



**IN THE MATTER OF** an application submitted by 415 Madison Avenue LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 81-645 of the Zoning Resolution to allow an increase in the amount of floor area ratio permitted on a qualifying site where an above-grade public concourse, in the form of an open publicly accessible space is provided, in connection with a proposed commercial building, on property located at 415 Madison Avenue (Block 1284, Lot 21), in a C5-3 District, within the Special Midtown District (Southern Subarea), Borough of Manhattan, Community District 5.

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This application (C 210453 ZSM) for a zoning special permit pursuant to Section 81-645 of the Zoning Resolution (ZR) was filed by 415 Madison Avenue LLC on May 17, 2021 to allow an increase in the amount of floor area ratio permitted associated with the provision of an above-grade public concourse on a Qualifying Site. The special permit, along with the related action, would facilitate a new 40-story commercial office building at 415 Madison Avenue (Block 1284, Lot 21) located in the East Midtown neighborhood of Manhattan, Community District 5.

### **RELATED ACTIONS**

In addition to the special permit that is the subject of this report (C 210453 ZSM), the proposed project also requires action by the City Planning Commission (CPC) on the following application, which is being considered concurrently with this application:

**C 210454 ZSM**                      Zoning special permit pursuant to ZR Section 81-685 to modify height and setback, certain district plan elements, and street wall regulations.

### **BACKGROUND**

In 2016, the Department of City Planning (DCP) introduced a plan for the rezoning of the East Midtown area anchored by Grand Central Terminal, known broadly as the Greater East Midtown rezoning (N 170186 (A) ZRM and C 170187 ZMM). The goal of this rezoning framework was to ensure the area's future as a premier business district by incentivizing new commercial

development to replace the aging building stock, improvements to the public realm, and preservation of landmarked buildings. In August 2017, the plan for East Midtown Subdistrict was adopted within the Special Midtown District (MiD) (N 820253A ZRM).

The area surrounding the development site (Block 1284, Lot 21) is located within the central business district of Manhattan's East Midtown. The area has a dense commercial office character, with retail use typically occupying the ground floor. Residential, institutional and transportation uses are also scattered throughout the area. Grand Central Terminal, located four blocks south of the development site, is served by both subway and Metro North commuter train lines. A new concourse known as East Side Access (ESA), currently under construction with an expected opening in 2022, will also bring Long Island Railroad (LIRR) commuter service to the area. South of the development site, 270 Park Avenue also provides a direct underground connection to the Metro North Railroad platforms at its southwestern corner.

Several privately-owned public spaces (POPS) contribute to an emerging network of open spaces along Madison Avenue. Located to the north of the development site is 437 Madison Avenue, a 12,545-square-foot outdoor space. On the block west of the development site is 12 East 49<sup>th</sup> Street, which, together with 611 Fifth Avenue, forms a mid-block POPS network to connect East 48<sup>th</sup> Street to East 50<sup>th</sup> Street. To the immediate south of the development site, and the newest addition to this emerging open space network will be a 10,000-square-foot plaza along the Madison Avenue frontage of the future 70-story development at 270 Park Avenue (N 190180 ZRM), also facilitated under the Greater East Midtown framework. A 17,603-square-foot public space is also located immediately east of the development site at 280 Park Avenue. Designated New York City landmarks in the surrounding area include St. Patrick's Cathedral, Saks Fifth Avenue, the Hampton Shops Building, the Charles Scribner's Sons Building, the Villard Houses, and the 400 Madison Avenue Building. Just beyond the surrounding area two blocks northeast of the development site, St. Bartholomew's Church is located on Park Avenue between East 50<sup>th</sup> Street and East 51<sup>st</sup> Street.

The development site and much of the surrounding area is located within the Special Midtown District and mapped with a C5-3 zoning district, which has a base maximum floor area ratio (FAR) of 15.0 for non-residential use and 10.0 for residential use. C5-2.5 zoning districts are mapped east and west of the development site, with a base maximum FAR of 12.0 for non-residential use and 10.0 for residential use. The development site exists within an area defined by the Greater East Midtown framework as the Southern Subarea, where the maximum commercial floor area may be increased up to an FAR of 24.6. This increase may occur through a combination of non-discretionary certifications and special permit mechanisms that seek to promote the provision of transit access, public space and contribution to the upkeep of local landmarks alongside development in this dense, transit-rich neighborhood. These mechanisms are available if a site can meet the defined criteria of a Qualifying Site outlined in the zoning resolution. A Qualifying Site is defined as a property within the East Midtown Subdistrict that: (i) is not located in the Vanderbilt Corridor Subarea; (ii) has frontage on a wide street; (iii) that at the time of development has at least 75 feet of such wide street frontage clear of buildings or other structures (except where one or more landmark buildings or an existing easement volume in accordance with ZR Section 81-673 occupy such frontage); (iv) is developed in accordance with certain floor area provisions of ZR Section 81-64; (v) is developed with a predominately commercial (i.e., less than twenty percent residential) building; (vi) is developed with a building that meets certain performance standards and provides publicly accessible space in accordance with ZR Section 81-681.

