

**Borough President  
Recommendation**

**City Planning Commission**  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
Fax # (212) 720-3488

**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Applications: N 190180 ZRM

Docket Description:

**IN THE MATTER OF** an application submitted by JPMorgan Chase Bank, N.A., pursuant to Section 201 of the New York City Charter, for an amendment of Article VIII, Chapter 1 (Special Midtown District) of the Zoning Resolution of the City of New York, modifying retail continuity, design and programming regulations for publicly accessible spaces in the East Midtown Subdistrict.

COMMUNITY BOARD NO:

5

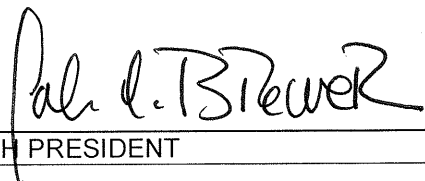
BOROUGH: Manhattan

**RECOMMENDATION**

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached

  
BOROUGH PRESIDENT

Jan 9 2019  
DATE



OFFICE OF THE PRESIDENT  
BOROUGH OF MANHATTAN  
THE CITY OF NEW YORK

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Gale A. Brewer, Borough President

January 9, 2019

**Recommendation on Non-ULURP Application No. N 190180 ZRM  
270 Park Avenue Zoning Text Amendment  
By JPMorgan Chase Bank, N.A.**

**PROPOSED ACTIONS**

JPMorgan Chase Bank, N.A. (the “Applicant”) is seeking an amendment to the Zoning Resolution (ZR) to change the requirements for publicly accessible spaces pursuant to ZR §81-681. The proposed zoning text would apply to a proposed development (the “Proposed Building”) at 270 Park Avenue, which is currently the site of the Applicant’s headquarters.

In evaluating the proposed zoning text amendment, this office must consider if the proposed language meets the underlying purpose of the Zoning Resolution to promote the general health, safety and welfare of the city and whether the proposed development or developments it would facilitate would be appropriate to the neighborhood.

The proposed amendment is to a section of zoning text that was approved by the City Council in August 2017 as part of the East Midtown rezoning. The Department of City Planning’s goals for East Midtown were stated as follows:

- Incentivizing the development of modern, sustainable, Class-A office space;
- Reducing challenges for the redevelopment of outdated, overbuilt buildings;
- Helping to preserve landmarked buildings and maintain the area’s iconic built environment;
- Upgrading the area’s transit network and pedestrian realm, befitting its status as a world-class business address; and
- Enhancing key characteristics, such as access to light and air, active retail corridors, and the iconic street wall character in the area surrounding Grand Central Terminal.

As such, the proposed amendment should also be evaluated against those goals.

**BACKGROUND**

Special Midtown District (1982)

The Special Midtown District was created in 1982 “to encourage the growth of Midtown to the west and south, and to ease development pressures on its congested, highly-developed East Side core.”<sup>1</sup>

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<sup>1</sup> City Planning Commission. N 820253 ZRM. March 16, 1982.

The District generally extends from East/West 31<sup>st</sup> Street to East/West 60<sup>th</sup> Street between Third and Eighth Avenues. It includes a Preservation Area located in the midblock from West 53<sup>rd</sup> Street to West 57<sup>th</sup> Street between Fifth Avenue and Avenue of the Americas.

#### Grand Central Subdistrict (1992)

In 1992, the Grand Central Subdistrict was mapped within the Special Midtown District. As part of that action, Grand Central Terminal was for the first time able to transfer its development rights to non-adjacent lots within the Special Midtown District.

This action has enabled Grand Central Terminal to be the Granting Site for the Proposed Building that is the subject of this recommendation.

#### Vanderbilt Corridor (2015)<sup>2</sup>

In 2015, the Vanderbilt Corridor was rezoned, enabling greater density for developments located between Madison and Vanderbilt Avenues from East 42<sup>nd</sup> to East 47<sup>th</sup> Streets. In exchange for building at higher densities, developers are required to provide transit and public realm improvements.

#### East Midtown Rezoning (2017)<sup>3</sup>

The City Council approved the Greater East Midtown rezoning on August 9, 2017. The rezoning, which was aimed at providing opportunities to upgrade some of the decades-old office spaces in the area, received much community input, particularly on issues such as creation of open space and preservation of landmarks within the District.

