

## CITY PLANNING COMMISSION



March 27, 2019/Supplemental Calendar No. 2

N 190180(A) ZRM

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**IN THE MATTER OF** an application submitted by JPMorgan Chase Bank, N.A., pursuant to Section 201 of the New York City Charter, for an amendment of Article VIII, Chapter 1 (Special Midtown District) of the Zoning Resolution of the City of New York, modifying retail continuity, street wall and plaza design requirements for publicly accessible spaces in the East Midtown Subdistrict.



An application (N 190180 ZRM) for an amendment to the Zoning Resolution was filed by JPMorgan Chase Bank, N.A. the “applicant”) on November 1, 2018. An application (N 190180(A) ZRM) was filed on February 25, 2019 to modify components of the zoning text amendment, in response to comments and recommendations heard during the public review process. The modified application (N 190180(A) ZRM) is the subject of this report.

This zoning text amendment (N 190180(A) ZRM) would modify the regulations of the East Midtown Subdistrict to facilitate an open publicly accessible space with modified retail continuity, street wall and plaza design requirements, at 270 Park Avenue (Block 1283, Lot 21) (the “development site”) in the East Midtown neighborhood of Manhattan Community District 5.

### **BACKGROUND**

In 2017, the Department of City Planning proposed the Greater East Midtown plan to address the long-term challenges facing East Midtown. The plan created the East Midtown Subdistrict, located in Manhattan community districts 5 and 6, within the Special Midtown District. The Subdistrict is roughly bounded by the East 57th Street to the north, the western side of Third Avenue to the east, East 39th Street to the south, and the eastern side of Madison Avenue to the west. The East Midtown Subdistrict’s regulations encourage the construction of modern office buildings to reinforce East Midtown’s position as a premier business district; support the preservation of landmarks in the area by allowing the sale and transfer of floor area to a wider range of properties; and provide for public realm improvements through the creation of a Public Realm Improvement Fund financed in connection with new commercial developments. The rezoning was approved by

the City Planning Commission on June 7, 2017 (N 170186A ZRM) and the City Council on August 9, 2017.

The East Midtown Subdistrict regulations permit the floor area of a “qualifying site”, as defined in Section 81-613 (Definitions), to be increased through three as-of-right mechanisms, including the transfer of unused floor area from one or more properties with a landmarked building to a qualifying site. On December 14, 2018, the applicant received approval of a Chairperson certification (N 190080 ZCM), pursuant to Section 81-642 (Transfer of development rights from landmarks to qualifying sites), to transfer 666,766 square feet of floor area from Grand Central Terminal to its development site. The applicant intends to develop the 80,333 square feet site with an approximately 70-story commercial building that would consist of approximately 1,871,764 square feet of floor area, including the 666,766 square feet of floor area transferred from Grand Central Terminal.

The development site is in an area characterized by tall, high-density commercial office buildings with strong street walls and retail, particularly along the major avenues. The largest buildings are located along the primary thoroughfares of Park Avenue, Lexington Avenue, Madison Avenue, and East 42nd Street. The primary land use is commercial, with office uses above ground floor retail uses, with several scattered institutional uses and residential uses on the surrounding blocks.

The development site and much of the surrounding area is mapped within a C5-3 district, which has a base maximum FAR of 15.0 for non-residential use and 10.0 FAR for residential use; C5-2.5 districts are mapped north and west of the Development Site, with a base maximum FAR of 12.0 FAR for non-residential use and 10.0 FAR for residential use. Within the East Midtown Subdistrict, the maximum commercial floor area may be increased by certification up to 25.0 FAR in the Park Avenue Subarea, 21.6 FAR in the Southern Subarea, and 27.0 FAR in the Grand Central Transit Improvement Zone Subarea, among others. In both C5-3 and C5-2.5 districts within the East Midtown Subdistrict, the maximum residential floor area may be increased up to 12.0 FAR by providing publicly accessible recreational space.

Open space is provided at Bryant Park and at several privately owned public spaces interspersed throughout the area, including a through block connection to a Metro North Railroad (MNR) entrance at 383 Madison Avenue, an arcade and plaza at 245 and 299 Park Avenue, a plaza at 280 Park Avenue, a covered pedestrian space at 575 Fifth Avenue, and pedestrian plaza at Pershing Square East. New open spaces are planned or under development at Pershing Square West and Vanderbilt Plaza.

The development site is a full block bounded by East 48th Street to the north, Park Avenue to the east, East 47th Street to the south, and Madison Avenue to the west, measuring approximately 200 feet by 400 feet, and half in the Southern Subarea and half in the Park Avenue Subarea of the East Midtown Subdistrict. The development site would include an open publicly accessible space (the “public space”) with an area of 10,000 square feet located along the Madison Avenue, East 47th Street and East 48th Street. The public space would be unenclosed and adjoin a required sidewalk widening along Madison Avenue. The proposed location on Madison Avenue would allow the public space to incorporate the existing access point to the Metro North Railroad (MNR) tracks and passageway to Grand Central Terminal located at the southwest corner of the development site. The proposed new building would have an entrance fronting on the public space and could include a building cantilever over a portion of the public space to allow for a more regular commercial floorplate size. To maximize the amount of sunlight that reaches the public space below the cantilevered portion of the building, the proposed cantilever is 40 feet above the grade of the public space at every point and slopes to a height of 60 feet above the public space. The proposed text amendment would modify various existing requirements of paragraph (b) of Section 81-681 to enable this plaza design.

### **Proposed Zoning Text Amendment**

Among the regulations for a qualifying site is the requirement that a new building provide on-site publicly accessible space, pursuant to the provisions of paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites). Qualifying sites with 65,000 square feet or more of lot area must provide an open publicly accessible space that, on a site having a through lot portion, must be located across such through lot portion. The regulations also include design requirements

for the publicly accessible spaces, including requirements related to seating, landscaping, and other amenities.

On a full block site such as the development site the existing paragraph (b)(1) of Section 81-681 requires an open space configured either as a 50-foot wide area running north-south across the through lot portion of the site, or as a 25-foot deep, 400-foot wide space running across the through lot portion along the southern lot line. The first configuration would require development of two separate buildings, with separate cores and building systems and would preclude construction of a single building on the development site. The second configuration would allow for construction of a single building, but would make use of the development site for a contemporary headquarters building less desirable for two key reasons: (i) the ‘carve out’ of space in the midblock would both reduce the size of the floorplates that could be provided at the base of the building, and result in an irregular floorplate configuration; and (ii) the floorplate of the tower that could be provided above the base would be reduced in size, requiring additional floors to be constructed in order to achieve the floor space required for a headquarters use.