The development site occupies a corner lot located on the southwest corner of the block bounded by East 49<sup>th</sup> Street to the north, Park Avenue to the east, East 48<sup>th</sup> Street to the south and Madison Avenue to the west. It has approximately 100 feet of primary frontage on Madison Avenue and 116 feet of secondary frontage on East 48<sup>th</sup> Street with a total lot area of 11,675 square feet. The existing 24-story commercial building on the lot was built in 1955 and has been zoned C5-3 since 1961 when the zoning resolution was first adopted. The development site has been identified by the Metropolitan Transportation Authority (MTA) as a critical access point to the below-grade concourse for the LIRR as part of the ESA project, currently under construction.

The applicant proposes to construct a new 40-story, 591-foot commercial office building with an FAR of 24.6, comprising 287,180 square feet of zoning floor area. The ground-floor program would consist of an open-air public concourse, retail space, and a high-volume pedestrian entrance to the ESA concourse below the site. A building lobby would be located on the Madison Avenue frontage, providing access to the building core, and the loading dock would be located on East 48<sup>th</sup> Street. The floors above would provide commercial office space.

A 2,377 square foot open-air public concourse would be located at-grade fronting the prominent corner of Madison Avenue and East 48<sup>th</sup> Street. Associated with provision of this amenity and enabled by the proposed special permit, 35,022 square feet of bonus floor area (3.0 FAR) would be included in the proposed building. The space would include an approximately 28-foot ceiling and be open to the public 24 hours a day, seven days a week. The public concourse would provide fixed seating, and moveable tables and chairs for public use, and also feature artwork in oval shaped planters. The southern portion of the public concourse along East 48<sup>th</sup> Street would be left unobstructed and serve as additional pedestrian circulation space providing access direct to the ESA entrance. A 330-square-foot retail space with frontage to the public concourse would be open to the public.

The proposed ESA entrance would comprise the northernmost pedestrian access corresponding to the below-grade concourse for the LIRR platforms. The ESA entrance would be designed in consultation with the MTA to provide west-facing doors with a direct connection into the public concourse and south-facing doors that open onto East 48<sup>th</sup> Street. The entrance is not associated with any proposed actions or bonus mechanism in this application, and was negotiated as part of a separate easement agreement between the applicant and the MTA.

The applicant is requesting three waivers to enable the proposed development. Specifically, the design and location of the public concourse along Madison Avenue, a designated retail street, would result in the need for waiver of certain mandatory district plan elements and street wall

requirements. The applicant seeks a retail continuity waiver of ZR Section 81-42, which requires that certain retail and service uses occupy the ground floor of a new building along Madison Avenue. This waiver would enable the public concourse to front Madison Avenue, with a proposed retail space to be set back from the street to front onto the public concourse. The waiver would also allow a wider building lobby on Madison Avenue than specified in the regulation, seeking 40 feet, two inches where 25 feet is permitted. Waivers of mandatory street wall requirements of ZR Sections 81-43 and 81-671 are requested to enable the open-air public concourse and a terrace on the second floor along Madison Avenue, associated with the office use. Height and setback waivers are also requested to ZR Sections 81-26 or 81-27 and 81-66 to accommodate the double-height ground floor and the additional floor area generated from the provision of a public concourse. This would allow for larger floorplates on the upper floors and larger floor-to-floor heights in the proposed building.

In addition to the actions requested in this application (C 210453 ZSM), the applicant has separately obtained approval for three non-discretionary certifications (N 210004 ZCM, N 210220 ZCM, N 210219 ZCM) to facilitate the proposed development. These certifications are available to the development site pursuant to the Greater East Midtown framework and would allow a total of 21.6 FAR, or 252,158.4 square feet of floor area, on the development site as-of-right. On September 1, 2020, the Chair of the CPC issued a certification (N 210004 ZCM) pursuant to ZR Section 81-643(a) confirming that, as of that date, there was 40,909 square feet of non-complying floor area in the existing building on the development site. This certification was the first of two certifications required pursuant to ZR Section 81-643 meant to encourage redevelopment of older, overbuilt buildings by permitting retention and reconstruction of non-complying floor area in a new commercial development on the site.

