Midtown East Rezoning: Pro and Con

PRO

Nearing the Finish Line in Midtown East. It's About Time!

After five long years of debate and negotiation, the New York City Council is finally on the cusp of approving a rezoning plan that is essential to the long-term viability of the Midtown East office district. It has been a long time coming but not a moment too soon.

From Grand Central Terminal to St. Patrick's Cathedral to the fabled admen on Madison Avenue and the picturesque, tree-lined boulevard of Park Avenue, Midtown East has long personified the city's enduring allure as a center of business and commerce.

Carlo A. Scissura

While the district remains home to more Fortune 500 companies than anywhere else in the country, the district is undeniably showing its age.

On average, Midtown East's office buildings are 75 years old, and some of the city's most prominent firms have begun to migrate to the gleaming new towers sprouting up in Hudson Yards and Lower Manhattan.

The Midtown East plan that was approved last week by the City Council Land Use Committee is a major step in the right direction. First and foremost, it addresses a quirk in the existing zoning law that forces developers to choose between maintaining their antiquated buildings or replacing them with smaller ones comprising considerably less rentable space.

The proposal allows for greater density than currently permitted in a 78-block area roughly bounded by East 39th and East 57th Streets and Third and Madison Avenues. If adopted by the full City Council this month, it would lead to the construction of up to 6.5 million square feet of modern office space at 16 different sites in the neighborhood.

In exchange for creating more office space than current zoning allows, developers would be required to purchase unused air rights from any of a number of landmarked buildings in the district or to contribute to a fund for improvements to nearby mass transit facilities, including Grand Central Terminal. The agreement also would require most new developments to create new public spaces.

While the Midtown East rezoning plan makes great sense on its own merits, the case for approval becomes that much more compelling when you consider how much has been invested in the Second Avenue subway and Long Island Rail Road access to Grand Central Terminal. Once completed in 2022, East Side Access is expected to funnel 162,000 additional workers to the neighborhood daily. To live up to its potential for generating new jobs and tax revenue and to accommodate such an influx in workers, more office space is essential.

Mayor Bill de Blasio and Deputy Mayor Alicia Glen, Manhattan Borough President Gale Brewer and City Council Members Dan Garodnick and David Greenfield deserve great credit for forging an agreement that paves the way for a new generation of signature office towers, while also raising upwards of $500 million from the private sector for mass transit and up to $350 million on improvements to the public realm. Their efforts will also create 23,000 construction jobs and add 28,000 permanent jobs.

Nobody is saying that the end result is perfect.

We believe, for example, that a minimum surcharge on the purchase of air rights, which was set at $61.49 per square foot, could prove counterproductive to the effort.

That said, we believe our elected officials did an impressive job of listening to and drawing upon the ideas and conflicting recommendations of a wide range of constituents, including local residents and property owners, the building, real estate and business communities, preservation groups, architectural associations and transit advocates.

Assuming the full City Council blesses this vial blueprint for Midtown East, the process could serve as a roadmap for a number of equally important rezoning initiatives that are being contemplated throughout the five boroughs.

Carlo A. Scissura is the president and CEO of the New York Building Congress.

CON

It Won't Be Cheap. It Won't Be Easy. Few People Will Do It.

Last Thursday, the Land Use Committee and the zoning subcommittee of the City Council passed the long awaited Midtown East rezoning plan.

Since then, all of the elected officials who worked on it have counted it as a major accomplishment that will stimulate the rebirth of Midtown East.

But how much new construction will this plan stimulate and over what period of time?

Essentially, the way the plan works is that properties along the major avenues and wide streets will be permitted to increase their floor-to-area ratios (FAR) by purchasing transferable development, or air, rights from the 45 landmarked properties within the district, making payments into the public realm fund or completing major transportation infrastructure improvements.

Robert Knakal

But how economically feasible is purchasing the additional FAR? The city had an appraisal done, which determined the value of the FAR to be $393 per square foot. This figure was widely disputed within the industry and the Real Estate Board of New York commissioned a study that determined that the commercial air rights should be worth approximately $175 per buildable square foot. The $393 figure would have been suitable for residential air rights but is far too high for office construction.

The city also wanted to impose a 20 percent tax on these air rights sales with revenue going into public improvements. This would mean that each sale would contribute $78.60 per square foot into the fund.

Given the strong opposition to the $393 figure, the subcommittees dropped the minimum tax payment to $61.46, or 20 percent of the sale price, whichever is greater. This minimum payment implies a value of the air rights at $307. As this lower price is also well above what a developer could afford to pay for air rights to build an office building, it was fortunate that the city made the $61.46 tax payment the minimum (and not setting some mandatory minimum sales price of $307 a foot) allowing owners of landmarked properties to sell for any price they wish.

It also means that, essentially, the plan has created a Dutch auction scenario among all landmarked property owners. Some of the landmarks do not have any excess development rights, leaving only approximately 40 candidates as potential sellers. Given the realities of site specifications in the plan, it is unlikely that there will be more than one or two properties under construction at any one time. This means that the developer who is building a new building will go to the first landmarked property owner and simply ask, "How low will you go?" Then call the second landmark property owner and say, "Your competitor will sell for $X, how much lower will you go?"

For potential development sites in transit improvement zones, the realities could be far worse. The plan calls for certain improvements to transit infrastructure with an amount of buildable square footage associated with each improvement. For example, in exchange for a new $20 million subway entrance, a developer will receive X square feet of additional FAR. When the schedule was made up, $393 was the intended cost. One could assume that the city would simply take the estimated cost of the improvement and divide it by the $393 to determine how many square feet that improvement was worth. So the question is, Will these costs be divided by the new $307 figure? If so, and our thesis about the $307 not being economically feasible for office construction FAR is correct, none of these improvements will get done.

The city has identified 16 projected sites that they feel will take advantage of this new zoning. The vast majority of those sites involve multiple ownerships with some consisting of as many as eight to 10 individual properties and owners. I have assembled sites like that in my career, and taking seven to 10 years to put something like that together is not uncommon. Plus, there are five sites that have single ownerships, but 20 to 40 tenants in each building.

This leaves just three sites that could take advantage of the new zoning in the short term. The most likely is the W Hotel site on Lexington Avenue. Another potential property is the Intercontinental Hotel on Lexington Avenue; however, the owners just completed a $180 million renovation. The third is the Pfizer site at 219 East 42nd Street.

Based on this, don't expect to see much new construction anytime soon. Seems like 6.5 million square feet and $500 million for public improvements are a long way off, at best.