Chapter 27: Conceptual Analysis of the Proposed Zoning Text Amendments

A. INTRODUCTION

The proposed actions would include zoning text amendments to the New York City Zoning Resolution. This chapter provides information on the proposed zoning text amendments—the text itself, the purpose and need for the text amendments, and a description of the areas in which the text amendments could apply. While other chapters of this Environmental Impact Statement (EIS) analyze the proposed use of the proposed modifications in connection with the 15 Penn Plaza development (the proposed project), this chapter provides an analysis of the potential future use of the proposed text amendments and their environmental effects.

Future use of the proposed text amendments would be subject to review by the New York City Planning Commission (CPC) since the proposed text amendments may only be utilized through the granting by CPC of a special permit; therefore, any future use of the proposed text amendments would be assessed and disclosed to the public under and pursuant to a separate environmental review.

B. DESCRIPTION OF THE PROPOSED TEXT AMENDMENTS

INTRODUCTION

The proposed text amendment to Sections 81-066, "Special permit modifications of Section 81-254, Section 81-40, and certain Sections of Article VII, Chapter 7," and 81-254, "Special permit for height and setback modifications," of the New York City Zoning Resolution would allow CPC to authorize (by special permit) the modification of height and setback regulations and certain of the Mandatory District Plan elements of the Special Midtown District for developments or enlargements on a zoning lot with a lot area of at least 60,000 square feet (sf) located wholly or partially within the Penn Center Subdistrict of the Special Midtown District that have been granted a floor area bonus for subway station and/or rail mass transit facility improvements pursuant to Section 81-541, "Rail mass transit facility improvement," in accordance with Section 74-634, "Subway station improvements in Downtown Brooklyn and in commercial zones of 10 FAR and above in Manhattan."

The proposed text amendment to Section 81-541, "Rail mass transit facility improvement," would define the administrative process for obtaining approvals from the multiple transit operating entities involved in rail mass transit facility improvements in and around the Penn Center Subdistrict, and would provide that any bonus floor area for completed rail mass transit improvements that is not utilized in a development would be vested and available for use elsewhere on the zoning lot, subject to any applicable review and approval process for such development or enlargement.

PROPOSED TEXT AMENDMENT TEXT

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

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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:

(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 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;

(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#;

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

(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#;

(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.

* * *

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#.

* * *

PURPOSE AND NEED FOR THE PROPOSED TEXT AMENDMENTS

MODIFICATION OF SECTIONS 81-066 AND 81-254

The provisions of Section 81-066 and 81-254 currently allow CPC to permit modification of Section 81-40, "Mandatory District Plan Elements."

As stated in the Zoning Resolution, "the provisions of Section 81-40 specify mandatory planning and urban design features to be provided in connection with new developments or enlargements. … The provisions of Section 81-40 are all primarily oriented toward the accommodation and well-being of pedestrians. The requirements pertain to a number of elements which are interrelated and complement one another but are set forth in different sections because they can be treated separately.

Sections 81-42 (Retail Continuity along Designated Streets), 81-43 (Street Wall Continuity along Designated Streets) and 81-44 (Curb Cut Restrictions) are a group of sections with closely related purposes concerned with amenity and the well-being and safety of pedestrians. Sections 81-45 to 81-48, inclusive, are all concerned primarily with pedestrian traffic circulation.

Major building entrances are focal points of heavy pedestrian traffic, so that controls on the locations of these entrances, as set forth in Section 81-48, are closely related to the pedestrian circulation space requirements."

Currently, the provisions of Sections 81-066 and 81-254 allow CPC to 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 and, in conjunction with such modifications, modifications of applicable yard and court requirements are also permitted. Section 81-066 does not currently allow CPC to permit the modification of height and setback regulations.

The proposed text amendment to Sections 81-066 and 81-254, if adopted, would enable CPC to permit (in addition to those provisions detailed above) the modification of height and setback requirements for certain developments or enlargements provided that certain findings are met. The intent of the text amendment is not to increase building bulk, but to allow increased flexibility in building design.

