

CITYLAND

JULY 15, 2008

CENTER FOR NEW YORK CITY LAW

VOLUME 5, NUMBER 6

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Five neighborhoods impacted by Rockaway rezoning. See story on page 89. *Rockaway Rezoning Locator* used with permission of the New York City Department of City Planning. All rights reserved.

CITY COUNCIL

Special Permit

Midtown, Manhattan

Committee approves controversial 400-space parking garage

Opponents raise congestion, asthma levels, and City policy as reasons to reduce parking garage. Despite calls by Hell's Kitchen residents and Community Board 4 to reduce the requested parking spaces, the Land Use Committee sent the 400-space public parking garage plan of developer Glenwood Management Corp. to the full Council for a vote.

Glenwood applied for a special permit for the garage as part of its construction plan for a mixed-use building with 569 residential units and 10,600 sq.ft. of retail space at 310-328 West 38th Street, a site that currently contains a two-story parking garage and a parking lot with a total of 590 spaces. Of the 400 spaces proposed, the project permitted 232 accessory spaces as-of-right.

The project will take advantage of the Hudson Yards Inclusionary Housing bonus, increasing its floor area with an agreement to make 140 units affordable. Glenwood also sought a related text amendment to allow the design to include recessed entries along West 37th and West 38th Streets.

When it approved the special permit in early June, the City Planning Commission required Glenwood to restrict use of the 232 accessory spaces to monthly users. The full City Council then voted to take review of the permit since its review was not automatic under ULURP.

At the June 17th hearing before the Council's Subcommittee on Zoning & Franchises, opponents requested that the Council limit the number of spaces to the 232 accessory spaces. Community Board 4's representative explained that it could not support any project that encouraged non-residents to come to the site by car. A resident called it "irrational" to approve parking in an area with one of the highest rates of asthma in the city. *(cont'd on page 87)*

Landmarks Preservation Commission considers Silver Towers

There is a peculiar feeling when a building you watched go up has now aged sufficiently to be considered for official designation as a landmark. Silver Towers, the I.M. Pei-designed concrete towers set on the superblock fronting Bleecker Street between La Guardia Place and Mercer Street in Greenwich Village, has done just that, and, as reported in this issue, appears to be on its way to designation. The three graceful towers benefit from the generous dimensions of the superblock on which they sit, giving the towers space and signaling their importance. The formal ranks of trees along Bleecker Street and grassed center green overseen by the oversized Picasso-sculpted head add to the towers' presence. The ensemble holds together as a unit and warrants landmark status.

My brother, then a second year NYU law student, was one of the initial tenants of 100 Bleecker Street, the tower farthest east. In 1967 he and two other NYU law students lived in a two bedroom apartment on the 19th floor. At that time the building partially served as a dormitory for law students. He and his party-giving roommates divided the space without permission to add a third bedroom. That the buildings survived their inaugural tenants speaks well for their sound construction.

Silver Towers moved forward at the Landmarks Preservation Commission in tandem with the Chase Manhattan Bank Building, the severely rectangular building that dominates Lower Manhattan. The Chase building no doubt deserves landmark status as well, but it is less likely to produce the warm feelings that the equally modern Silver Towers, with their sense of protected space, evoke by the green and surrounding towers.

Henry Stern, at a City Law Breakfast, asked Landmarks Chair Robert Tierney this provocative question: what would New York City look like if the Landmarks Law had been passed in 1867 rather than 1967? Very different of course, but the point was that landmarking is not a momentary thing, but a decision for the ages. Silver Towers, with its modern concrete form, merits that status.

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CITYLAND

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The Center expresses appreciation to the individuals and foundations supporting the Center and its work: The Steven and Sheila Aresty Foundation, The Robert Sterling Clark Foundation, Fund for the City of New York, The Durst Foundation, The Horace W. Goldsmith Foundation, The Murray Goodgold Foundation, Jerry Gottesman, The Marc Haas Foundation, The Prospect Hill Foundation, and The Revson Foundation.

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CITYLAND (ISSN 1551-711X) is published 11 times a year by the Center for New York City Law at New York Law School, 57 Worth St., New York City, New York 10013, tel. (212) 431-2115, fax (212) 941-4735, e-mail: nycitylaw@nyls.edu, website: www.city-law.org © Center for New York City Law, 2008. All rights reserved. Printed on recycled paper. Maps presented in **CITYLAND** are from Map-PLUTO copyrighted by the New York City Department of City Planning. City Landmarks and Historic Districts printed with permission of New York City Landmarks Preservation Commission.

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In response, Council Member Helen Sears told opponents that Glenwood's reduction from the current 590 spaces to the 400 proposed was "quite a compromise." She added that every neighborhood has people with asthma and that City Planning had done everything it needed to do in relation to the permit approval.

Council Member Eric Gioia asked for a more detailed explanation from the Planning Commission on its rationale for approval. Subcommittee Chair Tony Avella laid over the vote to June 25th to allow the Department of City Planning to respond.

On June 25th when the matter returned to the subcommittee, it approved without modification, sending the matter to the Land Use Committee, which also approved.

ULURP Process:

Lead Agency: CPC, Neg. Dec.
Comm. Bd.: MN 4, No. 35-1-0
Boro. Pres.: App'd
CPC: App'd, 12-0-0
Land Use Comm.: App'd

Hearing: 310-328 West 38th Street (June 25, 2008) (Gary R. Tarnoff, Kramer Levin, for Glenwood).

CITY COUNCIL

Rezoning/Special Permit

College Point, Queens

Queens project approved when Council failed to act

Full Council rejects resolution but not project. Private developer College Point Holdings I LLC filed four linked applications for its plan to develop 100 units and 100 parking spaces within 26 attached buildings on a two-acre site in the College Point area of Queens. The applications included a rezoning application to alter the site from manufacturing zoning to residential zoning (M1-1 to R4) that allows as-of-right residential development. Also included were two special permits to allow an increase in floor area for the inclusion of open space and community facility space. Also, the developer

CITY PLANNING PIPELINE

New Applications Filed with DCP — June 1 - 30, 2008

APPLICANT	PROJECT/ADDRESS	DESCRIPTION	ULURP NO.	REPRESENTATIVE
ZONING TEXT AND MAP AMENDMENTS				
855 Realty LLC	Woodrow Plaza, SI	Rezone (R3X to R3X/C2-2); text amend. (enlg. shopping ctr.); auths. (tree removal, 317 space garage); cert. (facilitate enlargement)	080482ZMR; 080483ZRR; 080484ZAR; 080485ZAR; 080486ZCR	Eric Palatnik PC
HPD	Via Verdi, 527 Westchester Ave., BX	Rezone (M1-1 to C6-2); text amend. (waive min. distance); spec. perm. (build mixed-use dev.); spec. perm. (GLSD facilitation); Acq. of private parcel for dev.; minor change; UDAAP & disp of prop.	080517ZMX; 080518ZRR; 080519ZSX; 080520ZSX; 080521POX; 080523HCX; 080522HAX	HPD
SPECIAL PERMITS/OTHER ACTIONS				
Crosby St. Hotel LLC	Crosby St. Hotel, MN	Spec. perm. (build 11-story hotel)	080505ZSM	Fried Frank
Tower 111 LLC	106 W. 32nd St. Garage, MN	Spec. perm. (public garage)	080524ZSM	Bryan Cave LLP
Elio Procaccio	481 Jersey St., SI	Const. mixed-use bldg.	080493ZAK	Calvanico Assoc.
DOT	SI Ferry Terminal, SI	Sublease spaces via EDC	080507PPY	DOT
HPD	W. 143rd St. Apts., MN	Acq. space (mixed-use dev.); UDAAP & disp. (6-story bldg.)	080502PQM; 080501HAM	HPD
Lincoln Center	Harmony Atrium, MN	Mod. restr. decl. (visitor ctr.)	861221CZAM	Cooper Sq. Realty
DOT/DPR	City Island Bridge, BX	Discont. park land for bridge	080528MMX	DOT/DPR
HPD	717 E. 9th St., MN	UDAAP & disp. (8-story res.)	080504HAM	HPD
HPD	1501 St. Marks Ave., BK	UDAAP & disp. (7-story res.)	080492HAK	HPD
EDC	BAM South Garage, BK	3-yr. renewal (266-space garage)	080527CMK	EDC

planned to make improvements to Herman A. MacNeil Park by adding a kayak and canoe storage area, a boat launch, seating, and landscaping.

The City Planning Commission approved the project in April 2008. When the proposal reached the Council's Land Use Committee in June, it voted unanimously to approve and sent a proposed resolution approving the project to the full Council for a vote. At the Council, however, twenty-five Council members, including twelve Land Use Committee members who had approved the project one week earlier, voted against the resolution, thereby denying it the full Council's approval. Of those voting "no," only Council Member Inez Dickens explained her vote, stating that she wanted an affordable housing component.