The Chair of the CPC granted two additional certifications on November 5, 2021 (N 210220 ZCM and N 210219 ZCM). A certification pursuant to ZR Section 81-643(b), the second of the two certifications required to allow the reconstruction of 40,909 square feet of existing non-complying floor area (N 210220 ZCM). In association with this certification, a contribution was

deposited by the applicant into the Public Realm Improvement Fund (PRIF) on October 15, 2021. The PRIF is administered by the East Midtown Public Realm Improvement Fund Governing Group to finance pedestrian realm and transit network improvements in the area. A certification (N 210219 ZCM) was also granted pursuant to ZR Section 81-642 in order to enable the transfer of 36,139.4 square feet of development rights from the zoning lot occupied by St. Bartholomew's Church and Community House (Block 1305, Lot 1) to the development site. In association with this certification, a contribution was deposited by the applicant into the PRIF on October 15, 2021.

The applicant seeks two special permits in order to facilitate the proposed development, available only to Qualifying Sites within the Greater East Midtown sub-district. One special permit (C 210453 ZSM) is proposed pursuant to ZR Section 81-645. The special permit allows for, where an onsite public concourse is provided, an increase of 3.0 FAR, if deemed appropriate. Another special permit (C 210454 ZSM) is proposed pursuant to ZR Section 81-685 for modifications in conjunction with additional floor area. The special permit would allow flexibility in height and setback, retail continuity and mandatory street wall regulations. The request for these waivers is associated with the design of the public concourse and specific site constraints in accommodating the proposed total floor area within appropriately sized floorplates for a Class A office building on a small lot.

The proposed special permits would be utilized in conjunction with the three approved Greater East Midtown Chairperson certifications discussed above, which have collectively enabled the application to increase the available commercial FAR on the site to 21.6 or 252,158 zoning square feet. The additional FAR of the proposed special permits would allow the proposed commercial development of up to 24.6 FAR, or 287,180 zoning square feet to be constructed.

## **ENVIRONMENTAL REVIEW**

This application (C 210453 ZSM) 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 21DCP178M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on July 26, 2021.

### **UNIFORM LAND USE REVIEW**

This application (C 210453 ZSM), in conjunction with the application for the related action (C 210454 ZSM), was certified as complete by the Department of City Planning on July 26, 2021, and was duly referred to Manhattan Community Board 5 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

#### **Community Board Review**

Manhattan Community Board 5 held a public hearing on this application (C 210453 ZSM) on September 1, 2021, and, on September 9, 2021, by a vote of 34 in favor, none against, and one abstaining, adopted a resolution recommending approval of the application.

#### **Borough President Review**

This application (C 210453 ZSM) was considered by the Manhattan Borough President, who, on October 14, 2021, issued a recommendation to approve the application with the following conditions:

- “• That the Applicant work to incorporate arts programming to activate the proposed public concourse; and
- That the Applicant ensure that the retail space in the proposed building be operated by a local business.”

## **City Planning Commission Public Hearing**

On October 6, 2021 (Calendar No. 5), the CPC scheduled October 20, 2021 for a public hearing on the application (C 210453 ZSM). The hearing was duly held on October 20, 2021 (Calendar No. 32). Six speakers testified in favor of the application and none in opposition.

The applicant team, comprised of the land use attorney, property owner, and the project architect, testified in favor of the application, providing an overview of the proposed project. The property owner described the merits of the project, including the addition of variety in the aging office stock available in Midtown, improvements to the public realm and increased transit access. The project architect described the need for the waivers to provide a well-designed public concourse and a state-of-the-art commercial office space on a relatively small lot, with smaller office floorplates. The land use attorney described the requested actions and discussed how they believe the project meets the required special permit findings of ZR Section 81-645 and ZR Section 81-685.

Representatives from the New York Building Congress and Grand Central Partnership testified in support of the project for its replacement of an aging office building, contributions to the public realm and pedestrian experience, and increased transit access in line with the goals of the Greater East Midtown rezoning.

A representative for St. Bartholomew's Church expressed the Vestry's support of the project and described the preservation and restoration work made possible for the landmarked Church through the sale of development rights as part of the project, under the related Chairperson certification approved pursuant to ZR Section 81-642.

There were no other speakers, and the hearing was closed.

Subsequent to the hearing, written testimony was provided by the MTA in support of the project for the provision of the public concourse and its enhancement of the proposed ESA entrance. The



MTA stated that a public concourse will reduce pedestrian conflict and facilitate circulation through the provision of additional west-facing doors that open into the concourse. The MTA emphasized the importance of this entrance as it will serve as the northernmost entrance where 95 percent of the pedestrians using ESA are expected to be coming from/going to the north and west. The proposed ESA entrance at the development site is the result of approximately 20 years of discussion between the MTA and the property owners.

