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MAS Comments Regarding the Greater East Midtown Proposal, ULURP No. 170186 ZRM Manhattan, NY

February 1, 2017

Background

The Municipal Art Society of New York (MAS) has played an active role in the rezoning of East Midtown. In 2012, MAS engaged planning, preservation, and development practitioners to explore ways to maintain East Midtown as not only the city's premier business district, but as a vital, working neighborhood. This effort culminated in *East Midtown: A Bold Vision for the Future*, a report issued by MAS in February 2013 that laid out a framework for reinvigorating the area's public realm, improving transit infrastructure, encouraging a vibrant mix of uses, protecting the area's valuable historic resources, and fostering forward thinking sustainable design.

MAS and many other stakeholders found the 2013 East Midtown rezoning proposal to be deficient in achieving critical goals, and it was later withdrawn. Mayor de Blasio then formed the East Midtown Steering Committee, including MAS, to spearhead a stakeholder-driven effort. In October 2015, the Steering Committee issued its Final Report that included recommendations that, for the most part, frame the current Greater East Midtown Proposal.

MAS recognizes that the primary goal of the current proposal is to incentivize significant expansion of commercial office space to maintain the area's viability as New York's premier business district and retain its tax base. We also acknowledge the complexity of the project, as well as the effort by the city to foster and incorporate stakeholder input.

Public Realm Improvements

Mindful of the existing congestion in the area's public transit stations and sidewalks, the limited open space in the area, and the expected additional 28,000 workers, we find the proposed improvements under the Public Realm Improvement Concept Plan to be fundamentally deficient in addressing these conditions. MAS is also concerned about the role the Public Realm Improvement Fund Governing Group will play in the plan and the omission of Privately Owned Public Space (POPS) as a way to explore improving existing and potential new open space.

Public Realm Improvement Concept Plan

The current plan proposes over 300,000 sf of ROW improvements under the Public Realm Improvement Plan, including, but not limited to, pedestrian plazas near GCT (i.e., Pershing Square, Park Ave West, East 43rd Street), pedestrian improvements along the Park Avenue median, and the inclusion of shared streets within the district. However, at present, these measures are not codified into the text amendment as the proposed transit infrastructure improvements have been. MAS urges that these improvements are included in the text to insure that they will be implemented.

Public Realm Improvement Fund Governing Group

Under the current proposal, the Public Realm Improvement Fund will be managed by a nine-member governing group, five of whom will be selected by the Mayor. The group has the responsibility of prioritizing improvements to be funded under the Concept Plan and would address the future public realm needs of the Subdistrict. MAS questions the precedent by which the group framework was conceived, particularly with regard to efficacy in executing and allocating funding, which is critical to the success of the proposal.

Privately Owned Public Space (POPS)

POPS account for 50 percent of the project area's limited public open space. Although they serve as important retreats for area workers and visitors, they have been largely ignored under the current proposal. MAS remains steadfast in our advocacy for POPS as a viable option for increasing open space and improving the public realm in the project area. We ask the city to study the following recommendations:

- Reevaluate the existing 1.0 FAR bonus under current zoning
- Reconsider requiring developers to exhaust all other options for increasing commercial density before the FAR bonus for POPS can be utilized
- Explore offsite bonus opportunities
- Establish guidelines for improving existing and future indoor and outdoor POPS
- Provide incentives for renewing POPS

Additional Public Realm Recommendations

MAS urges the city to explore mechanism for improving the public realm through temporary and permanent art installations in existing and new public spaces in the district, including POPS.

While we recognize that current proposal relaxes certain stacking rules which will permit non-residential uses such as restaurants and observation decks in new buildings, we also urge the city to explore ways of utilizing floor area on second and third levels of existing and proposed buildings for public space, gardens, and art displays.

