Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

81-60 - SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT

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81-60 - SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT

LAST AMENDED
8/9/2017

81-61 - General Provisions

LAST AMENDED
8/9/2017

Special regulations are set forth in this Section to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers; creating successful pedestrian-friendly public spaces; enabling improvements to the above- and below-grade pedestrian circulation network; protecting and strengthening the role of landmark buildings as important features of East Midtown; protecting and enhancing the role of Grand Central Terminal as a major transportation hub within East Midtown and the city; expanding and enhancing the pedestrian circulation network connecting Grand Central Terminal to surrounding development and minimizing pedestrian congestion; and protecting the iconic character of the surrounding area. Such regulations establish special provisions governing maximum floor area, sustainability, urban design and streetscape enhancements, the transfer of development rights from landmarks, and the improvement of the surface and subsurface pedestrian circulation network in the East Midtown Subdistrict.

The regulations of Section 81-60 (SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT), inclusive, are applicable only in the East Midtown Subdistrict, the boundaries of which are shown on Map 1 (Special Midtown District and Subdistricts) and Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter. These regulations supplement or modify the

provisions of this Chapter applying generally to the #Special Midtown District#, of which this Subdistrict is a part.

Where the #lot line# of a #zoning lot# coincides with the boundary of the public place located at the southerly prolongation of Vanderbilt Avenue between East 42nd Street and East 43rd Street, such #lot line# shall be considered to be a #street line# for the purposes of applying the #use#, #bulk# and urban design regulations of this Chapter.

81-611 - Applicability of regulations

LAST AMENDED
8/9/2017

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

(a) Section 81-61, inclusive, sets forth general provisions, applicability and definitions for the East Midtown Subdistrict;

(b) Section 81-62, inclusive, sets forth special use provisions;

(c) Section 81-63, inclusive, sets forth special #floor area# provisions for the Vanderbilt Corridor Subarea;

(d) Section 81-64, inclusive, sets forth special #floor area# provisions for #qualifying sites#;

(e) Section 81-65, inclusive, sets forth special #floor area# provisions for all other #zoning lots#;

(f) Section 81-66, inclusive, sets forth certain height and setback modifications to the provisions of Sections 81-26 and 81-27;

(g) Section 81-67, inclusive, sets forth certain modifications to the mandatory district plan elements of Section 81-40, inclusive; and

(h) Section 81-68, inclusive, sets forth additional provisions pertaining to #qualifying sites#.

81-612 - Applicability along district boundaries

LAST AMENDED
8/9/2017

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

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

(b) In addition to the requirements set forth in Sections 81-25 (General Provisions Relating to Height and Setback of Buildings) and 81-40 (MANDATORY DISTRICT PLAN ELEMENTS), the provisions of Section 81-60, inclusive, shall apply to a #zoning lot# having 50 percent or more of its #lot area# within the East Midtown Subdistrict. For the purposes of Section 81-60, inclusive, all such #zoning lots# shall be deemed to be entirely within the Subdistrict. If any of the provisions of Sections 81-25, 81-40 and 81-60, inclusive, are in conflict, the regulations of Section 81-60, inclusive, shall govern. However, for #zoning lots# located partly within the East Midtown Subdistrict and partly within the Fifth Avenue Subdistrict, the provisions of Article VII, Chapter 7 shall apply.

(c) For #zoning lots# divided by subarea boundaries, the provisions of Article VII, Chapter 7 shall apply.

(d) For #zoning lots# with #landmark buildings or other structures# where more than 50 percent of the #lot area# is located within the #Special Midtown District#, and which #abut# the East Midtown Subdistrict boundary, such #zoning lot# may be considered as part of the Subdistrict for the purposes of transferring development rights pursuant to the applicable provisions of Sections 81-642 (Transfer of development rights from landmarks to qualifying sites) or 81-653 (Special permit for transfer of development rights from landmarks to non-qualifying sites). However, the maximum amount of #floor area# that may be transferred from a #granting lot#, or portion thereof, located outside the Special Midtown District shall be the maximum #floor area ratio# permitted under the applicable underlying zoning district.

81-613 - Definitions

LAST AMENDED

Non-qualifying site

For the purposes of Section 81-60, inclusive, a "non-qualifying site" shall refer to a #zoning lot# that does not meet the criteria for a #qualifying site# and is located in a subarea other than the Vanderbilt Corridor Subarea.

Public Realm Improvement Fund

For the purposes of Section 81-60, inclusive, the "Public Realm Improvement Fund" (the "Fund") shall be a separate interest-bearing account established for the deposit of contributions made when #developments# or, where permitted, #enlargements# on #qualifying sites# in the East Midtown Subdistrict will exceed the basic maximum #floor area ratio# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) through their utilization of the provisions of Sections 81-642 (Transfer of development rights from landmarks to qualifying sites), 81-643 (Special provisions for retaining non-complying floor area in commercial buildings) or 81-685 (Special permit to modify qualifying site provisions). The Fund shall be utilized, at the discretion of the #Public Realm Improvement Fund Governing Group#, to provide funding to implement improvements to the East Midtown Subdistrict, and its immediate vicinity, in the Borough of Manhattan. Upon receipt of any contribution, the #Public Realm Improvement Fund Governing Group# or the Department of City Planning shall notify the Comptroller of the City of New York and the Speaker of the New York City Council and promptly deposit it into the Fund.

Public Realm Improvement Fund Development Rights Valuation

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

development rights in the East Midtown Subdistrict, which shall provide a basis for establishing a minimum contribution to the #Public Realm Improvement Fund#. As of August 9, 2017, the Development Rights Valuation shall be set at $307.45 per square foot.

When proposing an adjustment to the Development Rights Valuation, the Department of City Planning shall undertake a transferrable development rights valuation study conducted by qualified professionals utilizing industry best practices. The City Planning Commission shall, by rule, review and adjust the Development Rights Valuation, pursuant to the City Administrative Procedures Act not more than once every three years and not less than once every five years.

An applicant, upon written request to the Commission, may request a transferable development rights valuation study to evaluate whether the Development Rights Valuation should be modified for a particular #qualifying site# based upon any recent changes in market conditions within the Subdistrict. The study must be paid for by the applicant and completed within a one-year timeframe. The Department of City Planning shall initiate the study, to be conducted by qualified professionals utilizing industry best practices. Where the study demonstrates that the value of the development rights for the #qualifying site# is less than the Development Rights Valuation, the Commission shall, by certification, and in connection with a certification pursuant to Section 81-642 (Transfer of development rights from landmarks to qualifying sites), modify the required contribution to 20 percent of the adjusted valuation.

Public Realm Improvement Fund Governing Group

For the purposes of Section 81-60, inclusive, the "Public Realm Improvement Fund Governing Group" (the "Governing Group") shall be established to administer the #Public Realm Improvement Fund# (the "Fund"), and shall consist of 13 members: seven members shall be representatives of City agencies, appointed by and serving at the pleasure of the Mayor; one member shall be a representative of a citywide civic organization, appointed by the Office of the Manhattan Borough President; one member shall be a representative of the Office of the Manhattan Borough President; one member shall

be a representative of the New York City Council member representing the City Council district encompassing the largest portion of the East Midtown Subdistrict; one member shall be a representative of the Speaker of the City Council; one member shall be a representative of Manhattan Community Board 5; and one member shall be a representative of Manhattan Community Board 6. The Governing Group shall be a local development corporation, organized pursuant to the New York State Not-for-Profit Corporation Law, and affiliated with City government for purposes of the New York State Public Authorities Law, whose organizational purpose shall be limited solely to the purposes set forth in this Chapter. Each member shall have one vote, and all Governing Group decisions, as set forth below, shall be upon a majority vote at a public meeting at which a quorum is present. A quorum shall consist of a majority of the members.

The purpose of the Governing Group shall be to bolster and enhance East Midtown's status as a premier central business district with a high-quality public realm, by allocating funds from the Fund to implement public realm improvement projects. The Governing Group shall establish and maintain a Public Realm Improvement Concept Plan ("Concept Plan") for the purpose of creating a list of priority improvements, and shall have the authority to amend such Concept Plan, and associated list of improvements, as necessary. All priority improvements in the Concept Plan shall meet the criteria set forth in Section 81-683 (Criteria for improvements in the Public Realm Improvement Concept Plan).

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

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

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

Qualifying site

For the purposes of Section 81-60, inclusive, a "qualifying site" shall refer to a #zoning lot#:

(a) that is not located in the Vanderbilt Corridor Subarea;

(b) that has frontage along a #wide street#;

(c) where, at the time of #development# or, where permitted, #enlargement#, either:

(1) at least 75 feet of such #zoning lot's# #wide street# frontage is clear of #buildings or other structures#; or

(2) the entire #block# frontage along such #wide street# is occupied by one or more #landmark buildings or other structures#; or

(3) such #zoning lot's# #wide street# frontage is occupied by an existing easement volume that is being preserved, or reconfigured in accordance with Section 81-673 (Mass transit access);

(d) where a #building# is #developed# or, where permitted, #enlarged#, in accordance with the #floor area# provisions of Section 81-64 (Special Floor Area Provisions for Qualifying Sites), and such #development# or, where permitted, #enlargement# exceeds the basic maximum #floor area# set forth in Row A of the table in Section 81-64 and such #building# or publicly accessible space occupies the cleared area in paragraph (c)(1) of this definition, unless the provisions of paragraphs (c)(2) or (c)(3) apply;

(e) where a maximum of 20 percent of the #floor area# permitted on such #zoning lot# is allocated to #residential uses#, or a maximum of 24 percent of the #floor area# permitted on such #zoning lot# where #qualifying affordable housing# or #qualifying senior housing# is provided; and

(f) where such #building# being #developed# or, where permitted, #enlarged#, complies with the performance requirements of paragraph (a) and the publicly accessible space requirements of paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites).

Sale price

For the purposes of Section 81-60, inclusive, “sale price” shall mean the total consideration exchanged for transferred #floor area# pursuant to certification to transfer development rights from #zoning lots# occupied by #landmark buildings or other structures# within the East Midtown Subdistrict to a #qualifying site#. The total consideration shall include all consideration as defined in Chapter 21 of the Administrative Code of the City of New York and Title 19 of the Rules of the City of New York, as they may be amended, or their successor provisions, whether or not subject to tax under that Chapter. The total consideration shall also include any other compensation in whatever form received in exchange for the #floor area#, including contingent consideration. A valuation prepared pursuant to procedures established by rule of the City Planning Commission or the New York City Department of Finance shall be required for all consideration in a form other than cash. The application for certification shall include affidavits from the buyer and seller, attesting under penalty of perjury, that all of the terms of the transaction and all the consideration have been disclosed, and may be subject to audit.

81-62 - Special Use Provisions

LAST AMENDED
8/9/2017

81-621 - Location of uses in mixed buildings

LAST AMENDED
6/6/2024

For #mixed buildings# #developed# on #qualifying sites#, the provisions of Section 32-422 (Location of floors occupied by commercial uses) shall be modified such that only the limitations set forth in paragraph (c) of such Section need apply.

81-63 - Special Floor Area Provisions for the Vanderbilt Corridor Subarea

LAST AMENDED
12/5/2024

For #non-residential buildings# or #mixed buildings# in the Vanderbilt Corridor Subarea of the East Midtown Subdistrict, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

Means for Achieving Permitted FAR Levels on a #Zoning Lot# in the Vanderbilt Corridor Subarea	Maximum #Floor Area Ratio# (FAR)
A.Basic Maximum FAR	15
B. Maximum #Floor Area# Allowances: (District-wide Incentives), #Mass transit station# improvements (Section 66-51)	3.0
C. Maximum FAR of Lots Involving Landmarks:	
Maximum FAR of a lot containing non bonusable landmark (Section 74-711 or as-of-right)	15.0

Development rights (FAR) of a landmark lot for transfer purposes (Section 81-213)	15.0
Maximum amount of transferable development rights (FAR) from a landmark #zoning lot# that may be utilized on:	
(a) a #receiving lot# within a #surrounding area# (Section 81-213)	No Limit
(b) a #receiving lot# from #a granting lot# in the Grand Central Core Area (Section 81-632)	15.0
D. Maximum #Floor Area# Allowances by Special Permit for Grand Central public realm improvements (Section 81-633)	15.0
E. Maximum Total FAR of a Lot with Transferred Development Rights on a #receiving lot# from a #granting lot# in the Grand Central Core Area (Section 81-632) or District-wide Incentives (including Section 81-633)	30.0
F. Maximum Total FAR of a Lot with Transferred Development Rights on a #receiving lot# within a #surrounding area# (Section 81-213) or District-wide Incentives (other than Section 81-633)	No Limit

Any transfer of development rights from a landmark site may be made pursuant to either Section 81-213 (Special provisions for transfer of development rights from landmark sites in certain areas) or Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea), but not both.

81-631 - Special provisions for transfers of development rights in the Vanderbilt Corridor Subarea

LAST AMENDED
8/9/2017

All applications for transfers of development rights pursuant to the special permit by the City Planning Commission in Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea) shall also comply with the regulations of this Section.

