CITY COUNCIL

Rezoning
Kissena Park, Queens

Queens neighborhood down-zoned

Approval marks the fourth Queens down-zoning in 2005. The City Council voted unanimously to down-zone 40 blocks of Kissena Park, making it the fourth neighborhood in Queens to be rezoned by the Council in 2005.

The Kissena Park down-zoning responded to residents’ concerns over the demolition of structurally sound single-family homes and the construction of out-of-character developments in their neighborhood. As-of-right development within the 40 blocks will now be restricted to one or two-family homes.

The Kissena Park action follows the Council’s down-zoning of Bayside, Springfield Gardens and Kew Gardens/Richmond Hill. Taken together, the Council has down-zoned 498 blocks of Queens in the first five months of 2005.

For the Planning Commission’s consideration and the full ULURP process, see 2 CityLand 55 (May 15, 2005).
The Crawford Clothes Building - A lesson for Landmarks

The sad saga of the Crawford Clothes Building (see page 74, this issue) ended predictably with the Landmarks Preservation Commission unhappily refusing to landmark the decapitated structure. Designed by Morris Lapidus, the three-story, 1948 commercial building at the corner of University Place and 14th Street had been distinguished by a slanted glass tower that rose from street level and revealed to passersby the activity of the internal sales floors. On March 8, 2005, one month after Chairman Tierney wrote to the owner expressing the Commission’s interest, and on the very day that the Commission voted to hold a designation hearing, the owner demolished the glass tower, the most novel and noteworthy aspect of the building. 2 CityLand 42 (Apr. 15, 2005).

At the after-the-fact hearing the owner’s representatives defended its selective demolition as lawful and necessary; Buildings had issued an appropriate demolition permit, Landmarks had not yet acted, and the owner had made substantial economic commitment towards constructing a new, 14-story residential building on the now-tony Union Square site. 2 CityLand 60 (May 15, 2005).

At the subsequent vote not to designate, Chairman Tierney commented that no value was left in the structure and that the Commission should not act punitively. He then suggested that the Commission might not in the future provide early warning to owners of buildings of interest to the Commission.

I had known the building as the Patterson Silk Building, an emporium bursting with bolts of cloth and sewing supplies visible through the glass tower. It had anchored the low-end retail on the 14th Street and Union Square corridor. No longer. Patterson Silk left, Union Square dramatically changed, and the changes outpaced the landmarking process. Maybe that is for the best in this case. The Summit Hotel, which was designated at the May 17, 2005 meeting, is a much more important Lapidus building. Still the owner’s cynical demolition of the major design feature of the building, just ahead of the public hearing, deserves intense condemnation. Beginning with Penn Station, the loss of a landmark has spawned remedial actions. Perhaps this loss will be a long-remembered lesson inspiring less tolerance and more aggressive actions by the Commission.

Ross Sandler
Rezoning
Greenpoint/Williamsburg, Brooklyn

North Brooklyn rezoning gains final approval

Full Council approves Greenpoint-Williamsburg rezoning. On May 11, 2005, the full Council approved the rezoning plan for a two-mile area in the North Brooklyn neighborhoods of Williamsburg and Greenpoint. Only Council Member Charles Barron voted against the plan to transform the primarily manufacturing-zoned area to large and small-scale residential. Council’s Land Use Committee had modified the rezoning proposal and sent it back to the Planning Commission, which approved the modifications.

For the full hearing and ULURP process, see 2 CityLand 36 (Apr. 15, 2005), 2 CityLand 51 (May 15, 2005).

Council: Greenpoint - Williamsburg Rezoning (Resolution Nos. 962, 963, 964, 965, 966, 967) (May 11, 2005); CPC: Greenpoint - Williamsburg Rezoning (C 040415 MMK – close portion of North 12th for Inlet Park); (C 040416 MMK – close portion of Quay Street for Inlet Park); (C 040417 MMK – close portion of North 11th for Inlet Park); (C 040418 MMK – close portion of North 9th and North 10th for Inlet Park); (C 050110(A) ZRK – text amendment); (C 050110(A) ZMK – map amendment) (March 14, 2005). CityAdmin

CITY COUNCIL

School Construction
Sunset Park, Brooklyn/
Heartland Village, Staten Island

Council approves two new high schools

Each school to accommodate over 1,600 students. On May 25, 2005, the City Council approved the New York City School Construction Authority’s proposals for the construction of two new schools: a high school in Sunset Park, Brooklyn, and an intermediate and high school facility in Heartland Village, Staten Island. Student occupancy of both schools is expected to begin in September of 2008.

Sunset Park High School will be located at 932 4th Avenue and 156 34th Street on the block bounded by 34th Street to the north, 4th Avenue to the east, 35th Street to the south and 3rd Avenue to the west, and will adjoin the John D’Emic Park. The 48,000-square-foot site currently contains one and two-story buildings used as industrial warehouses. These buildings will be acquired by the School Construction Authority and replaced with a five-story, 191,000-square-foot building that will serve about 1,640 students.

The new high school will relieve overcrowding at Brooklyn’s Fort Hamilton High School, which, during the 2003-2004 year, operated at 162 percent of capacity. As part of the proposed project, the School Construction Authority intends to reverse the direction of traffic on 34th and 35th Streets between 3rd and 4th Avenues to facilitate the drop-off and pick-up of students.

Staten Island’s I.S./H.S. 43 will be located on the west side of Essex Drive on 13 acres of vacant, undeveloped land bounded by Westport Street, Essex Drive, Devon Loop/Elmwood Park Drive and by property occupied by PS. 58, located at 77 Marsh Avenue. The City acquired the site in the 1970’s for school purposes. The proposed four-story, 195,000-square-foot facility will accommodate one intermediate school and two high schools with a combined capacity of 1,652 seats. To facilitate access to the school, the School Construction Authority plans to acquire a privately-owned and undeveloped segment of Westport Street.

At the Land Use Committee meeting on May 19, 2005, Chair Melinda Katz spoke on behalf of Council Member Sara Gonzalez, conveying her support for the new school in her Brooklyn district and noting it was 35 years in the making. Staten Island Council Member James S. Oddo also spoke in favor of his district’s new school. The full Council approved both new schools on May 25, 2005.

Approval Process: Sunset Park High School: The School Construction Authority, as lead agency, issued a final environmental impact statement on May 2, 2005. On April 28, 2004, Brooklyn’s Community Board 7 held a public hearing and recommended approval. The Planning Commission also recommended approval.

I.S./H.S. 43: The School Construction Authority, as lead agency, issued a final environmental impact statement on May 2, 2005. Staten Island’s Community Board 2 held a public hearing on February 2, 2005 and recommended approval, issuing some recommendations. The Planning Commission recommended approval.


CITY PLANNING COMMISSION

Special Permit
Lower Manhattan

Plaza at Millennium Hilton gets overhaul

Plaza near WTC site to be modified for open air café and extra seating. The Millennium Hilton Hotel, located at 55 Church Street between Dey and Fulton Streets in the Special Lower Manhattan District, sought a special permit to modify a previously approved 3,647-square-foot urban plaza. The original 1980’s approval of the building granted the developers a 51,826-square-foot floor area bonus in exchange for creating the plaza. The modifications, which include new landscaped planters, an open air café and additional seating, are contrary to the urban plaza requirements.