## **CONSIDERATION**

The Commission believes that this application for a special permit (C 210453 ZSM), along with the related action (C 210454 ZSM), is appropriate.

The requested special permit will facilitate an FAR bonus of 3.0 associated with the provision of a 2,377-square-foot open-air public concourse. The concourse will be located at the intersection of Madison Avenue and East 48<sup>th</sup> Street, occupying a prominent corner of the site, easily identifiable and inviting to the public from both streets.

The concourse has been designed with generous proportions that include an approximately 28-foot-high ceiling and circulation paths to support high volumes of pedestrian traffic onto the site. Taking advantage of its central location and connectivity, the concourse will balance the function of a high-volume pedestrian thoroughfare supporting the onsite connection to a transit hub, with the ability of the space to provide a reprieve for the public looking for a place to enjoy passive recreation. The design balances these functions in a manner that maintains generous proportions and is consistent with the standards generally applied to the POPS program.

Further contributing to the merits of the proposed site plan, the development site will provide the northernmost access point to the below-ground ESA concourse through a new pedestrian entrance within the proposed building. The access and navigability of this ESA entrance will be significantly enhanced by the co-location of the open-air public concourse as proposed. The Commission notes that the transit access point is the result of years of discussion between the

property owners and the MTA, and has been negotiated under a separate agreement with the MTA that does not rely on a zoning incentive. As confirmed by the MTA in their written testimony to the proposed development, this entrance is of critical importance and will provide a significant connection for the LIRR commuters, further strengthening the transit access in East Midtown. The portion of the public concourse along East 48<sup>th</sup> Street will be clear of obstructions and will serve to facilitate improved pedestrian circulation. The west-facing ESA entrance doors that open into the public concourse provide an additional point of egress and will direct pedestrians away from East 48<sup>th</sup> Street and minimize congestion on the sidewalk, which would not otherwise be available without the proposed concourse. The added circulation space provided by the public concourse will safely accommodate the expected increase in commuter flow through the area.

The design combines fixed and movable seating options, tables, artwork, signage, lighting and a retail space for further ground-floor activation that in totality, will combine for an attractive and inviting public space. Two fixed, oval-shaped plinth structures will delineate the passive portion of the space, and double as structures that will provide seating and display of sculptures. The Commission considers each of the sculptures, to be designed in the future contained within the footprint of the plinth structures, to have the potential to contribute an attractive and unique identifier to the space.

The resultant design of the sculptures will be required to maintain consistency with the special permit findings and the adopted special permit plans. Notably, all elements within the public concourse are intended to combine for a cohesive and harmonious site plan that results in a high-quality and functional public space. By employing this qualitative approach to regulating the sculptures, the Commission notes the merits of providing flexibility for creative expression without specific dimensional restrictions. Design, size, and proportions of any future sculptures must be harmonious with the space to maintain visibility and openness, in no way overwhelming the space, discouraging passive or thoroughfare uses of the space, or obstructing view lines.

The Commission believes the public concourse design reflects a generous proportion, quality and utility, combined to support a harmonious site plan. The effective balancing of these functions stands to significantly benefit the neighborhood and the greater public and merits the proposed additional floor area sought within the special permit.

The location of the site allows that the concourse will add to an emerging network of open spaces on Madison Avenue, contributing a weather-protected space that fronts immediately onto and will be visible from Madison Avenue and 48<sup>th</sup> Street sidewalks and will remain open to the public at all times. Activation will further enhance the space, achieved with a small retail space, general foot traffic associated with the ESA entrance and activity visible within the building lobby. The space is designed to maintain such visual connection with the street, transit entrance and building lobby wherever possible with glazing. Those portions that cannot be transparent for structural and functional reasons will be finished with white marbled textured panels to provide a light, open, and welcoming appearance. The design has a limited number of columns that will further maximize visibility and transparency from the streetscape.

The Commission believes that the significant public benefit derived from the on-site public concourse merits the proposed FAR increase sought via the proposed special permit. The requested density is consistent with the character of the surrounding area and the many goals of the Greater East Midtown rezoning, including the replacement of the aging office building stock, promotion of transit-oriented development, and provision of public realm improvements. The proposed development will replace an aging office building, originally built in 1955, with a new office tower that meets the needs of a modern class A office space and promotes East Midtown's future as a world-class business district. Unlike other larger developments recently approved under the Greater East Midtown framework, including 270 Park Avenue and 343 Madison Avenue, the proposed development provides a modest, boutique sized office building that will contribute variety to the commercial stock in East Midtown, confirming the viability of the Greater East Midtown framework to deliver a range of commercial office floorplate options.