(a) Requirements for applications

In addition to the land use review application requirements, an application filed with the City Planning Commission for a special permit pursuant to Section 81-632 shall be made jointly by the owners of the #granting lot# and #receiving lot# and shall include:

(1) site plan and zoning calculations for the #granting lot# and #receiving lot#;

(2) a program for the continuing maintenance of the landmark;

(3) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the landmark and, for those "receiving" sites in the immediate vicinity of the landmark, a report concerning the harmonious relationship of the #development# or #enlargement# to the landmark;

(4) a plan of any required pedestrian network improvement; and

(5) any such other information as may be required by the City Planning Commission.

A separate application shall be filed for each transfer of development rights to an independent #receiving lot# pursuant to Section 81-632.

(b) Conditions and limitations

The transfer of development rights from a #granting lot# to a #receiving lot#, pursuant to Section 81-632, shall be subject to the following conditions and limitations:

(1) the maximum amount of #floor area# that may be transferred from a #granting lot# shall be the maximum #floor area# allowed by Section 33-12 for #commercial buildings# on such landmark #zoning lot#, as if it were undeveloped, less the total #floor area# of all existing #buildings# on the landmark #zoning lot#;

(2) for each #receiving lot#, the #floor area# allowed by the transfer of development rights under Section 81-632 shall be in addition to the maximum #floor area# allowed by the district regulations applicable to the #receiving lot#, as shown in the table in Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea); and

(3) each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred. If the landmark designation is removed, the #landmark building or other structure# is destroyed or #enlarged#, or the #zoning lot# with the #landmark building or other structure# is redeveloped, the #granting lot# may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer.

(c) Transfer instruments and notice of restrictions

The owners of the #granting lot# and the #receiving lot# shall submit to the Commission a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the #granting lot# and the #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York (County of New York), a certified copy of which shall be submitted to the Commission.

Both the instrument of transfer and the notice of restrictions shall specify the total amount of #floor area# transferred and shall specify, by lot and block numbers, the lots from which and the lots to which such transfer is made.

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

LAST AMENDED
8/9/2017

Within the Vanderbilt Corridor Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may permit the transfer of development rights from a #granting lot# in the Grand Central Core Area, as shown on Map 2, to a #receiving lot#, and, in conjunction with such transfer, the Commission may permit modifications to #bulk# regulations, mandatory plan elements, and provisions regarding #zoning lots# divided by district boundaries, as set forth in paragraph (a) of this Section, provided that the Commission determines that the #development# or #enlargement# complies with the conditions of paragraph (b), the findings of paragraph (c) and the additional requirements of paragraph (d) of this Section.

For the purposes of this Section, defined terms additionally include those in Section 75-421 (Definitions). However, a #receiving lot# shall mean a #zoning lot# within the Vanderbilt Corridor Subarea to which development rights of a #granting lot# are transferred.

(a) The Commission may permit:

(1) a transfer of development rights from a #granting lot# to a #receiving lot# provided that the resultant #floor area ratio# on the #receiving lot# does not exceed 30.0;

(2) modifications of the provisions of Sections 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements) for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area# or #dwelling units# permitted by the district regulations which allow a greater #floor area ratio# may be located within a district that allows a lesser #floor area ratio#;

(3) in the case of an #enlargement# to an existing #building# utilizing the transfer of development rights from a #landmark building or other structure#, modifications of the provisions of Sections 81-66 (Special Height and Setback Requirements), 81-671 (Special street wall requirements), 81-674 (Ground floor use provisions), 81-675 (Curb cut restrictions and loading berth requirements), 81-676 (Pedestrian circulation space requirements), and Sections 81-25 (General Provisions Relating to Height and Setback of Buildings), 81-26 (Height and Setback Regulations-Daylight Compensation) and 81-27 (Alternate Height and Setback Regulations-Daylight Evaluation) in order to accommodate existing structures and conditions;

(4) for #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, modifications of #bulk# regulations, except #floor area ratio# regulations; and

(5) modifications, whether singly or in any combination, to:

(i) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets), inclusive, or 81-671, inclusive;

(ii) the height and setback regulations of Sections 81-26, inclusive, 81-27, inclusive, or 81-661; or

(iii) the mandatory district plan elements of Sections 81-42 (Retail Continuity Along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), 81-674 (Ground floor use provisions), 81-675 (Curb cut restrictions and loading berth requirements), 81-676 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted.

(b) Conditions

As a condition for granting a special permit pursuant to this Section, the design of the #development# or #enlargement# shall include a major improvement of the above- or below-grade, pedestrian or mass transit circulation network in the Grand Central Core Area. However, this condition may be waived by the Commission, where appropriate, or may be deemed to have been met by utilization of the provisions of Section 81-633 (Special permit for Grand Central public realm improvements). The improvement shall increase the general accessibility and security of the network, reduce points of pedestrian congestion and improve the general network environment through connections into planned expansions of the network. The improvement may include, but is not limited to, widening, straightening or expansion of the existing pedestrian network, reconfiguration of circulation routes to provide more direct pedestrian connections between the #development# or #enlargement# and Grand Central Terminal, and provision for direct daylight access, retail in new and existing passages, and improvements to air quality, lighting, finishes and signage.

The special permit application to the Commission shall include information and justification sufficient to provide the Commission with a basis for evaluating the benefits to the general public from the proposed improvement. As part of the special permit application, the applicant shall submit schematic or concept plans of the proposed improvement to the Department of City Planning, as well as evidence of such submission to the Metropolitan Transportation Authority (MTA) and any other entities that retain control and responsibility for the area of the proposed improvement. Prior to ULURP certification of the special permit application, the MTA and any other entities that retain control and responsibility for the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

(c) Findings

In order to grant a special permit for the transfer of development rights to a #receiving lot#, the Commission shall find that:

(1) a program for the continuing maintenance of the #landmark building or other structure# has been established;

(2) for any proposed improvement required pursuant to this Section:

(i) the improvement to the above- or below-grade pedestrian or mass transit circulation network provided by the #development# or #enlargement# increases public accessibility to and from Grand Central Terminal;

(ii) the streetscape, the site design and the location of #building# entrances contribute to the overall improvement of pedestrian circulation within the surrounding area and minimize congestion on surrounding #streets#; and

(iii) a program is established to identify solutions to problems relating to vehicular and pedestrian circulation problems and the pedestrian environment within the surrounding area;

(3) where appropriate, the design of the #development# or #enlargement# includes provisions for public amenities including, but not limited to, publicly accessible open spaces, and subsurface pedestrian passageways leading to subway or rail mass transit facilities;

(4) for #developments# or #enlargements# with a proposed #floor area ratio# in excess of 21.6, the #building# has met the ground floor level, building design, sustainable design measures and, for #zoning lots# not located on two #wide streets#, the site characteristic considerations set forth in the applicable conditions and findings of Section 81-633 (Special permit for Grand Central public realm improvements);

(5) where the modification of #bulk# regulations is proposed:

(i) any proposed modification of regulations governing #zoning lots# divided by district boundaries or the permitted transfer of #floor area# will not unduly increase the #bulk# of any #development# or #enlargement# on the #receiving lot#, density of population or intensity of #use# on any #block# to the detriment of the occupants of #buildings# on the #block# or the surrounding area;

(ii) for #enlargements# to existing #buildings#, any proposed modifications of height and setback requirements and the requirements of Section 81-66 are necessary because of the inherent constraints or conditions of the existing #building#, that the modifications are limited to the minimum needed, and that the proposal for modifications of height and setback requirements demonstrates to the satisfaction of the Commission that an integrated design is not feasible for the proposed #enlargement# which accommodates the

transfer of development rights due to the conditions imposed by the existing #building# or configuration of the site; and

(iii) for #developments# or #enlargements# on #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, any proposed modifications of #bulk# regulations are necessary because of inherent site constraints and that the modifications are limited to the minimum needed; or

(6) any proposed modifications to #street walls#, height and setback regulations and mandatory plan elements meet the applicable application requirements and findings set forth in Section 81-634 (Permitted modifications in conjunction with additional floor area).

(d) Additional requirements

Prior to the grant of a special permit, the applicant shall obtain approvals of plans from the MTA and any other entities that retain control and responsibility for the area of the proposed improvement, and, if appropriate, the applicant shall sign a legally enforceable instrument running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to construct and maintain the improvement and shall establish a construction schedule, a program for maintenance and a schedule of hours of public operation and shall provide a performance bond for completion of the improvement.

The written declaration of restrictions and any instrument creating an easement on privately owned property shall be recorded against such private property in the Office of the Register of the City of New York (County of New York) and a certified copy of the instrument shall be submitted to the Commission.

No temporary certificate of occupancy for any #floor area# of the #development# or #enlargement# on a #receiving lot# shall be granted by the Department of Buildings until all

required improvements have been substantially completed as determined by the Chairperson of the City Planning Commission and the area is usable by the public. Prior to the issuance of a permanent certificate of occupancy for the #development# or #enlargement#, all improvements shall be 100 percent complete in accordance with the approved plans and such completion shall have been certified by letter from the MTA.

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

81-633 - Special permit for Grand Central public realm improvements

LAST AMENDED
8/9/2017

For #developments# and #enlargements# on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may allow, by special permit, #floor area# in excess of the basic maximum #floor area ratio# established in the table in Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea), up to the maximum #floor area# set forth in the table, in accordance with the provisions of this Section.

All applications for a special permit for additional #floor area# pursuant to this Section shall include on-site or off-site, above- or below-grade improvements to the pedestrian or mass transit circulation network, or a combination thereof, in the Grand Central Core Area, as shown on Map 2. In addition, requirements pertaining to the ground floor level, building design and sustainable design measures are set forth in this Section in order to ensure that any #development# or #enlargement# receiving additional #floor area# constitutes an exceptional addition to the #Special Midtown District#.

To approve a special permit application for additional #floor area#, the Commission shall determine that such #development# or #enlargement# complies with the conditions and application requirements of paragraph (a), the findings of paragraph (b) and the additional requirements of paragraph (c) of this Section.

(a) Conditions and application requirements

All applications for a special permit for additional #floor area# pursuant to this Section shall include the following:

(1) Above- or below-grade improvements to the pedestrian or mass transit circulation network.

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of pedestrian and mass transit circulation in the Grand Central Core Area, especially in the vicinity of Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall include above- or below-grade public realm improvements.

(i) Where a #development# or #enlargement# proposes the inclusion of above-grade public realm improvements, such improvements may consist of on-site or off-site improvements to the pedestrian circulation network, or a combination thereof.

On-site, above-grade public realm improvements shall consist of open or enclosed publicly accessible spaces, of ample size, provided for public use and enjoyment. Such publicly accessible spaces shall include amenities characteristic of #public plazas# or public atriums, as applicable, and include

amenities for the comfort and convenience of the public.

Off-site, above-grade public realm improvements shall consist of major improvements to the public right-of-way that support pedestrian circulation in the areas surrounding Grand Central Terminal. Where the area of such improvements is to be established as a pedestrian plaza, such improvements shall be characteristic of best practices in plaza design, as set forth by the Department of Transportation. Where the area of such improvements is along a #street# accommodating both vehicular and pedestrian access, such improvements shall be characteristic of current best practices in #street# design, as set forth by the Department of Transportation, and include improvements to the right-of-way such as pedestrian amenities, or streetscape, sidewalk, crosswalk and median enhancements.

(ii) Where a #development# or #enlargement# proposes the inclusion of below-grade public realm improvements, such improvements shall consist of on-site or off-site enhancements to the below-grade pedestrian and mass transit circulation network. Such improvements shall be characteristic of current best practice in mass-transit network design, and shall include improvements such as on-site or off-site widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network, additional vertical circulation, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, or providing daylight access, retail #uses#, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways.

Applications shall include information and justification sufficient to provide the Commission with the basis for evaluating the benefits to the general public; determining the appropriate amount of bonus #floor area# to grant; and determining

whether the applicable findings set forth in paragraph (b) of this Section have been met. Such application materials shall also include initial plans for the maintenance of the proposed improvements.

Where the Metropolitan Transportation Authority or any other City or State agency has control and responsibility for the area of a proposed improvement, the applicant shall submit concept plans for the proposed improvement to such agency and the Commission. At the time of certification of the application, any such agency with control and responsibility for the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement, including a statement of any considerations regarding the construction and operation of the improvement.

(2) Ground floor level

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of the pedestrian circulation network in the surrounding area, any #development# or #enlargement# proposed under the provisions of this Section shall provide enhancements to the ground floor level of the #building#, including, but not limited to, sidewalk widenings, streetscape amenities or enhancements to required pedestrian circulation spaces.

Where a #development# or #enlargement# includes #street# frontage along Madison Avenue or a #narrow street# between East 43rd Street and East 47th Street, sidewalk widenings shall be provided as follows:

(i) where a #development# or #enlargement# is on a #zoning lot# which occupies the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue, to the extent necessary, so that a

minimum sidewalk width of 20 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#;

(ii) where a #development# or #enlargement# is on a #zoning lot# that does not occupy the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue where all existing #buildings# on the #block# frontage have provided such a widening. Such required widening shall match the amount of widened sidewalk provided on adjacent #zoning lots#, provided that no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#; or

(iii) where a #development# or #enlargement# with frontage on a #narrow street# between East 43rd Street and East 47th Street is on a #zoning lot# with a #lot width# of 100 feet or more, as measured along the #street line# of the #narrow street#, a sidewalk widening shall be provided along such #narrow street#, to the extent necessary, so that a minimum sidewalk width of 15 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#.

