Sidewalk Cafe
Chelsea, Manhattan
Avella calls for investigation of architect

Avella criticized DCA for sloppy review of questionable application. Council Member Tony Avella faulted the Department of Consumer Affairs and argued for action against the architect who filed inaccurate plans in Qdoba Mexican Grill’s application for an unenclosed sidewalk cafe at 216 Eighth Avenue in Chelsea. Qdoba had previously filed a petition to withdraw its application due to Council’s concerns.

Avella explained, at the August 12th hearing before the Council’s Subcommittee on Zoning & Franchises, that when Council’s staff inspected Qdoba’s Chelsea restau-
St. Vincent’s proposal for O’Toole raises a fundamental issue

St. Vincent’s plan to demolish the O’Toole Building in order to build a new hospital facility poses a major threat to the Landmarks Law. The O’Toole Building, formerly the National Maritime Union’s Joseph Curran Building located on Seventh Avenue and West 12th Street in Manhattan, was built in 1963 with an unforgettable nautical look. Because O’Toole lies within the Greenwich Village Historic District, St. Vincent’s filed a hardship application requesting permission to demolish the building. Permission hinges on how the Landmarks Preservation Commission defines hardship. Does hardship relate mainly to the individual structure, or to the institution which owns the structure?

St. Vincent’s purchased the building in 1973 and has continuously used it for outpatient services and doctor’s offices. The building is therefore economic, but St. Vincent’s wants to build a new hospital tower on the site. It claims hardship since without the new tower on the O’Toole site (or some other site) it cannot also demolish and/or renovate its other property across Seventh Avenue where it plans to build additional medical facilities and where a private developer would build residential condos, a key to financing the project.

Hardship up to now has always centered on the economic capacity of the owner to maintain the landmarked building. St. Vincent’s cannot meet that test since the building is in economic use, and even if St. Vincent’s could not maintain the building, there are purchasers who would be pleased to convert O’Toole to other economic uses.

What St. Vincent’s seeks is a ruling that the most advantageous way to meet its future needs would be to demolish O’Toole. That argument strikes directly at the landmark idea, and would, if fully embraced, open the law to attacks from other charitable and non-charitable institutions which could make a similar case for demolishing the old to accommodate the new. St. Vincent’s deserves passionate City support, but not in a way that opens the door for broad attacks on the City’s inventory of historic properties. The City should help St. Vincent’s devise a new plan more consistent with the Landmarks Law.

Ross Sandler
CITY COUNCIL

Rezoning
Rockaway, Queens

Rockaway rezoning approved without change

Avella’s plan to remove Beach 116th Street defeated. On August 14, 2008, the City Council approved the Department of City Planning’s rezoning proposal for the Rockaway peninsula in Queens. The rezoning plan impacts 280 blocks, extending six miles from the Nassau County line to Beach 130th Street, including the neighborhoods of Rockaway Park, Rockaway Beach, Somerville, Far Rockaway, and Edgemere.

Zoning in the Rockaways has remained largely unchanged since 1961. In the past several years, increasingly out-of-scale development has endangered the built character of the neighborhood. To address this concern, City Planning’s comprehensive plan includes replacing many existing R3, R4, R5, and R6 districts with contextual zoning districts. 5 CityLand 89 (July 15, 2008). Other highlights include prohibiting construction of new semi-detached housing in Rockaway Park in favor of detached homes, and the extension of commercial zoning into a residential district in Far Rockaway. To encourage reinvestment in the Rockaways, blocks adjacent to public transit have been up-zoned, including Beach 116th Street to an R7A district.

Significant opposition to the up-zoning of Beach 116th Street remained when it reached Council’s Zoning & Franchises Subcommittee hearing. Chair Tony Avella questioned City Planning’s John Young as to why the R7A designation along Beach 116th Street remained despite opposition from local residents. Avella asked Young to remove Beach 116th Street from the plan, and to “take a little more time and do a better job.” Avella then recommended that Planning create a special use district for Beach 116th Street. Young replied that there had already been extensive discussions over the issue and that the City Planning Commission believed the R7A designation was needed to spur reinvestment. Avella then accused Planning of having an unwritten policy that every downzoning plan must also include an up-zoning elsewhere.

Hank Iori, a member of the land use subcommittee of Queens Community Board 14, warned that the as-of-right R7A construction would not encourage retail growth along Beach 116th Street. According to Iori, the area’s high water table would ultimately cause developers to use the ground floor for parking, not retail. Iori testified that only a special use district for Beach 116th Street would ensure sound growth of commercial development. The meeting closed without a vote.

When the Subcommittee met the next day, Avella said that “98 percent of the rezoning is supported by the community board and the community,” and that the only point of contention was Beach 116th Street. Avella proposed to remove the R7A area and approve the rest of the plan.

Council Member Joseph Addabbo, Jr., whose district includes Beach 116th Street, opposed Avella’s proposal. Addabbo explained that an abandoned hotel and vacant buildings already litter Beach 116th Street; he feared further deterioration and warned against leaving it out. With the upcoming mayoral election and Planning’s low staff level, Addabbo felt it was too risky to wait for the creation of a special use district, which would require its own trip through the ULURP process.

Following Addabbo’s statements, only Avella voted to carve out Beach 116th Street. A second vote then passed, approving the full 280-block rezoning plan without change. Council Member Simcha Felder explained his yes-vote by stating that it was due to support of the plan by Rockaways’ Council Members James Sanders, Jr. and Addabbo. Felder added that if a large matter such as a rezoning occurred in his district, he hoped that other Council Members would trust that he knew what was right for his own district.

Review Process:
Comm. Bd.: QN 14, App’d, 32-12-2
Boro. Pres.: App’d
CPC: App’d, 11-0-0
Council: App’d, 49-0-3


CITY COUNCIL

Designation
NoHo, Manhattan

Bowery SRO not a hurdle to designation

Council votes to include Bowery SRO in NoHo historic district extension. On September 4, 2008, the City Council voted to approve the proposed NoHo historic district extension and ended the debate over whether the Whitehouse Hotel should be included within the district. The approval adds 56 more buildings, all between Lafayette Street and Bowery, to the district. Landmarks voted to designate the area in May after hearing testimony from residents such as artist Chuck Close, elected officials, and preservationists. 5 CityLand 42 (April 15, 2008).

Of the six property owners who initially opposed designation, only
Metro Sixteen Hotel LLC, owner of the Whitehouse Hotel at 342 Bowery, remained opposed when the issue reached Council. Metro planned to demolish the existing four-story building, which operates as an SRO and is one of the few remaining Bowery "flophouses." Once demolished, Metro proposed to build a nine-story luxury hotel.

