Chapter 2: Land Use, Zoning, and Public Policy

A. INTRODUCTION

As described in Chapter 1, "Project Description," based on projections issued by the national Centers for Disease Control, Memorial Sloan Kettering Cancer Center (MSKCC) expects that new cancer cases in New York City will increase from the current rate of 40,000 annually to 60,000 annually by 2050. While this increase is a projection among all age groups, this rise is being driven by two populations: older patients, whose cases are more acute and require more complex treatment, and younger patients who are being diagnosed with prostate, colon, and breast cancer at alarming rates. To meet this increase in patient volume and the new interventions that are needed to treat the growing number of acute cases, MSKCC will need to supplement its existing capacity with a purpose-built structure with 28 operating rooms (with four dedicated to interventional radiology procedures) and up to 206 patient beds including intensive care unit (ICU) and single rooms for immunocompromised patients, as well as medical support areas.

To fulfill this need, MSKCC is requesting a series of zoning actions to establish a building envelope to facilitate the development of a new 31-story (up to 598.3 feet including mechanical bulkhead), approximately 903,065 gross square foot (gsf) inpatient hospital building (the Proposed Project), also referred to as the "MSK Pavilion." It would be located on York Avenue between East 66th and East 67th Streets. In addition to the operating rooms and patient rooms, it would provide recovery and intensive care facilities, clinical support, a double-height lobby and 5 mechanical floors to house intensive technologies and air exchange systems. A two-story patient bridge across East 67th Street (Patient Bridge) connecting floors 5 and 6 of the Proposed Project with floors 8 and 9 of the Memorial Hospital building would serve as the primary connector for patients in either building to access medical services in the other building.

This chapter assesses the potential impacts of the proposed MSK Pavilion (Proposed Project) on land use, zoning, and public policy in the future with the Proposed Project (the With Action condition) as compared to conditions in the future without the Proposed Project (the No Action condition). According to the 2021 *City Environmental Quality Review (CEQR) Technical Manual*, a land use analysis evaluates the uses and development trends in the area that may be affected by a proposed action and determines whether a proposed action is compatible with those conditions or may affect them. The analysis also considers a proposed action's compliance with, and effect on, the area's zoning and other applicable public policies.

PRINCIPAL CONCLUSIONS

The analysis concludes that the Proposed Project would be compatible with existing land use in the surrounding area and would not result in any significant adverse impacts to land use, zoning, or public policy. The Proposed Project would not result in a substantial change in the land use on the Development Site—which is a new 31-story inpatient cancer care facility for MSKCC on the east end of the block bounded by York and First Avenues and East 66th and East 67th Streets (Block 1461, portions of Lots 21 and Lot 13) in Manhattan Community District 8—in that it would

replace two existing MSKCC community facility buildings with a new MSKCC community facility. Moreover, the Development Site is, and will continue to be, part of the larger previously established MSKCC Large Scale Community Facility Development (2001 LSCFD) that includes numerous patient care and research facilities. The Proposed Project would be consistent with other similar land uses found in the surrounding area, which includes a concentration of major research and health care facilities that have co-existed for many years in a mixed-use neighborhood with residential, retail, and other community facility uses. Overall, the Proposed Project would not adversely affect the land use character of the study area and would not result in significant adverse land use impacts in the study area.

The future with the Proposed Project (With Action condition), including the proposed rezoning, would modify only the zoning regulations on the 2001 LSCFD and would not affect zoning regulations applicable to other sites in the study area. The proposed rezoning of the midblock area from R8 to R9 is consistent with the existing uses and zoning in the area, including the 2001 rezonings of the two midblocks to the north, also owned by MSKCC, from R8 to R9 in conjunction with the creation of the 2001 LSCFD. Full implementation of the requested zoning actions would result in a LSCFD developed to FAR 10, a compatible density for the study area with no residual unutilized floor area for future development. In addition, the Proposed Project would be consistent with, and supportive of, the public policies applicable to the Development Site and the study area. The Proposed Project would contribute to *One New York: The Plan for a Strong and Just City's* (*OneNYC*'s) goals for growth, sustainability, resiliency, and equity; would further the New York Works' goal of expanding new job opportunities in the life sciences and healthcare industry; and would represent a new important step in the City's efforts to support the life sciences industry (LifeSci NYC). Therefore, the Proposed Project would not result in significant adverse zoning and public policy impacts in the study area.