June 15, 2005

Volume 2
The major part of the plaza would be reduced from 2,552 sq.ft. to 2,047 sq.ft. to allow the café as a permitted obstruction and a portion of the Fulton Street sidewalk would be altered to accommodate additional seating and landscaping. Additionally, because of sub-surface conditions, Millennium sought to plant the required trees at another location in Lower Manhattan.

At the Planning Commission’s April 27, 2005 hearing, representatives from Millennium and the Alliance for Downtown spoke in favor of the application, emphasizing the need to revitalize the downtown area. There were no speakers in opposition.

The Commission voted unanimously to approve the application on May 11, 2005, but limited the special permit for the café to a term of three years with an option to renew. The Commission found that the modification would increase the number of public benches, add landscaping to barren areas and encourage the use of the café and plaza through signs and lighting.

**ULURP Process:** The Planning Commission, as lead agency, determined that the proposed plan was exempt from environmental review. Community Board 1 and Borough President C. Virginia Fields both approved the application with no conditions. City Council review is pending.

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**CPC: The Millennium Hotel (C 050252 ZSM – special permit for urban plaza modifications)** (May 11, 2005). **CITYADMIN**

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**CITY PLANNING COMMISSION**

Special Permit

Lower Manhattan

Wall Street core area gets two new parking garages

Commissioners disagree over impact of added parking in Lower Manhattan. RBNB Wall Street Owner, LLC sought the Planning Commission’s approval for an 85-space public parking garage to be located within 63 Wall Street, a 36-story building with frontage on Hanover, Beaver and Wall Streets. RBNB planned to convert the building to residential, but the proposed garage would not be restricted to the residential tenants. RBNB explained at the Commission’s March 30, 2005 hearing that it sought the special permit to allow spaces to be leased during weekday hours to Wall Street office tenants to supplement the residential tenants’ use on weekends and evenings. The proposed garage would operate 24 hours a day, seven days a week.

In a separate application, Maiden Lane Properties, LLC sought a special permit for a 62-space public parking garage at 100 Maiden Lane between Pearl and William Streets, a property it is converting from office space into a 336-unit residential development. The garage would have attendant parking and operate 24 hours a day, seven days a week.

There was no public opposition to either garage at the Commission hearings. Voting against both, Commissioner Karen Phillips stated that public parking garages in the Wall Street area would encourage more people to drive to work, which would harm the area’s historic narrow streets and the city’s air quality. Phillips added that the Planning Department should develop a public parking policy to guide applicants and decision makers and encourage public parking facilities outside Wall Street’s core. Chair Amanda M. Burden, approving both special permits, stated that Wall Street is the “greatest brand name in the world” and, to maintain its stature, its visitors and clients need parking. In response to Phillips, Burden noted that circling blocks in search of parking also has a clear negative impact on air quality.

The Commission approved both special permit applications over Phillips’ opposition vote.

**ULURP Process:** The Planning Commission, as lead agency, issued a negative declaration on December 20, 2004 for the 63 Wall Street garage and on January 31, 2005 for the Maiden Lane garage. Commu-
CITYLAND Comment: The City has a designated “blue-zone” in the downtown financial district that prohibits on-street parking during the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, in an area bounded by Dover and Frankfort Streets on the north (just south of the Brooklyn Bridge); Broadway on the west; and South Street on the east. The proposed garages at 63 Wall Street and 100 Maiden Lane are within the Blue Zone. On-street parking is permitted in the Blue Zone outside of the restricted times. There are exceptions for government vehicles and for loading and unloading of commercial vehicles along certain building frontages.

CITY PLANNING COMMISSION

UDAAP

Citywide

HPD pushes through 668 affordable housing units

Manhattan, Bronx and Brooklyn housing projects approved; sent to Council. On April 27 and May 11, 2005, the Department of Housing Preservation and Development obtained the Planning Commission’s approval of seven affordable housing projects, totaling 668 units, to be developed in Manhattan, Brooklyn and the Bronx. Three of the Bronx projects, including the 194-unit Prospect Avenue Tower in Melrose, the 102-unit East Clarke Place project in High Bridge, and the 63-unit Jacob’s Place project in Mount Hope, will include housing for formally homeless and units for very low-income individuals and families. Four of the projects include a commercial component or a community facility use.

In total, HPD applied for 591 affordable housing units in the Bronx, 56 in Brooklyn and 21 in Manhattan. In each of the seven applications, HPD applied for the designation of a UDAAP, which, if approved by the City Council, will provide the projects with state tax exemptions.

The applications are part of the Bloomberg administration’s December 2002 New Housing Marketplace initiative in which the mayor called for the creation or preservation of 65,000 units of affordable housing in five years.

City Council approved three of the projects in the Bronx and one in Brooklyn – Melrose Commons/Cornerstone, East Clarke Place, Jacob’s Place project in High Bridge, and the 63-unit Jacob’s Place project in Mount Hope, will include housing for formally homeless and units for very low-income individuals and families. Four of the projects include a commercial component or a community facility use.

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Vacant Harlem commercial complex to be revitalized

Uptown retail center will have national retail chain, local vendors and restaurant. The Department of Citywide Administrative Services sought approval for the disposition of Mart 125, the one-and-a-half story, 12,210-square-foot building, located at 260 West 125th Street across from the Apollo Theater. Mart 125 was originally built in the early 1980’s as a market for local Harlem vendors and businesses. Occupancy declined over the years and the building began to deteriorate. It is currently vacant.

DCAS would transfer Mart 125 to the New York City Economic Development Corporation for sale or long-term lease to a selected developer. The existing mezzanine in the building would be replaced by two new, internal floors, providing 10,000 sq.ft. each, and subdivided into smaller retail spaces ranging from 500 to 1,500 sq.ft. The revitalized Mart 125 would provide a total of 34,400 sq.ft. of retail space with the ground floor reserved for a national or regional retail chain and the third floor for restaurant use.

The Commission originally approved the disposition of Mart 125 to the EDC on September 2, 1998, but the application was rejected by Community Board 10, the Borough President and the City Council, all citing concerns for local vendors. Subsequently EDC, with the assistance of Manhattan Borough President C. Virginia Fields, issued a request for proposals, ultimately selecting, in January 2003, Harlem, LLC, a joint venture comprised of the FATA Organization, Chappel Ventures and Webb & Brooker.

At the March 30, 2005 Commission hearing, representatives from EDC and the developer detailed the local marketing efforts planned to promote Mart 125 and the strategy to attract local vendors and entrepreneurs. There were no speakers in opposition.

The Commission voted unanimously on April 27, 2005 to approve the application, with Chair Amanda M. Burden noting that Harlem’s 125th Street is one of the most famous streets in the world, and “this project will be an anchor for growth in the area.” Vice Chair Kenneth J. Knuckles further commented that Mart 125 “has sat vacant for too long.” The Commission stated that the business terms of the project were outside the scope of its review, but encouraged EDC to work with the developer to identify local businesses wishing to construct, promote or conduct business in Mart 125.

ULURP Process: The Department of Small Business Services, as lead agency, issued a negative declaration on October 8, 2004. Community Board 10, by a vote of 25 to 5, recommended approval of the application on condition that the developer use locally based marketing and construction companies and that the partners in Harlem LLC have a meaningful voice in the tenant selection. Borough President C. Virginia Fields echoed the Community Board’s recommendations and added that Minority and Women Business Enterprises should be involved in all phases of the development.

