Streets) and 81-671 (Special street wall requirements), requirements of Sections 81-42 (Retail Continuity Along Designated Streets) and 81-674 (Ground floor use provisions), the curb cut location restriction of paragraph (b) of Section 81-675 (Curb cut restrictions and loading berth requirements), and the design requirements for publicly accessible space, open or enclosed, set forth in paragraph (b)(2) of Section 81-681.

In order to grant such authorization, the Commission shall find that such proposed waivers will result in a superior urban design relationship with surrounding #streets#, #buildings#, and other open areas, and:

- (1) for waiver of #street wall# regulations:
 - (i) such waiver is necessary due to constraints or conditions of the configuration of the site; and
 - (ii) such waiver will not unduly obstruct the access to light and air of surrounding #buildings# and open spaces;
- (2) for waivers of retail continuity and ground floor #use# provisions, such waivers are minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any publicly accessible space, open or enclosed;
- (3) for waiver of the curb cut location restriction of paragraph (b) of Section 81-675, for a #qualifying site# on 47th Street between Park Avenue and Vanderbilt Avenue, that the proposed curb cut location will not unduly interrupt the flow of pedestrian traffic or result in any undue conflict between pedestrian and vehicular movement; and
- (4) for modifications of the design requirements for a publicly accessible space, open or enclosed:
 - (i) the publicly accessible space and proposed # building# on the #qualifying site# are designed in a manner that results in a cohesive and harmonious site plan,
 - (ii) the publicly accessible space is superior in design and quality of amenities;
 - (iii) the publicly accessible space provides connections to pedestrian circulation spaces in the immediate vicinity;
 - (iv) the pedestrian network of the surrounding area is enhanced by the publicly accessible space; and

- (v) such waiver is the minimum waiver necessary to afford relief.

No modifications to the required amount of publicly accessible space set forth in paragraph (b) of Section 81-681 shall be permitted.

Applications for authorizations shall be referred to the affected Community Board for a period of at least 30 days for comment. The City Planning Commission shall grant in whole or in part or deny the application within 60 days of the completion of the Community Board review period.

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

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 certain #qualifying site# criteria, 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 minimum #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 (Definitions);
- (ii) the #building# performance and publicly accessible space requirements in the paragraph (f) of the definition of a #qualifying site# and Section 81-681 (~~Building energy design requirements for qualifying sites~~)(Mandatory 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 or Amendment of Resolution), 77-21

(General Provisions) or 77-22 (Floor Area Ratio), and the provisions of Section 81-612 (Applicability along district boundaries) requiring that #zoning lots# divided by Subarea boundaries utilize the provisions of Article VII, Chapter 7;

- (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 (Alternate 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 sites# 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 sites# and paragraph (a) of 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 the publicly accessible space requirements in the definition of #qualifying sites and paragraph (b) of Section 81-681:
 - (i) are the minimum necessary to accommodate the proposed #building#; and
 - (iii) that any reduction or waiver will result in a better site plan and will not detract from a lively streetscape and pedestrian experience;
- (5) ~~(4)~~ to regulations pertaining to #zoning lots# divided by district boundaries will result in better site planning;
- (6) ~~(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#; and

(7) ~~(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 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; 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.

81-686

Contribution in-kind for certain public realm improvements

The Chairperson of the City Planning Commission shall allow, by certification, in conjunction with a certification pursuant to Sections 81-642 (Transfer of development rights from landmarks to qualifying sites), or, where applicable, 81-643 (Special provisions for retaining non-complying floor area in commercial buildings), the applicant for a #development# or, where permitted, #enlargement# on a #qualifying site# that is immediately adjacent to a sidewalk improvement identified in the Public Realm Improvement Concept Plan to undertake such improvement, and to deduct ~~be deducted~~ the cost of such improvement from their contribution to the #Public Realm Improvement Fund#, provided that the provisions of this Section are met.