The no-vote killed the resolution but not the project. In order to kill the project, the Land Use Committee would have had to first pass a new resolution disapproving the project and then the Council would

have had to approve the resolution. Theoretically, the Land Use Committee could have sent a new resolution disapproving the project, but the Council's 50-day ULURP deadline was one day away. So in effect, the full Council ran out of time to act. Under the Charter, when the Council fails to act on a ULURP application within the deadline, the Planning Commission's approval stands.

Of the 25 Council members, *CityLand* contacted the twelve members that sit on the Land Use Committee for comment on why they flipped their vote. Of these twelve – Maria del Carmen Arroyo, Charles Barron, Leroy Comrie, Inez Dickens, Simcha Felder, Eric Gioia, Vincent Ignizio, Robert Jackson, Miguel Martinez, James Oddo, Larry B. Seabrook, and Albert Vann – only Barron responded, saying he could not support the resolution because the project lacked an affordable housing component, and speculating that other committee members sought to "punish" Avella for past statements.

ULURP Process:

Lead Agency: CPC, Neg. Dec.
Comm. Bd.: QN 7, App'd, 32-4-1
Boro. Pres.: App'd
CPC: App'd, 12-0-0
Council: Waived Vote

Council: College Point (June 12, 2008).

CITY COUNCIL

Legislation

Citywide

Local Laws increase DOB's reporting requirements

DOB will report all construction injuries and fatalities and provide the state with names of sanctioned architects and engineers. On June 12, 2008, the City Council passed two local laws increasing the Department of Buildings' reporting requirements.

One of the new local laws, Intro 754-A, requires the Buildings Commissioner to post every incident that results in an injury or fatality on a construction site. The posting must identify the owner, general contractor, the number of persons injured, the work being performed, and whether DOB consequently issued any violations. Buildings must also provide a tally of incidents by bor-

ough that occurred during the past five years.

Also passed was Intro 511, which requires Buildings to provide the New York State Department of Education with the names of architects or engineers subjected to disciplinary hearings that result in a sanction or an adverse determination. The Council also added language, requiring Buildings to provide the names of any architect or engineer that it sanctioned since 2003.

Council: Intro 0511-2008A; Intro 0754-2008A (June 12, 2008).

CITY COUNCIL

Designation

East Village, Manhattan

East Village theater landmarked

Council questions owner's grounds for opposition. On June 12, 2008, the City Council approved the landmark designation of Webster Hall, the East 11th Street theater now operating as a rock venue and music club. Landmarks designated the Renaissance Revival-style theater in March of this year. 5 *CityLand* 43 (April, 15, 2008).



Webster Hall designated. Photo: LPC.

The vote followed a hearing before the Council's Subcommittee on Landmarks, Public Siting & Maritime Uses. The current owner, Unity Gallega/Casa Galicia, opposed designation, claiming that it would put the organization at risk of closing. The owner argued that designation would restrict the building to theater use, which greatly reduced its ability to lease the property. It also claimed to be unable to pay the increased costs to maintain the 1886-built building, calling it "run-down." Subcommittee Chair Jessica Lappin responded that designation would have no impact on the interior – placing no restriction on its future use. Council Member Rosie Mendez, who represents the East Village and supported designation, then questioned the owner about the current occupant. The owner explained that it currently leased Webster Hall to the Ballinger Brothers, who operate the rock venue and nightclub, and that the lessee supported designation.

The Subcommittee voted unanimously to designate. The Land Use Committee and the full Council followed, voting to approve.

Council: Webster Hall and Annex (June 12, 2008).

ULURP PIPELINE

New Applications Certified into ULURP

PROJECT	DESCRIPTION	COMM. BD.	ULURP NO.	CERTIFIED
Waldheim Rezoning	Zoning map amend. (44 blocks)	QN 7	080457ZMQ	6/2/2008
Laurelton Rezoning	Zoning map amendment	QN 13	080462ZMQ	6/2/2008
Edgemere URP	Amend Urban Renewal Plan	QN 14	080455HUQ	6/2/2008
Voting Machine Fac.	Acquisition of property	BX 1	080478PCX	6/16/2008
Hopkinson Park Pl.	UDAAP (25-unit bldg.)	BK 16	080447HAK	6/16/2008
Common Ground	UDAAP (7-story bldg.)	BK 16	080492HAK	6/16/2008
Waterpointe	Zoning map amend. (M1-1 to R3-2); City map amendment; auth. to mod. road reqs.; modify height & setback w/in large-scale dev.; special permits (height & setback; yards; distances between buildings; increase in max. FAR); exemption from waterfront public access reqs.	QN 7	080203ZMQ; 080204MMQ; N080205ZAQ; 080206ZAQ; 080207ZSQ; 080208ZSQ; N080210ZCQ	6/16/2008
FDNY Storage Fac.	Site selection (storage)	SI 2	050138PSR	6/16/2008
40 Storer Ave.	Special permit (construct 112-ft. wireless facility)	SI 3	080476ZSR; 080477PSR	6/16/2008
209 Main St., NYCWiN Site	Special permit, certification (const. wireless facility)	SI 3	080450ZSR; N080451ZCR	6/16/2008
4414 Arthur Kill Rd., NYCWiN Site	Special permit, certification (const. wireless facility)	SI 3	080448ZSR; N080449ZCR	6/16/2008

CITY PLANNING COMMISSION

Hearing

Rockaway, Queens

Rockaway rezoning plan heard

Rockaway residents clash over plan for Beach 116th Street. After almost three years in development, the rezoning proposal for the Rockaway peninsula in Queens reached the City Planning Commission for a hearing on June 18, 2008. The plan entails a contextual rezoning of 280 blocks and impacts five neighborhoods: Rockaway Park, Rockaway Beach, Somerville, Edgemere, and Far Rockaway. The bulk of the rezoning, 245 blocks, would replace the existing zoning (R3, R4, R5, R6) with contextual zoning districts, including R3A, R4A, and R5A, which the Department of City Planning believes will go further in protecting these neighborhoods from inconsistent development. Integral to the rezoning is the proposed up-zoning of certain blocks adjacent to public transit, such as Beach 116th Street, which the City hopes will spur needed reinvestment.

Residents clashed over the specific plan for lots along Beach 116th Street, where the plan calls for an up-zoning from an R5 to an R7A district. This increase would allow mixed-use buildings with a maximum building height of 80 feet, up from the existing 40-foot limit.

Supporter Vincent Castellano, a resident and Queens Community Board 14 member, explained that people oppose the idea of the up-zoning until he takes them down to Beach 116th Street. Calling the block a “slum,” Castellano told the Commission that the newest building on the east side of the block was built in 1929 and the area needed revitalization. District Manager Jonathan Gaska reported that Board 14 supported the rezoning by a vote of 35-12-2, and the twelve in opposition remained concerned with the up-

zoning on Beach 116th Street.

After residents completed their testimony, Jordan Most, an attorney for Yeshiva Derech Ayson in Far Rockaway, requested that his client's lots be removed from the rezoning entirely to avoid being down-zoned from an R5 to an R4A zone. Acknowledging that it was “late in the game,” Most claimed that the down-zoning would impinge on the Yeshiva's development plans. When Most added that he had reached out to the Community Board, Chair Amanda Burden asked him when exactly, adding that the Department undertook three years of community outreach as part of the plan. Most responded that the letter to the Board was still “in the works” since his client had just learned of the rezoning. Burden explained that it was difficult for the Commission to make such a late modification especially in light of the fact that the Yeshiva failed to submit any plans for its consideration. Burden recommended that the Yeshiva schedule a meeting with the Department.

The Commission has until August 12 to vote on the proposal.

.....
CPC: Rockaway Queens Rezoning (C080371ZMQ – rezoning, N080372ZRQ – text amend., N080373ZRQ – text amend.) (June 18, 2008).

CITY PLANNING COMMISSION

Rezoning

West Village, Manhattan

Planning Comm. reduced Hudson Square plan

Further study needed before as-of-right residential conversions in West Village. The Planning Commission voted on June 4, 2008 to significantly reduce the area subject to the private rezoning application of KMG Greenwich LLC for Hudson Square in Manhattan. The vote followed a contentious public hearing before the Commission, where residents and elected officials called the rezoning piecemeal, and warned that

it would result in a loss of needed businesses and jobs. 5 *CityLand* 56 (May 15, 2008).

The Commission removed three full blocks and five lots from the already small five-and-one-half block rezoning proposal. Unchanged by the modification was the rezoning of the lots owned by KMG. The rezoning will facilitate KMG's plan to convert the vacant building at 627 Greenwich Street to 41 units of housing and to build a 20-unit residential building at 623 Greenwich Street, replacing an at-grade parking lot.

