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Disposition Modification
Long Island City, Queens
Parking reduced at Queens Plaza mixed-use project

Second phase of 1.5 million sq.ft.
mixed-use project in Long Island City moves forward after City cut parking requirements by half. On July 28, 2011, the City Council approved the Department of Citywide Administrative Services’ proposal to modify parking requirements related to the Gotham Center project at 28-10 Queens Plaza South in Long Island City, Queens. The site was formerly occupied by the 1,150-space Queens Plaza Municipal Garage, which was demolished in 2008. Tishman Speyer has built a 523,000 sq.ft. office tower, known as Two Gotham Center, on the north-west portion of the site for the City’s Department of Health and Mental Hygiene. The next phase of the site’s redevelopment will include a second office tower on the remaining portion of the site. The new 900,000 sq.ft. tower will include a parking garage linked to the DOHMH building’s existing 162-space garage.

Pursuant to a previously approved special permit for the site, the Gotham Center project was required to include a 1,150-space parking garage to replace the spaces lost following the demolition of the municipal garage. DCAS sought to reduce the required number of spaces from 1,150 to 550 to better reflect current and projected parking demand in the area. According to DCAS’s proposal, Tishman Speyer would incorporate a 388-space parking garage into the new tower, which when combined with the DOHMH building’s garage, (cont’d on page 103)
Bike Safety: Still an illusive City goal

Has bicycle riding become safer in New York City? On July 28, 2011 the New York City Department of Transportation answered “Yes” by presenting statistics that showed that bike riding was 72 percent safer in 2010 than it was 2001. How good are DOT’s statistics?

Despite significant efforts, the absolute number of bicyclist fatalities and severe injuries has hardly moved. In 2000 there were 18 fatalities and 351 severe injuries. In 2010 there was no change: 19 fatalities and 361 severe injuries. During the year 2010 New York City experienced the decade’s second highest total of fatalities and severe injuries. And there was a worse statistic for bike advocates; while there were only 12 fatalities in 2009, fatalities jumped to 19 in 2010.

DOT relied on its “Cycling Safety Indicator” to normalize fatality and severe injury data against the number of bicycle riders entering Manhattan’s midtown. DOT argues that, as the number of bike commuters has grown by a factor of three, the “index” of bike safety improved by a similar factor, hence DOT’s claim of a 72 percent improvement.

Bicycle safety is a goal devoutly to be sought, and DOT’s statistics are suggestive that bike riding may have become somewhat safer. The absolute numbers of fatalities and severe injuries however, have not changed, and the stubborn consistency of those numbers suggests that there has been less improvement than DOT might like. Bike riding in dense city traffic has its inherent dangers that seemingly have not been significantly reduced.

The growing expanse of bike lanes has raised other safety issues, particularly the potential for confrontation between pedestrians and bikes. Here DOT has the correct idea in its “Don’t Be a Jerk” campaign, exactly the right epithet for the signal-running, wrong-way-riding, speeding bike rider. It may be politic for DOT to publicize its safety statistics, but it would probably have a greater safety impact if DOT and the police would compel bike riders to honor traffic laws. DOT might temper its boosting of biking with a more hard-headed program that compelled bike riders to observe traffic rules aimed at safety for all, including bike riders.

Ross Sandler


CITYLAND (ISSN 1551-711X) is published 11 times a year by the Center for New York City Law at New York Law School, 185 West Broadway, New York City, New York 10013, tel. (212) 431-2115, fax (212) 941-4735, e-mail: nycitylaw@nyls.edu. website: www.citylaw.org © Center for New York City Law, 2011. All rights reserved. Printed on recycled paper. Maps presented in CITYLAND are from MapPlUTO copyrighted by the New York City Department of City Planning. City Landmarks and Historic Districts printed with permission of New York City Landmarks Preservation Commission.

