

CITYLAND

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CENTER FOR NEW YORK CITY LAW

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BSA's denial of grandfathering application prevented new development in South Park Slope from blocking this view of the Statue of Liberty from the famous Minerva Statue. *Photo: Morgan Kunz.*

CITY COUNCIL

Hearing
Citywide

Council holds hearing on industrial employment zone

Proposal would add protections for manufacturing by requiring non-industrial uses to obtain special permits. On September 18, 2006, the City Council's Subcommittee on Zoning & Franchises held a public hearing on a proposal to create Industrial Employment Districts. Current zoning laws permit non-industrial buildings, such as commercial or retail uses, in manufacturing zones, which can destabilize an area and cause rent increases.

The proposal, sponsored by Council Member Melinda Katz, would create IEDs within existing industrial zones where there is a consensus to maintain the industri-

al character. These new zones would allow manufacturing and warehouses as of right, but would require any new superstores, hotels, and municipal buildings to obtain a special permit.

Katz argued that manufacturing jobs pay, on average, \$10,000 more per year than jobs in the retail and restaurant sectors, and the industry has a high percentage of minority and immigrant workers. Katz also stressed that the industry provides a vital source of materials and supplies for the city's other business sectors. IEDs would allow manufacturers to invest in their businesses and create jobs, according to Katz.

Mark Foggin, from the Mayor's Office of Industrial and Manufacturing Businesses, testified that the City had a program in place to promote industrial businesses. The City has identified 17 Industrial Business Zones (*cont'd on page 135*)

Subways and Affordable Housing

The need for affordable housing during the last decade of the nineteenth century and the first third of the twentieth Century did not lead to direct governmental subsidies; it led to expansion of the City's boundaries through consolidation, construction of the East River and Harlem River bridge, and creation of the subway system, all of which had as a central purpose the opening up of cheaper, available land for housing. Direct subsidies in the form of public housing only began in the 1930s. Rent control and rent stabilization followed in the 1940s, but with little or no support for their extension today. Few officials, however, make the connection between transit and the creation of affordable housing.

Zoning protections, zoning bonuses and tax incentives currently are the favored methods to encourage affordable housing. These strategies have the advantage of no or low direct budget impacts, and achieve the political goal of mixing economic classes. But time can erode these strategies as the maturation of Mitchell/Lama housing and the proposed sale of Stuyvesant Town and Peter Cooper Village show.

The energetic rebirth of the Lower East Side and the new vitality of many attractive areas of Brooklyn, Queens, and the Bronx provide another lesson. These areas all have something in common; good access to rapid transit. There are many areas of New York City not so favored. The MTA's ambitious 1968 expansion plan identified many of these areas. The plan drew lines on a map for future construction, but then failed to construct any of the more significant recommendations. It is time to revisit such plans.

Moving forward on construction of the Second Avenue subway project in Manhattan is a good start, but there are other projects that could have much greater impact on opportunities for affordable housing. Some of these plans could involve New Jersey and upstate counties. New York governmental leaders who are serious about affordable housing should, along with zoning and tax strategies, dust off the rapid transit strategies that worked so well 100 years ago.

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where it provides expanded assistance services to industrial firms, offers a one-time relocation tax credit of up to \$1,000 per employee to move to the area, and opposes all residential use applications. Foggin argued that these programs offer a more flexible way to protect industrial jobs than the IEDs.

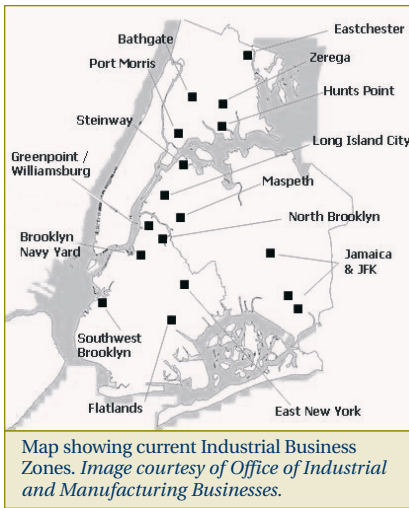
In support of the IEDs, Josh Mason from the Working Family Party testified that flexibility for the City meant instability for the industry. While the Mayor's program helps promote and protect industrial business, it could be changed without community or business consultation because it is only a policy and not a law. Steve Hindy, President and Founder of Brooklyn Brewery, testified that he, like many employers, would like to expand his business, but high rent and purchase prices in the area surrounding his Williamsburg, Brooklyn factory make industrial uses infeasible. He argued that reserving areas of the city for industrial uses will make it easier for employers to expand their businesses.

The Subcommittee closed the hearing without voting on the proposal.

Public Hearing of City Council's Zoning & Franchises Subcommittee, Sept. 18, 2006.

CITYLAND Comment: The Mayor's Office of Industrial and Manufacturing Businesses formed a Boundary Commission in 2005 to determine where to place the Industrial Business Zones. The Boundary Commission holds public hearings on its proposed zones before making its final determination. Further information, including detailed maps of the 17 zones can be found on the Office's website located at <http://www.nyc.gov/imb>.

If the resolution were adopted by two-thirds of the Land Use Committee, the committee would next file a text amendment application, which would be reviewed by the Planning Commission.



CITY PLANNING COMMISSION

General Project Plan Review Downtown Brooklyn

Planning Commission files comments on Atlantic Yards

Commission recommends that the project be reduced by 635,000 sq.ft. and its open space increased. On September 27, 2006, the Planning Commission recommended to the Empire State Development Corporation that Forest City Ratner Companies reduce the overall size of its proposed downtown Brooklyn Atlantic Yards project by eight percent or 635,000 sq.ft. and increase the proposed open space from seven to eight acres to address the significant amount of pedestrian traffic that the project would generate. Ratner's plan calls for a massive redevelopment of Brooklyn's Atlantic Yards with an arena for the Nets, thousands of residential units, office space, new street retail, a transit hub, public open space and a possible hotel.

Ratner's project triggered a Commission recommendation because the development would necessitate an override to local zoning restrictions on use, parking, loading, height, floor area, setback and signage. The Commission's letter stated that the Nets arena was not a permitted use within the site's residential districts or its residen-

tial/commercial overlay districts, and that the site's residential zoning prohibited the proposed commercial uses.

The Commission examined two distinct development plans for the Atlantic Yards site: a residential variation with 6.7 million sq.ft. of housing (6,860 units), 600,000 sq.ft. of office space, and a 180-room hotel, and a commercial variation with 1.8 million sq.ft. of office space and 5.7 million sq.ft. of housing (5,790 units). Both variations included a Nets arena with 18,000 game seats and a 20,500 person capacity for events.

The Commission noted that the project "builds on the City's ongoing efforts to continue the growth of Downtown Brooklyn," but called for an eight percent reduction in floor area concentrated on three buildings. At Dean Street and Sixth Avenue, the Commission recommended that the 428-foot tall, 530,000-square-foot building be reduced to a 220-foot, 275,000-square-foot maximum. At Atlantic and Flatbush Avenues, the Commission suggested that the proposed 350-foot-tall, 572,000-square-foot complex be reduced to a 250-foot height and 392,000-square-foot maximum floor area. At Atlantic and Sixth Avenues, the Commission called for reductions of 109 feet in height and 200,000 sq.ft. in floor area to result in a 355,000-square-foot building with a 225-foot maximum height.

The Commission pointed out that Ratner and the Empire State Development Corporation had met with City Planning and agreed to design guidelines crafted by the Department. This agreement had improved the design, in the Commission's opinion, in that it created views into the arena from the street, maximized street level retail on Dean Street and Sixth Avenue and added a glass enclosed public open space at the project's focal point, the corner of Atlantic and Flatbush.

Chair Amanda M. Burden commented at the Commission's

vote that City Planning insisted on design guidelines for the project, which she believed “reflected design excellence and enhanced the urban fabric.” Urging approval, Burden emphasized that the project would employ 15,000 people during construction and would bring a state-of-the-art arena to the area. Following the Commission’s review session on September 25th, Ratner reaffirmed its plan to include 2,250 affordable housing units and to construct 30 percent of the affordable housing during the first phase of construction. Burden pointed out that this agreement would substantially contribute to Mayor Bloomberg’s goal for new affordable housing development in the city.

The complete Commission recommendation is available on City Planning’s website at: http://www.nyc.gov/html/dcp/pdf/luproc/gpp_atlantic_yards.pdf.

City Planning Commission’s Comment Letter on Atlantic Yards General Project Plan to Empire State Development Corporation, Sept. 27, 2006.

CITY PLANNING COMMISSION

Rezoning/Landfill
College Point, Queens

College Point to be developed after 30-year delay

Illegal landfill slowed approval of Queens development. In 1976, a developer received approval from the Planning Commission for the Riverview development, a 500-unit project on a 28-acre parcel stretching north from 5th Avenue and west from Lax Avenue along the East River waterfront in College Point, Queens. The state then denied a needed permit for the development after discovering 123,000 cubic yards of illegal landfill on the site. After constructing only 236 of the 500 planned units, the developers sold off 14 acres.

New owner Powell Cove Associates LLC proposed construction of 74 two- and three-family homes with 202 total units on the two-lot, 14-acre site after receiving approval from the state for a plan to vegetate

the landfill. The new project, which would result in 62 fewer units than originally proposed, required an amended approval from the Commission to permit the ownership change. Powell Cove also proposed to exceed floor area and height limits on the lot north of Powell Cove Boulevard to allow the majority of the units to be constructed on one lot. To allow this, Powell Cove requested that the Commission approve the transfer of unused floor area from the second lot and allow a height exception.

