Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

81-61 - General Provisions

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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
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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
12/5/2024

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.