The Commission believes that the height and setback waiver of ZR Section 81-26 or Sections 81-27 and 81-66 is appropriate, as it will enable the arrangement of the proposed density on the site in a way that is more suitable for the floorplates necessary for a class A office building. Achieving this variety of office stock was a key goal of the Greater East Midtown framework and one that would be difficult to otherwise design for a site of this size. Without the height and setback waiver, the development would have lower floor-to-floor height and smaller office floorplates which is less desirable for prospective tenants and unsuitable to accommodate modern technology requirements. The resultant building remains of modest scale and will not present an excessively bulky or uncharacteristic structure in the context of its high-density commercial surrounds. This waiver will also facilitate the double-height ground floor to create the high ceiling design feature of the public concourse to make it more open and welcoming to the public. The proposed bulk modifications will not have an adverse impact on the structures or open space in the vicinity in terms of scale, location, or access to light and air. The multiple setbacks at various heights above the building's base will also result in a well-designed building that provides visual interest throughout the façade to create an articulated transition to the tower and enhances the architectural integrity of East Midtown.

A waiver for mandatory district plan elements of ZR Section 81-42 to modify retail continuity requirements and a mandatory street wall requirement waiver of ZR Sections 81-43 and 81-671 will facilitate the location and proportions of the proposed public concourse and building lobby. The Commission believes that the requested waivers are appropriate, as the proposed public concourse and the planned ESA entrance provide sufficient ground-floor activation to meet the intention of these requirements in the Greater East Midtown text. The Commission believes the additional width in the building lobby is considered acceptable on the basis of the activation provided across the remainder of the ground floor plane, as well as the need for design accommodations necessary for high volume commercial lobbies in a post-pandemic setting, such as additional space for queuing and temperature screening. The building base will be designed with four-foot-wide columns, balancing the need to define a street wall and maintain the

building's architectural language, while minimizing obstructions to improve the pedestrian experience.

Regarding the recommendations of the Borough President to incorporate arts programming to encourage activation of the public concourse and ensure the retail is operated by a local business, the Commission notes that these issues are outside the scope of the requested actions but encourages the applicant to respond to these recommendations. The Commission is also in receipt of additional verbal and written testimony in support of the proposed project.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 81-645 of the Zoning Resolution:

- (1) To the extent practicable, the open or enclosed public concourse will:
  - i. consist of a prominent space of generous proportions and quality design that is inviting to the public;
  - ii. improve pedestrian circulation and provide suitable amenities for the occupants;
  - iii. front upon a street or a pedestrian circulation space in close proximity to and within view of, and accessible from, an adjoining sidewalk;
  - iv. provide or be surrounded by active uses;
  - v. be surrounded by transparent materials;
  - vi. provide connections to pedestrian circulation spaces in the immediate vicinity;
  - vii. and be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space; and
- (2) The public benefit derived from the proposed public concourse merits the amount of additional floor area being granted to the proposed development or, where permitted, enlargement, pursuant to this special permit.

**RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement (EAS) for which a Negative Declaration was issued on July 26, 2021 with respect to this application (CEQR No. 21DCP178M), the City Planning Commission finds that the action described herein will have no significant adverse impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197–c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by 415 Madison Avenue LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 81-645 of the Zoning Resolution to allow an increase in the amount of floor area ratio permitted on a qualifying site where an above-grade public concourse, in the form of an open publicly accessible space is provided, in connection with a proposed commercial building, on property located at 415 Madison Avenue (Block 1284, Lot 21), in a C5-3 District, within the Special Midtown District (Southern Subarea), Borough of Manhattan, Community District 5, is approved, subject to the following terms and conditions:

- 1. The property that is the subject of this application (C 210453 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Skidmore, Owings & Merrill LLP, filed with this application and incorporated in this resolution:

**C 210453 ZSM**

<b><u>Drawing No.</u></b>	<b><u>Title</u></b>	<b><u>Last Revised Date</u></b>
Z-01.00	Zoning Analysis	07/26/2021
Z-02.00	Zoning Lot Site Plan	07/26/2021
Z-04.00	Zoning Diagram Waiver Plan	07/26/2021
Z-05.00	Zoning Building Sections	07/26/2021
Z-06.00	Zoning Building Sections	07/26/2021

Z-11.00	Daylight Evaluation Analysis	07/26/2021
Z-12.00	Daylight Evaluation Analysis – East 48 <sup>th</sup> Street	07/26/2021
Z-13.00	Daylight Evaluation Analysis – Madison Avenue	07/26/2021
L-100.00	Concourse – Layout Plan	07/26/2021
L-101.00	Concourse – Seating and Amenities Plan	07/26/2021
L-200	Concourse – Materials, Paving and Grading Plan	07/26/2021
L-301.00	Concourse – Lighting Plan	07/13/2021
L-302.00	Concourse – Photometric Plan	07/13/2021
L-501.00	Concourse Sections	07/26/2021
L-600	Typical Details	07/26/2021
L-601	Exterior Bench/Planter Plans and Details	07/26/2021
L-700	Signage	07/26/2021

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration, to be executed by 415 Madison Avenue LLC, and the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure or breach of any of the conditions as stated above, may constitute grounds for the City Planning Commission or City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted or of the attached restrictive declaration.
  