Disposition
Harlem, Manhattan

Vacant Harlem commercial complex to be revitalized

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SoHo Loft to be converted to live-work spaces

Developer abandoned plan to convert loft to residential. 96 Springs LLC sought a special permit to allow ground floor retail use and 14 residential units at 96 Spring Street, an eight-story, 53,700-square-foot loft located on the corner of Spring and Mercer Streets in a manufacturing zone within the SoHo-Cast Iron Historic District. Currently the building contains a mix of commercial uses, with the fourth and fifth floors vacant and the ground floor occupied by a non-conforming retail use.

At the April 13, 2005 Commission hearing, the attorney for 96 Springs described the proposal and the need for the special permit. There were no speakers in opposition. Following the hearing, 96 Springs withdrew the original application and filed a modified plan, requesting 14 joint living-work units for artists instead of the original purely residential units.

With the revision, the Commission voted unanimously on May 11, 2005 to approve the application, noting that many SoHo lofts have been converted to joint living-work units and SoHo supports a broad range of ground floor retail uses. Further, Landmarks had approved a maintenance program that would result in the preservation of the building.

ULURP Process: A negative declaration was issued for the original project on December 20, 2004, and on April 11, 2005 for the modified project. Community Board 2 and Borough President C. Virginia Fields approved the conversion of the building to live-work units.

CPC: 96 Spring Street (C:040201 (A) ZSM – special permit for living-work units and retail) (May 11, 2005).

BOARD OF STANDARDS & APPEALS

Variance
East Williamsburg, Brooklyn

Owner withdraws application to legalize lofts

Owner converted manufacturing building into residential units. La Perst LLC, owner of a four-story building located at 260 Moore Street in an M1-2 manufacturing district of East Williamsburg, sought to legalize forty residential units in a previously vacant building that had been used for commercial and manufacturing purposes. The owner converted the building into residential units in 2003 contrary to the permissible manufacturing use under the zoning text.

In its application to BSA, La Perst represented that conversion was needed to create productive use of the premises because the building does not have the infrastructure or technology for any as-of-right manufacturing facility. The building’s rental value had been greatly diminished, La Perst argued, because the building had been vandalized and occupied by squatters for the six years prior to its conversion into residential units.

Several Williamsburg residents opposed the legalization, arguing that there was no strong evidence of hardship and the owner should not be rewarded for its wanton violation of the zoning laws.

BSA held a hearing on the application on February 15, 2005. Community Board 1 opposed the variance. La Perst subsequently withdrew the application on May 10, 2005.


CITYLAND Comment: The site at 260 Moore Street is outside of the area rezoned on May 11, 2005 under the large-scale Greenpoint–Williamsburg rezoning.

BOARD OF STANDARDS & APPEALS

Variance
East Elmhurst, Queens

Parking lot approved for Queens residential district

Residential uses found infeasible due to the site’s odd shape and Astoria Boulevard frontage. Showky Kaldawy, owner of four vacant lots in East Elmhurst, sought a variance to allow his residentially-zoned lots to be used as a 33-space accessory parking lot for an adjacent rental car company. Three of the four lots comprising the 17,866 square-foot site front 110th Street, and the fourth fronts Astoria Boulevard, one of Queens’ major commercial arteries.

Kaldawy argued that the site had been used for industrial purposes or as accessory parking for Astoria Boulevard’s manufacturing uses for over 50 years. He stated that the site’s odd shape, its location along Astoria Boulevard and the high cost of remediation rendered residential uses infeasible. Kaldawy submitted studies showing that a small apartment development and three single-family homes would not yield a reasonable return due to East Elmhurst’s low rents and the $150,000 estimated cost to remove 12 gasoline tanks on the site.

BSA requested a study of an apartment building designed under the Planning Department’s Quality Housing Program, which
allows an increase in the building size in exchange for an increase in recreational open space and enhanced building services such as on-site laundry. Kaldawy explained that, to meet the increased parking requirements for a Quality Housing project, the resulting apartment building would be forced to front Astoria Boulevard, which would significantly diminish its potential rental income.

BSA approved, finding that the irregular shape of the site and its Astoria Boulevard location made conforming residential uses infeasible. BSA required Kaldawy to install a decorative fence and landscaping and prohibited use of the lot on Sundays.

Board of Standards & Appeals

Building Permit
Schuylerville, Bronx

Extension granted to construct 3-family home

Permit grandfathered due to completed excavation and substantial progress made on foundation. On May 10, 2005, BSA granted a permit extension, which allowed work to continue on the development of a 3,037-square-foot, three-story, three-family dwelling located at 1420 Balcom Avenue in Schuylerville, Bronx that exceeded the zoning requirements set by a 2004 rezoning of the area.

On September 28, 2004, the City Council approved a 295-block rezoning in the Throgs Neck section of the Bronx designed to protect the character of the area's existing low-density, single-family and small multi-family neighborhoods. 1 CityLand 4 (Oct. 15, 2004). Work on the three-family development was required to stop on September 28, 2004, the effective date of the rezoning. Under the zoning resolution, however, the owner had 30 days to apply to BSA for a permit extension. To grant the extension, BSA was required to find that Buildings had issued a lawful permit and that the owner had completed excavation work and made substantial progress on the building's foundation.

The applicant's permit had been issued on September 16, 2004, twelve days before the deadline. At
the BSA hearing, the applicant submitted several forms of documentation: photographs demonstrating that the excavation was complete and that concrete footings had been poured and reinforced; receipts from concrete and reinforcement bar purchases; letters and affidavits from the contractor and architect; and a receipt reflecting that 51% of the foundation cost had already been incurred. The applicant also stated that work had stopped one week prior to the rezoning date due to the owner’s illness.

BSA granted the permit extension, finding that the applicant submitted sufficient evidence to establish that the excavation was complete and that substantial progress on the building’s foundation had been made. The six-month permit extension to complete the foundation will expire on November 10, 2005.

BSA: 1420 Balcom Avenue (349-04-BZY) (May 10, 2005) (Rothkug, Rothkug, Weinberg & Spector, for applicant). cityadmin

**BOARD OF STANDARDS & APPEALS**

**Variance**

Graniteville, Staten Island

**BSA allows fewer parking spaces for drug store**

Developer obtains a 35-space reduction based on soil conditions. Anthony Racanelli, owner of 23,564-square-foot lot fronting Forest and Decker Avenues in Staten Island, proposed to demolish an abandoned gas station on the site and replace it with a two-story drug store, triggering a 74-space, on-site parking requirement. Racanelli applied to BSA to reduce the parking requirement to 39 spaces, arguing that, due to the site’s poor soil conditions and high ground water levels, it was too costly to construct the needed floor area below grade level, which would exempt it from parking requirements. Racanelli claimed that the 74 spaces would reduce the floor area to a point that the drug store would not be viable. Racanelli argued that the larger floor area would not increase auto trips to the site since the added floor area would be used for storage and employee office space and breakrooms.