- (a) The following requirements shall be completed prior to application for certification by the Chairperson:
 - (1) The applicant shall submit ~~concept~~ preliminary plans for the proposed improvement to the Chairperson, the Department of Transportation (DOT), and the #Public Realm Improvement Fund Governing Group# (the “Governing Group”);

- (2) DOT shall provide a letter to the Chairperson and the Governing Group containing a conceptual approval of the proposed improvement including a statement of any considerations regarding the construction and operation of the improvement;
 - (3) Construction documents and cost estimates shall be prepared for such proposed improvements by a professional engineer, and submitted to the Chairperson, the DOT and the Governing Group;
 - (4) Upon review, the DOT and the Governing Group shall either approve such construction documents and costs estimates or detail discrepancies to be resolved by the applicant; and
 - (5) Upon approval of the construction documents and cost estimates by the DOT and Governing Group, and prior to the issuance of a building permit as set forth in Section 81-642 and in this Section, 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 DOT. A certified copy of such legal instruments shall be sent to the Chairperson.
- (b) Upon submittal of all the items in paragraph (a) of this Section, along with drawings indicating the portion of the #building# utilizing transferred #floor area# pursuant to the provisions of Section 81-642 (~~Transfer of development rights from landmarks to qualifying sites~~) or, where applicable, 81-643, the Chairperson shall certify that a #development# or, where permitted, #enlargement# on a #qualifying site# may undertake an improvement to an adjoining sidewalk.
- The execution and recording of legal instruments in accordance with paragraph (a) of this Section shall be a precondition to the issuance of any foundation permit or new building permit or alteration permit by the Department of Buildings allowing a #development# or, where permitted, #enlargement# on a #qualifying site# undertaking a contribution in-kind pursuant to this Section.
- (c) Upon certification by the Chairperson, monies equal to such agreed upon cost estimate between the applicant, DOT and the Governing Group shall be deposited by the applicant into an escrow account or other similar fund account established by the Governing Group, which shall not be commingled with ~~from~~ the #Public Realm Improvement Fund# (“the Improvement Fund”).
 - (d) No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing transferred #floor area# pursuant to Section 81-642 until the Chairperson of the City Planning Commission, acting in consultation with the DOT and the Governing Group, has certified that the improvements are substantially complete and usable by the public. No permanent certificate of occupancy shall be granted by the Department of Buildings until the improvements have finally been completed in accordance with the approved

plans and such final completion has been approved by the Chairperson, the DOT and the Governing Group.

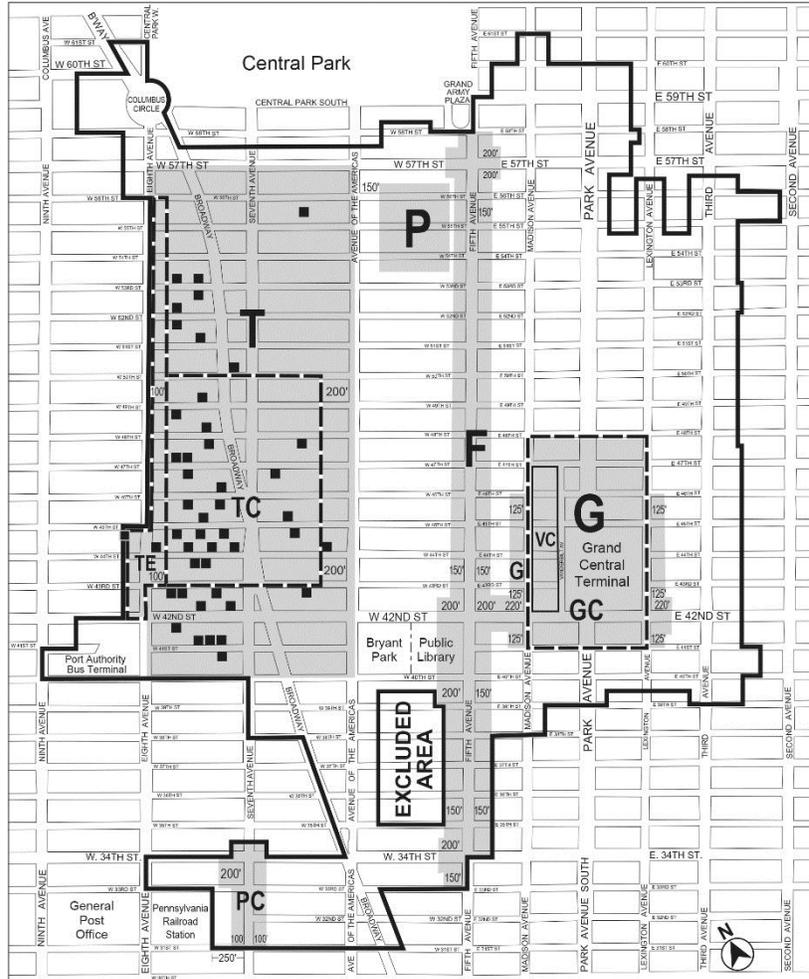
(e) Upon completion of the sidewalk improvement, the monies secured in the escrow account or other similar ~~fund~~ account established by the Governing Group shall be released to the applicant.