All modifications granted pursuant to the amended text would require a CPC special permit and would be subject to findings made and conditions imposed by CPC. The first five of these findings mirror existing findings already part of Section 81-066. The additional findings would be as follows:

- (6) that the improvements to the below-grade pedestrian circulation network provided by the development of enlargement significantly increase public accessibility to and from mass transit facilities in and around Pennsylvania Station
- (7) that the modification 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.

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

MODIFICATION OF SECTION 81-541

Special district plan requirements for the Penn Center Subdistrict are set forth in Section 81-50, "Special Regulations for the Penn Center Subdistrict." The provisions of Section 81-541 enable CPC to grant floor area bonuses for subway station and 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.

The portion of the proposed text amendment to Section 81-541 that would define the administrative process for obtaining approvals from the multiple transit operating entities involved in rail mass

transit facility improvements in and around the Penn Center Subdistrict would detail the documents to be provided to CPC prior to granting a special permit. These documents would include:

- 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
- A legally enforceable instrument containing:
    i. Drawings of the improvements as approved by the transit operator;
    ii. Provisions that all easements required for the on-site improvements will be conveyed and recorded against the property;
    iii. The obligations of the applicant to construct, maintain and provide capital maintenance for the improvements; and
    iv. 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.

The portion of the proposed text amendment to Section 81-541 that would relate to the use of the bonus floor area would provide greater flexibility in the phasing of a development. Specifically, by permitting the bonus floor area to be retained at the full amount granted by the special permit and to be used anywhere on the zoning lot (subject to any applicable review and approval process for such development or enlargement), the proposed text amendment would advance the construction of subway improvements while allowing for phased development.

AREAS OF APPLICABILITY

This section describes the areas where the amended zoning text could apply.

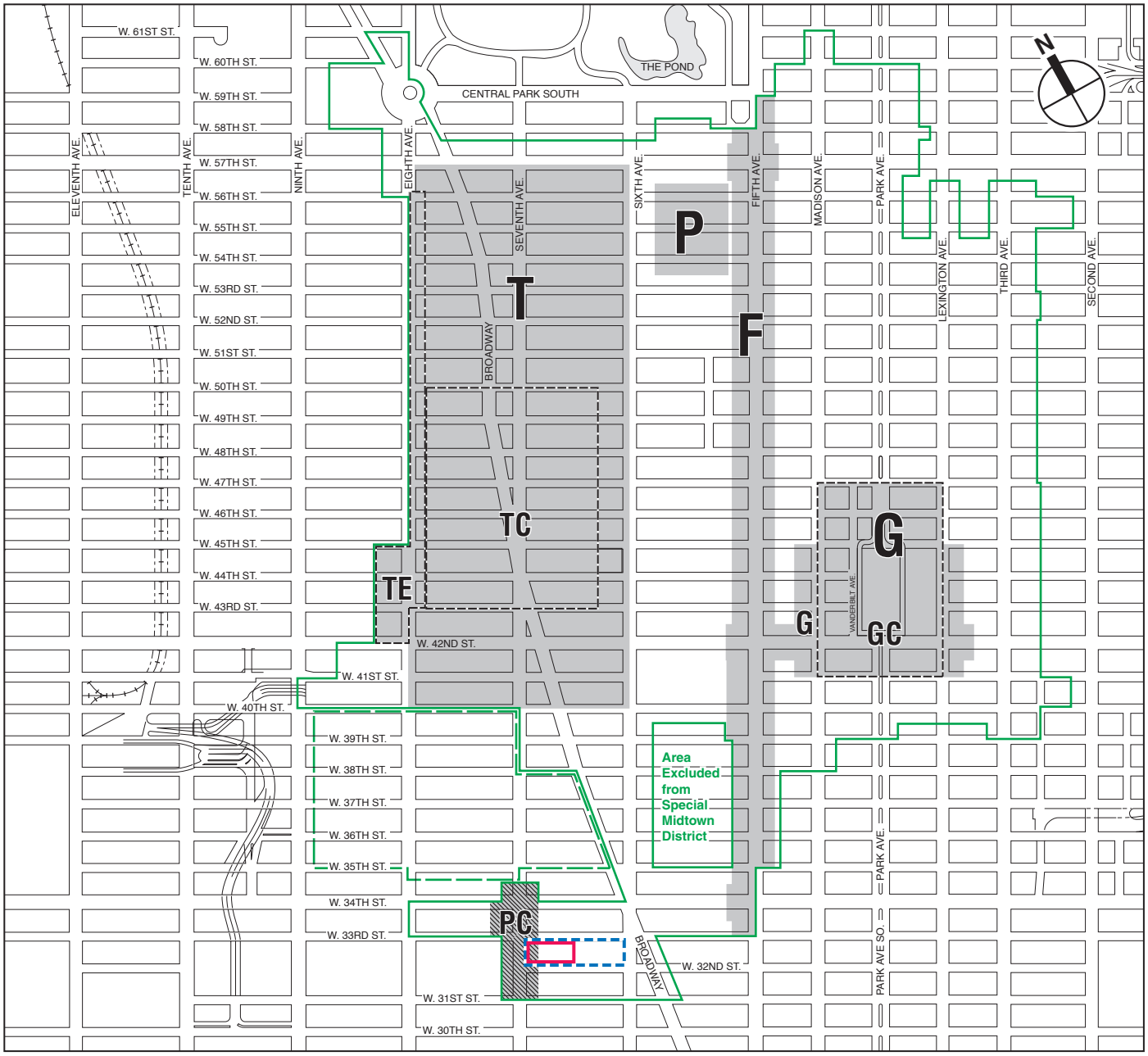
MODIFICATION OF SECTIONS 81-066 AND 81-254