The East Midtown Subdistrict includes the following elements:

- Transfer of unused development rights from landmarks to development sites across the district;
- A Public Realm Improvement Fund contribution requirement for developments receiving development rights from landmarks;
- Increase in FAR for qualifying sites in exchange for subway station improvements; and
- Increase in FAR for qualifying sites in exchange for creating a publicly accessible public concourse.

The Proposed Building is the first development to be proposed following the East Midtown rezoning.

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<sup>2</sup> N 150127 ZRM. Enacted by the City Council on May 27, 2015.

<sup>3</sup> N 170186 ZRM. Enacted by the City Council on August 9, 2017.

**PROPOSED BUILDING**

The Applicant proposes to demolish an existing 52-story office building located at 270 Park Avenue, between East 47<sup>th</sup> and East 48<sup>th</sup> Streets, Madison Avenue, and Park Avenue, to construct a new office building that will be approximately 70 stories and 1,400 feet in height. The site is located within a C5-3 district, with half the site within the Park Avenue Subarea and the other half in the Southern Subarea.

The Proposed Building will encompass approximately 1,871,764 square feet of zoning floor area.<sup>4</sup> The proposed average FAR for the entire site is 23.3.

Development Rights Transfer

In order to achieve the proposed FAR, the Applicant purchased development rights from Grand Central Terminal, a landmark-designated transit facility located four blocks south of the Proposed Building site. Below is an outline of the development rights transfer.

**270 Park Avenue Development Rights Transfer**

Lot Size	80,333
Total FA with no Actions (15 FAR)	1,204,998
<i>Floor area transferred from Grand Central Terminal to Park Avenue Subarea - 40,166.6 SF (10 FAR)</i>	401,666
<i>Floor area transferred from Grand Central Terminal to Southern Subarea - 40,166.6 SF (6.6 FAR)</i>	265,100
Total Floor Area Transferred	666,766

**Total Floor Area Available at 270 Park Avenue      1,871,764**

The development rights were transferred on December 4, 2018 and resulted in a contribution of \$41,672,875 to the Public Realm Improvement Fund and a \$10,400,000 contribution for Grand Central Terminal, which will allocate the funds pursuant to the Continuing Maintenance Program (CMP) which was approved by the Landmarks Preservation Commission in 1997. The CMP outlines a schedule of repairs to the historical elements of the terminal.

The Manhattan Borough President submitted a recommendation in support of the development rights transfer under Application N 190080 ZCM on November 8, 2018.

Publicly Accessible Space Requirements

The East Midtown rezoning created publicly accessible space requirements based on lot sizes. The categories established in ZR §81-681 are as follows:

- Lots measuring at least 30,000 SF but less than 45,000 SF
- Lots measuring at least 45,000 SF but less than 65,000 SF
- Lots measuring 65,000 SF or more

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<sup>4</sup> The gross floor area for the building will be approximately 2,400,000 square feet. However, certain uses, such as mechanical uses, are not counted as floor area.

With a lot measuring 80,333 square feet, the Proposed Building is required to provide a publicly accessible space that is:

- 10,000 square feet or greater;
- Open to the sky; and
- Accessible across the through-lot portion of the site.

At least 50 percent of the building adjacent to the publicly accessible space must be retail, personal services, or amusement uses as outlined in ZR §81-681(2) (x).

### Other Requirements

ZR §81-42 requires that the Proposed Building include ground floor retail along the Madison Avenue portion of the site.

ZR §81-633 requires that the sidewalk along Madison Avenue be widened from the existing 15 feet to a minimum width of 20 feet.