(f) In the event that an applicant utilizing the provisions of this Section has not completed the sidewalk improvements within five years of obtaining a new building permit or alternation permit from the Department of Buildings, the Governing Group shall release the monies in the escrow account or other similar account ~~fund back~~ to the Improvement Fund.

Appendix A Midtown District Plan Maps

Map 1: Special Midtown District and Subdistricts

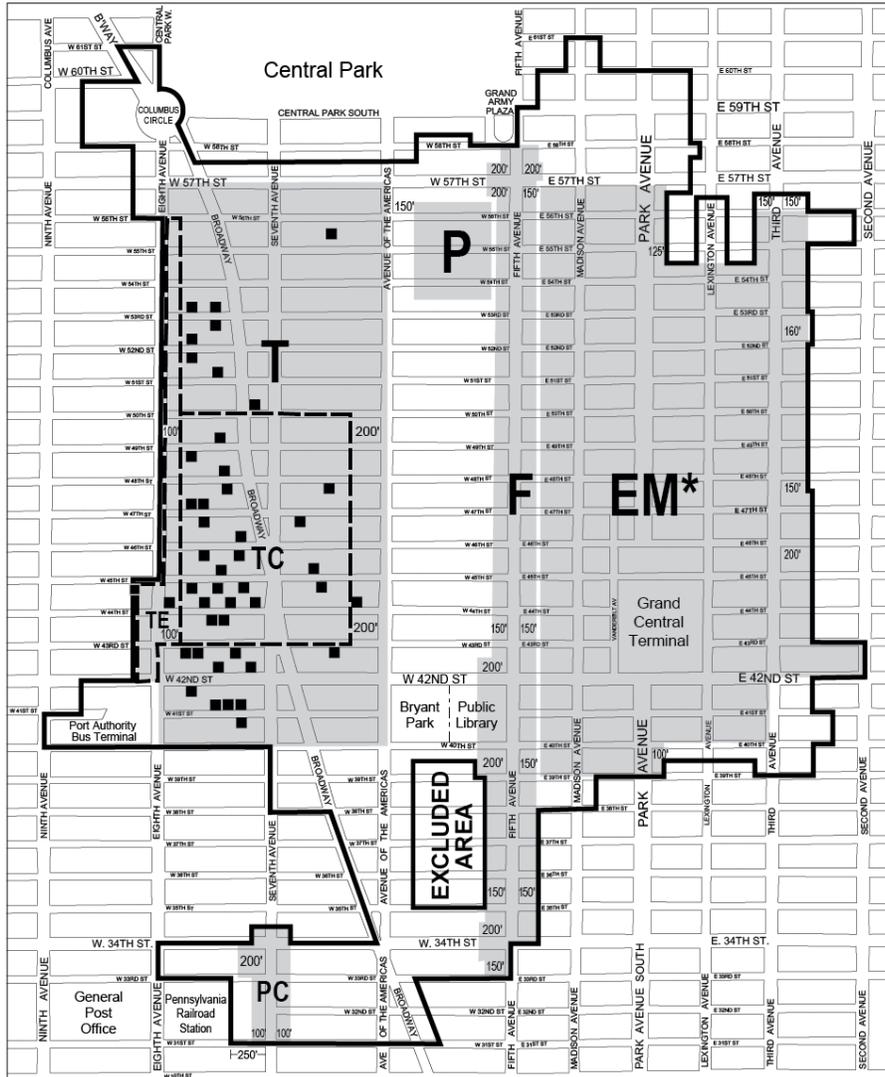
[EXISTING MAP]