As stated above, the proposed text amendment to Sections 81-066 and 81-254 would apply to developments or enlargements on a zoning lot with a lot area of at least 60,000 sf located wholly or partially within the Penn Center Subdistrict of the Special Midtown District that 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 Penn Center Subdistrict of the Special Midtown District generally extends to a depth of 100 feet along both sides of the Seventh Avenue frontage between West 31st Street and midblock between West 34th and West 35th Streets, except for the block between West 33rd and West 34th Streets, where the subdistrict extends 200 feet to the west of Seventh Avenue (see **Figure 27-1**). This area encompasses portions of seven city blocks. Of these seven blocks, six are located adjacent to subway station and rail mass transit facility improvement areas (see **Figure 27-2**). The likelihood of redevelopment of each of these six blocks and the potential for use of the modified zoning text are discussed in more detail.

Block 810

This block is bounded by Seventh Avenue to the west, West 35th Street to the north, Broadway to the east, and West 34th Street to the south. The southwestern corner of the block is located within the Penn Center Subdistrict, and the block is adjacent to the subway station and rail mass

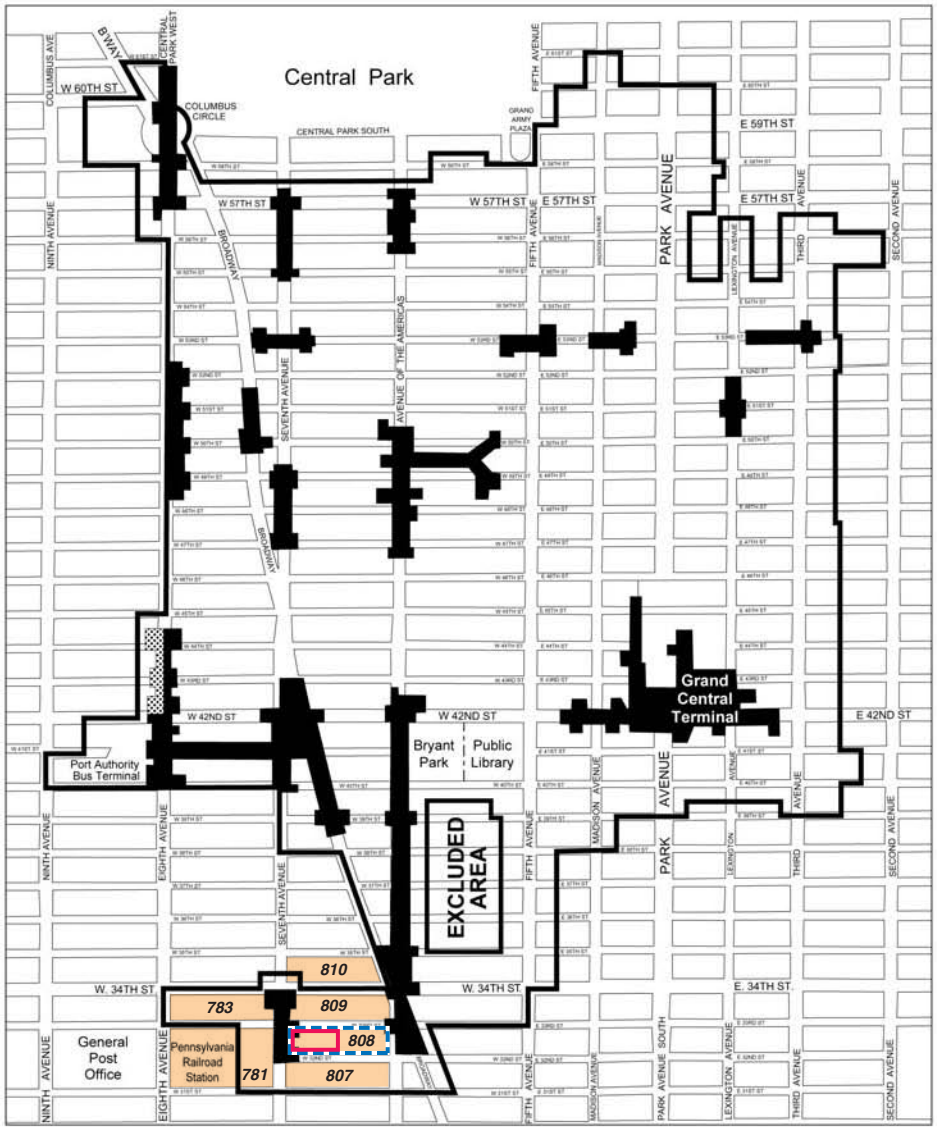


- Development Site
- Project Site Boundary
- Special Garment Center District Boundary
- Special Midtown District Boundary
- PC — Penn Center Subdistrict
- F — Fifth Avenue Subdistrict
- G — Grand Central Subdistrict
- P — Preservation Subdistrict
- T — Theater Subdistrict
- GC — Grand Central Subdistrict Core
- TC — Theater Subdistrict Core
- TE — Theater Subdistrict Eighth Avenue Corridor

Special Midtown District
Figure 27-1