The proposed zoning text amendment would enable an alternative to the location requirements under paragraph (b)(1)(iii) of Section 81-681, where a site has a lot area of 80,000 square feet or greater and includes an entrance to a rail mass-transit facility outside the through lot portion of the site, to permit the open publicly accessible space to be collocated with the rail mass-transit entrance provided that the open publicly accessible space would also adjoin a street or sidewalk widening. This would enable the configuration of the 10,000-square foot, open publicly accessible space along the Madison Avenue, East 47th Street, and East 48th Street frontages and allow for regularly configured building floorplates.

Where, as is the case with the development site, the majority of the subsurface area of a qualifying site is occupied by a railroad right-of-way that results in practical difficulties in the configuration of the open publicly accessible space and required subsurface building elements, such as loading berths and mechanical space, modifications to the design requirements for publicly accessible spaces set forth in paragraph (b)(2) of Section 81-681 are proposed with respect to such open

publicly accessible space provided in accordance with proposed paragraph (b)(1)(iii) of Section 81-681. Specifically:

- The provisions of Section 81-42 (Retail Continuity Along Designated Streets), 81-43 (Street Wall Continuity Along Designated Streets), and 81-671 (Special street wall requirements) would be waived to allow for the provision of an open publicly accessible space, rather than an enclosed space, on a street subject to retail and street wall continuity requirements
- Where street wall requirements are not applied, the provisions of paragraphs (a) and (b) of Section 37-726 (Permitted obstructions) would be modified to allow a portion of the building to be cantilevered above up to 60% of the open publicly accessible space, in order to facilitate the construction of large office floor plates while also providing a 10,000 square foot outdoor public space, provided that the height of the cantilever would be at least 40 feet, and an average of at least 50 feet, above the level of the open publicly accessible space;
- In lieu of the requirements of paragraphs (a) and (c) of Section 37-76 (Mandatory Allocation of Frontages for Permitted Uses), which would be waived in order to accommodate building service spaces, such as loading and mechanical transfers, on the terra firma portion of the Development Site adjacent to the open publicly accessible space, at least one food service kiosk would be required to be located within or abutting the open publicly accessible space in order to provide retail activation, and such kiosk would not be subject to a certification under paragraph (c) of Section 37-73;
- The provisions of paragraph (d) of Section 37-715 (Requirements for major portions of public plazas) would be waived in order to allow the open publicly accessible space to have a wide major portion that will also allow for accommodation of necessary building functions on the terra firma portion of the Development Site; and

- Where the provisions of paragraph (d) of Section 37-715 (Requirements for major portions of public plazas) are not applied, to permit a wider, narrower open publicly accessible space, the provisions of Section 37-721(a) (Sidewalk frontage) would be modified to permit up to 60 percent of the area within 15 feet of a street line to include permitted obstructions and the provisions of Section 37-741 (Seating) would be modified to exclude the length of a street line occupied by an entrance to a rail mass-transit facility from the calculation of seating required within 15 feet of such street line, to allow for a more flexible design for the open publicly accessible space.

In addition, to address difficulties in compliance with additional design requirements of Section 37-70 (PUBLIC PLAZAS) that may result from the location and configuration of the rail mass-transit facility entrance within the open publicly accessible space, which may include, for example, limitations on the height of certain permitted obstructions and pedestrian circulation path requirements, the proposed amendment would create a new Certification whereby the Chairperson of the City Planning Commission may permit modifications to the remaining design provisions of Section 37-70 for an open publicly accessible space provided in accordance with proposed paragraph (b)(1)(iii) of Section 81-681 upon certification to the Department of Buildings that such modifications address practical difficulties resulting from the presence of the entrance to a rail mass transit facility within the open publicly accessible space and are limited to adjustments only as necessary to accommodate the integration of the rail mass transit entrance in the publicly accessible space. The design of the open publicly accessible space would remain subject to certification by the Chairperson pursuant to Section 37-78 (Compliance) as modified by paragraph (b) of Section 81-681.

## **ENVIRONMENTAL REVIEW**

The original application (N 190180 ZRM) and this modified application (N 190180(A) ZRM) were reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 19DCP085M.

After a study of the potential environmental impact of the proposed action, a Negative Declaration for the original application was issued on November 13, 2018. A revised EAS was filed by the applicant related to the modified application and, subsequently, after a study of the potential environmental impact of the modified action, a revised Negative Declaration addressing the modified application was issued on March 25, 2019.

## **PUBLIC REVIEW**

The original application (N 190180 ZRM) was referred on November 16, 2018 for information and review to Community Board 5 and the Borough President of Manhattan in accordance with the procedures for referring non-ULURP matters. On February 25, 2019, the modified application (N 190180(A) ZRM) was referred for information and review to Community Board 5 and the Borough President of Manhattan in accordance with the procedures for referring non-ULURP matters.

### **Community Board Public Hearing**

Manhattan Community Board 5 held a public hearing on this application (N 190180 ZRM) on December 5, 2018. On December 13, 2018, by a vote of 31 in favor, none opposed, one abstention and one present not entitled to vote, the board adopted a resolution recommending disapproval of the application. In its resolution the community board requested that “the applicant considers making meaningful offers to either find 3,000 square feet of additional quality space or include a substantial public benefit to compensate for the loss of public space”.

### **Borough President Recommendation**

This application (N 190180 ZRM) was considered by the Manhattan Borough President, who issued a recommendation on January 9, 2019 to disapprove the application unless the following conditions were met:

“The space should be at least 10,000 square feet and at the same grade as the sidewalk.

- Of that 10,000 square feet, at least 30% should be open to the sky
- Pedestrian thoroughfare should not count toward the 10,000 square feet

- And the final design should be subject to approval by the Public Realm Improvement Fund Governing Group.

Any indoor space should provide public restrooms. The restrooms should be open the same hours as the public space.

The kiosk should have Madison Ave frontage to provide retail continuity.

A significant contribution is required to be made to transport infrastructure, given the transit impacts of the proposed building, examples identified by the Borough President include:

- New staircase and elevator entrances to a rail mass transit facility within the proposed building, the applicant's adjacent building at 383 Madison Ave or another location in East Midtown, or;
- Improvements to the pedestrian corridor that connects the proposed building to Grand Central Terminal, or;
- A contribution or in-kind repair of the Grand Central train shed beyond what is necessary for the construction of the proposed building, or;
- An MTA substation, to be constructed as part of the proposed building, to provide the power for additional train service in conjunction with MTA's installation of Communications-Based Train Control on the Lexington Avenue line, which will reduce commute times and overcrowding on the line."

