

APPROVED  
**EAST MIDTOWN**  
TEXT AMENDMENT

City Council Modifications  
August 9, 2017

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**

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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)~~ 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)~~ 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 (e)~~ 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:

<u>Subdistricts</u>	<u>Sections Having Special Application</u>
Penn Center Subdistrict	81-50
<u>East Midtown</u> <del>Grand Central</del> 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	<del>12.0</del>	<del>15.0</del>
Maximum As-of-Right #Floor Area# Allowances:(District-wide Incentives), #Public plazas# (Section 81-23)							
	---	1.0 <sup>1,2</sup>	1.0 <sup>1,3</sup>	---	1.0 <sup>2</sup>	---	---
Maximum Total FAR with As-of-Right Incentives							
	8.0	11.0 <sup>1,2,7,8</sup>	13.0 <sup>1,3</sup>	14.0	16.0	<del>12.0</del>	<del>15.0</del>
D. Maximum Special Permit #Floor Area# Allowances:(District-wide Incentives), Subway station improvements (Section 74-634)							
	---	2.0 <sup>1,6,7</sup>	2.4 <sup>1</sup>	---	3.0	<del>2.4</del>	<del>3.0</del>
E. Maximum Total FAR with District-wide and As-of-Right Incentives							
	8.0	12.0	14.4	14.0	18.0	<del>14.4</del>	<del>18.0</del>
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 <sup>4</sup>	---	---	---	—	—
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	<del>12.0</del>	<del>15.0</del>

Development rights (FAR) of a landmark lot for transfer purposes (Section 74-79)							
	8.0	10.0	13.0 <sup>5</sup>	14.0	16.0	<del>12.0</del>	15.0
Maximum amount of transferable development rights (FAR) from a landmark #zoning lot# that may be utilized on: an "adjacent lot" (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
<del>Q. — Maximum #Floor Area# Allowances by Special Permit for Grand Central Public Realm Improvement Bonus (Section 81-64)</del>							
	—	—	—	—	—	—	15.0
<u>Q. P.</u> Maximum Total FAR of a Lot with Transferred Development Rights from Landmark #Zoning Lot#, Theater Subdistrict Incentives, District-wide Incentives and As-of-Right Incentives							
	9.6	14.4	14.4	No Limit	No Limit	<del>21.6</del>	No <sup>6</sup> Limit

<sup>1</sup> Not available for #zoning lots# located wholly within Theater Subdistrict Core

<sup>2</sup> Not available within the Eighth Avenue Corridor

<sup>3</sup> Not available within 100 feet of a #wide street# in C5-2.5 Districts

- <sup>4</sup> Applicable only within that portion of the Theater Subdistrict also located within the #Special Clinton District#
- <sup>5</sup> 12.0 in portion of C6-5.5 District within the Theater Subdistrict Core
- ~~<sup>6</sup> 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~~
- ~~<sup>6.7</sup> Not available on west side of Eighth Avenue within the Eighth Avenue Corridor~~
- <sup>7.8</sup> 12.0 for #zoning lots# with full #block# frontage on Seventh Avenue and frontage on West 34<sup>th</sup> 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), ~~81-62~~ (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 contribution, the #Public Realm Improvement Fund Governing Group# or the Department of City Planning shall notify the Comptroller and the Speaker and promptly deposit it 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 ~~1344~~ members: ~~seven~~ 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

(c) (3) each transfer, once completed, shall irrevocably reduce the amount of ~~#floor area#~~ that may be ~~#developed# or #enlarged#~~ on the “granting lot” ~~#granting lot#~~ by the amount of ~~#floor area#~~ transferred. If the landmark designation is removed, the ~~#landmark #building or other structure#~~ is destroyed or ~~#enlarged#~~, or the “~~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), ~~81-621~~ 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 ~~81-621~~ 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).~~



		<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>

<sup>1</sup> 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 ~~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 46<sup>th</sup> Street to the centerline of East 51<sup>st</sup> Street, ~~a~~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 C6-6</u>	<u>C5-2.5 C6-4.5</u>	<u>C5-3 C6-6</u>	<u>C5-2.5 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 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 43<sup>rd</sup> Street, Second Avenue, East 42<sup>nd</sup> 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 4-4 (~~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, on a #qualifying site#, a “publicly accessible space” shall be defined as an open or enclosed area provided for public use and enjoyment on the #zoning lot#. An “open publicly accessible space” shall be defined as a publicly accessible space, that is open to the sky on a #qualifying site#, and an “enclosed publicly accessible space” shall be defined as a fully enclosed, climate-controlled publicly accessible space on a #qualifying site#. 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**

