



CITY PLANNING COMMISSION

May 25, 2005/Calendar No. 22

N 050117 ZRM

IN THE MATTER OF an application submitted by the Fifth Avenue 58/59 Acquisition Co. LLC c/o Macklowe Properties, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York relating to Article VIII, Chapter 1 (Special Midtown District) concerning Appendix A: Map 1 (Special Midtown District and Subdistricts) and Map 2 (Retail and Street Wall Continuity), Borough of Manhattan, Community District 5.

The application for amendment of the Zoning Resolution was filed by Fifth Avenue 58/59 Acquisition Co. LLC on September 27, 2004. The text amendment would facilitate the construction of a glass cube entryway to a below-grade retail space on the Fifth Avenue portion of the subject block.

BACKGROUND

The applicant is seeking a text amendment to the Special Midtown District to facilitate the construction of a glass cube entryway to a below-grade retail space located on the Fifth Avenue portion of the zoning lot occupied by the General Motors Building, a 50-story office building on a full-block zoning lot bounded by Fifth Avenue, East 59th Street, Madison Avenue and East 58th Street. In January, 2005, the applicant received a Chair Certification (N 050116 ZCM) pursuant to Section 81-231(e) to allow for the reduction of non-bonused open area on the subject zoning lot. The reduction sought to: 1) eliminate the open area along the Madison Avenue frontage of the building by bringing the retail space out to the property line, and 2) eliminate a 32-foot x 32-foot square of open area on the Fifth Avenue

portion of the zoning lot. The glass cube would be located on the 32-foot x 32-foot square area.

The reduction pursuant to the Chair Certification and the subsequent construction of the glass cube pursuant to the subject text amendment would be part of a significant renovation that would be made to the plaza on the Fifth Avenue frontage of the subject building. The upgrade includes regrading the plaza, lowering its overall height and making it more accessible from the sidewalk. On the north and south sides of the plaza, the applicant would provide two reflecting pools surrounded by movable tables and chairs. Each side would feature three honey locust trees and several low planters with seasonal plantings. The perimeter of the plaza would contain a wide stone ledge that would provide seating for people facing in towards the plaza and out towards the street.

As proposed, the center of the Fifth Avenue plaza would contain a 32-foot transparent glass cube which would serve as an entrance to a remodeled below-grade retail space. In order to construct the cube, the applicant is requesting a text amendment to the Special Midtown District to remove the subject block from the Fifth Avenue Subdistrict and the mandatory street wall and retail continuity requirements of the Special Midtown District as indicated on Maps 1 and 2 of the Midtown District plan maps. These requirements are triggered by any new development or enlargement (e.g., the construction of the cube). Without the text change, the development on the zoning lot would be required to provide a street wall with continuous retail along Fifth Avenue — something that is not feasible given that the building is set back from Fifth Avenue by 114 feet.

ENVIRONMENTAL REVIEW

This application (N 050117 ZRM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 05DCP035M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on February 28, 2005.

PUBLIC REVIEW

On February 28, 2005, this text change application was duly referred to Community Board 5 and the Borough President for information and review in accordance with the procedure for referring non-ULURP matters.

Community Board Review

Community Board 5 issued a recommendation on March 10, 2005 approving the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on April 14, 2005.

City Planning Commission Public Hearing

On April 13, 2005 (Calendar No. 8), the City Planning Commission scheduled April 27, 2005, for a public hearing on this application (N 050117 ZRM). The hearing was duly held on April 27, 2005 (Calendar No. 37). There were two speakers in favor of the application.

The applicant's representative briefly explained the text amendment and described why it was needed to construct the glass cube entryway to the below-grade retail space. The project's architect described the design of the glass cube noting that it had been designed to be as attractive and transparent as possible. He also presented the additional upgrades that would be made to the plaza on the Fifth Avenue frontage of the subject building. The upgrades, he stated, included regrading the plaza, and providing sitable ledges, planters with seasonal plantings, and two reflecting pools surrounded by movable tables and chairs.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this amendment to the Zoning Resolution is appropriate.