7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 210453 ZSM), duly adopted by the City Planning Commission on December 1, 2021 (Calendar No. 17), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**ANITA LAREMONT, *Chair***  
**KENNETH J. KNUCKLES, Esq., *Vice-Chairman***  
**DAVID J. BURNEY, ALLEN P. CAPPELLI,**  
**JOSEPH I. DOUEK, RICHARD W. EADDY,**  
**ANNA HAYES LEVIN, ORLANDO MARIN,**  
**LARISA ORTIZ, RAJ RAMPERSHAD, *Commissioners***

**ALFRED C. CERULLO, III, *Commissioner, Recused.***





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**Gale A. Brewer, Borough President**

October 14, 2021

**Recommendation on ULURP Application Nos. C210454ZSM and C210453ZSM  
415 Madison Avenue  
By 415 Madison Avenue LLC**

**PROPOSED ACTIONS**

415 Madison LLC (“the Applicant”), a subsidiary of Rudin Management, is seeking zoning special permits from the City Planning Commission (“CPC”) to facilitate the redevelopment of a site located at 415 Madison Avenue (“the Project Site”). The special permits follow provisions of the East Midtown Subdistrict of the Special Midtown District.

Pursuant to ZR § 81-645, the CPC may grant a special permit to allow a floor area increase in exchange for providing an above-grade public concourse. In order to grant that special permit, the Commission must find that the public concourse would be inviting to the public and accessible from the sidewalk; include connections to nearby pedestrian circulation spaces, suitable amenities, active uses, and transparent materials; and be part of a “harmonious site plan”.

Pursuant to ZR § 81-685, the CPC may grant a special permit to modify site criteria and height and setback requirements. In order to grant that special permit, the Commission must find that the modifications to bulk do not result in additional bulk in the midblock that is detrimental to the surrounding area; that modifications to height and streetwall requirements are necessary due to the site conditions, will not result in a loss of light and air to surrounding properties, would provide better bulk distribution and “an integrated and well-considered façade”; and that the proposed building would “protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers”

**BACKGROUND**

**East Midtown Rezoning<sup>1</sup>**

The City Council approved the Greater East Midtown rezoning on August 9, 2017. The goals of that rezoning were to allow for the redevelopment of older office space within the central business district while furthering transit and public and open space improvements. The East

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<sup>1</sup> N170186ZRM. Enacted by the City Council on August 9, 2017

Midtown Subdistrict includes the following elements:

- A Transfer of unused development rights from landmarks to development sites across the District;
- A required contribution to the Public Realm Improvement Fund for projects 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 an accessible public concourse.

The existing building on the Project Site is overbuilt by approximately 40,900 square feet. However, ZR 81-643 allows the Applicant to redevelop the site while incorporating the excess floor area into the new development. In exchange, the Applicant must make a contribution to the East Midtown Public Realm Improvement Fund. The Applicant has received a CPC certification to demolish a non-complying building pursuant to that zoning provision.

### **Area Context**

The Development Site is located within the East Midtown Subdistrict of the Special Midtown District. East Midtown is occupied by large scale office buildings, many of which include privately owned publicly accessible spaces. The area plays an integral role in the economy of the New York metropolitan region. 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.

Lexington Avenue, Madison Avenue and East 42nd Street are the main commercial corridors in the area, containing a variety of establishments to service the area's workers. Buildings along this section of Madison Avenue are mostly office buildings that include ground floor retail spaces.

Major infrastructure projects, such as the East Side Access tunnel and the Second Avenue subway, will create new options for commuters to access the region while hopefully alleviating congestion on the Lexington Avenue line.

Other buildings in the vicinity of the Project Site incorporate publicly open spaces, including 457 Madison Avenue, 437 Madison Avenue, 270 Park Avenue, and 383 Madison Avenue.

### **Site Description**

The Project Site consists of a 11,674 square foot lot at the intersection of Madison Avenue and East 48<sup>th</sup> Street. The site is in a C5-3 district which allows a base FAR of 15.0. That base FAR can be increased to 21.6 FAR. An additional 3.0 FAR can be applied to the site in exchange for a public concourse. The maximum floor area on the Project Site is therefore 287,180 square feet.