B. METHODOLOGY

In accordance with the *CEQR Technical Manual*, the land use study area is defined as the area within 400 feet of the 2001 LSCFD and is roughly bounded by East 70th Street to the north, East 65th Street to the south, First Avenue to the west, and the area between York Avenue and the FDR Drive to the east (see **Figure 2-1**). It is within this study area that the Proposed Project has the greatest potential to affect land use trends. The analysis characterizes existing conditions in the study area in terms of land use, zoning, and public policy and evaluates land use, zoning, and public policy in the future without the Proposed Project (No Action condition) and in the With Action condition.

Various sources were used to comprehensively analyze the land use, zoning, and public policy characteristics of the study area, including land use and zoning maps, and online sources from the New York City Department of City Planning (DCP) and the New York City Department of Buildings (DOB) and more specifically the relevant land use documents associated with the creation of the 2001 LSCFD and associated zoning actions adopted at that time.

C. DEVELOPMENT HISTORY

Development of the study area dates back to the 1880s, when commercial and industrial uses were built along the riverfront and the construction of elevated railways along Second and Third Avenues began to encourage development on the Upper East Side. However, the area east of First Avenue did not grow in the same way. Although a few large brick buildings had been built along York Avenue, wooden buildings, some with stables attached, were still the dominant form of



Existing Land Use

MSK PAVILION

Figure 2-1

housing in this area. Commercial and industrial establishments, including numerous coal yards, existed alongside the residences in the area.

In 1901, Rockefeller University was founded on a site east of York Avenue, bringing the first major institutional use to the study area. At the same time, the residential character of the Upper East Side was becoming more pronounced, as the area saw the development of a multitude of five- to six-story walkup tenement buildings, interspersed with loft buildings, iron works, ice plants, and bakeries.

In 1927, New York Hospital and the affiliated Cornell University Medical College began construction of the New York Hospital/Cornell Medical Center on a former brewery site at York Avenue and East 68th Street. In 1939, institutional uses continued to expand in the study area, as MSKCC moved to a site donated by John D. Rockefeller, Jr. between First and York Avenues and East 67th and 68th Streets. Over time, more buildings were added to the MSKCC campus, including the James Ewing Hospital (now the Schwartz Building) in 1950, the Tower Building in 1951 (replaced in 1969 with the Memorial Hospital building), and Sloan/Scholars built in the late 1960s. Modern research buildings on the MSKCC campus include the Rockefeller Research Laboratory building (RRL), which opened in 1989 and the Mortimer B. Zuckerman Research Center, which opened in 2006.

The demolition of the Third Avenue elevated line in 1955 triggered a development boom on the Upper East Side, as high-rise buildings began to replace tenements and rowhouses on the avenues. Beginning in the 1960s, many tenements and small commercial buildings were replaced with high-rise luxury apartment buildings. At the same time, the area experienced a growing trend toward the upgrading of manufacturing and warehouse space for use as showrooms, offices, or other commercial uses.

From the mid-1970s through the 1980s, there was a significant increase in cooperative and condominium housing ownership. Many of the market-rate high-rises built in the 1960s and 1970s were rentals, but by the mid-1980's had been converted to cooperatives. Later housing development activity has been mostly market-rate housing, similar to other residential areas in Manhattan. This includes the 38- and 50-story buildings between East 72nd and 73rd Streets east of York Avenue, the 24-story building opened in 2000 at East 66th Street and First Avenue and a 31-story condominium at 400 East 67th Street.

D. EXISTING CONDITIONS

LAND USE

Existing land use patterns are described below for the proposed Development Site, Rezoning Area, and Project Area, as well as the surrounding 400-foot land use study area.