In its approval, the Commission agreed with KMG that the northern portion of Hudson Square had undergone a transformation from light industrial to residential use aided in part by BSA variances. The Commission expressed concern, however, over the fact that the rezoning would allow as-of-right conversion of six office buildings not owned by KMG. The Commission then stated that changes to the supply of Class B and C office buildings since 2003 required the City to undertake further study before it could approve a rezoning that allowed the as-of-right conversion of these buildings.

With the modification, the area now subject to the rezoning fronts Greenwich Street and is roughly bounded by Morton Street on the north, Washington Street on the west, Hudson Street to the east and Leroy Street on the west. If approved by the Council, an M1-5/R7X zoning would replace the existing M1-5 zoning.

The Council's Subcommittee on Zoning and Franchises heard the Hudson Square proposal, but laid over the vote.

ULURP Process:

Lead Agency: CPC, Neg. Dec.
Comm. Bd.: MN 2, No, 28-1-2
Boro. Pres.: No
CPC: App'd, 12-0-0
Council: Pending

.....
CPC: Hudson Square North Rezoning (C 070575 ZMM – map amendment) (June 4, 2008).

CITY PLANNING COMMISSION

Text Amendment

Carroll Gardens, Brooklyn

Planning moves to protect Brooklyn neighborhood

At least 30 speakers testified on proposal backed by residents and local elected officials. On June 4, 2008, the City Planning Commission held a public hearing on the Department of City Planning's proposal to define an area of Brooklyn's Carroll Gardens as having "narrow streets" under the zoning law. The proposal would result in a lowering of the permitted building heights and densities, making as-of-right development consistent with neighborhood character. Currently zoned R6, with portions covered by a commercial overlay, the area consists mostly of three and four-story brownstones built in the mid-19th century. Two of the affected blocks lie within the Carroll Gardens Historic District.

Carroll Gardens, according to City Planning, has seen rising property values and out-of-context development due to permissive zoning. In response to community concerns, the proposal would apply to First through Fourth Places, between Henry and Smith Streets, as well as Second, Carroll, and President Streets between Smith and Hoyt Streets.

The affected streets have deep front garden courtyards, which the City Map includes in the measurement of the street widths. These streets are shown as 100 to 130 feet wide on the City Map, rendering them wide streets under the zoning law, which allows more permissive height, setback, and FAR provisions for streets over 75 feet in width. However, because of the courtyards, these streets function as narrow streets. According to City Planning, the total width of sidewalks and roadways on the streets is 50 feet.

The proposal seeks to change the height, setback, density, and FAR regulations so that they conform to

the narrow street requirements. Specifically, the proposal would reduce the residential FAR from 3.0 to 2.2 and lower the maximum building height from 70 feet to 55 feet for developments pursuant to the Quality Housing program. For buildings developed under R6 height factor regulations, the proposal would increase the initial setback depth and result in a shallower sky exposure plane.

At the Commission public hearing, at least 30 people testified, with a substantial majority of speakers in support of the proposal. Among the homeowners in favor, Lucy DeCarlo, of the Coalition to Respectfully Develop, claimed she had 700 signed petitions in support of the proposal.

A representative for Brooklyn Borough President Marty Markowitz testified that the proposal would provide an interim solution until the City undertook an anticipated rezoning for the entire neighborhood, by removing some develop-

ment rights while still allowing homeowners to build additions. Representatives for Council Member Bill de Blasio and State Senator Martin Connor, who represent the area, also offered their strong support for the proposal as a critical measure to protect quality of life.

Testifying in opposition, local resident Michael DiMeglio emphasized that the proposal would still allow out-of-context development up to 13 stories, provided a developer reduced a building's footprint. A local developer, warned against approval without first clarifying the status of front yards in Carroll Gardens, noting that "nobody knows who owns them," because the City Map shows the gardens as City property, but private owners maintain them. Salvatore Scotto, of the Carroll Gardens Association, also spoke in opposition, arguing that the proposal was not the right solution for a neighborhood that will soon need more affordable and

BSA PIPELINE

New Applications Filed with BSA — June 1- 27, 2008

APPLICANT	PROJECT/ADDRESS	DESCRIPTION	APP. NO.	REPRESENTATIVE
VARIANCES				
Jeffrey Bennett	46 Laight St., MN	N/A	169-08-BZ	James Chin
DJL Family	68 Spring St., MN	Const. 7-story dwelling	159-08-BZ	Greenberg Traurig LLP
York Prep Realty	40 W. 68th St., MN	Expand school	171-08-BZ	Howard Goldman LLC
Cornell University	411 E. 69th St., MN	N/A	170-08-BZ	Kramer Levin
HJC Holding Corp.	651 Fountain Ave., BK	Expand, legalize bus parking	160-08-BZ	Dominick Salvati
Cong. Kol Torah	2022 Avenue M, BK	Construct synagogue	163-08-BZ	Sheldon Lobel PC
Vincent Mazzone	1201 Avenue Z, BK	Const. 3-story extension	166-08-BZ	Dominick Salvati
SPECIAL PERMITS/OTHER ACTIONS				
Profile Enter.	253 Fifth Ave., MN	Legalize phys. cult. est.	167-08-BZ	Sheldon Lobel PC
Vornado Mgmt.	11 Penn Plaza, MN	Permit phys. cult. est.	165-08-BZ	Wachtel & Masyr
Hilton Resorts	102 W. 57th St., MN	Permit phys. cult. est.	156-08-BZ	Friedman & Gotbaum
105 E. 93rd Corp.	105 E. 93rd St., MN	Rooftop enlargement	162-08-BZ	Fredrick A. Becker
Kay Ashkenazi	1814 E. 27th St., BK	Enlarge 1-family dwelling	158-08-BZ	Fredrick A. Becker
Oleg F. Kaplun	136 Dover St., BK	Enlarge 1-family dwelling	161-08-BZ	Eric Palatnik PC
Arkadiy Kofman	282 Beaumont St., BK	Enlarge 2-family dwelling	155-08-BZ	Eric Palatnik PC
Waterfront Owners	365 Bay St., SI	Permit phys. cult. est.	157-08-BZ	Sheldon Lobel PC
APPEALS				
23 High-Line LLC	515 W. 23rd St., MN	Vacate stop-work order	152-08-A	Quinn McCabe LLP
S. Brighton Dev.	63 Brighton 2nd Pl., BK	Const. in mapped st.	168-08-A	Cozen O'Connor
Breezy Pt. Co-op	26 1/2 State Rd., QN	Const. in mapped st. bed	164-08-A	Gary D. Lenhart
Richard Salomone	150 Forest Rd., SI	Const. 2 dwellings	153-08-A	Philip L. Rampulla
Richard Salomone	156 Forest Rd., SI	Const. 2 dwellings	154-08-A	Philip L. Rampulla

senior citizen housing.

Attorney Margo Flug, of Greenberg Traurig LLP, testified in opposition on behalf of her client, William Stein, who is developing a 70-foot-tall residential building at 360 Smith Street, which the community criticized at the Commission hearing. Claiming that the proposal punished developers, Flug requested a modification to exempt her client's development as it is subject to a transit easement and did not pose a threat to the neighborhood's character.

While Commission Chair Amanda Burden stated that DiMeglio's concern was valid, Commissioner Irwin Cantor expressed skepticism over claims that the proposal would cause developers to build higher than seven stories, noting that the floor area in such instances would be so small as to make the additional height unprofitable. In particular, he noted that the development at 360 Smith Street was unlikely to be taller than its planned seven stories, given the amount of foundation work already completed.

The Commission expects to vote on the proposal on July 2, 2008.

CPC: Hearing on Carroll Gardens Narrow Street/Wide Street Zoning Text Amendment (N 80345 ZRK) (June 4, 2008).

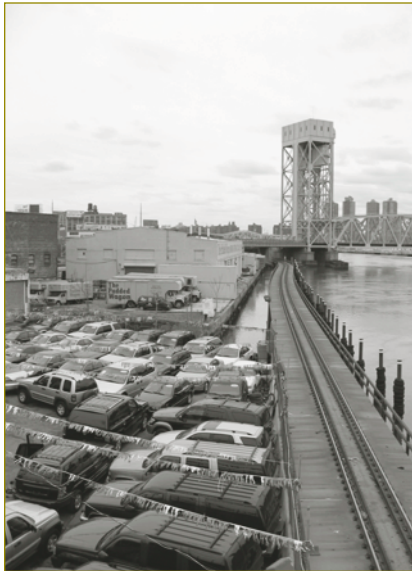
DEPARTMENT OF CITY PLANNING

Environmental Scope

Mott Haven, Bronx

Lower Concourse Rezoning at scoping stage

Thirty-block rezoning in South Bronx would encourage redevelopment of blighted waterfront. On June 19, 2008, the Department of City Planning held a public hearing on the draft scope of an environmental impact statement for the proposed Lower Concourse Rezoning. The proposal covers a 30-block area, generally bounded by the Harlem River on the west, East 149th to the north,



Plan for South Bronx envisions park along Harlem River. Image: NYC Department of City Planning. All rights reserved.