The building currently on the Project Site is a 24 story, 295-foot tall office building with a streetwall height of 133 feet. The current building's floor-to-floor height is 10 feet and 8 inches.

### **Project Description**

The Applicant proposes to replace the current office building with a new, Class A office building that would be 40 stories and 607 feet in height and contain approximately 287,180 square feet of floor area, with an overall FAR of 24.6. The floor-to-floor heights of the new building would be approximately 14 feet. The Applicant has described the proposed building as a boutique office building and stated that they anticipate a range of smaller companies would tenant the building.

The development would include a ground level public concourse that would be 2,377 square feet and include two planters with integrated seating, moveable tables and chairs, and a bench that would be integrated along the side of the building. The public concourse would be tucked underneath the building and would remain open 24/7. This improvement would also integrate a 330 square foot retail space and an entrance for East Side Access. The MTA, which has an easement on the Project Site, would maintain the space, including the escalators.

The applicant proposes to use approximately 36,100 square feet of development rights from St. Bartholomew's Church, an individual landmark within the East Midtown Special District. This action would result in a \$2.2 million contribution to the East Midtown Public Realm Improvement Fund. An additional \$2.5 million contribution will be made by the Applicant pursuant to ZR 81-643(b) which allows them to reconstruct the non-complying, excess floor area in the current building.

The proposed building would require a waiver for ZR 81-42 which requires ground floor retail along Madison Avenue. This waiver would facilitate the construction of the public concourse, which would incorporate a small retail space. The Applicant also seeks height and setback waivers that would result in a reduction of the overall building height from 632 feet to 607 feet. This waiver also allows the Applicant to have a smaller base and larger, more flexible floorplates at the top floors of the Proposed Building.

### **COMMUNITY BOARD RECOMMENDATION**

At its September 9, 2021 Board meeting, Manhattan Community Board 5 voted to recommend approval of the ULURP applications. In its resolution, the Board noted that the proposed development would "provide improvements to the public realm, in conjunction with a major transit improvement [...and] would facilitate the sale air development rights from a landmark hence promoting its conservation, and it would enhance the building stock of East Midtown."

### **BOROUGH PRESIDENT'S COMMENTS**

This project brings forth two of the benefits that were discussed as part of the pre-planning for the East Midtown rezoning; they include the East Side Access entrance and the adjoining public concourse. Both will ensure that office workers, commuters, and visitors have the amenities that a world class city should offer to everyone.

I am a strong supporter of the arts and I believe that it is important to ensure that our public spaces, such as this concourse, are active and vibrant—not just during work hours, but after work and during the weekends. The Applicant should work with the Department of Cultural Affairs and local stakeholders such as the Grand Central Partnership to plan for diverse arts and cultural programs. Rudin Management has similar efforts in other buildings in its portfolio, including Art on the Avenue at its building at 1 Battery Park and ChaShaMa at other locations. I have also asked that the retail space that is planned to be adjacent to the public concourse be rented to a local business instead of a national chain store. I believe these changes—although seemingly minor—would make the proposed building a much more attractive space for prospective tenants and New Yorkers.

#### **BOROUGH PRESIDENT'S RECOMMENDATION**

I therefore recommend **approval of the application with the following conditions:**

- That the Applicant work to incorporate arts programming to activate the proposed public concourse; and
- That the Applicant ensure that the retail space in the proposed building be operated by a local business.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer  
Manhattan Borough President



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> 415 Madison Avenue	
<b>Applicant:</b> 415 Madison Avenue LLC	<b>Applicant's Primary Contact:</b> Melanie Meyers
<b>Application #</b> 210454ZSM	<b>Borough:</b>
<b>CEQR Number:</b> 21DCP178M	<b>Validated Community Districts:</b> M05

**Docket Description:**  
 IN THE MATTER OF an application submitted by 415 Madison Avenue LLC pursuant to Sections 197-c and 201 of the New York City Charter for, in conjunction with the related special permit pursuant to Section 81-645, the grant of a special permit pursuant to Section 81-685 of the Zoning Resolution, to modify:

- the height and setback requirements of Section 81-27 (Alternate Height and Setback Regulations - Daylight Evaluation), as modified by Section 81-66 (Special Height and Setback Requirements);
- the mandatory district plan elements of Section 81-42 (Retail Continuity Along Designated Streets); and
- the mandatory street wall requirements of Sections 81-43 (Street Wall Continuity Along Designated Streets) and 81-671 (Special Street Wall Requirements);

in connection with a proposed commercial building, on property located at 415 Madison Avenue (Block 1284, Lot 21), in a C5-3 District, within the Special Midtown District (Southern Subarea), Borough of Manhattan, Community District 5. Plans for this proposal are on file with the City Planning Commission and may be seen at 120 Broadway, 31st Floor, New York, NY 10271-0001.