Staten Island Borough President James Molinaro and Council Member Michael McMahon opposed Racanelli’s application, requesting that the store be sited directly on the corner of Forest and Decker Avenues. Racanelli provided analyses showing that the reconfiguration would create circulation problems and reduce the visibility of cars entering traffic from the site.

BSA agreed with Racanelli, finding that the soil conditions made subterranean floor area infeasible and the reconfiguration proposed by the Borough President and Council Member McMahon would cause circulation difficulties. BSA reduced the required parking from 74 to 39 spaces.


**LANDMARKS PRESERVATION COMMISSION**

Certificate of Appropriateness
Upper East Side, Manhattan

Whitney wins a modified expansion plan

Plan calls for a 176-foot tower, an expanded entry along Madison and a two story rooftop addition to the existing building. On May 24, 2005, Landmarks approved a modified plan for the expansion of the Whitney Museum of American Art along Madison Avenue and East 74th Street within the Upper East Side Historic District.

The original expansion plans designed by Renzo Piano included a two-story addition to the Whitney’s existing home, the 1964 Marcel Breuer & Associates building, as well as an expanded entry along Madison Avenue and a new 176-foot tower set back 30 feet from Madison Avenue and 17 feet from East 74th Street. For the expanded entry, the plans called for the complete demolition of two brownstones at 941 and 943 Madison Avenue, located directly south of the
existing museum entrance. For the expansion and the 17-story tower, a row of four brownstones, 933 – 939 Madison Avenue, would retain only the front facades, which the Whitney planned to restore, and the remainder would be gutted.

Of the two buildings proposed for complete demolition, Landmarks had named only one, the brownstone at 941 Madison Avenue, as a building, which was contributory to the Upper East Side Historic District when it designated the district in 1981. If approved, it would have been the third contributory building approved for demolition by Landmarks since its establishment in 1965.

At the first hearing on February 1, 2005, representatives of the Whitney stressed the space constraints of the current museum space, noting that within the 54,000-square-foot Breuer-designed building only one percent of the Whitney’s 15,000 works could be placed on view; staff office space was overcrowded and the existing entrance was not ADA compliant. The expansion would add a film and performing arts center; classrooms and art studios; a center for works on paper; an expanded library; and a larger entrance.

Calling the proposed expansion “a little tower,” Piano explained that the expanded entry and ground level expansion would act like a grand “piazza” for the museum. Residents along East 74th spoke in opposition, citing the 176-foot tower’s impact on their light and air, the visual impact of the tower and addition on the Breuer building, and the loss of the contributory brownstone.

At the third hearing on May 24, 2005, Whitney representatives, noting that they were pleased and proud of Piano’s modifications, presented a revised proposal that included a 16-foot reduction to the entrance along Madison Avenue from the 32 feet proposed. This change would allow retention of the contributory brownstone’s facade at 941 Madison Avenue and the brownstones to be “appropriately interwoven into the complex.” Only one brownstone, the non-contributory building at 943 Madison Avenue, would be demolished along Madison Avenue. The two-story addition to the Breuer building would be pushed back from 29 feet to 38 feet from the building edge in order to make it less visible from adjacent streets and reduce its impact on the Whitney's original building. On East 74th Street, alterations were made to make the exterior egress stairs less visible.

After the public hearing closed, Commissioner Richard Olcott commented that the proposed composition of buildings honors the existing Breuer building and the Piano tower provides “a neutral background to the district’s brownstones.” Olcott stated that he found the original 32-foot proposal superior, but commended the Whitney on finding a solution. In Commissioner Stephen F. Byrns comments, which Chair Robert Tierney read into the record, Byrns stated that he could not support the application if the Whitney intended to demolish the contributory brownstone. Commissioner Robert Gratzer called the expansion “an appropriate addition to the district” and noted that the Breuer building, now beloved, received initial opposition.

Landmarks approved the revised proposal by a vote of 10 to 0. Issuance of the permit is pending approval of final plans conforming with Landmarks’ decision.

LPC: Item No. 1, Case No. 05-3977, 933-945 Madison Avenue (May 24, 2005).

**Designations - May**

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>ACTION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crawford Clothes Store</td>
<td>36 E. 14th St., MN</td>
<td>Designation Denied</td>
<td>5/17/2005</td>
</tr>
<tr>
<td>Summit Hotel</td>
<td>569-573 Lexington Ave., MN</td>
<td>Designated</td>
<td>5/17/2005</td>
</tr>
<tr>
<td>Ralph Bunche House</td>
<td>115-24 Grosvenor Rd., QN</td>
<td>Designated</td>
<td>5/17/2005</td>
</tr>
<tr>
<td>Jamaica Savings Bank</td>
<td>89-01 Queens Blvd., QN</td>
<td>Heard</td>
<td>5/17/2005</td>
</tr>
<tr>
<td>DeGroot House</td>
<td>1674 Richmond Terr., SI</td>
<td>Heard</td>
<td>5/17/2005</td>
</tr>
</tbody>
</table>

**Crawford Clothes Building: designation denied**

Landmarks threatens to abandon process of contacting the owner prior to designation. By a unanimous vote on May 17, 2005, Landmarks refused to designate the Crawford Clothes Building at University Place and West 14th Street, which was considered one of the earliest noteworthy designs of New York City architect Morris Lapidus. The three-story brick and metal retail structure had included a glass center tower that revealed the retail activity on each level, but the owner demolished before Landmarks could consider the structure.

Opening the discussion, Chair Robert Tierney provided a sequence of events, noting that Landmarks decided the building was worthy of consideration on February 1, 2005 and sent a letter of interest to the owner, Lloyd Goldman, six days later. On March 1st, Goldman filed a demolition permit solely for the glass tower. Tierney made several calls to Goldman up until the March 8th demolition. When the tower was demolished, the remainder of the building was left intact.

Calling the events “unfortunate and deeply disturbing,” Tierney stated that Landmarks would change its policy of early outreach to owners of potential landmarks. Tierney then voted against the designation, noting that no value
remained in the building and Landmarks could not act punitively. Several commissioners noted that the process at Buildings, which allows developers to self-certify permit applications, was placing the work of Landmarks in jeopardy.

Landmarks unanimously voted to deny the designation.

LPC: Crawford Clothes Building, 36 East 14th Street (LP-2176) (May 17, 2005) (Shelly Friedman, Friedman and Gotbaum, LLP for Goldman).

LANDMARKS PRESERVATION COMMISSION

Designation
Midtown East, Manhattan

Summit Hotel designated

Lapidus-designed hotel at Lexington and East 51st designated. Following the no-vote on the Crawford Clothes building at 36 East 14th Street, Landmarks voted to designate the Morris Lapidus designed Summit Hotel at 569 Lexington Avenue at East 51st Street, currently operated as the Doubletree Metropolitan Hotel. Lapidus’ original design included dark green tile and turquoise brick, a dramatic S-curved slab facade, a distinctive oval-lettered blade sign and aluminum globe-shaped light fixtures lining the East 51st Street frontage.

Voting to designate, Chair Robert Tierney noted that Lapidus’ choice to put the Summit Hotel on the front cover of his 1979 autobiography, The Architecture of Joy, attested to its significance. Commissioner Thomas Pike, approving, stated that he hoped the designation would be a catalyst for the new owner, Oxford Capital, to restore lost historic building elements.