Current Whitehouse residents testified before Council’s Subcommittee on Landmarks, Public Siting & Maritime Uses, detailing the hotel’s squalid conditions. One resident said “you would not even want your dog or cat living there.” Residents urged the Subcommittee to exclude the Whitehouse from designation, saying that its exclusion would allow the developer to provide them with a relocation payment. A planning consultant hired by Metro challenged the inclusion of Bowery buildings in the NoHo Historic District, explaining that the Bowery had a completely different development history and aesthetic from NoHo. A Bowery resident echoed the sentiment, stating “I do not live in NoHo, I live in the Bowery,” and “I don’t even know what NoHo is.”

Council Member Alan Gerson, who represents NoHo and support-

ed designation at Landmarks, testified that he was working with Landmarks and Subcommittee Chair Jessica Lappin to find a solution that served both the welfare of the Whitehouse’s residents and preserved the integrity of the historic district. Council Member Charles Barron stated that he hoped that “something can be worked out” for the SRO’s tenants, and that he thought people should be given a higher priority than historic preservation or the hotel’s profits. The meeting closed without a vote.

When the Subcommittee reconvened on September 4th, counsel for Metro announced that it had withdrawn its opposition to designation following meetings with Gerson and Landmarks. Chair Lappin thanked the owners for making concessions, and called the site “a unique property with unique challenges.” Gerson testified that his office would work with the owners to aid the hotel’s residents and to ensure the “expedited consideration” of applications filed at Landmarks.

Council Member Lewis Fidler stated that he was “troubled by the resolution,” and did not see any benefit in designation. Gerson responded that the hotel occupied a mid-block site, and that Landmarks’ oversight was necessary to ensure that development was appropriate, and added that his resolution was the best way to take care of the 22 residents “as soon as possible.” Lappin added that, whether or not the hotel was included in the district, the building would not remain in its current condition, and there was no reason for the owners not to have improved the conditions of the residents. Ultimately, only Council Members Miguel Martinez and James Oddo voted against approval.

The Land Use Committee met immediately thereafter, where Chair Melinda Katz expressed her discomfort with making an agreement with an agency over which Council had no oversight or control. However, since Gerson had the support of the majority, Katz supported designation. The proposal was passed to the full Council, which also approved.

Council: NoHo Historic District Extension, Manhattan (September 4, 2008).

CITY PLANNING PIPELINE

| NEW APPLICATIONS FILED WITH DCP — AUGUST 1 - 31, 2008 |

<table>
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<tr>
<th>APPLICANT</th>
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<td>ZONING TEXT AND MAP AMENDMENTS</td>
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<td>HPD Gateway Estates II, BK</td>
<td>Rezone (R6 to R7A/C2-4, R6/C2-4); UDAAP &amp; disp. (2,385-units); amend Fresh Creek URP; spec. perm (bulk mod. to const. shopping ctr.); spec. perm (mod. sign reg)</td>
<td>090079ZMK, 090082HAK, 090087HUK, 090088ZSK, 090089ZSK</td>
<td>Erik Palatnik PC</td>
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<td>Boyle Auto Wrecker Blondell Commons, BX</td>
<td>Rezone (M1-1 to R7-1/C2-4 &amp; R7-1); spec. perm (underground garage)</td>
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SPECIAL PERMITS/OTHER ACTIONS

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<td>Fredrick Becker</td>
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<td>090074ZAR</td>
<td>PAR Architect</td>
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Legislation

Citywide

Local laws aim to increase construction safety

Workers must complete construction safety course; concrete safety manager must supervise large projects.

On August 14, 2008, the City Council passed two local laws intended to increase construction site safety.

Intro 790-A requires that a site safety plan include a statement that all workers, within the five previous calendar years, have completed a site safety course approved by either OSHA or by the Commissioner of DOB. The new law also requires that all workers receive a site-specific safety orientation.

The Council also passed Intro 783-A, which requires concrete contractors to designate a concrete safety manager to supervise when 2,000 cubic yards or more of concrete are poured. The law allows the Commissioner of Buildings to require the presence of a concrete safety manager at smaller projects if deemed necessary. Concrete safety managers must have five years experience in concrete operations and must have completed a 30-hour course approved by the Commissioner that qualifies the individual under OSHA standards.


CITY COUNCIL

Special Permit/Rezoning

Midtown, Manhattan

Council OKs air rights transfer from Seagram Building

Lord Norman Foster design approved. On August 14, 2008, the City Council approved the special permit and zoning text amendment proposed by Aby Rosen, developer of a 63-story hotel and residential building at 610 Lexington Avenue, adjacent to the Seagram Building. The special permit grants a transfer of development rights from the landmarked Seagram Building, and the text amendment allows, in part, height and setback modifications by way of special permit and an accessory off-street loading berth waiver on streets with curb cut restrictions. 5 CityLand 105 (Aug. 15, 2008).

Speaking on behalf of the applicant at Council’s Zoning & Franchises Subcommittee hearing, Kramer Levin attorney Michael Sillerman stated that as-of-right construction would create a wedding cake structure, and that the modifications would create harmony between the Lord Norman Foster-designed building and the Seagram Building. Sam Schwartz, of Sam Schwartz Engineering, stated that the absence of a loading berth within the site would not create a significant increase in traffic congestion because of mitigation measures such as dedicated service elevators, nighttime deliveries, and off-duty police officers for parking enforcement.

Veronika Conant, President of the West 54-55 Street Block Association, testified in opposition, stating that a text amendment was not necessary to achieve the stated goals of the project. Instead, she suggested using an existing provision of the zoning law that allows for bulk modifications. Conant then echoed Community Board 5’s concerns that allowing a text amendment for one building in the Special Midtown District could set a potentially dangerous precedent.

The Subcommittee approved the proposal without comment, as did the Land Use Committee and full Council.

CITY LAND

Rezoning

Laurelton, Queens

Laurelton rezoning approved

Council approves 220-block rezoning without modification. On September 4, 2008, the City Council approved the rezoning proposal for Laurelton, a Queens community near the border of Nassau County. The plan includes lower-density and contextual rezoning for approximately 215 blocks, an upzoning from C8-1 and R3-2 to R5D along Merrick and Spring Boulevards, and commercial overlay changes to more closely match existing commercial development.

The plan culminates over six
years of research, planning, and community outreach. Laurelton residents first approached the Department of City Planning in 2002, citing numerous residential developments of attached, semi-detached, and multifamily structures out-of-character with the existing neighborhood. In response, Planning proposed a rezoning that would prevent lot subdivision and preserve the one- and two-family detached housing character of the community yet still allow for modest residential and commercial retail growth along Laurelton’s primary thoroughfare.