POSTMASTER: Send address changes to CITYLAND, 185 West Broadway, New York, New York 10013-2921. Periodicals postage paid at New York, New York.
would provide a total of 550 spaces.

Queens Community Board 2 opposed the proposed reduction in parking. Queens Borough President Helen M. Marshall supported the proposal. Marshall stated that parking studies indicated that 550 spaces would be adequate to meet parking demand, noting that 1,000 existing spaces within a quarter-mile of the project site were not fully occupied during peak midday periods.

At the City Planning Commission’s May 25 public hearing, Robert Goldrich from the Mayor’s Office of Economic Development estimated that the project would bring 1,500 construction jobs and 3,600 permanent jobs to Long Island City. Goldrich explained that CB 2 had expressed concerns about on-street parking issues, such as illegal use of City parking placards by City employees. He added that the City was in the process of completing relocation initiatives for municipal vehicles and was pursuing stricter enforcement against illegal parking placard usage. CB 2 chair Joseph Conley stated that CB 2’s land use committee had unanimously approved the proposal, and that he “could not explain” the full board’s disapproval of the application.

The Commission approved the proposal. The Commission noted that the smaller garage would more accurately reflect the existing and projected demand for public parking in the area.

At the Council’s Zoning & Franchises Subcommittee hearing, two union representatives, accompanied by dozens of union members, testified in support. The Building and Construction Trades Council of Greater New York’s Paul Fernandez claimed that the second phase of the Gotham Center project would be “severely compromised” unless the modification was approved. Local Council Member Jimmy Van Bramer requested that the Subcommittee lay over the vote to provide time for further discussion.

When the Subcommittee reconvened two days later, Van Bramer stated that he had received assurances that the City would increase efforts to thwart parking placard abuse in the neighborhood and that other on-street parking regulations would be “rigorously enforced.” Further, the City had agreed to a significant reduction of long-term parking spots in surrounding area. Van Bramer also stated that the City Council would consider “home rule” legislation supporting the establishment of a residential parking permit program in the area.

The Subcommittee unanimously approved the proposal, and the Land Use Committee and the full Council followed suit.

**Review Process**

Comm. Bd.: QN 2, Den’d, 24-12-2
Boro. Pres.: App’d
CPC: App’d, 11-0-0
Council: App’d, 44-0-0

Council: Gotham Center (C 110225

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**CITY COUNCIL**

**Rezoning**

**Williamsburg, Brooklyn**

**Berry Street commercial overlay proposal modified**

North Williamsburg restaurant requested rezoning in order to re-establish sidewalk cafe. On July 28, 2011, the City Council’s Land Use Committee modified and approved Teddy’s Bar and Grill’s rezoning proposal for a portion of Berry Street in Williamsburg, Brooklyn. Teddy’s is located at the corner of Berry and North 8th Street. Teddy’s originally proposed applying a C2-4 overlay from the northwest corner of North 7th Street to a mid-block point between North 9th and North
The plan would have impacted 22 lots, nine of which are occupied by commercial businesses. The area was rezoned from an R6/M1-2 mixed-use district to an R6B district as part of the 2005 Greenpoint-Williamsburg Rezoning. 2 CityLand 67 (June 15, 2006). Teddy’s proposed the rezoning to re-establish a sidewalk cafe it lost after the 2005 rezoning.

Brooklyn Community Board 1 approved the rezoning. Borough President Marty Markowitz recommended modifying the plan to apply a C1-4 commercial overlay to an area extending only to North 9th Street. According to Markowitz, the more restrictive C1-4 district would still permit sidewalk cafes, but prevent uses less desirable to nearby residents, such as home maintenance and repair businesses.

At the City Planning Commission’s public hearing, residents spoke both for and against the proposal. Opponents were concerned that the rezoning would lead to an increase in commercial development and property taxes in the neighborhood. Anthony Martin, who lives on North 9th Street, submitted a petition signed by more than 200 residents in opposition to the rezoning. Martin argued that the proposal’s “essential flaw” was that a single business was proposing a three-block rezoning in order to restore an eight-table sidewalk cafe.