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Map 3: Subway Station and Rail Mass Transit Facility Improvement Areas



Development Site

Project Site Boundary

781 Affected Blocks and Block Number

Subway Station and Rail Mass Transit Facility Improvement Areas

Figure 27-2

transit facility improvement area located on Broadway between West 34th and West 35th Streets. This block contains the R. H. Macy and Company Store, which occupies the whole block (excluding two small buildings on the northwest and southeast corners of the block). The Macy's building is a National Historic Landmark (NHL), is listed on the State and National Registers of Historic Places [S/NR]), and is eligible for listing as a New York City Landmark (NYCL-eligible).

Because this block is occupied by a single-use building—Macy's flagship department store—and because it is an NHL, it is unlikely that this site would be redeveloped and that the proposed text modifications would be used at this location.

Block 809

This block is bounded by Seventh Avenue to the west, West 34th Street to the north, Broadway/Sixth Avenue to the east, and West 33rd Street to the south. The western blockface is located within the Penn Center Subdistrict. This block contains predominantly retail uses, including a number of chain retail stores along West 34th Street. Many of the buildings in this block have commercial offices above the retail uses.

While the lots on this block are not in common ownership, a site of 60,000 sf could be assembled at some time in the future, and the proposed text amendments potentially could be used in connection with redevelopment of this block.

Block 808

This block contains the 15 Penn Plaza development site. The other chapters of this EIS analyze the proposed use of the proposed modifications in connection with the 15 Penn Plaza development.