DEVELOPMENT SITE AND PROJECT AREA

As described in Chapter 1, "Project Description," the Project Area is the 2001 LSCFD that encompasses the main MSKCC campus and includes both the Development Site and proposed Rezoning Area. The Development Site fronts York Avenue between East 66th and East 67th Streets and includes Lot 21 which has two buildings—Scholars and Sloan—used for professional staff and student contract housing and for administrative support services as well as a small portion of Lot 13 where the Rockefeller Research Building (RRL) is located immediately west of Scholars and Sloan. Between Scholars and Sloan and RRL there is an entrance and exit ramp on East 66th

Street to a parking garage used by MSKCC patients and visitors. The Rezoning Area includes the RRL site and the western portion of Lot 21 where Scholars and Sloan are located.

The larger 2001 LSCFD extends from East 66th Street to East 69th Street and includes portions of the northern- and southernmost blocks as well as the entire main MSKCC block (between East 67th and East 68th Streets and First and York Avenues). MSKCC's buildings, utilized in support of the institution's mission of cancer research and treatment, range in height from 4 to 23 stories. There is also a one-story church (the Church of St. Catherine of Siena) within the 2001 LSCFD boundaries since its development rights were incorporated into the 2001 LSCFD.

STUDY AREA

The study area is largely residential and institutional, with ground floor retail uses (primarily along First Avenue). There are several institutions concentrated in the area that are major presences, including MSKCC (described above), Rockefeller University, and New York-Presbyterian/Weill Cornell Medical Center.

The study area includes a wide range of building types, heights, and densities. Higher density uses tend to be located along the avenues, while midblocks along narrower streets tend to be developed with lower- or medium-density uses.

Directly facing the Project Area across York Avenue is Rockefeller University. Its campus stretches uninterrupted between York Avenue and the FDR Drive from East 68th Street to East 63rd Street, beyond the study area. Overall, the approximately 15-acre campus includes research buildings, student residences, faculty residences, and the domed Caspary Auditorium.

The area north of Rockefeller University and the Project Area is dominated by New York-Presbyterian Hospital and Weill Cornell Medical Center, which altogether occupy approximately seven acres of land. Older portions of the extensive campus are generally east of York Avenue, focused on a circular drive along East 68th Street. On the west side of York Avenue is the newer David H. Koch Center, which abuts MSKCC's Zuckerman Research Center to its west. The Weill Cornell Belfer Research Building is at the midblock on 69th Street between York and First Avenues. Other elements of the campus west of York Avenue include staff/student housing and the Weill Greenberg Center which houses outpatient clinical facilities for a number of departments.

Other institutional uses in the study area include P.S. 183, the Robert L. Stevenson School, with midblock frontage on both 66th and 67th Streets and a schoolyard with play area on East 67th Street. Saint John Nepomucene Church is at the northeast corner of First Avenue and East 66th Street, with an attached rectory building along East 66th Street and a school wing extending north to the midblock of East 67th Street. At the western edge of the study area is the NYPL's East 67th Street Library and the Julia Richman Education Complex, which houses multiple public schools. MSKCC's Kimmel Center for Prostate and Urological Cancers is at the midblock of East 68th Street, west of York Avenue. The First Hungarian Reformed Church is at 344 East 69th Street.

St. Catherine's Park, the only major public open space in the area, is on the west side of First Avenue between East 67th and East 68th Streets.

The remaining uses in the study area are almost exclusively residential with a mix of ground floor retail shops. The blocks south of 66th Street contain a mix of older tenements and high-rise residential buildings, including The Pearl, a 24-story residential building opened in 2000, and 401

East 65th Street, a midcentury apartment building. South of MSKCC, the west side of York Avenue contains mostly older residential buildings with very limited ground floor retail.

Between York and First Avenues, the side streets north of East 70th Street and south of the MSKCC campus are generally less densely developed, with four- and five-story residential tenements interspersed with larger luxury apartment complexes. The limited retail space contained in some of the older tenement buildings, such as those on East 70th Street, provide primarily neighborhood services such as dry cleaning or small cafes.

Along First Avenue within the study area, buildings are mostly residential with a range of heights and density, although they are generally of a larger scale than residential buildings between the avenues. Almost all residential buildings along First Avenue contain ground floor retail and commercial uses that provide neighborhood-oriented convenience shops and services. North of East 68th Street, the mix of older tenement and newer high rise residential buildings with ground floor retail continues to the northern border of the study area and beyond.