Attorney Fredrick Becker, representing Teddy’s, pointed out that the rezoning would bring the nine commercial properties within the study area into compliance with the zoning regulations. According to Becker, the C2-4 overlay would not change the block’s permissible floor area ratio and would not lead to new commercial development due to the structural configurations of the buildings within the rezoning area. Becker stated that Teddy’s would be amenable to modifying the proposal by limiting the commercial overlay to below North 9th Street or changing it to a C1-4 overlay.

The Commission unanimously approved the rezoning. The Commission acknowledged the resident’s concerns, but found that the area’s mixed-use character was consistent with the types of development permitted within a C2 district. At the Council’s Zoning & Franchises Subcommittee hearing, Fredrick Becker and Felice Kirby, a co-owner of Teddy’s, testified in support of the proposal. Kirby, who lives above the restaurant, claimed that the loss of Teddy’s sidewalk cafe following the 2005 rezoning had a severe economic impact on the restaurant. Council Members Jessica S. Lappin and Diana Reyna commended Teddy’s for being a good neighbor.

Council Member Stephen Levin, whose district includes Teddy’s, supported the rezoning, but recommended that the C2-4 overlay only apply to the area bounded by North 7th Street and the mid-block point between North 8th and North 9th Streets.

The Subcommission approved the proposal with Levin’s modification, and the Land Use Committee followed suit. The modified proposal was forwarded to the City Planning Commission for review.


CITY COUNCIL

Rezoning

Whitestone, Queens

Whitestone bank commercial rezoning approved

State Senator Tony Avella and community group argued that rezoning would lead to undesirable uses. On July 28, 2011, the City Council approved TD Bank’s rezoning proposal to facilitate the construction of a one-story bank building near the Cross Island Parkway in Whitestone, Queens. The proposal established a C1-2 commercial overlay on the majority of a triangle-shaped block zoned R3A and generally bounded by the Cross Island Parkway Service Road, 15th Avenue, and 148th Street. The rezoning area comprises portions of four lots occupied by a non-conforming lumberyard, a gas station, and an automotive repair facility operating pursuant to a BSA variance. Pursuant to a 20-year lease, TD Bank plans to replace the lumberyard site with a 3,849 sq.ft. bank building with parking for eighteen vehicles.

Queens Community Board 7 and Borough President Helen M. Marshall supported the proposal. Marshall, however, recommended that TD Bank use landscaping to screen the bank’s parking lot from adjacent residential properties.

At the City Planning Commission’s May 25 public hearing, Kim Cody, president of the Greater Whitestone Taxpayers Civic Association, testified in opposition. According to Cody, the rezoning would permit subsequent future undesirable commercial uses, such as a strip mall, were TD Bank to leave the site. Cody requested that TD Bank instead pursue a BSA variance.

The Commission unanimously approved the rezoning, noting that a C1-2 zoning district would recognize the existing commercial character of the “heavily trafficked” service road, and would limit future commercial development to a scale appropriate for the surrounding area. The Commission also noted that TD Bank had agreed to use a six-foot fence and evergreen shrubs to screen the parking lot from neighboring residences.

At the Council’s Zoning & Franchises Subcommittee hearing, a representative of State Senator Tony Avella claimed that the proposal would unravel the protections created by the 2005 Whitestone Rezoning and would set a precedent similar to the recently approved White House rezoning. 8 CityLand 87 (July 15, 2011). Avella’s representative pointed out that because TD Bank would only lease the property, the
rezoning would permit the property owner to develop an undesirable use on the site in the future.

Local Council Member Daniel J. Halloran supported the rezoning, although he acknowledged the concerns about the proposed “upzoning.” Halloran stated that local commercial businesses were struggling, and that the community needed to focus on job creation and “making accommodations” to encourage new businesses to invest in the area.