### **City Planning Commission Public Hearing**

On February 27, 2019 (Calendar No.7), the City Planning Commission scheduled a public hearing for March 13, 2019 on this application (N 190180(A) ZRM), in conjunction with the hearing for the original application (N 190180 ZRM). The hearing was duly held on March 13, 2019 (Calendar No. 38). There were eight speakers in favor and two speakers in opposition to the application.

The applicant team, composed of five speakers, provided a summary of the proposed development and the design rationale that led to their request for a text amendment. The proposed public space



design, facilitated by the amended application (N 190180(A) ZRM), was described as a response to community feedback regarding the initial design described in the withdrawn application (N 190180 ZRM). The team described the constraints of the site that have been the catalyst for the proposed text amendment. These constraints involve a majority of the subgrade being occupied by the MNR train shed and pedestrian entrance, leaving only a minor portion of the site available for the servicing of the building. These impediments also restrict where structural transfers and elevator cores can be placed. To address the site's constraints and take advantage of an opportunity to collocate the public space with the MNR entrance, the applicant proposed to relocate the public space to the development site's Madison Avenue frontage.

The proposed relocation was described as having a positive urban design contribution to what would be a gateway location on Madison Avenue with the MNR pedestrian access and the future East Side Access concourse, which would also distribute large volumes of pedestrians to this area of Midtown. A public space in this location was described as a place to provide relief.

The applicant team further explained that the building has been shifted to the east to facilitate a more generous public space. The proposed public space was stated to be capable of providing significant improvement from the current narrow sidewalk condition immediately beside a bus lane on Madison Avenue, combining opportunities for planting, light and water within the space to create separation and a buffer to the space from Madison Avenue.

The Manhattan Borough President testified in favor of the proposed public space that would be facilitated by the amended application (N 190180(A) ZRM). The Borough President stated her concern that the application as referred (N 190180 ZRM) sought to waive the minimum size requirement of 10,000 square feet and proposed a 7,000-square foot public space instead. The Borough President expressed the need for more public space within East Midtown and was supportive of the modified zoning text amendment retaining the 10,000-square foot minimum size requirement. The Borough President stated that the proposed Chairperson certification, which would allow flexibility in how public space design regulations are applied due to practical difficulties associated with a rail mass-transit facility, should not apply to other sites, and should be narrow in the scope of design flexibility it would permit. The Borough President also

recommended that the modified zoning text amendment include a requirement for transit improvements, and that a requirement to provide restrooms be further discussed.

Seven speakers testified in favor of the amended application. Each highlighted positive attributes likely to eventuate as part of the proposed new building and public space. Representatives from the Grand Central Partnership and East Midtown Partnership, the two business improvement districts whose boundaries overlap with the majority of the East Midtown Subdistrict, described their support for the additional capacity for several thousand jobs on the development site and highlighted how the project's new public space would benefit the area's pedestrian experience. Representatives from a variety of industry trade associations and worker unions stated support for the creation of approximately 8,000 construction jobs.

Two speakers testified in opposition to the amended application (N 190180(A) ZRM). A representative from Community Board 5 expressed support for the minimum size of the public space being no less than 10,000 square feet, but raised concerns that the proposed Chairperson certification, which would allow public space design regulations to be waived due to practical difficulties associated with a rail mass-transit facility, could be used to reduce the size of the public space below 10,000 square feet and provide too much design flexibility. She also expressed concerns regarding transportation and shadow in the environmental analysis since the development site was not specifically analyzed in the environmental impact statement (17DCP001M) for the Greater East Midtown plan (N 170186A ZRM). Another speaker identified concerns over the use of privately owned public spaces (POPS) to provide public space, citing a historic lack of enforcement that allowed land owners to leave such spaces in poor states of maintenance.

## **CONSIDERATION**

The Commission believes that the proposed zoning text amendment (N 190180(A) ZRM), as modified herein, is appropriate.

The Commission notes that the referred application (N 190180 ZRM) was withdrawn by the applicant on March 20, 2019. The Commission commends the applicant for incorporating

feedback received during the public review process into its amended application (N 190180(A) ZRM) and believes that the proposal has improved through this process.

The Commission supports the design intent of the proposed zoning text amendment, and believes that it will help to facilitate a project that is aligned with the purpose of the Greater East Midtown plan, namely the creation of new contemporary office space and public space. The Commission understands the intent of the applicant to create a world-class financial headquarters building, the constraints on the development site due to the subgrade train shed, and the opportunity to collocate the MNR entrance with a public space. The Commission believes that the ability to relocate the public space to the development site's Madison Avenue frontage appropriately addresses these issues. The Commission agrees that siting the public space along Madison Avenue will be a positive addition to the built form of Madison Avenue. The Commission understands that the cantilever proposed to be above a portion of the public space will accommodate more regular sized floorplates while also facilitating an outdoor public space, which is consistent with the existing regulations and public comments. The Commission appreciates the attention to the design of the height and slope of the building cantilever as a way to ensure that light and air can permeate the public space. The Commission believes that the proposed zoning text amendment provides the necessary extent of relief from the existing regulations to achieve a desirable public space design outcome.

The Commission understands that the intent of the Chairperson certification, proposed in paragraph (b)(2)(i)(b) of Section 81-681, is to allow the public space design regulations to be waived when practical difficulties associated with a rail mass-transit facility necessitate design flexibility. The Commission notes that this certification does not allow a reduction in the size of the public space below the 10,000-square foot minimum. The Commission acknowledges concerns that the scope of the certification is too broad and thus proposes to modify the text amendment to provide additional clarity. The proposed modifications introduce the requirement that the application for the certification demonstrate the extent of the need for the requested modifications to the public space regulations. Additionally, the Chairperson will consult with the Metropolitan Transportation Authority regarding the pedestrian circulation needs around the transit entrance, to further establish the necessity for and the extent of relief that should be granted.

The Commission considered testimony that requested the text amendment include a requirement to provide transit improvements. The Commission notes that this site is not within one of the East Midtown Subdistrict's transit improvement zones and therefore there is no existing mechanism that requires improvement projects to transit infrastructure. The Commission further notes that the applicant received a Chairperson certification (N 190080 ZCM) for the transfer of development rights from Grand Central Terminal. That approval required a payment of over \$10 million toward the Terminal's preservation plan and a contribution to East Midtown's Public Realm Improvement Fund of over \$41 million, which the Public Realm Improvement Fund Governing Group can allocate to transit improvements if it deems appropriate. The Commission does not believe it would be appropriate to impose additional requirements on this development site, which is helping to achieve the goals of the Greater East Midtown plan through its development of contemporary office space, preservation of Grand Central Terminal, and contributions to the area's public realm both financially and physically.

The Commission considered testimony recommending that restrooms be provided within the public space. The Commission notes that the existing plaza regulations, which are the general rules that the public space at the development site would be subject to, do not have a requirement that restrooms be provided. The Commission does not believe it would be appropriate to require this single site to exceed those plaza design regulations. However, the Commission notes that the existing regulations would allow for the inclusion of restrooms in the public space's design.

The Commission considered testimony requesting that additional environmental analysis be undertaken regarding transportation and shadows on open spaces, since the development site was not identified as a projected or potential site in the environmental impact statement (EIS) (17DCP001M) for the Greater East Midtown plan (N 170186A ZRM). The Commission notes that an EIS is not meant to foresee the exact future of development but rather is a disclosure document that is intended to provide a reasonable analysis concerning possible impacts that could occur based on the given project. In the case of the Greater East Midtown plan, the EIS assessed transit impacts on a macro level, and the analysis anticipated the addition of 6.5 million square feet of office space in the area. This proposed zoning text amendment would not increase the amount of

floor area that could be built and this project's environmental assessment statement did not trigger any thresholds that required an EIS. The Commission further notes that the EIS for the Greater East Midtown plan provided a conservative shadow analysis for the cumulative effect of all projected and potential developments that the framework would enable. The development site is centrally located in the East Midtown Subdistrict and within the bounds of the area analyzed for possible shadow impacts on open space. That analysis did not identify any significant adverse shadow impacts on open space. The Commission does not believe that environmental analysis, beyond that already completed as part of this application, is required.

The Commission heard testimony in opposition to the creation of this POPS based on the poor state of maintenance in other POPS. The Commission agrees that the state of some POPS does not meet the City's standards, and notes that the Department of Buildings has a new enforcement program to address this issue.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution.

## **ARTICLE VIII**

### **SPECIAL PURPOSE DISTRICTS**

#### **Chapter 1**

#### **Special Midtown District**

\* \* \*

## 81-681

### Mandatory requirements for qualifying sites

\* \* \*

#### (b) Mandatory publicly accessible space requirements for qualifying sites

\* \* \*

##### (1) Type and minimum size

\* \* \*

- (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.

However, for a #qualifying site# with a #lot area# of 80,000 square feet or greater that includes an existing entrance to a rail mass-transit facility located outside the #through lot# portion of the #zoning lot#, such open publicly accessible space may be located so as to include the entrance to a rail mass-transit facility, provided that such open publicly accessible space adjoins a #street# or a required sidewalk widening, as applicable.

##### (2) Design requirements for publicly accessible spaces

###### (i) Open publicly accessible space

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. In addition, the following modifications or waivers may be applied under certain circumstances:

- (a) For #qualifying sites# where an open publicly accessible space is permitted to adjoin a #street# or a required sidewalk widening to accommodate an entrance to a rail mass-transit facility in accordance with paragraph (b)(1)(iii) of this Section, and the majority of the subsurface area of such #qualifying site# is occupied by a railroad right-of-way, thus imposing practical difficulty in configuring the #building# or required publicly accessible space:

- (1) the provisions of Sections 81-42 (Retail Continuity Along Designated Streets), 81-43 (Street Wall Continuity Along Designated Streets), and 81-671 (Special street wall requirements), paragraph (d) of Section 37-715 (Requirements for major portions of public plazas) need not apply;
  - (2) where #street wall# requirements are not applied, the provisions of paragraph (a) and (b) of Section 37-726 (Permitted obstructions) may be modified to allow a portion of an open publicly accessible space to be covered by a #building or other structure#, provided that there is an average separation of at least 50 feet between the level of such open publicly accessible space and any portion of #building# above, and further provided that any such portion shall be located no lower than 40 feet above the level of such open publicly accessible space. In addition, such #building or other structure# shall not obstruct more than 60 percent of the area of such open publicly accessible space;
  - (3) the provisions of paragraphs (a) and (c) of Section 37-76 (Mandatory Allocation of Frontages for Permitted Uses) need not apply, where at least one food service kiosk shall abut or be included within such open publicly accessible space. The size limitations of paragraph (a), and the certification requirements of paragraph (c) of Section 37-73 shall not apply to such kiosk.
  - (4) where the provisions of paragraph (d) of Section 37-715 are not applied, the provisions of paragraph (a) of Section 37-721 (Sidewalk frontage) may be modified to require no more than 40 percent of the area within 15 feet of any such #street line# to be free of obstructions and the provisions of Section 37-741 (Seating), may be modified to exclude the length of any such #street line# from the calculation of the amount of seating required within 15 feet of such #street line#.
- (b) For #qualifying sites# where an open publicly accessible space is permitted to adjoin a #street# or a required sidewalk widening to accommodate an entrance to a rail mass-transit facility in accordance with paragraph (b)(1)(iii) of this Section, the Chairperson of the City Planning Commission shall permit modifications to the remaining

design provisions of Section 37-70, inclusive, upon certification to the Department of Buildings that such modifications are limited to those that directly address practical difficulties resulting from the presence of the entrance to a rail mass-transit facility within the open publicly accessible space. Any application shall include materials demonstrating the extent of modifications necessary. The Chairperson, in consultation with the Metropolitan Transportation Authority, shall determine the appropriate amount of above-grade pedestrian circulation space into and around the entrance to such rail mass-transit facility.

\* \* \*

The above resolution (N 190180(A) ZRM), duly adopted by the City Planning Commission on March 27, 2019 (Supplemental Calendar No. 2), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKLES, ESQ.**, *Vice Chairman*

**ALLEN P. CAPPELLI, ESQ., MICHELLE DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD** *Commissioners*

**ALFRED C. CERULLO, III**, *Commissioner*, recused



## MANHATTAN COMMUNITY BOARD FIVE

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Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109  
New York, NY 10123-2199  
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

December 14, 2018

Hon. Marisa Lago  
Chair of the City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: Application # N 190180 ZRM, 270 Park Avenue, JPMorgan Chase Bank, seeking a text amendment to modify existing requirements and facilitate an enclosed 7,000 sq. ft. onsite public space along Madison Avenue and to modify retail continuity, design and programming regulations, as part of the future development of a 1.8 million sq. ft. Class A office tower on this site**

Dear Chair Lago:

At the regularly scheduled monthly Community Board Five meeting on Thursday, December 13, 2018, the following resolution passed with a vote of 31 in favor; 0 opposed; 1 abstaining; 1 present not entitled to vote:

WHEREAS, Community Board Five (“CB5”) adopted recommendations in March 2017 on the Greater East Midtown rezoning proposal, reflecting community priorities including governance structure, public space, the use of funds created by transferred development rights for public improvements, and limitations on floor area ratio (FAR), (together, “CB5 Precedent”); and,

WHEREAS, The Greater East Midtown rezoning proposal was adopted by the City Council on August 9, 2017 (the “Rezoning Plan”), after a comprehensive process consulting community stakeholders to inform rezoning, capital commitments, funding mechanisms and other policy decisions affecting East Midtown; and,

WHEREAS, The Applicant has previously requested a certification to allow a transfer of Air Rights from the landmarked Grand Central Terminal to 270 Park Avenue for development of a proposed office tower, designed by Foster and Partners, comprised of 1,871,763 net sq. ft. of Class A office space (and 2,400,000 gross sq. ft.) pursuant to the newly adopted Zoning Text; and

WHEREAS, The Applicant is submitting a revised plan for the site, including modified retail plans and an enclosed 7,000 sq. ft. privately owned public space (“POPS”), citing the Grand Central Terminal train shed sitting under approximately two-thirds of the site as a limiting factor that prevents the addition of a 10,000 sq. ft. POPS as required by the Greater East Midtown Zoning Text; and

WHEREAS, The Applicant is choosing to enlarge the sidewalks on East 47<sup>th</sup> Street and East 48<sup>th</sup> Street, in part accommodate the surge in pedestrian traffic caused by increased number of employees, as well as to render the building compliant to the sky plane exposure requirements while utilizing all the available FAR; and

WHEREAS, The proposed POPS designed by architect Vishaan Chakrabarti would have a green wall and water features, would have seating that can be used as work space, with seating and tables of different heights, a kiosk that would sell coffee, cold and hot beverages, but would have no public bathroom; and

WHEREAS, The proposed zoning text amendment would allow JPMC to close the POPS to the public to hold private functions six times per year; and

WHEREAS, The JPMC headquarters currently accommodate 6,500 employees and the proposed tower will accommodate 12,500 employees; and

WHEREAS, The increased density at the site will increase the total number of workers, employees, and pedestrian traffic in the area, even factoring in the consolidation of other JPMorgan Chase offices in the neighborhood, which are likely to be replaced with equivalent workers in addition to the new added density, with no proposed new transit capacity or transit entrances; and,

WHEREAS, CB5 is sympathetic to the technical and engineering limiting factors on the site, but is disappointed and chagrined that the Applicant has proposed no substitution in form of a public benefit or significant replacement for the loss of 3,000 sq. ft. of public space envisioned by the letter and spirit of the Greater East Midtown Zoning Text; and,

WHEREAS, The site is the first to be considered under the Rezoned Plan and thus sets an important precedent for all forthcoming applications to be considered under the letter and spirit of the Rezoning Plan, which defines an expected public benefit from development taking advantage of the Rezoning Plan; and,

WHEREAS, The proposed text amendment is specific to the site, and designed to be inapplicable to other sites with similar conditions, though it has not been proposed as a variance, and thus will have a likely effect on future text amendment proposals and should be considered in that context; and,

WHEREAS, Community Board Five has asked for substitute POPS designs and locations but the applicant has refused to consider alternative options such as a POPS on Park Avenue, a thru block north-south covered POPS mid-block, or an additional POPS area connected to the proposed POPS via escalator on a higher level deeming them not feasible while not elaborating on the rationale; and

WHEREAS, The applicant is not considering any measures to compensate for the loss of POPS; and

WHEREAS, The sidewalk enlargements considered by the Applicant are not commensurate with the loss of 3,000 square feet of POPS, especially given that the number of employees occupying the tower will double; and

WHEREAS, CB5 is concerned about additional planned operating characteristics of the POPS, including the limited operating hours of 7 AM–10 PM as proposed, the sustainability and

feasibility of the proposed “green wall,” the lack of public bathrooms, and the proposal to close the POPS to the public for private events; therefore be it

**RESOLVED**, Community Board Five **recommends denial** of the application proposing a zoning text amendment modifying existing requirements specific to 270 Park Avenue and reducing the required onsite public space to 7,000 sq. ft; and be it further

**RESOLVED**, Community Board Five requests the applicant considers making meaningful offers to either find 3,000 square feet of additional quality space or include a substantial public benefit to compensate for the loss of public space.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero  
Chair  
Committee



Layla Law-Gisiko  
Acting Chair, Land Use, Housing and Zoning

# Borough President Recommendation

City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
Fax # (212) 720-3488

## INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Applications: N 190180 ZRM

### Docket Description:

**IN THE MATTER OF** an application submitted by JPMorgan Chase Bank, N.A., pursuant to Section 201 of the New York City Charter, for an amendment of Article VIII, Chapter 1 (Special Midtown District) of the Zoning Resolution of the City of New York, modifying retail continuity, design and programming regulations for publicly accessible spaces in the East Midtown Subdistrict.

COMMUNITY BOARD NO:

5

BOROUGH: Manhattan

## RECOMMENDATION

- ☐ APPROVE
- ☐ APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- ☐ DISAPPROVE
- ☒ DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached

  
BOROUGH PRESIDENT

Jan 9 2019  
DATE



OFFICE OF THE PRESIDENT  
BOROUGH OF MANHATTAN  
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007  
(212) 669-8300 p (212) 669-4306 f  
431 West 125th Street, New York, NY 10027  
(212) 531-1609 p (212) 531-4615 f  
[www.manhattanbp.nyc.gov](http://www.manhattanbp.nyc.gov)

Gale A. Brewer, Borough President

January 9, 2019

**Recommendation on Non-ULURP Application No. N 190180 ZRM  
270 Park Avenue Zoning Text Amendment  
By JPMorgan Chase Bank, N.A.**

**PROPOSED ACTIONS**

JPMorgan Chase Bank, N.A. (the “Applicant”) is seeking an amendment to the Zoning Resolution (ZR) to change the requirements for publicly accessible spaces pursuant to ZR §81-681. The proposed zoning text would apply to a proposed development (the “Proposed Building”) at 270 Park Avenue, which is currently the site of the Applicant’s headquarters.