Applications shall contain a ground floor level site plan, and other supporting documents of sufficient scope and detail to enable the Commission to determine the type of proposed #uses# on the ground floor level, the location of proposed #building# entrances, the size and location of proposed circulation spaces, the manner in which such spaces will connect to the overall pedestrian circulation network and the above- or below-grade public realm improvements required pursuant to this Section and any other details necessary for the Commission to determine whether the

applicable findings set forth in paragraph (b) of this Section have been met.

(3) Building design

In order to ensure that the proposed #development# or #enlargement# contributes to its immediate surroundings, with particular emphasis on Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall demonstrate particular attention to the building design, including, but not limited to, the proposed #uses#, massing, articulation and relationship to #buildings# in close proximity and within the Midtown Manhattan skyline.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine the proposed #uses# within the #building#, as well as the proposed #building# #bulk# and architectural design of the #building#, and to evaluate the proposed #building# in the context of adjacent #buildings# and the Midtown Manhattan skyline. Such materials shall include a description of the proposed #uses# within the #building#; measured elevation drawings, axonometric views, and perspective views showing such proposed #building# within the Midtown Manhattan skyline; and any other materials necessary for the Commission to determine whether the applicable findings set forth in paragraph (b) of this Section have been met.

For those #receiving lots# that are contiguous to a lot occupied by Grand Central Terminal or a lot that is across a #street# and opposite the lot occupied by Grand Central Terminal, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by Grand Central Terminal, applications shall contain a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or #enlargement# to Grand Central Terminal.

(4) Sustainable design measures

In order to foster the development of sustainable #buildings# in the Vanderbilt Corridor Subarea, any #development# or #enlargement# proposed under the provisions of this Section shall include sustainable design measures, including, but not limited to, enhancements to the energy performance, enhanced water efficiency, utilization of sustainable or locally sourced materials and attention to indoor environmental air quality of the #building#.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine whether the applicable findings in paragraph (b) of this Section have been met. In addition, any application shall include materials demonstrating the sustainable design measures of the #building#, including its anticipated energy performance, and the degree to which such performance exceeds either the New York City Energy Conservation Code (NYCECC) or the Building Performance Rating method of the applicable version and edition of American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., Standard 90.1 (ASHRAE 90.1), as referenced within the NYCECC.

(b) Findings

The Commission shall find that:

(1) for a #development# or #enlargement# not located on two #wide streets#, the amount of additional #floor area# being granted is appropriate based on the extent to which any or all of the following physical factors are present in the #development# or #enlargement#:

(i) direct access to subway stations and other rail mass transit facilities;

(ii) the size of the #zoning lot#;

(iii) the amount of wide #street# frontage; and

(iv) adjacency to the open area above Grand Central Terminal;

(2) for above-grade improvements to the pedestrian circulation network that are located:

(i) on-site, the proposed improvements will, to the extent practicable, consist of a prominent space of generous proportions and quality design that is inviting to the public; improve pedestrian circulation and provide suitable amenities for the occupants; front upon a #street# or a pedestrian circulation space in close proximity to and within view of and accessible from an adjoining sidewalk; provide or be surrounded by active #uses#; be surrounded by transparent materials; provide connections to pedestrian circulation spaces in the immediate vicinity; and be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space; or

(ii) off-site, the proposed improvements to the public right-of-way, to the extent practicable, will consist of significant street and sidewalk designs that improve pedestrian circulation in the surrounding area; provide comfortable places for walking and resting, opportunities for planting and improvements to pedestrian safety; and create a better overall user experience of the above-grade pedestrian circulation network that supports the surrounding area as a high-density business district. Where the area of such improvement is to be

established into a pedestrian plaza that will undergo a public design and review process through the Department of Transportation subsequent to the approval of this special permit, the Commission may waive this finding;

(3) for below-grade improvements to the pedestrian or mass transit circulation network, the proposed improvements will provide:

(i) significant and generous connections from the above-grade pedestrian circulation network and surrounding #streets# to the below-grade pedestrian circulation network;

(ii) major improvements to public accessibility in the below-grade pedestrian circulation network between and within subway stations and other rail mass transit facilities in and around Grand Central Terminal through the provision of new connections, or the addition to or reconfiguration of existing connections; or

(iii) significant enhancements to the environment of subway stations and other rail mass transit facilities including daylight access, noise abatement, air quality improvement, lighting, finishes, way-finding or rider orientation, where practicable;

(4) the public benefit derived from the proposed above- or below-grade improvements to the pedestrian or mass transit circulation network merits the amount of additional #floor area# being granted to the proposed #development# or #enlargement# pursuant to this special permit;

(5) the design of the ground floor level of the #building#:

(i) contributes to a lively streetscape through a combination of retail #uses# that enliven the pedestrian experience, ample amounts of transparency and pedestrian connections that facilitate fluid movement between the #building# and adjoining public spaces; and demonstrates consideration for the location of pedestrian circulation space, #building# entrances, and the types of #uses# fronting upon the #street# or adjoining public spaces;

(ii) will substantially improve the accessibility of the overall pedestrian circulation network, reduce points of pedestrian congestion and, where applicable, establish more direct and generous pedestrian connections to Grand Central Terminal; and

(iii) will be well-integrated with on-site, above- or below-grade improvements required by this Section, where applicable and practicable;

(6) the design of the proposed #building#:

(i) ensures light and air to the surrounding #streets# and public spaces through the use of setbacks, recesses and other forms of articulation, and the tower top produces a distinctive addition to the Midtown Manhattan skyline which is well-integrated with the remainder of the #building#;

(ii) demonstrates an integrated and well-designed facade, taking into account factors such as #street wall# articulation and fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area, especially Grand Central Terminal; and

(iii) involves a program that includes an intensity and mix of #uses# that are harmonious with the type of #uses# in the surrounding area;

(7) the proposed #development# or #enlargement# comprehensively integrates sustainable measures into the #building# and site design that:

(i) meet or exceed best practices in sustainable design; and

(ii) will substantially reduce energy usage for the #building#, as compared to comparable #buildings#; and

(8) in addition:

(i) the increase in #floor area# being proposed in the #development# or #enlargement# will not unduly increase the #bulk#, density of population or intensity of #uses# to the detriment of the surrounding area; and

(ii) all of the separate elements within the proposed #development# or #enlargement#, including above- or below-grade improvements, the ground floor level, #building# design, and sustainable design measures, are well–integrated and will advance the applicable goals of the #Special Midtown District# described in Section 81-00 (GENERAL PURPOSES).

(c) Additional requirements

Prior to the grant of a special permit pursuant to this Section, and to the extent required by the Metropolitan Transportation Authority (MTA) or any other City or State agencies with control and responsibility for the area in which a proposed improvement is to be located, the

applicant shall execute an agreement, setting forth the obligations of the owner, its successors and assigns, to establish a process for design development and a preliminary construction schedule for the proposed improvement; construct the proposed improvement; where applicable, establish a program for maintenance; and, where applicable, establish a schedule of hours of public access for the proposed improvement. Where the MTA, or any other City or State agencies with control and responsibility for the area of a proposed improvement, deems necessary, such executed agreement shall set forth obligations of the applicant to provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA or any other such agencies.

Where the proposed #development# or #enlargement# proposes an off-site improvement located in an area to be acquired by a City or State agency, the applicant may propose a phasing plan to sequence the construction of such off-site improvement. To determine if such phasing plan is reasonable, the Commission may consult with the City or State agency that intends to acquire the area of the proposed improvement.

Prior to obtaining a foundation permit or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, setting forth the obligations of the owner to construct, and, where applicable, maintain and provide public access to public improvements provided pursuant to this Section, shall be recorded against such property in the Office of the Register of the City of New York (County of New York). Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.

Except where a phasing plan is approved by the Commission, no temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# granted pursuant to the provisions of this Section until the required improvements have been substantially completed, as determined by the Chairperson, acting in consultation with the MTA, or any other City or State agencies with control and

responsibility for the area where a proposed improvement is to be located, where applicable, and such improvements are usable by the public. Such portion of the #building# utilizing bonus #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson, acting in consultation with the MTA, or any other City or State agencies with control and responsibility for the area where a proposed improvement is to be located, where applicable.

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

81-634 - Permitted modifications in conjunction with additional floor area

LAST AMENDED
8/9/2017

In conjunction with the grant of a special permit pursuant to Section 81-633 (Special permit for Grand Central public realm improvements), the City Planning Commission may permit modifications to #street walls#, height and setback regulations and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

(a) The Commission may modify the following, whether singly or in any combination:

(1) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets) or 81-671 (Special street wall requirements), inclusive;

(2) the height and setback regulations of Sections 81-26 (Height and Setback Regulations - Daylight Compensation), inclusive, 81-27 (Alternate Height and Setback Regulations - Daylight Evaluation), inclusive, or 81-66 (Special Height and Setback Requirements); or

(3) the mandatory district plan elements of Sections 81-42 (Retail Continuity Along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), 81-674 (Ground floor use provisions), 81-675 (Curb cut restrictions and loading berth requirements), 81-676 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

(1) drawings, including but not limited to, plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43 or as such provisions are modified pursuant to Section 81-671, as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26, 81-27 or as such provisions are modified pursuant to Section 81-66, as applicable;

(2) where applicable, formulas showing the degree to which such proposed #building# will not comply with the length and height rules of Section 81-26 or as such provisions are modified pursuant to Section 81-66; and

(3) where applicable, #daylight evaluation charts# and the resulting daylight evaluation score showing the degree to which such proposed #building# will not comply with the provisions of Section 81-27 or as such provisions are modified pursuant to Section 81-66.

(c) Findings

The Commission shall find that such proposed modifications:

(1) to the mandatory district plan elements will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions); and

(2) to the #street wall# or height and setback regulations will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and

setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations).

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

81-64 - Special Floor Area Provisions for Qualifying Sites

LAST AMENDED
8/9/2017

For #non-residential buildings# or #mixed buildings# on #qualifying sites# in the East Midtown Subdistrict, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

MAXIMUM FLOOR AREA RATIOS AND ALLOWANCES FOR QUALIFYING SITES

Means for Achieving Permitted FAR Levels on a #Zoning Lot# for #Qualifying Sites#	Grand Central Transit Improvement Zone Subarea		Park Avenue Subarea		Other Transit Improvement Zone Subarea		Southern Subarea		North Subar
	C5-2.5	C5-3	C5-2.5	C5-3	C5-2.5 C6-4.5	C5-3 C6-6	C5-2.5 C6-4.5	C5-3 C6-6	C5-2. C6-4.
A. Basic Maximum FAR									
	12	15	12	15	12	15	12	15	12
B. Minimum #Floor Area# Allowances through identified transit improvements (Section 81-641) if exceedi maximum FAR									
	2.7	2.7	-	-	2.3	2.3	-	-	-
C. Maximum #Floor Area# Allowances through identified transit improvements (Section 81-641)									
	5.4	5.4	-	-	4.6	4.6	-	-	-

D. Maximum amount of transferable development rights (FAR) from landmark #zoning lots# that may be u a #qualifying site# (Section 81-642)									
	12.3	9.3	13	10	8.7	5.7	9.6	6.6	6
E. Maximum as-of-right #Floor Area Ratio# on #qualifying sites#									
	27	27	25	25	23	23	21.6	21.6	18
F. Maximum FAR for transit improvement special permit (Section 81-644)									
	3	3	-	-	3	3	-	-	-
G. Maximum FAR for public concourse special permit (Section 81-645)									
	3	3	3	3	3	3	3	3	3
H. Maximum Total FAR on a #qualifying site#									

	30	30	28	28	26	26	24.6	24.6	21

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

81-641 - Additional floor area for Transit Improvements on Qualifying Sites

LAST AMENDED
8/9/2017

All #developments# or, where permitted, #enlargements# on #qualifying sites# located within the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, that exceed the basic maximum #floor area ratio# set forth in Row A of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) shall comply with the provisions of this Section.

The Chairperson of the City Planning Commission shall allow, by certification, #floor area# on a #qualifying site# to be increased above the applicable basic maximum #floor area ratio# provided that such resulting increase in #floor area ratio# is not less than the minimum specified in Row B of the table in Section 81-64, nor more than the maximum specified in Row C, as applicable, and further provided that a transit improvement, or a combination of transit improvements, will be constructed in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, in accordance with the provisions of this Section.

(a) The following requirements shall be completed prior to application for certification by the Chairperson:

(1) the applicant shall select a transit improvement that has been identified on the Priority Improvement List in Section 81-682 (Priority Improvement List for qualifying sites) and is commensurate with the minimum #floor area# required, and results in a #floor area ratio# increase not exceeding the maximum #floor area ratio# permitted to be achieved through the provisions of this Section. The process for such selection shall also comply with paragraph (a) of Section 81-682;

(2) the applicant shall submit preliminary plans for the proposed transit improvement to the Chairperson and any applicable City or State agencies with jurisdiction over and control of the proposed transit improvement;

(3) the applicant shall obtain and provide to the Chairperson a conceptual approval of the proposed transit improvement from any applicable City or State agencies with jurisdiction over and control of the proposed improvement in letter form, wherein such agencies state that such improvements meet the requirements set forth in Section 81-682; and

(4) prior to the issuance of a building permit, as set forth in this Section, the applicant shall execute agreements and legally enforceable instruments running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to design and construct the improvement in accordance with the requirements of the applicable City or State agencies with jurisdiction over and control of the proposed improvement. Such agreements and instruments shall be filed and recorded in the Office of the Register of the City of New York (County of New York). Proof of recordation shall be sent to the Chairperson.