After the City Planning Commission heard the proposal in August, it approved the plan without modification. It agreed that existing zoning, unchanged since 1961, had contributed to development that was inconsistent with the neighborhood’s one- and two-family character. Like Community Board 13, Queens Borough President Helen M. Marshall, and the Commission, the Council found all aspects of the plan appropriate and approved the proposal.

ULURP Process
Comm. Bd.: QN 13, App’d, 35-0-0
Boro. Pres.: App’d
CPC: 11-0-0
Council: App’d, 49-0-3

Council: Laurelton Rezoning (September 4, 2008).

CITY COUNCIL

Text Amendment
Hudson Yards, Manhattan

Hudson Yards text modified

Air rights text and new setback rule slightly changed to respond to Council’s concerns. The City Council approved 12 significant text amendments to the Hudson Yards zoning text after the Department of City Planning made two small modifications. Overall, the final text encompasses the transfer of development rights from the MTA’s eastern rail yards, the use of the Hudson Yards District Improvement Bonus, and the relocation of subway entrances for the No. 7 line. The final text also encompasses several design issues such as street wall setbacks, sidewalk widening rules, and window glazing requirements. 5 CityLand 104 (Aug. 15, 2008).

Right before the City Council’s Land Use Committee voted on the text, City Planning staff presented two small changes. The original text allowed developers to obtain a building permit for a project without precluding the possibility of later increasing the proposed building’s size through an air rights transfer from the MTA’s rail yards or through the use of the Hudson Yard District Improvement Bonus. Council Member Melinda Katz criticized this text at the Council’s July hearing. The final text requires developers, prior to receipt of a building permit, to send a letter to Planning outlining whether the project includes the transfer of air rights from the rail yards or uses either the inclusionary housing or the district improvement bonuses.

A second modification addressed concerns about the proposed setback rules along West 34th Street and Tenth Avenue. Under the final text, recesses to the street wall can begin at a height of 50 feet along Tenth Avenue and 60 feet along West 34th Street, up from the 30-foot height originally proposed.

With the two modifications, the Land Use Committee approved the proposal unanimously. Following the vote, Katz explained that she had brought up her concerns with Planning more than a month before the vote, adding that it should not have been as difficult as it was to make modifications.

CPC: 11-0-0
Council: App’d, 49-0-3

Council: Special Hudson Yards, Clinton & Midtown Text Amendments (August 14, 2008).

CITY PLANNING COMMISSION

Hearing
E.Village/Lower East Side, Manhattan

Lower East Side rezoning plan fiercely debated

City Planning’s proposal challenged by issues related to affordable hous-
ing and protecting Chinatown. On August 13, 2008, the City Planning Commission heard extensive testimony on a plan to rezone 111 blocks in the East Village and Lower East Side of Manhattan. The Department of City Planning began the public review process for the original proposal in May 2008, 5 CityLand 72 (June 15, 2008), and then later filed modifications after reviewing Community Board 3’s recommendations. The modifications apply the Inclusionary Housing Program to certain proposed R7A areas, replace a portion of a C6-2A zoning district with a C6-3A district along Chrystie Street, and eliminate a text change designed to encourage non-conforming commercial uses in the mid-block areas of proposed R8B districts.

At the hearing, Council Member Rosie Mendez testified that a plan was needed to stem overdevelopment and stop the loss of affordable housing in her district. Mendez believes that the current plan, with some modifications and additions, can achieve the right balance of “development, preservation, and tenant protection.” David McWater, Susan Stetzer, and Dominic Pisciotta, all from Community Board 3, stressed the need to include the anti-harassment and anti-demolition restrictions that govern the Special Clinton District, and also requested that the City commit to ensuring that 30 percent of housing built under the new zoning be permanently affordable to households earning less than 80 percent of the area medium income.

With at least 100 of its members protesting outside, the Coalition to Protect Chinatown/LES spoke in opposition. The Coalition believes that the proposed higher density zoning along Chrystie Street, Delancey Street, and Avenue D will encourage “a wall of luxury high-rises around Chinatown and the Lower East Side,” ultimately dividing Community Board 3 into two or three separate communities. Speakers for the Coalition suggested that the Commission scrap the proposed plan and create a new one that included all of Community Board 3. The Coalition was also concerned that affordable housing targeted up to 80 percent of area medium income would not prevent most local residents from being priced-out of the neighborhood.

Borough President Scott Stringer admitted that the Coalition had some legitimate concerns, but stated that scrapping the plan would not address them. Stringer called for the City to commit resources to a future rezoning in Chinatown. Christopher Kui, of Asian Americans for Equality, agreed that Chinatown should have its own rezoning process. Kui offered his support for the plan, but pressed the Commission to exclude Chrystie Street and include it in a future rezoning of Chinatown.

The Commission has until October 10, 2008 to vote on the proposal.

CPC: Hearing on East Village/Lower East Side Rezoning (C 080397 ZMM, C 080397(A) ZMM – rezoning); (N 080398 ZRM, N 080398(A) ZRM – text amend.) (August 13, 2008).
Traffic and obstructed views at issue in Bedpan Alley

Hospital for Special Surgery proposes 12-story building over FDR Drive. On August 11, 2008, the City Planning Commission unanimously approved the Hospital for Special Surgery's special permit application to build a new 86,869 sq.ft., 12-story outpatient center on a 21-ft. high deck over the FDR Drive between East 71st Street and the mid-block line of East 72nd Street. The new tower, known as the River Building, would connect to the hospital's East Wing Building through an enclosed pedestrian bridge over East 71st Street. The Commission also approved a special permit application for an additional three stories totaling 51,000 sq.ft. to the East Wing Building, a City map amendment to eliminate portions of the FDR Drive for structural columns, and a text amendment allowing the hospital to apply for a special permit to modify loading-berth requirements.

Since the River Building would be classified as a hospital facility adding more than 10,000 sq.ft. of floor area in a residential district, one additional off-street loading berth would normally be required. The hospital proposed to modify the requirement with a text amendment allowing the hospital to apply for a special permit to modify loading-berth requirements.

Local residents of the Edgewater building, located at 530 East 72nd Street, also expressed concern that the River Building's 190-foot height would ruin their panoramic view of the East River.

