Project ID 2022M0359

MSK Pavilion
1233 York Avenue, Manhattan
January 12, 2024

LR Item 3: Project Description

1. Introduction

Memorial Sloan Kettering Cancer Center ("MSKCC" or "Applicant"), the owner of properties identified as Block 1461, Lots 13 and 21 (MSKCC's "South Block"); Block 1462, Lots 1 and 5 (MSKCC's "Main Block") and Block 1463, Lot 7501 (condo lot 1001) (MSKCC's "North Block") located in the Upper East Side's Lenox Hill neighborhood of Manhattan Community District 8, which partially comprise an existing Large-Scale Community Facility Development ("2001 LSCFD"[1] or "Project Area"), files this Application to facilitate the construction of a new 31-story inpatient medical facility ("MSK Pavilion", "Pavilion" or "Proposed Development") on property located on a portion of Lot 21 and a portion of Lot 13 of the South Block (the "Pavilion Site"). The Pavilion, which will contain 28 operating suites, up to 206 patient beds related to those operating suites and support space related to those surgeries, will be owned, operated and fully occupied by MSKCC. Concurrently, MSKCC is also filing with the NYC Department of Transportation ("NYCDOT") an application for a revocable consent to build and maintain a two-story enclosed patient bridge over East 67th Street ("Patient Bridge") that will provide enclosed connections between the Pavilion and MSKCC's Memorial Hospital, located on Main Block.

The Applicant requests approval of the following actions ("Proposed Actions"): (1) a zoning map amendment to rezone Block 1461 Lot 13 and the western portion of Lot 21 from R8 to R9; (2) a zoning text amendment to Zoning Resolution of the City of New York ("ZR") Section 79-43 to authorize the New York City Planning Commission ("CPC" or "Commission"), by special permit, to allow modification of lot coverage and sign regulations in Manhattan Community District 8, for zoning lots located in in R9 and R10 Districts; (3) authorizations pursuant to ZR Section 79-21 to allow for the location of a new 31-story inpatient hospital building on the South Block within the

[1] Established in conjunction with Zoning Map Amendment (C 010547 ZMM) ("2001 Rezoning"); Special Permit (C 010548 ZSM) ("2001 Special Permit"); and Zoning Authorization (N 010549 ZAM) ("2001 Zoning Authorization") approved by the CPC on November 28, 2001, and adopted, with amendments, by the City Council on December 19, 2001 ("2001 LSCFD Approvals"). The accompanying Final Environmental Impact Statement identified as CEQR No. 01DCP050M ("2001 FEIS") was certified as complete on November 16, 2001. The 2001 LSCFD also includes two tax lots (Block 1463, Lots 5 and condo lot 1002) owned by the Roman Catholic Church of St. Catherine of Siena merged into North Block zoning lot pursuant to the Declaration of Zoning Lot Restrictions made December 12, 2001, and recorded in the Office of the New York City Register ("Office of the Register") on December 14, 2001 (Reel 3409, Page 1461) in connection with the purchase of unused development rights ("North Block DZLR"). The Church's Letter of Authorization pertaining to this Application is included with this filing.

2001 LSCFD without regard for (a) height and setback regulations; (b) rear yard regulations and (c) zoning lot lines and streets within the 2001 LSCFD that otherwise prohibit the distribution of floor area to the Pavilion Site; (4) a Special Permit pursuant to ZR Section 79-43, as amended, to allow modifications of regulations relating to height, setback, lot coverage and signs to facilitate construction of the Proposed Development; (5) a modification to the 2001 LSCFD to update the site plans and zoning calculations previously authorized by CPC (M 010548(A)ZSM); (6) modifications as required to the 2001 LSCFD Restrictive Declaration (2001 LSCFD Approvals); (7) a certification pursuant to ZR Section 26-15 to permit more than one curb cut on East 66th and East 67th Streets and (8) a revocable consent to enable the two-story Patient Bridge above East 67th Street.

2. Background

MSKCC has devoted more than a century to patient care as well as to innovative research that has made significant contributions to new and better therapies for the treatment of cancer. It is also one of leading academic centers for the training of physicians and investigators in a broad array of oncology-related fields.

In recent years, MSKCC has expanded its facilities with new construction and renovations designed to meet the growing needs of its patients and research programs. Aside from its major medical complex and satellite facilities on Manhattan's Upper East Side, MSKCC has developed a network of state-of-the-art outpatient cancer treatment facilities that bring expert care closer to patients living throughout New York City and the greater New York area.

This Application focuses on the need for MSKCC to significantly increase its inpatient facilities to address a formidable challenge: as confirmed by its own analyses and those of the Centers for Disease Control and Prevention ("CDC") and other national and international organizations, there is already underway a sizeable increase in the number of new cancer cases, approximately a doubling of such cases in the period 2015 – 2050. This new wave is only partially attributable to an aging population; it is compounded by an unexpected rise in the number of new cases among young adults, both significant age groups in New York City. While MSKCC surgeons already perform more cancer-related surgical procedures yearly than their colleagues at any other hospital in the United States, MSKCC believes that this projection for the increased demand both nationally and locally for surgical services and acute care inpatient beds will require MSKCC to significantly increase its capacity to perform complex surgeries on acutely ill patients with advanced cancers and that the only location for this new facility is within its major medical complex on the Upper East Side. The new 31-story MSK Pavilion is its strategic response to this growing challenge.

This Application is the resumption and continuation of the land use actions first considered and partially approved by the Commission in 2001. The Application aligns with the fundamental land use decisions reached by the Commission in the 2001 LSCFD Approvals that facilitated (i) the development of the Mortimer B. Zuckerman Research Center ("ZRC") on the North Block; (ii) the establishment of the accompanying 2001 LSCFD covering the North, Main and South Blocks and (iii) the zoning map amendments applying to the North and Main Block midblocks that replaced R8 with R9 to both support the development of ZRC and expressly support MSKCC's long-range planning necessary for the future development within the 2001 LSCFD of a new inpatient clinical hospital building for acutely ill patients referred to in the 2001 FEIS as the "New Hospital Building" and herein and henceforth referred to as the MSK Pavilion. ZRC was completed in 2005 and is now fully occupied.

The Proposed Actions represent the culmination of the site selection planning for the New Hospital Building first identified and studied in the 2001 FEIS in connection with the 2001 LSCFD Approvals and considered and discussed in the Commission's Report C 010548 ZSM dated November 28, 2001, Cal. No. 2 ("Report"). Culminating 20 years of strategic planning, MSKCC has selected the Pavilion Site as the only feasible site for a new inpatient hospital to augment MSKCC's surgical capacity for acutely ill cancer patients and other medical services now provided solely at Memorial Hospital. The MSK Pavilion will utilize the floor area attributable to the Pavilion Site, the remaining unused floor area within the 2001 LSCFD and the additional floor area resulting from the proposed zoning map amendment on the South Block. The required actions, all originally identified as future actions in the 2001 LSCFD Approvals, can now be advanced with specificity, including new actions that are necessitated by situating the MSK Pavilion on the South Block's perimeter of the 2001 LSCFD at York Avenue and East 66th Street, and the construction of the Patient Bridge.

Development of the MSK Pavilion would begin with the demolition of the two MSKCC community facility (Use Group 3) buildings currently standing on the Pavilion Site, which are currently used for contract housing for MSKCC staff, trainees and interns for their term of service or academic affiliation with MSKCC (all of which will be absorbed into other MSKCC properties) and for MSKCC-related administrative services. Currently, a 263-space parking garage occupies spaces beneath the South Block buildings. The garage will be retained in the MSK Pavilion.

The Project Area consists of the 2001 LSCFD generally developed with the Applicant's interconnected complex of nine medical buildings ranging from 12 to 23 stories on the South, Main and North Blocks, which are used exclusively for the diagnosis and treatment of cancers and for research dedicated exclusively to cancers. Currently, admitted patients in the Memorial Hospital building on the Main Block utilize these interconnections to access treatment centers,

diagnostic centers and procedural facilities throughout the Project Area and it is anticipated that the patients in the MSK Pavilion will do the same utilizing the proposed Patient Bridge. An existing service tunnel connecting the Rockefeller Research Labs ("RRL") and its underground parking garage to the Main Block will also be available to staff, caregivers and visitors for travel between the two blocks. For both clinical and operational reasons, the tunnel cannot serve patients being transported to and from the Pavilion.