<b><u>TYPE 1 IMPROVEMENTS</u></b>		
<b><u>Location</u></b>	<b><u>Type of Improvement</u></b>	<b><u>Transit Line</u></b>
<u>Lexington Avenue / 53<sup>rd</sup> – 51<sup>st</sup> Street station</u>	<u>Replace escalator and stair connecting downtown Lexington platform to <del>station</del> underpass with widened stair</u>	<u>Lexington Avenue Line / 53rd Street Line</u>
<u>Lexington Avenue / 53<sup>rd</sup> – 51<sup>st</sup> 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 / 5<sup>th</sup> Ave station</u>	<u>Provide ADA <del>access</del> elevator between Flushing platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>42 St - Bryant Park / 5<sup>th</sup> 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 / 5<sup>th</sup> Ave station</u>	<u>Provide ADA <del>access</del> elevator between Sixth Avenue northbound platform and mezzanine level</u>	<u>Flushing Line / 6th Avenue Line</u>
<u>42 St - Bryant Park / 5<sup>th</sup> Ave station</u>	<u>Provide ADA <del>access</del> 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 <del>entrance from north side</del> 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 <del>access</del> elevator between local <del>southbound</del> 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 <del>access</del> 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 / <del>and</del> 53rd Street station</u>	<u>Provide new street entrance on East 53rd Street west <del>side</del> 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>

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## **TYPE 2 IMPROVEMENTS**

<b><u>Location</u></b>	<b><u>Type of Improvement</u></b>	<b><u>Transit Line</u></b>
<u>Lexington Avenue / 53<sup>rd</sup> – 51<sup>st</sup> 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 <del>access</del> elevator between northbound local Lexington Avenue Line platforms, northbound express Lexington Ave Line platform, and the 60th Street (BMT) line mezzanine</u>	<u>Lexington Avenue Line / Broadway-60th Street Line</u>
<u>Lexington Av - 59th Street station</u>	<u>Provide ADA <del>access</del> 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 <del>remaining</del> platform stairs</u>	<u>6th Avenue Line</u>
<u>Fifth <del>and</del> 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 <del>to multiple levels of station</del></u>	<u>53rd Street Line</u>
<u>Fifth <del>and</del> Av / 53rd Street station</u>	<u>Provide ADA <del>access</del> elevator from mezzanine to <del>multiple levels of station</del> upper platform, and to lower platform</u>	<u>53rd Street Line</u>

<u>Fifth <del>and</del> Av / 53rd Street station</u>	<u>Provide two escalators from mezzanine to <del>multiple levels of station</del> upper platform</u>	<u>53rd Street Line</u>
<u>Fifth <del>and</del> Av / 53rd Street station</u>	<u>Provide new mezzanine area under East 53<sup>rd</sup> Street with fare control to accommodate street entrance and new access core</u>	<u>53rd Street Line</u>
<u>Fifth <del>and</del> 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><del>Expand paid area and add platform stair between</del> Provide new platform stair between Flushing platform and upper mezzanine stair and expand transfer passageway to accommodate the addition of the stair</u>	<u>Flushing Line</u>

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**TYPE 3 IMPROVEMENTS**

<u>Location</u>	<u>Type of Improvement</u>	<u>Transit Line</u>
<u>Grand Central / 42nd Street station</u>	<u><del>Renovation</del> 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</u>	<u>Flushing Line / Lexington Avenue Line</u>

**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**

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**PEDESTRIAN PLAZAS**

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Pershing Square East

East side of Park Avenue between East 40<sup>th</sup> Street and East 41<sup>st</sup> Street

West side of Park Avenue between East 40<sup>th</sup> Street and East 41<sup>st</sup> Street

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**SHARED STREETS**

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East 41<sup>st</sup> Street between 5<sup>th</sup> Avenue and Lexington Avenue

Vanderbilt Avenue between East 43<sup>rd</sup> Street and East 47<sup>th</sup> Street

East 43<sup>rd</sup> Street between Lexington Avenue and 3<sup>rd</sup> Avenue

East 44<sup>th</sup> Street between Lexington Avenue and 3<sup>rd</sup> Avenue

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**MEDIAN WIDENINGS**

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Expansion of Park Avenue medians between East 46<sup>th</sup> Street and East 57<sup>th</sup> Street

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**THOROUGHFARE IMPROVEMENTS**

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Five blocks of East 53<sup>rd</sup> Street between 2<sup>nd</sup> Avenue and 5<sup>th</sup> 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 #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# provide 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.