The Commission acknowledged residents' concerns of traffic congestion and blocked views, but considered both unpersuasive. It found that the hospital's pledge to ensure appropriate use of an 85-ft. long commercial loading zone on the south side of East 71st Street, along with an increase in loading activity on East 70th Street, would alleviate traffic congestion. The Commission also noted that the East 70th Street loading facility and existing loading berths would adequately serve the River Building's additional needs because materials could be transported across the pedestrian bridge, eliminating the threat of increased activity at grade level. For the obstructed views, the Commission found that any further setback of the building's north face would not improve views, and that the design, as is, represents a fair compromise between institutional expansion and environmental impact.

**Did you know?**

Coney Island Creek was filled during construction of the Belt Parkway, transforming Coney Island into a peninsula in the early 20th century.
Hearing Hunter’s Point, Queens

EDC plan elicits debate over affordable housing

Opponents claim Hunter’s Point South will not adequately address lack of affordable housing in Queens. On August 13, 2008, the City Planning Commission heard testimony on the Hunter’s Point South Redevelopment Plan. The plan aims to create an affordable, middle-income community and waterfront park on 30 acres of Long Island City waterfront.

Originally owned by the Port Authority of New York and New Jersey, the City purchased the site in 2006 and assigned the New York City Economic Development Corporation to create a plan that would increase the affordable housing stock in Queens. In 2007, EDC announced a plan that included low-, mid-, and high-rise residential areas, 11 acres of open space, ground-floor retail, and approximately 5,000 new housing units, 60 percent of which would be affordable to middle-income families.

At the Planning Commission’s public hearing, an EDC representative stated that, out of all the major U.S. cities, New York City has the smallest number of middle-income families, and that the EDC plan, the largest affordable housing project in the last 30 years, will allow the City to prevent more middle-income families from being priced-out of living in Queens. Helen M. Marshall, Borough President of Queens, testified that without more affordable housing, City workers, who provide vital services and “represent an important part of our tax base,” will continue to leave the City. According to Marshall, EDC’s plan can help reverse that trend.

Ruth Viznauskas, Assistant Commissioner for new construction finance at the Department of Housing Preservation and Development, also spoke in favor of the plan. She stated that the affordable component of the plan targets families of four that have a combined income of $55,000-$158,000. Viznauskas added that the community had requested more units be made affordable for families making less than $55,000, but she stated that doing so would create a significant funding gap. According to Viznauskas, the original plan called for 100 percent of the units to be rentals, but HPD added a home-ownership option in response to the community’s request.

Elena Conte, representing the Pratt Center for Community Development, voiced her disapproval of the current plan. Of the proposed units “not one would be affordable to a family of four making less than $61,450,” she stated. According to the Pratt Center, more than sixty percent of Queen’s households earn less than the proposed minimum affordable income of $55,000. Conte also asked HPD and EDC to share their financial models with the Pratt Center so it could verify HPD’s position that providing affordable units for those making less than $55,000 was not economically feasible.

A number of local residents also voiced their opposition to the project’s lack of affordable units. Hanna Weinstock, a community organizer with Queens College, testified that it is “completely unacceptable that a publicly financed project on public land” excludes the majority of families living in Queens. Weinstock suggested that 20 percent of the units be affordable to those making less than $25,000, and 30 percent of the units be affordable to those making less than $48,000. This would ensure that 50 percent of the units are within the price range of those at or below the median income for Queens’ residents.

The Commission has until September 29, 2008 to vote on the proposal.

CPC: Hearing on Hunter’s Point South
(C 080381 MMQ - rezoning); (N 080363 ZRQ – text amend.); (C 080276 MMQ – City map amend.); (C 080364 PQQ – acq. of property); (C 080365 HAQ – UDAAP).

Additional space for the Whitney Museum approved

Downtown satellite would anchor southern end of High Line. On August 11, 2008, the City Planning Commission approved the Whitney Museum’s plan to build a six-story, 175,000-sq.ft. building at 555 West Street in the West Village of Manhattan. The proposal includes 50,000 sq.ft. for new indoor exhibits, 97,400 sq.ft. for museum support facilities, and 27,600 sq.ft. for a maintenance and operational facility at the southern terminus of the High Line elevated park. The site is bounded by Gansevoort Street, Tenth Avenue, Little West 12th Street, and Washington Street, just outside the Gansevoort Historic District.

In order to facilitate the new development, the Commission approved four applications without modification: disposition of City-owned property to the NYC Economic Development Corporation for eventual sale to the Whitney, site selection and acquisition of the High Line facility for the Department of
Parks and Recreation, a special permit allowing museum use in an M1-5 district, and a zoning text amendment that allows height and setback modifications to accommodate the Renzo Piano design.

Highlights of the plan include a 10,400-sq.ft. open space along Gansevoort Street, known as the Largo, which would display art from the Whitney's collection and would serve as a public-gathering place before giving way to the museum's main entrance. A stairway extending from the High Line would connect the Largo, and by extension, the Whitney, to the elevated open space above. Also, Piano's design would allow for the maximum amount of air and light to reach the High Line since the bulk of the building is located on the western portion of the site and steps down to the east in a series of terraces towards the elevated park.

Unlike the Whitney's previous plan to construct a nine-story tower next to its Marcel Breuer building on the Upper East Side, the new proposal has garnered widespread community support. Proponents believe the downtown location will attract a broader audience to both the Whitney Museum and the High Line, as well as provide the museum with space to properly display larger contemporary pieces.

**Review Process**

Comm. Bd.: MN 2, App'd, 43-0-0
Boro. Pres.: App'd
CPC: 11-0-0
Council: Pending

CPC: Whitney Museum of American Art
(N 080406 ZRM – text amend.); (C 080407 PCM – acquisition); (C 080408 PPM – disposition); (C 080409 ZSM – special permit, use and bulk) (August 11, 2008).

**Site Selection/Special Permit**

St. George, Staten Island
Courthouse, 660-space garage approved

Existing surface parking lot makes way for consolidation of civil and criminal courts. On August 11, 2008, the City Planning Commission approved three applications needed to facilitate construction of the new Staten Island Supreme Courthouse and parking garage. The site, owned by the Department of Transportation, occupies most of the St. George Municipal Parking Field, roughly bounded by Central Avenue, Hyatt Street, St. Mark's Place, and Victory Boulevard. The five-story courthouse is an as-of-right development, but the project requires a special permit for the 660-space parking facility since only 69 spaces would be as-of-right. The plan also calls for the acquisition of private property to replace the 501 parking spaces lost during construction.

The northern section of the project site, formerly known as the Quarantine Grounds, was used as a burial ground in the mid 1800s. In order to preserve the cemetery's remains, the proposal calls for a memorial green on the northwest corner of the site. If approved by Council, the courthouse would be the new home for Staten Island's Civil, Criminal, and Lower Criminal Courts.