Block 807

This block is bounded by Seventh Avenue to the west, West 32nd Street to the north, Sixth Avenue to the east, and West 31st Street to the south. The block contains the following uses (from west to east): the 26-story former Equitable Life Assurance Company Building (S/NR-eligible, NYCL-eligible); the St. Francis Roman Catholic Church Complex (S/NR-eligible, NYCL-eligible), which consists of the church, the five-story brick Franciscan Fathers monastery, and the three-story School of St. Francis of Assisi; the recently constructed Epic, a 59-story building with approximately 458 residential units; two commercial office buildings with ground-floor retail; a surface parking lot; and another office building with ground-floor retail along Sixth Avenue.

Only the Equitable Life Assurance Company Building is located partially within the Penn Center Subdistrict. This site has a total lot area of 59,280 sf, less than the 60,000-square-foot lot size stipulated in the proposed zoning amendment. This lot is unlikely to be merged with the adjacent lots containing the church complex since the church complex, lots were merged with The Epic in connection with development of that site. Therefore, this block would not be redeveloped pursuant to the zoning text amendments.

Block 781

This block is a superblock bounded by Seventh Avenue to the east, West 31st Street to the south, Eighth Avenue to the west, and West 33rd Street to the north. The eastern portion of the block within 100 feet of Seventh Avenue (approximately 45,500 sf) is located within the Penn Center

Subdistrict. The western portion is located within the Hudson Yards district, in the Pennsylvania Station Subarea of the Farley Corridor Subdistrict (Subarea B4).

Because such a small portion of this superblock is located within the Special Midtown District (approximately 45,500 sf), and because of the difficulty involved in constructing over an active rail center, it is unlikely that the proposed modified text would be used at this location.

Block 783

This block is bounded by Seventh Avenue to the east, West 34th Street to the south, Eighth Avenue to the west, and West 35th Street to the north. The block contains One Penn Plaza, a 57-story office tower that is set in the center of a large paved plaza above street level. The building is flanked by one-story retail buildings on Seventh and Eighth Avenues.

This block is currently a single zoning lot with excess development rights totaling approximately 113,000 sf of floor area, which could be increased with a public plaza bonus. The most likely areas of this block for these development rights to be utilized are on the eastern and western portions on the block. If the excess development rights were utilized in connection with a development on the eastern portion of the block, it would be located within the Penn Center Subdistrict. Therefore, the proposed text amendments could be used in connection with development of this block.

SECTION 81-541

Section 81-50 contains the special regulations for the Penn Center Subdistrict. Therefore, Section 81-541, as proposed to be amended, would continue to apply within the Penn Center Subdistrict.

C. ASSESSMENT OF THE POTENTIAL EFFECTS OF THE PROPOSED TEXT AMENDMENTS

METHODOLOGY

This conceptual analysis of the proposed text amendments considers whether there could be any environmental impacts from the use of the zoning text provisions. The proposed text amendments would not generate any new development projects, affect the potential uses, or allow development of more floor area than otherwise permitted under existing zoning regulations. As noted above, the intent of the text amendment is not to increase building bulk, but to allow increased flexibility in building design and to provide greater detail on the documents to be provided to CPC prior to granting a special permit pursuant to Section 81-541. Therefore, the proposed text amendments would not affect those environmental analysis areas that are influenced by a development's use or floor area—these areas include land use, socioeconomic conditions, community facilities, open space, infrastructure, solid waste and sanitation services, energy, traffic and parking, air quality (mobile sources), or noise. For the analysis areas of transit and pedestrians, the proposed text amendments would not result in any changes to the travel demand assumptions; however, these environmental analysis areas are considered below as they pertain to pedestrian circulation since (as stated in the Zoning Resolution) the provisions of Section 81-40 are all primarily oriented toward the accommodation and well-being of pedestrians.

Because the proposed text amendments would not in and of themselves generate any new development projects, use of the text amendments would not result in any construction-related impacts. Use of the proposed text amendments would not affect natural resources, as the areas where the proposed text amendments would apply are all located in fully developed urban areas. The proposed text amendments would not be applicable in any area located within the city's coastal zone and would therefore not be in conflict with the City's coastal zone policies.

Because the proposed text amendments could result in possible changes in the distribution of bulk on a project site, the areas of shadows, historic resources, urban design and visual resources, neighborhood character, hazardous materials, and air quality (stationary sources) are considered. In addition, because the proposed text amendments could result in possible changes to the mandatory district plan elements (e.g., location of building entrances, pedestrian circulation space), this is also considered.

FUTURE APPLICABILITY

At this time, there are no known proposals that would make use of the proposed text amendments other than the proposed project described in this EIS. The use of the special permits, as in the case for the proposed project, is site-specific and dependent on a combination of specific zoning requirements.

As discussed above, the text amendments are not anticipated to induce additional development that would not otherwise occur. As with the proposed project, absent the proposed text amendments, sites could still be redeveloped. Absent the proposed text amendments, the development site itself would be redeveloped as-of-right under existing zoning regulations (the No Action building).

Although the proposed text amendments would provide an additional tool to facilitate the use of development rights in connection with subway or rail mass transit improvements, as noted above, it is not possible to predict where or how often the provisions of the text would be used on other sites in the future since the special permits provided by the text are site-specific and would depend on specific development plans not known at this time. Therefore, a site-specific analysis cannot be provided. Further, the intent of the text amendments is not to increase building bulk, but to allow increased flexibility in building design and to provide greater detail on the documents to be provided to CPC prior to granting a special permit pursuant to Section 81-541.

The proposed project is typical of the type of development that may occur under the new zoning text, in that the proposed text amendments and related special permits would allow the project to modify the height and setback regulations of the Special Midtown District and the following Mandatory District Plan elements: pedestrian circulation space, street wall continuity, retail continuity, and the location of the main building entrance. This conceptual analysis considers what the general effects of the provisions of the text could be on future development to assess the potential for the proposed text amendments to result in significant adverse impacts.

ENVIRONMENTAL EFFECTS

SHADOWS

It is not possible to predict where or how often the provisions of the text would be used given that the special permits provided by the text are site-specific and would depend on specific

development plans that are not known at this time. Consequently, a site-specific analysis cannot be provided. Shadow impacts are site-specific and dependent not only on the bulk and massing of a proposal but on the sun-sensitive resources that are in proximity to and would be affected by new shadows. The general effects resulting from the text amendments would be limited to different shadows (the length and duration of which are not measurable) than that which would result from a development that did not make use of the text amendments.

Given that the proposed text amendments may only be utilized through the granting by CPC of a special permit, site-specific shadows which result from any given developments that utilize the proposed text amendments would be assessed and disclosed to the public under and pursuant to a separate environmental review. It is anticipated that the findings, which state that such modifications will not unduly obstruct the access of light and air to surrounding properties, would ensure that any use of the proposed text amendments would not result in significant adverse shadows impacts.

HISTORIC RESOURCES

Archaeological Resources

Because a building that makes use of the proposed text amendments could result in a different site plan/building footprint than a building without the proposed text amendments, it is possible that the areas of subsurface disturbance would be different. Therefore, the proposed text amendments could result in different potential impacts on archaeological resources.

As stated above, it is not possible to predict where or how often the provisions of the text would be used given that the special permits provided by the text are site-specific and would depend on specific development plans that are not known at this time. Consequently, a site-specific analysis cannot be provided. Archaeological impacts are site-specific and dependent not only on the areas of subsurface disturbance but on the presence or absence of archaeological resources on or in proximity to a development site. The general effects resulting from the text amendment would be limited to differences in ground disturbance (the area and depth of which are not measurable) than that which would result from a development that did not make use of the text amendment. Given that the proposed text amendment may only be utilized through the granting by CPC of a special permit, site-specific archaeological impacts which result from any given development that utilizes the proposed text amendments would be assessed and disclosed to the public under and pursuant to a separate environmental review.

Architectural Resources

Because a building that makes use of the proposed text amendments could result in a different site plan/distribution of building bulk than a building without the proposed text amendments, it is possible that such a building would result in different contextual impacts on adjacent or nearby architectural resources.

As stated above, it is not possible to predict where or how often the provisions of the text would be used given that the special permit provided by the text are site-specific and would depend on specific development plans that are not known at this time. Consequently, a site-specific analysis cannot be provided. Architectural impacts are site-specific and dependent upon not only the bulk and massing of a given proposal but on the presence or absence of architectural and historic resources on or in proximity to the development site. The general effects resulting from the text amendments would be limited to differences in bulk and massing of a proposal (the size, density

and configuration of which are not measurable) than that which would result from a development that did not make use of the text amendments. Given that the proposed text amendments may only be utilized through the granting by CPC of a special permit, site-specific architectural impacts that result from any given developments that utilize the proposed text amendments would be assessed and disclosed to the public under and pursuant to a separate environmental review.

URBAN DESIGN AND VISUAL RESOURCES

As stated above, it is not possible to predict where or how often the provisions of the text would be used given that the special permits provided by the text are site-specific and would depend on specific development plans that are not known at this time. Consequently, a site-specific analysis cannot be provided. Urban design and visual resource impacts are site-specific and dependent upon not only the bulk and massing of a given proposal but on the urban design of the surrounding area and the presence or absence of visual resources within that area.

Given that a site-specific analysis is not possible, a general assessment of the text amendments' potential to affect the different elements of urban design and visual character is provided here. As stated above, site-specific urban design and visual resources impacts that result from any given developments that utilize the proposed text amendments would be assessed and disclosed to the public under and pursuant to a separate environmental review.

Urban Design

- Building bulk, use, or type. The proposed text amendments would result in differences in how a development's bulk is massed on a project site. The text amendments would not result in changes to a development's use or type.
- Building arrangement. As with building bulk, the proposed text amendments could result in a different arrangement of a development's buildings on a project site.
- Block form and street pattern. Block form and street pattern relate to the shape and arrangement of blocks and surrounding streets. The proposed text amendments would allow greater flexibility in distributing a development's bulk on a project site, and is not expected to result in any changes to block form and street patterns.
- Streetscape elements. Streetscape elements include street trees, curb cuts, street walls, building entrances, and other elements. These elements are related to how a building's bulk is distributed, where its curb cuts and building entrances are located, how its streetwall is defined, and where its pedestrian circulation space is located. The proposed text amendments would affect this element of urban design by allowing the modification of the mandatory district plan elements, which include provisions related to certain streetscape elements.
- Street hierarchy. This element of urban design is related to the streets that surround a project site. The proposed text amendment would not affect street hierarchy.
- Natural features. Natural features include vegetation and geologic, topographic, and aquatic features such as rock outcroppings, steep slopes or varied ground elevation, beaches, or wetlands. The areas in which the text amendments could be used are in already developed areas of Manhattan, and it is not expected that the proposed text amendments would have any effect on natural features.

Visual Resources

- View corridors. Because a building that makes use of the proposed text amendments could result in a different site plan/distribution of building bulk than a building without the proposed text amendments, it is possible that there would be differences in how view corridors are affected.

While urban design and visual resources could be affected by the proposed text amendments, the text amendments are being proposed to achieve greater flexibility in site-specific design (and to provide greater detail on the documents to be provided to CPC prior to granting a special permit pursuant to Section 81-541). As part of the proposed zoning text amendments, CPC would have to make specific findings relating to the arrangement of building; specifically, the Commission shall find 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. In addition, CPC would have to find that the design, scale, and location of the new buildings or enlarged buildings are compatible with the character of the surrounding area and the existing buildings to remain on the zoning lot. CPC would also have to find that such modifications would not unduly obstruct the access of light and air to surrounding properties. Furthermore, CPC would have to find that the modification of height and setback regulations are necessary due to the constraints or conditions of the development or enlargement and conditions imposed by the configuration of the site and 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.

With these findings, it is unlikely that any development which makes use of the special permits would result in adverse impacts on urban design and visual resources.

NEIGHBORHOOD CHARACTER

The character of a neighborhood is established by numerous factors, including land use patterns, the characteristics of its population and economic activities, the scale of its development, the design of its buildings, the presence of notable landmarks, and a variety of other physical features that include noise levels, traffic, and pedestrian patterns. The proposed text amendments would not affect land use, socioeconomic conditions, noise, traffic, or pedestrian levels, but could result in differences in its effect on urban design, visual resources, and historic resources. Therefore, there is the potential that these elements of neighborhood character could be affected. However, as discussed in this chapter (see "Historic Resources," "Urban Design and Visual Resources," and "Transit and Pedestrians"), the proposed text amendments are unlikely to result in significant adverse impacts on these areas. Furthermore, as part of each special permit application, CPC would have to make findings related to light and air, the distribution of bulk, and the design, scale, and location of new buildings. With these findings, it is unlikely that the proposed text amendments would result in significant adverse impacts on neighborhood character.