Morris and Lincoln Avenues on the east, and the Major Deegan Expressway and Park Avenue to the south.

City Planning's plan seeks to encourage new residential and commercial development and enhance the waterfront areas in the traditionally industrial section of the South Bronx. During the past two decades the area, which is readily accessible by public transit, has seen significant residential construction after an earlier period of disinvestment and population decline during the 1970s and 1980s. At the same time, industrial uses in the area have decreased, creating underutilized, industrial-zoned land that, according to City Planning, blights the neighborhood.

Under the plan, the City would rezone thirty blocks currently designated for industrial use to mixed-use districts, allowing residential and commercial conversions and new development, as well as the continued light industrial uses. To address a lack of grocery stores and available fresh produce in the area, the proposal would permit grocery stores of any size as-of-right, whereas food stores over 10,000 sq.ft. currently require a special permit.

The proposal would also apply the Inclusionary Housing Program to the area. Depending on the zon-

ing district, developers who provide an appropriate amount of affordable housing may be allowed up to 7.2 FAR. Lastly, the proposal seeks to create a two-acre waterfront park between East 146th and East 144th Streets, and a network of waterfront open space extending up to East 149th Street and down to Park Avenue.

City Planning set the comment period to expire on June 29, 2008.

DCP: Draft Scope of Work, Lower Concourse Rezoning and Related Actions EIS (CEQR No. 08DCP071X) (June 19, 2008).

LANDMARKS PRESERVATION COMMISSION

Certificate of Appropriateness

Greenwich Village, Manhattan

St. Vincent's presents revised proposal

Hospital claims hardship if prohibited from demolishing Seventh Avenue building. On June 3, 2008, Saint Vincent's Hospital and Rudin Development returned to Landmarks with a revised plan for its controversial hospital expansion and residential development proposed for the Greenwich Village Historic District. Landmarks denied the initial plan, which included the demolition of nine buildings within the historic district and construction of two large towers – a 265-foot residential tower and a 329-foot hospital tower – after the proposal faced significant opposition from the community and elected officials. 5 *CityLand* 61 (May 15, 2008).

Within days of the denial, Saint Vincent's filed a hardship application, a step permitted when an applicant believes that the landmark's maintenance will prevent it from realizing a reasonable return. The hardship application claimed that operation of the hospital required the complete demolition of the O'Toole Building, the 1964 former Maritime Union structure located on



St. Vincent's presented this W. 12th St. rendering showing the reduction in project height. Image: Saint Vincent's Catholic Medical Centers.

Seventh Avenue between West 12th and West 13th Streets. It then submitted a revised development plan that would reduce the size of the two proposed towers and proposed to demolish only four buildings rather than nine.

Landmarks set a hearing on the revised design with the hardship application still pending. At the hearing, Saint Vincent's attorney, Shelly Friedman, outlined the case for hardship, stating that a new hospital was necessary for Saint Vincent's to continue operation and the O'Toole site presented the only feasible location. Health care experts testified that State oversight mandated maximum efficiency, and that anything other than a "single building solution" was unlikely to meet approval. A representative from Ballinger Architects testified that the current complex was heavily redundant, with 23 elevators, 19 staircases, and embedded exterior walls rendering only 48 percent of the space usable. Structural engineer Anya Brazil testified that it was infeasible to retain the O'Toole Building's facade, partially because of the shallow foundation and cantilevered facade.

Architects from Pei Cobb Freed presented the smaller hospital design for the O'Toole site, outlining a plan to reduce the height by 30 feet, add an additional story to the hospital's base, and include four hospital floors below-grade. The revised residential development plan, presented by architect Dan Kaplan from FXFowle, called for a 30-foot reduction in the height and a 60-foot

reduction in the width of the new residential tower, which was a point of much contention in the previous proposal. The revised plan included the residential conversion of several of the hospital buildings, rather than their demolition, including the 1924 Nurse's Residence and

the 1941 Spellman Building. In addition, four uniform, modern buildings replaced the original proposal for 19 faux-Federal-style townhouses along West 11th and West 12th Streets.

The presentation included an agreement by Rudin to fund the creation of a 560-seat elementary school in the Village. The new proposal drew a mixed response from the community, elected officials, and preservationists with several objecting to the fact that Landmarks scheduled the hearing on the new plan prior to making a decision on the hardship issue.

Representatives from Council Speaker Christine Quinn's office and Manhattan Borough President Scott Stringer both withheld explicit endorsement, but viewed the revised design as progress for the community. Ken Lustbader of the New York Landmarks Conservancy tentatively approved of the project, noting that O'Toole was not integral to the initial designation and adding that Saint Vincent's made a "compelling case" for a new hospital. The Municipal Art Society's Lisa Kersavage found that the materials and design were generally appropriate, but that the proposal needed further integration. The Historic District Council's Simeon Bankoff took issue with the hardship representation, claiming that since St. Vincent's acquired O'Toole after the district was landmarked, there was no issue of unconstitutional taking, and that the application's approval would set a dangerous precedent.

Area resident Gil Horowitz, who opposed the initial plan, testified that it came close to responding to the community's wishes, with the preservation of significant buildings, the reduction in the residential tower's size, and the construction of a new school.

Landmarks Chair Robert B. Tierney closed the hearing without commissioner comments or a vote.

LPC: 20 Seventh Ave., Manhattan (COFA# 08-8617); 1 Seventh Ave., Manhattan (COFA# 08-4934); 76 Greenwich Ave., Manhattan (COFA# 08-4935) (June 3, 2008).

LANDMARKS PRESERVATION COMMISSION

Certificate of Appropriateness

Williamsburg, Brooklyn

Domino Sugar factory addition approved

Addition to landmark factory applauded by Commissioners. After a contentious hearing in February 2008 over a plan by Community Preservation Corporation to build a five-story glass addition to the Domino Sugar Refinery building, Landmarks asked Community Preservation to amend its proposal. 5 *CityLand* 29 (Mar. 15, 2008). The addition to the Domino factory is only one component of Community Preservation's plan, which also includes five 40-story residential towers, 120,000 sq.ft. of retail space, and publicly accessible open space on the East River.

On June 24, architect Fred Bland, of Beyer Blinder Belle, presented a new plan by Community Preservation, taking into account Landmark's criticisms of the previous proposal. Instead of a five-story addition with prominent bulkheads, the new addition would be split asymmetrically into three and four stories. Bulkheads would be retracted into the addition, minimizing their visibility. Aesthetically, the new addition would be done in a

“robust, industrial style,” as opposed to the previous “sleek” incarnation. Holes in the building’s fabric, once occupied by chutes, would host balconies made of glass and steel that would “preserve the scars of the building.” The revised plan would also retain the iconic 40-foot tall Domino Sugar sign.

Bland emphasized that the plan’s modification made for a sizeable reduction in usable floor area and that it made for the most expensive adaptive reuse he had ever been involved in. When asked by Commissioner Libby Ryan why the addition had not been reduced to two stories as Commissioners had suggested at the prior hearing, Bland responded that the size had been guided by their “dire financial situation.”

Chair Robert B. Tierney read into the record a letter from Council members Jessica Lappin and Diana Reyna urging approval, stating that they were “thrilled that the owners agreed to save the Domino sign.” Landmarks Commissioners received the revised plan enthusiastically, with Commissioner Roberta Brandes-Gratz stating that she was “staggered at how fabulously this has turned out” and compared it favorably to London’s Tate Modern. Chair Tierney called it a “brilliant adaptive reuse” and a “significantly improved

plan.” Only Commissioner Margery Perlmutter expressed reservations, arguing that Community Preservation should have added to the height of the other residential towers, rather than build on the Refinery, and that “landmarks shouldn’t carry the weight of developer pressures.” Nonetheless, the motion to issue a certificate of appropriateness passed by a vote of seven to one.

LPC: 292-314 Kent St., The Domino Sugar Refinery, Brooklyn (COFA# 08-4774) (June 24, 2008).

LANDMARKS PRESERVATION COMMISSION

Certificate of Appropriateness
Tribeca, Manhattan

Appropriateness disputed despite praise of design

Four-story addition opposite Duane Park sent back to drawing board. On June 10, 2008, Landmarks heard testimony on the construction of a four-story addition and penthouse to 172 Duane Street, a two-story building within the Tribeca West Historic District. Built in 1871 as a store-and-loft building, the owners extensively renovated it in 1991 prior to the historic district’s designation. The widely-praised renovation, overseen by architect Vincent Posinelli, restored the original arch-windowed cast-iron facade, but demolished the building’s remaining walls. The restored facade remained as a free-standing sculptural element, with a translucent glass-brick building designed by Posinelli behind it. The property’s new owners, 172 Realty LLC, retained Posinelli to design a new four-story addition for use as a dwelling.