**ULURP Process**

Lead Agency: DASNY, FEIS
Comm. Bd.: SI 1, App'd, 33-0-0
Boro. Pres.: App'd
CPC: 11-0-0
Council: Pending

CPC: Staten Island Court House
(C 080379 PSR – site selection); (C 080380 ZSR – special permit, parking); (C 080378 PCR – acquisition) (August 11, 2008).

**Rule Adoption**

Citywide

Additional disclosure required of applicants

New rule requires applicants to submit Doing Business Data Form. The Department of City Planning recently enacted a rule requiring the submission of an additional disclosure form with each new ULURP and zoning text amendment application. The rule stems from Local Law 34 of 2007, the campaign finance reform law, which mandates that City agencies maintain a database of all companies, their principal officers and owners, and certain senior managers that engage in business dealings with the City. The law seeks to ensure that the City's procurement and award processes are
free of improper influence.

As of April 14, land use applicants now need to complete a Doing Business Data Form each time they file a ULURP or zoning text amendment application. Under the new law, principal officers including the Chief Executive Officer, the Chief Financial Officer, and the Chief Operating Officer, or their functional equivalents, must all be listed. Principal Owners, defined as those who own or control ten percent of the entity, must also be listed.

The form requires individuals to provide various contact information. Irrespective of whether the applicant is already included in the City’s VENDEX database, no application will be considered without the new form unless specifically exempted. Exemptions include homeowners making applications regarding their one-, two-, or three-family dwellings and certain neighborhood and community non-profits. Applications filed prior to, but not certified as of, April 14, are still subject to the new disclosure rule.

A Doing Business Data Form must be included with every individual application filed by an organization, whether or not the information has changed. A person who believes they have been erroneously included in the database may submit a request for removal.


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<thead>
<tr>
<th>ADDRESS</th>
<th>LANDMARK/HISTORIC DISTRICT</th>
<th>DESCRIPTION</th>
<th>CASE NO.</th>
<th>APP'D</th>
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<tr>
<td>July 29, 2008</td>
<td></td>
<td></td>
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<tr>
<td>West Broadway, MN</td>
<td>Tribeca South, West HDs</td>
<td>Inst. flood mitigation measures</td>
<td>09-1281</td>
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<tr>
<td>93 Grand St., MN</td>
<td>SoHo-Cast Iron HD</td>
<td>After storefront</td>
<td>08-7529</td>
<td>Yes</td>
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<tr>
<td>35 Wooster St., MN</td>
<td>SoHo-Cast Iron HD</td>
<td>Legalize access lift</td>
<td>08-6504</td>
<td>No</td>
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<tr>
<td>44 Ninth Ave., MN</td>
<td>Gansevoort Market HD</td>
<td>Replace inflit, inst. signs</td>
<td>09-0802</td>
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<tr>
<td>425 W. 22nd St., MN</td>
<td>Chelsea HD</td>
<td>Alt. facade, const. rear add.</td>
<td>08-3557</td>
<td>Yes</td>
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<tr>
<td>361 W. 22nd St., MN</td>
<td>Chelsea HD</td>
<td>Construct rooftop addition</td>
<td>08-7304</td>
<td>W/Mod</td>
</tr>
<tr>
<td>August 5, 2008</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>20 W. 44th St., MN</td>
<td>Mechanics’ Institute</td>
<td>Report to CPC (mod. bulk)</td>
<td>08-7067</td>
<td>W/Mod</td>
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<tr>
<td>230 Park Ave., MN</td>
<td>Helmsley Building</td>
<td>Inst. reception station, art</td>
<td>08-8327</td>
<td>Yes</td>
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<tr>
<td>799 Park Ave., MN</td>
<td>Upper East Side HD</td>
<td>Install fence, HVAC equip.</td>
<td>08-6369</td>
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<td>12 E. 78th St., MN</td>
<td>Metropolitan Museum HD</td>
<td>Construct roof, rear add.</td>
<td>08-6309</td>
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<tr>
<td>24 W. 119th St., MN</td>
<td>Mount Morris HD</td>
<td>Construct rear addition</td>
<td>08-8178</td>
<td>W/D</td>
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<tr>
<td>32 Hicks St., BK</td>
<td>Brooklyn Heights HD</td>
<td>Install inflit</td>
<td>09-1630</td>
<td>Yes</td>
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<tr>
<td>36 Grace Ct., BK</td>
<td>Brooklyn Heights HD</td>
<td>Alt. facade, const. rear add.</td>
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<tr>
<td>24 Willow St., BK</td>
<td>Brooklyn Heights HD</td>
<td>Const. dormer at roof</td>
<td>09-1366</td>
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<tr>
<td>380 Henry St., BK</td>
<td>Cobble Hill HD</td>
<td>Inst. HVAC units, sound screens</td>
<td>08-0171</td>
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<tr>
<td>21 Tompkins Pl., BK</td>
<td>Cobble Hill HD</td>
<td>Lower parlor window sills</td>
<td>09-1629</td>
<td>No</td>
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<tr>
<td>90 Park Pl., BK</td>
<td>Park Slope HD</td>
<td>Legalize fence, alter stair</td>
<td>09-0793</td>
<td>Yes</td>
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<tr>
<td>1510 Albermarle Rd., BK</td>
<td>Prospect Park South HD</td>
<td>Mod. windows, doors, terrace</td>
<td>09-0899</td>
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</tbody>
</table>

Kramer Levin attorney Paul Selver, representing owner Banner Associates, testified that both structures were as-of-right. Architect Jack Beyer of Beyer Blinder Belle presented the design plans for both structures. He stated that the surrounding area is characterized by a variety of uses and architectural styles, including townhouses and loft buildings. While the new tower would rise higher than its immediate neighbors, Beyer claimed it was appropriate for the district and for a block where every building is “distinctively read as individual.” The 25-foot wide tower would be divided into three aesthetically distinct sections at its base, shaft, and top. Facade materials would include granite, limestone, brick, masonry, and glass, with aluminum spandrels and mullions. A penthouse enclosing the boiler and mechanical equipment would occupy the 16th floor, and is necessary, according to Beyer, because the cellar would be given over to amenities.

The addition to the garage, whose style Beyer described as utilitarian, would include two stories set back five feet, a third story set back 15 feet, and a brick facade with metal-framed casement windows. As part of the project, the developer would restore the original garage.