MIDTOWN DISTRICT PLAN
MAP 1 - Special Midtown District and Subdistricts

- Special Midtown District
- F Fifth Avenue Subdistrict
- G Grand Central Subdistrict
- GC Grand Central Subdistrict Core
- VC Vanderbilt Corridor
- P Preservation Subdistrict
- PC Penn Center Subdistrict
- T Theater Subdistrict
- TC Theater Subdistrict Core
- TE Theater Subdistrict Eighth Avenue Corridor
- Listed Theaters

[PROPOSED MAP]

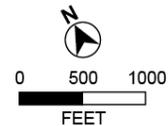


MIDTOWN DISTRICT PLAN

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 | |

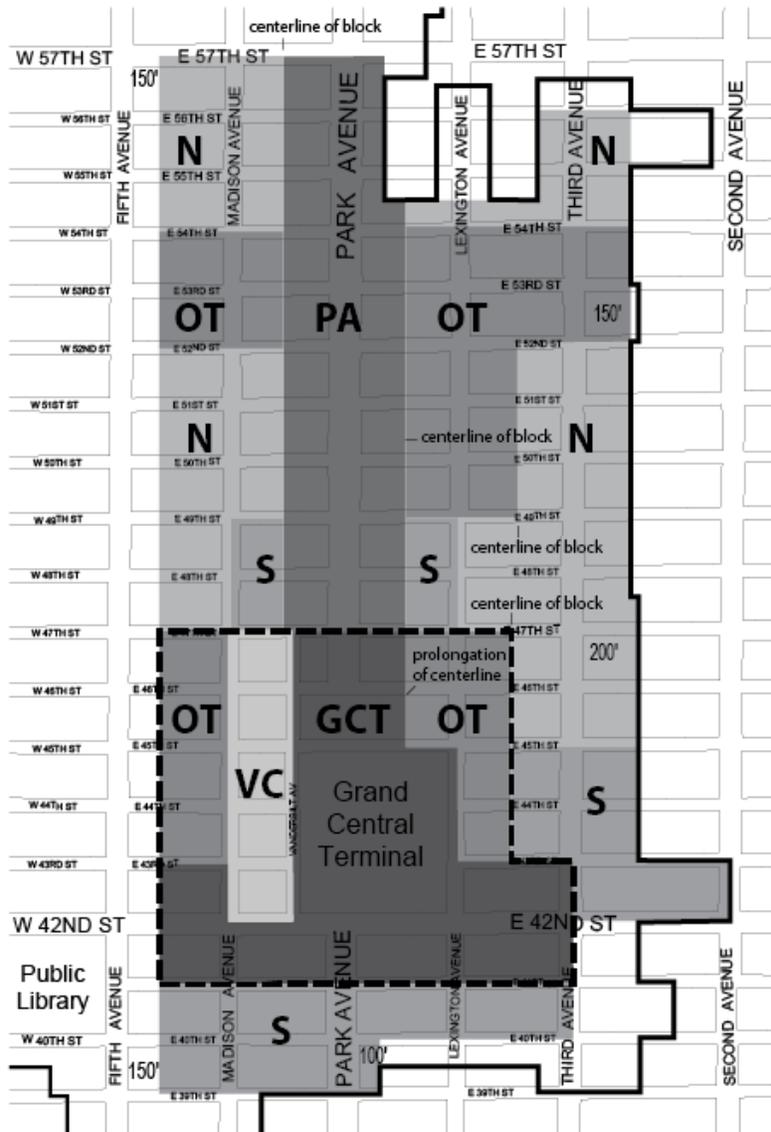
* East Midtown Subareas are shown on Map 4