LANDMARKS PRESERVATION COMMISSION

Designation
Kew Gardens, Queens

Bunche House designated

Home designated cultural landmark, but community demands full historic district. On May 17, 2005, Landmarks held a public hearing and immediately voted to designate the neo-tudor style, single-family home at 115-24 Grosvenor Road in Kew Gardens as a cultural landmark since it was the home, from 1952 until his death in 1971, of Dr. Ralph Bunche. Dr. Bunche was appointed to the committee that oversaw the partition of Israel following the United Nations’ formation and, in this position, successfully negotiated an armistice agreement ending Israeli-Arab fighting in 1949. Dr. Bunche was greeted with a ticker-tape parade down Broadway and awarded the 1950 Nobel Peace Prize. For his continued work with the U.N., President Kennedy awarded Dr. Bunche the Medal of Freedom, the United States’ highest civilian honor.

Opponents of the single-site designation, including the Kew Gardens Civic Association president and chair, cautioned Landmarks that, if it “spot landmarked” Dr. Bunche’s home, the rest of Kew Gardens would remain at risk of being replaced with the oversized homes becoming prevalent in Queens. They argued that Dr. Bunche, who was on the board of the civic association, would have opposed making his home into a museum at the potential cost of losing Kew Gardens’ other great homes. Urging Landmarks to forego a vote and act quickly to establish a Kew Gardens historic district, they argued that Dr. Bunche had chosen a neighborhood, not solely a house.

Closing the public hearing, Landmarks immediately acted to designate the home as a cultural landmark. Chair Robert Tierney noted that the “purpose was to designate a building to honor Dr. Bunche.” Commissioner Christopher Moore advised the civic association to use the designation as
part of a justification for the establishment of a Kew Gardens historic district.


**COURT DECISIONS**

**Board of Standards & Appeals**

**Red Hook, Brooklyn**

**Complaint dismissed for failure to join owner**

Controversial luxury condos to proceed adjacent to new Brooklyn Cruise Ship Terminal. In 2002, 160 Imlay Street LLC applied to BSA for a use variance to allow the conversion of a vacant six-story industrial building and the addition of three stories for a proposed luxury condominium building in the Red Hook section of Brooklyn. The proposed site, a 61,546-square-foot, manufacturing-zoned lot located at 160 Imlay Street, is adjacent to the new Brooklyn Cruise Ship Terminal, which is anticipated to open late this year. BSA granted the variance on December 23, 2003 for a reduced project, allowing the conversion of the 6-story building into 150 luxury condominiums with ground floor retail.

The Red Hook-Gowanus Chamber of Commerce, concerned that the conversion would increase land prices and drive out existing businesses, filed an article 78 petition challenging BSA’s decision. The Chamber of Commerce argued that 160 Imlay Street LLC did not submit enough evidence to BSA to prove economic hardship because it did not thoroughly search for an industrial or commercial tenant to occupy the building under its current M2-1 zoning.

The City moved to dismiss the proceeding, claiming that the Chamber of Commerce failed to join 160 Imlay Street LLC, the property owner as well as the developer, as a necessary party. The lower court denied the City’s argument and allowed the Chamber of Commerce to file and serve an amended petition.

On appeal, the Second Department reversed and dismissed the complaint. The court ruled that the Chamber of Commerce’s failure to adequately explain why it did not timely include 160 Imlay LLC as a necessary party precluded it from going forward with its claim.

In re Red Hook/Gowanus Chamber of Commerce v. BSA, 2005 NY Slip Op 03860, May 9, 2005 (2nd Dep’t) (Attorneys: Michael S. Hiller, for Chamber of Commerce; Michael A. Cardozo, Leonard Koerner, Pamela Seider Dologow, Louise Moed, for BSA and City; Robert S. Davis, Evan A. Gross, for 160 Imlay Street Real Estate, LLC).

**COURT DECISIONS**

**Landmarks Preservation Commission**

**SoHo, Manhattan**

City must pay to reinstall SoHo art

Court declares art organization, not building owner, owns artwork on exterior wall of SoHo historic district building. In September 2004, Judge Deborah A. Batts allowed the Board of Managers of Soho International Arts Condominium to proceed with its Fifth Amendment takings claim against the City, pending an inquiry as to who owned the well-known minimalist sculpture by artist Forrest Myers that had been attached to 599 Broadway since 1973. See 1 CityLand 13 (Oct. 15, 2004).

The City argued that 599 Broadway was the current owner of the artwork because CityWalls, Inc., a non-profit organization that played a significant role in financing and installing the three-dimensional structure, had abandoned the artwork when it ceased to func-
COURT DECISIONS

Parks/Landmarks
Upper East Side, Manhattan

Court dismisses late challenge to Museum’s renovation plans

Opponents filed claim 31 months too late. The Metropolitan Museum of Art, which leases the land in Central Park from Parks under an 1871 directive of the state legislature, proposed to renovate the museum in 2000 and presented a detailed plan to Parks and Landmarks. The plan called for a new loading dock, the addition of public cafeterias and new auditoriums. Parks Commissioner Henry Stern signed off on the plan in December 2002, noting that the proposal would not expand the museum beyond its existing footprint, and Landmarks approved in early 2001. Due to September 11th, the Museum scaled back its plans, reducing the proposed addition from 200,000 to 40,000 sq.ft. and abandoning the loading dock plan.

After the Museum started work, the Metropolitan Museum Historic District Coalition, a group of Upper East Side residents concerned about the renovation’s potential traffic, pollution and safety problems, sent a letter to the Museum and the City, complaining that the Museum’s renovation work violated a long-standing commitment against expansion onto additional Parks land. The Museum responded by letter in July of 2003. MMHDC then filed an article 78 petition, in November 2003 against the Museum and the City, arguing that the renovation plans necessitated environmental review and requesting, under the state’s Freedom of Information Law, that the Museum produce documents. The lower court dismissed the claim as time-barred because it was not filed within four months of Parks approval in 2000. Further, the court found that no legal issues remained since the Museum had completed most of the renovation. The Museum was not a government agency subject to state FOIL requests.

On appeal, MMHDC argued that the July 2003 letter from the Museum, instead of Parks 2000 approval, should start the four-month clock. The First Department affirmed the lower court, finding that the four-month clock began with Parks’ approval. Additionally, since the Museum is privately-funded, no City employees sit on its board, and its budget is not subject to City review or approval, it is not an agency subject to freedom of information requests.

In re Metropolitan Museum Historic District Coalition v. De Montebello, 2005 NY Slip Op 04344, May 31, 2005 (1st Dep’t) (Attorneys: Michael S. Hiller, for MMHDC; Michael B. Gerrard, Richard Webster, for the Met; Michael A. Cardozo, Ralph Janzen, Kristen M. Helmers, for City).