The Commission recognizes that the mandatory street wall and retail continuity requirements of the Fifth Avenue Subdistrict and the Special Midtown District are not appropriate for the subject property given that the existing building is set back 114 feet from Fifth Avenue. The Commission believes it would be neither appropriate nor feasible to extend the street wall to Fifth Avenue. Though the Commission believes the street wall and retail continuity requirements are appropriate for the rest of the Fifth Avenue Subdistrict, the Commission recognizes that the subject building is an anomaly in the area.

The Commission is aware that the below-grade retail space that is presently located on the Fifth Avenue portion of the zoning lot has been unsuccessful and vacant because of its lack of visibility from the street.

The Commission believes that the proposed glass entryway would benefit the below-grade retail space by making it more visible and attractive. The Commission is pleased that the applicant has tried to make the cube as attractive and transparent as possible and that the accessory signage on the cube would be limited to the side facing Fifth Avenue in an area of no more than nine square feet, as indicated on the approved plans that were submitted as part of the previous Chair Certification (N 050116 ZCM) to reduce the amount on non-bonused open space.

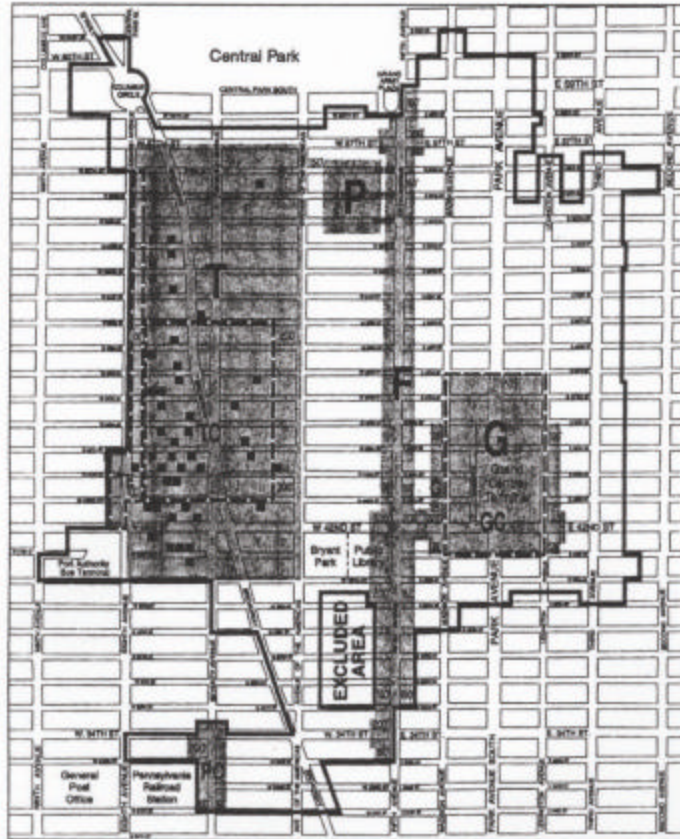
The Commission notes that the construction of the glass cube would be done as part of a general upgrade of the Fifth Avenue plaza, which includes eliminating awkward grade changes, and providing

sitable ledges, two fountains, and movable tables and chairs. The Commission believes the proposed text amendment would facilitate these upgrades which will make the public space more attractive and usable by the public.

RESOLUTION

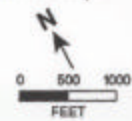
RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:



MIDTOWN DISTRICT PLAN
MAP 1 - Special Midtown District and Subdistricts

- | | |
|---------------------------|--|
| Fifth Avenue Subdistrict | Grand Central Subdistrict Core |
| Grand Central Subdistrict | Theater Subdistrict Core |
| Penn Center Subdistrict | Theater Subdistrict Eighth Avenue Corridor |
| Preservation Subdistrict | Listed Theaters |
| Theater Subdistrict | Special Midtown District |