(b) The following items shall be submitted to the Chairperson as part of an application for certification:

(1) all of the materials required pursuant to paragraph (a) of this Section;

(2) site plans and zoning calculations for the proposed #development# or, where permitted, #enlargement# on the #qualifying site# showing the additional #floor area# associated with the completion of such transit improvement; and

(3) drawings including, but not limited to, plans, sections, elevations, three-dimensional projections or other drawings deemed necessary or relevant by the Chairperson for the transit improvement, and any such other information as may be required by the Chairperson.

When an applicant has submitted materials to the Chairperson that satisfy the requirements of paragraphs (a) and (b) of this Section, the Chairperson shall certify to the Department of Buildings that the #development# or, where permitted, #enlargement# on a #qualifying site# is in compliance with the provisions of this Section. Such certification shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing a #development# or, where permitted, an #enlargement# on a #qualifying site# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea. All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Manhattan Borough President. No certification shall be granted prior to 60 days after such referral.

No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# identified as utilizing the additional #floor area# granted pursuant to the provisions of this Section until the Chairperson, acting in consultation with the applicable City or State agencies having jurisdiction over and control of the proposed improvement, has certified that the

improvements are substantially complete and usable by the public. Such portion of the #building# shall be designated by the applicant in drawings included in the instruments filed pursuant to paragraph (b) of this Section and shall be noted on the temporary certificate of occupancy.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing such additional #floor area# until the improvements have been finally completed in accordance with the approved plans and such final completion has been certified by the Chairperson, acting in consultation with the applicable City or State agencies having jurisdiction over and control of the proposed improvement.

In addition, the Chairperson shall allow, by certification, a reduction in, or waiver of, the minimum #floor area ratio# required pursuant to Row B of the table in Section 81-64, where there are an insufficient number of available projects on the Priority Improvement List in Section 81-682. The Chairperson shall also allow, by certification, the maximum #floor area ratio# for a #qualifying site# to be increased beyond the limit set forth in Row C of the table in Section 81-64, where the Metropolitan Transportation Authority requires improvements to the Fifth Avenue and East 53rd Street Station to be combined in order to adequately phase improvements and avoid practical difficulties in operating the station.

81-642 - Transfer of development rights from landmarks to qualifying sites

LAST AMENDED
8/9/2017

The Chairperson of the City Planning Commission shall allow, by certification, a transfer of development rights from #zoning lots# occupied by #landmark buildings or other structures# within the East Midtown Subdistrict to a #qualifying site#, provided that the provisions of this Section are met.

For the purposes of this Section, defined terms additionally include those in Section 75-421 (Definitions). However, a #receiving lot# shall mean a #qualifying site# to which development rights of a #granting lot# are transferred.

(a) The transfer of development rights shall be subject to the following conditions:

(1) For #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas), the applicant shall obtain a certification pursuant to Section 81-641 (Additional floor area for transit improvements on qualifying sites) prior to, or in conjunction with, meeting the requirements of this Section.

(2) The maximum amount of #floor area# that may be transferred from a #granting lot# shall be the applicable basic maximum #floor area# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), less the total #floor area# of all existing #buildings# on the landmark #zoning lot#, and any previously transferred #floor area#. In no event shall a #granting lot# transfer any previously granted bonus #floor area# received for subway station improvements, #publicly accessible open areas# or the provision of district improvements pursuant to the provisions of this Chapter, or any preceding regulations.

(3) For each #receiving lot#, the increased #floor area# allowed by the transfer of development rights pursuant to this Section shall not exceed the amount resulting in the maximum #floor area ratio# set forth in Row D of the table in Section 81-64.

(4) Each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred. If the landmark designation is removed from the #landmark building or other structure#, the #landmark building or other structure# is destroyed or #enlarged#, or the #zoning lot# with the #landmark building or structure# is

redeveloped, the #granting lot# may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer.

(5) Prior to the issuance of a building permit, as set forth in paragraph (c) of this Section, the owners of the #granting lot# and the #receiving lot# shall submit to the Chairperson a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the #granting lot# and the #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York (County of New York). Proof of recordation shall be submitted to the Chairperson.

Both the transfer instrument and the notices of restrictions shall specify the total amount of #floor area# transferred and shall specify, by lot and block numbers, the #granting lot# and the #receiving lot# that are a party to such transfer.

(6) Prior to the issuance of a building permit, as set forth in this Section, a non-refundable contribution shall have been deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be equal to the greater of:

(i) 20 percent of the #sales price# of the transferred #floor area#; or

(ii) an amount equal to 20 percent of the #Public Realm Improvement Fund Development Rights Valuation# multiplied by the amount of transferred #floor area#.

(b) An application filed with the Chairperson for certification pursuant to this Section shall be made jointly by the owners of the #granting lot# and the #receiving lot#. The following items shall be submitted to the Chairperson as part of an application for certification:

(1) for #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, materials that are sufficient to demonstrate compliance with the provisions of Section 81-641;

(2) site plans and zoning calculations for the #granting lot# and #receiving lot# showing the additional #floor area# associated with the transfer, and any such other information as may be required by the Chairperson;

(3) materials to demonstrate the establishment of a program for the continuing maintenance of the #landmark building or other structure#;

(4) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the #landmark building or other structure#; and

(5) for those #receiving lots# that are contiguous to a lot occupied by Grand Central Terminal or a lot that is across a #street# and opposite the lot occupied by Grand Central Terminal, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by Grand Central Terminal, a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or, where permitted, #enlargement# to Grand Central Terminal.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to 60 days after such referral.

The Chairperson shall certify to the Department of Buildings that a #development# or, where permitted, an #enlargement# on a #qualifying site# is in compliance with the provisions of this Section only after the following have been received:

(a) the instrument of transfer and notice of restrictions required by paragraph (a) of this Section have been executed and recorded with proof of recordation provided to the Chairperson;

(b) documents confirming the #sale price# have been provided to the Chairperson, including, but not limited to, the real property transfer tax return form recorded with the New York City Department of Finance and the details of consideration schedule; and

(c) payment of a non-refundable contribution to the #Public Realm Improvement Fund# in the amount required by paragraph (a) of this Section has been made.

Such certification shall be a precondition to the filing for or issuing of any building permit allowing more than the basic maximum #floor area ratio# for such #development# or, where permitted, #enlargement# on a #qualifying site#. Additional provisions are set forth in Section 81-686 for applicants undertaking a sidewalk improvement immediately adjacent to their #qualifying site#.

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

81-643 - Special provisions for retaining non-complying floor area in commercial buildings

LAST AMENDED
8/9/2017

For #non-complying# #commercial buildings# existing on December 15, 1961 with #non-complying# #floor area#, the provisions of Section 54-41 (Permitted Reconstruction) may be modified to allow such #non-complying# #building# to be demolished or altered, to the extent of 75 percent or more of

its total #floor area#, and reconstructed on a #qualifying site# to retain the amount of pre-existing #non-complying# #floor area# in accordance with the applicable district #bulk# regulations of this Chapter, upon certification by the Chairperson of the City Planning Commission to the Department of Buildings first, that prior to demolition or alteration, the applicant meets the provisions of paragraph (a) of this Section, as applicable, and, subsequently, prior to reconstruction, the proposed #development# will comply with the applicable provisions of paragraph (b) of this Section. For purposes of this Chapter, the reconstruction of such #non-complying# #floor area# shall be considered a #development#. Any #enlargement# of a #non-complying# #commercial building# on a #qualifying site# shall be permitted only pursuant to paragraph (a) of Section 81-684 (Authorizations for qualifying sites), or Section 81-685 (Special permit to modify qualifying site provisions).

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

The Chairperson shall certify the amount of #non-complying# #floor area# existing within a #non-complying# #building# that may be reconstructed pursuant to the provisions of paragraph (b) of this Section, based on calculations submitted to the Chairperson. Such calculations shall be based on either the #building's# construction documents previously approved by the Department of Buildings at the time of such #building's# construction, #enlargement#, or subsequent alterations, as applicable; or on an as-built drawing set completed by a registered architect.

For the purpose of calculating the amount of #non-complying# #floor area# to be retained on #zoning lots# with multiple existing #buildings# at the time of application, the maximum amount of #non-complying# #floor area# that may be reconstructed shall be equivalent to the #floor area# of the #zoning lot# at the time of application, less the total #floor area# of all existing #buildings# to remain.

Certification pursuant to the provisions of paragraph (a) of this Section shall be a precondition to the issuance of any demolition or alteration permit by the Department of

Buildings for a #zoning lot# reconstructing #non-complying# #floor area#.

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

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

(1) all requirements for #qualifying sites# set forth in the definition in Section 81-613, inclusive, have been met, except that no publicly accessible space shall be required notwithstanding the provisions of paragraph (f) of the definition of #qualifying site#; and

(2) a non-refundable contribution has been deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be an amount equal to 20 percent of the #Public Realm Improvement Fund Development Rights Valuation# multiplied by the amount of such pre-existing #non-complying# #floor area#.

The payment of the non-refundable contribution to the #Public Realm Improvement Fund# pursuant to the provisions of paragraph (b) of this Section, shall be a precondition to the issuance of any foundation permit or new building or alteration permit by the Department of Buildings allowing a #development# on a #qualifying site#.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to 60 days after such referral.

Except for #zoning lots# located east of Third Avenue between the centerline of East 46th Street to the centerline of East 51st Street, any proposed #floor area# in the #development# beyond the amount contained in the pre-existing #non-complying# #building# may be obtained by utilizing the applicable provisions of Section 81-64 (Special Floor Area Provisions

for Qualifying Sites). For the purposes of applying the provisions of such Section, the reconstructed #floor area ratio# shall be considered the basic maximum #floor area ratio#. However, the maximum #floor area ratios# of Row E and Row H of the table in Section 81-64 shall continue to apply.

81-644 - Special permit for transit improvements

LAST AMENDED
10/7/2021

For #qualifying sites# located in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may permit a #floor area# bonus in accordance with the provisions of this Section, where a major improvement to a subway or rail mass transit facility is provided in accordance with the conditions of paragraph (b). All applications for a special permit pursuant to this Section shall be subject to the application requirements, findings and additional requirements of paragraphs (c) through (e).

As a pre-condition to applying for such special permit, an applicant shall demonstrate that the maximum as-of-right #floor area ratio# for #qualifying sites# set forth in Row E of the table in Section 81-64 has been achieved prior to, or in conjunction with, the special permit application.

(a) #Floor area# bonus

The City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on a #qualifying site#, up to the amount specified in Row F of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites).

(b) Conditions

All applications shall include proposed on-site or off-site improvements to a proximate subway or rail mass transit facility, that shall be characteristic of current best practice in mass-transit network design.

All applications shall include accessibility or capacity-enhancing improvements, including, but not limited to, the provision of elevators and escalators, widening, straightening, expanding or otherwise enhancing the existing pedestrian circulation network, or reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities. Where improvements are proposed for a subway or rail mass transit facilities that is not in compliance with the Americans with Disabilities Act, accessibility improvements shall be prioritized.

In addition to accessibility or capacity-enhancing improvements, environmental design or resiliency improvements may also be provided, including but not limited to, daylight access, retail #uses#, enhancements to noise abatement, air quality, lighting, finishes, or rider orientation in new or existing passageways, or flood resiliency upgrades.

All proposed improvements shall be subject to the approval of the Metropolitan Transportation Authority (MTA) and the City Planning Commission.

(c) Application requirements

All applications for a special permit pursuant to this Section shall include the following:

(1) Prior to submitting an application for a special permit pursuant to this Section, the applicant shall submit a schematic or concept plan for the proposed improvement to

the MTA and the Chairperson of the City Planning Commission. Such schematic or concept plan shall include such materials and information sufficient to provide the basis for the #transit agencies# to evaluate and determine the constructability of such proposed improvement.

(2) At the time of certification, the Commission shall be provided with the following application materials:

(i) a letter from the MTA containing a conceptual approval of the improvement, including a statement of any considerations regarding the construction and operation of the improvement;

(ii) all information and justification sufficient to provide the Commission with the basis for evaluating the benefits of such improvements to the general public; and

(iii) initial plans for the maintenance of the proposed improvements.

(d) Findings

In order to grant such special permit, the Commission shall find that:

(1) the public benefit derived from the improvements to a subway or rail mass transit facility merits the amount of additional#floor area#being granted to the proposed #development# pursuant to this special permit;

(2) for accessibility or capacity-enhancing improvements, newly created or expanded accessible routes for persons with physical disabilities, or measures to improve station ingress and egress routes or platform capacity, such improvements will constitute

significant enhancements to connectivity from the pedestrian circulation network to and through the subway or rail mass transit facility; and

(3) where environmental design or resiliency improvements are provided in addition to accessibility or capacity-enhancing improvements, such improvements will constitute significant enhancements to the station environment or its function.

(e) Additional requirements

In addition to the application requirements of paragraph (c) of this Section, additional requirements set forth in this paragraph shall apply.