HAZARDOUS MATERIALS

Because a building that makes use of the proposed text amendments could result in a different site plan/building footprint than a building without the proposed text amendments, it is possible

that the areas of subsurface disturbance would be different. Therefore, the proposed text amendments could result in different potential impacts on hazardous materials.

As stated above, it is not possible to predict where or how often the provisions of the text would be used given that the special permit provided by the text is site-specific and would depend on specific development plans that are not known at this time. Consequently, a site-specific analysis cannot be provided. Hazardous materials impacts are site-specific and dependent not only on the areas of subsurface disturbance but on the presence or absence of contaminated materials on or in proximity to a development site. Given that the proposed text amendments may only be utilized through the granting by CPC of a special permit, site-specific hazardous materials impacts that result from any given development which utilizes the proposed text amendments would be assessed and disclosed to the public under and pursuant to a separate environmental review.

TRANSIT AND PEDESTRIANS

The proposed text amendments would not result in any changes to travel demand assumptions; however, the environmental analysis areas of transit and pedestrians are considered as they pertain to pedestrian circulation since, as stated in the Zoning Resolution, the provisions of Section 81-40 are all primarily oriented toward the accommodation and well-being of pedestrians.

It is not possible to predict where or how often the provisions of the text would be used given that the special permits provided by the text are site-specific and would depend on specific development plans that are not known at this time. Consequently, a site-specific analysis cannot be provided.

The proposed text amendment which would allow modification of the mandatory district plan elements would require that CPC make certain findings prior to granting a special permit. These findings would ensure that no significant adverse impacts to transit and pedestrians would occur. Specifically, these findings would state that a site plan will require pedestrian-oriented uses along the boundaries of any open or enclosed public areas within the development to minimize any adverse impact on retail continuity; and that improvements to the below-grade circulation network provided by the development of enlargement significantly increase public accessibility to and from mass transit facilities in and around Pennsylvania Station.

The portion of the proposed text amendment to Section 81-541 that would define the administrative process for obtaining approvals from the multiple transit operating entities involved in rail mass transit facility improvements in and around the Penn Center Subdistrict would detail the documents to be provided to CPC prior to granting a special permit. These documents are described above (see section, B, "Description of the Proposed Text Amendments"). This section provides additional detail on the documents to be provided and does not result in any changes to the areas where the rail mass transit facility improvement bonus is allowed.

The portion of the proposed text amendment to Section 81-541 that would relate to the use of the bonus floor area would provide greater flexibility in the phasing of a development. Specifically, by permitting the bonus floor area to be retained at the full amount granted by the special permit and to be used anywhere on the zoning lot (subject to any applicable review and approval process for such development or enlargement), the proposed text amendment would advance the construction of subway improvements while allowing for phased development.

Therefore, it is unlikely that any development that makes use of the modification would result in adverse impacts on transit and pedestrians.

AIR QUALITY (STATIONARY SOURCES)

Because assessments of stationary sources are dependent on a specific site plan, it cannot be determined how the proposed text amendments would affect stationary sources—both how nearby commercial, institutional or large-scale residential developments could affect the developments constructed with the text amendments and how the heating, ventilation, and air conditioning (HVAC) emissions from the proposed development would affect surrounding buildings.

As stated above, it is not possible to predict where or how often the provisions of the text would be used given that the special permit provided by the text is site-specific and would depend on specific development plans that are not known at this time. Consequently, a site-specific analysis cannot be provided. The potential for stationary source air quality impacts are site-specific and dependent upon building size, shape, the type and location of building ventilation systems, and the proximity of nearby sensitive uses and uses that could, in turn, affect a development. Given that the proposed text amendments may only be utilized through the granting by CPC of a special permit, site-specific air quality impacts that result from any given development that utilizes the proposed text amendments would be assessed and disclosed to the public under and pursuant to a separate environmental review. ✷