The City Council approved Vornado Realty Trust’s proposed 15 Penn Plaza commercial tower across the street from Penn Station in Manhattan. Image: Courtesy Pelli Clarke Pelli Architects.

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David Dinkins and the U.S.T.A. Tennis Center

The crowds going to the U.S. Open in Flushing Meadows Park must pass through the David Dinkins Circle to enter the National Tennis Center; many of them may not appreciate the significance of the naming. Mayor Dinkins, famous for his enthusiasm for tennis, completed the negotiations for the tennis center in 1993 as his four year term ended. He thereafter suffered biting criticism from his successor, Mayor Rudolph Giuliani, over the financial arrangements for the construction and use of the City-owned stadium, and over the F.A.A.’s agreement to divert noisy aircraft from nearby LaGuardia during the U.S. Open to avoid disrupting the players’ concentration. The City was deep in an economic recession at the time, and Giuliani made the tennis center a political issue. The contracts were signed, however, and Giuliani made his lingering disdain known by notoriously not attending the U.S. Open.

Thirteen years after the 1997 opening of the National Tennis Center and the Arthur Ashe Stadium, it is hard to remember just why Mayor Giuliani so vociferously opposed the project. The U.S. Open is a singular New York City event lasting two full weeks. It fills hotels and restaurants, gets people to ride the subway and the Long Island Railroad, and projects the most positive images of New York City around the world. Attendees to the U.S. Open enter a modern international fairground with pavilions of clothes, sports equipments, cars and food. In a reversal of pro football where the tailgate party is only a prelude to the game, attending the U.S. Open is all tailgate party, with tennis viewing available.

Mayor Giuliani’s plan to move Yankee Stadium to Manhattan went nowhere, as did Mayor Michael Bloomberg’s plan for a Jets Stadium at the same location. Bloomberg succeeded in having new stadiums built for the Yankees and Mets by building at existing locations, just as Mayor Dinkins did with the expanded tennis center. The tennis center site had been the Singer Bowl during the 1964–65 World’s Fair. It was reconstructed in 1978 and again in 1997. The 2010 tennis center is bigger today, but the site is the same.

The City does not often give physical honors to its living ex-mayors, but the naming of Dinkins Circle is entirely appropriate.

Ross Sandler
proposed the project, with Council Members Albert Vann and Larry B. Seabrook abstaining. Vann said that based on the responses at the hearing, it appeared that Vornado had not previously considered the MWBE participation issue.

The Land Use Committee also approved the proposal, but council members expressed their dissatisfaction with how the MWBE issue had been handled during the public review process. Council Member Diana Reyna said while Vornado agreed to certain provisions, it was unclear how these private commitments would be honored. Reyna, as well as other council members, said a broader discussion on the MWBE issue was overdue. Council Member James Sanders Jr. characterized Vornado’s MWBE agreement as a “tepid response,” but said the conversation was not ending with the vote. Council Member Charles Barron voted no on the plan. Barron said Vornado’s goal of awarding fifteen percent of the contracts to minorities was “bogus” and “nonsense,” and urged his colleagues to deny the project. Vann again abstained, stating that he “had no idea what [Vornado’s MWBE agreement] does.” Council Member Jumaane D. Williams also abstained.

The Full Council approved the plan by a vote of 47-1-4.
Rezoning

Auburndale/Oakland Gardens, Queens

Large rezoning in northeast Queens considered

Contextual plan would impact 418 blocks in Auburndale, Oakland Gardens, and Hollis Hills. On August 11, 2010, the City Planning Commission heard testimony on the Department of City Planning’s contextual rezoning proposal for 418 blocks in three communities in northeast Queens. The plan comprises the Auburndale subarea which is generally bounded by Station Road to the north, the Long Island Expressway to the south, Francis Lewis Boulevard to the east, and Kissena Park to the west; and the Oakland Gardens-Hollis Hills subarea which is generally bounded by the Long Island Expressway, the Grand Central Parkway, Alley Pond Park, and the Clearview Expressway. The proposal began its public review in May 2010. 7

The rezoning area is characterized by suburban-style one- and two-family detached and semi-detached housing, but also includes larger multi-family apartments along the wider boulevards. The current zoning has remained unchanged since 1961 and permits a variety of building types that has resulted in out-of-context development in many of the areas characterized by single-family homes.

Planning would apply six contextual zoning districts, including R2A, R3X, R4B, and R5D, in order to preserve the lower-density character of blocks developed with detached and semi-detached homes. It would, however, allow a moderate increase in development along the area’s major thoroughfares. The proposal includes rezoning approximately two blocks in Oakland Gardens occupied by the Windsor Park Apartments from R4 to R5D and nine blocks adjacent to Alley Pond Park from R3-2 to R2A.

Queens Borough President Helen Marshall supported the proposal, but requested that Planning rezone the nine blocks adjacent to Alley Pond Park to R3X rather than R2A. Marshall cited the concerns expressed by residents that the more restrictive R2A zoning, which only permits single-family detached homes, would not match the area’s built character and would also diminish property values by limiting future development.

At the Commission’s hearing, residents and community groups were divided. Auburndale residents and Council Member Daniel J. Halloran, whose district includes Auburndale, supported the plan, but asked the Commission to rezone a portion of Station Road not included in the proposal and zoned for manufacturing. Halloran said the area, known as the “T,” was occupied by auto repair businesses and “sits in the middle” of lower-density residential blocks. He acknowledged that Planning would likely need to undertake this action separately, but urged the Commission to rezone the area for residential uses in the future.