(1) Prior to the granting of a special permit pursuant to this Section, the following requirements shall be met:

(i) To the extent required by the MTA, the applicant shall execute an agreement, setting forth the obligations of the owner, its successors and assigns, to establish a process for design development and a preliminary construction schedule for the proposed improvement; construct the proposed improvement; establish a program for maintenance and capital maintenance; and establish that such improvements shall be accessible to the public during the hours of operation of the station or as otherwise approved by the MTA. Where the MTA deems necessary, such executed agreement shall set forth obligations of the applicant to provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA; and

(ii) The City Planning Commission shall be provided with a final letter of approval from the MTA stating that the drawings and other documents submitted by the applicant have been determined by the MTA to be of

sufficient scope and detail to fix and describe the size and character of the improvement as to architectural, structural, mechanical and electrical systems, materials, relationship to existing site conditions and such other conditions as may be appropriate, and that the construction of the improvement in accordance with such submission is feasible.

(2) Prior to obtaining a foundation permit or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, containing complete drawings of the improvement and setting forth the obligations of the owner as agreed upon with the MTA pursuant to the requirements of paragraph (e)(1) of this Section, shall be recorded against such property in the Borough Office of the City Register of the City of New York. Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.

(3) No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# granted pursuant to the provisions of this Section until the required improvements have been substantially completed, as determined by the Chairperson, acting in consultation with the MTA, where applicable, and such improvements are usable by the public. Such portion of the #building# utilizing bonus #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson, acting in consultation with the MTA, where applicable.

The Commission may prescribe additional appropriate conditions and safeguards to enhance the character of the surrounding area.

81-645 - Special permit for a public concourse

LAST AMENDED
8/9/2017

For #qualifying sites#, the City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row G of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), as applicable, where an above-grade public concourse, in the form of an open or enclosed, publicly accessible space for public use and enjoyment, is provided on the #qualifying site#. Such publicly accessible spaces shall include amenities that are characteristic of #public plazas# or public atriums, as applicable, for the comfort and convenience of the public. In addition, to facilitate such public concourse, the Commission may permit the modification of provisions, other than #floor area ratio# regulations, of this Resolution.

As a pre-condition to applying for such special permit, an applicant shall demonstrate that the maximum as-of-right #floor area ratio# for #qualifying sites# set forth in Row E of the table in Section 81-64 has been achieved prior to, or in conjunction with, the special permit application.

In order for the City Planning Commission to approve a special permit application for additional #floor area#, the Commission shall determine that such #development# or, where permitted, #enlargement#, complies with the conditions and application requirements of paragraph (a), the findings of paragraph (b) and the additional requirements of paragraph (c) of this Section.

(a) Applications shall include information and justification sufficient to provide the Commission with the basis for:

(1) evaluating the benefits to the general public;

(2) determining the appropriate amount of increased #floor area# to grant; and

(3) determining whether the applicable findings set forth in paragraph (b) of this Section have been met. Such application materials shall also include initial plans for the maintenance of the proposed improvements.

(b) The Commission shall find that:

(1) to the extent practicable, the open or enclosed public concourse will:

(i) consist of a prominent space of generous proportions and quality design that is inviting to the public;

(ii) improve pedestrian circulation and provide suitable amenities for the occupants;

(iii) front upon a #street# or a pedestrian circulation space in close proximity to and within view of, and accessible from, an adjoining sidewalk;

(iv) provide or be surrounded by active #uses#;

(v) be surrounded by transparent materials;

(vi) provide connections to pedestrian circulation spaces in the immediate vicinity; and

(vii) be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space;

(2) the public benefit derived from the proposed public concourse merits the amount of additional #floor area# being granted to the proposed #development# or, where permitted, #enlargement#, pursuant to this special permit; and

(3) with regard to a modification to regulations of this Resolution, other than #floor area ratio# regulations, such modification:

(i) is the minimum extent necessary and will facilitate an improved public concourse, inclusive of enhancements described in the findings of paragraph (b)(1) of this Section; and

(ii) will not have adverse effects on the #qualifying site#, surrounding #zoning lots#, or adjacent #streets#.

(c) Prior to obtaining a foundation permit or building permit for a #development# or, where permitted, an #enlargement# on a #qualifying site#, from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, setting forth the obligations of the owner to construct, maintain and provide public access to public improvements provided pursuant to this Section, shall be recorded against such property in the Office of the Register of the City of New York (County

of New York). Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.

No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing increased #floor area# granted pursuant to the provisions of this Section until the required improvements have been substantially completed, as determined by the Chairperson, and such improvements are usable by the public. Such portion of the #building# utilizing increased #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing increased #floor area# until all improvements have been finally completed in accordance with the approved plans, as determined by the Chairperson.

81-65 - Special Floor Area Provisions for All Non-qualifying Sites

LAST AMENDED
12/5/2024

For #non-residential buildings# or #mixed buildings# on #non-qualifying sites# in the East Midtown Subdistrict, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the

maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

	Grand Central Core Area	
Means for achieving permitted FAR on a #zoning lot# for all other sites	C5-3 C6-6	C5-2.5 C6-4.5
A. Basic Maximum FAR	15	12
B. Additional FAR for provision of a #public plaza# (Section 81-651)	--	--
C. Total as-of-right FAR	15	12
D. Additional FAR for #mass transit station# improvements (Section 81-652)	3	2.4
E. Maximum FAR of a #granting lot# for transfer purposes (Sections 81-213 and 81-653)	15	12
F. Maximum amount of transferable development rights from a #granting lot# that may be utilized on a #receiving lot# within the #surrounding area# (Sections 81-213 and 81-653)	No limit	2.4

G. Maximum FAR permitted on a #receiving lot# within the #surrounding area#	No limit	14.4

81-651 - Floor area bonus for public plazas

LAST AMENDED
8/9/2017

For #non-qualifying sites# in subareas outside the Grand Central Core Area, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the basic maximum #floor area ratio# permitted on such #zoning lots# shall be increased, up to the amount specified in Row B of the table in Section 81-65 (Special Floor Area Provisions for All Non-qualifying Sites), where a #public plaza# is provided in accordance with the provisions of Section 81-23 (Floor Area Bonus for Public Plazas).

81-652 - Floor area bonus for mass transit station improvements

LAST AMENDED
10/7/2021

For #developments# or #enlargements# on #non-qualifying sites# that are #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be granted by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

81-653 - Special permit for transfer of development rights from landmarks to non-qualifying sites

LAST AMENDED
12/5/2024

For #non-qualifying sites#, the City Planning Commission may permit the transfer of development rights from a #granting lot# to a #receiving lot# within the #surrounding area#, pursuant to the provisions of Section 81-213 (Special provisions for transfer of development rights from landmark sites in certain areas), provided that:

(a) the maximum amount of #floor area# that may be transferred from a #granting lot# shall be the applicable basic maximum #floor area# set forth in Section 81-65 (Special Floor Area Provisions for All Non-qualifying Sites), less the total #floor area# of all existing #buildings# on the landmark #zoning lot#, and any previously transferred #floor area#. In no event shall a #granting lot# transfer any previously granted bonus #floor area# received for subway station improvements, #publicly accessible open areas# or the provision of district improvements pursuant to the provisions of this Chapter, or any preceding regulations;

(b) for each #receiving lot#, the increased #floor area# allowed by the transfer of development rights pursuant to this Section shall not exceed the amount resulting in the maximum #floor area ratio# set forth in Row F of the table in Section 81-65; and

(c) each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred.

81-66 - Special Height and Setback Requirements

LAST AMENDED
8/9/2017

For #buildings# which are #developed# or #enlarged# within the East Midtown Subdistrict, the applicable height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, and 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, are modified by the provisions of this Section, inclusive.

81-661 - Height and setback modifications for buildings in the Grand Central Core Area

LAST AMENDED
8/9/2017

For #buildings# on #non-qualifying sites# within the Grand Central Core Area, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the provisions of Sections

81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, are modified as follows:

(a) where such #buildings# are governed by Section 81-26, no #compensating recess# shall be required for the #encroachment# of that portion of the #building# below a height of 150 feet, as measured from #curb level#; or

(b) where such #buildings# are governed by Section 81-27, the computation of daylight evaluation shall not include any daylight blockage, daylight credit, profile daylight blockage or available daylight for that portion of the #building# below 150 feet above #curb level#. However, the passing score required pursuant to paragraph (i) of Section 81-274 shall apply.

81-662 - Daylight compensation modifications for qualifying sites

LAST AMENDED
8/9/2017

For #buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight compensation method of height and setback regulations, the provisions of Section 81-26 (Height and Setback Regulations – Daylight Compensation) are modified as follows:

(a) for the purposes of determining permitted #encroachments# and #compensating recesses# pursuant to Section 81-264 (Encroachments and compensating recesses):

(1) no #compensating recess# shall be required for the #encroachment# of that portion of the #building# below a height of 150 feet, as measured from #curb level#;

(2) #compensating recesses# provided for #encroachments#, or portions thereof, above a height of 400 feet, as measured from #curb level#, need not comply with the provisions of paragraph (c)(1) of Section 81-264. In lieu thereof, for any portion of the #building# located above a height of 400 feet, the amount of #compensating recess# required for any particular level of the #building# shall be equal to the amount of #encroachment# provided at such level. The remaining provisions of paragraph (c) of Section 81-264 shall continue to apply to such #compensating recess#; and

(3) for #buildings# on #qualifying sites# with frontage along the easterly side of Vanderbilt Avenue, the full width of Vanderbilt Avenue may be considered part of the #zoning lot# for the purposes of determining permitted #encroachments# and #compensating recesses#. Such modified #zoning lot# shall be constructed by shifting the westerly boundary of the #zoning lot# to the westerly #street line# of Vanderbilt Avenue, and by prolonging the #street lines# of #narrow streets# to such new westerly boundary. The Vanderbilt Avenue portion of such modified #zoning lot# may be considered a #compensating recess# for encroachments along such #building's# #narrow street# #street frontage zone#, provided that any portion of the #building# fronting along Vanderbilt Avenue above a height of 100 feet, as measured from #curb level#, is set back a minimum 15 feet from the Vanderbilt Avenue #street line#, and further provided that the #street frontage zone# calculation along Park Avenue shall not include Vanderbilt Avenue;

(b) for the purposes of determining the permitted length of #encroachments# pursuant to Section 81-265 (Encroachment limitations by length and height rules) the minimum length of recess required by Formula 2 in paragraph (c) of Section 81-265 shall be modified to 20 percent of the length of the #front lot line#; and

(c) for #buildings# on #qualifying sites# with frontage along Park Avenue, as an alternative to the setback requirements of Table A, B or C in paragraph (b) of Section 81-263 (Standard setback requirements), the Park Avenue wall of such #building# shall be set back behind the applicable #setback line# to the depth of the #setback line# required at that particular height, in accordance with the applicable requirements of the table in this Section.

SETBACK REQUIREMENTS ON STREETS AT LEAST 140 FEET WIDE

Depth of #Setback Line# from #Street Line# at Stated Heights above #Curb Level#.

Height (ft)	Depth of #Setback Line# (ft)
210	0.00
220	1.00
230	2.50
240	4.25
250	5.50

260	7.0
270	8.75
280	10.00
290	11.25
300	12.75
310	14.25
320	15.25
330	16.25
340	17.50
350	18.75

360	19.75
370	21.00
380	21.75
390	23.00
400	23.75
410	25.00
420	25.75
430	26.75
440	27.50
450	28.50

460	29.25
470	29.75
480	30.50
490	31.50
500	32.00
510	33.00
520	33.50
530	34.50
540	35.00
550	35.50

560	36.00
570	37.00
580	37.50
590	38.00
600	38.50
610	39.00
620	39.75
630	40.25
640	41.00
650	41.50

660	41.75
670	42.25
680	43.00
690	43.50
700	43.75
710	44.25
Above 710	For every 10 feet of height above 710 feet, the depth shall increase by one foot

81-663 - Daylight evaluation modifications for qualifying sites

LAST AMENDED

8/9/2017

For #buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight evaluation method of height and setback regulations, the provisions of Section 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation) are modified as follows:

(a) for the purposes of calculating the daylight evaluation score pursuant to Section 81-274 (Rules for determining the daylight evaluation score):

(1) the computation of daylight evaluation shall not include any daylight blockage for that portion of the #building# above the curved line representing 70 degrees in the applicable #Daylight Evaluation Charts#, and below a height of 150 feet, as measured from #curb level#. However, such computation shall include the daylight blockage created by extending the lines representing the outermost edges of the portion of the #building# immediately above a height of 150 feet downwards to such 70 degree line;

(2) the computation of unblocked daylight squares which are below the curved line representing an elevation of 70 degrees, pursuant to paragraph (c) of Section 81-274, may apply along designated #streets# where #street wall# continuity is required;

(3) the profile penalty for #profile encroachment#, set forth in paragraph (a) of Section 81-274, shall not apply; and

(4) the provisions of paragraph (i) of Section 81-274 shall be modified to require an overall passing score of 66 percent. Notwithstanding such modifications, no single #street# frontage shall have a street score of less than 66 percent;

(b) the reflectivity provisions of Section 81-276 may be utilized to raise both an individual score and the overall score by up to six percentage points;

(c) for #buildings# on #qualifying sites# with frontage along the easterly #street line# of Vanderbilt Avenue, the full width of Vanderbilt Avenue may be considered part of the #zoning lot# for the purposes of constructing the #daylight evaluation chart# pursuant to Section 81-272 (Features of the Daylight Evaluation Chart). Such modified #zoning lot# shall be constructed by shifting the westerly boundary of the #zoning lot# to the westerly #street line# of Vanderbilt Avenue, and by prolonging the # street lines# of #narrow streets# to such new westerly boundary. Such modified #zoning lot# may be utilized to create a modified pedestrian view along Vanderbilt Avenue and intersecting #narrow streets# provided that:

(1) any portion of the #building# fronting along Vanderbilt Avenue above a height of 100 feet, as measured from #curb level#, is set back a minimum of 15 feet from the Vanderbilt Avenue #street line#;

(2) #vantage points# along Vanderbilt Avenue are taken 30 feet west of the westerly #street line# instead of the #center line of the street#; and

(3) #vantage points# along #narrow streets# are taken from the corner of the modified #zoning lot#; and

(d) for #buildings# with frontage along Park Avenue:

(1) for the purposes of establishing #vantage points# along Park Avenue to construct a #daylight evaluation chart# pursuant to the provisions of Section 81-272, the definition of #center line of the street#, as set forth in Section 81-271 (Definitions), shall be modified along Park Avenue to be a line 70 feet from, and parallel to, the Park Avenue #street line# of the #zoning lot#; and

(2) for the purpose of plotting #buildings# on the #daylight evaluation chart# pursuant to Section 81-273 (Rules for plotting buildings on the daylight evaluation chart), Chart 4 (Daylight Evaluation Diagram – Park Avenue) in Appendix B of this Chapter shall be utilized in lieu of the chart for #streets# 100 feet or more in width.