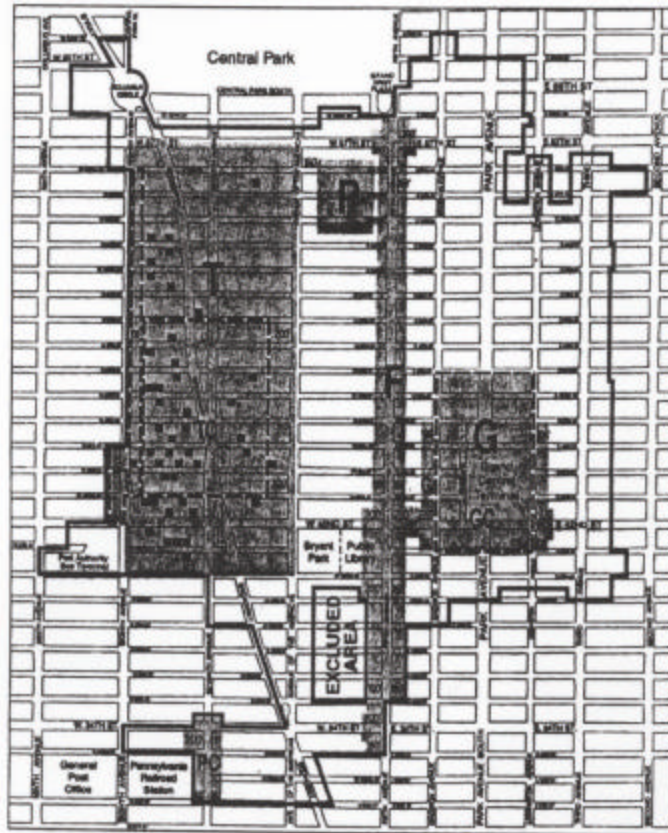


APPENDIX A (10/31/01)

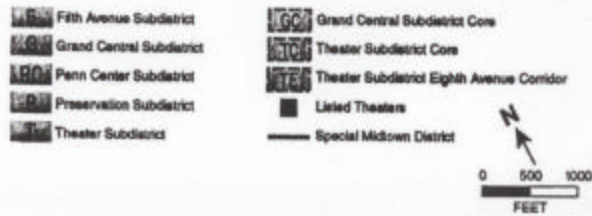
Midtown District Plan Maps

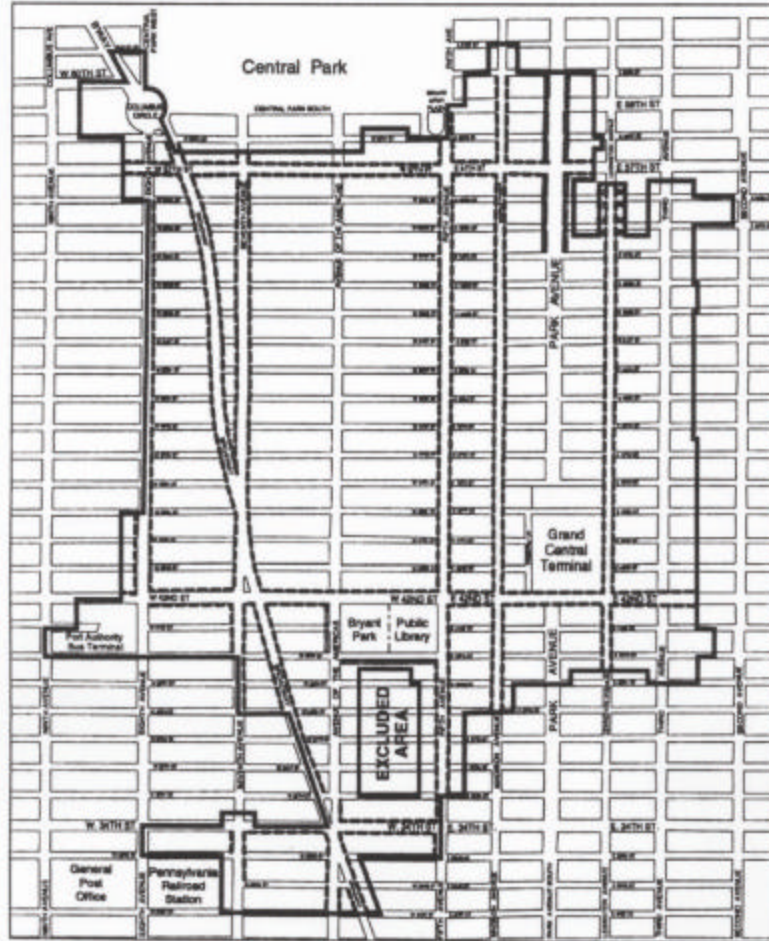
Map 1. Special Midtown District and Subdistricts