Preservationists expressed reservations about the garage addition’s visibility and design aspects of the tower. Leo Blackman, Vice President of The Drive to Protect the Ladies’ Mile District, testified that the tower’s penthouse “should be eliminated entirely or reduced to one story,” and that the glass and steel canopy “is out of character with Ladies’ Mile.” Nadezhda Williams, from the Historic Districts Council, found that the addition to the garage was not sufficiently set back or integrated with the existing structure. Community Board 5 submitted a letter of objection stating that the proximity of residential apartments to the garage’s parking use was inappropriate and the tower’s height was excessive and out-of-proportion.

Landmarks Actions Taken in Late July/August 2008

Certificate of Appropriateness
Ladies’ Mile, Manhattan

Controversial 16-story building and garage addition heard

Commissioners and preservationists call for revisions to development. On August 5, 2008, Landmarks heard testimony on a proposal to build a three-story addition to a 1926 garage at 21-25 West 20th Street, and a new 16-story building at 19 West 20th Street in the Ladies’ Mile Historic District. The plan calls for the garage’s parking use to be retained, with a three-story residential addition. The new 16-story residential building would replace an existing parking lot.
Commissioner Stephen Byrns said that the project was “headed in the right direction,” but suggested a reduction in the size of both the garage addition and penthouse, and objected to the anodized aluminum canopy. Commissioner Libby Ryan found the addition excessively bulky and visible, and the materials inappropriate. With respect to the overall composition of the project, Ryan claimed it looked like the new tower was “spilling over” on to the garage. Tierney agreed with the general consensus, and asked the applicants to return with an amended proposal.

LPC: 19-25 West 20th Street, Manhattan (COFA #09-0250) (August 5, 2008).

LANDMARKS PRESERVATION COMMISSION

Commission Appointment
Citywide
Fred Bland approved as Landmarks commissioner

Architect will occupy Jan Pokorny’s seat. On September 4, 2008, the City Council Committee on Rules, Privileges & Elections approved Fred Bland as the newest member of Landmarks, filling a vacancy open since Jan Pokorny passed away on May 20th after serving on Landmarks for over a decade. Bland is an architect, currently a managing partner at Beyer Blinder Belle. Prominent projects by Bland include China’s Shanghai Cultural Plaza, the Mark Morris Dance Group Building at the Brooklyn Academy of Music, and the recently approved addition to the Domino Sugar Factory in Brooklyn. 5 CityLand92 (July 15, 2008).

Representatives from the Municipal Art Society and the Landmarks Conservancy testified in support of Bland’s appointment, as did Council Member David Yassky. The full Council unanimously approved Bland’s appointment.

DEPARTMENT OF BUILDINGS

City Comptroller Audit
Citywide
Audit faults Buildings on enforcement procedures

Audit found inadequate follow-up on violations; DOB to implement most, if not all, of Comptroller’s recommendations. City Comptroller William C. Thompson issued an audit report on Buildings’ handling of Building Code and other violations. The audit determined that Buildings’ follow-up efforts on violations were insufficient, not only because of program deficiencies, but also because Buildings lacked the authority to re-inspect flagged sites without a warrant and to compel property owners to remedy violations. As a result, many violations have remained outstanding for extended periods of time.

The audit focused on two of Buildings’ programs, the Certificate of Correction Audit Program, which ensures the integrity of certificates of corrections filed by property owners in response to issued violations, and the Hazardous Re-inspection Program, which ensures that hazardous conditions have been rectified. The audit found that in both programs, inspectors were not able to access properties nor were property owners required to, or had an incentive to, give inspectors access. Also, in cases where the Hazardous Re-inspection inspectors could not access a property, they sometimes failed to leave proper notice asking owners to contact Buildings to arrange an inspection. The Comptroller advised Buildings to ensure that inspectors left the requisite notices, and recommended evening inspections when a daytime attempt proved unsuccessful. In Fiscal Year 2007, the audit found that Buildings failed to inspect one-third of the owner-submitted certificates of correction and 20 percent of the audited properties in the Hazardous Re-inspection program.

The audit made 11 recommendations on how to improve Buildings’ re-inspection programs. Among them, the audit suggested that Buildings deny building permits to owners with outstanding violations. Buildings agreed to work with the Law Department to define its authority to withhold permits, and, if necessary, pursue legislation granting Buildings the authority to deny permits when appropriate.

Follow-up of Violations Issued by Buildings, MG07-125A, NYC Comptroller William C. Thompson, Jr. (June 23, 2008).

COURT DECISIONS

Article 78
Van Cortlandt Village, Bronx

Court upholds BSA ruling denying vested rights

Bronx developer claimed non-compliance with zoning law was minimal and should not impede vesting of rights. Developer GRA V LLC applied for an excavation and foundation permit from the Department of Buildings for construction of a 63-unit apartment building in a neighborhood of one- and two-family buildings within the Bronx’s Van Cortlandt Village. Despite an Administrative Code requirement that permit applications be accompanied by a lot diagram survey prepared by a licensed surveyor, the developer only included a Sanborn map signed and stamped by its architect. Buildings accepted the Sanborn map in lieu of the survey, relying on the architect’s seal, and issued the foundation permit to the developer.

Aware that the City was in the process of downzoning the neighborhood to restrict development to one- or two-family buildings, the developer moved quickly with construction, completing excavation and 85 percent of the foundation by
the day the City Council approved the rezoning. After Buildings issued a stop-work order, the developer filed a request to continue work, arguing that it had acquired a vested right to continue. While Buildings did not initially oppose the developer’s request, a survey submitted by neighbors showed the developer’s Sanborn map was inaccurate. The developer submitted its own survey, confirming that the Sanborn map inaccurately marked the adjacent building’s footprint, failing to show it was set back 1.9 feet from the street line. As a result, the developer’s proposed structure, bound by the “narrow streets” zoning requirement not to build any closer to the street line than the nearest adjacent building, pierced the setback area at three small points. Following the submission, Buildings denied the request.

The developer appealed to BSA. Buildings opposed, arguing that since the proposed structure pierced the setback area, the permit was invalid, and that a valid permit is necessary to establish vested rights. The developer countered that the non-compliance was minimal, and that because it had not yet built the above-ground structure, the building could still be modified to comply with the setback requirement.

BSA denied the request, concluding that the above-ground building plans could not be separated from the foundation. As a result, the foundation permit was invalid because it was accompanied by an inaccurate boundary survey, and the proposed structure would violate the setback requirement based on the inaccuracy. CityLand 120 (Sept. 15, 2005). The developer then filed an Article 78 petition, which a lower court denied.