### **Site Description**

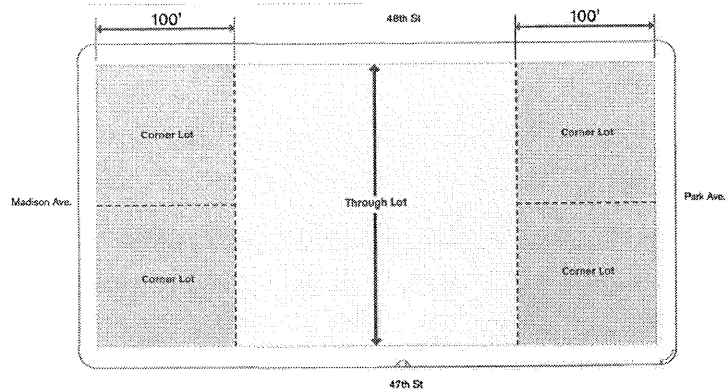
The development site at 270 Park Avenue encompasses the entire block bound by East 47<sup>th</sup> and East 48<sup>th</sup> Streets, Madison Avenue, and Park Avenue. The building currently located on the site was designed by Natalie de Blois of the renowned architecture firm Skidmore, Owings & Merrill. De Blois is considered a pioneering female architect, having designed other notable buildings such as Lever House and the Pepsi-Cola Building. The building was originally constructed as the headquarters for the Union Carbide Corporation, with construction completed in 1964.<sup>5</sup>

Approximately 75 percent of the site sits above the Grand Central Terminal train shed. Further below that train shed will be two levels of the East Side Access tunnel. The existing building on the development site required extensive engineering to ensure that adequate structural support could be provided for the building without compromising the below ground rail right-of-way. The Proposed Building, which will be much larger, will require a much more extensive structural support than the extant building. Additionally, utilities for the Proposed Building will have to enter through the Madison Avenue side of the site. Due to these constraints, the first floor of the portion of the building that is not on *terra firma* will be approximately 12 feet above ground level.

Although the site comprises an entire block, the through lot portion of the site, as demonstrated below, excludes the four corners extending 100 feet from the avenues. The lighter area in the diagram below is the portion of the site where the publicly accessible space is required to be located under ZR §81-681.

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<sup>5</sup> Hilary Sample, “Natalie de Blois: A Legacy Of Change In Practice And Education,” *Architizer*, accessed January 2, 2019, <https://architizer.com/blog/practice/details/natalie-de-blois/>



Source: Foster + Partners for JPMorgan

### Area Context

East Midtown is occupied by large scale office buildings, many of which include privately owned publicly accessible spaces that are either enclosed or open to the sky. The area plays an integral role in the economy of the New York metropolitan region. According to DCP, the area between Second and Fifth Avenues and East 39<sup>th</sup> and East 57<sup>th</sup> Streets contains more than 60 million square feet of office space, more than a quarter million jobs, and numerous Fortune 500 companies. In addition to its importance as a business center, East Midtown is also world-renowned for its iconic architecture, significant civic spaces, and extensive transportation system—all of which are exemplified by Grand Central Terminal at the heart of the Subdistrict.

The Park Avenue portion of East Midtown is notably lined with office building entrances, with some ground-level storefront banks. Lexington Avenue, Madison Avenue and East 42<sup>nd</sup> Street are the main commercial corridors in the area, containing a variety of establishments to service the area’s workers.

Major infrastructure projects, such as the East Side Access tunnel and the Second Avenue Subway, will permit new options for commuters to access the region while hopefully alleviating congestion on the Lexington Avenue line. The replacement of the Grand Central Terminal train shed, meanwhile, will secure the future of the transportation network for the area and region. The train shed is the rail yard north of Grand Central Terminal. The structure is completely underground and extends from East 45<sup>th</sup> Street to East 57<sup>th</sup> Street.

### PROPOSED ZONING TEXT AMENDMENT

The proposed zoning text amendment would create a new category for buildings over 80,000 square feet, allowing these sites to reduce the required minimum size of their publicly accessible space from 10,000 square feet to 7,000 square feet and also allowing it to be enclosed. To qualify for this provision, the proposed building and site must meet the following criteria:

- The building must include an existing entrance to a rail mass-transit facility;
- The publicly accessible space cannot be located on the portion of the site that is occupied by railroad or transit right-of-way below grade; and

- The publicly accessible space will have to either incorporate the rail mass transit entrance or, if the MTA determines that the entrance should not be included in the enclosed publicly accessible space, the space may be a minimum of 6,500 square feet while also including an “adjoining unenclosed publicly accessible space” that is a minimum of 500 square feet and providing direct pedestrian access to the mass transit entrance.<sup>6</sup>

The Applicant has stated that the proposed text amendment is “necessary to facilitate the location of mechanical, loading, and other systems critical to the functioning of the Proposed Building on the *terra firma* portion of the development site.”