Residents in Oakland Gardens were divided on whether the proposed R2A district was appropriate for the area adjacent to Alley Pond Park. Joseph Rosenberg opposed the designation, testifying that it would be difficult to sell a home that could not be enlarged to accommodate two families. Lois Marbach, president of the Oakland Gardens/Terrace Community Council, supported the plan, testifying that the R2A designation was necessary to end continued overdevelopment.

Residents of the Windsor Park Apartments also were divided on the appropriateness of rezoning the site from R4 to R5D. Opponents were concerned that if the site were rezoned the apartment complex’s expansion would eliminate parking and open space. Larry Kinitsky, president of the co-op board, noted that any proposal would require approval from the complex’s residents, and said redevelopment plans would include adequate parking.

The Commission has until October 5 to review the proposal.


Rezoning/UDAAP

Borough Park, Brooklyn

Culver El rezoning/housing project approved

Proposal would rezone manufacturing district and facilitate affordable housing on Culver El site. On August 25, the City Planning Commission approved the Department of City Planning and the Department of Housing Preservation and Development’s Culver El Proposal. The proposal would rezone a seven-block portion of Borough Park, Brooklyn, generally bounded by 36th Street to the north, 39th Street to the south, Old Utrecht Road to the east, and 12th Avenue to the west. The plan would facilitate the development of a 68-unit housing project on two narrow, City-owned parcels formerly occupied by the elevated BMT Culver Shuttle line. The parcels are located on the south side of 37th Street between 12th and 14th Avenues.

The rezoning area was historically used for manufacturing, but is now predominantly characterized by residential uses consisting of two-story attached and detached homes. The plan would establish a new Special Mixed Use District and replace the area’s M1-1 and M1-2 manufacturing districts with M1-2/R6A and M1-2/R6B districts to reflect the neighborhood’s current development. Planning would extend an existing R5 district south to include a portion of the block running from 36th and 37th Streets, between 12th and 13th Avenues. The proposal would also rezone the block...
bounded by 36th and 37th Streets, and Old Utrecht Road and 13th Avenue from M1-2 to C4-2A. This block is occupied by the Bergamot Outlet department store.

HPD selected the Southern Brooklyn Community Organization to build seventeen four-story, four-unit buildings and three parking lots with a total of 48 spaces on the Culver El right-of-ways. The project would provide 110,776 sq.ft. of residential space, 14,887 sq.ft. of open space, seventeen parking spaces for residents, and 31 spaces for existing community facilities in the area. The affordable housing would be created under HPD’s New Foundations homeownership program, and the units would have a fifteen-year resale restriction. The developer would market the units to families earning between 80 and 110 percent of area median income.

Brooklyn Borough President Marty Markowitz and local Council Member Brad Lander generally supported the plan, but both officials requested that the housing project’s units remain permanently affordable under the City’s Inclusionary Housing Program. Markowitz also recommended that the Commission require the owner of the Bergamont property to provide affordable housing if it redeveloped the site. Lander suggested that the site should either be removed from the proposal or rezoned to C8-2, which does not permit residential uses.

At the Commission’s July 28 hearing, attorney Adam Rothkrug, representing the developer, testified that SBCO’s primary function was to provide affordable housing and that the New Foundations program was the most effective way to develop the proposed project. HPD’s Jack Hammer explained that while the Inclusionary Housing Program’s homeownership model requires developers to offer longer term affordable units, it only applies to twenty percent of the units. Hammer pointed out that 100 percent of the units would be affordable under the New Foundations program.

The Commission unanimously approved the proposal, noting that it would provide a framework for future development that recognized the area’s diverse mix of uses. The Commission also noted that the proposal would create opportunities for growth, and lead to development of affordable housing on an underutilized site.


**CITY PLANNING COMMISSION**

**UDAAP/Special Permit**

**Prospect Lefferts Gardens, Brooklyn**

**Brooklyn supportive housing project debated**

New project would house women transitioning from shelters or hospitals; opponents expressed concerns about project’s impact on neighborhood. On August 25, 2010, the City Planning Commission heard testimony on the Department of Housing Preservation and Development’s proposal to allow Providence House to develop a six-story, 26-unit supportive housing project at 329 Lincoln Road in the Prospect Lefferts Gardens section of Brooklyn. Providence House, established by the Sisters of Saint Joseph, provides supportive and transitional housing for homeless and formerly institutionalized women. HPD recently demolished a four-story building on the site that had remained vacant for thirty years.

Providence House would provide twenty apartments to single women transitioning from shelters and hospitals. Five units would be marketed to low-income single women earning less than 60 percent of the area’s median income, and one unit would be occupied by the building’s superintendent. To facilitate the project, HPD requested permission to dispose of the City-owned property and applied for a special permit allowing an increase in the building’s maximum floor area.

Brooklyn Community Board 9 opposed the project, and Borough President Marty Markowitz conditioned his approval on Providence House altering the ratio of the project’s supportive/low-income housing component. Markowitz stated that 40 percent of the units should be available to low-income women, and noted that similar supportive housing projects in the area contained a 60/40 percent split in housing. He also stated that Providence House should consider providing larger “family-oriented” units.

At the Commission’s hearing, Sister Janet Kinney, Providence House’s executive director, said her group operated ten residential programs, including a transitional project for women parolees in Prospect Lefferts Gardens. Kinney claimed that if Providence House altered the supportive/low-income housing ratio, it would have to eliminate staff,
Residents testifying in opposition expressed concerns about the project’s impact on the neighborhood. Joanne Newbold said that many children live on the block and that it was not an appropriate site for the project. Newbold noted the prevalence of other nearby supportive housing facilities and asked when the area would “stop being our neighborhood and just be supportive housing for everyone else?”