The Project Area currently lies within five zoning districts: a C1-9 district that runs along First Avenue in which the western frontage of the Main Block is located; an R9 midblock district in which the southern portion of the North Block midblock and the Main Block midblock are located; an R10 district that runs along the west side of York Avenue in which the Main and South Blocks' eastern frontages are located, and two R8 districts: one that includes the northern portion of the North Block and the other that includes the midblock portion of the South Block.[2]

As described below, the Project Area was the subject of significant prior land use actions approved by the Commission on November 28, 2001, and adopted, with amendments, by the City Council on December 19, 2001, which resulted in (i) substantial increases in permitted floor area through zoning map amendments for the North and Main Blocks, (ii) establishment of the 2001 LSCFD and in conjunction therewith (iii) approvals for the construction of the ZRC on the North Block. The Report and the 2001 FEIS state that, in addition to the land use approvals required for the construction of ZRC, the intended purpose of the 2001 MSKCC application was to secure approvals for a second new development, described as the "New Hospital Building", at a location within the 2001 LSCFD to be specified at a future date. The New Hospital Building was modeled and analyzed in the 2001 FEIS in full accordance with the CEQR Handbook. Excerpts from the Commission's Report state as follows:

> Proposed Project (page 4) – Research Building
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> *MSKCC has stated a need for additional space to achieve its future development plan. The development is planned in two phases. In Phase I, MSKCC would construct a new research facility on the north campus block by 2007. In Phase II, MSKCC would carry out its long-term goals, including the enlargement and construction of inpatient rooms… .*
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> Phase II Development Plan (page 6) – Future New Hospital Building

[2] The southern portion of the North Block and the midblock portion of the Main Block were rezoned from an R8 district to an R9 district as part of the 2001 LSCFD Approvals. The Commission also positively considered the appropriateness of rezoning the midblock portion of the South Block and north midblock portion of the North Block and so certified those actions upon certification of the 2001 LSCFD application. However, for reasons that will be described further in this Section 2, MSKCC voluntarily withdrew the request to rezone the midblock on the South Block prior to the CPC vote, as the Commission noted, "without prejudice." The Applicant is now returning to the Commission to renew its request to extend the R9 to include the midblock portion of the South Block because it can now identify the New Hospital Building's location and massing and because the proposed rezoning is once again now essential to MSKCC's mission and the development of the more clearly defined MSK Pavilion.

> *Inpatient Rooms: MSKCC is proposing to replace its 27-year-old* [now 50-year-old] *Memorial Hospital, located on the main campus block as part of its long-term plan.*

The zoning actions approved in 2001 included:

- Zoning Map Amendment (C 010547 ZMM) to rezone the Main Block (1462) midblock and the southerly portion of the North Block (1463) midblock from R8 to R9. MSKCC's original proposal included rezoning of the midblock portions of all three blocks within the 2001 LSCFD. The rezoning as proposed was certified by the Commission as such. However, the rezoning of the South Block (1461) was voluntarily withdrawn by MSKCC in November 2001 prior to final adoption of 2001 Rezoning as described in the Report.

The withdrawal of the requested rezoning on the South Block can only be understood in the context of the unprecedented time in which it was certified, heard and voted upon by the Commission and approved by the City Council. The actions sought were certified into ULURP on June 4, 2001. Community Board 8 and Borough President reviews occurred during the summer of 2001. The actions were calendared for a Commission hearing scheduled for September 12, 2001. Given the catastrophic events of the preceding day, the hearing was indefinitely postponed. Given its pre-eminent role in leading the post-9/11 recovery efforts, the New York City Department of City Planning ("DCP") was not able to schedule its public hearing on the application until October 11, which was after its required regulatory limit, thereby technically terminating the application. Although the terminated application, and others in the same situation, were re-instated following the enactment of a local law by the City Council, it was determined that the Council could not extend the ULURP clock beyond the expiration of its own term, which expired on December 31, 2001.[3] Thus, after a hiatus of 28 days during which the City was not operational, and with less than six weeks remaining in the application's original ULURP clock to hold a hearing, complete the final EIS, hold a vote and submit the approval to City Council, the CPC Chair brought together the Applicant and representatives of the Manhattan Borough President and City Council to address the issues raised during the Community Board's and Commission's public hearings in the hope that all parties could support a modified application that could be approved in the few remaining weeks.

One such issue raised by the Borough President was that approval of the requested upzonings for all three midblocks would generate sufficient floor area for both ZRC and the New Hospital

[3] The path forward was made all the more ambiguous by the unknowns surrounding the looming end of a term-limited Mayoral Administration and an unclear path to electing a new Mayor and a new City Council by December 31, 2001. Consideration was given to state legislation that would automatically extend the clock for projects in ULURP on 9/11 but by mid-October it became clear that the sole available regulatory option was completion of ULURP within its original remaining timetable, requiring a City Council vote by December 25.

Building but that details of the New Hospital Building remained unacceptably tentative and under the truncated timetable would remain so. In the interest of progress, the CPC Chair asked MSKCC to consider withdrawing its requests for upzoning the South Block midblock and the north half of the North Block midblock, such that the upzoning on the North Block midblock would be reduced to the floor area required to proceed with the immediate construction of ZRC and the Main Block midblock received the floor area to secure a future New Hospital Building. The Borough President requested and MSKCC agreed to enter into a restrictive declaration to forego use of the new Main Block midblock floor area until it returned to the Commission with a future large-scale community facility development application that would identify the location and design of the New Hospital Building, at which time MSKCC would be welcome to revive its upzoning application for the South block midblock. MSKCC agreed to this restriction and voluntarily amended its 2001 LSCFD application to withdraw the South Block midblock from the R9 zoning map amendment request. The Commission recognized MSKCC's role in accepting this compromise measure:

> *The Commission is pleased that the applicant, in response to concerns raised during the public review process, has revised the zoning map amendment by eliminating the south block from the rezoning application. This revised action would eliminate approximately 140,000 square feet of increased permitted floor area from the south campus block. The Commission notes that the detailed planning for the south campus block is at an early stage and that MSKCC will be focusing its resources and efforts on the north and main campus blocks. Because the concept plan for the southern block is likely to change over time as the development and expansion plans proceed on the northerly two blocks, the Commission believes that the south campus block should remain in the R8 district until the plans for this block are more concrete.* (Report, page 45)

- Establishment of the 2001 LSCFD for the MSKCC Main Campus, which includes multiple zoning lots comprising over 5.5 acres that would be contiguous but for their separation by East 67th and 68th Streets. The large-scale community facility development designation allowed the Commission to consider two bulk modifications pursuant to ZR Sections 79-43 and 79-21 for ZRC on the North Block;
- Approval of the 2001 Special Permit (C 010548 ZSM) to modify the required height and setbacks regulations along East 69th Street, a peripheral street of the 2001 LSCFD, to facilitate locating ZRC's East 69th Street street wall without setback for its full 420-ft height;
- Approval of the 2001 Zoning Authorization (N 010549 ZAM) to permit the modification to height and setback regulations along East 68th Street, an internal street within the 2001 LSCFD, in a manner similar to modifications to the height and setback regulations along East 69th Street approved under the 2001 Special Permit.

The Commission denied without prejudice MSKCC's request for an authorization to allow distribution of floor area within the 2001 LSCFD, without regard to the zoning lot lines, of up to

100,000 sf of floor area from the North Block to the Main Block, which it had requested to facilitate the future development of the New Hospital Building. In its Report, the Commission noted that it "considers it appropriate to review the distribution of floor area at the time when MSKCC has defined more specific plans and design for the Main campus block [*i.e*., the Main Block]". However, in order to accommodate the potentially necessary small enlargements for the period between the date of the 2001 LSCFD Approvals and MSKCC's return to the Commission to seek distribution of the 290,310 sf of newly created floor area ("2001 Approved Floor Area"),[4] the Commission granted MSKCC the right to utilize 75,000 sf of that 2001 Approved Floor Area without returning to the Commission to request its use. The Commission required MSKCC to execute and record a 2001 LSCFD restrictive declaration[5] ("Floor Area RD"), with regard to the 75,000-sf allowance, that *inter alia*, provided that the New Floor Area could not be used on any zoning lot that MSKCC did not control. In addition, in connection with construction of the ZRC, the Commission required an execution of a CEQR Declaration[6] governing appropriate remediation regarding ground disturbance.

In addition, in conjunction with the 2001 LSCFD Approvals, the Applicant obtained a variance and a special permit from the Board of Standards and Appeals ("BSA") under calendar No 130-01-BZ[7] that approved (1) a variance of R9 district maximum permitted lot coverage regulations (Section 24-11) and rear yard equivalent regulations (ZR Section 24-382) and (2) a special permit pursuant to ZR Section 73-642 for a temporary failure to comply with the R9 district floor area regulations for the period between the completion of the ZRC and the demolition of the former Kettering Labs Building ("KLB"). The KLB could not be demolished until its replacement laboratories in ZRC became available due to the inability to suspend or re-locate groundbreaking cancer research underway in KLB. KLB was demolished upon completion of Phase I of the ZRC construction, after which Phase II of the ZRC construction took place on its footprint. The BSA-approved lot coverage for ZRC upon completion of both phases was 74.4%, which exceeds the 65% maximum lot coverage regulation in R8 and R9 districts.

On April 18, 1967, under Calendar No. 51-67-BZ, in connection with construction of the Memorial Hospital on Block 1462, Lots 1 and 5, the BSA granted a variance waiving sky exposure plane and height and setback regulations (ZR Section 24-522), adjusted maximum floor area regulations (ZR

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[4] The "2001 Approved Floor Area" is referred to in the Report as the "New Floor Area on the Main Campus Midblock".