The Commission approved, commenting that the transfer of floor area and height exception created a better site plan, increased the open space and facilitated the state’s naturalization plan for the landfill.

ULURP/Public Review:

Text Amendment
Lead Agency: CPC, Neg. Dec.
Comm. Bd.: QN 7, No vote
Boro. President: App’d

Landfill Application
Lead Agency: CPC, Neg. Dec.
Comm. Bd.: QN 7, App’d, 42-0-0
Boro. President: App’d

CPC: Riverview (N 060426 ZRQ – text amendment); (C 020332 MLQ – landfill application) (Sept. 13, 2006).
CITYADMIN

CITY PLANNING PIPELINE

New Applications Filed with DCP – September 1 – 28, 2006

| APPLICANT | PROJECT/ADDRESS | DESCRIPTION | ULURP # | REPRESENTATIVE |
|--------------------------------|----------------------------|------------------------------|-------------------------|--------------------|
| ZONING TEXT AND MAP AMENDMENTS | | | | |
| N/A | | | | |
| SPECIAL PERMITS/OTHER ACTIONS | | | | |
| Roag, Inc. | 50 Howard St., MN | Spec. permit (use) | 070105ZSM | Slater & Beckerman |
| Big Greene LLC | 101 Greene St., MN | Waive rooftop open space | 070106ZAM | Stadtmauer Bailkin |
| 300 Canal LLC | 300 Canal St., MN | Permit joint live-work | 070121ZCM | Stadtmauer Bailkin |
| HPD | 3313 Third Ave., BX | UDAAP (128-unit bldg.) | 070111HAX | HPD |
| Katie Michel | 4665 Hadley Ave., BX | Enlarge bldg. | 070102ZAX | Andrew Berman |
| Robinson Brothers | 55th Rd. Demapping, QN | Demap 55th Rd. for warehouse | 070109MMQ | Sam Schwartz PLLC |
| DEP | Cooper, Doran Ave., QN | Establish sewers | 070108HDQ | DEP |
| DEP | 112th St., 64th Rd., QN | Establish sewers | 070100MDQ | DEP |
| DEP | 44th Dr., Vernon Blvd., QN | Establish sewers | 070101MDQ | DEP |
| Pres. Sisters | 419 Woodrow Rd., SI | Subdivide lot | 070120RCR | Moss & Sayad |
| Joseph LaForgia | 28 Helena Rd., SI | Modify topography | 070096ZAR | Genovese Arch. |
| John Saraceno | 107 Circle Rd., SI | Enlarge bldg.; Subdivide lot | 070104ZAR; 070103ZCR | Assoc. Architects |
| Paul Culotta | 58 Hendricks Ave., SI | Build 2 homes | 070122ZCR | Labue & Valenziano |
| Arron Luwisch | 31 Shields Pl., SI | Build 2 homes | 070117ZCR | Lauria Assoc. |

BOARD OF STANDARDS & APPEALS

Building Permit
South Park Slope, Brooklyn

BSA refuses to grandfather Brooklyn project

Developer relied on self-certified permit later found invalid. Based on a professionally certified application, Buildings issued Chaim Nussenzweig, of HMS Associates, a building permit on August 21, 2005 for a 38-unit, five-story building at 614 7th Avenue at 23rd Street in South Park Slope, Brooklyn. The next day, City Planning certified its plan to down-zone portions of South Park Slope, including Nussenzweig’s lot, thereby starting the land use review

ULURP PIPELINE

New Applications Certified into ULURP

| PROJECT | DESCRIPTION | COMM. BD. | ULURP NO. | CERTIFIED |
|-----------------------|--|-----------|---|-----------|
| 157 Hudson Street | Special permit (mod. of use, allow lofts below 3rd story) | MN 1 | 060530ZSM; N060531ZAM | 9/25/2006 |
| El Dorado Garage | Special permit (120-space garage) | MN 7 | 060392ZSM | 9/25/2006 |
| W. 145th St. Rezoning | Zoning map amendment | MN 10 | 050414ZMM | 9/25/2006 |
| Hatzulah Amb. Garage | Spec. permit (ambulance garage) | BK 12 | 070034ZSK | 9/25/2006 |
| 45-31 Ct. Sq. Garage | Special permit (200-space garage) | QN 2 | 050493ZSQ | 9/25/2006 |
| Jamaica Redevelopment | Zoning map change; disposition of property; special permits (500-space garage; mod. of streetwall, setback; business entry; res. use; signage) | QN 12 | 070079ZMQ; 070080PPQ; 070081ZSQ; 070082ZSQ | 9/25/2006 |
| Pendale Street | City map amendment | SI 3 | 050486MMR | 9/25/2006 |

process and providing Nussenzweig about 200 days to grandfather the project.

Soon after excavation and foundation work began, Buildings initiated a special audit of the project that revealed potential violations of floor area, lot coverage, height limits, and several building code provisions, including sprinklers. Buildings issued a stop-work order, sent Nussenzweig a notice listing its objections, and outlined its intention to revoke the permit unless Nussenzweig responded. All work ceased on October 11th and Buildings revoked the permit after receiving no response.

Nussenzweig later filed a second new building permit application, which Buildings approved on November 15th. The next day, the City Council approved the rezoning of South Park Slope, down-zoning the project site. 2 *CityLand* 161 (Dec. 2005). The project exceeded the new zoning's height limit by 18 feet and the floor area limit by over 10,000 sq.ft.

Nussenzweig applied to BSA to grandfather the project, arguing that he had fully completed the excavation and finished 86 percent of the foundation work before Buildings issued the stop-work order. Community members opposed the application, complaining that the project's height would block the view of the Statue of Liberty from the Green-Wood Ceme-

tery's famous statue of Minerva.

Buildings, represented by Angelina Martinez-Rubio opposed, arguing that only valid permits can vest under the zoning text. Buildings argued that none of the work performed on the invalid, revoked permit should be considered when calculating substantial completion of the foundation. The project's only valid permit was issued one day before the rezoning passed, which failed to provide sufficient time to complete excavation or foundation work.

Nussenzweig's attorney, Peter Geis, responded that Buildings had reviewed outdated plans during its audit, and improperly revoked the permit. In support, Nussenzweig produced plans dated after Buildings issued the first permit which contained a Buildings' stamp. Nussenzweig also alleged that Buildings lacked authority to issue a stop-work order without evidence of imminent peril to life or property, and that it based its decision on political criticism and press coverage rather than facts.

Buildings responded that it had no official record of the alleged amended plans. Since the second set of plans differed so greatly from the original, Buildings' rules required Nussenzweig to professionally certify the plans, file the proper paperwork, and pay an amendment fee, none of which occurred.

BSA denied all of Nussenzweig's arguments, ruling that the zoning resolution required a valid permit to grandfather a project. Reliance on the second set of plans was time-barred since the permit revocation by Buildings was a final decision that could have been appealed to BSA. Noting that Nussenzweig had presented the second plans late in the hearing process, BSA commented that, in light of how much was at stake, "it strains credulity" to believe that Nussenzweig would not have aggressively opposed the permit's revocation from the beginning if he believed that it was based on the wrong plans.

BSA also ruled that there was no requirement that life or property be in imminent peril before Buildings could issue a stop-work order and noted that the developer's claims that Buildings did not follow procedure and was swayed by politics, had no merit or proof.

BSA: 614 7th Avenue (353-05-BZY) (Sept. 12, 2006) (Peter Geis, Cozen O'Connor, for Nussenzweig; Angelina Martinez-Rubio, for DOB). **CITYADMIN**

BOARD OF STANDARDS & APPEALS

Variance
SoHo, Manhattan

Greenwich/Canal Street project gets 5 variances

Luxury apartments approved once developer reduced the height and size. Red Brick Canal LLC sought approval to construct an 11-story, 25,025-square-foot residential and commercial building at 482 Greenwich Street, a lot with frontage along Greenwich and Canal Streets at the border of Tribeca and SoHo in Manhattan. The project site, a 3,136-square-foot, trapezoid-shaped lot located in a commercial zone (C6-2A), currently contains an unused gas station which will be demolished. The City had rezoned the lot from manufacturing (M1-6)



Rendering of proposed 11-story building on the corner of Greenwich and Canal Streets. Credit: Design Architect, McKay Architecture Design; Architect, Garrett Gourlay Architect PLLC.

in 2003 as part of the Hudson Square rezoning.

Red Brick's project failed to comply with floor area, height, yard, lot coverage, curb cut and garage size requirements, necessitating variances. Red Brick, represented by Deirdre Carson, argued that the lot's small size, its unconventional shape, its location within a flood plain, and the need to remediate the soil made an as-of-right project infeasible. Red Brick added that, due to the odd shape of the lot, the units would have greater wall space than floor space, which would diminish the units' value.

City Planning, Community Board 2 and local resident groups opposed, arguing that the height and size would exceed neighboring buildings. In City Planning's opinion, the circumstances did not warrant floor area and height exceptions.

During the hearings, BSA expressed serious concerns with the project's size, explaining that the lot's conditions failed to justify greater floor area, street wall, and setback variances even though its odd shape might justify some exceptions. BSA doubted that the increased wall space would diminish the units' value since the building would offer unobstructed views of the city. BSA also questioned Red Brick's feasibility study, which claimed the apartments would sell for about \$1,000 per square foot.