On appeal, the First Department upheld BSA’s determination, ruling that BSA was entitled to deference and had a rational basis for finding that the permit was invalid. The court agreed that the proposed above-ground structure must be considered together with the foundation permit for both validity and vesting purposes. The court emphasized that the developer was aware of the proposed zoning changes and took the risk by relying on a Sanborn map instead of an accurate survey. The court reaffirmed that a claim for common law vested rights cannot be supported in reliance on an invalid permit, even where Buildings erroneously issued the permit due to its own failure to initially notice that the application failed to comply with Code provisions.


COURT DECISIONS

DOI

Citywide

Court affirms DOI’s subpoena power

Preservationist allegedly altered contents of letter from Manhattan Borough President Scott Stringer. In 2006, Landmarks held a hearing to consider the designation of the Dakota Stables, a building on the Upper West Side. Shortly before the hearing, the owner of the Dakota Stables pulled permits and began stripping the facade of the building. CityLand 157 (Nov. 15, 2006). At the hearing, Virginia Parkhouse, a Landmarks West! volunteer, read a letter from Borough President Scott Stringer into the record, allegedly changing its contents. Parkhouse refused to answer questions from DOI investigators, arguing that DOI’s investigation did not amount to the chilling of free speech because it was not aimed at the content of her speech. Even if the investigation was aimed at the content of Parkhouse’s testimony in front of Landmarks, it would be permissible because DOI was charged with ensuring that the practices of City agencies were legitimate and did not lead to abuse.


EDC

East Harlem, Manhattan

EDC action withstands motion to dismiss

Court allows EDC lawsuit seeking to reclaim Harlem landmark from developer. In 2003, the New York City Economic Development Corporation sold a run-down landmark, known as the Corn Exchange Bank, to Corn Exchange LLC. The deed...
required Corn Exchange to rehabilitate the building, restore the exterior to its original state, and to establish a non-profit culinary institute in a portion of the renovated space. Corn Exchange had 36 months to complete the renovations and obtain a new certificate of occupancy. The deed also included a provision that if Corn Exchange failed to perform, commence, or complete construction, or if it failed to use the premises in five years as a culinary school, EDC could reacquire the premises.

After the time to restore and rehabilitate passed, EDC commenced an action to establish its right of re-entry and to eject Corn Exchange, claiming that the Exchange had breached a restrictive condition in the deed and that EDC was entitled to obtain title to the premises. Corn Exchange moved to dismiss, arguing that the provision time was of the essence. Her mission: restore Coney Island to its former prominence, and do it quickly, or lose the opportunity forever.

Kelly, a former Deputy Director of the City’s Art Commission, joined the New York City Economic Development Corporation in 2001. Over the next six years, she managed a portfolio of development projects and land sales of more than $50 million. Appointed President of the CIDC by Mayor Bloomberg in April 2007, Kelly took on the responsibility of saving “the People’s Playground.”

At the turn of the 20th century, Coney Island attracted millions of day-trippers to a vivacious yet affordable entertainment destination. Amusement parks drew thrill-seekers while the beach and boardwalk provided all New Yorkers relief from the City’s sweltering summer heat. By the 1970s, however, Coney Island was struggling to survive. Dreamland, Luna, and Steeplechase amusement parks had all closed; newly-constructed housing projects for low and moderate income families dotted the skyline, encouraging further divestment. Mayor Bloomberg, in conjunction with the City Council and Borough President Marty Markowitz, formed the CIDC in 2003 to revitalize the area.

The first step. Kelly says that the top priority is rezoning Coney Island. Under the current zoning scheme, amusement operators have divested, vacant lots have increased, and operating a restaurant is considered an illegal use. New zoning, Kelly states, is required to preserve this “incredible historic resource.”

In 2005, the Department of City Planning and the CIDC proposed a comprehensive rezoning of Coney Island covering 19 blocks from the New York Aquarium to West 24th Street, and from Mermaid Avenue to the boardwalk. After the community reviewed the proposal, Kelly earlier this year announced modifications to address the public’s concerns. According to Kelly, the public thought the plan was too seasonal, required more year-round attractions, and needed to be fairer to landowners. In response to those concerns, the plan was modified to increase opportunities for enclosed amusements and to give existing landowners a chance to develop their property. As a result, new mapped parkland decreased from 15 to 9 acres, much to the chagrin of some amusement enthusiasts.

Opposition. Shortly after the City modified the original plan, Dick Zigun resigned as one of the 13 directors at the CIDC. Zigun, a sideshow producer and the so-called mayor of Coney Island, has fervently spoken out against the plan. He believes that the new plan will lead to a “mallification” of the amusement core, allowing for big-box retail to replace amusement rides and prevent Coney Island from becoming a world-class tourist attraction. Zigun has called for protest and hinted at the possibility of legal action.

Kelly states that opposition to the revised plan comes from “a narrowly focused group that doesn’t live in the area” and only represents the interests of the amusement industry. She attributes their opposition mostly to nostalgia, and is disappointed that they are willing to settle for the status quo of vacant lots, illegal uses, and Coney’s annual winter hibernation. Kelly emphatically states that there will be “no mall in Coney.” She admits that while the new zoning will allow for over 500,000 sq.ft. of retail in Coney West and Coney North, Coney East will be reserved for “entertainment retail,” such as bowling, arcades, tattoo parlors, and freak-shows. Kelly is quick to state that the local community overwhelmingly supports the plan because it will create thousands of permanent jobs for local residents, provide sorely-needed community facilities, and revamp the local economy by creating the largest urban entertainment destination in the United States.

No time to lose. Kelly fears that if the new zoning plan is not approved soon, Coney Island may be lost forever. She explains that Thor Equities currently owns 60 to 65 percent of Coney East and four-and-a-half of the five acres zoned for amusement rides. She notes that there is no guarantee that Thor will allow Astroland rides to remain on its property beyond Labor Day 2008. Kelly states that if the plan was scrapped, there would be nothing stopping Thor from asking BSA for a variance that would allow construction for malls and luxury condominiums. From Kelly’s perspective, zoning will “act as an insurance policy,” permanently preserving the character of Coney Island for generations to come.

— Frank Berlen

CITYLAND PROFILES

Lynn Kelly on the future of Coney Island

Ever since Lynn Kelly was appointed President of the Coney Island Development Corporation (CIDC) last year, she knew that the CIDC in 2003 to reinvigorate the area. Ludwig said, “The CIDC was entitled to obtain title to the premises. Corn Exchange moved to dismiss, arguing that the provision time was of the essence. Her mission: restore Coney Island to its former prominence, and do it quickly, or lose the opportunity forever.