[5] Made as of December 19, 2001, recorded in the Office of Register [against Main Block] on December 20, 2001 (Reel 3413, Page 1860).

[6] Made as of December 11, 2001, and recorded in the Office of the Register [against Main Block and North Block] on December 14, 2001 (Reel 3409, Page 1438).

[7] Adopted by the BSA on December 4, 2001.

Section 77-22) and lot coverage regulations (ZR Sections 77-24 and 24-10) approving 100% lot coverage for the entire Main Block.

The Applicant is not aware of any pending land use actions within the 600 ft radius that affect the Project Area. Recent notable actions within the 600 ft radius include:

- Three actions by New York Blood Center, Inc. ("NYBC") to facilitate construction of a proposed 16-story building on property located at 310 East 67th Street (Block 1441, Lot 40), in a C2-7 District, which were approved by the CPC on September 22, 2021: (i) a zoning map amendment[8] to change an R8B District to a C2-7 District; (ii) a zoning text amendment[9] to allow commercial scientific research and development facilities in C2-7 Districts and allow related use and bulk modifications, and to designate a Mandatory Inclusionary Housing (MIH) area; and (iii) a special permit pursuant to ZR Section 74-48[10] to (1) allow a scientific research and development facility as a commercial use; (2) allow the floor area ratio regulations, up to the maximum floor area ratio permitted for community facility uses for the District, to apply to a privately-owned commercial scientific research occupant; (3) modify the height and setback regulations of ZR Section 33-432 (*In other Commercial Districts*), and the required yard equivalents regulations of ZR Section 33-283 (*Required rear yard equivalents*); and (4) modify the signage regulations of ZR Section 32-641 (*Total surface area of signs*), ZR Section 32-642 (*Non-illuminated signs*), ZR Section 32-643 (*Illuminated non-flashing signs*), ZR Section 32-655 (*Permitted Projections or Height of Signs*), and ZR Section 32-67 (*Special Provisions Applying Along District Boundaries*). The proposed privately-owned Center East life sciences hub that would co-occupy a new NYBC building will housed both serve NYBC's research program and privately-owned life sciences company, as well as adjacent research institutions. A 16-story, 334 ft high building was approved with 451,860 sf, or an FAR of 10.

- A BSA Variance (325-12-BZ) for 1273-1285 York Avenue (Block 1463, Lots 21 and 31, which is immediately adjacent to the North Block to the north and east) approved on June 11, 2013, which permitted, within R8, R9, and R10 zoning districts, the construction of a 15-story ambulatory care center and maternity hospital for New York Presbyterian Hospital-Weill Cornell Medical Center ("NYPH") that did not comply with ZR Sections 24-11, 24-36, 24-382, 24-522 and 13-133 regulations with respect to floor area ratio, lot coverage, front setback, rear setback, rear yard, rear yard equivalent and parking. The bulk parameters of the proposed approved building are limited to 568,801 sf (13.33 FAR); a maximum height of 341.46 ft; and 224 parking spaces. The NYPH David

[8] C 210351 ZMM (Cal. No 23).

[9] N 210352 ZRM (Cal. No 24).

[10] C 210353 ZSM (Cal. No 25).

H. Koch Center opened in April 2018 and houses on its top six floors The Alexandra Cohen Hospital for Women and Newborns.

3. Description of the Surrounding Area

The Project Area is in the Upper East Side's Lenox Hill neighborhood of Manhattan Community District 8. It covers three blocks bounded by East 69th Street to the north, East 66th Street to the south, York Avenue to the east, and First Avenue to the west. The area surrounding the Project Area is predominately institutional (including hospitals, churches, and schools), with scattered residential, including multifamily walk-up and elevator buildings and one- and two-family townhouses, and mixed residential and commercial uses.

The 2001 LSCFD occupies the entire Main Block (1462), the eastern portion of the South Block (1461) and the midblock portion the North Block (1463). The remainder of the North Block east and north of the Project Area is developed with the 17-story, 320-ft NYPH David H. Koch Center at 1283 York Avenue (Lot 21) constructed in 2014 along the entire York Avenue frontage and 150 ft west into the midblock along East 68th Street and, west of the Project Area, six low-rise walk-up apartment buildings with ground floor retail along the First Avenue frontage (Lots 1, 3, 45, 47, and 48). The South Block west of the Project Area is developed with a 30-story 328 ft mixed-use residential building with ground floor retail on the northeast corner at 400 East 67th Street (Lot 7501) and community facility uses on the remainder of the block, including the Roman Catholic Church of St. John of Nepomucene, rectory and school on the southeast corner and midblock at 411 East 66th Street (Lot 1) and the 5-story public school PS 183 with playground on a through-block site on its midblock portion (Lots 7 and 37).

The neighborhood character north and east of the Project Area is atypically intensively institutional, with large multi-building campuses lining York Avenue. This atypical format of tall medical buildings with large lot coverage on full blocks or superblocks is utilized by medical, educational and research institutions of world-class stature. Beginning at East 61st Street, these include Rockefeller University, a large-scale community facility development covering two blocks bounded by East 62nd and East 68th Streets, York Avenue and FDR Drive established in 1983, NYPH's Main Campus superblock from East 68th Street to East 71st Street on the east side of York Avenue (which includes the merged Weill Cornell Medicine buildings) and the Hospital for Special Surgery located along the FDR Drive north of 70th Street. The buildings in these community facilities range from four to thirty-eight stories. On Block 1464, immediately north of the Project Area at 413 East 69th Street is the 18-story Weill Cornell Medicine's Belfer Research Building constructed in 2014 pursuant to a BSA Variance (170-08-BZ) and the 15-story Weill Cornell Medicine's Greenberg Center at 1305 York Avenue at East 70th Street constructed in 2004.

As an ensemble, this group of sprawling campuses anchored by tall buildings forms one of the world's most prestigious communities for medical care and research. The northern boundary of this medical corridor is currently MSKCC's David H. Koch Center for Cancer Care located at East 74th Street and the East River Esplanade approved by the Commission in 2013 and opened in 2019. Other nearby large institutions in the York Avenue corridor include the Schwarzman Animal Medical Center at East 61st Street, MSKCC's Josie Robertson Surgical Center at 1133 York Avenue, the international headquarters for Sotheby's auction house at the southeast corner of York Avenue and East 72nd Street and the 36-story Mary Manning Walsh Nursing Home on the southwest corner of East 72nd Street. The cross streets immediately north, northwest and southwest of the Project Area contain many medical offices and laboratories, including MSKCC's Kimmel Building. The New York Blood Center at 326 East 67th Street and the Julia Richman Education Complex at 317 East 67th Street are both located west of the Project Area closer to Second Avenue.

Limited areas to the south and west of the Project Area are characterized by one- and two-family townhouses and medium-rise multi-family residential buildings along the midblocks and medium- and high-rise mixed-use residential and ground floor commercial buildings ranging from six to thirty stories along First Avenue.

Two New York City landmarks are located within 400 ft of the Project Area: First Hungarian Reformed Church at 346 East 69th Street – west of the Project Area; and City and Suburban Homes Company, First Avenue Estate at 1168 First Avenue/410 East 65th Street/415 East 64th Street/429 East 64th Street – south of the Project Area. The primary public open space in the surrounding area is St. Catherine's Park, which is located one block west of the Project Area between East 67th and East 68th Streets.

The surrounding area is primarily zoned for mid-to-high density residential and community facility uses. To the east of York Avenue, the medical/academic superblocks are uniformly zoned R9, which permits such institutions to develop to FAR 10 with limited bonuses to FAR 12. However, these institutions' historic access to air rights over the FDR Drive has permitted development far in excess of R9 regulations. Frontages west of York Avenue to a depth of 100 ft between East 64th and East 71st Streets are zoned R10, which permits a base FAR of 10.0 for both residential and community facility uses. Moving west, the midblocks between East 68th to East 71st Streets are zoned R8, which permits up to 7.2 FAR for residential use and 6.5 FAR for community facility use. The remaining midblocks to the south and west are zoned R8B, which permits 4.0 FAR for residential use and FAR 5.1 for community facility use. In addition, C1-9 and C2-8 mapped along the frontage of First Avenue between East 61st and East 71st Streets, permit local retail use up to FAR 2.0. The recently enacted C2-7 in the vicinity of the NYBC has equivalent residential bulk

regulations to an R9 district and permits up to FAR 10 for commercial or mixed uses, including Use Group 9 medical laboratories.