In evaluating the proposed zoning text amendment, this office must consider if the proposed language meets the underlying purpose of the Zoning Resolution to promote the general health, safety and welfare of the city and whether the proposed development or developments it would facilitate would be appropriate to the neighborhood.

The proposed amendment is to a section of zoning text that was approved by the City Council in August 2017 as part of the East Midtown rezoning. The Department of City Planning’s goals for East Midtown were stated as follows:

- Incentivizing the development of modern, sustainable, Class-A office space;
- Reducing challenges for the redevelopment of outdated, overbuilt buildings;
- Helping to preserve landmarked buildings and maintain the area’s iconic built environment;
- Upgrading the area’s transit network and pedestrian realm, befitting its status as a world-class business address; and
- Enhancing key characteristics, such as access to light and air, active retail corridors, and the iconic street wall character in the area surrounding Grand Central Terminal.

As such, the proposed amendment should also be evaluated against those goals.

**BACKGROUND**

Special Midtown District (1982)

The Special Midtown District was created in 1982 “to encourage the growth of Midtown to the west and south, and to ease development pressures on its congested, highly-developed East Side core.”<sup>1</sup>

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<sup>1</sup> City Planning Commission. N 820253 ZRM. March 16, 1982.

The District generally extends from East/West 31<sup>st</sup> Street to East/West 60<sup>th</sup> Street between Third and Eighth Avenues. It includes a Preservation Area located in the midblock from West 53<sup>rd</sup> Street to West 57<sup>th</sup> Street between Fifth Avenue and Avenue of the Americas.

#### Grand Central Subdistrict (1992)

In 1992, the Grand Central Subdistrict was mapped within the Special Midtown District. As part of that action, Grand Central Terminal was for the first time able to transfer its development rights to non-adjacent lots within the Special Midtown District.

This action has enabled Grand Central Terminal to be the Granting Site for the Proposed Building that is the subject of this recommendation.

#### Vanderbilt Corridor (2015)<sup>2</sup>

In 2015, the Vanderbilt Corridor was rezoned, enabling greater density for developments located between Madison and Vanderbilt Avenues from East 42<sup>nd</sup> to East 47<sup>th</sup> Streets. In exchange for building at higher densities, developers are required to provide transit and public realm improvements.

#### East Midtown Rezoning (2017)<sup>3</sup>

The City Council approved the Greater East Midtown rezoning on August 9, 2017. The rezoning, which was aimed at providing opportunities to upgrade some of the decades-old office spaces in the area, received much community input, particularly on issues such as creation of open space and preservation of landmarks within the District.

The East Midtown Subdistrict includes the following elements:

- Transfer of unused development rights from landmarks to development sites across the district;
- A Public Realm Improvement Fund contribution requirement for developments receiving development rights from landmarks;
- Increase in FAR for qualifying sites in exchange for subway station improvements; and
- Increase in FAR for qualifying sites in exchange for creating a publicly accessible public concourse.

The Proposed Building is the first development to be proposed following the East Midtown rezoning.

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<sup>2</sup> N 150127 ZRM. Enacted by the City Council on May 27, 2015.

<sup>3</sup> N 170186 ZRM. Enacted by the City Council on August 9, 2017.

## PROPOSED BUILDING

The Applicant proposes to demolish an existing 52-story office building located at 270 Park Avenue, between East 47<sup>th</sup> and East 48<sup>th</sup> Streets, Madison Avenue, and Park Avenue, to construct a new office building that will be approximately 70 stories and 1,400 feet in height. The site is located within a C5-3 district, with half the site within the Park Avenue Subarea and the other half in the Southern Subarea.

The Proposed Building will encompass approximately 1,871,764 square feet of zoning floor area.<sup>4</sup> The proposed average FAR for the entire site is 23.3.

### Development Rights Transfer

In order to achieve the proposed FAR, the Applicant purchased development rights from Grand Central Terminal, a landmark-designated transit facility located four blocks south of the Proposed Building site. Below is an outline of the development rights transfer.

#### **270 Park Avenue Development Rights Transfer**

Lot Size	80,333
Total FA with no Actions (15 FAR)	1,204,998
<i>Floor area transferred from Grand Central Terminal to Park Avenue Subarea - 40,166.6 SF (10 FAR)</i>	401,666
<i>Floor area transferred from Grand Central Terminal to Southern Subarea - 40,166.6 SF (6.6 FAR)</i>	265,100
Total Floor Area Transferred	666,766

**Total Floor Area Available at 270 Park Avenue      1,871,764**

The development rights were transferred on December 4, 2018 and resulted in a contribution of \$41,672,875 to the Public Realm Improvement Fund and a \$10,400,000 contribution for Grand Central Terminal, which will allocate the funds pursuant to the Continuing Maintenance Program (CMP) which was approved by the Landmarks Preservation Commission in 1997. The CMP outlines a schedule of repairs to the historical elements of the terminal.

The Manhattan Borough President submitted a recommendation in support of the development rights transfer under Application N 190080 ZCM on November 8, 2018.

### Publicly Accessible Space Requirements

The East Midtown rezoning created publicly accessible space requirements based on lot sizes. The categories established in ZR §81-681 are as follows:

- Lots measuring at least 30,000 SF but less than 45,000 SF
- Lots measuring at least 45,000 SF but less than 65,000 SF
- Lots measuring 65,000 SF or more

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<sup>4</sup> The gross floor area for the building will be approximately 2,400,000 square feet. However, certain uses, such as mechanical uses, are not counted as floor area.

With a lot measuring 80,333 square feet, the Proposed Building is required to provide a publicly accessible space that is:

- 10,000 square feet or greater;
- Open to the sky; and
- Accessible across the through-lot portion of the site.

At least 50 percent of the building adjacent to the publicly accessible space must be retail, personal services, or amusement uses as outlined in ZR §81-681(2) (x).

#### Other Requirements

ZR §81-42 requires that the Proposed Building include ground floor retail along the Madison Avenue portion of the site.

ZR §81-633 requires that the sidewalk along Madison Avenue be widened from the existing 15 feet to a minimum width of 20 feet.