The Subcommittee unanimously approved the proposal, as did the Land Use Committee and the full Council.

### ULURP Process
- **Lead Agency:** CPC, Neg. Dec.
- **Comm. Bd.:** QN 7, App’d, 31-3-1
- **Boro. Pres.:** App’d
- **CPC: App’d, 13-0-0
- **Council: App’d, 44-0-0**


### CITY PLANNING COMMISSION

**Rezoning**

**Boerum Hill, Brooklyn**

**Boerum Hill contextual rezoning considered**

*Neighborhood group supported 31-block rezoning plan, but one property owner requested relief for site.* On July 13, 2011, the City Planning Commission heard testimony on the Department of City Planning’s contextual rezoning plan for Boerum Hill, Brooklyn. The approximately 31-block study area is generally bounded by Atlantic Avenue to the north, Warren and Wyckoff Streets to the south, 4th Avenue to the east, and Court Street to the west. The proposal seeks to preserve the neighborhood’s low-rise residential character while reinforcing the commercial character of certain mixed-use corridors.

The majority of the area is currently zoned R6 and characterized by three- and four-story brownstone and rowhouse buildings. An R7B zoning district is mapped on portions of five blocks between 3rd and 4th Avenues. These blocks were part of a larger area that was rezoned in 1991 as part of the Park Slope North rezoning. There are no established building height limits under R6 zoning regulations and the maximum FAR for residential uses is 2.43 while community facility uses are permitted to build to a maximum of 4.8 FAR. As a result, the area has recently experienced out-of-scale development.

Planning’s proposal would replace the existing zoning with contextual zoning districts to establish building height limits and reflect the character of the area. The plan includes rezoning 26 blocks to R6B, which would establish a 50 foot maximum building height to match the blocks’ low-rise character. Sixteen blocks comprising the area’s local retail corridors of Smith and Court Streets and certain higher-density residential streets would be rezoned to R6A. An existing R7A zoning district adjacent to the study area would be extended south along 3rd Avenue to ensure a consistent character for the commercial street. The proposal would adjust commercial overlays to reinforce existing mixed-use corridors, and add commercial overlays to mixed-use areas along 3rd Avenue and Bergen Street.

At the hearing, Howard Kolins, president of the Boerum Hill Association, testified that the proposal would bring the community in line with other Brooklyn brownstone neighborhoods, such as Brooklyn Heights, Carroll Gardens, and Park Slope, which have already been contextually rezoned. Kolins pointed out that the association first pushed for the current proposal when it learned that Boerum Hill was the only neighborhood in the area without an R6B zoning district.

Local property owner Frank DeFalco supported the proposal, but expressed concern about the impact the plan would have on his project at 47-51 Bergen Street. DeFalco stated that he had spent two years redeveloping a vacant factory into a multi-purpose art center known as the Invisible Dog Art Space. DeFalco was concerned that rezoning the site from R6 to R6A would prevent him from adding another floor to the property. DeFalco conceded that he had not raised the issue during Brooklyn Community Board 2’s review of the plan.

The Commission has until September 6, 2011, to vote on the plan.

CPC: Hearing on Boerum Hill Rezoning (C 110252 ZMK – rezoning) (July 13, 2011).

**CITY PLANNING COMMISSION**

**Rezoning/Special Permits**

**Gravesend, Brooklyn**

**New shopping center proposed near the Belt Parkway**

Thor Equities’ proposed 214,000 sq.ft. Gravesend Bay retail complex would feature BJ’s wholesale store as anchor tenant. On July 13, 2011, the City Planning Commission heard testimony on Thor Equities LLC’s proposal to construct a 214,000 sq.ft. two-story retail building on a vacant lot at 1752 Shore Parkway in the Gravesend neighborhood of Brooklyn. The project site sits on a peninsula that protrudes into Gravesend Bay, adjacent to the Belt Parkway. The site is currently used as a school bus parking facility. The development would also include a three-story 690-space parking garage and a 103,000 sq.ft. publicly accessible waterfront esplanade. Thor Equities requested special permits and a rezoning to facilitate the development.