*Please use the above application number on all correspondence concerning this application*

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 34	<b># Against:</b> 0	<b># Abstaining:</b> 1	<b>Total members appointed to the board:</b> 47
<b>Date of Vote:</b> 9/9/2021 12:00 AM		<b>Vote Location:</b> Virtual	

*Please attach any further explanation of the recommendation on additional sheets as necessary*

<b>Date of Public Hearing:</b> 9/9/2021 6:00 PM	
<b>Was a quorum present?</b> Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
<b>Public Hearing Location:</b>	Virtual

<b>CONSIDERATION:</b> CB5 Resolution uploaded.	
Recommendation submitted by	MN CB5
Date: 9/13/2021 12:39 PM	

## Manhattan Community Board Five

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Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109  
New York, NY 10123-2199  
212.465.0907 f-212.465.1628

Marisa Maack, District Manager

September 10, 2021

Marisa Lago  
Chair of the City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: ULURP Applications C 210453 ZSM & C 210454 ZSM – 415 Madison Avenue**

Dear Chair Lago:

At the regularly scheduled monthly Community Board Five meeting on Thursday, September 09, 2021, the following resolution passed with a vote of 34 in favor; 0 opposed; 1 abstaining:

WHEREAS, 415 Madison Avenue (“Applicant”) is a commercial office tower located at the corner of Madison Avenue and East 48<sup>th</sup> Street, built in 1955 and owned by Rudin Management; and

WHEREAS, The building was built in 1955, prior to the 1961 Zoning Resolution and is currently overbuilt; and

WHEREAS, The Applicant, 415 Madison LLS, a subsidiary of Rudin Management, wants to demolish the building to build a new tower using the new zoning provisions from the East Midtown Special District enacted in 2018; and

WHEREAS, The Proposed Actions and the non-discretionary certifications would together facilitate the development of a new 40 story, 605 foot tall commercial development, totaling approximately 343,100 gross square feet (gsf) (24.6 FAR) on the Development Site with a ground floor retail pavilion and an open air public concourse (the “Proposed Development”); and

WHEREAS, The LIRR concourse is being constructed in connection with the East Side Access project to connect the LIRR to Grand Central Terminal, pursuant to an agreement between the Applicant and the Metropolitan Transportation Authority (MTA). Under an agreement with MTA, the Applicant must also construct an entrance leading to the below-grade LIRR concourse and MNR passageway on the ground floor of the Proposed Development along East 48th Street. The below-grade transit concourse and entrance from the street would also be constructed on the Development Site absent the Proposed Development; and

WHEREAS, The Applicant wishes to retain the overbuilt density as permitted under ZR Sec. 81-643, Under these certifications, new development on the Development Site is permitted to incorporate approximately 40,900 sf of existing non-complying floor area, upon payment into the Public Realm Improvement Fund created by the East Midtown Subdistrict text; and

WHEREAS, The Applicant wishes to transfer development rights from individual landmark St Bartholomew's Church, This certification permits the transfer of approximately 36,100 sf of development rights from the St. Bartholomew's Church landmark to the Development Site; and

WHEREAS, Air rights appurtenant to St Bartholomew have been acquired by JPMC and are being sold by JPMC to 415 Madison under a separate agreement reached between JPMC, 415 Madison LLC and MTA; and

WHEREAS, The Applicant is seeking a 3 FAR bonus in exchange for a 2400 sqft public open air concourse located within the footprint of the development site, the Applicant believes that this concourse would improve the public realm by adding circulation space along the sidewalk leading to the LIRR East Side Access entrance to be constructed on the Development Site.; and

WHEREAS, The Applicant is seeking a special permit pursuant to ZR § 61-685 to allow for modification of height and setback and mandatory district plan elements (as outlined in ZR §§ 81-66, 81-42, and 81-43) allow for non-compliance with retail continuity, and Day Light Exposure; and

WHEREAS, The proposed development provide improvements to the public realm, in conjunction with a major transit improvement negotiated under a separate agreement by the applicant or its representatives and the MTA, it would facilitate the sale air development rights from a landmark hence promoting its conservation, and it would enhance the building stock of East Midtown; therefore be it

**RESOLVED**, Community Board Five **recommends approval** of the proposed special permits as well as the non-discretionary certifications.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero  
Chair



Layla Law-Gisiko  
Chair, Land Use, Housing & Zoning Committee

CC: Hon. Keith Powers, New York Councilmember, District 4  
Gale Brewer, Manhattan Borough President