



# *Resolution*

of the MANHATTAN BOROUGH BOARD

WHEREAS, the Department of City Planning (DCP) seeks a text amendment to the Zoning Resolution (N 170186 ZRM and C 170187 ZMM) and a zoning map amendment to establish the East Midtown Subdistrict ("Subdistrict") in Manhattan Community Boards 5 and 6, and ensure that the area continues as a world class central business district; and

WHEREAS, the proposed text amendment establishing the Subdistrict would cover an approximately 78 block area bounded generally by East 39<sup>th</sup> Street to the south, the east side of Third Avenue to the East, East 57<sup>th</sup> Street to the north and the west side of Madison Avenue to the west; and

WHEREAS, the proposed text amendment seeks to balance the need for additional commercial density to facilitate the development of new office space with the preservation of landmark buildings and the provision of much needed transit and other above-ground public realm improvements; and

WHEREAS, to accomplish this, the proposed text amendment would provide for increased floor area ratios (FARs) in the Subdistrict of between 18 and 27 which could be achieved as of right, but only through the provision of specific transit improvements set forth in the application; through the purchase of development rights from landmark buildings which would be able to sell those rights district-wide; or through the rebuilding of over-built buildings; and

WHEREAS, the maximum allowable FARs would be based on locational factors with the highest allowable densities achievable in the area immediately surrounding Grand Central Terminal, and proximity to other transit nodes and frontage on avenues and wide streets making higher densities achievable; and

WHEREAS, to ensure non-transit related public realm improvements, the proposed text amendment provides that (1) in the case of development right transfers from landmark buildings the greater of 20 percent of the sale price or a minimum established contribution per square foot (the "floor price"), be contributed to a Public Realm Improvement Fund; and (2) in the case of the rebuilding of an overbuilt building an amount equal to the number of square feet to be rebuilt that exceeds the maximum allowable square footage times the floor price per square foot be contributed to the Public Realm Improvement Fund; and

WHEREAS, the application also seeks a zoning map change to include the lots currently comprising Pfizer's corporate headquarters into the Subdistrict by rezoning the area bounded to the north by East 43<sup>rd</sup>

Street, to the west by a line 200 feet easterly of Third Avenue, to the South by East 42<sup>nd</sup> Street and to the east by Second Avenue from a C5-2 district (10 FAR) to a C5-3 district (15 FAR) and incorporating it into both the Special Midtown and new East Midtown Subdistricts; and

WHEREAS, the application is based, to a large extent, on the work done by the East Midtown Steering Committee, chaired by Borough President Brewer and Council Member Garodnick with representatives of Community Boards 5 and 6, property owners, landmark groups and unions, which met almost 20 times over the course of almost a year and heard from experts and had input from all the relevant agencies; and

WHEREAS, the steering committee recommended that in order to best balance the needs for additional commercial density with the preservation of the district's iconic landmarks and the need for improved public transit and above-ground public realm, any final proposal should provide for a largely as of right system in which: (1) additional commercial FAR is permitted based upon frontage on avenues or wide streets, proximity to transit hubs and adjacency to major landmarks; (2) that the additional FAR be "earned" through a combination of enumerated below-ground subway improvements and the purchase of landmark development rights; (3) that landmarks be able to transfer development rights district wide; (4) that overbuilt buildings be permitted to rebuild to their existing FAR; (5) that in return for district-wide transfer of development rights for landmarks and the ability of over-built buildings to rebuild, significant contributions be required into a Public Realm Improvement Fund to ensure the creation of above ground public realm improvements; and

WHEREAS, on March 8, 2017 Manhattan Community Board 6 (CB6) voted by a vote of 43 in the affirmative, none in the negative no abstentions to approve a resolution recommending denial of the application unless certain conditions were met including the following: (1) that DCP make plazas, covered pedestrian spaces and other privately owned public spaces as of right; (2) that transit improvements be prioritized to favor those that benefit the Greater East Midtown Subdistrict; (3) that the text be modified to limit additional height on the midblocks of narrow streets; (4) that the eastern boundary of the Subdistrict be moved to the center of Third Avenue from 43<sup>rd</sup> Street to 56<sup>th</sup> Street; (5) that the current height and setback regulations be maintained to preserve light and air; and (6) that the rezoning of the site of the Pfizer headquarters trigger a payment into the Public Realm Improvement Fund based upon the additional increase in density (from 10 FAR to 15 FAR); and