81-67 - Special Mandatory District Plan Element Requirements

LAST AMENDED
8/9/2017

For #buildings# which are #developed# or #enlarged# within the East Midtown Subdistrict, the applicable provisions of Section 81-40 (MANDATORY DISTRICT PLAN ELEMENTS) shall be modified in accordance with the provisions of this Section, inclusive.

81-671 - Special street wall requirements

LAST AMENDED
8/9/2017

The requirements of Section 81-43 (Street Wall Continuity Along Designated Streets) shall be applicable within the Subdistrict, except as modified in this Section.

#Buildings# with frontage on Park, Lexington, Madison and Vanderbilt Avenues, or Depew Place in the Grand Central Core Area, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, shall have a #street wall# within 10 feet of the #street line# of such #streets#. On 42nd Street, the #street wall# shall be at the #street line#. The width of the required

#street wall# shall be at least 80 percent of the length of the #front lot line#.

The minimum height of such #street walls# without any setback shall be 120 feet above #curb level# or the height of the #building#, whichever is less, and the maximum height shall not exceed 150 feet above #curb level#. Where a #zoning lot# is bounded by the intersection of Park Avenue, Lexington Avenue, Madison Avenue, Vanderbilt Avenue, 42nd Street or Depew Place and any other #street#, these #street wall# height regulations shall apply along the full length of the #zoning lot# along the other #street# or to a distance of 125 feet from the intersection, whichever is less.

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

Beyond 125 feet of the intersection, the maximum height of the #street wall# above #curb level# shall not exceed 120 feet. For such #buildings#, the provisions of Section 81-262 (Maximum height of front wall at the street line) shall not be applicable.

However, the ten-foot setback requirement of paragraph (a) of Section 81-263 (Standard setback requirements) shall apply only to those portions of the #building# above 120 feet.

81-672 - Sidewalk widenings

LAST AMENDED
8/9/2017

All sidewalk widenings provided pursuant to the provisions of this Section shall be improved as sidewalks to Department of Transportation standards, shall be at the same level as the adjoining public

sidewalks, and shall be accessible to the public at all times. The design provisions set forth in paragraph (f) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces) shall apply, except as modified in this Section. All sidewalk widenings provided in accordance with the provisions of this Section shall constitute pedestrian circulation space, as required pursuant to Section 81-45 (Pedestrian Circulation Space).

(a) Mandatory sidewalk widenings along Madison and Lexington Avenues

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

(1) where such #zoning lot# occupies the entire #block# frontage, a sidewalk widening shall be provided to the extent necessary so that a minimum sidewalk width of 20 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#;

(2) where such #zoning lot# does not occupy the entire #block# frontage, a sidewalk widening shall be provided where all existing #buildings# on the #block# frontage have provided such a widening. Such required widening shall match the amount of widened sidewalk provided on adjacent #zoning lots#, provided that no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#.

(b) Permitted sidewalk widenings

Sidewalk widenings may be provided, in accordance with the applicable size and design standards established in Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive:

(1) along #narrow streets# in the Grand Central Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, for #developments# or #enlargements# on #zoning lots# with a #lot width# of 100 feet or more, as measured along the #street line# of such #narrow street#; and

(2) where a #street wall#, or portions thereof, is permitted to be located beyond the #street line# pursuant to the applicable provisions of Section 81-671 (Special street wall requirements).

(c) Permitted obstructions

In the Grand Central Subarea, as shown on Map 2, awnings and canopies shall be permitted obstructions within a sidewalk widening provided that no structural posts or supports are located within any portion of the sidewalk or such widening.

81-673 - Mass transit access

LAST AMENDED
8/9/2017

(a) On #qualifying sites#

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

#development# or #enlargement#. Any reconfiguration shall be constructed by the owner of the #development# or #enlargement#.

For such #developments# or, where permitted, #enlargements#, the owner shall submit a site plan showing a proposed location and size of the transit easement volume that would provide access between the #street# and the below-grade subway station or rail mass transit facility and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the MTA and the Chairperson of the City Planning Commission. The MTA and the Chairperson shall comment on such site plan within 45 days of its receipt and may, within such 45-day period or following its expiration, permit the granting of an excavation permit while the location and size of the transit easement volume is being finalized. Upon joint approval of a site plan by the MTA and the Chairperson, copies of such certification shall be forwarded by the Chairperson to the Department of Buildings.

Legal instruments creating a transit easement volume shall be executed and recorded in a form acceptable to the City. The execution and recording of such instruments shall be a precondition to the issuance of any foundation permit, new building permit, or alteration permit by the Department of Buildings allowing such #development# or #enlargement#.

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

For #developments# or, where permitted, #enlargements# involving ground floor level construction on #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or in the Other Transit Improvement Zone Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, in addition to the provisions of paragraph (a) of this Section, as applicable, a transit easement volume may be required on such #zoning lot# for public access between the #street# and a below-grade subway station or rail mass transit facility.

Prior to filing any applications with the Department of Buildings for an excavation permit, foundation permit, new building permit or alteration permit for a #development# or #enlargement#, the owner of the #zoning lot# shall file an application with the MTA and the Chairperson requesting a certification as to whether or not a transit easement volume is required on the #zoning lot#.

Within 60 days of receipt of such application, the MTA and the Chairperson shall jointly certify whether or not a transit easement volume is required on the #zoning lot#. Failure to certify within the 60-day period will release the owner from any obligation to provide a transit easement volume on such #zoning lot#.

When the MTA and the Chairperson indicate that a transit easement volume is required, the owner shall submit a site plan showing a proposed location and size of the transit easement volume that would provide access between the #street# and the below-grade subway station or rail mass transit facility and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the MTA and the Chairperson. The MTA and the Chairperson shall comment on such site plan within 45 days of its receipt and may, within such 45-day period or following its expiration, permit the granting of an excavation permit while the location and size of the transit easement volume is being finalized. Upon joint approval of a site plan by the MTA and the Chairperson, copies of such certification shall be forwarded by the Chairperson to the Department of Buildings.

Legal instruments creating a transit easement volume shall be executed and recorded in a form acceptable to the City. The execution and recording of such instruments shall be a precondition to the issuance of any foundation permit, new building permit, or alteration permit by the Department of Buildings allowing such #development# or #enlargement#.

If a transit easement volume is required on the #zoning lot#, pursuant to the provisions of this Section, an off-street subway or rail mass transit access improvement may be constructed and

maintained by either the owner of the #development# or #enlargement#, or the MTA, as follows:

(1) where such mass transit access improvement is constructed and maintained by the owner of the #development# or #enlargement#:

(i) such mass transit access shall be improved to the standards set forth in Section 81-48 and shall be approved by the MTA, and shall comply with the following:

(a) where the lobby of the #building# adjoins such mass transit access, in addition to mass transit access to the #street#, such mass transit access shall provide a direct connection to the lobby of the #building# that is open during normal business hours; and

(b) such mass transit access shall provide directional #signs# in accordance with the provisions of Section 81-412 (Directional signs). Such #signs# shall be exempt from the maximum #surface area# of non-#illuminated signs# permitted by Section 32-642 (Non-illuminated signs); and

(ii) no temporary certificate of occupancy shall be granted by the Department of Buildings for the #building# until the Chairperson of the City Planning Commission, acting in consultation with the MTA, has certified that the improvements are substantially complete and usable by the public.

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

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

(a) any underground walls constructed along the #front lot line# of a #zoning lot# shall contain a knockout panel, not less than 12 feet wide, below #curb level# down to the bottom of the easement. The actual location and size of such knockout panel shall be determined through consultation with the MTA; and

(b) temporary construction access shall be granted to the MTA on portions of the #zoning lot# outside of the transit easement volume, as necessary, to enable construction within and connection to the transit easement volume; and

(ii) in the event that the MTA has approved of obstructions associated with the #development# or #enlargement# within the transit easement volume, such as building columns or footings, such construction and maintenance shall exclude any such obstructions within the transit easement volume.

(c) In other locations

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

determine the appropriate type of transit easement and reasonable dimensions for such transit easement volume.

The floor space occupied by any transit easement volume required pursuant to this Section shall not count as #floor area#. Where access improvements are constructed by the owner of the #zoning lot#, each square foot of mass transit access may constitute three square feet of pedestrian circulation space required pursuant to Section 81-45 (Pedestrian Circulation Space), not to exceed 3,000 square feet.

81-674 - Ground floor use provisions

LAST AMENDED
6/6/2024

(a) Within the Vanderbilt Corridor Subarea

For #buildings# #developed# or #enlarged# on the ground floor on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, where a #building# fronts upon a designated retail #street#, as shown on Map 3 (Retail and Street Wall Continuity), any portion of such #building's# ground floor level frontage along such designated retail #street# allocated to above- or below-grade public realm improvements provided in accordance with a special permit pursuant to Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea) or Section 81-633 (Special permit for Grand Central public realm improvements) shall be excluded from the retail continuity requirements of Section 81-42 (Retail Continuity Along Designated Streets).

(b) Within the Grand Central Core Area

For #buildings# #developed# or #enlarged# on the ground floor after August 26, 1992, in the Grand Central Core Area, as shown on Map 2, #building# lobby entrances shall be required on each #street# frontage of the #zoning lot# where such #street# frontage is greater than 75 feet in length, except that if a #zoning lot# has frontage on more than two #streets#, #building# entrances shall be required only on two #street# frontages. Each required #building# entrance shall lead directly to the #building# lobby. #Buildings# #developed# from May 13, 1982, to August 25, 1992, shall be subject to the provisions of Section 81-47 (Major Building Entrances).

Required #building# entrances on opposite #street# frontages shall be connected directly to the #building# lobby by providing a through #block# connection in accordance with paragraph (h) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces), except that such through #block# connection shall be located at least 50 feet from the nearest north/south #wide street#.

Each required #building# entrance shall include a #building# entrance recess area, as defined in paragraph (b) of Section 37-53, except that for #developments# or #enlargements# with frontage on Madison Avenue, Lexington Avenue or 42nd Street, the width of a #building# entrance recess area shall not be greater than 40 feet parallel to the #street line# and there may be only one #building# entrance recess area on each such #street# frontage.

81-675 - Curb cut restrictions and loading berth requirements

LAST AMENDED
8/9/2017

For #developments# or #enlargements# within the Grand Central Core Area, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, in addition

to the provisions of Sections 81-30 (OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS), inclusive, and 81-44 (Curb Cut Restrictions), the following shall apply:

(a) Loading berth provisions

For #through lots#, the required loading berth shall be arranged so as to permit head-in and head-out truck movements to and from the #zoning lot#.

However, the Commissioner of Buildings may waive such head-in and head-out requirements, provided that:

(1) the #zoning lot# has frontage along a #street# where curb cuts accessing a loading berth are permitted, but there is no access to such #zoning lot# from the #street# due to the presence of:

(i) a #building# existing on August 9, 2017, containing #residences#;

(ii) a #non-residential building# existing on August 9, 2017, that is three or more #stories# in height; or

(iii) a #building# designated as a landmark or considered a contributing #building# in an Historic District designated by the Landmarks Preservation Commission; or

(2) there are subsurface conditions, ventilation requirements from below-grade infrastructure or other site planning constraints that would make accommodating such loading berths infeasible.

(b) Curb cut provisions

The maximum width of any curb cut (including splays) shall be 15 feet for one-way traffic and 25 feet for two-way traffic. Curb cuts shall not be permitted on 47th Street between Park and Madison Avenues or on 45th Street between Depew Place and Madison Avenue.