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 authorization shall be granted prior to sixty days after such referral.

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  
~~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.

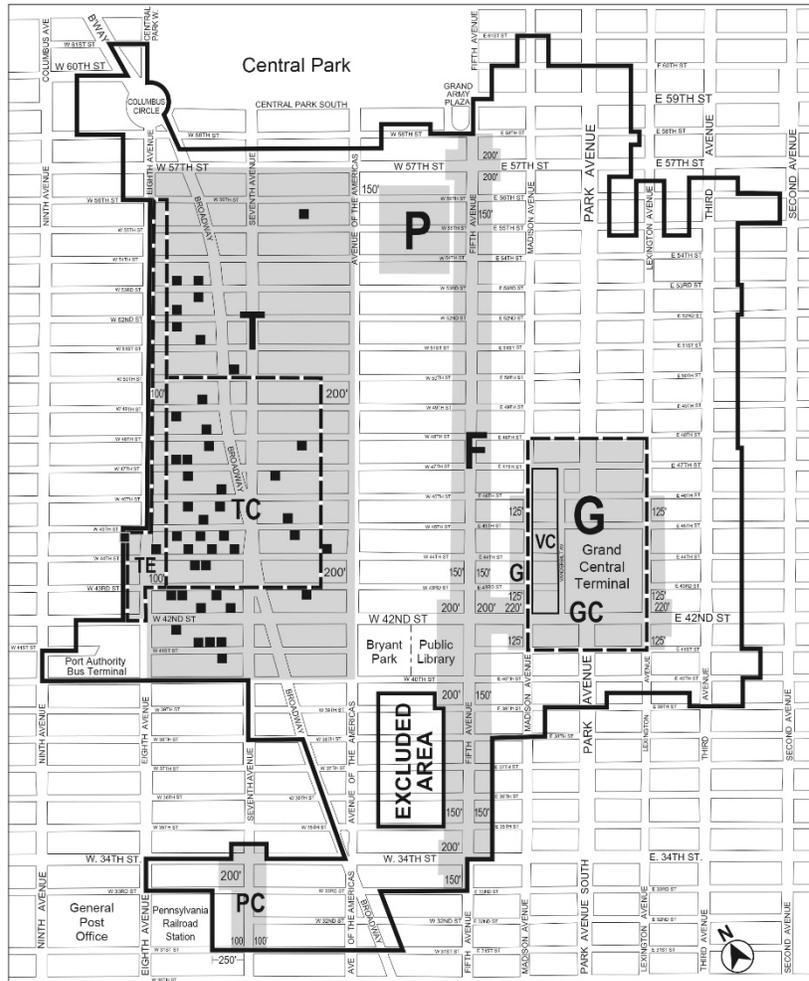
(e) Upon completion of the sidewalk improvement, the monies secured in the escrow account or other similar ~~fund~~ account established by the Governing Group shall be released to the applicant.

(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 alteration 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