* * *

Map 4: East Midtown Subdistrict and Subareas

[PROPOSED MAP]



MIDTOWN DISTRICT PLAN
 MAP 4 - East Midtown Subdistrict and Subareas

- Grand Central Transit Improvement Zone Subarea (GCT)
- Park Avenue Subarea (PA)
- Other Transit Improvement Zone Subarea (OT)
- Southern Subareas (S)
- Northern Subareas (N)
- Vanderbilt Corridor (VC)
- Grand Central Core Area
- Special Midtown District



* * *

Appendix B
Daylight Evaluation Charts

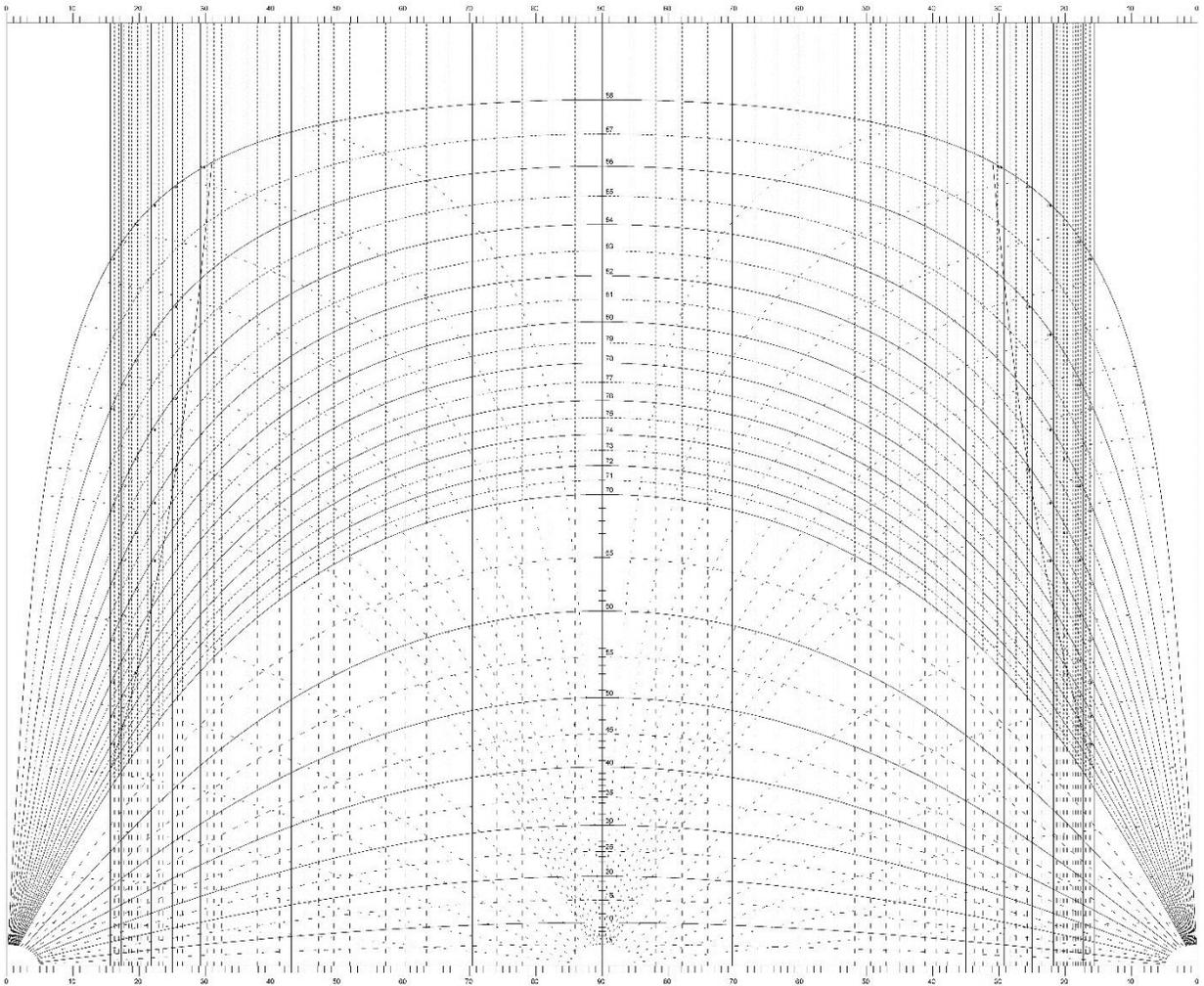
[MOVE EXISTING DAYLIGHT EVALUATION CHARTS INTO THIS NEW APPENDIX B]