81-676 - Pedestrian circulation space requirements

LAST AMENDED
8/9/2017

Any #development# or #enlargement# within the Grand Central Core Area, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, shall be subject to the provisions of Sections 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair) and 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), except that:

(a) no arcade shall be allowed;

(b) a sidewalk widening may be provided only for a #building# occupying an Avenue frontage, provided that such sidewalk widening extends for the length of the full #block# front; and

(c) for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map 2, up to a maximum of 3,000 square feet of on-site improvements to the public realm provided in accordance with a special permit pursuant to Section 81-632 (Special permit for transfer of developments rights from landmarks to the

Vanderbilt Corridor Subarea) or Section 81-633 (Special permit for Grand Central public realm improvements) may be applied toward the pedestrian circulation space requirement.

81-68 - Additional Provisions for Qualifying Sites

LAST AMENDED
8/9/2017

81-681 - Mandatory requirements for qualifying sites

LAST AMENDED
5/8/2019

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

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

(1) utilize a district steam system for the #building's# heating and hot water systems; or

(2) the core and shell of such #building# shall exceed the standards of the chosen commercial building energy-efficiency compliance path within the 2016 New York

City Energy Conservation Code (NYCECC), by three percent.

Compliance with the provisions of this Section shall be demonstrated to the Department of Buildings at the time of issuance of a new building permit for a #development# or, where permitted, an #enlargement# on a #qualifying site#.

The City Planning Commission may, by rule, modify the standards of this Section, as necessary, to ensure that the environmental standards established herein, meet or exceed the current best practices in reducing greenhouse gas emissions.

(b) Mandatory publicly accessible space requirements for qualifying sites

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

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

(1) Type and minimum size

(i) A #qualifying site# with a #lot area# of at least 30,000 square feet but less than 45,000 square feet shall provide a publicly accessible space, open or enclosed, with an area of not less than 10 percent of the #lot area# of the #zoning lot#.

(ii) A #qualifying site# with a #lot area# of 45,000 square feet but less than 65,000 square feet shall provide an open publicly accessible space with an area of not less than 10 percent of the #lot area# of the #zoning lot#, except that where the provisions of Sections 81-40 (MANDATORY DISTRICT PLAN ELEMENTS), inclusive, and 81-67 (Special Mandatory District Plan Element Requirements), inclusive, are applicable to the #qualifying site# and preclude an open publicly accessible space from being provided on the #qualifying site#, an enclosed publicly accessible space shall be provided in the proposed #building#.

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

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

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# existing on May 8, 2019, 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 paragraphs (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; and

(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.

(ii) Enclosed publicly accessible space

For enclosed publicly accessible spaces, the following shall apply:

(a) An enclosed publicly accessible space shall have a minimum height of 30 feet or the height of the ground floor level, whichever is greater, and a minimum width and depth, at any point, of 30 feet. Such

enclosed publicly accessible space shall be located on the ground floor level of the #building# and shall be directly accessible from an adjoining #street# or #publicly accessible open area# that the area fronts. A minimum of one entrance to the enclosed publicly accessible space shall be provided from the adjoining #street# on which it fronts; however, if it fronts on more than one #street#, such entrance shall be from the #street# with the longer frontage. The aggregate width of doorways accessing such enclosed publicly accessible space shall not be less than 10 feet in width.

(b) All ground floor level #street walls# enclosing the enclosed publicly accessible space shall be treated with clear, untinted, transparent materials. Such transparent materials shall occupy at least 70 percent of the surface area of such ground floor level #street wall# between a height of two feet and 30 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Such enclosed publicly accessible space shall be heated or air-conditioned, and the standards for heating, ventilating and air-conditioning shall be at least equal to those of the lobby for the principal #use# of the #building#.

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

The hours of access shall be included on all required entry plaques

and information plaques in accordance with the provisions of Section 37-751 (Public space signage systems) and for through #block# enclosed publicly accessible spaces, an information plaque shall be provided in accordance with paragraph (h)(2)(viii) of Section 37-53 (Design standards for Pedestrian Circulation Spaces).

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

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

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

(1) structural columns shall be considered permitted obstructions. The area occupied by such structural columns shall be

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

(2) a cafe or kiosk permitted by certification pursuant to Section 37-73 (Kiosks and Open Air Cafes) shall be considered a permitted obstruction within an enclosed publicly accessible space and may not occupy more than 20 percent of the enclosed publicly accessible space.

(g) The provisions of Section 37-741 for seating shall apply to enclosed publicly accessible spaces, except that such provisions are modified as follows:

(1) the requirements of seating within 15 feet of a #street line# shall not apply;

(2) all of the linear seating capacity may be in moveable seats. All such moveable seats must remain in the enclosed publicly accessible space during the hours of operation; and

(3) the requirement that seats facing walls be located a minimum of six feet from such wall shall only apply to fixed seating.

(h) The requirements of Section 37-742 for planting and trees shall apply to enclosed publicly accessible spaces, except that the surface area of any vertical planting may be included in the calculation of the total area of planting beds that are provided, and trees shall not be required.

(i) All enclosed publicly accessible spaces shall be illuminated with a minimum level of illumination of not less than five horizontal foot candles (lumens per foot) throughout the space. The requirements of Section 37-743 for a lighting schedule, a diagram of light level distribution and electrical power shall apply.

(j) At least 50 percent of the total frontage of all #building# walls fronting on an enclosed publicly accessible space, excluding such frontage occupied by #street walls#, #building# lobbies or #building# walls #abutting# #lot lines#, shall be limited to retail, personal service or amusement #uses# permitted by the underlying zoning district regulations, but not including #uses# in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 and 12D or banks, automobile showrooms or plumbing, heating or ventilating equipment showrooms. For such #building# walls, the transparency provisions of paragraph (c) of Section 37-76 shall apply.

(k) The area of the enclosed publicly accessible space shall be exempt from calculations for #floor area# as defined in Section 12-10 (DEFINITIONS).

In addition, a maximum of 30 percent of the area of the publicly accessible space, whether open or enclosed, may be counted towards meeting the pedestrian circulation space

requirement, up to a maximum of 3,000 square feet.

81-682 - Priority Improvement List for qualifying sites

LAST AMENDED
8/9/2017

In accordance with the provisions of Section 81-641 (Additional floor area for transit improvements on qualifying sites), any applicant for a #development# or #enlargement# on a #qualifying site# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, shall select a transit improvement, or combination thereof, to be completed in accordance with the provisions of this Section.

(a) Selecting an Improvement

An applicant shall select a transit improvement from the Priority Improvement List in paragraph (b) of this Section based on the #floor area# such improvement generates relative to the minimum #floor area# required and maximum #floor area# permitted for completion of such improvement pursuant to Section 81-641, and based on the following geographical and technical considerations:

(1) First, the applicant shall select a transit improvement in the same Subarea of the East Midtown Subdistrict as the proposed #development# or #enlargement# on a #qualifying site#;

(2) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraph (a)(1) of this Section, the applicant shall select a transit improvement on a transit route that passes through, and has stations or other facilities in the same

Subarea of the East Midtown Subdistrict as the proposed #development# or #enlargement# on a #qualifying site#;

(3) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraphs (a)(1) or (a)(2) of this Section, the applicant shall select from any remaining improvement on the list.

In addition, applicants shall consult with the applicable City or State agencies with jurisdiction over and control of the proposed improvement to ensure that the selected improvement will meet the operational and long-term planning needs of the station or transit route, including any phasing requirements, and compliance with the Americans with Disabilities Act (ADA).

(b) The Priority Improvement List

The Priority Improvement List (the "Improvement List"), set forth in the tables below, details physical improvements to subway stations and other rail mass transit facilities in, or adjacent to, the East Midtown Subdistrict, that an applicant for a #development# or, where permitted, an #enlargement# on a #qualifying site# may complete to obtain additional #floor area#.

Three levels of improvements are available for completion, which, accordingly, generate three different amounts of additional #floor area#:

(1) Type 1 Improvements generate 40,000 square feet of #floor area#, and include new or expanded on-street station entrances, new or expanded off-street station entrances, new or expanded accessible routes for persons with physical disabilities between two levels of a station, and four or fewer new or reconfigured station stairs.

(2) Type 2 Improvements generate 80,000 square feet of #floor area#, and include new or expanded station escalators, new or expanded accessible routes for persons with physical disabilities between three or more station levels, new or expanded paid areas of a station, including widened platforms or mezzanine levels, and more than four new or reconfigured station stairs.

(3) Type 3 Improvements generate 120,000 square feet of #floor area#, and include large-scale renovations that significantly improve the environment of stations, and new connections between two or more stations.

In consultation with the Metropolitan Transportation Authority, the City Planning Commission may, by rule, modify the Improvement List to reflect new improvements needed in the transit network.

PRIORITY IMPROVEMENT LIST

TYPE 1 IMPROVEMENTS		
Location	Type of Improvement	Transit Line
Lexington Avenue/ 53rd – 51st Street station	Replace escalator and stair connecting downtown Lexington platform to underpass with widened stair	Lexington Avenue Line/53rd Street Line
Lexington Avenue/ 53rd – 51st Street station	Provide new street entrance to uptown Lexington platform from 50th Street	Lexington Avenue Line/53rd Street Line

42 St - Bryant Park /5th Ave station	Provide ADA elevator between Flushing platform and mezzanine level	Flushing Line/6th Avenue Line
42 St - Bryant Park /5th Ave station	Provide new street entrance from north side of West 42nd street	Flushing Line/6th Avenue Line
42 St - Bryant Park /5th Ave station	Provide ADA elevator between Sixth Avenue northbound platform and mezzanine level	Flushing Line/6th Avenue Line
42 St - Bryant Park /5th Ave station	Provide ADA elevator between Sixth Avenue southbound platform and mezzanine level	Flushing Line/6th Avenue Line
Lexington Av - 59th Street station	Provide new street stair capacity at northeast and northwest corners of East 60th Street and Lexington Avenue	Lexington Avenue Line/Broadway-60th Street Line
Lexington Av - 59th Street station	Provide ADA elevator between local IRT platform and street level	Lexington Avenue Line/Broadway-60th Street Line
Lexington Av - 59th Street station	Provide ADA elevator between 60th Street (BMT) line platform and mezzanine level	Lexington Avenue Line/Broadway-60th Street Line

Lexington Av - 59th Street station	Provide new platform stair and widen existing stairs between 60th Street (BMT) line platform and mezzanine level	Lexington Avenue Line/Broadway-60th Street Line
Fifth Avenue/53rd Street station	Provide new street entrance on East 53rd Street west of Madison Avenue	53rd Street Line
Grand Central/42nd Street station	Widen platform stair at east end of Flushing platform	Flushing Line
Grand Central/42nd Street station	Widen two stairs between uptown Lexington platform and Flushing and Lexington platforms	Flushing Line
TYPE 2 IMPROVEMENTS		
Location	Type of Improvement	Transit Line
Lexington Avenue/ 53rd–51st Street station	Provide widened escalator between 53rd Street platform and mezzanine	Lexington Avenue Line/53rd Street Line

Lexington Av-59th Street station	Provide ADA elevator between northbound local Lexington Avenue Line platform, northbound express Lexington Ave Line platform, and the 60th Street (BMT) line mezzanine	Lexington Avenue Line/Broadway-60th Street Line
Lexington Av-59th Street station	Provide ADA elevator between southbound local Lexington Avenue Line platform, southbound express Lexington Avenue Line platform, and the 60th Street (BMT) line mezzanine	Lexington Avenue Line/Broadway-60th Street Line
47th/50th Streets Rockefeller Ctr station	Provide two new platform stairs and widen seven platform stairs	6th Avenue Line
Fifth Av/53rd Street station	Provide a new stair from mezzanine level to upper platform, and a new stair from upper platform to lower platform	53rd Street Line
Fifth Av/53rd Street station	Provide ADA elevator from mezzanine to upper platform, and to lower platform	53rd Street Line

Fifth Av/53rd Street station	Provide two escalators from mezzanine to upper platform	53rd Street Line
Fifth Av/53rd Street station	Provide new mezzanine area under East 53rd Street with fare control to accommodate street entrance and new access core	53rd Street Line
Fifth Av/53rd Street station	Provide new access core between platforms and street level to accommodate escalators, elevator, and stairs	53rd Street Line
Grand Central/42nd Street station	Provide new Flushing platform stair and expand transfer passageway to accommodate the addition of the stair	Flushing Line
TYPE 3 IMPROVEMENTS		
Location	Type of Improvement	Transit Line

Grand Central/42nd Street station	Renovate to contemporary standards the south end of the Grand Central Lexington Subway mezzanine from the Shuttle Passageway and 125 Park Avenue entrances to join the renovated areas on the north end of the mezzanine	Flushing Line/Lexington Avenue Line

81-683 - Criteria for improvements in the Public Realm Improvement Concept Plan

LAST AMENDED
8/9/2017

The #Public Realm Improvement Fund Governing Group# shall select priority improvements for the Public Realm Improvement Concept Plan (the "Concept Plan") in accordance with the provisions of this Section.