In response, Red Brick pared down the proposal to a 120-foot-tall, 20,555-square-foot building,

containing 10 luxury apartments and small commercial and community use spaces. The new proposal removed the need for floor area, height, and set back exceptions. Red Brick also submitted a revised feasibility study, which adopted the opposition's estimated sale price of \$1,200 to \$1,950 a square foot.

Local residents remained opposed, complaining to BSA that Community Board 2 should hold a second hearing.

Despite Community Board 2's request, BSA approved the plan, agreeing that the site's size and

unique shape made as-of-right yards, lot coverage and curb cuts impractical since the floor plates would be unusable. BSA, however, denied that the flood plain and soil conditions created a unique hardship since 56 nearby lots faced a similar issue. BSA noted that it had discretion to send an applicant back to the community board, but it was not required by the Charter or BSA rules to do so when a developer reduced a project during the hearing process.

BSA: 482 Greenwich Street (124-05-BZ)

BSA PIPELINE

New Applications Filed with BSA - Sept. 1 – 29, 2006

| APPLICANT | PROJECT/ADDRESS | DESCRIPTION | APP. # | REPRESENTATIVE |
|--------------------------------------|-------------------------|----------------------------------|-------------------------|--------------------------|
| VARIANCES | | | | |
| Mount Hope | 55 E. 175th St., BX | Rear yard variance | 252-06-BZ | Randolph Croxton |
| Syful Islam | 2342 Haviland Ave., BX | Legalize work permit | 233-06-BZ | Kathleen Bradshaw |
| Congregation Mazah | 87-99 Union Ave., BK | Const. 5-story yeshiva | 261-06-BZ | Sheldon Lobel, PC |
| Ahi Ezer Cong. | 1885 Ocean Pkwy., QN | Enlarge synagogue (bulk) | 259-06-BZ | Fredrick A. Becker |
| Lady of the Snows | 79-48 259th St., QN | Church bldg. (floor area) | 258-06-BZ | Anderson Kill & Olick |
| Heung C. Rha | 141 3rd Ave., QN | Res. acces. use on R2 lot | 265-06-BZ | Sheldon Lobel, PC |
| Ridgewood Equities | 71-13 60th Ln., QN | Res. conversion of factory | 262-06-BZ | Howard Goldman |
| St. John's Univ. | 147-04 Union Tpik., QN | Front yard variance | 240-06-BZ- 251-06-BZ | Manatt Phelps & Phillips |
| George Smith | 2066 Richmond Ave., SI | Office bldg. in R3-2 | 227-06-BZ | Eric Palatnik, PC |
| SPECIAL PERMITS/OTHER ACTIONS | | | | |
| Charlton Co-op. | 547 Greenwich St., MN | Not provided | 260-06-BZ | J. Owen Zurhellen III |
| Sarah Weiss | 1327 E. 21st St., BK | Enlarge 1-family dwelling | 254-06-BZ | Eric Palatnik, PC. |
| Martin Gross | 1085 E. 22nd St., BK | Enlarge 1-family dwelling | 234-06-BZ | Fredrick A. Becker |
| Breindi Amsterdam | 2801 Avenue L, BK | Enlarge 1-family dwelling | 263-06-BZ | Fredrick A. Becker |
| Miriam Schwartz | 1632 E. 28th St., BK | Enlarge 1-family dwelling | 264-06-BZ | Fredrick A. Becker |
| Jamila Maleh | 2243 Homecrest Ave., BK | Enlarge dwelling | 253-06-BZ | Fredrick A. Becker |
| Jonathan Schwartz | 1462 E. 26th St., BK | Extension to 1-family dwelling | 237-06-BZ | Moshe M. Friedman |
| Michael Dalezman | 1500 E. 21st St., BK | Extension to dwelling | 236-06-BZ | Moshe M. Friedman |
| Susan Rosenberg | 3155 Bedford Ave., BK | Enlarge 1-family dwelling | 235-06-BZ | Fredrick A. Becker |
| Bracha Weinstock | 1766 E. 28th St., BK | Enlarge 1-family dwelling | 226-06-BZ | Eric Palatnik, PC. |
| APPEALS | | | | |
| Kevin A. Finnegan | 110 E. 12th St., MN | Appeal DOB revocation refusal | 238-06-A | Kevin A. Finnegan |
| Breezy Pt. Co-op | 8 Suffolk Walk, QN | Enlarge 1st fl., add 2nd story | 239-06-A | Walter T. Gorman |
| Breezy Pt. Co-op | 107 Beach 220th, QN | Alter, enlarge 1-family dwelling | 230-06-A | Gary Lenhart, RA |
| Breezy Pt. Co-op | 607 Bayside Dr., QN | Appeal DOB decision | 229-06-A | Sheldon Lobel, PC |
| J. Berardi | Brookville Blvd., QN | Develop in unmapped st. | 219-06-A- 225-06-A | Adam Rothkrug |
| George Smith | 2066 Richmond Ave., SI | Office building in R3-2 | 228-06-A | Eric Palatnik, PC. |
| Sunset Park LLC | 28 Sand Court, SI | 2-fam. dwell. not on mapped st. | 232-06-A | Adam Rothkrug |
| Bell Building Corp. | 76 Bell St., SI | Dwell. not fronting mapped st. | 257-06-A | Adam Rothkrug |
| Bell Building Corp. | 74 Bell St., SI | Dwell. not fronting mapped st. | 256-06-A | Adam Rothkrug |
| Bell Building Corp. | 72 Bell St., SI | Dwell. not fronting mapped st. | 255-06-A | Adam Rothkrug |
| EXTEND CONSTRUCTION PERIOD | | | | |
| Medhat M. Hanna | 102 Greaves Ave., SI | Ext. time for minor development | 231-06-BZY | Rothkrug Rothkrug |

(Sept. 12, 2006) (Deirdre A. Carson, Esq., Greenberg Traurig LLP, for Red Brick). **CITYADMIN**

BOARD OF STANDARDS & APPEALS

Appeal

Douglaston, Queens

BSA sustains permits on Queens waterfront site

Buildings granted permits for developer's personal home on Little Neck Bay waterfront. On January 20, 2006, Buildings issued a certificate of occupancy to developer Carl Mattone, the President of Mattone Group LLC, for his personal home, a two-story, 5,369-square-foot house at 37-19 Regatta Place in Douglaston, Queens. The seven-sided, 11,801-square-foot lot lies within a residential district (R1-2) along the south side of Little Neck Bay's waterfront. The lot is partially underwater with 10,756 sq.ft. of developable upland property, as measured from the shoreline.

During the home's construction, Gordhandas Soni, owner of the adjoining lot, protested the issuance of a construction permit. She disputed the amount of upland property, the size of which determines floor area and lot coverage limits. Buildings issued a stop-work order, corrected the calculations and allowed construction to contin-

ue, issuing a final determination in 2005 and a C of O in 2006.

Soni, represented by Stuart A. Klein, challenged Buildings' calculation of upland property. According to Soni, the shoreline was an incorrect reference point for measuring the upland property boundary. She argued that under the zoning code, a wall built on Mattone's lot, not the shoreline, was the proper reference point because the wall was a bulkhead built to prevent erosion. Measuring from the wall, the amount of developable upland property was only 9,020 sq.ft., making the home's floor area and lot coverage noncompliant. Additionally, Soni claimed that the rear yard, opposite the waterfront yard, failed to comply with a 1982 Buildings memo since it was less than 20-feet long. Finally, Soni argued that the home's waterfront yard, chimneys and side yards were noncompliant. Neighborhood residents and State Senator Frank Padavan provided testimony in favor of Soni.

Buildings attorney Angelina Martinez-Rubio appeared at the hearing, arguing that the shoreline was the appropriate reference point. The house complied with zoning because the wall was a retaining wall, not a bulkhead. In response to Soni's rear yard argument, Buildings argued that due to the lot's irregular shape, the yard was a side yard under the code, not a rear yard. Buildings alternatively argued that, even if it were considered a rear yard, the rear yard requirements did not apply to waterfront zoning lots. Buildings also argued that Soni's claims of noncompliant chimneys, side yards and waterfront yard were without merit.

After reviewing five land surveys, BSA agreed with Buildings and Mattone, determining that the shoreline was the proper reference point since no surveys or records characterized the wall as a bulkhead and because there was no evidence that the wall was built to prevent erosion. BSA also determined that

the home's rear yard, side yards, waterfront yard and chimneys were compliant.

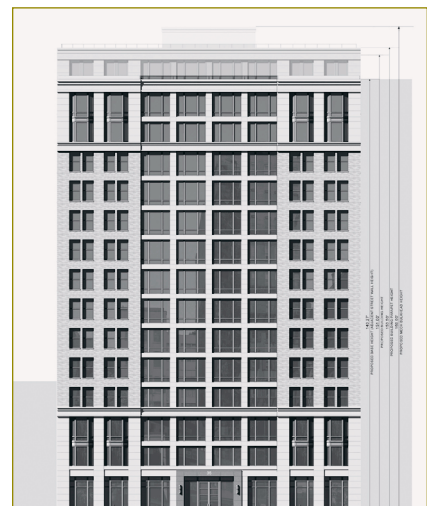
BSA: 37-19 Regatta Place (12-06-A) (Sept. 12, 2006) (Stuart A. Klein, for Soni; Angelina Martinez-Rubio, for Buildings). **CITYADMIN**

LANDMARKS PRESERVATION COMMISSION

Certificate of Appropriateness
Chelsea, Manhattan

15-story high-rise approved in Ladies' Mile District

Site currently a parking lot and one-story structure. Roseland Property Company, developers of a through lot between West 21st and West 22nd Streets within the Ladies' Mile Historic District, received a permit to construct a residential building with a 15-story front at 35-41 West 21st Street and a smaller eight-story front at 38 West 22nd Street. The West 21st Street side will feature a stone, brick, and metal facade with storefront windows and doors at the ground level, while the West 22nd Street facade will feature metal windows framed by masonry piers and a glass and metal central bay. The building will be built on a lot currently occupied by two parking lots and a one-story commercial build-



Rendering of the West 21st Street front of Ladies' Mile Historic District development. Image courtesy of SLCE Architects.