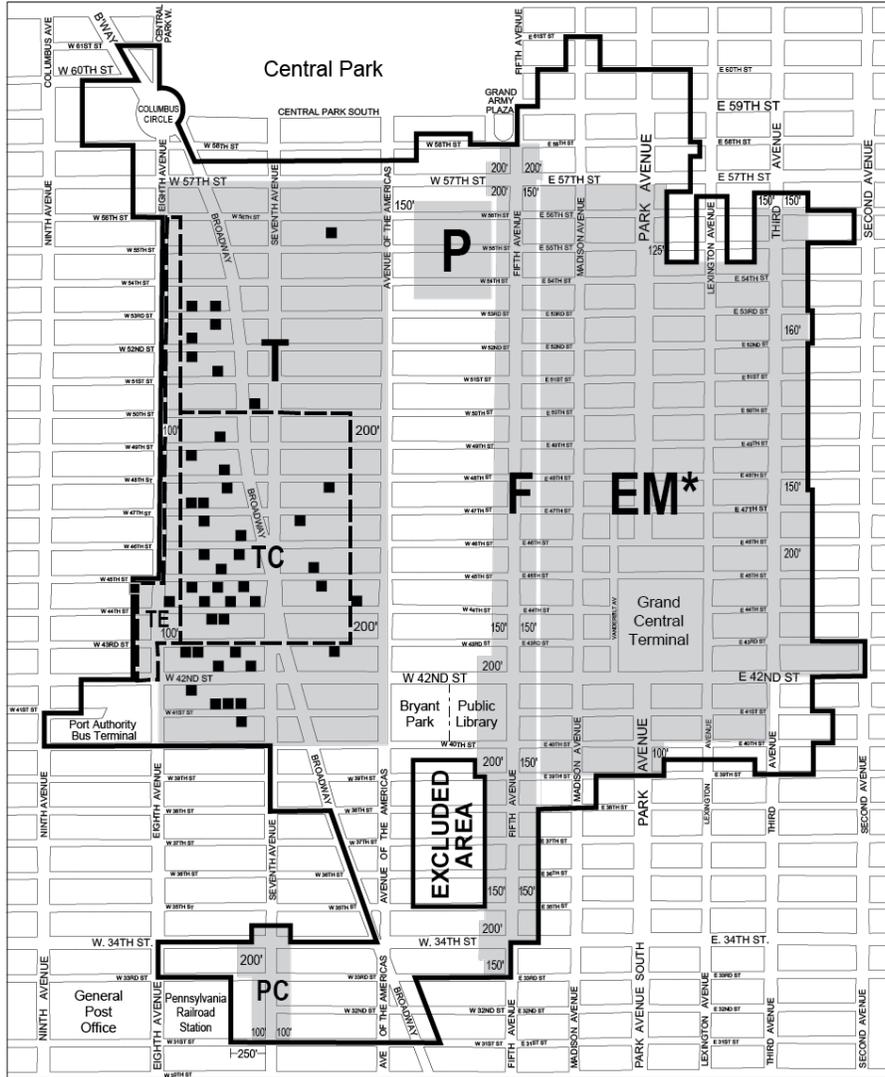
[EXISTING MAP]



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]

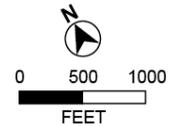


MIDTOWN DISTRICT PLAN

MAP 1 - Special Midtown District and Subdistricts

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

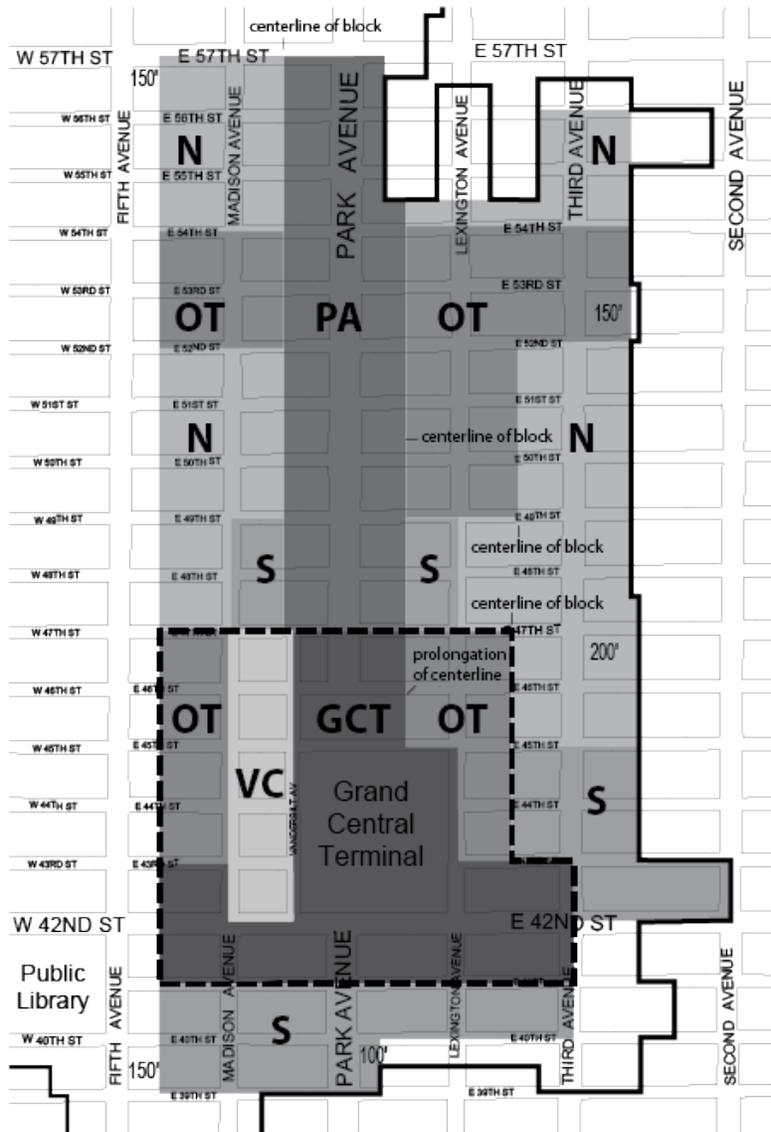
\* East Midtown Subareas are shown on Map 4