Posinelli’s plan for the new structure features a glass wall rising straight above the original facade, with the new building’s facade set back 15 feet. Posinelli called the glass-enclosed space “the winter garden,” saying it would contain an elevator and a tree in homage to

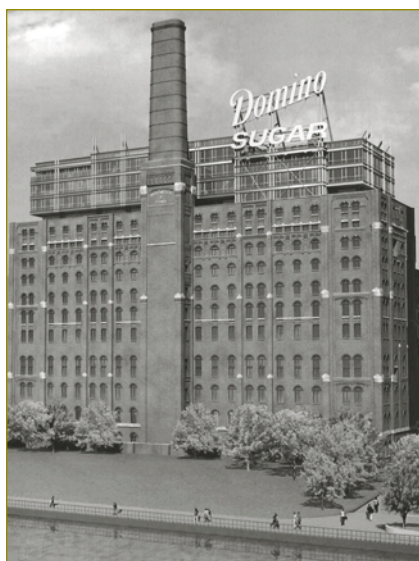
Duane Park across the street. The glass wall would be divided by cast bronze trusses matching the original facade’s bay windows. A one-story penthouse would be set back 50 feet from the screenwall to minimize visibility. The addition would also include teak-framed windows, side-walls with aluminum rainscreens, and an open circular stairway, which would bring light to the building’s lower levels.

Representatives of the owner testified that their analysis of the building’s foundation and load-bearing walls showed that the original builder intended the building to rise beyond two stories, and that while the proposal would be taller than its immediate neighbors, the height would not be uncharacteristic for the area.

The Historic Districts Council’s Nadezhda Williams testified in opposition, though she stated it could be “quite exciting” on a non-landmarked building. Williams argued that the addition would reduce the historic structure to a “pretty little pendant” on a modern building. Community Board 1 also sent a letter in opposition, finding that the addition’s height overwhelmed the original building, and the exterior contained too many details.

The commissioners praised the design, but called it inappropriate for the historic district. Commissioner Margery Perlmutter expressed her long admiration for Posinelli’s work on 172 Duane, but suggested the new screen be set back from the old facade. Other commissioners found the bulk excessive, with Commissioner Diana Chapin stating that it needed to be reduced by at least a floor. Commissioner Christopher Moore was most effusive in his praise, calling it “a landmark on top of a landmark,” but concluded that it needed to be scaled down to fit in the historic district.

Chair Robert B. Tierney, in his summation, said that the proposal’s “uniqueness doesn’t overcome the



Residential addition to former factory approved by LPC. Image: Courtesy Linden Alschuler & Kaplan, Inc.

Landmarks Actions Taken in June 2008

FINAL PERMITS TO BE ISSUED AFTER LANDMARKS RECEIVES CONFORMING PLANS

ADDRESS	LANDMARK/HISTORIC DISTRICT	DESCRIPTION	CASE NO.	APP'D
June 3, 2008				
No actions taken				
June 10, 2008				
390 W. End Ave., MN	Apthorp Apartments	Inst. guard house, alt. stoop	08-5082	W/Mod
250 West St., MN	Tribeca North HD	Const. rooftop add., inst. infill	08-7893	Yes
55 Mercer St., MN	SoHo-Cast Iron HD	Const. rooftop add., demo wall	08-5981	W/Mod
393 W. Broadway, MN	SoHo-Cast Iron HD	Raise wall, inst. windows	08-8445	Yes
857 Fifth Ave., MN	Upper East Side HD	Const. terrace greenhouse	08-6890	Yes
760 Park Ave., MN	Upper East Side HD	Alt. windows, const. greenhouse	08-6703	Yes
12 W. 72nd St., MN	Upper West Side/CPW HD	Est. master plan (windows)	08-2450	Yes
6 W. 83rd St., MN	Upper West Side/CPW HD	Construct rear yard addition	08-5824	Yes
9 E. 84th St., MN	Metropolitan Museum HD	Alt. facade, const. bulkhead	08-6427	Yes
110 Amity St., BK	Cobble Hill HD	Construct townhouses	08-2907	In Part
73 Columbia Hts., BK	Brooklyn Heights HD	Replace windows	08-3188	Yes
June 17, 2008				
432 Lafayette St., MN	La Grange Terrace	Alter entrance bays	08-7795	Yes
11 Hubert St., MN	Tribeca West HD	Install infill, enlg. bulkhead	08-8592	Yes
52 Greene St., MN	SoHo-Cast Iron HD	Replace infill, remove lights	08-8674	Yes
4 Bleecker St., MN	NoHo East HD	Install infill, signage	08-6074	W/Mod
264 W. 12th St., MN	Greenwich Village HD	Construct rear yard addition	08-7129	Yes
107 E. 70th St., MN	Upper East Side HD	Inst. ramp, leg. masonry coating	08-8447	Yes
140 E. 74th St., MN	Upper East Side HD	Install awning	07-8994	Yes
June 24, 2008				
6292 Kent St., BK	Domino Sugar Refinery	Const. additions, mod. windows	08-4774	Yes
41 Bond St., MN	NoHo HD Extension	Const. 8-story building	08-6237	Yes
67 Greene Ave., BK	Fort Greene HD	Legalize 4-story bldg.	08-7847	Yes
39-13 48th Ave., QN	Sunnyside Gardens HD	Const. garden wall, alt. porch	08-6098	Yes

lines that it crosses.” Tierney suggested that the architect reduce the bulk and differentiate the original facade from the new screenwall. Tierney closed the hearing, saying that further discussion and a presentation of design changes would take place at a future date.

LPC: 172 Duane St., Manhattan (COFA# 08-7877) (June 10, 2008).

LANDMARKS PRESERVATION COMMISSION

Designation Hearings

Manhattan

Chase Plaza, Silver Towers get hearing

Chase Manhattan Plaza and NYU's Silver Towers considered as City Landmarks. On June 24, 2008, Landmarks heard testimony on the potential designation of two iconic

modernist sites, 1 Chase Manhattan Plaza in Lower Manhattan, and University Village in Greenwich Village.

Chase Plaza includes a tower office building, designed by Gordon Bunshaft of Skidmore Owings and Merrill, and a plaza, featuring a sunken Japanese rock garden and a sculpture by Jean Dubuffet. The entire complex occupies two-and-a-half-acres and necessitated the demapping of a portion of Cedar Street. Built between 1957 and 1961 in the International Style, the 60-floor glass and aluminum tower is a result of David Rockefeller's commitment to Lower Manhattan when financial firms were migrating to Midtown. A representative from JP Morgan Chase, which still owns the property, stated that the company was proud that Landmarks was considering the property.

Representatives for Council Member Alan Gerson and Representative Jerrold Nadler also read state-

ments in support of designation, while preservationists lauded the Commission for undertaking reviews of significant post-World War II buildings. One architectural historian, testifying in support of designation, called Chase one of the City's "most articulate and refined essays on the post-war skyscraper."

Also in the International Style, University Village, known as the Silver Towers, were designed by I.M. Pei for New York University as part of a Robert Moses-sponsored urban renewal project, and built in the mid 1960s. 5 *CityLand* 32 (Mar. 15, 2008). Council Member Alan Gerson called the towers a "unique treasure" and urged an "expeditious vote" on designation. Manhattan Borough President Scott Stringer also testified in support, but added that any further development plans "must emphasize the basic elements of liveable neighborhoods." Representatives for State Senator Thomas Duane, Representative Jerrold Nadler and Assembly member Deborah Glick also read letters in support.

NYU's Lynne Brown testified that the university supported landmarking, but added that NYU had recently acquired land occupied by the adjacent supermarket and intended to build a fourth tower on the site. Architects and planners from NYU gave an impromptu presentation of the development plan, which they claimed "would better compliment the Pei towers" and make for a "natural completion of the pinwheel" formed by the existing buildings. Preservationists and community members responded to NYU's plan by suggesting that Landmarks designate the entire superblock, rather than just the towers and plaza, as proposed. Andrew Berman, of the Greenwich Village Society for Historic Preservation, testified that another tower would destroy "the delicate balance" of the site, while Lauren Tucker of Docomomo, who called the towers "a perfect example of Pei's structural expressionism," stated that the area

LANDMARKS PIPELINE

Proposed Designations – June 2008

NAME	ADDRESS	ACTION	DATE
Chelsea HD Ext.	Chelsea, MN	Heard	6/3/2008
Chase Manhattan Plaza	16 Liberty St., MN	Heard	6/24/2008
University Village	106 Bleecker St., MN	Heard	6/24/2008
St. Nicholas Church	288 E. 10th St., MN	Calendared	6/24/2008
Devoe & Co. Factory	110 Horatio St., MN	Heard	6/24/2008
Con Edison Co. Bldg.	4 Irving Pl., MN	Calendared	6/24/2008
275 Madison Bldg.	275 Madison Ave., MN	Heard	6/24/2008
NYPL, Bruce Branch	518 W. 125th St., MN	Heard	6/24/2008
NYPL, E. 125th St. Branch	224 E. 125th St., MN	Heard	6/24/2008
NY Bot. Gdn. Museum	NY Botanical Garden, BX	Calendared	6/24/2008
Dissoway Cole House	4927 Arthur Kill Rd., SI	Heard	6/24/2008

was large enough to accommodate further development, but the superblock should be designated so that any development would be appropriate.