Additionally, the Applicant has stated a desire to create a “quality public space” and as such is proposing to eliminate the ground floor retail requirement for the portion of the site that is along Madison Avenue. The proposal is to build the publicly accessible space along Madison Avenue and make the following elements applicable to the space<sup>7</sup>:

- Eliminate the requirement that at least 50 percent of the frontage adjacent to the publicly accessible space be limited to retail, personal service, or amusement uses, excluding banks or use groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B<sup>8</sup>
  - Alternatively, the application would allow buildings on lots measuring 80,000 SF or more to replace this 50% use requirement with vertical plantings and/or display of art work *or* “architectural elements or other design features of visual interest” and at least one kiosk
- Allow the publicly accessible space to be closed for private events for six non-consecutive days a year. At a meeting with Manhattan Community Board 5, the Applicant stated that it was not their intention to use this provision to host their own private events. Rather, they envision it being used by nonprofits.
- Allow the space to be used to “host public events pursuant to a restrictive declaration”

Lastly, the Applicant is seeking to apply portions of the section of the ZR governing public plazas to enclosed publicly accessible spaces, including ZR §37-73, which allows cafes or kiosks to be permitted obstructions. The Applicant is also proposing to make ZR §37-741 applicable to the proposed publicly accessible space and modify it to allow up to 25 percent of the moveable seating required under that section to be stools measuring up to 32 inches in height. The Applicant has stated that these modifications would be to enable use of the proposed publicly accessible space as an “urban workspace” that will include Wi-Fi access.

## COMMUNITY BOARD RESOLUTION

At the December 5, 2018 meeting of the Manhattan Community Board 5 Land Use, Housing & Zoning Committee, the Applicant team presented their proposed zoning text amendment.

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<sup>6</sup> On December 14, 2018, the Applicant met with the Borough President and stated that the proposed publicly accessible space would not include a rail mass transit entrance but would nonetheless measure 7,000 square feet. The Applicant represented that the application would be modified to exclude this provision.

<sup>7</sup> These proposed elements would be applicable to all sites in East Midtown with lots measuring at least 80,000 square feet.

<sup>8</sup> Uses in these groups include offices, clubs, wholesale establishments, auto service establishments, and public service establishments (prisons).

Committee members raised concerns about the amendment, noting that as the first post-East Midtown rezoning development, it would set an important precedent that would have wider implications throughout the subdistrict.

In its December 2018 resolution, the Board disapproved the application, noting that the Applicant was not proposing “a public benefit or significant replacement for the loss of 3,000 sq. ft. of public space.” The Board expressed disappointment with Applicant’s reticence to evaluate other alternatives for the publicly accessible space, such as along Park Avenue, enclosed in the through-lot portion of the site, or in a “duplex” arrangement.

The Board has also requested that a public restroom be provided alongside the publicly accessible space, particularly in light of the Applicant’s expressed desire to create an “urban workspace.”

### **BOROUGH PRESIDENT’S COMMENTS**

At the Borough Board hearing for the East Midtown rezoning, the public realm was the most commonly raised issue in testimonies from 35 various individuals and organizations. In particular, speakers emphasized the need for public open space in East Midtown. It was after this hearing that the Department of City Planning committed to assessing an open space requirement for lots measuring 40,000 square feet or more. That commitment was embodied in the subsequently adopted ZR §81-681. I believe in the importance of publicly accessible spaces to mitigate the density of office uses in East Midtown. This application must therefore be carefully reviewed to ensure that the hard work of the Department of City Planning, the East Midtown Steering Committee, Community Board 5, and other stakeholders is not undone.

When measured against the goals of the East Midtown rezoning, the application is inadequate. While the Proposed Building will create new, modern office space, enhance the city’s economy, and contribute to the preservation of Grand Central Terminal, an important landmark in the area, its accompanying zoning text amendment application does not do enough to enhance access to open space in the district. The application also fails to meet one of the major points of the rezoning: preserving active retail corridors such as the one along Madison Avenue.