ZONING AND PUBLIC POLICY

ZONING

Along York Avenue the Development Site is zoned R10. All of the proposed Rezoning Area, including the remainder of the Development Site, is zoned R8. Within the Project Area, zoning designations include R8, R9, R10, and C1-9 (see **Figure 2-2**).

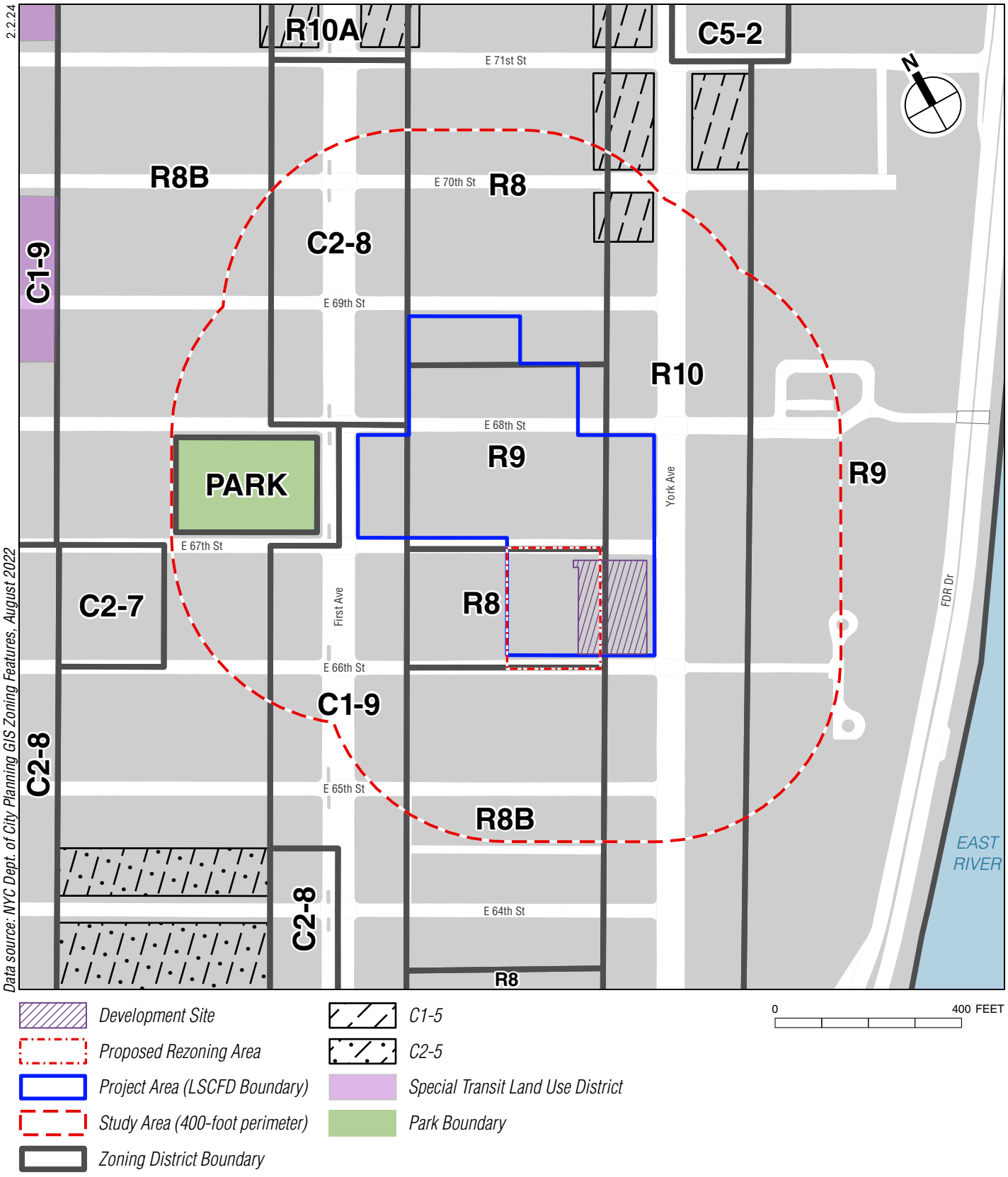
Other zoning districts in the study area include R8B, C1-9 and C2-8. A small portion of York Avenue in the northern part of the study area includes a C1-5 overlay (with an underlying designation of R10).