The hearings were closed without comments from commissioners.

LPC: 1 Chase Manhattan Plaza, Manhattan (LP-2294); New York University Silver Towers, 106-122 Bleecker St., Manhattan (LP-2300) (June 24, 2008).

LANDMARKS PRESERVATION COMMISSION

Designation Hearings

Citywide

Landmarks devotes meeting to potential designations

Landmarks provides forum for accord and controversy during numerous hearings. On June 24, 2008, Landmarks heard testimony on eight potential City landmarks, as well as one historic district extension. According to spokesperson Lisi de Bourbon, Landmarks grouped the designation hearings on one day to demonstrate certain themes and priorities like post-war architecture, public libraries, and the Commission's recent review of architecture in the West Village.

The proposed extension of Queens' Douglaston Historic to encompass 22 more buildings proved controversial, with some area property owners vigorously oppos-

ing the plan. Council Member Tony Avella, who represents the district, testified that he supports designation, but stated that the proposal had generated "a real civil war" in the neighborhood and that ill will would remain long after the issue had been settled. In contrast, Midtown Manhattan's 275 Madison Avenue building, a 1930s Art-Deco skyscraper designed by Kenneth Franzheim, received support from both its owners and preservationists.

The F. W. Devoe & Company Factory, built in 1882 by the firm of Kimball & Wisedale, exemplifies 19th Century industrial design. Currently in residential use, the building occupies a site in the far West Village close to the Hudson River and the former Gansevoort Market. In Harlem, the George Bruce and 125th Street Branches of the New York Public Library were both funded by Andrew Carnegie and designed by Carrere and Hastings and McKim, Mead & White, respectively. The Municipal Art Society endorsed the libraries' designation and urged Landmarks to look at other buildings along the 125th Street corridor.

In Staten Island, the owner of the Abram and Ann Dissoway Cole House, a 1840s residence, adamantly opposed landmarking, claiming it amounted to condemnation by eminent domain without compensation. The owner's attorney, Philip Rampulla, testified that the building's original fabric had been extensively damaged in a 1999 fire, and a

representative of Council Member Vincent Ignizio testified that while many buildings in southern Staten Island deserve designation "this is not one of them." The owner intends to sell the property to a developer aspiring to build a mall at the site, lending urgency to preservationists' calls for landmarking.

Landmarks has not yet set a date to vote on designations.

LPC: Douglaston Historic District Extension, Queens (LP-2301); 275 Madison Avenue Building, Manhattan (LP-2286); F.W. Devoe & Company Factory Building, 110 Horatio St., Manhattan (LP-2308); N.Y. Public Library, George Bruce Branch, 518 W. 125th St., Manhattan (LP-2304); N.Y. Public Library, 125th Street Branch, 224 E. 125th St., Manhattan (LP-2305); Dissoway Cole House, 4927 Arthur Kill Rd., Staten Island (LP-2310) (June 24, 2008).

DEPARTMENT OF BUILDINGS

Permits

Citywide

Architect charged with false and misleading filings

Architect Robert Scarano faces the possible loss of his ability to file DOB permits. On June 12, 2008, Buildings announced that it filed administrative charges with the Department of Investigation against licensed architect Robert Scarano, alleging that he knowingly or negligently filed false and misleading documents along with building permit applications for two Williamsburg, Brooklyn apartment buildings.

According to Buildings, Scarano improperly divided a zoning lot located at 158 Freeman Street and 1037 Manhattan Avenue to facilitate the construction of two residential buildings. Both structures violate the lot's zoning.

An administrative hearing is now pending before the City's Office of Administrative Trials & Hearings. If OATH finds that Scarano knowingly or negligently made a false statement in the application, the Com-

missioner of Buildings can refuse to accept Scarano's future permit applications pursuant to a State law passed in April 2007. The charges are the result of the Special Enforcement Plan, first announced in July 2007.

DOB, Press Release, *City Files Charges Against Architect Robert Scarano* (June 12, 2008).

ECONOMIC DEVELOPMENT CORPORATION

City Comptroller Audit
Brooklyn Army Terminal

City Comptroller faults EDC's management of Army Terminal lease

EDC failed to charge \$511,500 in allowable rent and used City water and sewer services without paying. On June 6, 2008, City Comptroller William C. Thompson issued an audit report on the New York City Economic Development Corporation's lease of the Brooklyn Army Terminal, concluding that it failed

CITYLAND PROFILES

Paul Goldberger discusses design, projects, and people

Paul Goldberger, *the New Yorker's* architectural critic, previously spent 25 years as the architecture critic for the *New York Times*. Goldberger received a Pulitzer Prize in 1984 for distinguished criticism, and has authored several books, most recently *Up From Zero*, an examination of the process of developing the former World Trade Center site.

Originally an English student at Yale, Goldberger felt himself continually drawn to architecture, journeying all night to see Le Corbusier buildings and cathedrals while spending a summer in Europe. After college he had been writing freelance articles on architecture, while working on the *Times' Sunday* magazine, when reknowned critic Ada Louise Huxtable was promoted. Goldberger was given the opportunity to assume some of her critical duties, finally joining his "twin interests" of architecture and journalism.

Goldberger says New York is not such a great environment to build, but is "an incredible place to practice architecture," because of its atmosphere which blends both the academic and the practical. Many of the City's architects have done their best work abroad; he points out that Richard Meier has had an office in the City for 40 years but has only recently begun building substantial buildings here. Goldberger sees an increase in compelling architecture "as the market for architectural names has grown," and developers have come to see the hiring of prominent architects as good business.

Goldberger cites the Landmarks Preservation Commission as one of the most potent influences on the City's aesthetics, not just as a governmental

agency, but as part of an awareness and tone guiding development. While he believes the Commission may have "stretched the definition of its mandate" in the creation of historic districts, at a time when City Planning was not proactive, "it was the right thing to do." There are now architects who "know no other City" than one in which preservation is a factor.

While he finds City Planning to have been more reactive in recent years, much of the "proactive energy" during the Bloomberg administration has come from the office of former Deputy Mayor Dan Doctoroff. Goldberger was among the voices calling for a reappraisal of Robert Moses in the past few years, and when asked if the EDC and Doctoroff were continuing the tradition of Moses' best work, he responded that in "his ability to see the big picture" and in his "long-term, large-scale projects" he is "Moses-like and welcome." Goldberger is somewhat cynical about the ongoing Hudson Yards project, however, having accurately predicted that "we would never see any of the plans presented." Goldberger thinks the project will morph further, stating that "the challenges...are much greater than people have acknowledged."

Goldberger waxes enthusiastic about another contemporary project, calling the High Line "one of the best things to happen to New York in a generation or more." He finds the High Line remarkable not least because it grew out of a grass roots effort that prevailed against the odds. Goldberger believes the High Line's actualization is due in part to a "growing sophistication" about design among a

"visually literate generation."

When asked about a 1982 essay of his, in which he decried contemporary zoning and development trends, Goldberger admits to having underestimated the City's capacity to absorb development. While the City's infrastructure was crumbling following the fiscal crisis in the 1970s, it has subsequently improved and been able to sustain growth. As the City once again became an attractive place for families to live, former industrial buildings were adaptively reused for residences. Illustrating his point, he states that when the World Trade Center was built, there was almost no residential life in that part of Manhattan, whereas now viable neighborhoods exist on all sides of the site.

Goldberger states that "the neighborhood Jane Jacobs idealized does not exist in quite the same way, which does not mean we can't learn from it," and that "the nature of the market in the City has made neighborhoods less and less diverse." Goldberger finds irony in Jacob's argument that organic growth served the City better than professional intervention, while now we need to actively intervene to promote those types of neighborhoods. Goldberger compares governmental schemes, such as restrictive zoning and historic district designation, to affirmative action, because they are needed to "yield neighborhoods that are much more diverse economically, socially, and physically."