CITYLAND Correction:

The September 15, 2006 issue of *City-Land* failed to add that Emily Simons, attorney on BSA Case No. 351-05-BZ, works at the Law Offices of Howard Goldman.

On BSA Case No. 66-06-BZ, BSA granted the Vaughn College of Aeronautics a use variance only.

The Whitney Museum, Case No. 334-05-BZ, received a bulk variance, not a variance from the floor area limits. Also for clarification, the Whitney received a waiver to the commercial frontage requirements of the Special Madison Avenue Preservation District.

ing, which will be demolished.

Jack Taylor from the Drive to Protect the Ladies' Mile District opposed the project, arguing that aspects of the building design did not fit with the character of the neighborhood. Taylor further expressed the concerns of some area residents that the project may eliminate fire escape routes for adjacent buildings and block existing adjacent lot-line windows.

In a unanimous vote, Landmarks approved the project, noting that the one-story building to be demolished did not possess significant architectural or historical features. Landmarks noted that the buildings in these two blocks of the Ladies' Mile Historic District are composed primarily of historic store and loft buildings, and that the new building will integrate successfully into both streetscapes. The height of the proposed building relates to the height of the adjacent buildings, and the set-back for the one-story penthouse will maintain the continuity of the street wall.

LPC: 35 West 21st Street (COFA# 07-0914) (Aug. 17, 2006) (Jed Candreva, Kramer Levin LLP, for Roseland Property). **CITYADMIN**

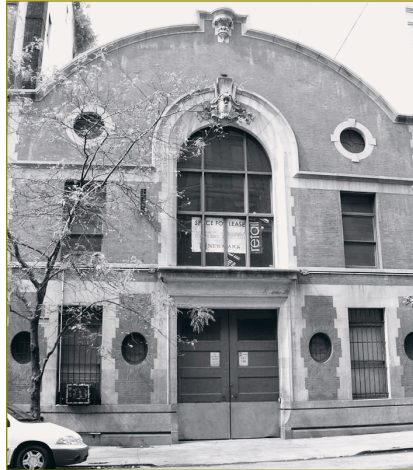
LANDMARKS PRESERVATION COMMISSION

Hearing

East Village, Manhattan

Fate of East Village horse mart uncertain

Emergency hearing held on East Village horse stable and auction house. On September 7, 2006, less than one month after calendaring, Landmarks held a hearing on the possible designation of the Van Kearney and Van Tassel Horse Auction Mart at 126 East 13th Street in the East Village. The 1903 Beaux-Arts building, which has also served as an automobile showroom, a women's assembly-line training center during the second World War, and the



The fate of the last remaining horse mart in the city, pictured above, is in the hands of Landmarks after it held an emergency hearing on September 7. Photo: Landmarks Preservation Commission.

studio of painter Frank Stella, was recently purchased by a developer who received a building permit to construct a seven-story building on the site, but had yet to receive demolition permits. In response to community petitioning, Landmarks calendared the building, which halted the issuance of demolition permits by Buildings. 3 *CityLand* 126 (Sept. 15, 2006).

Numerous public figures spoke in favor of designation or sent representatives to the hearing, including State Assemblywoman Deborah Glick, Manhattan Borough President Scott Stringer, Council Member Rosie Mendez, and State Senator David Chang. Mendez

spoke of her community's recent struggles to protect P.S. 64 and St. Brigid's Church, and asked that Landmarks work more closely with Buildings to avoid the destruction of important historic buildings.

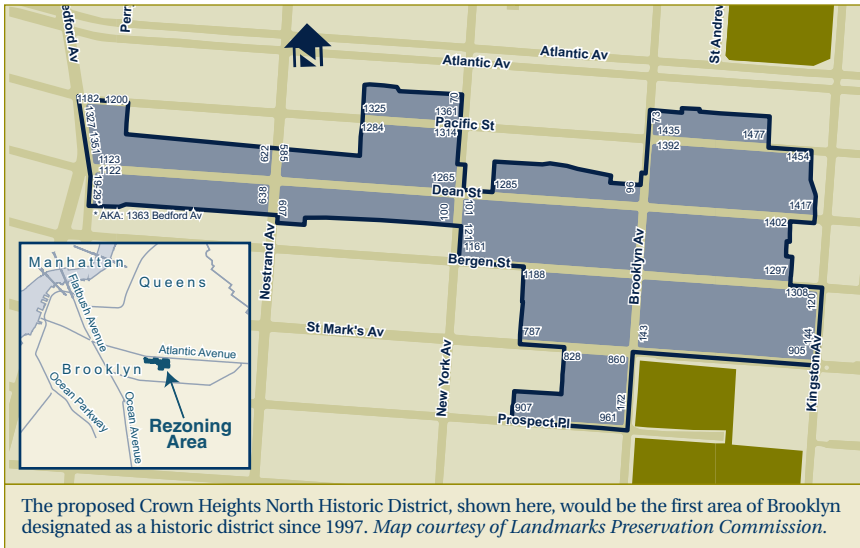
Landmarks also heard from residents and preservationists who urged swift landmarking of the horse mart and praised it for both its architectural and historical significance. Andrew Berman, of the Greenwich Village Society for Historic Preservation, asked "How many structures can conjure up images of the Vanderbilts purchasing polo ponies, Frank Stella creating masterpieces of 20th century art, and Rosie the Riveter fighting the war on the home front?" Union Square Community Coalition's Jack Taylor recounted the events leading to the demolition of the Fiss, Doerr & Carol Horse-Auction Mart, and asked that Landmarks preserve what may be the last remaining horse mart in the city.

Jay Segal, attorney for the property owner, Ultimate Realty, testified that the owner had purchased the property with the intention of constructing a building with the maximum height and floor area under the area's zoning, and that millions of dollars had been spent for architects and other fees. Segal stated that it would be far fairer if Landmarks surveyed the city so

LANDMARKS PIPELINE

Proposed Designations – September 2006

| NAME | ADDRESS | ACTION | DATE |
|------------------------|-----------------------------|----------------------|------------------------|
| Van Tassel Horse Mart | 128 E. 13th St., MN | Heard | 9/7/2006 |
| George Elkins House | 1375 Dean St., BK | Calendared; Heard | 9/7/2006; 9/26/2006 |
| NY Cab Co. Stable | 318 Amsterdam Ave., MN | Calendared | 9/19/2006 |
| Mason Stables | 348 Amsterdam Ave., MN | Calendared | 9/19/2006 |
| Crown Heights N. HD | Crown Heights, BK | Heard | 9/19/2006 |
| Midwood/Fiske Terr. HD | Midwood Pk./Fiske Terr., BK | Calendared | 9/19/2006 |
| Staten Island Savings | 81 Water St., SI | Designated | 9/19/2006 |
| Keller Hotel | 150 Barrow St., MN | Calendared | 9/26/2006 |
| Henry Wyckoff House | 159 Charles St., MN | Calendared | 9/26/2006 |
| Edwin Brooks House | 354 W. 11th St., MN | Calendared | 9/26/2006 |
| Morse Building | 14 Nassau St., MN | Designated | 9/19/2006 |



owners would know if a building was “sacrosanct.”

At the hearing’s commencement, Landmarks Chair Robert Tierney stated that the owner and Landmarks had reached a “standstill agreement,” where the owner would not seek to obtain any further permits, and Landmarks would delay its vote on the designation. If Landmarks designated the horse mart, Buildings would have to deny the demolition application. The hearing was closed without any comments by commissioners.

LPC: Van Kearney and Van Tassel Horse Auction Mart, 126 East 13th Street (LP-2205) (Sept. 7, 2006).

LANDMARKS PRESERVATION COMMISSION

Hearing
Crown Heights, Brooklyn

Hearing held on proposed Crown Heights district

Neighborhood had originally been surveyed for designation in the 1970s. At its September 19th meeting, Landmarks held a hearing on the proposed Crown Heights North Historic District. The district, on land that was once part of the Leferts family’s large holdings, had originally been surveyed in the 1970s along with the Fort Greene

and Park Slope historic districts. An upper-class suburb in the 1870s, several free-standing Victorian homes still remain in the neighborhood. Following the opening of the Brooklyn Bridge, developers built residential Neo-Grecian row houses to accommodate the expanding community. Near the turn of the century, Queen Anne and Neo-Romanesque styles began to predominate, which then gave way to the Renaissance Revival style. In the 1920s, Crown Heights became a haven for immigrant communities, and apartment buildings in the Tudor, Art-Deco, and Mediterranean styles were added. The district incorporates the individually-landmarked Imperial Apartments. The proposal was calendared in June 2006. 3 *CityLand* 93 (July 15, 2006).