First Avenue is a north-south thoroughfare running from Houston Street northbound to 127th Street. York Avenue runs in both directions north-south between East 59th Street and East 92nd Street where it merges into the FDR Drive, which runs north-south just east of the surrounding area. The surrounding area is well served by public transportation. The 6 subway line stops at the Hunter College subway station at 68th Street and Lexington Avenue and the Q subway line stops at 72nd Street subway station, which has entrances along Second Avenue at East 69th, 70th and 72nd Streets. The surrounding area is also served by several bus lines, including M15, M15-SBS (Frist/Second Avenue), M31 (York Avenue), M66 (East 67th/68th Streets) and M72 (East 71st/72nd Streets). A Citi Bike sharing station is located immediately across from the Main Block on First Avenue.

4. Description of the Project Area

The Project Area spans three city blocks (Blocks 1461, 1462, 1463) generally bounded by East 69th Street on its north, East 66th Street on its south, First Avenue on its west and York Avenue on its east in the Upper East Side's Lenox Hill neighborhood of Manhattan Community District 8. Its boundaries coincide with the previously established 2001 LSCFD that includes the North, Main and South Blocks with buildings ranging from four to twenty-three stories and the one-story Roman Catholic Church of St. Catherine's of Siena. Other than the Church and a Church condominium unit (1002) within ZRC that is connected to the Church as its Parish House, all properties within the 2001 LSCFD are under MSKCC's ownership and occupied solely for its medical and academic purposes.

The North Block is a through lot that occupies the midblock portion of Block 1463 between East 68th and East 69th Streets (Lots 5 and 7501) and has a lot area of 60,350 sf. It is improved with the 23-story ZRC constructed on lot 7501 pursuant to the 2001 LSCFD Approvals and the St. Catherine's Church on lot 5.[11] The 424-ft tall ZRC houses MSKCC's Sloan Kettering Institute, conducting laboratory and computational research in cancer biology and genetics, computational biology, immunology, and human oncology and pathogenesis and molecular pharmacology. In addition, ZRC is the home to the Gerstner Sloan Kettering Graduate School of Biomedical Sciences. There are no clinical programs operating in ZRC and no patients are seen there, although many of MSKCC's physicians conduct extensive cancer research in their respective fields in ZRC's labs. The relocated St. Catherine's Church's rectory occupies portions of floors one through three of the ZRC. The North Block is a split zoning lot, zoned R8 for its north portion and R9 in

[11] Merged into a single zoning lot pursuant to the North Block DZLR.

its south portion. This zoning lot contains 519,880 sf of community facility floor area. No additional floor area is available for development or transfer on this zoning lot. No development is proposed on the North Block.

The Main Block occupies the full Block 1462 between East 68th and East 69th Streets (Lots 1 and 5) and has a lot area of 123,110 sf. It is improved with several MSKCC buildings constructed between 1939 and 1991 ranging from four to twenty stories in height, including the 13-story Schwartz Research Building, the 15-story Howard Building, the 14-story Bobst Building, the 7-story Enid A. Haupt Pavilion/MRI Building, the 4-story Norman and Rosetta Winston Surgical Pavilion and the 4-story Radiation Oncology Building, which is the hub of MSKCC's diagnostic and treatment programs. The 20-story Memorial Hospital, fronting on York Avenue, which is licensed to provide up to 498 beds, is now 50 years old, contains the only inpatient beds in MSKCC's tri-state network and, as a result, all surgeries performed by MSKCC requiring hospitalization occur on the Main Block or occasionally at the close-by Josie Robertson Surgical Center, which was designed to serve predominantly ambulatory surgical patients. The Main Block is zoned C1-9 along its First Avenue frontage, R10 along York Avenue frontage and R9 midblock. This zoning lot contains 966,162 sf[12] of community facility floor area. The maximum permitted community facility floor area on the Main Block is 1,231,100 sf, 264,938 sf of which remains available for development, subject to the limited restrictions in the Floor Area RD. No development on the Main Block has occurred since the 2001 LSCFD Approvals and none is proposed in the current Application.

The South Block occupies the eastern half of Block 1461 between East 66th and East 67th Streets (Lots 13 and 21) and has a lot area of 60,250 sf. Included on this Block is the 16-story 217-ft RRL, the 23-story Scholars Residence ("Scholars") and the 20-story Sloan House ("Sloan"). Both Sloan and Scholars are connected below grade to the adjacent RRL via a shared 263-space underground accessory parking garage for MSKCC staff, patients and visitors with garage access via an East 66th Street midblock ramp located approximately 120 ft west of York Avenue between Sloan and RRL. The South Block's York Avenue frontage (east portion of Lot 21) is zoned R10. The remainder of the South Block, 100 ft west of York Avenue (Lot 13 and west portion of Lot 21), is zoned R8. This 40,167-sf midblock area is the subject of the proposed rezoning to R9. This zoning lot contains 476,758 sf of community facility floor area (FAR 7. 91). Accounting for the 225,856-sf RRL that will remain, the demolition of Sloan and Scholars and the floor area generated by the

[12] 2001 Approved Drawing Z-2 indicates existing Main Block's floor area of 967,378 sf. The floor-by-floor survey by Studio Castellano commissioned by MSKCC and completed in November 2022 determined that combined zoning floor area of all Main Block buildings is 966,162 sf.

proposed rezoning, this zoning lot will have 376,644 sf of community facility floor area available for development after the approval of the proposed rezoning.

As noted above, the buildings within the MSKCC Campus are interconnected: a tunnel beneath East 68th Street connects ZRC to the Main Block, and a tunnel beneath East 67th Street connects RRL to the Main Block.

The maximum permitted zoning floor area within the Project Area is 2,212,905.5 sf, which would increase to 2,353,480 sf after the approval of the proposed rezoning on the South Block. The utilized zoning floor area is 1,962,800 sf, including 1,755,916 sf of community facility and 206,884 sf of staff contract housing[13] floor area (which will be eliminated upon the demolition of Sloan and Scholars). While the parking garage will be reconfigured, there will be no increase in the number of parking spaces.

5. Description of the MSK Pavilion on the Development Site

While the proposed development will proceed on the South Block zoning lot (a/k/a the Development Site), which consists of tax lots 21 and 13 in block 1461, the footprint of the MSK Pavilion is limited to a portion of Lot 21 (28,834.58 sf) and a small portion of Lot 13 (867.92 sf), for a total lot area of the Pavilion Site of 29,702.50 sf. The Pavilion Site has approximately 201 ft of frontage on York Avenue (a wide street), 158 ft of frontage on East 67th Street and 148 ft of frontage on East 66th Street (both narrow streets). In addition to the Pavilion Site, the South Block zoning lot is developed with the contiguous RRL, which occupies the remainder of Lot 13 and a small portion of lot 21. The South Block's total zoning lot area is 60,250 sf.

Lot 21 is zoned R10 to the depth of 100 ft west of York Avenue. Its midblock portion and the entire Lot 13 are zoned R8. The requested rezoning action from R8 to R9 would rezone a 40,167-sf midblock tract that would include the western portion of Lot 21 and all of Lot 13.

The Pavilion Site is currently improved with the approximately 261-ft tall Scholars (north) and approximately 237-ft tall Sloan (south) buildings, which together occupy the entire York Avenue frontage of the Pavilion Site. The Certificates of Occupancy for both buildings list them as Use Group 3 community facilities. Both buildings are set back from their street lines on their streets and their York Avenue frontages beyond the low brick walls that serve as planters for inaccessible landscaped areas. Today both buildings provide contract housing for MSKCC staff and trainees on the upper floors and administrative support services for MSKCC's Environmental Health & Facilities staff and Medical & Surgical Oncology staff on lower floors. The combined zoning floor

[13] Use Group 3 Community Facility.

area of both buildings is 248,822 sf, including 206,884 sf of residential[14] and 41,938 sf of community facility offices (FAR 3.4 and 0.7, respectively). Currently, a 263-space parking garage occupies spaces beneath both buildings and RRL. The garage will be retained in the MSK Pavilion.

6. Description of the Proposed Development (MSK Pavilion)

The MSK Pavilion (the Proposed Development) will be built on the South Block (1461) within the building envelope established by approval of this Application.[15] It would be devoted entirely to patient care for those whose cancer treatments cannot be addressed through MSKCC's extensive network of ambulatory services on the Main Campus and neighboring and regional facilities. It represents the culmination of the site selection planning for the New Hospital Building first identified in the 2001 FEIS. Following two decades of strategic planning, MSKCC has now identified the Pavilion Site as the location for the Proposed Development, which would be connected physically and programmatically to the existing Memorial Hospital via the Patient Bridge.

The Application drawings provide a maximum building envelope for the Proposed Development as well as an illustrative massing that represents a fully programmed example of what could be built within that envelope under the Proposed Actions. The maximum building envelope would encompass the entire footprint of the Pavilion Site; it is set at the three street lines of the Pavilion Site on its north, east and south and is adjacent to RRL without setback on its west. The Pavilion's height will be limited by the upper planes of the maximum building envelope limiting the potential building height to 557.30 ft above grade and further limiting the highest bulkhead height to 598.30 ft above grade[16]. The maximum floor area that could be developed within the Proposed Development's maximum building envelope is 641,582 sf (including 264,938 sf of floor area transferred from the Main Block zoning lot pursuant to Proposed Action # 3). The Proposed Actions and resulting environmental analyses have all been calculated assuming a full buildout to 31 stories within the approved maximum building envelope at its maximum allowed height.