— Jesse Denno

to charge Turner Construction Company \$211,500 in allowable rent and lost \$300,000 by charging some sub-tenants less than market rate rent. Also, EDC has not paid the City for water and sewer use at the Army Terminal since it took over in 1986 and has neglected to pass on those costs to its sub-tenants. The audit concluded, however, that EDC had complied with the major terms of its lease, paying its rent on time, submitting correct security deposits, and maintaining proper insurance coverage.

The City leased the 4-million-square-foot Army Terminal to EDC in 1986, making it responsible for its conversion into an industrial park and requiring payment to the City of 100 percent of the net operating income once EDC subleased it. EDC has renovated 3.1 million sq.ft. and has subleased space to 70 companies.

In FY 2007, the Turner Construction Company occupied 7,200 sq.ft. of the Terminal free of charge. EDC explained that Turner occupied the space under its contract as the Terminal's facilities manager. Noting that the contract with Turner failed to mention the issue, the audit recommended against providing space rent free to non-City agencies. Seven companies paid rents below EDC's market appraisals with no justifying documentation.

As for the water and sewer charges, when asked by the Comptroller's Office, DEP stated that it was unaware the City had leased the space. DEP remains unable to rectify the issue because the Terminal's water meters are inaccessible

due to the presence of hazardous materials on the site. EDC stated that it was working with DEP to remedy the situation.

.....
Audit Report on EDC's Lease Agreement for Brooklyn Army Terminal, June 6, 2008.

COURT DECISION

DOT Cypress Hills, Brooklyn DOT wins dismissal

Cypress Hills sought at-grade crossing of Jackie Robinson Parkway. In 2006, an appellate court ruled that Cypress Hills Cemetery had an easement to cross the Jackie Robinson Parkway at the point where two bridges, built by the City in 1928, had united the Cemetery parcels when construction of the Parkway divided the Cemetery. The court also ruled that the burden of maintaining or replacing the bridges fell on the Cemetery, not on the City. 4 *CityLand* 15 (Feb. 15, 2007). Before the appellate court decision, the City demolished the bridges following a lower court ruling in the City's favor.

The Cemetery then requested that DOT remove the barriers on the Parkway and install traffic control devices so that the Cemetery could cross the Parkway at the point of the easement. DOT informed the Cemetery that it did not have an easement to cross the Parkway at-grade level, but rather that its easement applied to the underpass.

Cypress Hills then filed a new action against DOT, claiming that

based on the appellate decision, it had an implied easement to cross the Parkway at-grade and that DOT was interfering with its rights. DOT sought to dismiss the complaint. DOT also submitted evidence that at-grade crossings would cost the City \$1.6 million and be unsafe due to turns along the Parkway route.

Justice Robert J. Miller dismissed the complaint, ruling that Cypress Hills was barred from litigating the issue of an at-grade easement because it had an opportunity to raise the issue in its earlier suit. Additionally, the court found that the Board of Estimate, which made the determination in 1928 not to permit grade-level crossings of the Parkway near the Cemetery, was the authorized decision-maker under the City Charter at the time and the court could not review the Board's determination. Finally, the court agreed with DOT's argument that the decision to allow grade-level crossings at that location was a complex issue of transportation planning that the court should not be involved with.

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Cypress Hills Cemetery v. New York City, 2008 N.Y. Slip Op. 510004(U) (N.Y.Cty.Sup.Ct. May 19, 2008) (Miller, J.) (Attorneys: Richard J. Dea, for Cemetery; Michael A. Cardozo, Warren Shaw, for NYC).

Did you know?

Jackie Robinson, Mae West, and Piet Mondrian are all buried in Cypress Hills Cemetery.

New Decisions Added to **CITYADMIN** www.citylaw.org – June 2008*

CITY COUNCIL			
RES. NOS.	PROJECT	DESCRIPTION	DATE
1441	305 W. 138th St., MN	UDAAP by HPD (1 lot)	5/28/2008
1442	572 Pacific St., BK	UDAAP by HPD (1 lot)	5/28/2008
1443	Bushwick West, BK	UDAAP by HPD (6 lots)	5/28/2008
1444	Mermaid/W. 16th St., BK	UDAAP by HPD (5 lots)	5/28/2008
1445	200 Vanderbilt Ave., SI	UDAAP by HPD (1 lot)	5/28/2008

*Bold indicates the decision is covered in this issue. The symbol † indicates that the decision was covered in a previous issue. City Council decisions available in hard-copy format at the Center for New York City Law.

New Decisions Added to **CITYADMIN** *www.citylaw.org – June 2008**

CITY COUNCIL (CONT.)

RES. NOS.	PROJECT	DESCRIPTION	DATE
1446	109 Bay 14th St., BK	Site plan (665-seat school)	5/28/2008
1447	PS 48, QN	Site plan (650-seat school)	5/28/2008
1448	Battery Park City School, MN	Site plan (950-seat school)	5/28/2008
1449	S. Brooklyn Marine Terminal, BK	Lease agreement (30th St. pier)	5/28/2008
1475	Pacific/MacDougal, BK	UDAAP by HPD (10 lots)	6/12/2008
1476	Marcy/Willoughby, BK	UDAAP by HPD (5 lots)	6/12/2008
1477	E. Harlem Cluster, MN	Designation of Urban Renewal Area, UDAAP	6/12/2008
† 1478-80	College Pt. Holdings I, QN	City map amendment; special permit (large scale development);	6/12/2008
1482	1161 Castle Hill Ave., BX	Revocable consent (sidewalk cafe)	6/12/2008
1483	Village Den Restaurant, MN	Revocable consent (sidewalk cafe)	6/12/2008
1484-85	515 St. Marks Ave., BK	Acquisition of prop. (res. development); UDAAP by HPD (3 lots)	6/12/2008
1486	Westpark, BX	Zoning map amendment (R5 to R6)	6/12/2008
† 1487	Fiske Terrace-Midwood HD, BK	Landmark district designation	6/12/2008
† 1488	Childrens Aid Society, MN	Landmark designation	6/12/2008
† 1489	Allerton 39th St. House, MN	Landmark designation	6/12/2008
1490	E. 11th Street Bath, MN	Landmark designation	6/12/2008
1491	Webster Hall, Annex, MN	Landmark designation	6/12/2008
1492	Congregation Beth Hamedrash, MN	Landmark designation	6/12/2008

CITY PLANNING COMMISSION

PROJECT NAME	DESCRIPTION	LOCATION	ULURP NO.	DATE
84 White Street	Zoning map amendment (M1-5 to C6-2A)	MN 1	C060032ZMM	6/4/2008
Hudson Sq. North Rez.	Zoning map amendment (M1-5 to M1-5/R7X)	MN 2	C070575ZMM	6/4/2008
310-28 W. 38th St.	Zoning text amend. (24-story mixed-use bldg.); special permit (400-space garage)	MN 4	N070462ZRM; C070463ZSM	6/4/2008
Madison Putnam Housing	UDAAP by HPD (48 units)	BK 3	C080278HAK	6/4/2008
Heritage House	UDAAP by HPD (40 units)	MN 11	C080195HAM	6/18/2008

BOARD OF STANDARDS & APPEALS

ADDRESS	DESCRIPTION	ACTION	CASE NO.	REPRESENTATIVE
40 Broad St., MN	Permit PCE (Setai Club Spa)	App'd	38-08-BZ	Jay A. Segal
24 W. 16th St., MN	Merge zoning lots, amend site plan	App'd	1149-62-BZ	Bryan Cave LLP
11 W. 36th St., MN	Legalize PCE (Cosmos Spa)	App'd	219-07-BZ	Sheldon Lobel PC
111 E. 38th St., MN	Ext. of term (office use in cellar)	App'd	18-78-BZ	Slater & Beckerman
30 E. 39th St., MN	Ext. of term (office use in R8B)	App'd	206-61-BZ	Carl A. Sulfaro
336 E. 61st St., MN	Ext. of term (nursery school)	App'd	184-94-BZ	Fredrick A. Becker
150 West End Ave., MN	Reopen, ext. term (parking garage)	App'd	1334-66-BZ	Sheldon Lobel PC
850 E. 181st St., BX	Ext. of term (parking lot)	App'd	85-02-BZ	Mothiur Rahman
2155 Newbold Ave., BX	Ext. of term (parking lot)	App'd	774-55-BZ	Kramer Levin
84 Hugh Grant Cir., BX	Ext. time to obtain C of O	App'd	164-94-BZ	Jeffrey A. Chester
3546 Decatur Ave., BX	Const. 4-story dwelling in mapped st.	App'd	192-07-A	Rothkrug Rothkrug
1760 Gleason Ave., BX	Const. 2-fam. dwelling (yards)	App'd	242-07-BZ	Sheldon Lobel PC
1960 E. 4th St., BK	Enlg. 1-fam. dwelling (fl. area, rear yard)	App'd	281-07-BZ	Fredrick A. Becker
9216 Church Ave., BK	Ext. of term (Popeye's drive-through)	App'd	127-05-BZ	Sheldon Lobel PC
1595 Canarsie Rd., BK	Const. 50-ft. radio tower	App'd	227-07-BZ	Snyder & Snyder
155 Norfolk St., BK	Legalize 1-fam. dwell. (fl. area, side yards)	Denied	111-07-BZ	Harold Weinberg
3199 Bedford Ave., BK	Enlg. 1-fam. dwelling (fl. area, yards)	App'd	54-08-BZ	Fredrick A. Becker
1958 E. 13th St., BK	Enlg. 1-fam. dwelling (yards)	App'd	14-08-BZ	Sheldon Lobel PC
1925 Coney Island, BK	Reconstruct auto station	App'd	174-07-BZ	Carl A. Sulfaro
444 Beach 6th St., QN	Enlarge yeshiva (lot coverage, yards)	App'd	25-08-BZ	Eric Palatnik PC
35 Bedford Ave., QN	Enlg. dwelling not fronting mapped st.	App'd	26-08-A	Walter T. Gorman
56-14 Main St., QN	Ext. time to obtain C of O, compl. const.	App'd	370-02-BZ	Sheldon Lobel PC