WHEREAS, on March 9, 2017 Manhattan Community Board 5 (CB5) voted by a vote of 32 in the affirmative, none in the negative and one abstention to approve a resolution recommending denial of the application unless certain conditions were met including the following: (1) there is a creation of new public space on every redeveloped site that takes advantage of the Greater East Midtown's transfer of development rights framework; (2) Actions by the Governing Group which will determine public realm improvements require at least one non-Mayoral appointee to ensure some level of consensus; (3) The percentage of the value of the transferred development rights to be deposited into the Public Realm Improvement Fund be increased to 30 percent and a minimum contribution price be maintained; (4) The City funds some of the Department of Transportation-identified public realm improvements prior to the adoption of the proposed zoning text; and (5) a prohibition on conversion of more than 12 FAR to residential use be included and a special permit be required for all other residential conversions; and

WHEREAS, both the CB5 and the CB6 Resolutions concluded that the conditional denials were to be interpreted as conditional approvals if, on or before March 13, 2017, the Administration communicates in writing that "The EIS will consider an alternative that requires redeveloped sites to include either outdoor

plaza space or a covered pedestrian space;” underscoring the importance to the communities of a more definitive commitment by the City to non-transit, above-ground public realm improvements; and

WHEREAS, the East Midtown Steering Committee recognized both the importance and difficulty of ensuring non-transit related public realm improvements and stated its commitment to making sure public realm projects were sufficiently identified and that the process for implementing these projects was set forth sufficiently in advance, so that this component of the plan would not be in doubt; and

WHEREAS, Borough President Brewer and Council Member Garodnick wrote the Deputy Mayor on February 24, 2017 requesting that a public realm project be piloted in the upcoming fiscal year and requesting that some type of as of right mechanism for public plazas or covered pedestrian spaces be studied in the Environmental Impact Statement; and

WHEREAS, The Department of City Planning has committed to study in the Environmental Impact Statement a requirement for the creation of privately owned public spaces subject to criteria decided by DCP, which criteria include that the lot size be a minimum of 40,000 square feet and which would result in the site earning one FAR for the creation of an outdoor public space and three FAR for the creation of an indoor public space; and

WHEREAS, the East Midtown Steering Committee struggled and failed to come to a consensus on the eastern boundary of the proposed Subdistrict and recommended that more outreach with the business community and Manhattan Community Board 6 occur before a decision was made whether to include the east side of Third Avenue between East 48th Street and midway between East 54th and East 55th Streets in the proposed Subdistrict; and

WHEREAS, the Borough Board recognizes that this eastern boundary is contentious and that of the 20 speakers at its public hearing, half spoke on the inclusion or exclusion of Third Avenue from the Subdistrict and believes that the Department of City Planning should take the remaining time to work with the community and review every option to limit any adverse impacts on the more residential neighborhoods to the east;

WHEREAS, there appears to be significant support from the community and stakeholders that in order to maintain the commercial character of East Midtown, that restrictions on residential conversions be implemented as part of the text amendment; and

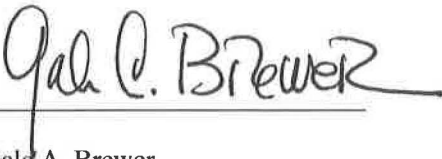
WHEREAS, the East Midtown Steering Committee agreed that a payment equal to at least 20 percent of the value of transferred development rights from landmark buildings should be paid into a Public Realm Improvement Fund and that in order to ensure that the public receive an amount sufficient to address the neighborhood’s public realm concerns there be a Floor Price paid into such fund; but we recognize that in addition to a mechanism that allows those involved in potential transactions to question and reassess the minimum contribution, additional information is also needed to ensure that the minimum contribution amount is determined in a manner that does not overstate the value of the development rights; and

WHEREAS, there is also substantial community concern over the adverse impacts that shadows from new buildings and structures may pose, especially on existing public open spaces such as Central Park and Greenacre Park; and