R8 is a general residence district widely mapped in Manhattan. The maximum floor area ratio (FAR) for an R8 district is 6.50 for community facility use (i.e., a community facility can have a floor area 6.5 times its site area), and residential use has a maximum FAR of 6.02. Industrial and commercial uses are prohibited in residential districts.

R8B is contextual general residence district, designed to be consistent with existing older neighborhoods by requiring high-coverage (i.e., with fewer setbacks or side yards) buildings compatible with existing low-rise buildings on the block. R8B districts permit residential buildings with a maximum FAR of 4.0 and community facilities with a maximum FAR of 5.1 (within Manhattan Community Board 8). In addition, buildings in R8B districts must have a streetwall 50 to 60 feet high and an overall building height of no more than 75 feet. R8B districts were mapped on most of the midblocks on the Upper East Side in the 1980s. The Quality Housing Program is mandatory in R8B districts.

Portions of the MSKCC campus, as well the superblocks that contain Rockefeller University, New York-Presbyterian Hospital and Weill Cornell Medical Center, are zoned R9 in the midblock which permits a maximum FAR of 10.0 for community facilities (7.5 FAR if it includes sleeping facilities), and a maximum FAR of 7.52 for residential buildings. R9 districts were designed, in part, for institutional purposes (mainly hospitals).

An R10 district is mapped along York Avenue within the study area. R10 districts are high-density residential districts that permit a maximum FAR of 10.0 (or 12.0 with inclusionary housing bonuses). The R10 district generally covers the area within 100 feet of York Avenue. R10 districts require tower-on-a-base building types, and the Quality Housing Program is optional within R10



Existing Zoning

MSK PAVILION

Figure 2-2

districts. R10 districts are mapped along major avenues and crosstown streets south of 96th Street in Manhattan. The Quality Housing Program is optional in R9 and R10 districts.

Much of First Avenue in the study area is mapped C1-9 or C2-8. In C1-9 zones, residential development up to an FAR of 10.0 (12.0 with bonus) is permitted. Commercial use is permitted to a maximum FAR of 2.0. In C2-8 zones, residential development up to an FAR of 10.0 and commercial use up to an FAR of 2.0 is permitted.

A C1-5 overlay is mapped along York Avenue at East 70th Street. Commercial overlays are generally mapped as overlays along avenues in residential districts and accommodate the local retail services needed in residential neighborhoods. C1-5 overlays in an R10 district allow for a maximum FAR of 2.0 for commercial development or 10.0 to 12.0 FAR (through inclusionary housing bonus) for residential development.

PUBLIC POLICY

OneNYC

In April 2007, the Mayor's Office of Long Term Planning and Sustainability released *PlaNYC: A Greener, Greater New York (PlaNYC)*. Since that time, updates to *PlaNYC* have been issued that build upon the goals set forth in 2007 and provide new objectives and strategies. In 2015, *OneNYC* was released by the Mayor's Office of Sustainability and the Mayor's Office of Recovery and Resiliency. *OneNYC* builds upon the sustainability goals established by *PlaNYC* and focuses on growth, equity, sustainability, and resiliency. Goals outlined in the report include those related to housing (ensuring access to affordable, high-quality housing) and thriving neighborhoods (ensuring that neighborhoods will be well-served by transit, affordable housing, retail, and City services).

New York Works

In June 2017, the New York City Office of the Deputy Mayor for Housing and Economic Development released *New York Works*, an economic development plan focused on supporting growing industries and employment opportunities through City investments and direct actions, with the goal of creating 100,000 new quality jobs. The plan focuses on key sectors that have the potential to support well-paid jobs, such as technology, life sciences and healthcare, industrial and manufacturing, and the creative and cultural sectors, along with revitalization of the traditional commercial office sector. The plan also outlines several strategies for public support, including modernizing and repurposing City-owned properties for commercial or manufacturing uses, providing financing and tax incentives, and investing in infrastructure.