\* \* \*

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**

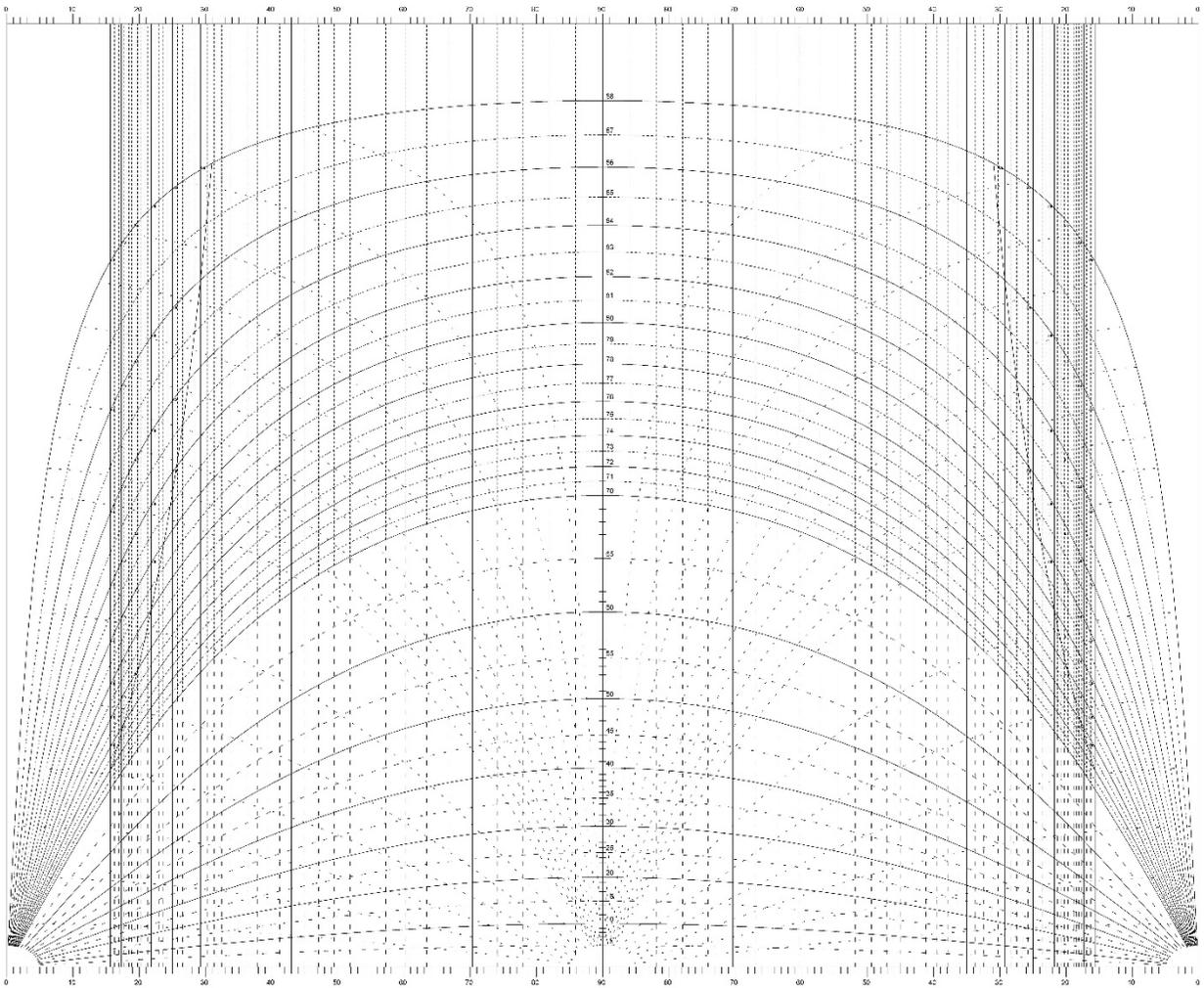
[MOVE EXISTING DAYLIGHT EVALUATION CHARTS INTO THIS NEW APPENDIX B]

\* \* \*

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

\* \* \*