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New Decisions Added to **CITYADMIN** www.citylaw.org – June 2008*

BOARD OF STANDARDS & APPEALS (CONT.)					
ADDRESS	DESCRIPTION	ACTION	CASE NO.	REPRESENTATIVE	
56-44 Main St., QN	Ext. time to obtain C of O, compl. const.	App'd	373-02-BZ	Sheldon Lobel PC	
42-25 Parsons Blvd., QN	Const. 8-story dwelling in mapped st. bed	App'd	259-07-A	George N. Mihalios	
134 Cross Bay Blvd., QN	Ext. time to obtain C of O, compl. const.	App'd	120-01-BZ	Sheldon Lobel PC	
29 Colon Ave., SI	Const. 2, 2-fam. dwellings in mapped st. bed	App'd	228-07-A; 234-07-A	Rothkrug Rothkrug	
97 Victory Blvd., SI	Const. 3-story mixed use bldg.	App'd	246-07-A	Rothkrug Rothkrug	
2043 Richmond Ave., SI	Const. 110-ft. radio tower	App'd	31-08-BZ	Slater & Beckerman	
3333 Hylan Blvd., SI	Const. health care facility in R3-1	App'd	200-07-BZ	Rampulla Assocs.	
378 Seaview Ave., SI	Const. health care facility in R3-1	App'd	269-07-BZ	Rothkrug Rothkrug	
4360 Hylan Blvd., SI	Const. 50-ft. radio tower	App'd	457-65-BZ; 30-08-BZ	Slater & Beckerman	
4845 Hylan Blvd., SI	Const. 50-ft. radio tower	App'd	27-08-BZ	Slater & Beckerman	
11 Cliff St., SI	49-space garage in mapped st. bed	App'd	163-07-A	Rothkrug Rothkrug	
422 Clarke Ave., SI	Const. 50-ft. radio tower	App'd	29-08-BZ	Slater & Beckerman	
230 Arden Ave., SI	Const. 90-ft. radio tower	App'd	24-08-BZ	Snyder & Snyder	
642 Barclay Ave., SI	Const. health care facility (yards)	W/D	100-07-BZ	David L. Businelli	
LANDMARKS PRESERVATION COMMISSION					
ADDRESS	LANDMARK/HISTORIC DISTRICT	DESCRIPTION	CASE NO.	APP'D	ISSUED
CERTIFICATE OF APPROPRIATENESS					
W. 101st St. Field, MN	Riverside Park	Replace artificial turf	08-9859	Yes	5/14/2008
E. 102nd St. Access, MN	Central Park	Mod. vehicle entrance, pathways	09-0199	Yes	5/28/2008
Bronx Park, BX	Lorillard Snuff Mill	Const. 1-story add., fence	08-9590	Yes	5/8/2006
45 Lispenard St., MN	Tribeca East HD	Construct 1-story rooftop addition	08-8981	Yes	4/22/2008
277 W. 4th St., MN	Greenwich Village HD	Remove storefront, inst. infill	08-8704	Yes	4/23/2008
21 W. 8th St., MN	Greenwich Village HD	Replace storefront infill	09-0309	Yes	6/5/2008
20 E. 9th St., MN	Greenwich Village HD	Alter, enlarge windows	09-0127	Yes	6/10/2008
61 Bank St., MN	Greenwich Village HD	Const. rooftop, below-grade adds.	08-9800	Yes	5/16/2008
52 W. 11th St., MN	Greenwich Village HD	Const. rear add., penthouse	08-9941	Yes	5/19/2008
469 Sixth Ave., MN	Greenwich Village HD	Replace infill, lights, windows	09-0178	Yes	5/13/2008
† 175 9th Ave., MN	Chelsea HD	Demo bldg., const. 2 bldgs	08-9979	Yes	5/16/2008
24 Gramercy Pk. S., MN	Gramercy Park HD	Alter areaway, inst. access lift	08-9206	Yes	4/28/2008
52 W. 21st St., MN	Ladies' Mile HD	Replace infill, windows	08-9840	Yes	6/9/2008
857 Fifth Ave., MN	Upper East Side HD	Construct terrace greenhouse	09-0771	Yes	6/11/2008
22 E. 72nd St., MN	Upper East Side HD	Demo add., const. rear add.	09-0504	Yes	6/4/2008
40 E. 72nd St., MN	Upper East Side HD	Const roof, rear adds., alt. facade	09-0761	Yes	6/18/2008
888 Madison Ave., MN	Upper East Side HD	Demo bldg., const. 4-story bldg.	08-8205	Yes	6/3/2008
791 Park Ave., MN	Upper East Side HD	Remove greenhouse, const. roof add.	08-9974	Yes	5/16/2008
316 W. 75th St., MN	West End Collegiate HD	Construct 1-story rooftop addition	09-0607	Yes	6/5/2008
309 W. 80th St., MN	Riverside Dr.-W. 80-81 HD	Remove rear add., const. rear add.	09-0474	Yes	6/5/2008
1014 Fifth Ave., MN	Metropolitan Museum HD	Repl. illegal kiosk, inst. flagpole	09-0722	Yes	6/12/2008
480 Amsterdam Ave., MN	Upper West Side/CPW HD	Replace infill, install awning	08-9791	Yes	5/13/2008
6 W. 122nd St., MN	Mt. Morris Park HD	Const. 2-story rear extension	09-0050	Yes	5/19/2008
124 Willow St., BK	Brooklyn Heights HD	Alter roof	08-9788	Yes	5/21/2008
20 Henry St., BK	Brooklyn Heights HD	Remove gdn., const. 4-story bldg.	09-0159	Yes	6/9/2008
12 College Pl., BK	Brooklyn Heights HD	Construct 1-story rooftop addition	09-0421	Yes	5/29/2008
100 Remsen St., BK	Brooklyn Heights HD	Replace windows	08-9983	Yes	5/16/2008
200 Washington Ave., BK	Clinton Hill HD	Demo ext. const. rear ext.	08-9596	Yes	6/3/2008
214 Greene Ave., BK	Clinton Hill HD	Legalize storefront removal	09-0161	Yes	5/30/2008
Ashland Pl., BK	BK Academy of Music HD	Repl. sidewalk, inst. lights	09-0126	Yes	5/20/2008
226 Kane St., BK	Cobble Hill HD	Demo steps, construct stoop	08-9544	Yes	5/6/2008
523 3rd St., BK	Park Slope HD	Demo add., const. rear add.	09-0664	Yes	6/11/2008
70 Hudson Ave., BK	Vinegar Hill HD	Repl. cladding, infill, doors, windows	08-9886	Yes	6/4/2008

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New York NY 10013-2960*



LPC rejects plans for 172 Duane. See story on page 93. Photo: Jesse Denna.

CENTER FOR NEW YORK CITY LAW UPCOMING EVENTS

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September 12, 2008

October 17, 2008

November 7, 2008

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CITYADMIN

Decisions on www.citylaw.org

AGENCY NAME	NUMBER OF DECISIONS	YEARS AVAILABLE	Information on CITYADMIN is provided free with support from: Manatt, Pheips & Phillips, LLP Speaker Christine Quinn, New York City Council
BSA	2,662	2002-Present	Speaker Christine Quinn, New York City Council
Council	1,084	2003-2005	Well, Gotshal & Manges LLP
CPC	903	2003-Present	Gibson, Dunn & Crutcher LLP
DOB	68	1999-Present	Kramer, Levin, Nafalis & Frankel, LLP
Landmarks	1,977	2002-Present	
Loft Board	1,539	1996-Present	



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