Brooklyn Borough President Marty Markowitz, who grew up in Crown Heights, spoke at the hearing in favor of designation. He noted that it was the first hearing on a proposed Brooklyn Historic district since Vinegar Hill, designated in 1997, and that he hoped to attend more hearings on Brooklyn designations. City Council Members Letitia James and Albert Vann also urged designation, with James promising to preserve affordable housing within the district.

The few community residents opposing designation were proper-

ty owners who were worried about restrictions and bureaucratic hurdles they would face when altering their property. One, Kevin Anthony Williams, stated that his vision for his home “didn’t fit within the Commission’s parameters.” A representative from Bedford Central Presbyterian Church testified that the church was considering renovation, and wanted to know how landmarking would affect its plans.

Representatives from several preservationist groups also spoke in favor, including the Historic Districts Council, the Municipal Art Society, and the New York Landmarks Conservancy. Christabel Gough, of the Society for the Architecture of the City, added that living in a historic district “is not so bad,” and that Landmarks was usually responsive to residents.

In response to residents that were concerned over what designation would mean for their property, Landmarks Chair Robert Tierney declared that another community meeting would be held and widely publicized. The hearing was closed without any further comments by commissioners.

LPC: Proposed Crown Heights North Historic District (LP-2204) (Sept. 19, 2006).

LANDMARKS PRESERVATION COMMISSION

Designation Calendaring
Flatbush/Midwood, Brooklyn

New Brooklyn historic district to be considered

Landmarks takes first steps towards designation of historic district in Flatbush. On September 19, 2006, Landmarks voted unanimously to hold a public hearing on the proposal to designate 250 single-family homes in Flatbush, Brooklyn as the Midwood Park – Fiske Terrace Historic District.

Fiske Terrace features single-family homes developed from 1905

Landmarks Actions Taken in September 2006

FINAL PERMITS TO BE ISSUED AFTER LANDMARKS RECEIVES CONFORMING PLANS

| ADDRESS | LANDMARK/HISTORIC DISTRICT | DESCRIPTION | CASE | APP'D |
|---------------------------|----------------------------|--|---------------------|------------|
| September 12, 2006 | | | | |
| 22 Barclay St., MN | St. Peter's Church | Add access lift, HVAC louvers | 07-0102 | W/Mod |
| 284 Fifth Ave., MN | The Wilbraham | Reclad penthouse, inst. fence | 06-8829 | W/Mod |
| Central Park | Lasker Pool & Rink | Const. stair, install gates | 06-6530 | W/Mod |
| 105 Franklin St., MN | Tribeca East HD | Const. rooftop addition | 06-8907 | Yes |
| 72 Greene St., MN | SoHo-Cast Iron HD | Const. roof add., inst. infill; Report to CPC (mod. of use) | 06-8464 06-8465 | Yes Yes |
| 4-8 Astor Pl., MN | NoHo HD | Install windows | 06-7807 | Yes |
| 34 W. 10th St., MN | Greenwich Village HD | Inst. windows, alt. areaway | 07-1194 | Yes |
| 2 Charles St., MN | Greenwich Village HD | Install infill | 06-2990 | Yes |
| 57 Jane St., MN | Greenwich Village HD | Leg. awning, lights, doorway | 07-0039 | W/D |
| 701 Park Ave., MN | Upper East Side HD | Construct addition | 06-8328 | Yes |
| 11 E. 74th St., MN | Upper East Side HD | Mod. door opening, inst. window | 07-0016 | Yes |
| 54 W. 74th St., MN | Upper West Side/CPW HD | Install storefronts | 06-4276 | W/D |
| 45 E. 78th St., MN | Upper East Side HD | Modify window opening; Report to CPC (mod. of use) | 07-0273 06-8185 | Yes Yes |
| 167 W. 80th St., MN | Upper West Side/CPW HD | Replace illegal windows | 06-0648 | Yes |
| 735 E. 166th St., BX | Morris High School HD | Replace illegal infill | 06-3830 | Yes |
| 402 Pacific St., BK | Boerum Hill HD | Reconst. facades., const. adds. | 07-0078 | Yes |
| 24 Remsen St., BK | Brooklyn Heights HD | Demo add., mod. roof add. | 06-9028 | Yes |
| 365 Waverly Ave., BK | Clinton Hill HD | Legalize gate and door | 07-0349 | In Part |
| 181 Pacific St., BK | Cobble Hill HD | Demo garage, const. bldg.; Report to CPC (mod. of use) | 07-0034; 07-0036 | Yes Yes |
| 233 Garfield Pl., BK | Park Slope HD | Legalize windows | 02-6641 | No |
| September 19, 2006 | | | | |
| 117 Hudson St., MN | Tribeca West HD | Const. rooftop addition | 06-4334 | Yes |
| 405 Broadway, MN | Tribeca East HD | Const. roof add., storefront | 06-8932 | Yes |
| 56 Walker St., MN | Tribeca East HD | Const. roof add., inst. infill | 06-6858 | Yes |
| 52 Wooster St., MN | SoHo-Cast Iron HD | Const. 6-story bldg. | 06-4185 | Yes |
| 37 Barrow St., MN | Greenwich Village HD | Alter facade | 06-8806 | Yes |
| 50 W. 10th St., MN | Greenwich Village HD | Alt. facade, const. roof add. | 06-6891 | Yes |
| 9 1/2 Jane St., MN | Greenwich Village HD | Alt. facade, replace gate | 07-0510 | Yes |
| 414 W. 14th St., MN | Gansevoort Market HD | Const. roof add., storefront | 06-7557 | Yes |
| 200 Fifth Ave., MN | Ladies' Mile HD | Const. rooftop addition | 06-2909 | Yes |
| 39 E. 63rd St., MN | Upper East Side HD | Const. roof add., redo facades | 06-6357 | Yes |
| 38 W. 83rd St., MN | Upper West Side/CPW HD | Const. rear yard | 06-6353 | Yes |
| 459 W. 140th St., MN | Hamilton Heights HD | Const. roof, rear adds. | 06-4935 | Yes |
| 268 Cumberland, BK | Fort Greene HD | Construct 5-story bldg. | 06-7489 | Yes |
| 205 Beverly Rd., QN | Douglaston HD | Const. house, garage | 06-4760 | Yes |
| September 26, 2006 | | | | |
| 300 Cent. Pk. W., MN | Eldorado Apartments | Construct addition | 06-4192 | Yes |
| 177 Montague St., BK | Brooklyn Trust Co. Bank | Install illuminated sign | 06-8649 | W/D |
| 450 Fulton St., BK | Namm & Son Dep't Store | Replace illegal storefront | 07-1703 | Yes |
| 53 Warren St., MN | Tribeca South HD Ext. | Install infill | 07-1704 | Yes |
| 110 Hudson St., MN | Tribeca West HD | Const. roof add., repl. windows | 07-0422 | Yes |
| 451 Broadway, MN | SoHo-Cast Iron HD | Legalize flagpole | 07-0511 | W/D |
| 71 7th Ave. S., MN | Greenwich Village HD | Legalize storefront, inst. awn. | 06-7939 | Yes |
| 20 E. 63rd St., MN | Upper East Side HD | Inst. infill, alter facade | 06-8909 | Yes |
| 828 Fifth Ave., MN | Upper East Side HD | Replace windows | 07-1080 | Yes |
| 73 W. 68th St., MN | Upper West Side/CPW HD | Const. rear yard add. | 06-8483 | Yes |
| 175 W. 73rd St., MN | Upper West Side/CPW HD | Establish master plans for windows, storefronts | 06-5799; 06-5801 | Yes Yes |
| 1145 Park Ave., MN | Carnegie Hill HD | Const. rooftop addition | 06-8961 | Yes |
| 57 Orange St., BK | Brooklyn Heights HD | Inst. gate, access ramp | 07-0395 | Yes |

to 1920 by Theodore B. Ackerson on a 30-acre, densely wooded estate purchased from George Fiske. In 1905, Ackerson cleared the land, set out streets, installed sewers and water lines, and developed over 150 single-family homes within 18 months. Ackerson built uniform three-story homes in series of ten, using stock plans, but allowed each owner to vary the exterior details.

John Corbin similarly developed the Midwood Park community, allowing home owners to choose from 30 distinct models that used the same materials and construction methods. Corbin cut all the needed beams, frames and trims at his East 56th Street factory on Jamaica Bay and shipped the materials to the construction site. Landmarks research staff noted that Corbin's factory had the capacity to turn out 1,000 pre-fabricated homes a year.

Landmarks did not set a public hearing date.

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LPC: Proposed Midwood Park – Fiske Terrace Historic District (LP-2208) (Sept. 19, 2006).

LANDMARKS PRESERVATION COMMISSION

Designation

Manhattan/Staten Island

Landmarks approves two individual landmarks

The Morse Building, lower Manhattan; the Staten Island Savings Bank, S.I. Landmarks unanimously designated the two new individual landmarks on September 19, 2006. The crimson red and black brick terracotta Morse Building, located at Nassau and Beekman Streets in lower Manhattan, was the city's tallest building when constructed in 1880. Built by two nephews of Samuel Morse, the inventor of the electric telegraph, the building originally contained office space but was converted in 1980 to apartments.



Staten Island Savings Bank designated by Landmarks. Photo: Landmarks Preservation Commission.

In Staten Island, Landmarks designated the 1925-built Staten Island Savings Bank located on an angular lot at Water and Beach Streets in Stapleton. Designed by Delano & Aldrich, the building features a cast lead dome and a colonnaded portico angled dramatically to take advantage of the lot's unique shape. Dolphin sconces, scalloped shells and knotted ropes mark the facade.