#### **Site Description**

The development site at 270 Park Avenue encompasses the entire block bound by East 47<sup>th</sup> and East 48<sup>th</sup> Streets, Madison Avenue, and Park Avenue. The building currently located on the site was designed by Natalie de Blois of the renowned architecture firm Skidmore, Owings & Merrill. De Blois is considered a pioneering female architect, having designed other notable buildings such as Lever House and the Pepsi-Cola Building. The building was originally constructed as the headquarters for the Union Carbide Corporation, with construction completed in 1964.<sup>5</sup>

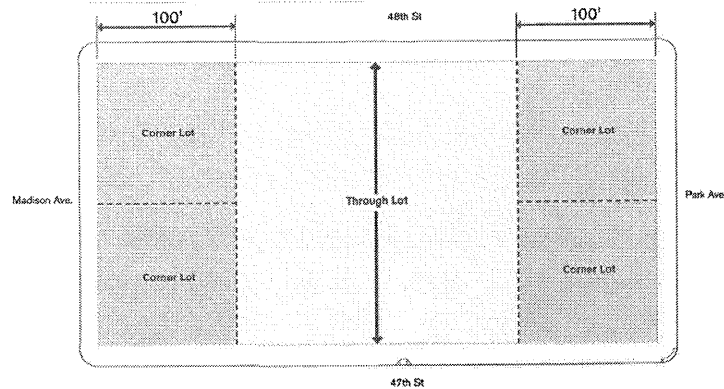
Approximately 75 percent of the site sits above the Grand Central Terminal train shed. Further below that train shed will be two levels of the East Side Access tunnel. The existing building on the development site required extensive engineering to ensure that adequate structural support could be provided for the building without compromising the below ground rail right-of-way. The Proposed Building, which will be much larger, will require a much more extensive structural support than the extant building. Additionally, utilities for the Proposed Building will have to enter through the Madison Avenue side of the site. Due to these constraints, the first floor of the portion of the building that is not on *terra firma* will be approximately 12 feet above ground level.

Although the site comprises an entire block, the through lot portion of the site, as demonstrated below, excludes the four corners extending 100 feet from the avenues. The lighter area in the diagram below is the portion of the site where the publicly accessible space is required to be located under ZR §81-681.

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<sup>5</sup> Hilary Sample, "Natalie de Blois: A Legacy Of Change In Practice And Education," *Architizer*, accessed January 2, 2019, <https://architizer.com/blog/practice/details/natalie-de-blois/>





Source: Foster + Partners for JPMorgan

## Area Context

East Midtown is occupied by large scale office buildings, many of which include privately owned publicly accessible spaces that are either enclosed or open to the sky. The area plays an integral role in the economy of the New York metropolitan region. According to DCP, the area between Second and Fifth Avenues and East 39<sup>th</sup> and East 57<sup>th</sup> Streets contains more than 60 million square feet of office space, more than a quarter million jobs, and numerous Fortune 500 companies. In addition to its importance as a business center, East Midtown is also world-renowned for its iconic architecture, significant civic spaces, and extensive transportation system—all of which are exemplified by Grand Central Terminal at the heart of the Subdistrict.

The Park Avenue portion of East Midtown is notably lined with office building entrances, with some ground-level storefront banks. Lexington Avenue, Madison Avenue and East 42<sup>nd</sup> Street are the main commercial corridors in the area, containing a variety of establishments to service the area's workers.

Major infrastructure projects, such as the East Side Access tunnel and the Second Avenue Subway, will permit new options for commuters to access the region while hopefully alleviating congestion on the Lexington Avenue line. The replacement of the Grand Central Terminal train shed, meanwhile, will secure the future of the transportation network for the area and region. The train shed is the rail yard north of Grand Central Terminal. The structure is completely underground and extends from East 45<sup>th</sup> Street to East 57<sup>th</sup> Street.

## PROPOSED ZONING TEXT AMENDMENT

The proposed zoning text amendment would create a new category for buildings over 80,000 square feet, allowing these sites to reduce the required minimum size of their publicly accessible space from 10,000 square feet to 7,000 square feet and also allowing it to be enclosed. To qualify for this provision, the proposed building and site must meet the following criteria:

- The building must include an existing entrance to a rail mass-transit facility;
- The publicly accessible space cannot be located on the portion of the site that is occupied by railroad or transit right-of-way below grade; and

- The publicly accessible space will have to either incorporate the rail mass transit entrance or, if the MTA determines that the entrance should not be included in the enclosed publicly accessible space, the space may be a minimum of 6,500 square feet while also including an “adjoining unenclosed publicly accessible space” that is a minimum of 500 square feet and providing direct pedestrian access to the mass transit entrance.<sup>6</sup>

The Applicant has stated that the proposed text amendment is “necessary to facilitate the location of mechanical, loading, and other systems critical to the functioning of the Proposed Building on the *terra firma* portion of the development site.”

Additionally, the Applicant has stated a desire to create a “quality public space” and as such is proposing to eliminate the ground floor retail requirement for the portion of the site that is along Madison Avenue. The proposal is to build the publicly accessible space along Madison Avenue and make the following elements applicable to the space<sup>7</sup>:

- Eliminate the requirement that at least 50 percent of the frontage adjacent to the publicly accessible space be limited to retail, personal service, or amusement uses, excluding banks or use groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B<sup>8</sup>
  - Alternatively, the application would allow buildings on lots measuring 80,000 SF or more to replace this 50% use requirement with vertical plantings and/or display of art work *or* “architectural elements or other design features of visual interest” and at least one kiosk
- Allow the publicly accessible space to be closed for private events for six non-consecutive days a year. At a meeting with Manhattan Community Board 5, the Applicant stated that it was not their intention to use this provision to host their own private events. Rather, they envision it being used by nonprofits.
- Allow the space to be used to “host public events pursuant to a restrictive declaration”

Lastly, the Applicant is seeking to apply portions of the section of the ZR governing public plazas to enclosed publicly accessible spaces, including ZR §37-73, which allows cafes or kiosks to be permitted obstructions. The Applicant is also proposing to make ZR §37-741 applicable to the proposed publicly accessible space and modify it to allow up to 25 percent of the moveable seating required under that section to be stools measuring up to 32 inches in height. The Applicant has stated that these modifications would be to enable use of the proposed publicly accessible space as an “urban workspace” that will include Wi-Fi access.

## COMMUNITY BOARD RESOLUTION

At the December 5, 2018 meeting of the Manhattan Community Board 5 Land Use, Housing & Zoning Committee, the Applicant team presented their proposed zoning text amendment.

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<sup>6</sup> On December 14, 2018, the Applicant met with the Borough President and stated that the proposed publicly accessible space would not include a rail mass transit entrance but would nonetheless measure 7,000 square feet. The Applicant represented that the application would be modified to exclude this provision.