Did you know?
The Bronx was settled in 1639 and is named for the Swedish settler Jonas Bronck. There are more than 60 landmarks and historic districts in the Bronx, including the Edgar Allen Poe Cottage on the Grand Concourse and the stately Van Cortland House Museum in Van Cortlandt Park.
New Decisions Added to www.citylaw.org – May 2005*

CITY COUNCIL

<table>
<thead>
<tr>
<th>RES. NOS.</th>
<th>PROJECT</th>
<th>DESCRIPTION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>† 958</td>
<td>The Kalahari, MN</td>
<td>UDAAP by HPD (8 &amp; 12-story bldgs.)</td>
<td>5/11/2005</td>
</tr>
<tr>
<td>959</td>
<td>Kissena Park Rezoning, QN</td>
<td>Map amendment to rezone 40 blocks</td>
<td>5/11/2005</td>
</tr>
<tr>
<td>960</td>
<td>MacDougal St., BK</td>
<td>UDAAP by HPD (covers 5 lots)</td>
<td>5/11/2005</td>
</tr>
<tr>
<td>961</td>
<td>Greene Ave., BK</td>
<td>UDAAP by HPD (covers 15 lots)</td>
<td>5/11/2005</td>
</tr>
<tr>
<td>962-67</td>
<td>Greenpoint-Williamsburg Rez.</td>
<td>City map, map and text amendments to rezone 184 blocks</td>
<td>5/11/2005</td>
</tr>
<tr>
<td>983</td>
<td>Melrose Commons/Cornerstone, BX</td>
<td>UDAAP by HPD (232 low-income units)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>984</td>
<td>East Clarke Pl., BK</td>
<td>UDAAP by HPD (102 low-income units)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>985</td>
<td>Jacob’s Place, BX</td>
<td>UDAAP by HPD (63 units/comm. facility)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>986</td>
<td>Cypress Plaza, BK</td>
<td>UDAAP by HPD (mixed-use bldg.)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>987</td>
<td>Smith St., BK</td>
<td>UDAAP by HPD (covers 9 lots)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>988</td>
<td>36 Attorney St., MN</td>
<td>UDAAP by HPD (covers 1 lot)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>989</td>
<td>42 W. 138th St., MN</td>
<td>UDAAP by HPD (covers 1 lot)</td>
<td>5/25/2005</td>
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<tr>
<td>990</td>
<td>504 W. 135th St., MN</td>
<td>UDAAP by HPD (covers 1 lot)</td>
<td>5/25/2005</td>
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<tr>
<td>991</td>
<td>401 Jewett Ave., SI</td>
<td>UDAAP by HPD (covers 1 lot)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>† 992</td>
<td>Offerman Building, BK</td>
<td>Landmark designation</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>† 993</td>
<td>A.I. Namm &amp; Son Dept. Store, BK</td>
<td>Landmark designation</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>994</td>
<td>942 Kent Ave., BK</td>
<td>UDAAP by HPD (covers 1 lot)</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>995-1001</td>
<td>In Rem Action Nos. 45, 47, 51, CW</td>
<td>Tax exemption</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>1002</td>
<td>Sunset Park High School, BK</td>
<td>Construct new 1,640-seat high school facility</td>
<td>5/25/2005</td>
</tr>
<tr>
<td>1003</td>
<td>I.S./H.S. 43, SI</td>
<td>Construct new 1,652-seat intermediate/high school facility</td>
<td>5/25/2005</td>
</tr>
</tbody>
</table>

CITY PLANNING COMMISSION

<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>DESCRIPTION</th>
<th>LOCATION</th>
<th>ULURP #</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maiden Lane Parking Garage</td>
<td>Special permit (62-space garage)</td>
<td>MN 1</td>
<td>C050071ZSM</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>63 Wall Street</td>
<td>Special permit (85-space garage)</td>
<td>MN 1</td>
<td>C050082ZSM</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>415 Greenwich Street Garage</td>
<td>Special permit (90-space garage)</td>
<td>MN 1</td>
<td>C040363ZSM</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Lincoln Parking Garage</td>
<td>Special permit (con’t: 500-space garage)</td>
<td>MN 4</td>
<td>C040375ZSM</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>15 West 20th Street</td>
<td>Special permit (allow two-story addition)</td>
<td>MN 5</td>
<td>C050031ZSM</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>New York Society Library</td>
<td>Special permit (add 2,442 sq. ft.)</td>
<td>MN 8</td>
<td>C040399ZSM</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Mart 125</td>
<td>Disposition of city-owned property</td>
<td>MN 10</td>
<td>C050189PPM</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Melrose Commons/Cornerstone</td>
<td>UDAAP by HPD (232 low-income units)</td>
<td>BX 1, 3</td>
<td>C050214HAX</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Prospect Avenue Tower</td>
<td>UDAAP by HPD (194 units/comm. facility)</td>
<td>BX 2</td>
<td>C050248HAX</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>East Clarke Place</td>
<td>UDAAP by HPD (102 low-income units)</td>
<td>BX 4</td>
<td>C050228HAX</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Jacob’s Place</td>
<td>UDAAP by HPD (63 units/comm. facility)</td>
<td>BX 6</td>
<td>C050258HAX</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>† A.I. Namm &amp; Son Dept. Store</td>
<td>Landmark Designation</td>
<td>BK 2</td>
<td>N050390HKK</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>† Offerman Building</td>
<td>Landmark Designation</td>
<td>BK 2</td>
<td>N050389HKK</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Fulton Street Rezoning</td>
<td>Map amendment (for health club)</td>
<td>BK 2</td>
<td>C040592HMK</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Melrose Apartments</td>
<td>UDAAP by HPD (38 low-income units)</td>
<td>BK 4</td>
<td>C050259HAK</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Cypress Plaza</td>
<td>UDAAP by HPD (mixed-use bldg.)</td>
<td>BK 5</td>
<td>C050304HAK</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Logan Street Rezoning</td>
<td>Map amendment (allow 4, 2-family homes)</td>
<td>BK 5</td>
<td>C040382WK</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Flushing Savings Bank Rezoning</td>
<td>Map amendment (allow bank expansion)</td>
<td>QN 7</td>
<td>C040432MQ</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Hamilton Beach Map Change</td>
<td>Map amendment (est. pedestrian ways)</td>
<td>QN 10</td>
<td>C050191MMQ</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Hamilton Beach Disposition</td>
<td>Disposition of 29 vacant lots</td>
<td>QN 10</td>
<td>C050217PPQ</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Berwick Place Demapping</td>
<td>Map amendment (allow 1-family home)</td>
<td>SI 1</td>
<td>C000561MMR</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>South Beach Blue Belt</td>
<td>Site selection (storm water storage)</td>
<td>SI 2</td>
<td>C050154PCR</td>
<td>4/27/2005</td>
</tr>
<tr>
<td>Millennium Hilton Hotel</td>
<td>Special permit (modify urban plaza)</td>
<td>MN 1</td>
<td>C050252ZSM</td>
<td>5/11/2005</td>
</tr>
<tr>
<td>96 Spring Street</td>
<td>Special permit (live-work units &amp; retail)</td>
<td>MN 2</td>
<td>C040201A(2)ZSM</td>
<td>5/11/2005</td>
</tr>
<tr>
<td>Cornerstone Site 2</td>
<td>UDAAP by HPD (8-story bldg., 21 units)</td>
<td>MN 10</td>
<td>C050212H4M</td>
<td>5/11/2005</td>
</tr>
</tbody>
</table>