E. THE FUTURE WITHOUT THE PROPOSED PROJECT (THE NO ACTION CONDITION)

LAND USE

DEVELOPMENT SITE AND PROJECT AREA

Absent the Proposed Project (the No Action condition), there are no significant changes anticipated to occur by 2030 on the Development Site or within the Rezoning Area and Project Area. Under this scenario, the Sloan and Scholars buildings would remain on the Development Site and would continue to serve as contract housing units for medical students, interns, and

residents and to provide hospital administrative office space or other permitted Use Group 3 community facility uses in accordance with the buildings' Certificates of Occupancy. No as-of-right development (with the exception of a complying interior alteration) is permitted within the 2001 LSCFD. Because the Proposed Project would not be built, the anticipated needs to which it responds would not be met—namely the expected increase in the number of cancer patients, and the need for additional space for inpatient rooms and operating rooms.

There are no other projects within the study area that are expected to be completed by the project build year. However, there are three that are within ¼-mile of the Project Area (included here as reference for other technical areas of this EIS, such as open space, that may use larger study areas). Background projects within ¼-mile include:

- a 94,000 square foot expansion (Kellen Tower) at the Hospital for Special Surgery with 26 inpatient beds at 71 East 71st Street (at FDR Drive) anticipated to be completed in 2025 (CEQR# 05DCP061M);
- an approximately 134-unit residential building with 8,585 square feet of retail at 242 East 71st Street estimated to be completed in 2025; and
- the New York Blood Center project at 310 East 67th Street that was approved to include 206,400 square feet of medical office and 389,800 square feet of commercial lab space expected to be built in 2027[1] (CEQR# 21DCP080M).

ZONING AND PUBLIC POLICY

There are no known proposals that would change the zoning in the study area or affect public policy.

F. THE FUTURE WITH THE PROPOSED PROJECT (THE WITH ACTION CONDITION)

LAND USE

DEVELOPMENT SITE AND PROJECT AREA

In the With Action condition, MSKCC's existing Scholars and Sloan buildings on the Development Site would be replaced with a new 31-story, approximately 903,065-gsf, state-of-the-art inpatient cancer treatment facility containing 28 operating rooms, up to 206 beds and related facilities for patient recovery and intensive care, clinical support, and mechanical space. A through-block driveway for patient drop-offs and pick-ups would provide direct weather-protected access into the lobby. On the north façade of the building, there would be a two-story Patient Bridge connecting floors 5 and 6 with floors 8 and 9 of the Memorial Hospital building to the north across East 67th Street, providing a medically necessary connection for staff and patients between the buildings. The RRL building would remain adjacent to the Proposed Project; with modifications related to garage access and a small reduction in some ground-floor conference room space. The public garage entrance would remain on East 66th Street and a new exit would

[1] The FEIS assumed a 2026 Build year with construction commencing in 2022. Since construction has not begun, the assumed project completion date has been pushed back one year to 2027.

be created on East 67th Street. A new valet entrance would also be provided on East 67th Street. There would be three loading docks on East 67th Street and one on East 66th Street.

The maximum building envelope would encompass the entire footprint of the Proposed Project and would allow the building including the mechanical bulkhead to be 598.3 feet tall. Overall, under the With Action condition, the amount of floor area built on the Development Site would increase by 610,228 gross square feet (including parking) compared to the No Action condition. While larger, the Proposed Project would not result in a substantial change in the land use on the Development Site in that it would replace two existing MSKCC community facility buildings with a new MSKCC community facility. Moreover, the Development Site is, and will continue to be, part of the larger 2001 LSCFD that includes numerous MSKCC patient care and research facilities.

Overall, the Proposed Project would not result in significant adverse land use impacts on the Development Site, Rezoning Area or 2001 LSCFD.