PROPOSED



MIDTOWN DISTRICT PLAN
MAP 1 - Special Midtown District and Subdistricts





MIDTOWN DISTRICT PLAN
MAP 2 - Retail and Street Wall Continuity

- Retail and Street Wall Continuity required
- Only Street Wall Continuity required
- Special Midtown District

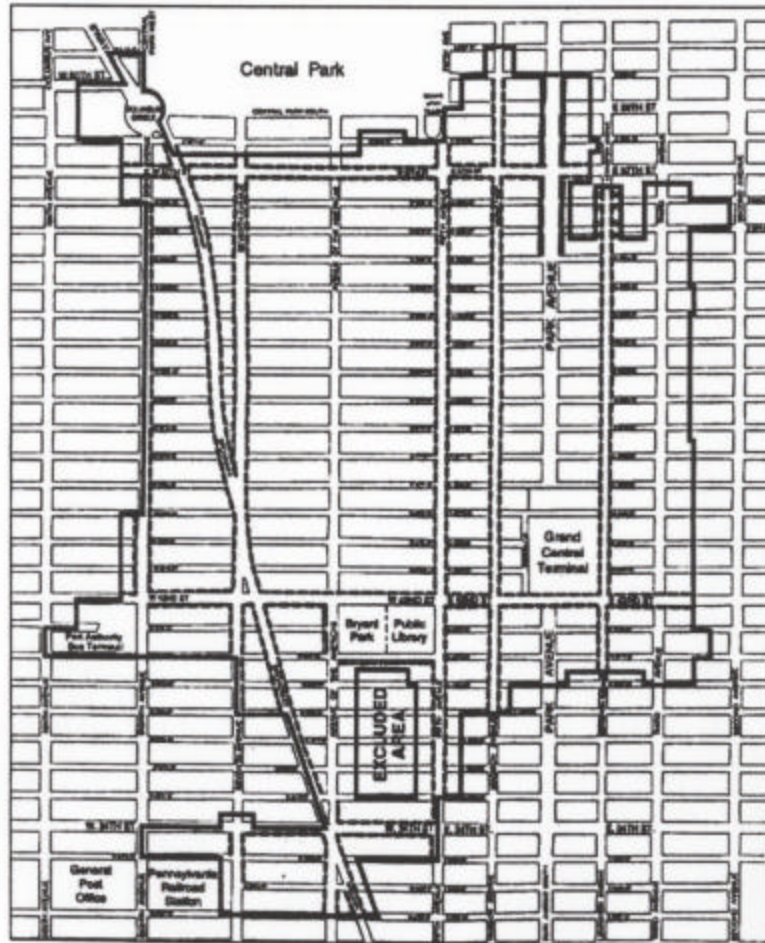


APPENDIX A (10/31/01)

Midtown District Plan Maps

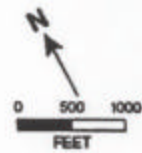
Map 2. Retail & Street Wall Continuity

PROPOSED



MIDTOWN DISTRICT PLAN
MAP 2 - Retail and Street Wall Continuity

- Retail and Street Wall Continuity required
- Only Street Wall Continuity required
- Special Midtown District



The above resolution (N 050117 ZRM), duly adopted by the City Planning Commission on May 25, 2005 (Calendar No. 22), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, AICP, Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,

RICHARD W. EADDY, JANE D. GOL, LISA GOMEZ, CHRISTOPHER KUI,

JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners