The City Planning Commission approved Broadway Housing Communities’ proposal to develop a thirteen-story affordable housing project and museum in West Harlem. See story on page 137.

Image: Courtesy Adjaye Associates/SCLE Architects.

The City Planning Commission approved Broadway Housing Communities’ proposal to develop a thirteen-story affordable housing project and museum in West Harlem. See story on page 137.

Image: Courtesy Adjaye Associates/SCLE Architects.

City Council

Rezoning
Rosedale, Queens

Large rezoning approved in southeast Queens

Council Member Sanders claimed that contextual rezoning would check development pressure. On September 16, 2010, the City Council approved the Department of City Planning’s 193-block rezoning proposal in Rosedale, Queens. The contextual rezoning impacts a triangular-shaped area generally bounded by Idlewild Park and Hook Creek to the south, the Nassau County border to the east, and Brookville Boulevard to the west. Planning proposed the rezoning in order to reinforce Rosedale’s low-density suburban character against recent development pressure.

Sunrise Highway divides the study area into a northern portion, zoned R2, and a southern portion, previously zoned R3-2. Although both sections are characterized by single-family detached homes, the flexibility of the R3-2 zoning, which permits detached and attached housing and small apartment buildings, had resulted in pockets of out-of-character development.

The rezoning targeted the southern portion and replaced the majority of its R3-2 zoning with contextual zoning districts, including R3-1 and R3X, in order to limit new development to existing land use patterns.

At the City Planning Commission’s hearing, Council Member James Sanders Jr., whose district includes Rosedale, and local leaders expressed support for the rezoning. The Commission unanimously approved the plan. 7 CityLand 122 (Sept. 15, 2010).

At the Council’s Zoning & Franchises Subcom-
CityLand is planning changes and asks your advice.

CityLand is approaching its eighth birthday. CityLand has a loyal readership, for which we are very grateful, but we realize that the current print format of CityLand is practically no different from what CityLand would have looked like in 1980 long before the advent of the Internet. Recently we have been considering how to use contemporary technology to make CityLand more accessible and useful to our readers. We would like to hear suggestions from you. Here are some of the ideas that we are considering.

A web-based edition of CityLand. Currently the Center only produces a paper edition of CityLand. CityLand is not available on any website, including our own. A web-based version would offer subscribers new features, including a searchable database of past and current articles, e-mail notifications when new material is posted, and links to primary sources and other land use websites. Also, a web-based version could update subscribers on a daily or weekly basis, as opposed to the current monthly update in print. Would subscribers be receptive to a web-based edition of CityLand with the option of a printer-friendly version? Would subscribers be willing to pay the same rate for a web-based version as they pay for the print version?

A new forum for land use discussion. CityLand and the Center for New York City Law are neutral forums. The reports are news, not opinion, and cover the entire range of City land use decisions. One of CityLand’s readers called CityLand a neutral playing field where all points of view could meet. But CityLand, as it is now produced, provides no forum to debate or discuss the news items reported in CityLand. Would readers like to have an online forum for comment and debate?

Please let us know your thoughts about these ideas and others that you might have. The Center for New York City Law and New York Law School are committed to open government. We conceive of CityLand as a window to the City’s processes and decisions. Tell us how to do this better. Thank you.

Ross Sandler


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mittee hearing, Council Member Sanders said the zoning had permitted out-of-context, cheaply made “monstrosities,” and described the situation as “a ghetto-in-the-making” where developers “had feasted on the community.” Sanders also urged Planning to contextually rezone the nearby Springfield neighborhood, noting that the City’s established communities should not be “gutted and sacrificed [at] the alter of the almighty dollar.”

The Subcommittee, Land Use Committee, and full Council unanimously approved the rezoning.

**Review Process**

Council: Rosedale Rezoning (Sept. 16, 2010).

**CITY COUNCIL**

**Text Amendment**

**Citywide**

**Car-share parking text amendment approved**

*Text change establishes clear rules on where car-sharing companies can park vehicles.* On September 29, 2010, the City Council approved the Department of City Planning’s Car-Share Text Amendment. The zoning resolution now recognizes car-share vehicles, such as those offered by ZipCar and Connect by Hertz, and sets out which off-street parking facilities are suitable for car-share storage. The City Planning Commission modified the text amendment during its review of the proposal. 7 CityLand 123 (Sept. 15, 2010).

Car-share vehicles are available to pre-approved, registered members 24 hours a day. Car-share companies allow their members to pick up and drop off the cars through a self-service system. Car-share vehicles are permitted in high-, medium-, and low-density parking facilities that are accessory to commercial, manufacturing, or residential uses. Greater numbers of car-share vehicles are permitted in parking facilities located in higher density districts.

Facilities storing car-share vehicles will be required to display a plaque identifying the total number of spaces in the facility and the number of permitted car-share vehicles. In residential parking facilities, the plaque must also state that a parking space leased by a car-share company will be made available to building residents within 30 days after a written request is made to the landlord. To ensure safety, residential parking facilities containing car-share vehicles must be securely separated from commercial, manufacturing, or retail; apply inclusionary housing.

The full Council approved the amendment, with only Council Member Peter Vallone Jr. voting no.

**Review Process**

Council: Car Share Text Amendment (Sept. 29, 2010).

**CITY COUNCIL**

**Rezoning**

**Ravenswood, Queens**

**Housing for formerly incarcerated women approved**

*Not-for-profit requested rezoning in order to develop affordable housing for formerly incarcerated women and their children.* On September
on September 13, Council Member Jimmy Van Bramer, whose district includes the project, applauded the efforts of Hour Children and said the building will be a "tremendous addition to the neighborhood." The Subcommittee unanimously approved the rezoning, as did the Land Use Committee and the full Council.

**ULURP Process**
Comm. Bd.:QN 1, App’d, 31-0-1
Boro. Pres.: App’d
CPC: App’d, 12-0-0
Council: App’d, 48-0-0


**CITY PLANNING COMMISSION**

**Rezoning/Text Amendment**
**Tribeca, Manhattan**

**Rezoning of 25 blocks in North Tribeca moves forward**

Proposal would establish new height and bulk regulations in northern portion of Special Tribeca Mixed Use District. On September 15, 2010, the City Planning Commission approved the Department of City Planning’s North Tribeca Rezoning proposal. The 25-block rezoning area is generally bounded by Canal Street to the north, Walker and Hubert Streets to the south, Broadway to the east, and West Street to the west. The plan would impact the Special Tribeca Mixed Use District’s A4, B1, and B2 subareas. It would replace the area’s existing M1-5 manufacturing zoning with a C6-2A commercial mixed-use district and create new special districts that better reflect northern Tribeca’s increasingly residential and commercial character.

North Tribeca was primarily a manufacturing district characterized by industrial and warehouse buildings, with limited residential uses. As the industrial base declined in the 1960s and 70s, vacant buildings attracted new residential and commercial tenants. The City in 1976 created the Special Tribeca Mixed Use District to establish zoning rules that permitted controlled residential uses to coexist with light manufacturing uses. The special district applied flexible residential use regulations to the southern portion of Tribeca, but prohibited new residential development in North Tribeca in order to preserve its industrial character.

In recent years, however, the Commission and the Board of Standards & Appeals have approved new residential developments and residential conversions of non-manufacturing buildings in the neighborhood. The City in 2006 approved a private developer’s proposal to rezone a four-block portion of North Tribeca, along Washington and West Streets, to facilitate the construction of a commercial and residential building. The proposal also designated the area as the special district’s new A4 general mixed-use subarea. 3 CityLand 117 (Sept. 15, 2006).

Residential and commercial uses are now prevalent in North Tribeca and many of the area’s manufacturing buildings are underutilized or vacant. Planning’s proposal would apply new height and bulk regulations to reflect North Tribeca’s changed character and to ensure that new residential and commercial development matches the area’s existing scale.

The majority of North Tribeca comprises the special district’s B1 and B2 subareas, which are zoned M1-5. Planning’s proposal would rezone the blocks within these subareas to C6-2A, which permits new...
residential and commercial development. The B1 and B2 subareas would be replaced with new A5, A6, and A7 subareas. Each new subarea would include distinct bulk and building height regulations to correspond to the subtle variations in building types across the subarea. The Inclusionary Housing Program would apply to the A6 subarea.

The A4 subarea is zoned C6-3A along West Street and C6-2A along Washington Street. The proposal would reduce the subarea to include only West Street, and its Washington Street portion would be subsumed by the new A5 subarea.

At the Commission’s hearing, representatives from Manhattan Community Board 1 and Borough President Scott Stringer’s office expressed support. Jennifer Hong, a senior planner from Stringer’s office, noted that the rezoning would create a more comprehensive approach to North Tribeca’s development by reducing the use of case-by-case discretionary approvals. The Commission unanimously approved the rezoning.

The City Council has until November 18, 2010 to review the plan.

CPC: North Tribeca Rezoning and Text Amendment (C 100369 ZRM – rezoning); (N 100370(A) ZRM – text amend.) (Sept. 15, 2010).

**CITYLAND** Comment: The Council’s Zoning & Franchise Subcommittee approved the rezoning at an October 5 hearing, and the full Council is expected to vote on the plan at its October 13 meeting.

**CITY PLANNING COMMISSION**

Rezoning
West Harlem, Manhattan

Sugar Hill project OK’d

**Thirteen-story building would house the Faith Ringgold Children’s Museum, a day care center, and provide 124 affordable housing units.**

On September 15, 2010, the City Planning Commission approved Broadway Housing Communities’ rezoning proposal to facilitate the development of a thirteen-story affordable housing project in the Sugar Hill section of West Harlem. Broadway Housing proposed rezoning the northwest portion of a block bounded by West 155th and 153rd Streets and St. Nicholas Place and St. Nicholas Avenue from C8-3 and R7-2 to R8A. The rezoning area comprises two lots and portions of two others. Broadway Housing owns a two-story parking garage facing West 155th Street, and the City owns an L-shaped lot to the south of the garage that faces St. Nicholas Avenue and is occupied by the Department of Environmental Protection.

Broadway Housing plans to replace the garage with a thirteen-story, 124-unit affordable housing project known as Sugar Hill. Broadway Housing would market 99 of the units to residents earning up to 60 percent of the area median income, and the remaining units would be marketed to residents earning up to 80 percent of the area median income. The building would provide space for the Faith Ringgold Children’s Museum on the ground floor and a day care center on the second floor. It would also feature green roof terraces and a 114-space underground parking garage.

In order to provide a suitable entry plaza for the building, Broadway Housing requested a surface easement along the northern portion of DEP’s lot fronting St. Nicholas Avenue and West 155th Street. DEP currently uses the area for vehicle storage. The landscaped, publicly accessible plaza would provide the primary entrance for the project. In return, DEP would acquire an easement from Broadway Housing over a 4,312 sq.ft. strip along the project site’s southern border.

At the Commission’s July 28 public hearing, Broadway Housing’s founder, Ellen Baxter, stated that the Sugar Hill project would be the organization’s seventh affordable housing development in the area. Kramer Levin attorney Valerie Campbell, representing Broadway Housing, said the rezoning would complement the City’s current efforts to rezone West Harlem. Brian Cook, director of land use at the Manhattan Borough President’s Office, stated that Borough President Scott M. Stringer supported the rezoning, testifying that the area’s C8-3 zoning “did not make sense” at the location. Cook noted that the project would meet many of the goals identified in Community Board 9’s 197-a plan by providing jobs and low-income housing.

North Tribeca Rezoning, Proposed Zoning Map used with permission of the New York City Department of City Planning. All rights reserved.
The Commission unanimously approved the rezoning.


**CITY LAND** Comment: The City Council’s Planning, Disposition & Concessions Subcommittee approved the plan at its October 5 hearing. The full Council is expected to vote on the plan on October 13, 2010.

**CITY PLANNING COMMISSION**

Rezoning/Text Amendment
East Tremont, Bronx

**Rezoning of 75 blocks in central Bronx approved**

Rezoning would impact 75 blocks along the Third Avenue and Tremont Avenue corridors. On September 15, 2010, the City Planning Commission approved the Department of City Planning’s proposal to rezone 75 blocks along the intersecting Third Avenue and Tremont Avenue corridors in central Bronx. The L-shaped rezoning area comprises three sections. The east/west Tremont Avenue corridor is bounded by Daly Avenue and Webster Avenue. The industrial Third Avenue corridor, running north/south, is generally bounded by East 189th Street and East 175th Street. A third section, the Neighborhood Preservation Area, borders the Third Avenue corridor to the west and extends to Park Avenue between Cyrus Place to the north and Tremont Avenue to the south.

Planning seeks to expand the development potential along the mixed-use corridors while preserving the existing residential character of the Neighborhood Preservation Area. To promote the creation of affordable housing, the proposal would apply the City’s Inclusionary Housing Program to the Third and Tremont Avenue corridors. The rezoning would also apply three mixed-use districts to the Third Avenue corridor in order to preserve existing light industrial uses and encourage the redevelopment of vacant and underutilized lots.

Although the Tremont Avenue corridor is primarily zoned for residential use, it is considered the community’s downtown shopping district. The corridor is characterized by single-story retail buildings with multi-story buildings and mixed-use residential buildings at the major intersections. Many of the multi-story buildings maintain active ground floor retail uses, but have vacant upper floors. The plan would replace the corridor’s R7-1 and C4-4 zoning with contextual districts, including C4-4A and C4-5X, permitting full commercial buildings and encouraging mixed-income housing development.

The industrial Third Avenue corridor, which was the home to the Third Avenue elevated “8” train until its demolition in 1973, is primarily zoned C8-3 and characterized by single-story automotive and warehouse uses, parking lots, and vacant land. The current zoning inhibits development by prohibiting residential uses and limiting the maximum floor area for commercial uses. According to Planning, the lack of activity along the corridor after business hours disrupts the continuity of the surrounding residential streets to the west. The proposal would apply mid-density contextual commercial districts along the corridor that would permit both commercial and residential development.

The Neighborhood Preservation Area located west of Third Avenue is an established residential community, consisting of four- to six-story apartment buildings and rowhouses. The area’s R7-1 zoning has permitted the construction of several new apartment complexes significantly taller than, and out-of-context with, nearby buildings. Planning proposes replacing the existing zoning with R5 and R6A districts to establish height limits and ensure that new development matches the low-density neighborhood.

Bronx Community Board 6 and Borough President Ruben Diaz Jr. both supported the rezoning. No one opposed the plan at the Commission’s August 11 public hearing, and the Commission unanimously approved the plan. Explaining her vote, Chair Amanda Burden noted that the rezoning would revitalize two significant mixed-use corridors and “foster nearly 700 new units of affordable housing” in the heart of the Bronx.

CPC: Third Avenue/Tremont Avenue Rezoning (Sept. 15, 2010).

**CITY LAND** Comment: The City Council’s Zoning & Franchises Subcommittee approved the rezoning at an October 5 hearing, and the full Council is expected to vote on the proposal at its October 13 meeting.

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**ULURP PIPELINE**

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Rezoning
Crotona Park East, Bronx
Eight-story affordable housing project OK’d

Developer requested rezoning in order to build 68 units of affordable rental units in south central Bronx. On September 13, 2010, the City Planning Commission approved High Hawk LLC’s rezoning proposal to facilitate the development of an affordable housing project in the Crotona Park East section of the Bronx. The proposal would rezone a triangular block, bounded by East 174th Street, Hoe Avenue, and Boston Road, from C8-3 to R7-1 with a C2-4 commercial overlay. The block is occupied by a 16,876 sq.ft. parking lot owned by High Hawk, a three-story office building, and two low-rise retail buildings. High Hawk would replace the parking lot with an eight-story building providing 10,000 sq.ft. of community facility space, 9,473 sq.ft. of ground floor retail space, and 68 rental units for low-income residents.

Bronx Community Board 3 supported the plan. Bronx Borough President Ruben Diaz Jr. also supported the rezoning, but expressed concerns about the the proposed building’s apartments. Diaz recommended that the developer reconfigure the “woefully small” apartments which, according to Diaz, included 385 sq.ft. studios, 590 sq.ft. one-bedroom units, 725 sq.ft. two-bedroom units, and 987 sq.ft. three-bedroom units.

At the Commission’s July 28 public hearing, Vice Chair Kenneth Knuckles asked High Hawk’s representative, Peter Bourbeau, about Diaz’s concerns. Bourbeau said he planned to meet with the borough president’s staff to resolve the issue, and that he would revise the layouts of the apartments. Bourbeau had not identified specific retail tenants, but was committed to finding “mom and pop” stores, rather than franchises. There were no speakers in opposition.

The Commission unanimously approved the rezoning. The Commission noted that the area surrounding the project was zoned R7-1 and High Hawk’s property had been underutilized as a parking lot. The Commission also noted that while the new building plans were outside its purview, High Hawk had agreed to increase the size of the two- and three-bedroom units.


CITYLAND Comment: The City Council’s Zoning & Franchises Subcommittee approved the plan at an October 5 hearing, and the full Council is expected to vote on the proposal on October 13, 2010.

A portion of a proposed fourteen-home development along Woodrow Road and Turner Street in Staten Island. Image: Courtesy Think Design Architecture.
appeal, finding that the developer had performed substantial construction on the project and would suffer a serious loss if required to develop the project under the current zoning. BSA granted the developer two additional years to complete the proposal.


Certificate of Appropriateness
Chelsea, Manhattan

Ladies’ Mile rooftop addition rejected a third time

On its third trip to Landmarks, a scaled down, minimally visible addition fails to gain favor. On September 14, 2010, Landmarks considered for a third time a proposed rooftop addition to a six-story building at 33 West 19th Street in the Ladies’ Mile Historic District. Landmarks had rejected two previous designs due to their size and visibility. 7 CityLand 60 (May 15, 2010). The owner first proposed a five-story addition that was set back behind layers of translucent mesh. The owner returned nine months later with a three-story perforated-metal addition that followed the form of the mansard roofs common to the district.

At the September 14 hearing, architect Morris Adjmi presented a revised two-story design. The addition would only be partially visible from street level. The proposal still emulated the shape of a mansard roof and retained the previous iteration’s honeycombed glazed aluminum over glass and a terra-cotta cap. Adjmi noted that he simplified the design in response to the commission’s comments, but that it still served as “an abstract representation of a dormer.” The addition would be set back further from the existing building’s front facade so it would not compromise its cornice.

Commissioner Stephen Byrns said he could support the proposal, but would have liked the design more if the peaked dormers were more visible and a bit taller. Commissioner Fred Bland said the building’s large cornice allowed a lot of latitude for an addition and expressed reluctant support for the proposal. Bland regretted that he would have to approve “a watered down, meek version” of what had previously been presented. He said “sometimes great architecture simply is appropriate,” and was disappointed that “infinitesimal visibility has become the watchdog” for what is considered appropriate in a historic district.

Vice Chair Pablo Vengoechea said it was “unfortunate” for Landmarks to reduce the capacity for exciting design and innovation, and urged the owner to revise the design in the direction of the previously-proposed plan. Commissioner Roberta Brandes Gratz, who had opposed the previous designs, concluded that sometimes Landmarks should be more flexible in the service of good design and that a more visible addition could be appropriate for the site. Commissioner Libby Ryan maintained that a two-story addition would substantially impact the bulk and mass of the mid-block building.

Chair Robert B. Tierney asked the owner to come back with another
City Planning Proposes Important Definitional Changes to Zoning Resolution

The New York City Zoning Resolution consists of almost 1,000 pages of text, plus appendices and maps. Without a doubt, the most important are the 34 pages of definitions set forth in Section 12–10.

In a proposed text amendment referred out for public review on September 27, 2010, the City Planning Commission seeks a comprehensive overhaul of two of the most important definitions: “building” and “development.” According to the Department of City Planning, at least one of these terms is found on seven out of every ten pages of the Zoning Resolution. The purpose of the text changes is to clarify their meaning, restore original intent, and increase certainty.

Background

The proposal stems from one of the most mundane of issues — a dispute over a parking space between the owner of a twenty-foot-wide townhouse on the Upper East Side and the City Planning Commission.

Section 13–551 of the Zoning Resolution allows the Commission to approve onsite accessory off-street parking facilities in R8B zoning districts by authorization, a form of discretionary approval based on certain findings. However, Section 25–633 prohibits curb cuts for residential developments on zoning lots having a width of less than 40 feet.

After meeting with City Planning, the owner applied to the Commission for an authorization to park a single car in the basement, accessed by a nine-foot curb cut. After internal review, City Planning terminated the application based on Section 25–633, concluding that the townhouse was a residential development on a less than 40-foot-wide zoning lot. This decision was entirely consistent with the manner in which this section had been applied in the past.

The owner filed an Article 78 proceeding, alleging that Section 25–633 was not applicable because the 100-year-old townhouse was not a “development” as defined in Section 12–10. In an October 3, 2010 decision, Justice Paul G. Feinman agreed. Gruson v. Dep’t of City Planning, Index No. 106396/08 (N.Y. Cty. Sup. Ct.).

“Development”

Section 12–10 defines development as “the construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of a tract of land for a new use.”

Since the adoption of the current Zoning Resolution in 1961, the term development has been interpreted to refer to both new and existing buildings, depending on the context. In other words, once a new building is constructed, it continues to be a development.

The statutory definition clearly refers to the construction of new buildings, however. As reasoned by the Petitioner, after a new building is constructed, it is no longer a development. Accordingly, the prohibition against curb cuts for residential developments should not apply.

In response to the Gruson decision, the City has proposed to overhaul the Zoning Resolution so that the term development is used only to refer to the construction of a new building. At the same time, the term building will be used to refer to existing buildings.

“Building”

A building is currently defined as “any structure which: (a) is permanently affixed to the land; (b) has one or more floors and a roof; and (c) is bounded by either open area or the lot lines of a zoning lot.” Under the Building Code, a structure bounded by fire walls, even if it adjoins another structure on the same zoning lot, may constitute a separate building. Therefore, there can be any number of attached but separate buildings on a single zoning lot under the Building Code. However, attached buildings on a single zoning lot, even if separate in all other respects, fall under the literal definition of a single building under the Zoning Resolution because they are not separated by zoning lot lines or open areas.

This dichotomy has led to problems in applying the regulations of the Zoning Resolution. For example, in a mixed-use building, residential use must be located above the level of commercial use. However, where there are two or more adjacent buildings, the permitted height of residential use is determined by the highest commercial floor in any of the buildings, not just the new mixed-use building. This makes no sense.

Another problem arises in applying the sliver law, which limits the height of developments of less than 45 feet in width. Contrary to the intent of the sliver regulations, a new building of less than 45 feet in width on a zoning lot with adjoining buildings may be permitted to exceed the height limit when the width of the adjoining building(s) is included in the total width.

The proposed text changes would clarify the zoning definition of building to treat a building as it is treated in the Building Code — i.e., as a structure bounded by open areas, lot lines, or fire walls.

Underlying City Planning’s proposal is an attempt to increase the predictability of the Zoning Resolution and reduce the number of interpretations required by the Department of Buildings. The proposed text changes appear to be a good start.

— Howard Goldman & Caroline G. Harris

The authors are partners in the land use firm GoldmanHarris LLC.
Certificate of Appropriateness  
Tribeca, Manhattan  
New building on vacant Tribeca lot considered

In 1999 Landmarks approved plan for new six-story structure, but owner died before developing site. On September 7, 2010, Landmarks considered Real Estate Equities Corporation’s proposal to construct a seven-story residential building on a vacant corner lot facing Finn Square at 137 Franklin Street in the Tribeca West Historic District. The site had once been occupied by a one-story building built in 1985. In 1999, Landmarks approved the then-owner’s plan to demolish the building and construct a six-story structure. The building was demolished, but the owner died, leaving the project in limbo and the lot vacant.

At the hearing, Real Estate Equities Corporation’s Brandon Miller argued that the vacant lot’s development would complete Finn Square. Architect Markus Dochantschi, from studioMDA, explained that the proposed seven-story building would be clad in red brick and feature a black granite and metal base. Arched bays would span the building’s height on the visible facades, and a black metal and epoxy cornice would top the structure. Lateral bands of angled glass-tile panels would be installed at four levels of the facade. According to the architects, the building would not cover the entire lot due to underlying zoning requirements.

Manhattan Community Board 1 generally supported the proposal provided that the material of the base and cornice were changed. The Historic Districts Council’s Nadezhda Williams also objected to the proposed cornice and argued that building out to the lot lines would “create a more complete building and street front.”

Commissioner Fred Bland greeted the proposal with enthusiasm, stating that the architect successfully designed a building derived from the surrounding context that was not a “slavish replication” of anything else. Bland did, however, note that the cornice was somewhat “clunky” and should be simpler. Although Vice Chair Pablo Vengoechea found the proposal generally appropriate, he...
said the design was “restrained” and that the base needed to be “stronger” and taller. Vengoechea argued that the project would be improved if the zoning regulations permitted a building that fully covered the lot. Commissioner Roberta Brandes Gratz expressed frustration that zoning requirements would trump Landmarks’ view of what was appropriate.

Landmarks asked the applicants to return with a refined plan.


**LANDMARKS PRESERVATION COMMISSION**

Certificate of Appropriateness
SoHo, Manhattan

Revised facade renovation for SoHo store approved

New H&M storefront retains more of building's original fabric than previous proposal. On September 7, 2010, Landmarks approved a revised proposal to replace the storefront of an 1860s-era building owned by H&M at 558 Broadway in the SoHo-Cast Iron Historic District. Landmarks had previously rejected a proposal to replace the two-story building's entire brick facade with layered panels of fiberglass-reinforced concrete. 7 CityLand 76 (June 15, 2010). H&M’s new proposal would only impact the ground floor, leaving the building's decorative work and a large second floor tripartite window untouched. TEK Architects’ David Lee proposed removing the ground floor facade, which had been repeatedly altered over the years, and building a glass storefront with grey steel framing and a sixteen-inch-high kick plate running along the bottom. An entrance to H&M’s second-floor showroom would be located on the left side of the facade and separated from the main storefront by a steel column.

Manhattan Community Board 2’s Jane McCarthy testified that CB2 supported the new plan. The Historic District Council’s Nadezhda Williams urged Landmarks to deny the proposal, conceding that it was “not nearly as offensive” as the initial plan but arguing it created a facade of two distinct and unrelated parts.

Commissioner Stephen Byrns found the use of steel vertical I-beams acceptable for the district, but said the storefront’s asymmetrical composition would be inappropriate. Commissioner Roberta Washington said the first and second floors would be too disparate visually and suggested that the architects continue to work so that “you know you’re looking at one building when you stand in front of it.” Commissioner Libby Ryan said the new proposal would be acceptable because the existing storefront already utilized metal and glass. Commissioner Fred Bland noted that the new plan would improve the existing storefront. Chair Robert B. Tierney concurred, stating that it was a “vast and significant improvement” over the rejected plan.

Landmarks approved the proposal with Commissioners Byrns and Washington voting no.


**LANDMARKS PIPELINE**

*Proposed Designations – September 2010*

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**LANDMARKS PRESERVATION COMMISSION**

Designations
Manhattan

Three Manhattan buildings individually designated

Landmarks unanimously voted to protect a five-story building on Bowery, a Canal Street theater, and an East Village church. On September 7, 2010, Landmarks designated three Manhattan buildings as individual City landmarks. Landmarks unanimously approved a five-story cast-iron building at 97 Bowery, the terra cotta-adorned Loew’s Canal Street Theatre, and the Gothic-Revival style Eleventh Street Methodist Episcopal Chapel.

The Lower East Side’s 97 Bowery Building was built in 1869 to house a carriage-supply business and hardware store at a time when the Bowery was a major commercial thoroughfare. Architect Peter Tostevin designed the five-story structure featuring a three-bayed cast-iron facade with arched windows framed by Corinthian columns. Prior to 1961, the building’s third window bay of each floor was filled in to accommodate an elevator shaft. A visible, one-story rooftop addition was also added to house the elevator machinery. Vice Chair Pablo Vengoechea pointed out that designation would increase the possibility of creating a building restoration plan. Commissioner Margery Perlmutter noted that cast-iron architecture was rare along the Bowery and that its isolation lent the building a special quality.

Loew’s Canal Street Theatre at 31 Canal Street was built in 1927 by prominent theater designer Thomas Lamb. When Lamb built the theater, the Lower East Side had the country’s highest density of people and movie houses. The majority of theaters from this period have been demolished or have undergone extensive renovations, but the Loew’s
theater remains intact. The theater’s ornate terra cotta facade features garlands, sea serpents, and griffins. At a June 22 hearing, Thomas Sung, the building’s owner, testified that although he had originally intended to redevelop the site, Landmarks staff had convinced him of the value of preserving the structure. 7 City-Land 94 (July 15, 2010).

Before designating the theater, Chair Robert B. Tierney thanked the Sung family, stating that their cooperation was a “wonderful example of working together for the greater good of preservation and the City.” Noting the architect’s expertise, Commissioner Fred Bland praised the building, noting that few architects have ever come to “own a building type the way Thomas Lamb came to own theater design.”

The Eleventh Street Methodist Episcopal Chapel, at 545 East 11th Street in the East Village, was designed by the architectural firm of William Field & Son in 1868. In 1900, architect Louis Jallade and Joel Barber renovated the Gothic-Revival facade, adding a Colonial-Revival style entranceway. The two-story, red brick building was originally used as a chapel, a meeting room, a Sunday school, and as a dispensary for the area’s immigrant population. In 1941, the building was sold to a Slavic Pentecostal congregation, and is now known as the Father’s Heart Church.

Chair Tierney noted that Landmarks’ staff identified the “remarkable church” as part of the agency’s extensive and on-going East Village survey. Commissioner Bland noted that the church’s red brick and white wood cornice recalled the Carpenter Gothic architectural style and made it “highly worthy” of designation.

LPC: 97 Bowery Building, 97 Bowery, Manhattan (LP-2353); Loew’s Canal Street Theatre, 31 Canal St., Manhattan (LP-2368); Eleventh Street Methodist Episcopal Chapel, 545 E. 11th St., Manhattan (LP-2398) (Sept. 14, 2010).

DEPARTMENT OF PARKS AND RECREATION

Final Rule
Citywide

New community garden preservation rules released

Parks intends to preserve community gardens under its jurisdiction. There are more than 600 community gardens participating in the City’s GreenThumb Program. Since 2001, gardens on City-owned lots have been administered pursuant to practices memorialized in a 2002 agreement between the City and the State Attorney General’s Office, which expired on September 17, 2010. Prior to its expiration, the Department of Parks and Recreation published a new set of rules that codified and strengthened the agreement’s practices and established formal regulations for administering the 283 gardens under Parks’ jurisdiction.

The new rules require Parks to renew the license of any community garden as long as it satisfies the registration criteria. If a garden fails to comply with the registration criteria, or the garden is abandoned, Parks will attempt to identify a new group to take over the garden. The rules also increase Parks’ responsibility for identifying alternate garden sites in the event that an existing garden’s lot is transferred or developed. The 2002 agreement’s Garden Review Process required Parks to provide the garden’s representative with a list of available vacant City-owned land within a half-mile radius, if any existed. Under the new process, if no vacant lots are identified within a half-mile radius, Parks will extend its search to the entire community district. According to the new rule’s statement of purpose, Parks intends to preserve all active gardens that are in good standing. Parks will only apply the transfer provisions to abandoned or persistently non-complying gardens and only if it has been unable to identify a new group to care for the garden.

On the same day Parks published its rules, the Department of Housing Preservation and Development published rules for the nineteen gardens under its jurisdiction. While similar to Parks’, HPD’s rules differ in important ways. HPD is not required to renew garden licenses, and the rules do not include explicit language stating that gardens will be preserved as long as they are in good standing. HPD also does not explicitly limit its transfer provisions to abandoned or non-complying gardens. According to HPD, the transfer provisions will ensure that detailed information about the garden and any proposed project is provided to interested parties as part of the land use process.