BOARD OF STANDARDS & APPEALS

<table>
<thead>
<tr>
<th>ADDRESS</th>
<th>DESCRIPTION</th>
<th>ACTION</th>
<th>CASE NO.</th>
<th>REPRESENTATIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>286 Hudson St., MN</td>
<td>Variance for residential use (2nd-8th floors)</td>
<td>Appl’d</td>
<td>144-04-BZ</td>
<td>Eric Palestis, PC.</td>
</tr>
<tr>
<td>25 Bond St., MN</td>
<td>Amend approval (after floor area)</td>
<td>Appl’d</td>
<td>377-03-BZ</td>
<td>Cozen O’Connor</td>
</tr>
<tr>
<td>1406 2nd Ave., MN</td>
<td>Extend variance term for parking</td>
<td>Appl’d</td>
<td>490-69-BZ</td>
<td>Sheldon Lobel, PC.</td>
</tr>
<tr>
<td>49 E. 7th St., MN</td>
<td>Extend variance term for parking</td>
<td>Appl’d</td>
<td>752-64-BZ</td>
<td>Petraro &amp; Jones</td>
</tr>
<tr>
<td>302 Westchester Ave., BX</td>
<td>Amend variance to erect 1-story bldg. (retail)</td>
<td>Appl’d</td>
<td>314-28-BZ</td>
<td>Eric Palestis, PC.</td>
</tr>
<tr>
<td>657 Logain Ave., BX</td>
<td>Variance for addition to 1-family dwelling (yards)</td>
<td>Appl’d</td>
<td>276-04-BZ</td>
<td>Frederick A. Becker</td>
</tr>
<tr>
<td>1420 Balcom Ave., BX</td>
<td>Extend time to complete foundation</td>
<td>Appl’d</td>
<td>349-04-RZ</td>
<td>Rothberg Rothberg</td>
</tr>
<tr>
<td>6023 Ft. Ham. Plwy., BK</td>
<td>Permit religious school within M1-1 dist.</td>
<td>Appl’d</td>
<td>381-03-BZ</td>
<td>Moshe M. Friedman, PE.</td>
</tr>
<tr>
<td>1124 E. 21st St., BK</td>
<td>Expand two-story bldg. (synagogue)</td>
<td>Appl’d</td>
<td>322-04-BZ</td>
<td>Eric Palestis, PC.</td>
</tr>
<tr>
<td>1746 E. 21st St., BK</td>
<td>School expansion (Yeshiva)</td>
<td>Appl’d</td>
<td>296-04-BZ</td>
<td>Moshe M. Friedman, PE.</td>
</tr>
</tbody>
</table>

*Bold indicates the decision is covered in this issue. The symbol † indicates that the decision was covered in a previous issue.*
<table>
<thead>
<tr>
<th>ADDRESS</th>
<th>DESCRIPTION</th>
<th>ACTION</th>
<th>CASE NO.</th>
<th>REPRESENTATIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1340 E. 26th St., BK</td>
<td>Enlarge 1-family dwelling</td>
<td>App'd</td>
<td>292-04-BZ</td>
<td>Eric Palatnik, PC.</td>
</tr>
<tr>
<td>1271 E. 26th St., BK</td>
<td>Enlarge 1-family dwelling</td>
<td>App'd</td>
<td>371-04-BZ</td>
<td>Eric Palatnik, PC.</td>
</tr>
<tr>
<td>2610 Avenue L, BK</td>
<td>Enlarge 1-family dwelling</td>
<td>App'd</td>
<td>391-04-BZ</td>
<td>Moshe M. Friedman, PE.</td>
</tr>
<tr>
<td>260 Moore St., BK</td>
<td>Convert 4-story industrial bldg. to residential use</td>
<td>W/dm</td>
<td>230-04-BZ</td>
<td>Sheldon Lobel, PC.</td>
</tr>
<tr>
<td>160 Kent Ave., BK</td>
<td>Variance for 47 add'l res. units; Construct esplanade</td>
<td>W/dm</td>
<td>134-04-BZ</td>
<td>Cozen O'Connor</td>
</tr>
<tr>
<td>35 McDonald Ave., BK</td>
<td>Variance to erect 4-story res. bldg. (39-units)</td>
<td>App'd</td>
<td>319-04-BZ</td>
<td>Steven Sinacori</td>
</tr>
<tr>
<td>35 McDonald Ave., BK</td>
<td>Build in bed of mapped street</td>
<td>App'd</td>
<td>61-05-A</td>
<td>Steven Sinacori</td>
</tr>
<tr>
<td>108-24 Astoria Blvd., QN</td>
<td>Permit 33-space parking lot</td>
<td>App'd</td>
<td>63-04-BZ</td>
<td>Joseph P. Morellino</td>
</tr>
<tr>
<td>103-05 35th Ave., QN</td>
<td>Construct 3-family dwelling</td>
<td>App'd</td>
<td>294-04-BZ</td>
<td>Petros &amp; Jones</td>
</tr>
<tr>
<td>122-20 Merrick Blvd., QN</td>
<td>Enlarge 2-story storage facility (FAR, yard)</td>
<td>App'd</td>
<td>247-04-BZ</td>
<td>Sheldon Lobel, PC.</td>
</tr>
<tr>
<td>157-30 Wilties Pl., BQ</td>
<td>Extend term for auto service station</td>
<td>App'd</td>
<td>339-04-BZ</td>
<td>Eric Palatnik, PC.</td>
</tr>
<tr>
<td>10-25 150th St., QN</td>
<td>Extend time to obtain cert. of occ. (funeral home)</td>
<td>App'd</td>
<td>138-68-BZ</td>
<td>Francis R. Angelino</td>
</tr>
<tr>
<td>61-05 Northern Blvd., QN</td>
<td>Extend variance term for used car sales</td>
<td>App'd</td>
<td>110-71-BZ</td>
<td>Rothrug Rothrug</td>
</tr>
<tr>
<td>212-95 26th Ave., QN</td>
<td>Extend variance term for amusement arcade</td>
<td>App'd</td>
<td>739-76-BZ</td>
<td>Joseph P. Morellino</td>
</tr>
<tr>
<td>220-16 Jamaica Ave., QN</td>
<td>Extend time to complete construction (hotel)</td>
<td>App'd</td>
<td>126-99-BZ</td>
<td>Sheldon Lobel, PC.</td>
</tr>
<tr>
<td>271-11 16th Ave., QN</td>
<td>Extend time to complete construction (nursing home)</td>
<td>App'd</td>
<td>215-04-BZ</td>
<td>McDermott Will &amp; Emery</td>
</tr>
<tr>
<td>40 Ocean Ave., QN</td>
<td>Enlarge 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>55-05-A</td>
<td>Joseph A. Sherry</td>
</tr>
<tr>
<td>10 Janet Lane, QN</td>
<td>Enlarge 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>56-05-A</td>
<td>Joseph A. Sherry</td>
</tr>
<tr>
<td>667 Highland Place, QN</td>
<td>Enlarge 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>57-05-A</td>
<td>Joseph A. Sherry</td>
</tr>
<tr>
<td>15 Ocean Ave., QN</td>
<td>Enlarge 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>58-05-A</td>
<td>Joseph A. Sherry</td>
</tr>
<tr>
<td>5 Courtsey Ln., QN</td>
<td>Enlarge 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>59-05-A</td>
<td>Joseph A. Sherry</td>
</tr>
<tr>
<td>37 Beach 221st St., QN</td>
<td>Alter 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>35-05-A</td>
<td>Zygmunt Staszewski</td>
</tr>
<tr>
<td>17 Fulton Walk, QN</td>
<td>Alter 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>37-05-A</td>
<td>Zygmunt Staszewski</td>
</tr>
<tr>
<td>105 Beach 219th St., QN</td>
<td>Enlarge 1-family dwelling not fronting mapped st.</td>
<td>App'd</td>
<td>51-05-A</td>
<td>Gary Lenhart, R.A.</td>
</tr>
<tr>
<td>1679 Forest Ave., SI</td>
<td>Permit 35-space parking reduction</td>
<td>App'd</td>
<td>340-04-BZ</td>
<td>Joseph P. Morellino</td>
</tr>
<tr>
<td>161 Westervelt Ave., SI</td>
<td>Construct 1-family dwelling</td>
<td>App'd</td>
<td>16-05-BZ</td>
<td>James McCormack</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ADDRESS</th>
<th>LANDMARK/HISTORIC DISTRICT</th>
<th>DESCRIPTION</th>
<th>CASE</th>
<th>APP'D</th>
<th>ISSUED</th>
</tr>
</thead>
<tbody>
<tr>
<td>172 Mercer St., MN</td>
<td>SoHo-Cast Iron Hist. Dist.</td>
<td>Legalize storefront infill</td>
<td>05-7005</td>
<td>Yes</td>
<td>4/12/2005</td>
</tr>
<tr>
<td>357 W. Broadway, MN</td>
<td>SoHo-Cast Iron Hist. Dist.</td>
<td>Legalize doors, menu box</td>
<td>05-7007</td>
<td>Yes</td>
<td>4/12/2005</td>
</tr>
<tr>
<td>547 Broadway, MN</td>
<td>SoHo-Cast Iron Hist. Dist.</td>
<td>Legalize signage, security gate</td>
<td>05-7076</td>
<td>Yes</td>
<td>4/20/2005</td>
</tr>
<tr>
<td>581 Broadway, MN</td>
<td>SoHo-Cast Iron Hist. Dist.</td>
<td>Remove illegal work</td>
<td>05-7297</td>
<td>Yes</td>
<td>4/26/2005</td>
</tr>
<tr>
<td>228 W. 11th St., MN</td>
<td>Greenwich Village Hist. Dist.</td>
<td>Enlarge front awnly</td>
<td>05-7500</td>
<td>Yes</td>
<td>4/26/2005</td>
</tr>
<tr>
<td>345 W. 20th St., MN</td>
<td>Chelsea Hist. Dist.</td>
<td>Modify rear facade, roof</td>
<td>05-7241</td>
<td>Yes</td>
<td>4/22/2005</td>
</tr>
<tr>
<td>100 Fifth Ave., MN</td>
<td>Ladies' Mile Hist. Dist.</td>
<td>Modify storefront</td>
<td>05-7095</td>
<td>Yes</td>
<td>4/19/2005</td>
</tr>
<tr>
<td>408 W. 145th St., MN</td>
<td>Hamilton Heights Ext. HD</td>
<td>Legalize front stoop</td>
<td>05-6805</td>
<td>No</td>
<td>4/8/2005</td>
</tr>
<tr>
<td>94 Micwood St., BK</td>
<td>Prospect Lefferts Gardens HD</td>
<td>Enlarge addition, install windows</td>
<td>05-6830</td>
<td>Yes</td>
<td>4/5/2005</td>
</tr>
<tr>
<td>90 Remsen St., BK</td>
<td>Brooklyn Heights Hist. Dist.</td>
<td>Remove wall, install pavers, ironwork</td>
<td>05-7133</td>
<td>Yes</td>
<td>4/19/2005</td>
</tr>
<tr>
<td>28 Middagh St., BK</td>
<td>Brooklyn Heights Hist. Dist.</td>
<td>Alter facade, rear yard addition</td>
<td>05-7012</td>
<td>Yes</td>
<td>4/14/2005</td>
</tr>
<tr>
<td>330 Knollwood Ave., QN</td>
<td>Douglaston Hist. Dist.</td>
<td>Rear yard addition</td>
<td>05-7300</td>
<td>Yes</td>
<td>4/26/2005</td>
</tr>
</tbody>
</table>

