

RICHARD EGGERS  
CHAIR

CLAUDE L. WINFIELD, FIRST VICE CHAIR  
MOLLY HOLLISTER, SECOND VICE CHAIR



JESÚS PÉREZ  
DISTRICT MANAGER

BEATRICE DISMAN, TREASURER  
BRIAN VAN NIEUWENHOVEN, ASST. TREASURER  
KATHY THOMPSON, SECRETARY  
AARON HUMPHREY, ASST. SECRETARY

THE CITY OF NEW YORK  
MANHATTAN COMMUNITY BOARD SIX  
PO Box 1672  
NEW YORK, NY 10159-1672

March 10, 2017

Marisa Lago  
Chair  
City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor  
New York, NY 10271

Hon. Gale A. Brewer  
Manhattan Borough President  
1 Centre Street, 19<sup>th</sup> Floor South  
New York, NY 10007

**RE: DCP applications N170186 ZRM and 170187 ZMM - Proposal for Greater East Midtown Rezoning - CORRECTED**

Dear Chair Lago and Borough President Brewer:

At the March 8, 2017 Full Board meeting of Manhattan Community Board Six, the Board adopted the following resolution:

**Whereas**, the New York City Department of City Planning (DCP) has completed a DEIS as part of the Uniform Land Use Review Procedure certification (Applications N 170187 ZMM & C 170186 ZRM) for Greater East Midtown; and

**Whereas**, Manhattan Community Board Six has participated in the process as a member of the East Midtown Steering Committee, by holding public hearings and engaging an urban planner, among other avenues; and

**Whereas**, the East Midtown Steering Committee recommended several public benefits for East Midtown to counterbalance the effects of new, denser development:

- Improvement of the public realm, including the better use of streets and the provision of more and better on-site open space,
- Improvement of subway stations serving East Midtown, including ADA compliance,
- Designation of additional landmarks and the more liberal transfer of air rights from landmarks; and

**Whereas**, there remain many unresolved issues in a number of major categories (open space, MTA improvements, internal and external boundaries, above ground public realm enhancements, and impacts of air and light reductions), which this resolution seeks to highlight and present those solutions preferred by the community; and

**Whereas**, instead of treating on-site public open space, subway station improvements, and transfers of air rights equally the City’s proposed zoning text places on-site public open space as the lowest priority in three key ways:

- Requiring that a development site use subway station bonus floor area and transferred air rights before applying for a special permit for on-site public open space, and
- Requiring a special permit for public concourses; while subway station improvements and air rights transfers can be as-of-right by certification; and
- Removing the as-of-right plaza bonus on qualifying sites; and

**Whereas**, as a result of these constraints, the Draft EIS for East Midtown predicts that only two of the 16 projected development sites will apply for a special permit for a “public concourse”; and

**Whereas**, the Draft EIS for East Midtown finds “the Proposed Action would result in a significant adverse impact on open space due to reduced total and passive open space ratios”, and given the great and increasing need for public open space in East Midtown and the extreme challenges of developing new open space; and

**Whereas**, the creation of pedestrian circulation maps illustrating the specifics of above-ground open space improvements—such as plazas, other privately-owned public spaces (POPS) and shared streets or other thoroughfare improvements—would provide predictability for developers, the MTA, the city and the public and, critically, a better ability to value such improvements; and

**Whereas**, the proposed zoning mechanism to determine and prioritize transit and public realm improvements is based on a “Priority Improvement List for Qualifying Sites,” which would be managed and updated by a nine-member governing group, including representation from the Community Board; and

**Whereas**, the MTA has already identified 24 improvements at six subway stations serving East Midtown, none of which are included in the current MTA capital plan, and these improvements provide benefits outside the East Midtown Subdistrict, and in fact promote as well as theoretically alleviate overcrowding; and

**Whereas**, these transit improvements rely upon public funding for maintenance, repair and replacement; and

**Whereas**, East Midtown was up-zoned in the 1961 Zoning Resolution in major part predicated on the Second Avenue Subway replacing the demolished Second and Third Avenue Els; and

**Whereas**, the MTA & NYC DOT developed a concept plan for public realm improvements ranging from public plazas to bus bulb-outs; and

**Whereas**, above-ground public realm improvements may never materialize without a clearly defined mechanism or minimum contribution rate to ensure that public realm improvements are created; and

**Whereas**, East Midtown Steering Committee recommendations, decades of DCP and CPC zoning policy direction, and accepted urban planning design principles all concur that midblocks that front narrow streets should have lower FAR and street walls, thus protecting the scale and character of the area, as well as light and air; and

**Whereas**, the proposed zoning text for “qualifying sites” in East Midtown allows greater amounts of FAR to be transferred from landmark buildings to sites in the lower density midblock districts than to the higher density wide street and avenue districts, and removes the incentive for lower street walls on narrow streets; and

**Whereas**, the DEIS for East Midtown does not specifically address the impacts of such higher FARs and street walls on midblock sites, and

**Whereas**, the proposed East Midtown Subdistrict is drawn to include the east side of Third Avenue north of 47<sup>th</sup> Street, and would allow commercial buildings of up to 26 FAR to directly abut on an FAR R8B district; and

**Whereas**, it appears that the Department of City Planning is rezoning specific areas based on buildings already identified for redevelopment and not giving due consideration to residents’ reasonable concerns about access to air and light and the quality-of-life problems concomitant with large construction projects; and