Sustainability

One of the city's stated primary goals is to incentivize state of the art development and "to facilitate modern and sustainable buildings." As such, and given that the build year for the project is 2036, MAS questions whether the sustainability and energy efficiency goals of the project go far enough. Under the current proposal, qualifying sites would be required to either utilize the area's steam network or exceed the Core and Shell 2016 Energy Code Standards by three percent.

The Steering Committee recommended that development achieve LEED Gold Standard for the core and shell of the buildings. MAS recommended developments achieve 15 percent energy efficiency above NYCECC.

Furthermore, since the proposal would likely result in wholesale demolition of pre-1961 buildings, we recommend that the city explore sustainable practices, guided by LEED or equivalent standards, regarding the reuse of demolition and construction materials.

Promoting Mix of Uses

MAS recommended a variety of retail uses throughout the 78-block project area. However, the proposal calls for an incremental increase in retail uses by 139,000 gsf, in comparison to 6.6 million gsf for commercial office space. To increase vitality in the area, MAS recommends that the text amendment include provisions for a mix of retail, restaurants, and entertainment venues.

Residential Conversion

Since 1981, the Zoning Resolution has allowed commercial buildings to be converted to residential without regard to generally applicable bulk regulations if they meet certain criteria (built in 1961 or earlier, exceed 12 FAR, and have zero residential floor area). By our calculation, at least 70 buildings, representing millions of square feet within the proposed rezoning area, would be eligible for residential conversion. As such action would be contrary to the stated goals of the proposal, MAS urges the city to explore mechanisms that would restrict conversions within the project area.

Historic Preservation

Although LPC designated 16 buildings prior to certification of the project for ULURP, eight additional buildings recommended by MAS remain undesignated.

MAS also recommends developing bulk controls to protect important view corridors to historic buildings within the rezoning area. We have found the Draft Environmental Impact Statement (DEIS) unsatisfactory, if not disingenuous, in evaluating the impacts new development under the proposal would have on view corridors in the project area, particularly to the Chrysler Building and Waldorf Astoria Hotel.

Funding Sources

MAS questions whether the Public Realm Improvement Fund, which draws from contributions from the additional floor area for the reconstruction of overbuilt buildings and a portion of transferred development rights from landmarks, is sufficient to address the transit infrastructure improvements identified by the MTA. MAS suggests exploring additional funding sources beyond the improvement fund – Including MTA capital (Tax increment financing, PILOT financing (Payment in Lieu of Taxes), equitable road pricing, and Transit Assessment District.

Environmental Review

MAS finds that the DEIS is deficient in providing a rigorous evaluation of the following areas:

- Shadows – The DEIS evaluated shadow impacts of the new development on open space and historic resources in the project area and concluded that in one instance, St. Bartholomew’s Church and Community House, would be affected by adverse shadow impacts. Moreover, as one of the potential mitigation measures, the DEIS identified installing artificial lighting to address the shadow impacts on this historic structure.
- Open Space – The DEIS concludes that because the CEQR threshold for evaluating open space impacts has already been exceeded (ratio of daily worker population to available passive open space) no quantitative analysis would be conducted.
- Transit Impacts – The DEIS identifies significant impacts at pedestrian access ways at three subway stations (GCT, 42-Bryant Park and Lex -53rd), two of which would be unmitigated under the proposal.

- Urban Design and Visual Resources – We find the evaluation of the proposal’s impacts on critical view corridors to be highly flawed.

Summary

As an organization with a long history of involvement in the rezoning of East Midtown, MAS generally supports this proposal. However, we urge the city to incorporate our conditions and recommendations regarding the deficiencies in the plan including substantial public realm improvements, further scrutiny of the Public Realm Improvement Fund Governing Group, codification of identified public realm improvements into the zoning amendment, exploration of POPS as a viable option for enhancing and increasing open space, regulations to prevent housing conversions, the inclusion of art in public spaces, and utilizing upper floors of buildings for additional public space and gardens.

Thank you for the opportunity to comment on this critical project. MAS will submit a more detailed set of our comments to Manhattan Community Board 6.