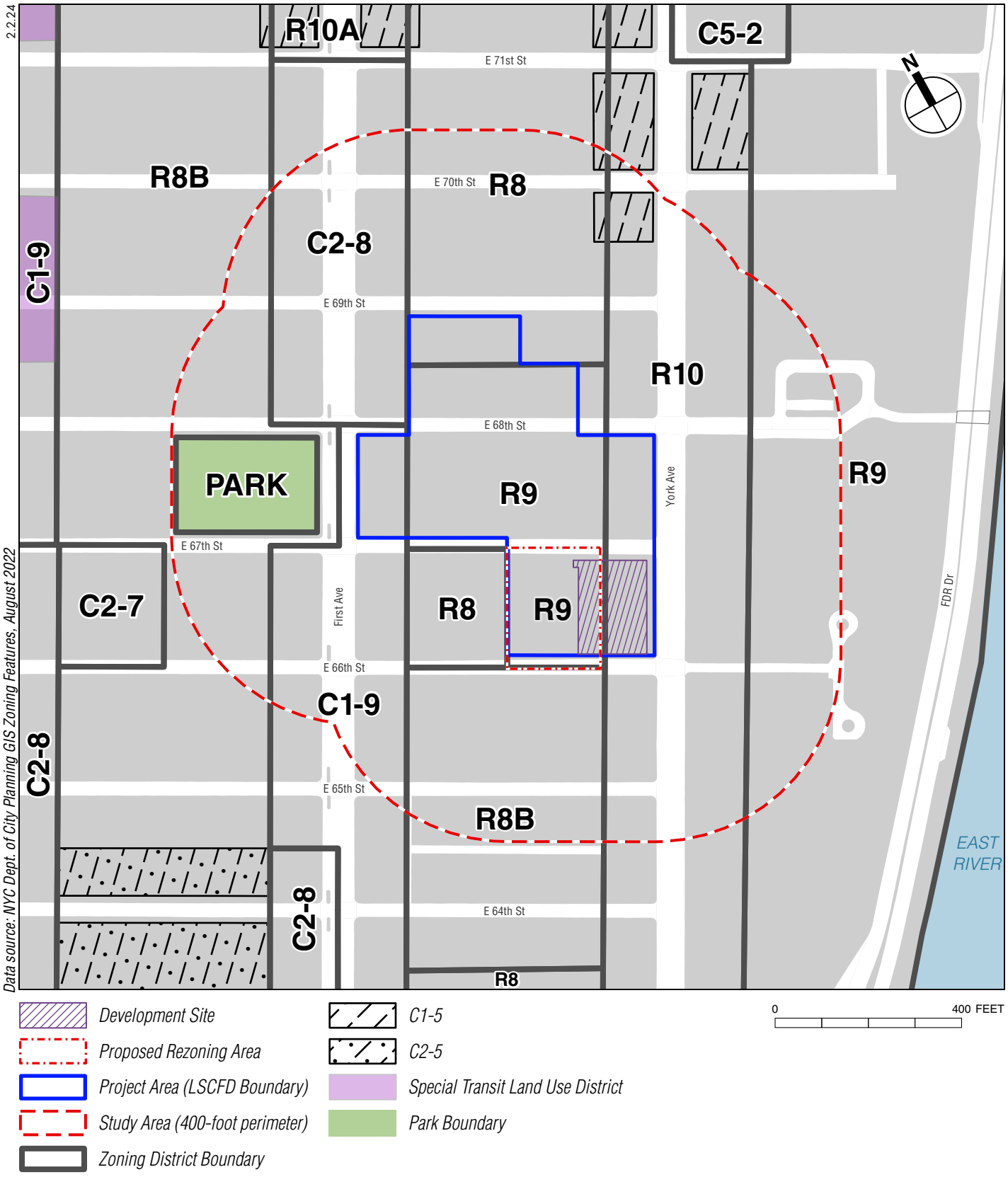
STUDY AREA

The Proposed Project would be consistent with other similar land uses found in the surrounding area, which includes a concentration of major research and health care facilities that have co-existed for many years in a mixed-use neighborhood with residential, retail, and other community facility uses. Overall, the Proposed Project would not adversely affect the land use character of the study area and would not result in significant adverse land use impacts in the study area.