LPC: Morse Building, 14 Nassau Street (LP-2191) (Sept. 19, 2006); Staten Island Savings Bank, 81 Water Street (LP-2201) (Sept. 19, 2006).

DEPARTMENT OF BUILDINGS

Proposed Rule Amendment
Citywide

DOB proposes to amend self-certification rules

Proposal would add grounds to suspend architects and engineers from program. Buildings proposed a series of amendments to its rules that would expand the grounds for suspending and permanently excluding an architect or engineer from the professional certification program and increase scrutiny of applications and plans submitted by those architects and engineers.

New grounds for suspension and exclusion would include knowing and failing to report that a project on which they worked in any capacity had a fraudulent or dishonest application filed with Buildings. Other grounds include permit-

ting improper use of license numbers or professional stamps, failing to cooperate with Buildings investigations, misusing DOB-issued photo identification cards, altering or removing Buildings property, or attempting to bribe a public employee.

Additional provisions would allow Buildings to suspend an architect or engineer for performing work in connection with their profession that fails to comply with federal, state or local laws, and for misrepresenting the status of their Buildings applications to anyone not affiliated with Buildings.

Buildings also proposed amendments making it possible to exclude an architect or engineer for negligence or incompetence with respect to DOB rules, the zoning resolution or the building code, or for allowing their staff to falsify certificates or forms.

Under the proposal, the Commissioner of Buildings would have the power to immediately suspend an architect or engineer to prevent a serious public safety threat. Individuals whose privileges have been suspended would have 15 days to request a hearing or the Commissioner's order would be final.

Buildings scheduled its public hearing on the proposed amendments for October 6, 2006.

City Record, Sept. 6, 2006, at 2938.

ECONOMIC DEVELOPMENT CORPORATION

Request for Proposals
Kingsbridge, Bronx

Kingsbridge Armory proposed for reuse

EDC seeks proposals to convert historic Bronx armory to a mixed-use facility. On September 26, 2006, the City's Economic Development Corporation released a request for proposals for the sale and redevelopment of the Kingsbridge Armory located on the southwest corner of



The Kingsbridge Armory, located on 195th Street and Jerome Avenue in the Bronx, towers over the surrounding buildings. Photo: Morgan Kunz.

195th Street and Jerome Avenue in the Bronx. Reportedly the largest Armory in the world, the main floor is larger than a full city block, and is comprised entirely of an immense 300-foot by 600-foot open room with 110 foot ceilings. The building's two basements add an additional 312,000 sq.ft. of space, giving the entire facility an impressive 575,000 sq.ft. The Armory, designated a City landmark in 1994, features two towering battlement towers, Romanesque arches, and intricate brick and terra cotta detailing.

A task force comprised of City, state, and federal officials as well as community stakeholders will facilitate the selection process. The task force is seeking proposals for a mixed-use development that will complement existing uses in the area, provide quality jobs for area residents, and promote economic growth without directly competing with existing businesses. Proposals must consider the nearby "education mile" where well over 20,000 elementary, middle, high school, and college students attend classes each day. The taskforce has encouraged bids to include commercial, entertainment, recreation, and community uses. Residential and educational uses are not permitted. The project should also restore the Armory's historic facade and incorporate principles of sustainable design.

The EDC will hold an open site visit on October 19, 2006 and devel-

opers must submit responses by December 14, 2006.

New York City Economic Development Corporation Request for Proposals, Kingsbridge Armory, Bronx (Sept. 26, 2006).

COURT DECISIONS

Board of Standards & Appeals
Springfield, Queens

Court upholds BSA's denial of variance

BSA legalized existing Queens homeless housing facility, but denied request to expand facility. In the 1980s, Homes for the Homeless, Inc. converted an abandoned hotel on Rockaway Boulevard near Kennedy Airport into a 259-bed homeless housing facility; a use which conflicted with the lot's manufacturing zoning. Over 15 years later, Homes applied to BSA for variances to expand the facility for 91 additional homeless families and legalize the use. The expansion faced significant opposition.

BSA denied the expansion, but approved the use. Homes then challenged BSA's denial of its expansion plans, arguing that it was arbitrary to conclude that Homes' site and plans justified a use variance and not the expansion. The lower court agreed, ordering BSA to grant the variance. On appeal, the First Department sent the application back to BSA for reconsideration, noting that BSA failed to consistently explain how it differentiated between the two decisions. 3 *City-Land* 15 (Feb. 2006).

The Court of Appeals reversed and dismissed Homes' article 78 challenge, finding BSA's decision rational and supported by substantial evidence.

Homes for the Homeless v. BSA, 2006 NY Slip Op 6376, Sept. 12, 2006 (Howard B. Hornstein, for Homes; Michael A. Carodozo, Drake A. Colley, for BSA).

BSA: 175-15 Rockaway Boulevard (219-03-BZ) (Feb. 3, 2004); BSA: 175-21 149th

Avenue (220-03-BZ) (Feb. 3, 2004).
CITYADMIN

COURT DECISIONS

Department of Buildings
East Village, Manhattan

NYU East 12th Street dorm construction can proceed

Court denied request to stop construction while residents file BSA appeal. East Village residents sought an injunction to stop construction of a 26-story dormitory for New York University on an East 12th Street site occupied by the vacant and partially demolished St. Ann's Catholic Church.

Hudson 12th Development LLC purchased 120 East 12th Street, located mid-block between Third and Fourth Avenues, from the Catholic Church in 2005. It proceeded, under an agreement with the United States Postal Service, to merge the lot with a lot at 93 Fourth Avenue, occupied by the two-story Cooper Station Post Office. This would allow Hudson to count both lots into the calculation of the permitted size of the NYU dorm development on the St. Ann's site. No new development would occur at the post office site. Hudson then received permits from Buildings to demolish most of St. Ann's Church and construct a 26-story dormitory for NYU that would use the St. Ann's spire at its entrance gate. Work began in July 2006.

East Village residents and community groups filed an injunction request, seeking an immediate halt to all work while they appealed the permit to BSA. The residents claimed that if construction continued during the BSA appeal, Hudson would complete a substantial amount of construction, incurring huge costs, making a court reticent to grant a judgment requiring Hudson to dismantle the work.

The residents' complaint alleged that the lot merger with the

Cooper Station post office was illegal since the U.S. Postal Service, as a federal agency, was exempt from local zoning laws. Even though Hudson used all but 70 sq.ft. of Cooper Station's unused development rights, the residents argued that the merger would not restrain the Postal Service from demolishing the post office and developing a second high-rise building. Residents claimed that the 26-story "mega-dorm" would be 100 feet taller than neighboring East Village buildings, dominating the area, compromising the area's historic districts and negatively impacting several apartments' light and air.

Justice Edward H. Lehner denied the request, ruling that the court lacked the power to grant an injunction when there was a pending BSA proceeding. Lehner ruled that the residents must first receive a decision from BSA. The court noted that it seemed unlikely that the residents' claim would be successful since the residents admitted that if the post office lot was owned by a private party, the residents would have no claim at all.

St. Ann's Comm. v. Hudson 12th Develop., N.Y.L.J., Sept. 26, 2002, at 22 (N.Y.Cty.Sup.Ct.) (Lehner, J.).

CITYLAND Comment: The residents filed an appeal with BSA on September 12, 2006. See BSA Pipeline on page 138.

COURT DECISIONS

Planning Commission
Upper East Side, Manhattan

Challenge to East 91st transfer station rebuffed

Community claimed the FEIS flawed, the project was a nuisance and a Bronx facility would be more economical. In June 2005, Sanitation obtained final City approval for construction of a marine transfer station on the site of an inactive waste transfer station at East 91st Street and the East River. The

approval was part of a citywide proposal to make each borough responsible for the export of its own waste. Sanitation's proposal to reactivate the site, which it closed in 1999, faced severe opposition and the City Council voted it down, forcing Mayor Bloomberg to veto the denial. 2 *CityLand* 86 (July 15, 2005); 2 *CityLand* 52 (May 15, 2006).

Local residents, business owners and ACORN, a national commu-

nity organization, challenged the City's approval, alleging that the City illegally segmented the environmental review by not studying impacts on final freight destinations, failed to consider the transfer station's impacts when operating at maximum capacity within the FEIS, and clashed with the City's own policies to create a residential district around East 91st Street. The residents also alleged that the

marine transfer station's noise, odor and air pollution impacts would create a public and private nuisance. The residents argued that, if the City relaxed its policy of making each borough self-reliant, it would be more economical to use an existing truck-to-rail waste transfer station operated by a private company in the Bronx.

Justice Michael Stallman denied the residents' claims and

CITYLAND PROFILES

Earth Pledge Executive Director Leslie Hoffman talks about making the city a green place, one roof at a time

Manhattan's first green roof, installed in 1998, sits on top of the 1902 Georgian townhouse at 122 East 38th Street in Murray Hill, the home of Earth Pledge, a New York based nonprofit that promotes green building technologies. Founded by Theodore Kheel to support the 1992 United Nations Earth Summit in Rio, Earth Pledge now sponsors the Greening Gotham program, an initiative to get New York City developers, building owners, and government officials behind green roof installation. Leslie Hoffman, Earth Pledge's Executive Director, spoke with *CityLand* about the city's standing, its policy and turning affordable housing green.