* * *

Chart 4. Daylight Evaluation Diagram – Park Avenue

[PROPOSED CHART]

(A full size, 30" by 36", copy of this chart is available for purchase and inspection at the Department of City Planning's Bookstore.)



Daylight Evaluation Diagram, Park Avenue

* * *

Appendix 2

Shadows



Appendix 2, Table 1: Additional Incremental Shadow Durations on Sunlight Sensitive Resources, All Resources

Resource ID	Resource Name	ANALYSIS DAYS			
		December 21: 8:51 AM – 2:53 PM	March 21 / September 21: 7:36 AM – 4:29 PM	May 6 / August 6: 6:27 AM – 5:18 PM	June 21: 5:57 AM – 6:01 PM
OPEN SPACE RESOURCES – PUBLIC PARKS					
P3	<i>Bryant Park</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	No New Incremental Shadows	7:21 AM – 7:49 AM	6:36 AM – 8:07 AM
	Incremental Shadow Duration			28 minutes	1 hour, 31 minutes
P5	<i>Dag Hammarskjold Plaza</i>				
	Shadow Enter-Exit Time	2:24 PM – 3:34 PM	3:17 PM – 3:37 PM	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration	10 minutes	20 minutes		
P13	<i>MacArthur Park</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	4:12 PM – 4:29 PM	No New Incremental Shadows	5:29 PM – 5:33 PM
	Incremental Shadow Duration		17 minutes		4 minutes
P16	<i>Peter Detmold Park</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	No New Incremental Shadows	5:05 PM – 5:18 PM	No New Incremental Shadows
	Incremental Shadow Duration			13 minutes	
P26	<i>Greenstreets - East 49 Street</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	4:24 PM – 4:29 PM	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration		5 minutes		
P27	<i>United Nations Sculpture Garden</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	3:46 PM – 4:16 PM	No New Incremental Shadows	5:33 PM – 6:01 PM
	Incremental Shadow Duration		20 minutes		28 minutes
P31	<i>Pershing Square West (No-Action Open Space)</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	8:15 AM – 8:19 AM	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration		4 minutes		

Appendix 2, Table 1: Additional Incremental Shadow Durations on Sunlight Sensitive Resources, All Resources