Those speaking in favor included residents and former tenants of Providence House facilities. Sharon White-Harrigan, director of Brooklyn’s Alternatives to Incarceration program, said she resided in a Providence House facility after serving eleven years in prison. White-Harrigan said that she had successfully reintegrated into society in large part due to Providence House.

The Commission has until October 18 to vote on the project.


**CITY PLANNING COMMISSION**

Rezoning
Rosedale, Queens

Rezoning in southeast Queens approved

Local council member supported 193-block contextual rezoning in suburban Queens. On August 25, 2010, the City Planning Commission approved the Department of City Planning’s proposal to rezone 193 blocks in Rosedale, Queens. The triangular-shaped rezoning area is generally bounded by Merrick Boulevard to the north, Idewild Park and Hook Creek to the south, Nassau County to the east, and Brookville Boulevard to the west. The plan seeks to preserve the neighborhood’s low-density character and builds on three recent rezonings in the nearby neighborhoods of Brookville, Cambria Heights, and Laurelton. The Commission certified the proposal in June 2010. 7 CityLand 91 (July 15, 2010).

Sunrise Highway bisects the rezoning area. The northern portion is zoned R2 and characterized by single-family detached homes. Rosedale’s southern portion is zoned R3-2, which allows a variety of housing types, including low-rise attached houses, small multi-family apartment houses, and detached and semi-detached houses. This area is also characterized by single-family detached homes, but the flexibility of the R3-2 zoning has resulted in pockets of overdevelopment out of character with the area’s prevailing suburban nature.

Planning would replace the majority of the R3-2 zoning with contextual zoning districts in order to better reflect existing development. The plan would rezone 146 blocks throughout the southern portion of Rosedale to R3X, thereby limiting building types to detached one- and two-family homes. Planning would apply R3-1 districts to six areas encompassing 39 blocks, limiting new development to detached and semi-detached homes. Two small portions would be rezoned from R3-2 to R3A to match those areas’ existing narrow lot development. Planning would also ex-
tend the existing R2 district over six lots occupied by detached residences and modify commercial overlays to correspond with existing uses.

At the Commission’s public hearing, a representative for Council Member James Sanders Jr., whose district includes Rosedale, said that Sanders “wholeheartedly” supported the rezoning and that the area “has been inundated with overdevelopment for far too long.” Bill Perkins, president of the Rosedale Civic Association, testified that Rosedale would be the last neighborhood in southeast Queens to be rezoned, emphasizing that the community did not want to fall victim to overdevelopment when the economy rebounds. There were no speakers in opposition.

The Commission unanimously approved the proposal.

CPC: Rosedale Rezoning (C 100436 ZMQ - rezoning) (Aug. 25, 2010).

**ULURP PIPELINE**

### New Applications Certified into ULURP

<table>
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<tr>
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<th>DESCRIPTION</th>
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<th>ULURP NO.</th>
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<td>City map amendment</td>
<td>BX 8</td>
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<td>8/9/2010</td>
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<td>Glenn Avenue</td>
<td>City map amendment</td>
<td>QN 8</td>
<td>090363MMQ</td>
<td>8/9/2010</td>
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### CITY PLANNING COMMISSION

**Text Amendment**

**Citywide**

**Car-share parking text amendment modified**

Commission determined that clear off-street parking rules for car-share vehicles would help alleviate traffic congestion and increase available spaces. On August 11, 2010, the City Planning Commission modified the Department of City Planning’s proposed zoning text amendment that would establish off-street parking guidelines for car-share vehicles offered by companies such as ZipCar and Connect by Hertz.

The zoning resolution’s off-street parking regulations address where private vehicles and traditional car rentals are permitted to park, but do not address car-share vehicles. Rental vehicles are considered a commercial use and are prohibited in most public parking facilities. Planning’s proposal would define car-share vehicles and permit car-share vehicles to park in a range of public and accessory parking facilities. The amendment would establish higher maximums in public facilities and in high- and medium-density residential garages, while restrictions would be tighter in low-density districts. Planning would require that all garages containing car-share vehicles provide an information plaque identifying the total number of spaces and maximum allowable number of car-share spaces.

At the Commission’s public hearing, a representative of Manhattan Borough President Scott M. Stringer and representatives from car-sharing companies and planning groups spoke in support. Stringer’s representative suggested that the Commission include signage requirements clarifying that residents with private vehicles had priority over car-share companies when attempting to secure a monthly space in residential garages. 7 CityLand 106 (Aug. 15, 2010).

The Commission approved the proposal, but made several modifications. It noted that accessory residential parking facilities outside of the Manhattan Core (Community Districts 1–8) are permitted to rent spaces to non-occupants of the building, but a space must be made available to a resident within 30 days of a written request to the landlord. The Commission extended this provision to include the Manhattan Core and modified the amendment to require the parking availability information to be included on the plaque required for facilities with car-share vehicles.

Addressing safety concerns raised by some community boards during the public review, the Commission also modified the proposal to require the residential portion of a building to be secured if the building is accessible from an accessory garage that permits car-share vehicles.

CPC: Car Share Text Amendment (Aug. 11, 2010).

### BOARD OF STANDARDS & APPEALS

**Appeal**

East Village, Manhattan

BSA legalizes sixth floor, but not penthouse

BSA had previously revoked permit for buildings’ existing two-story addition. In 2007, the owner of two pre-1948 five-story buildings at 514 and 516 East 6th Street in Manhattan obtained an alteration permit and enlarged the buildings by two stories. The enlarged buildings did not comply with the Multiple Dwelling Law’s fire safety requirements, but Buildings permitted the owner to provide alternative fire safety upgrades. A tenant appealed the decision to BSA, claiming that Buildings was not authorized to permit alternative measures in lieu of the Multiple Dwelling Law requirements. BSA agreed and revoked the permit.