ZONING AND PUBLIC POLICY

In order to accomplish the Proposed Project, the Applicant is requesting the following zoning actions, all of which would occur within the Project Area:

1. Zoning map amendment to rezone Block 1461, Lot 13, and the western portion of Lot 21 from R8 to R9 (see **Figure 2-3**). The existing maximum permitted zoning floor area within the Project Area is approximately 2,212,906 square feet (sf) and the utilized zoning floor area is approximately 1,962,800 sf (inclusive of the Sloan and Scholars buildings). With this proposed rezoning, the permitted zoning floor area within the Project Area would increase by 140,584.5 sf.
2. Zoning text amendment to ZR Section 79-43 to authorize CPC, by special permit, to allow modification of lot coverage and signage regulations in Manhattan Community District 8, for zoning lots located 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 2001 LSCFD without regard for (a) height and setback regulations applicable within the interior of the 2001 LSCFD, (b) rear yard regulations to facilitate construction of the Proposed Project, and (c) to allow for the distribution of floor area for all zoning lots within the 2001 LSCFD without regard for zoning lot lines and streets.
4. Special permit pursuant to ZR Section 79-43, as amended, to allow modifications of regulations relating to height, setback applicable to the perimeter of the 2001 LSCFD, lot coverage, and signs to facilitate construction of the Proposed Project.
5. Modification to the 2001 LSCFD to update the Site Plans and zoning calculations for the three zoning lots previously authorized by CPC.
6. Cancellation of the 2001 LSCFD Restrictive Declaration.



Proposed Zoning

7. Certification pursuant to ZR Section 26-15 to permit more than one curb cut on East 67th Street for accessory parking, loading bays and the through block driveway and on East 66th Street for accessory parking and the through block driveway.
8. Revocable Consent from the New York City Department of Transportation (DOT) for the Patient Bridge over East 67th Street. The Revocable Consent application will be coordinated with required approvals for the Patient Bridge from the New York City Public Design Commission.

The Proposed Project would also require a Certificate of Need from the New York State Department of Health (DOH).

As discussed in Chapter 1, "Project Description," the With Action condition would allow for the existing Sloan and Scholars buildings to be demolished and replaced with a new building containing state-of-the-art health care facilities. The Proposed Project would address MSKCC's anticipated need for 28 operating rooms and the specialized patient beds and support spaces that the operating rooms require, all designed to address critical existing needs and provide the building envelope and infrastructure required to meet the complexity of care necessary in the future, including single rooms, advanced operating rooms, and the support space needed to accommodate the treatment and care of cancer patients. Under the With Action condition, MSKCC would be able to provide the highest level of care necessary to address the documented expected surge in cancer cases requiring complex surgeries, to enhance its diagnostic abilities and reduce recovery times, to provide patients with a seamless experience through digital communications and wireless connectivity, and to drive additional advancements in cancer research and patient outcomes. The Patient Bridge to Memorial Hospital would provide critical access within MSKCC and streamline clinical and translational research capabilities. In addition, the construction of the Proposed Project would permit the staged modernization of Memorial Hospital.

The proposed rezoning of the midblock area from R8 to R9 is consistent with the existing uses and zoning in the area, which includes the midblock portions of the main MSKCC block and a portion of the block to its north, as well as the campuses of Rockefeller University and New York-Presbyterian/Weill Cornell Medical Center, which are zoned R10 along York Avenue and R9 to the east.

The Proposed Project would be consistent with, and supportive of, the public policies applicable to the Development Site, the Project Area, and the study area. Overall, the Proposed Project would not result in any significant adverse impacts to land use, zoning, or public policy. It would be consistent with *OneNYC*'s goals for growth, sustainability, resiliency, and equity. The Proposed Project would redevelop an existing site with a new, advanced building that will greatly improve MSKCC's ability to advance the treatment of cancer patients and respond to the plan's goal of growth and improvement in emerging fields. The Proposed Project would also further the New York Works' goal of expanding the life sciences and healthcare industry by providing new job opportunities in a state-of-the-art facility. ✷