WHEREAS, the East Midtown Steering Committee aimed toward building standards that go beyond current code requirements to make this business district a truly 21<sup>st</sup> Century commercial district; now

THEREFORE, the Manhattan Borough Board recommends approval of ULURP numbers N 170186 ZRM and C 170187 ZMM only if the following conditions are met:

- (1) In addition to the commitment to study in the EIS criteria for a requirement for the creation of outdoor and indoor privately owned public spaces that DCP has agreed to undertake, the City commits to undertake above-grade public realm pilot projects and provide seed money for the Public Realm Improvement Fund in the upcoming budget so that other such projects can begin and to underscore the City's commitment to the above- grade public realm;
- (2) That changes be made to the limitations on uses of the Public Realm Improvement Fund to ensure that above-grade public realm improvements are further prioritized;
- (3) That Department of City Planning and the Department of Transportation work with the relevant Borough Board members to adequately define the "Concept Plan" for above-grade public realm in the zoning text and develop a draft concept plan in a reasonable time frame; and
- (4) That DCP work with the relevant Borough Board members on changes to the composition and/or functioning of the governing board in accordance with recommendations of the East Midtown Steering Committee Report to ensure sufficient community participation;
- (5) That DCP work with relevant Borough Board members over the next several weeks to review every option for limitations on the east side of Third Avenue – including changes to the eastern border -- with the goal of reducing adverse impacts to residential neighborhoods bordering the eastern side of the Subdistrict;
- (6) That serious consideration be given to amending the text to limit residential conversions, including proposals advanced by the Steering Committee and CB5 to prohibit conversion of space to residential in excess of 12 FAR as well as limiting residential conversions on the avenues;
- (7) That DCP work with the relevant Borough Board members to ensure that the language on environmental standards in the text is sufficient to support the achievement of the steering committee's goal of achieving an environmental standard of LEED Gold or its equivalent;
- (8) That the DCP work with the relevant community stakeholders to explore mechanisms that can prevent or limit incremental shadow impacts, especially on existing parks and open spaces;
- (9) That DCP work with the relevant community stakeholders to ensure the accuracy of a floor price and that the floor price does not become an obstacle to the contemplated transfer of development rights; and
- (10) That the Department of City Planning work with the affected Community Boards to address their other concerns laid out in their respective resolutions prior to the end of the ULURP period.



Gale A. Brewer

Manhattan Borough President  
Chair of the Manhattan Borough Board

March 16, 2017



DEPARTMENT OF CITY PLANNING  
CITY OF NEW YORK

MANHATTAN BOROUGH OFFICE

March 16, 2017

Hon. Gale A. Brewer  
Manhattan Borough President  
1 Centre Street 19th floor  
New York, NY 10007

Re: Applications N 170186 ZRM and C 170187 ZMM (Greater East Midtown)

Dear Borough President Brewer,

The plan to re-zone Greater East Midtown is currently at the Borough Board for public review. It creates capacity for new, modern office buildings linked to mechanisms for major transit improvements, public realm investments, and preservation of some of East Midtown's most iconic landmarks. I want to thank you and Councilmember Daniel Garodnick for your joint leadership of the East Midtown Steering Committee, which not only identified planning priorities for this critical area, but also forged a consensus-driven, solution-oriented vision for the future. This proposed 78-block East Midtown sub-district would enable the development of new Class-A commercial towers, solidifying East Midtown as a world-class business district that offers modern amenities and a range of office types. Buildings would be able to achieve higher density provided the developments support enhancements to the area's public realm by providing transit improvements and/or purchasing unused floor area from the district's landmarks. The proposed zoning would provide a predictable framework for the area property owners and the public.

The Department of City Planning understands that you and Council Member Garodnick feel strongly about the need for further study in the East Midtown Environmental Impact Statement (EIS) that will evaluate the impact of a Privately Owned Public Space (POPS) requirement, subject to certain site criteria. The Department has preliminarily determined that such a study is feasible and is committed to including such a study in the EIS.

The Administration looks forward to continuing to work with you on this important re-zoning as it advances through public review.

Sincerely,

Edith Hsu-Chen  
Director, Borough of Manhattan

CC: Councilmember Daniel R. Garodnick

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