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— Frank Berlen
New Decisions Added to CITYADMIN www.citylaw.org – August 2008*

CITY COUNCIL

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<td>Averne East, QN</td>
<td>UDAAP by HPD (26 lots)</td>
<td>8/14/2008</td>
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<tr>
<td>1587-88</td>
<td>Rockaway Neighborhood Rezoning, QN</td>
<td>Zoning map amendment; increase minimum off-street parking regs</td>
<td>8/14/2008</td>
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<tr>
<td>1589-90</td>
<td>610 Lexington Ave., MN</td>
<td>Zoning text amend (transfer dev. rights from landmarks); const. 63-story bldg.</td>
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<tr>
<td>1591</td>
<td>Qdoba Grill, MN</td>
<td>Revocable consent (sidewalk cafe)</td>
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CITY PLANNING COMMISSION

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<td>City map amend. (est. park)</td>
<td>MN 1</td>
<td>C080355MM</td>
<td>8/11/2008</td>
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<tr>
<td>Whitney Museum</td>
<td>Zoning text amend. (height &amp; setback); site selection, acq. of prop. (maint. &amp; operations fac.); disp. of prop., easements; spec. permits (use, height, setback)</td>
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<tr>
<td>33 Great Jones St</td>
<td>Special permit (retail use in M1-5B)</td>
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<td>C070405ZSM</td>
<td>8/11/2008</td>
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<tr>
<td>Hospital for Spec. Surgery</td>
<td>Spec. permit (12-story hospital in demapped air space); City map amend. (close portion of FDR Dr.; zoning text amend.; spec. permit (enlarge hospital)</td>
<td>MN 8</td>
<td>C060335ZSM; C060445ZRM; N070145ZRM; C070175ZSM</td>
<td>8/11/2008</td>
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<tr>
<td>Laurelton Rezoning</td>
<td>Zoning map amendment</td>
<td>QN 13</td>
<td>C080402ZSM</td>
<td>8/11/2008</td>
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<td>Staten Island Ct. House</td>
<td>Acq. of property (parking lot); acq. of property (courthouse, garage); special permit (591-space garage)</td>
<td>SI 1</td>
<td>C080375PCR; C080379PSR; C080380ZSR</td>
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BOARD OF STANDARDS & APPEALS

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<td>614 W. 58th St., MN</td>
<td>Special permit (const. 6-story school)</td>
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<td>58-08-BZ</td>
<td>Fried Frank Harris</td>
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<tr>
<td>181-05 Harding Expwy., QN</td>
<td>Ext. time to obtain C of O (Mobil station)</td>
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<tr>
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<td>Enlarge 1-family dwelling</td>
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<td>48-08-A</td>
<td>Joseph A. Sherry</td>
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<tr>
<td>7-05 152nd St., QN</td>
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<tr>
<td>33-57 59th St., QN</td>
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<td>App'd</td>
<td>109-07-BZ</td>
<td>Jeffrey A. Chester</td>
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<td>305 Hillsdale Ave., QN</td>
<td>Enlg. 1-fam. dwelling not fronting mapped st.</td>
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<td>49-08-A</td>
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<td>154-04 Harding Expwy., QN</td>
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<td>728-29-BZ</td>
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<tr>
<td>15/589 Carmela Ct., SI</td>
<td>Compl. const., obtain C of O (minor dec.)</td>
<td>App'd</td>
<td>104-08-BZ–119-08-BZ</td>
<td>Anthony J. Tucci</td>
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LANDMARKS PRESERVATION COMMISSION

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<tr>
<th>ADDRESS</th>
<th>LANDMARK/HISTORIC DISTRICT</th>
<th>DESCRIPTION</th>
<th>CASE NO.</th>
<th>APP'D</th>
<th>ISSUED</th>
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<tbody>
<tr>
<td>52 Greene St., MN</td>
<td>SoHo HD</td>
<td>Replace infill, install lighting</td>
<td>09-2176</td>
<td>Yes</td>
<td>7/23/2008</td>
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<tr>
<td>415 W. 13th St., MN</td>
<td>Garment Market HD</td>
<td>Install infill, after loading dock</td>
<td>09-0033</td>
<td>No</td>
<td>7/30/2008</td>
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<tr>
<td>12 E. 78th St., MN</td>
<td>Metropolitan Museum HD</td>
<td>Construct 5-story rear yard addition</td>
<td>09-2700</td>
<td>Yes</td>
<td>8/8/2008</td>
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<tr>
<td>1035 Fifth Ave., MN</td>
<td>Metropolitan Museum HD</td>
<td>Install windows</td>
<td>06-8148</td>
<td>No</td>
<td>7/29/2008</td>
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<tr>
<td>271 Adelphi St., BK</td>
<td>Fort Greene HD</td>
<td>Paint chimney fence</td>
<td>09-2195</td>
<td>Yes</td>
<td>7/22/2008</td>
</tr>
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</table>

*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.

in the deed was not a condition that it failed to meet, but rather a covenant or promise that the Exchange breached, and therefore, the EDC would, at most, be entitled to money damages.

Justice Judith J. Gische agreed with EDC and dismissed the motion, ruling that the cited provision in the deed was a restrictive condition that allowed the EDC to reacquire title to the premises if Corn Exchange failed to perform. Justice Gische ruled that the parties’ intent determined whether the cited provision was a condition or a covenant and in this case, it was clear from the deed that the EDC and Corn Exchange intended to create a condition. The provision’s express language created a condition that required Corn Exchange to perform and gave the EDC the right to re-enter and re-acquire the premises if Corn Exchange failed to meet the requirement.

CITYADMIN

Decisions on www.citylaw.org

<table>
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<th>AGENCY</th>
<th>NUMBER OF YEARS</th>
<th>NAME DECISIONS AVAILABLE</th>
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<td>BSA</td>
<td>2,797</td>
<td>2002-Present</td>
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<tr>
<td>Council</td>
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<td>2003-2005</td>
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<td>CPC</td>
<td>929</td>
<td>2003-Present</td>
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<td>DOB</td>
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<td>1999-Present</td>
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<td>Landmarks</td>
<td>2,016</td>
<td>2002-Present</td>
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<tr>
<td>Loft Board</td>
<td>1,539</td>
<td>1999-Present</td>
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<td>2008-2008</td>
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CITY LAW BREAKFAST SERIES

Friday, October 17th, 2008

Eric Lane
Eric J. Schmertz Distinguished Professor of Public Law and Public Service, Hofstra Law School
Senior Fellow at Brennan Center for Justice

Speaking on “Exorcize the term limit demon”

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.

Coney Island Boardwalk, as envisioned by the Coney Island Dev. Corp. See profile on page 130.