Why Green. Hoffman began as a minimum wage carpenter in Maine, became a general contractor and moved on to design green building projects. She holds a degree in Architecture and Design from Colorado College, has co-authored green technology books and even runs an organic coffee farm. Hoffman explained that green roofs are fundamentally lightweight, engineered systems of insulation, drainage, soil, and vegetation constructed on top of a traditional roof. It's an "an elegant solution to common urban problems," Hoffman declared, listing green roofs' ability to boost insulation, cool buildings, reduce energy use by 10 to 30 percent, lower area air temperature, absorb 80 percent of storm water lessening runoff, and protect the roof from weather cycles and UV rays. Installation adds about \$10 per square foot, but Hoff-

man points out that a green roof can last for 50 years where traditional roofs need replacement after only 15. The Greening Gotham program envisions a network of green roofs stretching across the city's skyline, which advocates and researchers believe could diminish the "urban heat island effect," a term used to describe the fact that the city is 3 to 6 degrees hotter on summer days than its surrounding suburbs.

A Greener New York. "New York, like many cities, is starting to realize that it has a serious roll to play in supporting green building projects throughout the city" Hoffman says. In fact, in 2005 the City passed the Green City Building Act, which requires that nonresidential projects costing more than \$2 million meet U.S. Green Building Council's silver LEED standards. In the area of green roofs, however, Hoffman admits that the city has only a handful, lagging behind other urban centers, like Chicago, which boasts over a million square feet. When her organization initially started pushing the idea, Hoffman says there was quite a bit of excitement that narrowed into skepticism as some City officials questioned the actual impact green roofs could have on the city due to New York's towering skyscrapers. To prove their effectiveness, Earth Pledge moved forward on a number of research projects to prove that green roofs can be useful locally.

Collecting Data. Earth Pledge maintains two data collecting stations on existing green roofs, one on the Silvercup Stu-

dios and another on Gratz Industries, the metal fabrication company owned by the family of Landmarks Commissioner Roberta Brandes Gratz, both in Long Island City, Queens. The stations collect data on how green roofs on different buildings types can cool the building, the roof and the air.

Under a contract from the City's Water Board, Earth Pledge built a modeling tool called the Green Roof Stormwater Model to assess how well a green roof on a specific building will retain storm water. New York, like many cities, uses a combined sewage overflow system that transports sewage together with rainwater. Earth Pledge says that half the time it rains, sewage overflow is released into the City's waterways. The Stormwater Model investigates the impact green roofs' stormwater retention properties can have on this problem. Originally developed for lower Manhattan, the model was expanded to cover other areas. Results are not publicly available, but Hoffman works with a wide range of private and public developers to test proposed green roofs and provide data on how well they will retain storm water.

Helping Others. Under Hoffman, Earth Pledge also started the Viridian Project, which provides technical support for affordable housing developers and nonprofits on how to start green roofs. Since its inception, the project has helped build seven green roofs, including two in the South Bronx, one in Harlem, and one in Bedford Stuyvesant, Brooklyn.

granted the City's motion to dismiss. Stallman found the environmental review sufficient, ruling that study of the final freight facilities was not required and noting that Sanitation would have to operate 24 hours a day, without breaks, at emergency staffing levels, to keep the facility operating at maximum

capacity. And since the waste facility operated until 1999 surrounded by residences and open space, the court found the residents' policy arguments unconvincing. The court also denied the nuisance claims, ruling that a claim for a future nuisance was, in reality, a challenge to the findings of the project's environ-

mental review. The court commented that it would not disregard the importance of the equity component in the City's plan.

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Association for Community Reform Now v. Bloomberg, 2006 NY Slip Op 51750(U), Sept. 19, 2006 (N.Y.Cty.Sup.Ct.) (Stallman, J.).

*New Decisions Added to CITYADMIN www.citylaw.org – September 2006**

| CITY COUNCIL | | | | |
|------------------------------|---|--|---------------------------|--------------------|
| RES. NOS. | PROJECT | DESCRIPTION | DATE | |
| 506 | Supp. Housing; E. 221st St., BX | Real property tax exemption | 9/13/2006 | |
| 507 | Atlantic Avenue Residences, BK | Real property tax exemption | 9/13/2006 | |
| † 508-509 | Martin Beck Theater Dev. Rights, MN | Zoning text amendment; Special permit (101-space garage) | 9/13/2006 | |
| 510 | Rudy's Bar & Grill, MN | Revocable consent (sidewalk cafe) | 9/13/2006 | |
| 511 | 324 Bowery, MN | Revocable consent (sidewalk cafe) | 9/13/2006 | |
| † 512 | Astoria Park Pool & Play, QN | Landmark designation | 9/13/2006 | |
| † 513 | Fire Co. 258, H&L 115, QN | Landmark designation | 9/13/2006 | |
| † 514 | Public School 64, MN | Landmark designation | 9/13/2006 | |
| † 515 | Orchard Beach Bathhouse, QN | Landmark designation | 9/13/2006 | |
| † 516 | Coignet Stone Co. Bldg., BK | Landmark designation | 9/13/2006 | |
| † 525-527 | Tribeca North Rezoning, MN | Zoning text amendment; special permit (180-space garage) | 9/13/2006 | |
| 535 | Vernon Ave. Condominiums, BK | Real property tax exemption | 9/27/2006 | |
| 536 | Vernon Ave., BK | UDAAP by HPD (2, 4-story bldgs.) | 9/27/2006 | |
| 537 | Mott Haven Sites 5 & 6, BX | UDAAP by HPD | 9/27/2006 | |
| 538 | Cable Franchises, Citywide | Authorizing franchises for cable services | 9/27/2006 | |
| 539 | Himrod Street Apartments, BK | UDAAP by HPD (6 stories, 34 units) | 9/27/2006 | |
| 540 | 551 DeKalb Ave., BK | UDAAP by HPD | 9/27/2006 | |
| 541 | 609 Osborn St., BK | UDAAP by HPD | 9/27/2006 | |
| 542 | 798 165th St., BX | UDAAP by HPD | 9/27/2006 | |
| 543 | 1235 E. 87th St., BK | UDAAP by HPD | 9/27/2006 | |
| 544 | School Construction, BK | 630-seat public/intermediate school | 9/27/2006 | |
| CITY PLANNING COMMISSION | | | | |
| PROJECT NAME | DESCRIPTION | LOCATION | ULURP # | DATE |
| † AT&T Building | Report to Council on designation | MN 1 | N070044HKM | 9/13/2006 |
| † AT&T Building Interior | Report to Council on designation | MN 1 | N070045HKM | 9/13/2006 |
| Ellington on the Park | UDAAP by HPD (approx. 134 units) | MN 10 | C060474HAM | 9/13/2006 |
| Riverview | Text amendment (202-unit development); Landfill application | QN 7 | N060426ZRQ; C020332MLQ | 9/13/2006 |
| BOARD OF STANDARDS & APPEALS | | | | |
| ADDRESS | DESCRIPTION | ACTION | CASE NO. | REPRESENTATIVE |
| 180 Lafayette St., MN | Proposed phys. cult. est. (spa) | App'd | 37-06-BZ | Leo Weinberger |
| 482 Greenwich St., MN | Construct 11-story mixed-use bldg. | App'd | 124-05-BZ | Greenberg Traurig |
| 495 Broadway, MN | Special permit for phys. cult. est. (gym) | App'd | 336-05-BZ | Stuart A. Klein |
| 745 Madison Ave., MN | Extension of term (15-space garage) | App'd | 308-64-BZ | Sheldon Lobel PC. |
| 151 E. 86th St., MN | Extension (N.Y. Sports Club); Amend grant to legalize expansion | App'd App'd | 129-93-BZ; 130-93-BZ | Fredrick A. Becker |
| 2100 Bartow Ave., BX | Reopen ext. of term (gym) | App'd | 68-94-BZ | Cozen O'Connor |
| 3355 E. Tremont Ave., BX | Site modification (add store to gas station) | App'd | 405-71-BZ | Sheldon Lobel PC. |
| 614 7th Ave., BK | Reopen permit, ext. time (5-story apts.) | Denied | 353-05-BZ | Cozen O'Connor |
| 2251 E. 12th St., BK | Enlarge 1-family dwelling | App'd | 10-06-BZ | Harold Weinberg |
| 2211 Avenue T, BK | Enlarge 1-family dwelling into 2-family | App'd | 204-05-BZ | Harold Weinberg |
| 83 Bushwick Pl., BK | Construct 4-story res. bldg. | App'd | 381-04-BZ | Sheldon Lobel PC. |
| 1-66 Beach 4th St., QN | Vested right to continue development | App'd | 356-05-A; 357-05-A | Fredrick A. Becker |
| 37-19 Regatta Pl., QN | Revoke permits (1-family dwelling) | Denied | 12-06-A | Stuart A. Klein |