Resource ID	Resource Name	ANALYSIS DAYS			
		December 21: 8:51 AM – 2:53 PM	March 21 / September 21: 7:36 AM – 4:29 PM	May 6 / August 6: 6:27 AM – 5:18 PM	June 21: 5:57 AM – 6:01 PM
P34	<i>Park Avenue Median Widening (Project-Generated PRI)</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	10:40 AM – 10:45 AM	3:37 PM – 4:04 PM	(1) 9:38 AM – 9:48 AM; (2) 3:08 PM – 4:04 PM
	Incremental Shadow Duration		5 minutes	27 minutes	(1) 10 minutes; (2) 56 minutes
SUNLIGHT SENSITIVE HISTORIC RESOURCES					
H2	<i>Beaux-Arts Apartments - North</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	2:56 PM – 3:47 PM	2:05 PM – 3:27 PM	2:20 PM – 3:54 PM
	Incremental Shadow Duration		1 hour, 51 minutes	1 hour, 22 minutes	1 hour, 34 minutes
H3	<i>Beaux-Arts Apartments - South</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	No New Incremental Shadows	2:31 PM – 3:57 PM	2:27 PM – 3:35 PM
	Incremental Shadow Duration			1 hour, 26 minutes	1 hour, 8 minutes
H6	<i>Chanin Building</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	7:36 AM – 8:12 M	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration		26 minutes		
H8	<i>Church of Our Savior</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	No New Incremental Shadows	No New Incremental Shadows	6:25 AM – 6:34 AM
	Incremental Shadow Duration				9 minutes
H11	<i>Fifth Avenue Presbyterian Church</i>				
	Shadow Enter-Exit Time	12:23 PM – 12:46 PM	No New Incremental Shadows	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration	23 minutes			
H12	<i>Ford Foundation Building</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	No New Incremental Shadows	No New Incremental Shadows	4:26 PM – 4:48 PM
	Incremental Shadow Duration				22 minutes
H13	<i>Former Coty Building</i>				
	Shadow Enter-Exit Time	12:37 PM – 12:48 PM	No New Incremental Shadows	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration	11 minutes			

Appendix 2, Table 1: Additional Incremental Shadow Durations on Sunlight Sensitive Resources, All Resources

Resource ID	Resource Name	ANALYSIS DAYS			
		December 21: 8:51 AM – 2:53 PM	March 21 / September 21: 7:36 AM – 4:29 PM	May 6 / August 6: 6:27 AM – 5:18 PM	June 21: 5:57 AM – 6:01 PM
H17	<i>Rockefeller Apartments</i>				
	Shadow Enter-Exit Time	10:07 AM – 11:15 AM	No New Incremental Shadows	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration	1 hour, 8 minutes			
H18	<i>Rockefeller Center / Rockefeller Plaza</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	No New Incremental Shadows	7:58 AM – 8:12 AM	7:03 AM – 7:44 AM
	Incremental Shadow Duration			14 minutes	41 minutes
H20	<i>St. Patrick's Cathedral</i>				
	Shadow Enter-Exit Time	1:13 PM – 1:38 PM	No New Incremental Shadows	No New Incremental Shadows	7:07 AM – 7:27 AM
	Incremental Shadow Duration	25 minutes			20 minutes
H21	<i>St. Thomas Church and Parish House</i>				
	Shadow Enter-Exit Time	No New Incremental Shadows	11:10 AM – 11:50 AM	No New Incremental Shadows	No New Incremental Shadows
	Incremental Shadow Duration		40 minutes		

Appendix 2, Table 2: Resources of Concern within Shadow Radius Not Affected by Incremental Shadows

Map ID#	Name/Address
PUBLIC PARKS	
P1	14 Honey Locusts Park
P4	Central Park
P6	Father Duffy Square
P7	Five Parks (FDR Drive)
P8	Grand Army Plaza
P9	Greeley Square Park
P11	Greenstreets - Broadway
P12	Herald Square
P14	Mary O'Connor Playground
P16	Peter Detmold Park ¹
P17	Queensboro Oval
P18	Ralph Bunche Park
P20	Sutton Place Park
P21	Tramway Plaza
P25N	Greenstreets - 1st Avenue (North)
P25S	Greenstreets - 1st Avenue (South)
P28	NYC Public Library Plaza / Terrace
P29	Four Freedoms Park
P30	Vanderbilt Plaza (No-Action)
P33	ODR Esplanade (No-Action)
P35	Park Avenue Pedestrian Plaza at 41st Street
P36	Pershing Square East
SUNLIGHT SENSITIVE HISTORIC RESOURCES	
H1	Amster Yard
H5	Central Synagogue
H7	Christ Church United Methodist
H9	Church of St. Francis Assisi
H14	Grand Central Terminal
H15	Lescaze House
H19	St. Bartholomew's Church and Community House
H22	Swedish Seamen's Church
H23	The Free Church of Saint Mary-The-Virgin

Appendix 2, Table 3: Privately-Owned Public Spaces within the Defined Shadow Radius