The MSK Pavilion would provide 28 operating/procedural suites, including recovery and intensive care facilities and up to 206 inpatient beds for acutely ill patients, including intensive care units (ICUs), on twenty-four hospital floors and five mechanical floors distributed throughout the building. Additionally, the MSK Pavilion would have a double-height lobby space along York

[14] See footnote 13.

[15] The drawings submitted with this Application show a maximum building envelope as well as illustrative envelope for the MSK Pavilion/Proposed Development that represents an example of what could be built under the Proposed Actions.

[16] Subject to fluctuation due to minor differences in average curb levels on the Pavilion Site.

Avenue and a proposed two-story Patient Bridge across East 67th Street connecting floors five and six of the MSK Pavilion with floors seven and eight of Memorial Hospital[17] that will serve as the primary artery for passage of patients and staff accessing medical services. The 48-ft high Patient Bridge would be located approximately 70 ft west of York Avenue with its lower plane approximately 75 ft above average curb level.

Pedestrian entrances to the MSK Pavilion lobby would be located at the corners of East 67th and East 66th Streets just off of York Avenue, recessed approximately 20 ft off East 66th Street and approximately 79 ft off East 67th Street[18] under the third floor slab, which is approximately 40.50 ft above average curb level. Patients and visitors to the MSK Pavilion arriving by vehicles would be directed to use the proposed one-way northbound through-block driveway for auto, taxi, and ambulette drop-offs, where there would be a weather protected entrance for patients and visitors. The entrance to the driveway would be through a new 18-ft curb cut on East 66th Street and the exit would be through a new 18-ft curb cut on East 67th Street, both located 50 ft west of York Avenue. The modified/reduced 19-ft East 66th Street curb cut located 131 ft west of York Avenue would continue to be used to access the below-grade 263-space accessory garage shared with RRL, but the ramp will be for exiting only and the garage would be re-designed for improved maneuverability.[19] There would be a total of four service berths servicing three loading docks on East 67th Street, which would be accessed via one new 51.50-ft curb cut; and one on East 66th Street (also accessed via a new 16.5-ft curb cut). In total, seven curb cuts would be provided on the South Block zoning lot: three on East 66th Street – one existing curb cut serving as the entrance to the existing parking garage, one serving as a mandatory ambulance bay and one serving as an entrance to the internal drive-through. There will be four curb cuts on East 67th Street – one existing curb cut serving the RRL building and three new MSK Pavilion curb cuts: one serving as an exit to the new internal drive-through, one serving the three new service berths and one serving as parking garage entrance and exit. No curb cuts will be located closer than 50 ft to an intersection.

No additional parking is required for the Proposed Development. Parking garage spaces shared within the RRL would be available exclusively to MSKCC staff, patients, and visitors with valet service. No programmatic changes are proposed for the RRL.

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[17] Due to the labeling of the Memorial Hospital floors, the numbered Floor 1 is above the Lobby floor. Accordingly, the Patient Bridge connects Floors 5 and 6 of the MSK Pavilion to the physical floors 8 and 9 (but numbered Floors 7 and 8) of the Memorial Hospital.

[18] See Drawing Z-24. Subject to change as design evolves.

[19] This alteration will require that a portion of the ground floor and below grade levels of the RRL be modified to accommodate the reconfigured garage and provide a new exit ramp to East 67th Street via a new 22-ft curb cut located 134 ft west of York Avenue property line, resulting in approximately 2,080-sf reduction of conference room space in RRL. Any such alterations will occur within the existing RRL footprint and envelope.

With the Proposed Development, inclusive of RRL on Lot 13, the South Block zoning lot would have a lot coverage of 80.1% and would contain a total of 867,438 sf of community facility floor area, inclusive of the 264,938 sf transferred from the Main Block, for an FAR of 14.40 on this zoning lot and an overall floor area ratio across the entire 2001 LSCFD of FAR 10. Completion of the Pavilion would exhaust all of the developable floor area within the 2001 LSCFD.

7. Actions Necessary to Facilitate the Project

To facilitate the project, the Applicant seeks approval of eight land use actions: a zoning map amendment, a zoning text amendment, a zoning authorization, a zoning special permit, a modification to the 2001 LSCFD to update the site plans and zoning calculations, a modification as required to the Floor Area RD, a curb cut certification and a Revocable Consent to build and maintain the two-story Patient Bridge above East 67th Street.

The Actions sought by the Applicant are discussed in detail below and can be summarized as follows. The zoning map amendment would rezone the eastern midblock portion of the South Block from R8 to R9, generating an additional 140,584.50 sf of community facility floor area within the rezoned R9 portion of the South Block, which together with the permitted floor area on the R10 portion and the remaining floor area transferred from the Main Block would provide the sufficient amount of floor area to support the MSK Pavilion. The zoning text amendment would amend ZR Section 79-43 (*Special Permit for Limited Bulk Modifications for Certain Large-scale Community Facility Developments)* to allow the Commission to permit modifications to lot coverage and sign regulations for a large-scale community facility development on a zoning lot located R9 and R10 districts within the boundaries of Manhattan Community District 8. The authorization pursuant to ZR Section 79-21 (*General Provisions*) would allow for the MSK Pavilion's location without regard for (a) height and setback regulations that would otherwise apply along East 67th Street, as an internal street within the 2001 LSCFD; (b) rear yard regulations and (c) the limitation on distribution of floor area across zoning lot lines for all zoning lots within the 2001 LSCFD, each of which is required for the purpose of maximizing the number and size of the MSK Pavilion's floorplates. The special permit pursuant to ZR Section 79-43, as amended by the zoning text amendment requested in this Application, would permit modifications of regulations relating to (a) the height and setback for the MSK Pavilion's elevations along York Avenue and East 66th Street, as perimeter streets of the 2001 LSCFD; (b) lot coverage, again for the purposes of permitting the size of the MSK Pavilion's floorplates to exceed applicable lot coverage regulations and (c) sign regulations to allow MSKCC to adopt uniform building and campus-wide signage at a height necessary to assure adequate viewability for navigational signs associated with building entrances, parking entrances and the internal drive-through. The modification to the 2001 LSCFD (M 010548(A)ZSM) would update the previously authorized by

the CPC site plans and zoning calculations for the three zoning lots. Modification to the Floor Area RD would cancel certain restrictions regarding the use of Main Block floor area until such time as the Commission could further review the plans for a proposed project, effectively cancelling the Floor Area RD, as further described in footnote 24, below. The curb cut certification will permit the Pavilion Site to be developed with more than one curb cut on its two adjacent narrow streets to accommodate inclusion of the internal drive-through, an additional parking ramp and the number of service berths required by the ZR. Finally, a NYCDOT revocable consent would facilitate the construction of the Patient Bridge above East 67th Street providing the essential connection between the MSK Pavilion and Memorial Hospital for patients, their families and caregivers and staff to cross between buildings.

Action 1: Rezoning (R8 to R9)

The proposed zoning map amendment (Sections No. 8c, 9a) would rezone the 40,167-sf midblock area of Block 1461 (Lot 13 and westerly portion of lot 21) in the Project Area from R8 (FAR 6.5) to R9 (FAR 10) for a community facility use without expanding the permitted uses. The proposed rezoning of the midblock would increase the permitted community facility floor area on the South Block by 140,584.50 sf (from 461,919.40 sf[20] to 602,500 sf), of which 225,856 constitutes the existing RRL and 376,644 sf would be utilized by the MSK Pavilion.

Mapping the midblock portion of the South Block R9 would increase the maximum permitted community facility FAR from FAR 6.5 to FAR 10.00; increase the maximum permitted FAR for certain community facilities with sleeping accommodations from FAR 6.02 to FAR 7.52; and increase the maximum permitted FAR for residential use from FAR 7.20 to FAR 10. Building height in both districts is regulated by maximum permitted front wall heights, minimum setbacks above the front wall and sky exposure planes on all frontages beginning at the point of setback. R8 and R9 use and yard regulations are identical.

R9 districts have consistently been identified as the appropriate zoning for significant hospital campuses in Manhattan. This zoning map amendment action is identical to the 2001 action that the Commission certified into ULURP as part of the 2001 Rezoning but was later voluntarily withdrawn by MSKCC due to extenuating circumstances related to the prolonged aftermath of 9/11 on all City agencies that prevented MSKCC and the City from further developing the New Hospital Building as originally proposed. A more detailed account of these events is set forth in the Background Section. As noted on page 45 of the Report, "the Commission believes that the

[20] 2001 Approved Drawing Z-2 indicates permitted South Block's floor area of 461,915.5 sf. Based on the 2022 survey prepared by Langan Engineering, Environmental Surveying Landscape Architecture and Geology, D.P.C. ("Langan Survey"), it was determined that its lot area is slightly larger, thus resulting in permitted floor area noted above.

south campus block should remain in the R8 district until the plans for this block are more concrete".