The owner requested that BSA legalize the buildings pursuant to a section of the Multiple Dwelling Law permitting BSA to modify requirements for buildings constructed prior to 1948. During the hearings process, the owner agreed to demolish the seventh floor penthouse and requested that BSA only legalize plans reflecting a six-story building. The owner claimed that it would be a hardship to comply with the Multiple Dwelling Law safety...
requirements, noting that it would require widening existing staircases and hallways, and removing floors, beams, and walls. The owner also claimed that the alternative measures, which included a full sprinkler system, hard-wired smoke detectors, and new fire escapes, satisfied the Multiple Dwelling Law’s intent.

Local elected officials, community groups, and one of the building’s tenants opposed the application, arguing that the buildings were incompatible with the neighborhood. The owner also claimed that because of the two-story addition, BSA was required to review the application under an alternate section of the Multiple Dwelling Law requiring that a building altered after 1961 demonstrate the building or premises had unique physical features.

BSA disagreed and granted the appeal. BSA concluded that the alternate section only applied to the construction of new buildings, or to renovations to new buildings, constructed after July 1, 1948. According to BSA, to interpret the alternate section as the tenant suggested would render ineffective the section cited by the owner that expressly applies to buildings constructed prior to 1948. BSA found that the owner established that complying with the Multiple Dwelling Law created a hardship and the “spirit and intent” of the law would be maintained by the six-story building with alternative safety measures.

use by the National Guard. Former Council Member Kenneth Mitchell and the State Division of Military and Naval Affairs supported designation at the August 2009 hearing.

The Commissioners generally praised the building, with Margery Perlmutter remarking that although it was designed for military purposes, it possessed a “fanciful” quality. Commissioner Stephen Byrns praised the building’s unusual brickwork and castle-like features noting that it was “flexing all its muscles in defense of the City and the country.”

The Christ Church complex comprises a church, parish house, rectory, and cloister; all of which are clad in granite and modeled on late Gothic English architecture. Christ Church was established in 1849, but the existing buildings date to the early 1900s with the exception of the 1879-built rectory. Isaac Pursell designed the church and the parish house, and although he was the architect of many religious buildings throughout the Mid-Atlantic, Christ Church represents his only work in New York City. The church has an extensive collection of stained-glass windows including five from Tiffany Studios. Representatives of the congregation supported designation at the August 2009 hearing.

Commissioner Diana Chapin said the complex’s ancillary buildings enhanced the “very fine” neo-Gothic church structure. Commissioner Perlmutter approved designation, noting that the complex was an unusual example of an urban church campus. Chair Robert B. Tierney said the “remarkable complex” was beautifully maintained and thanked the representatives of the church for being responsible custodians of the property.

For more information, please visit the Landmarks Preservation Commission’s website at www.lpc.nyc.gov.

LPC: Headquarters Troop, 51st Cavalry Brigade Armory, 321 Manor Rd., Staten Island (LP-2369); Christ Church, 74 Franklin Ave., Staten Island (LP-2383) (Aug. 10, 2010).
On August 10, 2010, Landmarks heard testimony on the potential designations of four buildings located in Staten Island’s Sandy Ground community, one of the country’s oldest communities settled by freed slaves. The buildings date to the 19th century and include the Rossville AME Zion Church located at 584 Bloomington Road, two cottages at 565 and 569 Bloomington Road, and the Coleman House located at 1482 Woodrow Road.

Located on Staten Island’s south shore, freedmen settled Sandy Ground after New York abolished slavery in 1827. Soon after, free blacks from the Chesapeake Bay region traveled to the community to pursue their trade as oystermen in a place where they could own and captain their own boats. The community persisted after the oyster beds were closed due to pollution in 1916, and descendants of the "Moravian Florist complex. Spearheaded by the owner and preservation architect David Carnivale, the building recently underwent extensive restoration that included removing some modern additions and replacing roof material.

The Preservation League of Staten Island’s John Kilcullen testified that the borough was rapidly losing its 17th century buildings and urged Landmarks to designate the structure. The Society for the Architecture of the City’s Christabel Gough also supported designation, noting that the use of local fieldstone distinguished the Lakeman House from other Hudson Valley Dutch homes.

Landmarks did not set a date for a vote.


LANDMARKS PRESERVATION COMMISSION

Designation Hearings
Rossville, Staten Island

Remnants of historic free black community heard

Four 19th century buildings in Staten Island’s Sandy Ground, one of the first communities settled by freed slaves, considered. On August 10, 2010, Landmarks heard testimony on the potential designations of four buildings located in Staten Island’s Sandy Ground community, one of the country’s oldest communities settled by freed slaves. The buildings date to the 19th century and include the Rossville AME Zion Church located at 584 Bloomington Road, two cottages at 565 and 569 Bloomington Road, and the Coleman House located at 1482 Woodrow Road.

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original settlers reside in the area to this day. The City recently re-zoned the area, and the Rossville AME church’s leadership opposed the action due to concerns that it would prevent the church’s planned senior citizen housing project. 7 CityLand 5 (Feb. 15, 2010).

In 1897, Andrew Adams built the vernacular Rossville AME Zion Church for a congregation that had incorporated in 1850. Virginia-born clergyman William H. Pitts purchased the property, and served as the church’s first pastor. Landmarks designated the church’s cemetery in 1985. The church lost its steeple, and its sides have been reclad with faux brick. However, the structure retains its essential form, fenestration, porch, and stoop.

At the hearing, Yvonne Taylor, the chairperson of the church’s board of trustees, spoke in favor of designation. Taylor noted that the church served as the “center of community and religious life for the free African-American community” and that it will soon celebrate 160 years of service. The Society for the Architecture of the City’s Christabel Gough strongly supported designation characterizing the church as the “most widely visible emblem of Sandy Ground.”