Both sets of rules went into effect on October 13, 2010.

Department of Parks and Recreation, City Record, Sept. 13, 2010, at 2549; Department of Housing Preservation and Development, City Record, Sept. 13, 2010, at 2547.

ADMINISTRATIVE DECISIONS

Department of Buildings
Citywide

ECB dismissed falsified facade report charge

Building’s facade buckled two-and-one-half-years after engineer’s report. Richard Lefever, a licensed engineer, examined the facade of
Leslie Koch discusses the Future of Governors Island

Leslie Koch, president of The Trust for Governors Island, is responsible for the planning, redevelopment, and operation of 150 acres of Governors Island. Located 800 yards off the southern tip of Manhattan, the island is the newest addition to New York City’s real estate portfolio.

Koch, a native New Yorker, draws from her experience in both the private and public sectors in managing the island. After receiving a master’s degree in Public and Private Management from Yale University, she initially worked as a marketing executive for Microsoft. She then worked as CEO of the Fund for Public Schools where her leadership helped secure nearly $160 million of public and private funding for City education-related initiatives.

In 2003, the federal government sold the entire 172-acre island, except for the 22-acre national monument on the island’s northern side, to the people of New York State for one dollar. The Governors Island Preservation and Education Corporation (GIPEC) was formed as a City/State partnership to take over the day-to-day operations on the island. GIPEC was a wholly owned subsidiary of the Empire State Development Corporation. In April 2006, Governor George Pataki and Mayor Michael Bloomberg formally named Koch as president of GIPEC, citing her strong track record in successful public/private partnerships.

Transfer of power. In April 2010, the City and State announced that Governors Island would be transferred from GIPEC to the City of New York and controlled by the Governors Island Operating Entity. The operating entity was re-named “The Trust for Governors Island” in July 2010. The Trust includes a thirteen-member board, with nine members designated by the Mayor, one by Manhattan Community Board 1, and one each designated by the Governor, the 64th District State Assembly Member, and the 25th District State Senator. Simultaneously with announcing the creation of the Trust, Mayor Bloomberg also appointed Ronay Menschel of Phipps Houses as the Trust’s chair and named Koch as the Trust’s president. On July 14, 2010 the transfer of Governors Island was complete, and the State officially relinquished control.

Courting new tenants. More than 400,000 people have visited Governors Island this season, with many taking advantage of the 2.2-mile promenade and bike loop, enjoying unique views of the City, and attending cultural and sporting events. Despite the recent increase in popularity and visibility, Koch admits there are challenges to “bringing 150 acres of New York back to life.” A deed restriction inserted by the federal government prohibits residential housing, causing some prospective tenants to question how they can make money on the island. Koch answers by explaining that Governors Island had always been envisioned as a multi-phase, mixed-use project that will welcome commercial and non-profit development. Notably, the island’s deed restriction does not preclude hotel, office, restaurant, educational, or non-profit uses of the island.

Since Governors Island was closed to the public for nearly two centuries, there was a psychological barrier for many visitors and possible tenants when considering coming to Governors Island. Koch cites transportation factors as a consideration for possible tenants, particularly when companies consider putting a hotel or restaurant on an island accessible only by boat. Koch also references that the precarious financial position of the island under the former City/State partnership had been a major source of concern for potential tenants. Only a year-and-a-half ago, the island was initially omitted from the State’s budget. It was uncertain whether the island would be open for the 2009 season until twenty-four hours before the budget passed.

Today, the Trust hopes that the island’s new management will put potential tenants at ease. Koch believes accountability and leadership are two major benefits of the transfer of the island from the State to the City, noting that a clear line of responsibility to City Hall should help address any uncertainty held by potential tenants.

Next steps. Current tenants on the island include the Lower Manhattan Cultural Council, which provides artists with work and exhibition space, and the Urban Assembly New York Harbor School, a public high school specializing in maritime education that recently became the island’s first official permanent tenant. While New York University has expressed interest in developing a satellite campus on the island as part of its citywide expansion initiative, Koch says that there are no negotiations pending and that the Trust would issue a formal request for proposals before such a project was approved. Koch, however, believes that an educational institution would be an ideal anchor tenant for Governors Island.

The Trust is committed to the revitalization of the island. It plans to have shovels in the ground during 2012 for the first phase of construction of the Park and Public Space Master Plan, which is a plan for 87 acres of public space on the island. The first phase focuses on rejuvenating spaces in the northern historic district and adding key visitor amenities. Ironically, despite the federal government’s limitations on residential development, the island is zoned for residential use. The planned public space, however, does not require a change in zoning, and the Trust is waiting for a clearer sense of future uses before it considers a rezoning. Koch explains that although the project will take years to be fully realized, Governors Island “is already a living, breathing part of New York City.”

— Eugene Travers

a building and filed a report with Buildings in February 2007. In the report, Lefever had the option of designating the facade as safe, unsafe, or safe with a repair and maintenance program (SWARMP). Lefever chose the third option, because he identified facade conditions that required repairs within two years to avoid deteriorating into unsafe conditions. The owner failed to make repairs within the two-year time frame, and in August 2009 a portion of the exterior masonry of the wall buckled. The condition exposed the
public to the threat of falling debris. Buildings issued a notice of violation to Lefever for filing a false statement. According to Buildings, Lefever’s designation of the facade as SWARMP amounted to a false statement given the history of numerous repairs to the building’s facade and Lefever’s knowledge of such repairs. Lefever defended that his SWARMP designation was warranted since the building facade needed only repair and not immediate corrective action.

The hearing ALJ recommended that the NOV be sustained, finding that the building should have been categorized as unsafe given its history and industry knowledge that buildings with these facades had problems. Lefever appealed to the Environmental Control Board.

The Board reversed the ALJ’s decision and dismissed the NOV, ruling that Buildings had failed to prove that Lefever filed a false statement. The report noted that certain facade conditions needed repair within two years to avoid becoming unsafe conditions. The owner failed to repair the conditions within two years, and the facade buckled thereafter, a result consistent with the report’s findings. Furthermore, the Board explained that the mere fact that an unsafe condition occurred after the report was filed did not render the building unsafe at the time of the inspection.


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**New Decisions Added to CITYADMIN**

www.citylaw.org – September 2010*

**BOARD OF STANDARDS & APPEALS (CONT.)**

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<td>Sheldon Lobel PC</td>
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<td>Special permit (service station w/store)</td>
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**LANDMARKS PRESERVATION COMMISSION**

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<td>The Plaza Hotel</td>
<td>Alter entrance stair</td>
<td>11-2476</td>
<td>Yes</td>
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<tr>
<td>675 W. 252nd St., BK</td>
<td>Wave Hill House</td>
<td>Rem. doors, inst. door, ramp</td>
<td>11-1904</td>
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<td>222 Front St., MN</td>
<td>South St. Seaport HD</td>
<td>Remove illegal armature, inst. sign</td>
<td>11-2206</td>
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<td>38 Laight St., MN</td>
<td>Tribeca North HD</td>
<td>Legalize bulkhead, HVAC</td>
<td>11-1884</td>
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<td>501 Broadway, MN</td>
<td>SoHo-Cast Iron HD</td>
<td>Remove bulkhead, const. roof add.</td>
<td>11-2225</td>
<td>Yes</td>
<td>9/7/2010</td>
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<tr>
<td>64 Wooster St., MN</td>
<td>SoHo-Cast Iron HD Ext.</td>
<td>Repl. doors, inst. ramp, stair</td>
<td>11-2297</td>
<td>Yes</td>
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<td>558 Broadway, MN</td>
<td>SoHo-Cast Iron HD</td>
<td>Replace infill, inst. signage</td>
<td>11-2534</td>
<td>Yes</td>
<td>9/16/2010</td>
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<td>361 Sixth Ave., MN</td>
<td>Greenwich Village HD</td>
<td>Replace infill, inst signs, awning</td>
<td>11-2541</td>
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<td>9/16/2010</td>
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<td>40 Fifth Ave., MN</td>
<td>Greenwich Village HD</td>
<td>Combine windows, inst. window</td>
<td>11-1773</td>
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<td>8/20/2010</td>
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<td>440 W. 14th St., MN</td>
<td>Gansevoort Market HD</td>
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<td>11-1743</td>
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<td>929 Broadway, MN</td>
<td>Ladies’ Mile HD</td>
<td>Replace infill; demo. rear walls, const. rear, roof additions</td>
<td>11-2448; 11-2333</td>
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<td>331 W. 22nd St., MN</td>
<td>Chelsea HD</td>
<td>Legalize grilles, ironwork, fence</td>
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<td>9/2/2010</td>
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<td>229 E. 62nd St., MN</td>
<td>Treadwell Farm HD</td>
<td>Replace facade, const. roof add.</td>
<td>11-2348</td>
<td>Yes</td>
<td>9/9/2010</td>
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<tr>
<td>58 E. 66th St., MN</td>
<td>Upper East Side HD</td>
<td>Const. rear ext., replace windows</td>
<td>11-2522</td>
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<td>9/16/2010</td>
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<tr>
<td>115 W. 69th St., MN</td>
<td>Upper West Side/CPW HD</td>
<td>Remove rear ext., const. 4-story add.</td>
<td>11-2381</td>
<td>Yes</td>
<td>9/13/2010</td>
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<tr>
<td>1025 Fifth Ave., MN</td>
<td>Metropolitan Museum HD</td>
<td>Reconst. lobby arch, repl. canopy</td>
<td>11-1293</td>
<td>Yes</td>
<td>8/20/2010</td>
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<tr>
<td>1056 Fifth Ave., MN</td>
<td>Carnegie Hill HD</td>
<td>Est. master plan (tenace enclosures)</td>
<td>11-2219</td>
<td>Yes</td>
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<td>102 Park Pl., BK</td>
<td>Park Slope HD</td>
<td>Legalize, paint area</td>
<td>11-2377</td>
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<td>194 Atlantic Ave., BK</td>
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<td>Replace storefront infill</td>
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<tr>
<td>232 Court St., BK</td>
<td>Cobble Hill HD</td>
<td>Rem. garage doors, inst. storefronts</td>
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<td>312 Hicks St., BK</td>
<td>Brooklyn Heights HD</td>
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<td>11-2735</td>
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*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.*
Highland’s proposed affordable housing project in the Bronx.

CITY LAW BREAKFAST SERIES 2010

Friday, October 22, 2010

Matthew Goldstein, Chancellor of CUNY
Speaking on "The 2010 New York City Charter Revision Commission Recommendations"

Breakfasts begin at 8:15 a.m. at New York Law School, 185 West Broadway, 2nd Fl. Events Center, New York, New York