

Having trouble viewing this email? [Click here](#)



# ENVIRONMENTAL SIMULATION CENTER



*View from Along West 42nd St. and Fifth Ave. looking East:  
Example of a 30 FAR Complying Building at One Vanderbilt Ave.*

## East Midtown Zoning: Proposed Vanderbilt Avenue Subdistrict and One Vanderbilt Avenue Special Permit

In the last quarter of 2014 the NYC Department of City Planning released its proposed zoning amendments to the Special Midtown District's Grand Central Subdistrict. The amendments include the creation of the Vanderbilt Corridor Subdistrict and special permit, which would allow developments up to 30.0 FAR in return for public realm improvements and/or the purchase of development rights from a landmark. In addition to the granting of up to a 15.0 FAR increase in density above the base

15.0 FAR, the City Planning Commission may modify, for example, the Midtown special district's Mandatory District Plan requirements, and the Height and Setback regulations (Daylight Compensation and Daylight Evaluation regulations).

Michael Kwartler, FAIA and president of the Environmental Simulation Center, testified at the 4 February City Planning Commission public hearing. His testimony, which follows, focused on One Vanderbilt's special permit request to modify Midtown's Height and Setback regulations to pre-1916 conditions.

### Testimony presented to the CPC on Feb 4th, 2015:

My name is Michael Kwartler, principal of Michael Kwartler and Associates and president of the Environmental Simulation Center. By way of background I authored the City's first performance-based contextual zoning regulations - Housing Quality Zoning ("HQZ") and co-authored, with the Department of City Planning, Midtown's zoning's Height and Setback regulations. They are the subject of my testimony.

### Background

The Midtown zoning Height and Setback regulations, adopted in 1981, were designed to respond to:

- the "light" going out in Midtown as a result of special permits which allowed buildings to rise sheer from their street lines, e.g., AT&T (Sony) building which set daylighting standards back to pre-1916 conditions (e.g., Equitable Building);
- the need for clear and flexible as-of-right regulations, and a supportable daylight standard, in lieu of regulations which tended to prescribe a fixed zoning envelope;
- energy conservation and solar access for perimeter task lighting; and
- the recognition that new buildings benefit greatly from the richness of the built environment, and displacing its diseconomies (e.g., blocking solar access) onto other

zoning lots is a burden to all as eloquently expressed in Garrett Hardin's "Tragedy of the Commons" where incremental overuse destroyed the Commons for all.

The response was new performance-based regulations based on an actual standard of daylight and openness for Midtown's streets which analyzed the historic expectation of daylight resulting from both the 1916 and 1961 zoning regulations. As noted in the Department's Midtown Development (June 1981), the Daylight Compensation and Daylight Evaluation Height and Setback regulations "...give great flexibility in building design so long as the daylight standard is achieved ...and prevent buildings from being placed entirely up against the street line, overwhelming the adjacent street." (pp. 65-66)

### **Proposed Special Permit and One Vanderbilt Avenue**

The proposed special permits (ZR 81-641 and 81-642) allow the City Planning Commission to modify Midtown zoning's Height and Setback regulations (ZR 81-26 Daylight Compensation and ZR 81-27 Daylight Evaluation). Compliance with the Daylight Evaluation requires the average amount of sky left open above typical street wall heights for all frontages be no less than 75%. This standard has been sustained for almost 35 years resulting in bright, sunny streets in Midtown, with new development almost all done as-of-right.

The proposed One Vanderbilt Avenue development scores a negative 62% or the equivalent of two AT&T buildings piled on top of each other. The new super tall MoMA tower by Nouvel, which was also granted modifications to the Height and Setback regulations, received an overall daylight score of plus 46.07% less than the minimum 66% in any street frontage. The requested waiver for One Vanderbilt Avenue is unprecedented setting daylight standards back to pre-1916 zoning conditions thus setting an awful precedent for the future of Midtown.

The proposed special permit text, while requiring the applicant to demonstrate the development's degree of non-compliance, does not require the applicant to demonstrate to the Commission that a feasible design which accommodates the proposed floor area is not feasible and that the requested modification is the minimum amount necessary to achieve a feasible building design. In addition, the DEIS is silent on the unprecedented reduction of daylight nor does it present alternatives to the proposed development.

In other words, the proposed text modifications are neither accountable nor transparently arrived at but rather asserted. Is there, for example, a diminution of daylight which is unacceptable?

Finally, there is the issue of precedent set by One Vanderbilt's virtually ignoring Midtown's daylight standard. The other sites in the Vanderbilt corridor do not front on two wide street or the "air park" above Grand Central Terminal. Should those sites be able to score negative 62%? And then there is the highly probable precedent set for all of East Midtown, which will result in a degradation of Midtown's environment.

### **Conclusion**

I urge the Commission to strengthen the proposed text as suggested above to add accountability and transparency and a more nuanced approach for the other sites in the Vanderbilt Corridor, emphasize that One Vanderbilt is not a precedent for other applications, require other feasible alternatives, and have them analyzed in the DEIS.

The Midtown zoning's performance-based Height and Setback regulations, with its historically derived daylight standards, have served the City well for almost 35 years resulting in as-of-right development which has added to the environmental quality of Midtown. I urge the Commission to maintain these standards and when they can't be met, to provide the public with concrete reasons as to why a development cannot feasibly apply - balancing the environmental quality of Midtown with other perceived "goods."

[Forward this email](#)



This email was sent to [escny@simcenter.org](mailto:escny@simcenter.org) by [escny@simcenter.org](mailto:escny@simcenter.org) | [Update Profile/Email Address](#) | Rapid removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).



The Environmental Simulation Center | 116 West 29th Street | 5th Floor | New York | NY | 10001