Landmarks considered the 565 and 569 Bloomingdale Road Houses together as an individual landmark. The homes were built simultaneously in the 1880s by an unknown architect as rental properties for Robert Mersereau. Vernacular in style, the nearly identical structures are of a type known as “baymen’s cottages” featuring peaked roofs, central chimneys, and shallow stoops and porches. A 1963 fire damaged many structures in the area, but the cottages survived as a rare example of their types.

The Preservation League of Staten Island’s John Kilcullen supported designation, stating that the buildings were important to “preserve a sense of place that is rapidly being lost.” The Historic District Council’s Ed Kirkland testified that the two houses were survivors of a group of three and retained most of their original fabric.

The Coleman House was built in the 1860s for the Rossville AME church’s leader and his wife, the Reverend Isaac Coleman and Rebecca Gray Coleman. The structure’s oldest portion is two stories tall with three window bays. An east and west wing and a rear one-story addition were added before 1940, according to Landmarks staff.

David Mitchell, a former resident of the house and partial owner of the property, testified that the home was currently operating as a two-family rental property. Mitchell said that certain “legal and liability issues,” including outstanding Buildings violations, should be resolved before landmarking proceeded. Yvonne Taylor, a descendant of Rebecca Gray Coleman, supported designation and described how the building evolved from a simple cottage to a thirteen-room house as the Coleman family expanded.

No date has been set for voting on the designations.

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LPC: Rossville AME Zion Church, 584 Bloomingdale Rd., Staten Island (LP-2416); 565 and 569 Bloomingdale Road House, 565, 569 Bloomingdale Rd., Staten Island (LP-2415); Isaac and Rebecca Gray Coleman House, 1482 Woodrow Rd., Staten Island (LP-2414) (Aug. 10, 2010).

**ADMINISTRATIVE DECISIONS**

**Dep’t of Buildings**
**Bushwick, Brooklyn**

**Artist studio NOV defeated**

Building owner allowed artist studios on floor designated for factory use. The owner of 56 Bogart Street in Brooklyn rented several fourth-floor units to artists. The artists produced items such as canvas, paper and wood objects, jewelry, lighting, and

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Rossville AME Zion Church at 584 Bloomingdale Road in Staten Island. Image: LPC.

Four-story building containing artist studios at 56 Bogart Street in Brooklyn. Image: CityLand.
skateboards. A Buildings officer issued the owner a notice of violation for allowing occupancies contrary to what was permitted by the certificate of occupancy. At a hearing, Buildings submitted a 1931 and a 1973 C of O that stated that the first through fourth floors could only be used as a “factory.” The officer testified that he observed art and sculpture studios on the fourth floor, which according to the NOV, did not qualify as factory uses. The owner countered that the tenants were producing goods for sale or viewing elsewhere, and thus their activities were not inconsistent with a factory use or occupancy. An ALJ sustained the NOV, and the owner appealed to the Environmental Control Board.

The Board reversed the ALJ’s decision, ruling that Buildings had failed to show the artists’ activities were inconsistent with the C of O. As the building code and the zoning resolution lacked a definition of “factory,” the Board looked to the word’s common meaning – “a building or buildings with facilities for manufacturing.” The Board found that artist studios, like the ones described in the NOV, could fit within the common meaning of factory, and further found that Buildings did not prove the artists’ use of the space differed from factory use.

NYC v. 56 Bogart Street LLC, ECB Appeal No. 1000384 (July 22, 2010).

COURT DECISIONS

City of New York

Willets Point, Queens

Willets Point redevelopment clears judicial hurdle

Resident and businesses argued City did not fully consider plan’s impact on highway traffic and water supply. In November 2008 the City Council approved a redevelopment plan for Willets Point, Queens. The plan would transform a 61-acre industrial section of northern Queens into a mixed-use neighborhood with more than 5,000 residential units, 1.75 million sq. ft. of retail space, a school, and a hotel. According to the proposal’s environmental review, the City would undertake extensive environmental cleanup efforts and use fill to raise the entire area out of the 100-year flood zone. In order to address the projected increase in traffic, new traffic ramps would be added to the three highways located near the area. The ramps would require approval from the State Department of Transportation and the Federal Highway Administration.

Willets Point resident Joseph Ardizzone and local businesses challenged the plan, claiming that the City’s environmental impact statement did not adequately consider traffic impacts. Ardizzone argued that the City failed to explicitly state that it could not mitigate the impacts and did not describe the State and federal approvals process necessary to build the additional highway ramps. Ardizzone also claimed that the City inadequately considered the plan’s impact on the water supply, citing a study that concluded the proposed fill would compress underlying soil and force contaminants into a nearby aquifer.

Justice Joan A. Madden dismissed the challenge, finding that the City’s traffic analysis clearly identified that the plan would lead to significant increases in traffic congestion and deteriorating levels of service on the highways, and that the City did not suggest these impacts could be mitigated. Justice Madden ruled that the City was not required to describe the process for obtaining permits necessary for the project’s completion, and assumed additional environmental review would be required if it failed to obtain approval for the new highway ramps. Noting that the City adequately considered the potential impacts of the fill on the underlying soil, Justice Madden said Ardizzone’s study was speculative and failed to take into account that the City’s remediation plan included removing contaminated soil.