<sup>7</sup> These proposed elements would be applicable to all sites in East Midtown with lots measuring at least 80,000 square feet.

<sup>8</sup> Uses in these groups include offices, clubs, wholesale establishments, auto service establishments, and public service establishments (prisons).

Committee members raised concerns about the amendment, noting that as the first post-East Midtown rezoning development, it would set an important precedent that would have wider implications throughout the subdistrict.

In its December 2018 resolution, the Board disapproved the application, noting that the Applicant was not proposing “a public benefit or significant replacement for the loss of 3,000 sq. ft. of public space.” The Board expressed disappointment with Applicant’s reticence to evaluate other alternatives for the publicly accessible space, such as along Park Avenue, enclosed in the through-lot portion of the site, or in a “duplex” arrangement.

The Board has also requested that a public restroom be provided alongside the publicly accessible space, particularly in light of the Applicant’s expressed desire to create an “urban workspace.”

### **BOROUGH PRESIDENT’S COMMENTS**

At the Borough Board hearing for the East Midtown rezoning, the public realm was the most commonly raised issue in testimonies from 35 various individuals and organizations. In particular, speakers emphasized the need for public open space in East Midtown. It was after this hearing that the Department of City Planning committed to assessing an open space requirement for lots measuring 40,000 square feet or more. That commitment was embodied in the subsequently adopted ZR §81-681. I believe in the importance of publicly accessible spaces to mitigate the density of office uses in East Midtown. This application must therefore be carefully reviewed to ensure that the hard work of the Department of City Planning, the East Midtown Steering Committee, Community Board 5, and other stakeholders is not undone.

When measured against the goals of the East Midtown rezoning, the application is inadequate. While the Proposed Building will create new, modern office space, enhance the city’s economy, and contribute to the preservation of Grand Central Terminal, an important landmark in the area, its accompanying zoning text amendment application does not do enough to enhance access to open space in the district. The application also fails to meet one of the major points of the rezoning: preserving active retail corridors such as the one along Madison Avenue.

There is no doubt that the conditions on the site present challenges—not just for the creation of a publicly accessible space, but for the overall building design. However, it is also true that the applicant could provide a publicly accessible space along the Park Avenue portion of the site that meets the size requirements. The Applicant has repeatedly argued that the reason for proposing a smaller publicly accessible space along Madison Avenue is because it is seeking to provide a quality open space. Such a space, they argue, could not be provided alongside their main employee entrance on Park Avenue. The determination to locate the space on Madison Avenue was made without engaging in a process with the community and stakeholders who worked on the East Midtown rezoning. Instead, the Applicant is asking for an alternative set of provisions that are unnecessary.

While I understand the significant constraints of the site, the Applicant has nonetheless shown a failure to contemplate other options, such as the ones noted in the Community Board 5 resolution. Such options would not have precluded a publicly accessible space that met, at a

minimum, the size requirement. I strongly prefer a publicly accessible space that is open to the sky and measures a minimum of 10,000 square feet.

I have full confidence that the consultants retained by the Applicant can fit 10,000 square feet of publicly accessible space on the site. There is plenty of room on Park Avenue for publicly accessible space located at grade, and I feel strongly that at least a portion of this space should be located along Park Avenue. Furthermore, should the publicly accessible space include an employee entrance and/or be enclosed, I exhort the applicant to look above and beyond the POPS Guidelines to ensure that the space is welcoming to the public. The IBM building at 590 Madison Avenue, for instance, is an example of a publicly accessible space that is enclosed and incorporates employee entrances while also being well used by the public.

If the site constraints prove so challenging that the Applicant is not able to provide retail along Madison Avenue, a publicly accessible space that is open to the sky, or any other element that is vital to the balance between density, transit, and public realm improvements struck in the zoning text of the East Midtown Subdistrict, they should amend the proposed zoning text to require the provision of another significant public benefit that would further these goals. The creation of a new entrance to a rail mass-transit facility, for example, could be an appropriate public benefit, as it would mitigate the impacts that the Proposed Building will have on the transit system as well as the pedestrian experience. Should this option prove infeasible, I am confident that the Applicant can work with the community and the appropriate transit agency to determine the proper mitigation.

I am sympathetic to the Applicant and I fully understand the challenging site constraints. I also welcome the economic impacts of this development. In addition to retaining a Fortune 500 company in East Midtown, the City is capturing the property taxes that will be generated by the site. The building currently on site pays approximately ***\$24.8 million in annual property taxes.*** With a significantly larger square footage, we would expect the new building to contribute significantly more. In light of those benefits, I supported the development rights transfer to facilitate this project. However, this application is unacceptable in its current form and must be amended to preserve the goals of the East Midtown rezoning.

## **BOROUGH PRESIDENT'S RECOMMENDATION**

I therefore recommend **disapproval of the application unless** the Applicant amends the proposed zoning text (i.e. submits an “a-text”) so that it does the following:

- Requires a minimum of 10,000 square feet of publicly accessible space on the site at the same grade as the sidewalk.
  - At least 30% of the space should be open to the sky.
  - Any space used for a pedestrian thoroughfare (e.g. the space between the proposed building entrances and the Park Avenue sidewalk) should not count toward the 10,000 square feet requirement.
  - The final design for the publicly accessible space should be subject to approval by the Public Realm Improvement Fund Governing Group.
- Requires that any indoor public space include restrooms open to the public. The restrooms should be open during the same hours as the public space.

- Requires that the café kiosk in the proposed publicly accessible space on Madison Avenue have frontage on Madison Avenue to provide retail continuity.
- Requires a significant contribution to transit infrastructure given the transit impacts of the Proposed Building. Below are examples that the Applicant should explore with the community and appropriate transit agencies:
  - New staircase and elevator entrances to a rail mass-transit facility within the Proposed Building, the Applicant's adjacent building at 383 Madison Avenue, or another location within East Midtown;
  - Improvements to the pedestrian corridor leading from the Proposed Building to Grand Central Terminal;<sup>9</sup>
  - A contribution or in-kind repair of the Grand Central train shed beyond what is necessary for the construction of the Proposed Building; and/or
  - An MTA substation, to be constructed as part of the Proposed Building, to provide the power for additional train service in conjunction with MTA-NYCT's installation of Communications-Based Train Control on the Lexington Avenue line, which will reduce commute times and overcrowding on the line.



Gale A. Brewer

Manhattan Borough President

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<sup>9</sup> The Applicant should consult recommendations made by the Public Realm Improvement Fund Governing Group