**Whereas**, the DEIS for East Midtown shows that 116 of 119 intersections studied will experience significant adverse impacts, demonstrating the unprecedented levels of traffic and congestion the rezoning will bring, even to areas outside the proposed East Midtown Subdistrict; and

**Whereas**, neighborhood residents’ concerns that including the east side of Third Avenue in the East Midtown Subdistrict will turn the Turtle Bay neighborhood into a commercial district have not been given the same consideration as commercial real estate interests; and

**Whereas**, currently existing public spaces and parks must be protected from shadows and adverse conditions that new buildings and structures may pose; and

**Whereas**, the East Midtown Steering Committee recommended the existing height and setback regulations for the Special Midtown District be retained in East Midtown to protect light and air from being blocked by the larger new buildings that the zoning would encourage, and

**Whereas**, the City’s proposed zoning text would substantially change the existing height and setback rules for “qualifying sites” in East Midtown by:

- Decreasing the passing score for Daylight Evaluation from 75 to 66,
- Not counting daylight blockage below 150 feet above street level, even on narrow streets in Daylight Evaluation,

- Eliminating the penalty for blockage on the street side of the profile line in Daylight Evaluation, and

**Whereas**, One Vanderbilt scored negative 62.10 under the existing Daylight Evaluation rules and would score positive 20.45 under the proposed changes – a large difference, and

**Whereas**, the Draft EIS for East Midtown neither discloses nor discusses the proposed changes to the scoring system for Daylight Evaluation, and

**Whereas**, diminishing light and air in streets and other public spaces, narrowing views along streets, and reducing the space between buildings, constraining their light, air, and views is inconsistent with the stated goal of maintaining East Midtown as a premier business address; and

**Whereas**, the DEIS does not adequately address sustainability concerns; and

**Whereas**, the existing Midtown Special District has provisions to preserve daylight reaching the street, benefiting the community's few open spaces available for the public's health and enjoyment, in spaces such as Greenacre Park and other parks that would be undermined by shadow, but those provisions are weakened by the proposed East Midtown Subdistrict;

**Therefore be it**

**Resolved**, because of the desperate need for public open space in East Midtown that is not cast in excessive shadow through most of the year, Manhattan Community Board Six, objects to the proposed Greater East Midtown Rezoning unless the following stipulations are addressed; and be it further

**Resolved**, that DCP provide design guidance making plazas, covered pedestrian spaces, and other POPS as-of-right by certification and require that the first additional FAR earned by any site be for on-site public open space, including on-site transit access improvements; and be it further

**Resolved**, that DCP should require the publication of pedestrian circulation maps which illustrate the specific and demonstrable public value of open space that would provide FAR benefits to the developer; and be it further

**Resolved**, that in planning transit improvements, a high priority should be given to both focusing on improvements that will benefit the Greater East Midtown Subdistrict while consideration of the multimodal use of both above and below ground transit and public space and relieving the existing overcrowding and connections with the #7 subway line and the future Second Avenue Subway; and be it further

**Resolved**, that Manhattan Community Board Six strongly recommends that the proposed zoning text for East Midtown be modified to protect the midblocks of narrow streets by limiting the floor area that may be added to the midblock districts, and maintaining the incentives of the current height and setback rules for lower street walls on narrow streets; and be it further

**Resolved**, that Manhattan Community Board Six maintains that the boundary of the East Midtown Subdistrict be moved to the center of Third Avenue from 43rd Street to 56th Street; and be it further

**Resolved**, the increase of the FAR on the Pfizer site from C5-2 (10 FAR) to C5-3 (15 FAR) should require the owner to contribute to public realm improvements just as any other owner of an overbuilt building would be required to do; and be it further

**Resolved**, that the maintenance, repair, and replacement (MR&R) of public transit improvements be associated with FAR such that the occupancy of the bonused space be contingent on a Certificate of Occupancy, enforced by a tax lien, or ensured by such other enforcement mechanism that requires the recipient of the FAR to pay for the MR&R of the associated transit improvement; and be it further

**Resolved**, that CB6 endorses high-performance building and sustainability goals as outlined in the East Midtown Steering Committee report; and be it further

**Resolved**, that Manhattan Community Board Six, because light and air are essential to the continued attractiveness of East Midtown, strongly recommends that the proposed zoning text for the East Midtown Subdistrict be modified to retain the existing height and setback regulations of the Special Midtown District; and be it further

**Resolved**, the words "objects to" and "unless" in the first resolved clause shall be interpreted as "approves" and "conditional upon" respectively if, on or before March 13th, 2017, the New York City Mayor's Office or the New York City Department of City Planning communicates the following to Manhattan Community Boards Five and Six in writing: The EIS will consider an alternative that requires redeveloped sites to include either outdoor plaza space or a covered pedestrian space.

**VOTE: 43 in Favor 0 Opposed 0 Abstention 0 Not Entitled**

Yours truly,



Jesús Pérez  
District Manager

CC: Manhattan Borough Board  
Hon. Dan Garodnick, New York City Council  
Hon. Ben Kallos, New York City Council  
Hon. Rosie Mendez, New York City Council  
Bob Tuttle, Department of City Planning  
Luis Sanchez, Department of Transportation  
Sandro Sherrod, Manhattan Community Board Six

**CORRECTED ON: APRIL 5, 2017**