APPENDIX A
Zoning Text

Appendix A: Zoning Text Amendment

The proposed text amendment text would be as follows (matter in underline is new, to be added; matter in strikeout is old, to be deleted; matter within # # is defined in Section 12-10; * * * indicate where unchanged text appears in the Zoning Resolution):

ARTICLE VIII, Chapter 1

Special Midtown District

*** * ***

81-066

Special permit modifications of Section 81-254, Section 81-40, and certain Sections of Article VII, Chapter 7

(a) The City Planning Commission, by special permit, for #zoning lots# where the #lot area# is at least 60,000 square feet or that occupy an entire #block#, may permit modification of the mandatory district plan elements of Section 81-40 or the provisions of Article VII, Chapter 7, that determine the distribution of permitted #floor area# on such #zoning lots# and, in conjunction with such modifications, may also modify the applicable #yard# and #court# requirements. However, no exception to the #street wall# or retail continuity requirements shall be permitted on Fifth Avenue or within 50 feet of Fifth Avenue within the #Special Midtown District#.

The modifications shall be subject to the following findings:

~~(a)~~(1) that the modifications of mandatory plan elements, #floor area# allocation or #rear yard# and #court# regulations result in a better arrangement of required facilities or in better site planning on a uniquely large #zoning lot#.

~~(b)~~(2) that a substantial majority of the #zoning lot# is either vacant at the time of certification for review, pursuant to Section 197-c of the New York City Charter, or contains #buildings# that will be an integral part of the #development#, both physically and programmatically;

~~(c)~~(3) that the design, scale and location of the new #buildings# or #enlarged buildings# are compatible with the character of the surrounding area and existing #buildings# to remain on the #zoning lot#;

~~(d)~~(4) that such modifications will not unduly obstruct the access of light and air to surrounding properties;

~~(e)~~(5) that any adverse impact on retail continuity is minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any open or enclosed public areas within the #development#;

~~(f)~~(6) that such modifications of mandatory plan elements or #floor area# allocation are consistent with the basic strategy of the #Special Midtown District# and the purposes of the Mandatory District Plan Elements.

(b) For #developments# or #enlargements# on a #zoning lot# with a #lot area# of at least 60,000 square feet located wholly or partially in the Penn Center Subdistrict which have been granted a #floor area# bonus for subway station and/or rail mass transit facility improvements pursuant to Section 81-541 in accordance with Section 74-634 , the Commission may permit modifications of the mandatory district plan elements of Section 81-40, the height and setback regulations of 81-26 and 81-27, or the provisions of Article VII, Chapter 7 that determine the distribution of permitted #floor area# on such #zoning lots# and, in conjunction with such modifications, may also modify the applicable #yard# and #court# requirements subject to the following findings:

(1) that the modifications of mandatory plan elements, #floor area# allocation or #rear yard# and #court# regulations result in a better arrangement of required facilities or in better site planning on a uniquely large #zoning lot#;

(2) that the design, scale and location of the new #buildings# or #enlarged buildings# are compatible with the character of the surrounding area and existing #buildings# to remain on the #zoning lot#;

(3) that such modifications will not unduly obstruct the access of light and air to surrounding properties;

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

(5) that such modifications of mandatory plan elements or #floor area# allocation are consistent with the basic strategy of the #Special Midtown District# and the purposes of the Mandatory District Plan Elements;

(6) that the improvements to the below-grade pedestrian circulation network provided by the #development# or #enlargement# significantly increase public accessibility to and from subway and/or rail mass transit facilities in and around Pennsylvania Station; and

(7) that the modifications of height and setback regulations:

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

(ii) will provide an appropriate distribution of #bulk# on the #zoning lot# with due consideration of the basic strategy of the #Special Midtown District# and the purpose of the District's height and setback regulations. In considering whether such distribution of #bulk# is appropriate, the Commission shall consider a complete daylight evaluation for the proposed design.

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

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81-254

Special permit for height and setback modifications

In the #Special Midtown District#, the City Planning Commission may modify the special height and setback regulations set forth in this Chapter only in accordance with the following provisions:

Section 74-711	(Landmark preservation in all districts) as modified by the provisions of Sections 81-266 or 81-277 (Special permit for height and setback modifications);
Section 74-79	(Transfer of Development Rights from Landmark Sites) where development rights are transferred from a landmark site to an adjacent lot in a C5-3, C6-6 or C6-7 District, as modified by Section 81-212, and the total #floor area# on the adjacent lot resulting from such transfer exceeds the basic maximum #floor area ratio# by more than 20 percent. In such cases, the granting of a special permit by the Commission for height and setback modifications shall be in accordance with the provisions of Sections 81-266 or 81-277;
Section 81-066	(Special permit modifications of Section 81-40, Section 81-254 and certain Sections of Article VII, Chapter 7).
Section 81-635	(Transfer of development rights by special permit).

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81-50

SPECIAL REGULATIONS FOR THE PENN CENTER SUBDISTRICT

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81-51

General Provisions

In order to establish the Penn Center Subdistrict as a destination and enhance its retail, entertainment and commercial character and expand accessibility to its transportation network, special regulations are set forth governing the location and type of #signs#, urban design and streetscape relationships, and the improvement of pedestrian circulation to and from public transit facilities.

The regulations of Section 81-50 are applicable only in the Penn Center Subdistrict, the boundaries of which are shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, except as set forth for rail mass transit improvements pursuant to Section 81-541. These regulations supplement or modify the provisions of this Chapter applying generally to the #Special Midtown District#, of which this Subdistrict is a part.

* * *

81-541

Rail mass transit facility improvement

In addition to the provisions of Section 81-29 (Incentives by Special Permit for Provisions of Public Amenities), the City Planning Commission may grant #floor area# bonuses for subway station and/or rail mass transit facility improvements for non-#residential# or #mixed buildings#, in accordance with Section 74-634 (Subway station improvements in commercial zones of 10 FAR and above in Manhattan), and may modify or waive the provisions of Section 81-43 (Street Wall Continuity Along Designated Streets) in accordance with the provisions of Section 74-634, provided that such improvement is approved by the entities which own and/or operate the rail mass transit facility. Prior to granting a special permit, the City Planning Commission shall be provided with:

(a) a letter from each entity that operates the rail mass transit facility confirming that the drawings of the subway and/or rail mass transit improvement are of sufficient scope and detail to describe the layout and character of the improvements and that the proposed implementation of the improvements is physically and operationally feasible, and

(b) a legally enforceable instrument containing:

  (1) drawings of the improvements, as approved by the transit operator;

  (2) provisions that all easements required for the on-site improvements will be conveyed and recorded against the property;

  (3) the obligations of the applicant to construct, maintain and provide capital maintenance for the improvements; and

  (4) a schedule for completion of the improvements and a requirement that a performance bond or other appropriate security be provided to insure the completion of the improvements.

For the purposes of this Section, improvements to any rail mass transit facility on a #zoning lot# located wholly or partially within the Subdistrict qualifies for bonus #floor area# in accordance with the provisions of Section 74-634, as modified herein. For #zoning lots# located partially within the Subdistrict, such bonus #floor area# may be located anywhere on such #zoning lot#. In addition, if a subway and/or rail mass transit improvement has been constructed in accordance with an approved special permit and has received a Notice of Substantial Completion in accordance with the provisions of Section 74-634, the bonus #floor area# may be retained at the full amount granted by the special permit and may be utilized elsewhere on the #zoning lot# subject to any applicable review and approval process for such #development# or #enlargement#.

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