In approving the rezoning of the Main Block and the southerly portion of the North Block in 2001, the Commission noted in its Report (at page 43):

> *The Commission believes that the FAR permitted by an R9 district is appropriate for the MSKCC campus midblocks. The existing R8 district in the midblock permits community facility use up to 6.5 FAR, while the existing R10 district along York Avenue and C1-9 district along First Avenue permit 10.0 FAR. The proposed rezoning would allow a community facility FAR of 10.0 in the midblocks which would facilitate the construction of a new research facility on the north campus block, and allow MSKCC to undertake rational planning for its facilities on the main campus block. The Commission notes that adjacent campuses of NYPH and RU have 10.0 FAR for community facility use.*

The Commission's unequivocal policy decision was based on its understanding of MSKCC's inability to engage in any significant long-range planning with its midblocks at or over their maximum permitted floor area under R8. Like all other major medical centers, MSKCC's strategic planning occurs within 10-20 year timeframes. It would be all but impossible to engage in strategic healthcare planning knowing that its capacity under the ZR for growth, either with regard to single buildings (or single floors in buildings) or with regard to its Main Campus was zero as a matter of right. The initial grant of R9 for the Main and North midblocks, coupled with the understanding that the midblock of the South Block should be treated similarly by the Commission when the time came, has been the essential planning tool in MSKCC's master planning since 2001. Relying upon the Commission's explicit statements recognizing that FAR 10 is the appropriate level of density for a medical academic campus, MSKCC had planned for and now applies for an overall campus that, taken over the entire large-scale community facility development, is an FAR 10 campus. This additional floor area is critical to MSKCC: its short- and long-term strategic plans call for continually upgrading existing facilities that are now outmoded or obsolete in light of twenty-first century technical advances and providing for suitable floor area for these future facilities requires the additional FAR that the rezoning from an R8 to an R9 zoning district will provide. Without it, MSKCC would be forced to close facilities in order to replace them, with negative consequences to its programs, its patients' outcomes, and its capacity to serve all New Yorkers. Long-term, it will find its surgical and inpatient capacities below the surge in new cancer patients already underway identified by the CDC through 2050. Accordingly, MSKCC respectfully submits that approval of the upzoning to R9 on the South Block, first considered by the Commission in 2001, remains necessary for development of the 28 operating suites and accompanying facilities at the core of the MSK Pavilion's programmatic goals.

Action 2: Zoning Text Amendment

ZR Section 79-43 (*Special Permit for Limited Bulk Modifications for Certain Large-scale Community Facility Developments)*

ZR Section 79-43 currently permits a large-scale community facility development applicant located in Manhattan Community Districts 8 and 12 to apply for certain modifications relating to height and setback regulation on the periphery of the large-scale community facility developments, courts and distance between windows and walls or lot lines not otherwise available via authorization pursuant to ZR Section 79-21 (*General Provisions*). The proposed zoning text amendment to ZR Section 79-43 would expand the current list of permitted bulk modifications to include lot coverage and sign regulations in Manhattan Community District 8 for zoning lots located in R9 and R10 districts.

The proposed text amendment expanding ZR Section 79-43 to include a modification of lot coverage and sign regulations is consistent with the Commission's longstanding practice of enacting or adapting highly specific textual adjustments for large-scale community facility developments through discretionary permits that support long-term strategic planning and development for the City's hospitals and functionally related facilities. There are precedents, using ZR Section 79-401 as one such example, in which Chapter 79 limits eligibility to only one possible hospital applicant in the context of that hospital's specific planned project.

Without the approval of this proposed text amendment addressing lot coverage, MSKCC would require a BSA waiver for the MSK Pavilion simply to waive lot coverage because without this specific waiver the Pavilion would not be able to accommodate the Pavilion's programmatically required floorplates. In addition, MSKCC's particular location on the rectangular Manhattan grid offers poor visual connection to the Pavilion's pedestrian and parking entrances necessitating the approval of the text amendment that will provide the Commission with the regulatory authority to waive sign regulations that meet its specific findings.

Accordingly, MSKCC respectfully submits that providing the Commission the authority to expand the available bulk waivers permitted a large-scale community facility development applicant located in Manhattan Community Districts 8 and 12 to include waivers of lot coverage and sign regulations with respect to surface area and height of signs is both appropriate and essential to the design and operation of the 28 operating suites and accompanying facilities at the core of the MSK Pavilion's programmatic goals.

Action 3: Authorizations pursuant to ZR Section 79-21

(a) Height and setback on a large-scale community facility development interior street. The MSK Pavilion's East 67th Street elevation is located on an interior street of the 2001 LSCFD. Pursuant

to ZR Section 24-522 (*Front setbacks in districts where front yards are not required*), a community facility building on a narrow street in an R9 or R10 district is required to set back 20 ft at the vertical height of 85 ft and thereafter the setbacks on the remaining upper floors must remain within a sky exposure plane ratio of 2.7 to 1. The maximum building envelope requested in this Application will allow the MSK Pavilion's street walls on East 67th Street to rise without setback for its full height, to a height of 593.01 ft to the top of the parapet wall/including mechanical bulkhead (597.01 ft to the top of the maximum building envelope).

Pursuant to ZR Section 79-21, a large-scale community facility development applicant may request the Commission's authorization to locate a community facility building on its zoning lot without regard to height and setback regulations which would otherwise apply along portions of streets wholly within its large-scale community facility developments. The MSK Pavilion must maximize the operational footprints of its surgical, inpatient and support program floors without setback from the street line. The uniformity provided by full lot coverage floorplates is the only configuration that will permit the MSK Pavilion to provide the 28 operating suites and accompanying facilities that are at the core of the Pavilion's programmatic goals. Accordingly, MSKCC respectfully requests the Commission to waive via authorization the required height and setback regulations to allow the Pavilion a maximum building envelope height of 598.30 ft without setback along East 67th Street.

(b) Rear yard equivalent. Pursuant to ZR Section 24-382 (*Required rear yard equivalents*), in an R9 and R10 district, in lieu of providing a 60 ft rear yard equivalent separating two or more buildings on each frontage, a through lot 110 ft or more in depth may provide two open areas, each adjoining and extending along the full length of a street line, and each with a minimum depth of 30 ft measured from such street line. In the R9 district, the MSK Pavilion will not provide either the 60 ft rear yard equivalent or the alternate two open areas on each frontage. Pursuant to ZR Section 79-21, a large-scale community facility development applicant may request the Commission's authorization to locate hospital buildings without regard to rear yard regulations that would otherwise apply along portions of lot lines abutting other zoning lots within a large-scale community facility development. Due to the numerous reasons for Pavilion's full coverage floorplate requirements, MSKCC respectfully requests the Commission to waive via authorization the required applicable rear yard and rear yard equivalent regulations to allow the Pavilion a maximum building envelope without yard or setback from East 67th or East 68th Street.

(c) Distribution of floor area. Pursuant to ZR Section 24-11 (*Maximum Floor Area Ratio and Percentage of Lot Coverage*), in an R9 and R10 district, maximum permitted community facility FAR is 10, which would permit on the South Block zoning lot a development of up to 602,500 sf of community facility floor area. Accounting for the 225,856 sf utilized in the RRL building, only

376,644 sf would be available for the MSK Pavilion, which requires 641,582 sf of floor area. Pursuant to ZR Section 79-21, a large-scale community facility development applicant may request the Commission to authorize the distribution of floor area within the development without regard for zoning lot lines. Approval of the authorization for transfer of 264,938 sf of excess floor area available on the Main Block[21] to the South Block would provide the MSK Pavilion with sufficient floor area necessary for its development. The overall development within the 2001 LSCFD will not exceed the FAR 10 permitted in R9/R10 zoning districts.

Without the utilization of all of the unused floor area created on the 2001 LSCFD Approvals, the MSK Pavilion cannot support the 28 new operating suites, up to 206 inpatient beds and related support program spaces required to address the projected increase in new cancer cases identified by both the CDC[22] and MSKCC. Although MSKCC's 2001 LSCFD application sought approvals for not only ZRC but additionally for a building referred throughout the accompanying 2001 FEIS as the "New Hospital Building" and although the requested zoning actions included a rezoning from R8 to R9 of all three MSKCC's midblocks and although the Commission certified MKCCS's 2001 LSCFD application rezoning all three midblocks accordingly, the 2001 LSCFD Approvals were based on a voluntarily amended application that withdrew the New Hospital Building from consideration that no longer required the rezoning of the South Block.[23] MSKCC further agreed to sign the Floor Area RD limiting use of the 2001 Approved Floor Area without further authorization from the Commission.[24] Notwithstanding the inability to conclude consideration of a New

[21] Of the 1,231,100 sf of maximum permitted floor area on the Main Block zoning lot, 966,162 sf is incorporated in that Block's existing buildings, leaving 264,938 sf of 2001 Approved Floor Area unused and available for development. MSKCC requests the transfer of all of this unused 264,938 sf of floor area to the Pavilion on the South Block to facilitate the construction of a new inpatient hospital, as envisioned in 2001 with the future development of the New Hospital Building.