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

New Decisions Added to **CITYADMIN** *www.citylaw.org – September 2006**

| BOARD OF STANDARDS & APPEALS | | | | |
|------------------------------|--|--------|-----------------------|-------------------|
| ADDRESS | DESCRIPTION | ACTION | CASE NO. | REPRESENTATIVE |
| 41-23 156th St., QN | Const. 3-story, 3-fam. dwelling | App'd | 34-06-A | Victor H. Han |
| 70-10 Austin St., QN | Reopen ext. of term (Lucille Roberts) | App'd | 203-92-BZ | Sullivan Chester |
| 129-32 Hook Creek, QN | Amend waiver allowing construction of 1-family dwelling in mapped street | App'd | 212-03-A; 213-03-A | Eric Palatnik PC. |
| 37 Newport Walk, QN | Reconst., enlarge 1-family dwelling | App'd | 135-06-A | Joseph Sherry |
| 50-08 88th St., QN | Const. 4-story, 4-family dwelling | App'd | 93-06-A | Sheldon Lobel PC. |
| 44 Victory Blvd., SI | Ext. of term (Taco Bell, KFC) | App'd | 114-94-BZ | Ralph Giordano |
| 191 Edgewater St., SI | Convert manuf. to apartments | App'd | 146-04-BZ | Joseph Margolis |
| 1320 Richmond Terr., SI | Reopen, amend variance (gas station) | App'd | 1077-66-BZ | Carl A. Sulfaro |

| LANDMARKS PRESERVATION COMMISSION | | | | | |
|-----------------------------------|----------------------------|-------------|------|-------|--------|
| ADDRESS | LANDMARK/HISTORIC DISTRICT | DESCRIPTION | CASE | APP'D | ISSUED |

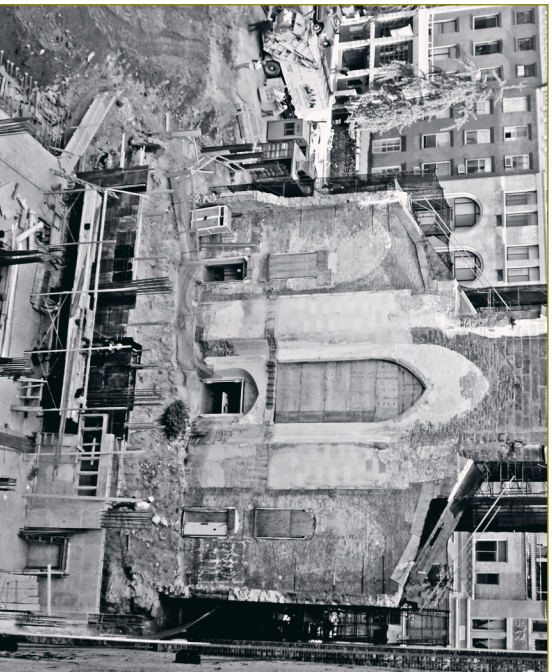
| CERTIFICATE OF APPROPRIATENESS | | | | | |
|--------------------------------|-------------------------|---|---------|---------|-----------|
| 245 Water St., MN | South Street Seaport HD | Alter 5 bays, repair columns, inst. steps | 07-1019 | Yes | 8/4/2006 |
| 53 Warren St., MN | Tribeca South HD Ext. | Legalize storefront removal | 06-6624 | No | 8/31/2006 |
| 141 Duane St., MN | Tribeca South HD | Replace bulkhead, install windows | 07-1828 | Yes | 9/6/2006 |
| 78 Leonard St., MN | Tribeca East HD | Replace infill, paint columns, repair steps | 07-1834 | Yes | 9/6/2006 |
| 90 Franklin St., MN | Tribeca East HD | Install signage | 07-1619 | Yes | 8/29/2006 |
| 50 Howard St., MN | SoHo-Cast Iron HD | Replace infill | 06-8860 | Yes | 8/16/2006 |
| 92 Horatio St., MN | Greenwich Village HD | Establish master plan for windows | 07-1483 | Yes | 8/28/2006 |
| 25 W. 11th St., MN | Greenwich Village HD | Construct 3-story addition | 07-1833 | Yes | 9/6/2006 |
| 471 Sixth Ave., MN | Greenwich Village HD | Reconst. facade, inst. windows | 07-0150 | Yes | 7/11/2006 |
| 221 W. 13th St., MN | Greenwich Village HD | Const. underground rear add. | 07-1491 | Yes | 8/28/2006 |
| 670 Sixth Ave., MN | Ladies' Mile HD | Rest. facade, inst. infill, signs | 07-1383 | Yes | 8/18/2006 |
| 35 W. 21st St., MN | Ladies' Mile HD | Demo. bldg., const. 15-story bldg. | 07-0914 | Yes | 8/17/2006 |
| 52 W. 22nd St., MN | Ladies' Mile HD | Const. rear add., rooftop add., infill | 07-0771 | Yes | 7/28/2006 |
| 14 W. 23rd St., MN | Ladies' Mile HD | Construct rooftop addition | 07-1376 | Yes | 8/18/2006 |
| 39 E. 74th St., MN | Upper East Side HD | Legalize rooftop addition | 06-3372 | No | 7/14/2006 |
| 262 W. 88th St., MN | Upper West Side/CPW HD | Construct rooftop add., greenhouse | 07-0217 | In Part | 7/19/2006 |
| 26 W. 119th St., MN | Mount Morris Park HD | Install 2 balconies, doors | 07-0635 | Yes | 7/31/2006 |
| 18 W. 120th St., MN | Mount Morris Park HD | Remove add., const. 2-story add. | 07-1824 | Yes | 9/6/2006 |
| 15 Mt Morris Pk. W, MN | Mount Morris Park HD | Inst. access lift, reinstall fence | 07-1349 | Yes | 8/23/2006 |
| 473 Hicks St., BK | Cobble Hill HD | Demo. bldg., const. 4-story bldg. | 07-1788 | Yes | 9/15/2006 |
| 4 S. Portland Ave., BK | Fort Greene HD | Const. deck, replace windows | 07-1909 | Yes | 9/8/2006 |
| 470 Washington, BK | Clinton Hill HD | Construct rear yard addition | 07-0366 | Yes | 9/21/2006 |
| 34-88 88th St., QN | Jackson Heights HD | Legalize security gate, shutters | 06-9341 | Yes | 7/17/2006 |

Selected New Building Permit Applications – Published by DOB from Sept. 1 – 30, 2006

| OWNER | SITE | GROSS FLOOR AREA (SQ. FT.) | STORIES/HT. |
|--|----------------------------|----------------------------|-------------|
| Andrew Pattap, BTM Dev. Partners LLC | 651 River Ave., BX | 878,373 | 6/ 91 ft. |
| Fara Tabaei, Bellevue Hospital Center | 450 East 29th St., MN | 338,751 | 15/ 229 ft. |
| Harold Jupiter, Madave Properties LLC | 220 Central Park South, MN | 242,232 | 41/ 507 ft. |
| John P. Kaiteris, Hanac Inc. | 27-40 Hoyt Ave. South, QN | 178,312 | 15/ 136 ft. |
| Robert Masters, Acadia Realty Trust | 8719 Ave. D, BK | 126,449 | 1/ 29 ft. |
| Alfred Friedman, Vista Maro LLC | 181-25 Eastern Rd., QN | 115,000 | 2/ 35 ft. |
| Lue Ann Eldar, Casita Maria Inc. | 928 Simpson St., BX | 94,186 | 6/ 88 ft. |
| Shing Yeung, West 36 Hotel Ventures LLC | 341 West 36th St., MN | 81,000 | 25/ 237 ft. |
| Bharat Mehta, 44 Lexington Assoc. LLC | 517 Lexington Ave., MN | 78,633 | 24/ 218 ft. |
| Harlan Berger, 16th and 8th LLC | 131 8th Ave., MN | 74,946 | 7/ 80 ft. |
| Boris Yadgarov, Curzon Condo. Dev. LLC | 116-11 Curzon Rd., QN | 74,610 | 8/ 85 ft. |
| School Construction Authority | 963 East 107th St., BK | 63,315 | 4/ 63 ft. |
| James Stanton, Casa 74th Dev. LLC | 1431 2nd Ave., MN | 62,725 | 1/ 16 ft. |
| Glauco Lollì-Ghetti, Gaia House LLC | 200 11th Ave., MN | 59,056 | 18/ 277 ft. |
| Behrooz Schavolian, 21st Street LLC | 23-11 21st Ave., QN | 58,640 | 5/ 48 ft. |
| School Construction Authority | 2886 Bedford Ave., BK | 52,145 | 4/ 64 ft. |
| Gene Kiselman | 4102 13th Ave., BK | 49,000 | 7/ 70 ft. |
| Asher Alon, 170 Liberty Corp. | 37-19 Crescent St., QN | 46,868 | 7/ 70 ft. |
| Steve Alister, Safeguard Storage Ebbsits Field | 115 Empire Blvd., BK | 45,725 | 3/ 60 ft. |
| Sam Chang, Brisam Staten Island LLC | 290 Wild Ave., SI | 44,495 | 5/ 48 ft. |

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*The Center for New York City Law
New York Law School
47 Worth Street
New York NY 10013-2960*



Construction work can continue on new 26-story NYU dorm, which will incorporate the front tower of St. Ann's Church. *Photo: Morgan Kunz.*

CENTER FOR NEW YORK CITY LAW UPCOMING EVENTS

CITY LAW BREAKFAST SERIES 2006-2007

Friday, October 20, 2006

HPD Commissioner Shaun Donovan

Speaking on "Meeting the Challenges of Affordability:
Mayor Bloomberg's New Housing Marketplace Plan"

Breakfasts begin at 8:15 a.m. at New York Law School,
47 Worth St., N.Y., N.Y. There is no charge,
but please reserve a seat at www.citylaw.org.

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|----------------|------------------------|--|
| AGENCY NAME | NUMBER OF DECISIONS | YEARS AVAILABLE |
| BSA | 2,120 | 2002-Present |
| Council | 1,175 | 2003-2005 |
| CPC | 610 | 2003-Present |
| DOB | 68 | 1999-Present |
| Landmarks | 1,371 | 2002-Present |
| Loft Board | 1,391 | 1996-Present |

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