There is no doubt that the conditions on the site present challenges—not just for the creation of a publicly accessible space, but for the overall building design. However, it is also true that the applicant could provide a publicly accessible space along the Park Avenue portion of the site that meets the size requirements. The Applicant has repeatedly argued that the reason for proposing a smaller publicly accessible space along Madison Avenue is because it is seeking to provide a quality open space. Such a space, they argue, could not be provided alongside their main employee entrance on Park Avenue. The determination to locate the space on Madison Avenue was made without engaging in a process with the community and stakeholders who worked on the East Midtown rezoning. Instead, the Applicant is asking for an alternative set of provisions that are unnecessary.

While I understand the significant constraints of the site, the Applicant has nonetheless shown a failure to contemplate other options, such as the ones noted in the Community Board 5 resolution. Such options would not have precluded a publicly accessible space that met, at a



minimum, the size requirement. I strongly prefer a publicly accessible space that is open to the sky and measures a minimum of 10,000 square feet.

I have full confidence that the consultants retained by the Applicant can fit 10,000 square feet of publicly accessible space on the site. There is plenty of room on Park Avenue for publicly accessible space located at grade, and I feel strongly that at least a portion of this space should be located along Park Avenue. Furthermore, should the publicly accessible space include an employee entrance and/or be enclosed, I exhort the applicant to look above and beyond the POPS Guidelines to ensure that the space is welcoming to the public. The IBM building at 590 Madison Avenue, for instance, is an example of a publicly accessible space that is enclosed and incorporates employee entrances while also being well used by the public.

If the site constraints prove so challenging that the Applicant is not able to provide retail along Madison Avenue, a publicly accessible space that is open to the sky, or any other element that is vital to the balance between density, transit, and public realm improvements struck in the zoning text of the East Midtown Subdistrict, they should amend the proposed zoning text to require the provision of another significant public benefit that would further these goals. The creation of a new entrance to a rail mass-transit facility, for example, could be an appropriate public benefit, as it would mitigate the impacts that the Proposed Building will have on the transit system as well as the pedestrian experience. Should this option prove infeasible, I am confident that the Applicant can work with the community and the appropriate transit agency to determine the proper mitigation.

I am sympathetic to the Applicant and I fully understand the challenging site constraints. I also welcome the economic impacts of this development. In addition to retaining a Fortune 500 company in East Midtown, the City is capturing the property taxes that will be generated by the site. The building currently on site pays approximately *\$24.8 million in annual property taxes*. With a significantly larger square footage, we would expect the new building to contribute significantly more. In light of those benefits, I supported the development rights transfer to facilitate this project. However, this application is unacceptable in its current form and must be amended to preserve the goals of the East Midtown rezoning.

## **BOROUGH PRESIDENT'S RECOMMENDATION**

I therefore recommend **disapproval of the application unless** the Applicant amends the proposed zoning text (i.e. submits an “a-text”) so that it does the following:

- Requires a minimum of 10,000 square feet of publicly accessible space on the site at the same grade as the sidewalk.
  - At least 30% of the space should be open to the sky.
  - Any space used for a pedestrian thoroughfare (e.g. the space between the proposed building entrances and the Park Avenue sidewalk) should not count toward the 10,000 square feet requirement.
  - The final design for the publicly accessible space should be subject to approval by the Public Realm Improvement Fund Governing Group.
- Requires that any indoor public space include restrooms open to the public. The restrooms should be open during the same hours as the public space.

- Requires that the café kiosk in the proposed publicly accessible space on Madison Avenue have frontage on Madison Avenue to provide retail continuity.
- Requires a significant contribution to transit infrastructure given the transit impacts of the Proposed Building. Below are examples that the Applicant should explore with the community and appropriate transit agencies:
  - New staircase and elevator entrances to a rail mass-transit facility within the Proposed Building, the Applicant’s adjacent building at 383 Madison Avenue, or another location within East Midtown;
  - Improvements to the pedestrian corridor leading from the Proposed Building to Grand Central Terminal;<sup>9</sup>
  - A contribution or in-kind repair of the Grand Central train shed beyond what is necessary for the construction of the Proposed Building; and/or
  - An MTA substation, to be constructed as part of the Proposed Building, to provide the power for additional train service in conjunction with MTA-NYCT’s installation of Communications-Based Train Control on the Lexington Avenue line, which will reduce commute times and overcrowding on the line.



Gale A. Brewer

Manhattan Borough President

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<sup>9</sup> The Applicant should consult recommendations made by the Public Realm Improvement Fund Governing Group