[22] CDC now estimates that by 2050 the annual number of cancer cases in the U.S. will increase by nearly 50 percent over those in 2015 because of an increasingly aging population and new evidence of a growing number of cases among younger adults. This tsunami of new cases will impact all New Yorkers. These current projections confirm the need for the increased surgical and inpatient acute care capacity that MSKCC first identified in requesting the 2001 LSCFD Approvals. They paint a startling image of what the future prevalence of cancer will look like in the years to come, with all indicators pointing to the need to have in place beginning in 2030 the surgical and inpatient acute care capacity to be provided by the MSK Pavilion.

[23] See the discussion in Section 2 and footnote 3 therein.

[24] In conjunction with the upzoning of the Main Block in the absence of the New Hospital Building in the amended 2001 LSCFD application, the Commission required the Floor Area RD as an interim measure to substantially restrict MSKCC's use of the floor area generated by the 2001 Rezoning on the Main Block pending a subsequent application through which it could review what was referred to in the 2001 FEIS as the New Hospital Building. An additional action is requested to rescind the Floor Area RD recorded against the Main Block to modify the 2001 LSCFD Approvals to lift and eliminate a restriction that limited the use on the Main Block of all but 75,000 sf of the additional floor area generated by the 2001 Rezoning on that zoning lot (2001 Approved Floor Area) until

Hospital Building in late 2001, the Commission concluded that it would nonetheless approve the upzoning on the Main Block so that MSKCC's long range planning could benefit from the Commission's decision that R9 was the appropriate zoning district for all three of MSKCC's midblocks and defer approval of the R9 upzoning of the South Block to a subsequent application until such time MSKCC could confirm the New Hospital Building's location, footprint and operational parameters. This Application is that subsequent application and the MSK Pavilion represents that "New Hospital Building".

Accordingly, MSKCC respectfully submits that the proposed modifications of height and setback and rear yard equivalents are necessary to provide the uniform floorplates, programmatic stack and vertical transportation that are essential to the design of the 28 operating suites and accompanying facilities at the core of the MSK Pavilion's programmatic goals and further submits that the proposed distribution of excess floor area existing on the Main Block without regard for zoning lot lines is necessary to utilize the full measure of the floor area previously committed by the Commission to the development of a new inpatient hospital in 2001 and available within the 2001 LSCFD, all of which is essential to the design of the 28 operating suites and accompanying facilities at the core of the MSK Pavilion's programmatic goals. Combined with the approval of the Section 79-43 Special Permit (Action 4), the approvals of these Authorizations will permit the Proposed Development to be built with full coverage of the Pavilion Site for its full height, a critical necessity for the MSK Pavilion's program.

Action 4: Special Permit pursuant to ZR Section 79-43, as amended

(a) Height and Setback on a Perimeter Large-scale Community Facility Developments Street. The MSK Pavilion's York Avenue and East 66th Street elevations are on the perimeter of the 2001 LSCFD. Pursuant to ZR Section 24-522 (*Front setbacks in districts where front yards are not required*), a front wall of a hospital building on York Avenue (a wide street) within an R10 or R9 district is regulated with regard to its maximum height, initial setback distance and sky exposure plane. If the front wall or other portion of a building or other structure is located at the street line or within the initial setback distance (15 ft on York Avenue and 20 ft on East 66th Street), the height of such front wall or other portion of a building or other structure cannot exceed 85 ft or nine stories, whichever is less. Above such specified maximum height and beyond the initial setback distance, the building or other structure shall not penetrate a sky exposure plane (expressed as a ratio of vertical distance to horizontal distance) of 5.6:1 on York Avenue and 2.7:1 on East 66th Street.

MSKCC could return to the Commission with a request to modify the 2001 LSCFD Approvals to include a more complete description of the design and operation of the New Hospital Building.

The maximum building envelope requested in this Application will allow the MSK Pavilion's street walls on York Avenue and East 67th Street to rise without setback for its full height, to a height of 594.30 ft to the top of the parapet wall/including mechanical bulkhead (598.30 ft to the top of the highest bulkhead height).

Pursuant to ZR Section 79-43, as amended, the Commission may, by special permit, permit modification of regulations relating to height and setback on the periphery of the large-scale community facility development. Similar to the ZRC building envelope approved in 2001 on the North Block of the 2001 LSCFD, the MSK Pavilion must maximize the operational footprints of its surgical, inpatient and support program floors without setback from the street line. The uniformity of full lot coverage floorplates is the only configuration that will permit the MSK Pavilion to provide the 28 operating suites and accompanying facilities that are at the core of the Pavilion's programmatic goals. A maximum building envelope is therefore proposed that will allow a maximum building envelope height of up to 598.30 ft without setbacks from the three streets on which it is located.

(b) Lot Coverage. Pursuant to ZR Section 24-11 (*Maximum Floor Area Ratio and Percentage of Lot Coverage*), in R9 and R10 districts a lot coverage of 75% is permitted for the corner portion of the zoning lot and a lot coverage of 65% is permitted for an interior or through portion of the zoning lot. Pursuant to ZR Section 77-24, the adjusted maximum lot coverage on the South Block is 68.3%. The proposed lot coverage is 80.1%. Note that pursuant to ZR Section 24-12 these lot coverage calculations apply only to those portions of the MSK Pavilion above 23 ft above average curb level or base plane. Accordingly, the South Block can be developed for hospital purposes with 100% lot coverage up for its first 23 ft above grade.

Pursuant to ZR Section 79-43, as amended as requested in this Application, the Commission may, by special permit, permit modification of regulations relating to lot coverage for certain community facility developments in R9 and R10 districts in Community District 8. Similar to the ZRC building envelope approved in 2001, the MSK Pavilion must maximize the operational footprints of its surgical, inpatient and support program floors with 100% lot coverage at all floors. Were compliance with ZR Section 24-11 required, the floorplates would be reduced by 30%, thereby reducing the number of operating suites on each of its surgical floors. This reduction cannot be addressed by reducing the size of an operating suite or reducing the number of inpatient beds to support them, it can only be addressed by eliminating the necessary number of suites to achieve complying lot coverage. The only available alternative to approval of this request will be to increase the number of floors or reduce the number of operating suites.

(c) Signs. Pursuant to ZR Section 22-321 (*Nameplates or identification signs*), the maximum permitted total surface area of identification or directional signs is 25 sf per street frontage. The total surface area of proposed signs is 1,215 sf along the East 66th Street frontage: 1,215 sf along the East 67th Street frontage and 1,597 sf along the York Avenue frontage. Pursuant to ZR Section 22-323 (*Signs for parking areas*), one sign not to exceed 2 sf, designating each entrance to or exit from an off-street parking area, is permitted, to be located no higher than 7 ft above curb level. Two parking-related signs of approximately 65 sf each mounted 13 ft above curb level are proposed, one each on East 66th Street and East 67th Street. Pursuant to ZR Section 22-342 (*Height of signs*), no sign is permitted to extend above the ground floor ceiling, or more than 20 feet above curb level, whichever is less. The proposed maximum sign heights along the East 66th Street frontage is 47.63 ft, 46.05 ft along the East 67th Street frontage and 50 ft on York Avenue.

Pursuant to ZR Section 79-43, as amended as requested in this Application, the Commission may, by special permit, permit modification of regulations relating to signs for large-scale community facility developments in R9 and R10 districts in Community District 8, subject to meeting the Commission's findings. MSKCC must establish a uniform building and campus-wide signage at a height necessary in order to (1) assure sufficient and safe viewability over parked, standing and through-passing vehicles so that such signs can be seen by pedestrians and drivers approaching the Pavilion; (2) identify for vehicle drivers the internal drive-through and entrance to the parking beneath RRL and (3) differentiate the Pavilion's entrances from the numerous other MSKCC entrances within the 2001 LSCFD.

MSKCC has endeavored to design a building that will address the stress and anxiety of its specialized patient body and hopes through improved signage to provide a less confusing and more welcoming "front door" than can otherwise be accomplished on its complex campus through strict compliance with R9 and R10 sign regulations. The availability of discretionary actions already found in the large-scale community facility development text (ZR Section 79-00 *et seq*.) provides an appropriate vehicle through which those few Manhattan hospitals that are already designated as large-scale community facility developments can match their long-term strategic campus planning objectives, in this case compassionate care, and meet the findings required for waiver within the ZR's administrative provisions, in this case meeting the Section 79-43(b) findings for waiver of sign regulations.