All improvements in the Concept Plan, which may be funded through contributions to the #Public Realm Improvement Fund#, shall:

(a) be within the East Midtown Subdistrict, a location immediately adjacent thereto, or in a subway or rail mass transit facility in the Borough of Manhattan which has significant ridership into and out of the Subdistrict;

(b) have a City or State agency as a project sponsor;

(c) meet the definition of a capital project under Section 210 of the New York City Charter; and

(d) consist of either:

(1) above-grade public realm improvements, including, but not limited to, pedestrian plazas that provide opportunities for passive recreation, or improvements along a street accommodating both vehicular and pedestrian access that may include pedestrian amenities, or streetscape, sidewalk, crosswalk and median enhancements; or

(2) below-grade public realm improvements, including, but not limited to widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network, additional vertical circulation, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, improved or new disabled access, or providing daylight access, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways, within the East Midtown Subdistrict, a location immediately adjacent thereto, or in a subway or rail mass transit facility identified on the Priority Improvement List in Section 81-682 (Priority Improvement List for qualifying sites).

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

PUBLIC REALM IMPROVEMENTS

PEDESTRIAN PLAZAS
Pershing Square East

East side of Park Avenue between East 40th Street and East 41st Street
West side of Park Avenue between East 40th Street and East 41st Street
SHARED STREETS
East 41st Street between 5th Avenue and Lexington Avenue
Vanderbilt Avenue between East 43rd Street and East 47th Street
East 43rd Street between Lexington Avenue and 3rd Avenue
East 44th Street between Lexington Avenue and 3rd Avenue
MEDIAN WIDENINGS
Expansion of Park Avenue medians between East 46th Street and East 57th Street
THOROUGHFARE IMPROVEMENTS
Five blocks of East 53rd Street between 2nd Avenue and 5th Avenue

81-684 - Authorization for qualifying sites

LAST AMENDED
8/9/2017

(a) Authorization to allow enlargements on qualifying sites

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may authorize modifications to the requirement in the definition of #qualifying site# in Section 81-613 to allow #enlargements# on #qualifying sites# to an existing #building# with frontage along a #wide street#. The Commission may also waive the requirement that such #qualifying site# provide publicly accessible space in accordance with the provisions of paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites). In order to permit such modifications, the Commission shall find that such #enlargement# includes significant renovations to the existing #building# that will bring it up to contemporary space standards.

Where the existing #building# includes #non-complying# #floor area#, a contribution shall be deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be an amount equal to 20 percent of the #Public Realm Improvement Fund Development Rights Valuation# multiplied by the amount of such pre-existing #non-complying# #floor area#. For the purposes of such calculation, the amount of existing #non-complying# #floor area# shall not include any bonus #floor area# associated with a #publicly accessible open area# to remain on the #zoning lot#. The payment of the non-refundable contribution to the #Public Realm Improvement Fund#, shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing the #enlargement# on a #qualifying site#.

For such #enlargements# to #buildings# with #non-complying# #floor area#, the proposed #floor area# beyond the amount contained in the pre-existing #non-complying# #building# shall be obtained by utilizing the applicable provisions of Section 81-64. For the purposes of

applying the provisions of such Section, the reconstructed #floor area ratio# shall be considered the basic maximum #floor area ratio#. However, the maximum #floor area ratios# of Row E and Row H shall continue to apply.

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

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

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

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

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# on a #qualifying site# set forth in Section 81-64 and providing publicly accessible space, open or enclosed, pursuant to paragraph (b) of Section 81-681, the Commission may authorize the waiver of the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Retail Streets) and 81-671 (Special street wall requirements), requirements of Sections 81-42 (Retail Continuity Along Designated Streets) and 81-674 (Ground floor use provisions), the curb cut location restriction of paragraph (b) of Section 81-675 (Curb cut restrictions and loading berth requirements), and the design requirements for publicly accessible space, open or enclosed, set forth in paragraph (b)(2) of Section 81-681.

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

(1) for waiver of #street wall# regulations:

(i) such waiver is necessary due to constraints or conditions of the configuration of the site; and

(ii) such waiver will not unduly obstruct the access to light and air of surrounding #buildings# and open spaces;

(2) for waivers of retail continuity and ground floor #use# provisions, such waivers are minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any publicly accessible space, open or enclosed;

(3) for waiver of the curb cut location restriction of paragraph (b) of Section 81-675, for a #qualifying site# on 47th Street between Park Avenue and Vanderbilt Avenue, that the proposed curb cut location will not unduly interrupt the flow of pedestrian traffic or result in any undue conflict between pedestrian and vehicular movement; and

(4) for modifications of the design requirements for a publicly accessible space, open or enclosed:

(i) the publicly accessible space and proposed #building# on the #qualifying site# are designed in a manner that results in a cohesive and harmonious site plan,

(ii) the publicly accessible space is superior in design and quality of amenities;

(iii) the publicly accessible space provides connections to pedestrian circulation spaces in the immediate vicinity;

(iv) the pedestrian network of the surrounding area is enhanced by the publicly accessible space; and

(v) such waiver is the minimum waiver necessary to afford relief. No modifications to the required amount of publicly accessible space set forth in paragraph (b) of Section 81-681 shall be permitted.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member, and the Manhattan Borough President. No authorization shall be granted prior to 60 days after such referral.

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

81-685 - Special permit to modify qualifying site provisions

LAST AMENDED
8/9/2017

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may permit modifications to certain

#qualifying site# criteria, as well as height and setback regulations and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

(a) The Commission may modify the following, whether singly or in any combination:

(1) the following #qualifying site# criteria:

(i) the requirement for minimum #wide street# frontage, including the requirement that no existing #buildings# will remain on such #wide street# frontage, set forth in paragraphs (b) and (c) of the definition of a #qualifying site# in Section 81-613 (Definitions);

(ii) the #building# performance and publicly accessible space requirements in paragraph (f) of the definition of a #qualifying site# and Section 81-681 (Mandatory requirements for qualifying sites);

(iii) the requirement that the additional #floor area# permitted through the provisions of Section 81-64 be achieved exclusively through a #development#;

(iv) the requirement that a #qualifying site# be comprised of a single #zoning lot#, provided that the two or more #zoning lots# constituting such #qualifying site# are contiguous and include the #zoning lot# occupied by Grand Central Terminal. All #bulk# regulations of this Chapter shall apply to such modified #qualifying site# without regard to #zoning lot lines#; or

(v) the requirement that a #development# or #enlargement# exceed the basic maximum #floor area ratio# set forth in Row A of the table in Section 81-64 as a pre-condition to an increase in #floor area# pursuant to such table, where a #qualifying site# includes the #zoning lot# occupied by Grand Central Terminal;

(2) the provisions for #zoning lots# divided by district boundaries set forth in Sections 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions) or 77-22 (Floor Area Ratio), and the provisions of Section 81-612 (Applicability along district boundaries) requiring that #zoning lots# divided by Subarea boundaries utilize the provisions of Article VII, Chapter 7;

(3) for #qualifying sites# modified pursuant to paragraph (a)(1)(iv) and paragraph (a)(1)(v) of this Section:

(i) the pre-condition of achieving the maximum as-of-right #floor area ratio# for #qualifying sites# set forth in Row E of the table in Section 81-64 prior to, or in conjunction with, the special permits set forth in Sections 81-644 (Special

permit for transit improvements) and 81-645 (Special permit for a public concourse), provided that, prior to obtaining a new building permit for a #development# utilizing bonus #floor area# granted pursuant to Sections 81-644 or 81-645, a contribution is made to the #Public Realm Improvement Fund# in an amount that is commensurate with what the provisions of Section 81-642 (Transfer of development rights from landmarks to qualifying sites) would require if the #zoning lot# occupied by Grand Central Terminal were a #granting lot# and the #development# site were a #receiving lot#; and

(ii) the permitted #floor area ratio# attributable to the combination of the special permits set forth in Row F and Row G of the table in Section 81-64, from 3.0 to 6.0;

(4) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets) or 81-671 (Special street wall requirements), inclusive;

(5) the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, 81-27 (Alternate Height and Setback Regulations –Daylight Evaluation), inclusive, or 81-66 (Special Height and Setback Requirements);

(6) the mandatory district plan elements of Sections 81-42 (Retail Continuity Along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair), 81-47 (Major

Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), 81-674 (Ground floor use provisions), 81-675 (Curb cut restrictions and loading berth requirements), 81-676 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted; or

(7) for #qualifying sites# modified pursuant to paragraph (a)(1)(iv) or paragraph (a)(1)(v) of this Section, the time period for substantial construction to be completed prior to the lapse of any special permit granted for such #qualifying site#, as set forth in Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution), provided that such time period does not exceed 10 years.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

(1) drawings, including but not limited to, plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43, or as such provisions are modified pursuant to Section

81-671, as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26 or 81-27, or as such provisions are modified pursuant to Section 81-66, as applicable;

(2) where applicable, formulas showing the degree to which such proposed #building# will not comply with the length and height rules of Section 81-26, or as such provisions are modified pursuant to Section 81-66;

(3) where applicable, #daylight evaluation charts# and the resulting daylight evaluation score showing the degree to which such proposed #building# will not comply with the provisions of Section 81-27 or as such provisions are modified pursuant to Section 81-66; and

(4) for any #development# or #enlargement# on a #qualifying site# that includes Grand Central Terminal, a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or, where permitted, #enlargement# to Grand Central Terminal.

(c) Findings

The Commission shall find that such proposed modifications:

(1) to the definition of #qualifying site# are the minimum extent necessary, and are harmonious with the Subdistrict objective to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers;

(2) to the requirement for #wide street# frontage in the definition of #qualifying sites# will not unduly concentrate #bulk# towards the middle of the #block# to the detriment of the surrounding area;

(3) to the #building# performance requirements in the definition of #qualifying sites# and paragraph (a) of Section 81-681:

(i) are necessary due to the presence of existing #buildings# on the site; and

(ii) will not detract from the incorporation of innovative sustainable design measures;

(4) to the publicly accessible space requirements in the definition of #qualifying sites# and paragraph (b) of Section 81-681:

(i) are the minimum necessary to accommodate the proposed #building#; and

(ii) that any reduction or waiver will result in a better site plan and will not detract from a lively streetscape and pedestrian experience;

(5) to regulations pertaining to #zoning lots# divided by district boundaries will result in better site planning;

(6) to #floor area ratio# requirements will facilitate significant improvements to transit infrastructure and the public realm in and around Grand Central Terminal;

(7) to the mandatory district plan elements:

(i) will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions);

(ii) any adverse impact on retail continuity is minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any open or enclosed public areas within the #zoning lot#;

(8) to the #street wall# or height and setback regulations:

(i) are necessary due to constraints or conditions of the #development# or #enlargement# and conditions imposed by the configuration of the site;

(ii) will not unduly obstruct the access of light and air to surrounding properties;

(iii) will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations); and

(iv) the overall design of the #building# demonstrates an integrated and well-considered facade, taking into account factors such as #street wall# articulation, and fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area and constitutes a distinctive addition to the Midtown Manhattan skyline; and

(9) to the time period for substantial construction to be completed prior to the lapse of any special permit granted for such #qualifying site# are necessary due to the complexity of demolition and construction on the site.

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

81-686 - Contribution in-kind for certain public realm improvements

LAST AMENDED
8/9/2017

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

(a) The following requirements shall be completed prior to application for certification by the Chairperson:

(1) the applicant shall submit preliminary plans for the proposed improvement to the Chairperson, the Department of Transportation (DOT), and the #Public Realm Improvement Fund Governing Group# (the "Governing Group");

(2) DOT shall provide a letter to the Chairperson and the Governing Group containing a conceptual approval of the proposed improvement including a statement of any considerations regarding the construction and operation of the improvement;

(3) construction documents and cost estimates shall be prepared for such proposed improvements by a professional engineer, and submitted to the Chairperson, the DOT and the Governing Group;

(4) upon review, the DOT and the Governing Group shall either approve such construction documents and costs estimates or detail discrepancies to be resolved by the applicant; and

(5) upon approval of the construction documents and cost estimates by the DOT and Governing Group, and prior to the issuance of a building permit as set forth in Section 81-642 and in this Section, the applicant shall execute agreements and legally enforceable instruments running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to design and construct the improvement in accordance with the requirements of the DOT. A certified copy of such legal instruments shall be sent to the Chairperson.

(b) Upon submittal of all the items in paragraph (a) of this Section, along with drawings indicating the portion of the #building# utilizing transferred #floor area# pursuant to the provisions of Section 81-642 or, where applicable, 81-643, the Chairperson shall certify that a #development# or, where permitted, #enlargement# on a #qualifying site# may undertake an improvement to an adjoining sidewalk.

The execution and recording of legal instruments in accordance with paragraph (a) of this Section shall be a precondition to the issuance of any foundation permit or new building permit or alteration permit by the Department of Buildings allowing a #development# or, where permitted, #enlargement# on a #qualifying site# undertaking a contribution-in-kind pursuant to this Section.

(c) Upon certification by the Chairperson, monies equal to such agreed upon cost estimate between the applicant, DOT and the Governing Group shall be deposited by the applicant into an escrow account or other similar account established by the Governing Group, which shall not be commingled with the #Public Realm Improvement Fund# ("the Improvement Fund").

(d) No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing transferred #floor area# pursuant to Section 81-642 until the Chairperson of the City Planning Commission, acting in consultation with the DOT and the Governing Group, has certified that the improvements are substantially complete and usable by the public. No permanent certificate of occupancy shall be granted by the Department of Buildings until the improvements have finally been completed in accordance with the approved plans and such final completion has been approved by the Chairperson, the DOT and the Governing Group.

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

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