COURT DECISIONS

City of New York
E. Village/Lower East Side, Manhattan

Court challenge to East Village/LES rezoning fails

Developer argued City inadequately considered rezoning’s economic impact. In May 2008, the Department of City Planning proposed rezoning 111 blocks in Manhattan’s East Village and Lower East Side neighborhoods. Planning proposed the contextual rezoning in order to preserve the area’s low- and mid-rise character and channel new construction to blocks suitable for development. The plan included rezoning large mid-block portions above Houston Street from R7-2 to R8B to establish height limits while providing an increase in total floor area. The plan also included apply-
Mark Silberman brings Legislative and Litigation Experience to Landmarks

Hobbled by a bad back and recently returned from vacation, the Landmarks Preservation Commission’s General Counsel Mark Silberman sat down with CityLand to talk about his role at the Commission and Landmarks’ role in the City. He brings a perspective on the broader role of historic preservation nationally and in our culture.

A young environmentalist. Raised in Illinois and a graduate of the University of California at Santa Cruz, Silberman began his career in government and advocacy as a lobbyist in Washington for environmental groups, including Friends of the Earth, an offshoot of the Sierra Club and the first grassroots international environmental organization. Silberman worked on amending the Safe Drinking Water Act to protect groundwater, pesticide reform, and hazardous waste issues.

Silberman decided he could be more effective with a law degree. He attended Hofstra University’s law school, choosing this institution largely for the opportunity to work with environmental lawyer and former Parks Commissioner William Ginsberg. After graduation, Silberman worked at Paul, Weiss, Rifkind, Wharton & Garrison LLP’s recently created environmental law group, where, he estimates, he spent around 30 percent of his time working on pro bono cases. Among those cases, Silberman worked with two colleagues representing the Natural Resources Defense Council and the West Harlem Environmental Action Coalition over the operation of the North River Wastewater Treatment Plant in Harlem, eventually winning a million dollar settlement with the City.

Career at Landmarks. Silberman was brought to Landmarks in 1995 by then-Chair Jennifer Raab. Although he functioned as a de facto deputy counsel, he was hired under the non-legal title Director of Enforcement due to a City hiring freeze. Raab, who had as a priority the revamping of the agency’s enforcement capabilities, recruited him to Landmarks for his experience as a lobbyist and in drafting legislation. At that time, Landmarks’ only means of penalizing illegal work was through criminal proceedings, which the Law Department and judges were reluctant to enforce, or by refusing to issue permits for buildings with illegal work, known as the “hostage policy.” Silberman worked with Kenneth Fisher, who was then chair of Council’s Landmarks, Public Sitting & Maritime Uses Subcommittee, and preservationist groups to draft an amendment to the Landmarks Law allowing for administrative tribunals to adjudicate violations and for the assessment of civil penalties.

Silberman says that as general counsel for a small agency he can focus on policy, litigation, and planning rather than on procurement and personnel issues. In the line of duty, he drafts rules, including specific rules for individual historic districts. He also coordinated the redesign and updating of the Guide to New York City Landmarks and was involved in the recent exhibition Context/Contrast, which examined new buildings in historic districts.

Enforcement and outreach. Silberman emphasizes that the application of the Landmarks Law must be sufficiently flexible as not to deter people from living in historic districts. The Commission strives to be “a friendly organization,” and Silberman says the “political reality of preservation” is that Landmarks needs to provide readily accessible staff and require simple paperwork with minimal filing fees.

Silberman, who brought the agency’s first demolition-by-neglect lawsuit, credits his colleague, Deputy Counsel John Weiss, with having revolutionized the handling of these types of cases. Silberman says that Landmarks extensively reaches out to property owners before going to litigation. The agency has learned that early intervention is the key. The Corn Exchange Bank Building, located at 81 East 125th Street in East Harlem, had been vacant for decades and suffered a fire. The City then leased the building to a non-profit and Landmarks issued permits to restore the building, but the group did not maintain the structure and Buildings was forced to order its partial demolition for safety reasons. Intervening earlier and requiring the city and/or the nonprofit to replace the building’s roof might have averted the need to demolish a portion of the building. He says the prominent demolition-by-neglect lawsuits are the exception and that in the majority of cases “people fix the problem, and it goes away.”

On challenges to the Landmarks Law. In Citizens Emergency Committee v. Tierney, a community group sued Landmarks in an attempt to force the Commission to consider all public requests for evaluation within 120 days of their submission. Landmarks won the lawsuit on appeal, with the court ruling that the agency had broad discretion in carrying out its mission. A group of City Council members, however, recently introduced a bill which would require a Landmarks committee to review every landmark proposal with 120 days and “promptly” report their determination to the Commission.

Although he does not take a stance on the proposed bill, Silberman says that Landmarks is an expert agency and is accorded a great deal of discretion by law. He believes the discretion granted in the Landmarks Law was intentional and that the current procedures best fit the practical reality of the volunteer Commission. He points out that at one time the Commissioners only had one public hearing a month, but now meet twice, in addition to having one public meeting each month. It would be infeasible to involve them in every level of the agency’s decision-making process. Silberman notes that requests from the public are only one example of the discretionary nature of the Commission, citing staff surveys of potential districts and buildings and the delineation of historic district boundaries.

Silberman argues persuasively that if preservation is going to be accepted by the larger community, Landmarks must be pragmatic and the law “should not be a mechanically applied.” For example, it should allow owners to build contemporary additions and be open to new materials and approaches. Silberman believes that designation is widely considered to be desirable in the City partially because of Landmarks’ flexibility.

— Jesse Denno
ing a more restrictive R7B zoning district to three mid-blocks located between East 4th and 7th Streets and Avenues A and B.

After three years of public review, the City Planning Commission prepared a final environmental impact statement which concluded that the rezoning would have no significant impact on the environment. The City Council approved the proposal. 5 CityLand 165 (Dec. 2008).

Jakobson Properties LLC, the owner of 530 and 532 East 5th Street, challenged the City’s environmental review. Jakobson claimed that the City decided to apply the R7B zoning as a matter of political convenience in order to secure community approval. Jakobson argued that the City did not properly consider the rezoning’s impact on Jakobson’s properties, characterizing the R7B designation as a “moratorium on new building.”

Justice Alice Schlesinger dismissed the challenge, ruling that the City took the requisite “hard look” at the relevant areas of environmental concern and provided a “reasoned elaboration” for the decision to rezone the three mid-blocks differently than other blocks. Justice Schlesinger found that Planning had explained that the area covering Jakobson’s lots was characterized by shorter and lower-density development than other portions of the rezoning area. Planning also explained that an R8B zoning district would have been inappropriate because it would not maintain that area’s low-rise character.

Justice Schlesinger further found that the rezoning would not prevent new construction, noting that Jakobson was in the process of constructing a six-story building on its property. Justice Schlesinger said that the City revised the plan in response to community concerns and that such action was a well-recognized and important part of the environmental review process, not evidence of “some sort of deal” made in contravention of the law.

### CITY PLANNING COMMISSION (CONT.)

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<th>PROJECT NAME</th>
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<th>ULURP NO.</th>
<th>DATE</th>
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<tbody>
<tr>
<td>Culver El</td>
<td>Rezoning (7 blocks); zoning text amend. (est. Special Mixed-Use Dist.); UDAAP by HPD (68 units); special permits related to development within railroad right-of-way</td>
<td>BK 12</td>
<td>C100345ZMK; N100346ZMK; C100347HAK; C100348ZSK; C100349ZTK</td>
<td>8/25/2010</td>
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<tr>
<td>Hour Children</td>
<td>Rezoning (M1-1 to RSD, C1-3)</td>
<td>QN 1</td>
<td>C100145ZMQ</td>
<td>8/25/2010</td>
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<tr>
<td>Rosedale Rezoning</td>
<td>Rezoning (193 blocks)</td>
<td>QN 13</td>
<td>C100436ZMQ</td>
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### BOARD OF STANDARDS & APPEALS

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<td>514 E. 6th St., MN</td>
<td>Enlarge multiple dwelling</td>
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<td>217-09-A</td>
<td>Marvin B. Mitzner</td>
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<tr>
<td>1230 E. 27th St., BK</td>
<td>Enlarge 1-family dwelling</td>
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<td>37-10-BZ</td>
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<tr>
<td>620 E. 102nd St., BK</td>
<td>Permit day care center in CB</td>
<td>App'd</td>
<td>22-10-BZ</td>
<td>Harold Weinberg</td>
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<tr>
<td>770 McDonald Ave., BK</td>
<td>Ext. of term (catering est.)</td>
<td>App'd</td>
<td>617-80-BZ</td>
<td>Eric Palatnik PC</td>
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<tr>
<td>150 Kenilworth Pl., BK</td>
<td>Convert to commercial use</td>
<td>App'd</td>
<td>40-10-BZ</td>
<td>Sheldon Lobel PC</td>
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<tr>
<td>16 Eckford St., BK</td>
<td>Permit phys. cult est. (Barones Health Club)</td>
<td>App'd</td>
<td>58-10-BZ</td>
<td>Sheldon Lobel PC</td>
</tr>
<tr>
<td>117 Norfolk St., BK</td>
<td>Enlarge 1-family dwelling</td>
<td>App'd</td>
<td>27-10-BZ</td>
<td>Eric Palatnik PC</td>
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<tr>
<td>79 Amherst St., BK</td>
<td>Enlg., conv. 2-fam. dwelling to 1-fam.</td>
<td>App'd</td>
<td>13-10-BZ</td>
<td>Eric Palatnik PC</td>
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<tr>
<td>1347 38th St., BK</td>
<td>Legalize variance modification</td>
<td>App'd</td>
<td>159-99-BZ</td>
<td>Fredrick A. Becker</td>
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<tr>
<td>37-08 Union St., QN</td>
<td>Const. 14-story mixed-use bldg.</td>
<td>App'd</td>
<td>70-10-BZ</td>
<td>Sheldon Lobel PC</td>
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<tr>
<td>38-15 138th St., QN</td>
<td>Const. four mixed use bldgs. (ht. reqs)</td>
<td>App'd</td>
<td>326-09-BZ</td>
<td>Bryan Cave</td>
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<td>85-12 Roosevelt Ave., QN</td>
<td>Ext. of term (eating &amp; drinking est.)</td>
<td>App'd</td>
<td>189-96-BZ</td>
<td>John C. Chen</td>
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<tr>
<td>231-10 Northern Blvd., QN</td>
<td>Allow restaurant use</td>
<td>App'd</td>
<td>9-10-BZ</td>
<td>Eric Palatnik PC</td>
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<tr>
<td>72 Bedford Ave., QN</td>
<td>Reconstruct, enlg. 1-fam. dwelling</td>
<td>App'd</td>
<td>67-10-A</td>
<td>Gary D. Lenhart</td>
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<tr>
<td>48 Toga Walk, QN</td>
<td>Enlg. 1-fam. dwelling in mapped st. bed</td>
<td>App'd</td>
<td>102-10-A</td>
<td>Gary D. Lenhart</td>
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<tr>
<td>1416 Hylan Blvd., SI</td>
<td>Ext. of term (BP station)</td>
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### LANDMARKS PRESERVATION COMMISSION

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<td>† 10 South St., MN</td>
<td>Battery Maritime Bldg.</td>
<td>Amend binding report (rooftop add.)</td>
<td>11-1630</td>
<td>Yes</td>
<td>8/17/2010</td>
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<tr>
<td>71 Broadway, MN</td>
<td>Empire Building</td>
<td>Replace 705 windows</td>
<td>11-1231</td>
<td>Yes</td>
<td>8/9/2010</td>
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<tr>
<td>12 Eldridge St., MN</td>
<td>Eldridge St. Synagogue</td>
<td>Amend C of A (inst. rose window)</td>
<td>10-9674</td>
<td>Yes</td>
<td>8/9/2010</td>
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<tr>
<td>370 Park Ave., MN</td>
<td>Racquet &amp; Tennis Club Bldg.</td>
<td>Replace rooftop balustrade, cornice</td>
<td>11-1649</td>
<td>Yes</td>
<td>8/8/2010</td>
</tr>
<tr>
<td>515 Broadway, MN</td>
<td>Soft-Cast Iron HD Ext.</td>
<td>Install rooftop infill</td>
<td>11-0809</td>
<td>Yes</td>
<td>7/21/2010</td>
</tr>
<tr>
<td>155 Wooster St., MN</td>
<td>Soft-Cast Iron HD</td>
<td>Install painted wall sign</td>
<td>11-1202</td>
<td>Yes</td>
<td>8/4/2010</td>
</tr>
<tr>
<td>24 Bond St., MN</td>
<td>NoHo HD Ext.</td>
<td>Install gold-painted sculpture</td>
<td>11-1099</td>
<td>Yes</td>
<td>8/2/2010</td>
</tr>
<tr>
<td>40 Great Jones St., MN</td>
<td>NoHo HD Ext.</td>
<td>Install bulkhead, roof deck</td>
<td>11-0778</td>
<td>Yes</td>
<td>7/21/2010</td>
</tr>
<tr>
<td>80 Washington Pl., MN</td>
<td>Greenwich Village HD</td>
<td>Excavate rear cellar</td>
<td>11-1413</td>
<td>Yes</td>
<td>8/10/2010</td>
</tr>
<tr>
<td>341 Bleeker St., MN</td>
<td>Greenwich Village HD</td>
<td>Repl. rear facade, const. rear est.</td>
<td>11-1286</td>
<td>Yes</td>
<td>8/6/2010</td>
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<tr>
<td>21 Greenwich Ave., MN</td>
<td>Greenwich Village HD</td>
<td>Legalize mech. equip. installation</td>
<td>11-1166</td>
<td>Yes</td>
<td>8/3/2010</td>
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<tr>
<td>5 Ninth Ave., MN</td>
<td>Gansevoort Market HD</td>
<td>Leg. fire escape replacement</td>
<td>11-1714</td>
<td>Yes</td>
<td>8/19/2010</td>
</tr>
<tr>
<td>416 W. 14th St., MN</td>
<td>Gansevoort Market HD</td>
<td>Replace storefront infill</td>
<td>11-0992</td>
<td>Yes</td>
<td>7/29/2010</td>
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<tr>
<td>420 W. 14th St., MN</td>
<td>Gansevoort Market HD</td>
<td>Est. master plan (storefront infill)</td>
<td>11-1354</td>
<td>Yes</td>
<td>8/9/2010</td>
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<tr>
<td>436 W. 20th St., MN</td>
<td>Chelsea HD</td>
<td>Legalize rooftop addition</td>
<td>11-0648</td>
<td>Yes</td>
<td>7/26/2010</td>
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<tr>
<td>676 Sixth Ave., MN</td>
<td>Ladies’ Mile HD</td>
<td>Replace storefront infill</td>
<td>11-1601</td>
<td>Yes</td>
<td>8/17/2010</td>
</tr>
<tr>
<td>790 Madison Ave., MN</td>
<td>Upper East Side HD</td>
<td>Remove infill, relad base, 2nd fl.</td>
<td>11-1212</td>
<td>Yes</td>
<td>8/4/2010</td>
</tr>
<tr>
<td>† 12 E. 76th St., MN</td>
<td>Upper East Side HD</td>
<td>Replace facades, const. bulkheads</td>
<td>11-1070</td>
<td>Yes</td>
<td>7/30/2010</td>
</tr>
<tr>
<td>129 W. 86th St., MN</td>
<td>Upper West Side/CPW HD</td>
<td>Repl. door, inst. balcony, fence</td>
<td>11-0801</td>
<td>Yes</td>
<td>7/21/2010</td>
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<tr>
<td>1056 Fifth Ave., MN</td>
<td>Carnegie Hill HD</td>
<td>Est. master plan (tennace enclosures)</td>
<td>11-0905</td>
<td>Yes</td>
<td>7/27/2010</td>
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<tr>
<td>† 205 Water St., BK</td>
<td>DUMBO HD</td>
<td>Construct 7-story building</td>
<td>11-0918</td>
<td>Yes</td>
<td>7/26/2010</td>
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<td>635 Bergen St., BK</td>
<td>Prospect Heights HD</td>
<td>Legalize access ramp</td>
<td>11-1117</td>
<td>Yes</td>
<td>8/3/2010</td>
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<tr>
<td>47 Sidney Pl., BK</td>
<td>Brooklyn Heights HD</td>
<td>Replace windows</td>
<td>11-0540</td>
<td>Yes</td>
<td>7/28/2010</td>
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<tr>
<td>237-13 38th Rd., QN</td>
<td>Douglaston HD</td>
<td>Leg., mod. non-compliant work</td>
<td>11-0968</td>
<td>Yes</td>
<td>7/28/2010</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.*

September 15, 2010

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**CITYLAND www.citylaw.org – August 2010**

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**CITYLAND www.citylaw.org – August 2010**
The Landmarks Preservation Commission held a hearing on the proposed designation of the Lakeman House at 2286 Richmond Road in Staten Island. See story on page 126.