Selected New Building Permit Applications – Published by DOB from Apr. 8 to May 27, 2005

<table>
<thead>
<tr>
<th>OWNER</th>
<th>SITE</th>
<th>GROSS FLOOR AREA (SQ. FT.)</th>
<th>STORIES/HT.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vornado Realty Trust</td>
<td>5502 Kings Plaza, BK</td>
<td>338,271</td>
<td>3/75 ft.</td>
</tr>
<tr>
<td>Stephan Benjamin, Dermot Clinton Green LLC</td>
<td>510 W. 52nd St., MN</td>
<td>273,128</td>
<td>24/263 ft.</td>
</tr>
<tr>
<td>Steven Eickelbeck, Kingswood Ptns. LLC</td>
<td>1630 E. 15th St., BK</td>
<td>229,926</td>
<td>3/57 ft.</td>
</tr>
<tr>
<td>HPD</td>
<td>890 Prospect Ave., BX</td>
<td>139,115</td>
<td>9/75 ft.</td>
</tr>
<tr>
<td>NYC Health &amp; Hospitals Corp.</td>
<td>600 Albany Ave., BK</td>
<td>129,612</td>
<td>6/93 ft.</td>
</tr>
<tr>
<td>Henry Lain, Prince Plaza LLC</td>
<td>37-20 Prince St., QN</td>
<td>122,772</td>
<td>13/154 ft.</td>
</tr>
<tr>
<td>Katherine Midgade, 168th St. Jamaica LLC</td>
<td>92-30 168th St., QN</td>
<td>113,154</td>
<td>1/78 ft.</td>
</tr>
<tr>
<td>School Construction Auth.</td>
<td>90-20 100th St., QN</td>
<td>111,453</td>
<td>15/74 ft.</td>
</tr>
<tr>
<td>Highland Church</td>
<td>160-20 Highland Ave., QN</td>
<td>96,822</td>
<td>7/64 ft.</td>
</tr>
<tr>
<td>David Thause, SND Management</td>
<td>1453 W 5th St., BK</td>
<td>98,000</td>
<td>6/54 ft.</td>
</tr>
<tr>
<td>Peter Fine</td>
<td>31 W. Tremont Ave., BK</td>
<td>87,132</td>
<td>9/80 ft.</td>
</tr>
<tr>
<td>Christopher Panto, Northside Tower LLC</td>
<td>142 N. 6th St., BK</td>
<td>84,460</td>
<td>5/55 ft.</td>
</tr>
<tr>
<td>HPD</td>
<td>3044 Third Ave., BK</td>
<td>72,000</td>
<td>9/85 ft.</td>
</tr>
</tbody>
</table>

*Bold indicates the decision is covered in this issue. The symbol † indicates that the decision was covered in a previous issue.

June 15, 2005
INCLUSIONARY HOUSING

The July/August issue of CityLaw will include an article by Howard Goldman on inclusionary housing, its origins and its increasing use in the Zoning Resolution as a tool to provide affordable housing.

The July/August CityLaw will be sent to subscribers in early July.

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UPCOMING CITYLAW ARTICLE

Inclusionary Housing

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