Accordingly, MSKCC respectfully submits that approval of a special permit to modify height and setback and lot coverage regulations as set forth in this Application is necessary to provide the uniform floorplates, programmatic stack and vertical transportation that are essential to the design of the 28 operating suites and accompanying facilities at the core of the MSK Pavilion's programmatic goals. Additionally, MSKCC respectfully submits that approval of a special permit

to modify sign regulations as set forth in this Application would permit MSKCC to install appropriate MSK Pavilion signs to assure their viewability from important approaches to the Pavilion Site, in a manner that will both satisfy the Commission's requirements and satisfy a key component of MSKCC's obligations to its patients.

Action 5: Modification to the 2001 LSCFD

The Applicant proposes a modification to the 2001 LSCFD to update the site plans and zoning calculations previously authorized by CPC (M 010548(A)ZSM) to reflect (a) the zoning map amendment with respect to Lot 13 and west portion of Lot 21 in block 1461 (South Block); (b) the incorporation of the additional 140,584.50 sf of floor area generated by the requested rezoning action into both the South Block zoning lot and 2001 LSCFD, (c) changes to the floor area distribution without regard to zoning lot lines (transfer of 264,938 sf of floor area from the Main Block to the South Block) to facilitate the Proposed Development on the South Block within the existing 2001 LSCFD and (d) the parameters of the Proposed Development on the South Block.

Action 6: Modification as required to the 2001 LSCFD Restrictive Declaration (Floor Area RD)

The Floor Area RD recorded in connection with the 2001 LSCFD contained restrictions in Section 1 thereof against deployment of 2001 Approved Floor Area on the Main Block to other zoning lots within the 2001 LSCFD. Subject to approval of Proposed Action 3, the Applicant would file a cancellation of the Floor Area RD pursuant to Section 6 thereof to eliminate the interim restriction on use of the 2001 Approved Floor Area on the Main Block and thereby facilitate the distribution of 2001 Approved Floor Area to the South Block.

Action 7: Curb Cut Certification

Pursuant to ZR Section 26-15 (*Curb Cuts*)**,** no more than one curb cut per a zoning lot's narrow street frontage is permitted along any one street. Pursuant to the same section, additional curb cuts, in excess of one for each narrow street frontage, for zoning lots in excess of 30,000 sf of lot area may be allowed, provided that the City Planning Commission and the Department of Transportation certify to the Commissioner of Buildings that such additional curb cuts will not result in conflict between pedestrian and vehicular circulation and will result in a good overall site plan.

The Applicant proposes two new curb cuts (for a total of three) along East 66th Street frontage to accommodate (1) the entrance to the one-way northbound through-block driveway and (2) a service berth; and three new curb cuts (for a total of four)[25] along East 67th Street frontage to

[25] Including an existing curb cut serving the RRL building.

accommodate (1) the through-block driveway exit, (2) the new parking garage exit and the garage entrance for vehicles exiting the through-block driveway seeking parking and (3) the three new service berths.

ZR Section 25-72 (*Required Accessory Off-street Loading Berths*) requires a minimum of three loading berths for the MSK Pavilion. Health regulations require a berth for a standby ambulance. MSK also wishes to employ traffic-reducing elements into the design of the Pavilion, specifically the internal drive-through and separate ramps for entering and exiting the RRL garage. Inasmuch as curb cuts are not permitted on York Avenue, East 66th and East 67th Streets are the only opportunities for curb cuts on the Development Site. Moreover, MSKCC wishes to locate the majority of its curb cuts on a street front entirely within the 2001 LSCFD in order to reduce conflicts on East 66th Street, a perimeter street shared with residential and school uses. Accordingly, East 67th Street was chosen to locate its loading berths and one of its parking ramps within the 2001 LSCFD, leaving only the drive through entrance and the parking ramp entrance to be located on East 66th Street. The curb cut for the standby ambulance, which should be rarely used, will also be located on East 66th Street. Given the few opportunities available, MSKCC has designed a reasonable array of curb cuts that its operations division believes will function well and with little adverse impact on neighbors.

Action 8: Revocable Consent to enable the Patient Bridge

MSKCC seeks the approval of a revocable consent from NYCDOT for an enclosed two-floor Patient Bridge, which would connect the MSK Pavilion to the Memorial Hospital building on the Main Block. The Patient Bridge is a medical necessity for the efficient, safe and comfortable transportation of patients and staff moving between the new surgical suites and inpatient beds in the MSK Pavilion and the large footprint of diagnostic and treatment facilities in Memorial Hospital and on the remainder of the Main Block. In addition to these significant necessary programmatic efficiencies, the linkage of the MSK Pavilion to Memorial Hospital and the major facilities on the Main Block will serve to reduce the land use, size and environmental impacts for the MSK Pavilion by eliminating unnecessary redundancies in related medical services and administrative and support services, thereby foregoing additional bulk and height.

Drawings in support of the revocable consent application on file at NYCDOT[26] state that MSKCC seeks to build the Patient Bridge within an elevated 57,173 cubic ft envelope of air space above the East 67th Street streetbed that will have its eastern boundary running approximately 70 ft west

[26] Drawing Nos. 1-5 prepared by VHB entitled "Plan Showing Location of PROPOSED BRIDGE to be Constructed above and across East 67th Street between 1233 York Avenue Borough of Manhattan to Accompany Application dated 3/9/23 of MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES.

of York Avenue and will have an east/west approximate width of 24 ft. The proposed envelope will have a lower plane height of approximately 75 ft above average curb level. Its upper plane height will be approximately 123 ft above average curb level, This proposed envelope will support a two-story Patient Bridge that will be approximately 61 ft long, connecting critical patient care floors on the fifth and sixth floors of the MSK Pavilion to the existing seventh and eighth floors of Memorial Hospital. The surfaces of the two bridge floors will slope moderately and appropriately to modulate slightly differing floor-to-floor heights at the connected floors.

Because the Patient Bridge will be located within the visible public realm, the NYCDOT revocable consent application is being coordinated with the required approvals from the NYC Public Design Commission ("NYCPDC"). In accordance with the NYCPDC review procedures that call for early conceptual review, NYCDOT submitted on MSKCC's behalf concept elevations on September 13, 2023 describing east and west vertical elevations consisting of a unitized curtain wall system and fritted glass (in the interests of patient privacy). On October 17, 2023, NYCPDC issued its Conceptual Design Status Report, which stated in part as follows:

> "*The Conceptual proposal was found generally successful and appropriate for the site, and members commended the minimal, elegant massing of the bridge*."

The conceptual review package also stated that the public-facing underside of the structure would be designed to incorporate a highly designed surface to be commissioned by MSKCC at a later date during the Pavilion's construction. This artwork would also be subject to NYCPDC approval.

8. Conclusion

With the exception of the proposed Patient Bridge over the East 67th Street streetbed, the Proposed Actions are limited to the MSKCC-controlled sites that could not result in development beyond that proposed for the Pavilion Site without further action by the Commission. All development will occur within the current boundaries of the existing 2001 LSCFD, utilizing the floor area derived from the Pavilion Site, the floor area generated by the deferred zoning map amendment on the South Block and the transfer of unused floor area on the Main Block. Viewing the 2001 LSCFD as a whole, the Project Area will be developed to FAR 10. Long-term, the construction of the MSK Pavilion will permit the staged modernization of the patient rooms in Memorial Hospital, which is now 50 years old, so that it too will be able to provide state-of-the-art inpatient care.

MSKCC is a global leader in discovering and adapting to new trends and forecasts in the incidence of new cancer cases. Confirmed by recent studies by the CDC, MSKCC is preparing for a statistically significant wave of new acute cases through 2050 attributable to both an aging population and compounded by an unexpected rise in the number of new cases among young

adults. While MSKCC surgeons already perform more cancer-related surgical procedures yearly than their colleagues at any other hospital in the United States, MSKCC believes that both nationally and locally the demand for surgical services and acute care beds is rising and requires MSKCC to increase its capacity to perform complex surgeries on acutely ill patients with advanced cancers. The MSK Pavilion is its response to this looming shortfall.

The Proposed Actions would allow expansion of a traditional land use in the area – diagnostic and treatment facilities as well as academic and research facilities - and would support the overall utility of the area. Approval of the land use actions requested in this Application will promote public health and safety, promote health equity by assuring equitable access to disparate members of the greater New York community, facilitate economic development and provide other public benefits.

The requested actions are consistent with existing or projected land uses and zoning in the area as well as the general public policy. They are also consistent with the policies adopted by the Commission in approving the 2001 LSCFD and the land use actions associated with the construction of ZRC in 2001. The bulk changes attributable to the R9 zoning map amendment on the South Block are consistent with the predominant zoning districts in the area and will also be entirely consistent with precedents of a series of CPC land use actions that have facilitated community facilities, predominantly medical treatment and research, through new construction and expansion throughout the York Avenue medical corridor and blocks to the north, south, west and east of the Project Area. The densities and massing that the proposed rezoning, text amendment, authorizations and special permit will allow on the South Block zoning lot are the densities and massings characteristic of medical facilities throughout the surrounding area east and north of the 2001 LSCFD.