Map ID#	Name/Address	Map ID#	Name/Address
1	450 Park Avenue	44	1370 Sixth Avenue
2	65 East 55th Street	45	1350 Sixth Avenue
3	535 Madison Avenue	46	1330 Sixth Avenue
4	919 Third Avenue	47	51 West 52nd Street
5	345 Park Avenue	48	1166 Sixth Avenue
6	437 Madison Avenue	49	1114 Sixth Avenue
7	457 Madison Avenue	50	445 Fifth Avenue
8	40 East 52nd Street	51	135 East 57th Street
9	800 Third Avenue	52	420 Fifth Avenue
10	777 Third Avenue	53	31 West 52nd Street
11	725 Fifth Avenue	54	600 Third Avenue
12	590 Madison Avenue	55	845 First Avenue
13	10 East 53rd Street	56	950 Third Avenue
14	280 Park Avenue	57	150 East 58th Street
15	299 Park Avenue	58	633 Third Avenue
16	245 Park Avenue	61	212 East 42nd Street
17	6 East 43rd Street	62	234 East 46th Street
18	101 Park Avenue	63	240 East 47th Street
19	12 East 49th Street	64	885 Second Avenue
20	622 Third Avenue	65	255 East 49th Street
21	140 East 45th Street	66	245 East 54th Street
22	141 East 48th Street	67	309 East 48th Street
23	780 Third Avenue	68	3 United Nations Plaza
24	599 Lexington Avenue	69	320 East 46th Street
25	153 East 53rd Street	70	303 East 43rd Street
26	201 East 42nd Street	71	333 East 45th Street
28	747 Third Avenue	72	301 East 45th Street
29	767 Third Avenue	73	100 United Nations Plaza
30	825 Third Avenue	74	300 East 54th Street
32	909 Third Avenue	75	360 East 57th Street
33	425 Lexington Avenue	76	300 East 59th Street
34	432 Park Avenue	77	118 East 60th Street
35	520 Madison Avenue	78	200 East 61st Street
36	36 Central Park South	79	750 Lexington Avenue
37	767 Fifth Avenue	80	425 Fifth Avenue
38	500 Park Avenue	81	3 East 53rd Street
39	499 Park Avenue	82	390 Park Avenue
40	110 East 59th Street	83	375 Park Avenue
41	9 West 57th Street	84	217 East 51st Street
42	58 West 58th Street	85	460 Madison Avenue
43	40 West 57th Street	86	Rockefeller Plaza 1

Appendix 2, Table 3: Privately-Owned Public Spaces within the Defined Shadow Radius

Map ID#	Name/Address	Map ID#	Name/Address
87	Rockefeller Plaza 2	116	1700 Broadway
88	Rockefeller Plaza 3	122	415 East 54th Street
89	Rockefeller Plaza 4	123	167 East 61st Street
90	Tudor City - North	125	1221 Sixth Avenue
92	1515 Broadway	126	125 West 55th Street
93	235 West 48th Street	127	401 East 60th Street
95	425 East 58th Street	129	429 East 52nd Street
96	146 West 57th Street	130	1250 Broadway
97	888 Seventh Avenue	131	118 West 57th Street
98	1535 Broadway	132	825 Seventh Avenue
99	1633 Broadway	133	410 East 58th Street
100	418 East 59th Street	135	810 Seventh Avenue
103	1251 Sixth Avenue	136	172 Madison Avenue
106	2 Pennsylvania Plaza	137	200 East 62nd Street
107	420 East 54th Street	138	1155 Sixth Avenue
108	1411 Broadway	139	1285 Sixth Avenue
109	325 Fifth Avenue	141	1301 Sixth Avenue
110	400 East 54th Street	142	745 Seventh Avenue
111	1345 Sixth Avenue	143	1095 Sixth Avenue
113	1185 Sixth Avenue	144	1211 Sixth Avenue
114	400 East 56th Street	145	1133 Sixth Avenue
115	303 East 60th Street	146	1 Pennsylvania Plaza