The project site is within an industrial and commercial waterfront corridor that is separated from the residential neighborhood of Bensonhurst by the Belt Parkway. The corridor is mapped as an M3-1 manufacturing zoning district. Nearby commercial uses, including...
the Caesar’s Bay Shopping Center, operate pursuant to BSA variances. Thor Equities anticipates that a BJ’s wholesale store would occupy the ground-floor of the development, with additional retail tenants above.

Thor Equities proposed rezoning the site to an M1-1 district, which would allow it to apply for a special permit to build a large-scale retail development in the manufacturing district. Thor Equities also requested an authorization to modify waterfront public access requirements, and special permits related to signage regulations and height and setback waivers.

Brooklyn Community Board 11 and Borough President Marty Markowitz supported the proposal, but with a host of conditions. Among them, CB 11 and Markowitz requested that Thor Equities implement a local hiring and sourcing initiative, and institute traffic mitigation measures. CB 11 also requested that Thor Equities build an “eco-dock” to provide public access to the water surrounding the peninsula, while Borough President Markowitz requested that patrons of adjacent businesses be allowed to use the project’s parking garage to mitigate any loss of on-street parking.

At the Commission’s hearing, Wachtel & Masyr urban planner Ethan Goodman testified that Thor Equities had agreed to a majority of CB 11 and the borough president’s conditions. Goodman stated that the plan would not include a dock due to state waterfront permitting issues, but noted that the esplanade would “open the waterfront” to the public. As to Borough President Markowitz’s request that parking be provided for adjacent businesses, Goodman stated that it would be difficult for Thor Equities to reach such an agreement with its tenants, but added that motorists would not be charged to use the garage. No one spoke in opposition.

The Commission has until August 22, 2011 to vote on the plan.

CPC: Hearing on Brooklyn Bay Center

ULURP PIPELINE

New Applications Certified into ULURP

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<th>PROJECT</th>
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<th>COMM. BD.</th>
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<td>Broadway Mall Park</td>
<td>City map amendment</td>
<td>MN 7</td>
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(C 110047 ZMK – rezoning); (C 110048 ZSK – spec. perm.;) (C 110049 ZSK – spec. perm.;) (C 110050 ZSK – spec. perm.;) (C 110051 ZSK – spec. perm.;) (C 110052 ZAK – auth.;) C 110053 ZCK – Chair cert.) (July 13, 2011) (Architect: GreenbergFarrow).

CITY PLANNING COMMISSION

Rezoning Harlem, Manhattan

Harlem development on W. 116th/117th Streets heard

Two-building project would include affordable rental building and market-rate condominium building. On July 13, 2011, the City Planning Commission heard testimony on L+M Development Partners Inc.’s proposed 266,500 sq.ft. mixed-use project for a through-block lot on the north side of West 116th Street between Malcolm X Boulevard and Fifth Avenue in Harlem. The mid-block project site is occupied by a basketball court and a parking lot. L+M plans to redevelop the site with a twelve-story market-rate condominium building fronting West 116th Street and a nine-story affordable rental building fronting West 117th Street.

The eastern portion of West 116th Street, including the project site, is zoned R7-2. The rest of the block to the west is zoned C4-5X. To facilitate the development, L+M requested that the C4-5X district be extended east to include the entire block. The rezoning area includes a Baptist church and two mid-rise residential buildings.

The proposed condominium building would provide 95 market-rate units and 22,000 sq.ft. of ground floor retail space. The 100-unit affordable housing building would include 11,500 sq.ft. of community facility space on its ground floor. L+M would market 80 apartments to low- and moderate-income families earning 60 percent or less of the area median income and twenty units to families earning 40 percent or less of the area median income. A terrace accessible to the condo-
minum residents would separate the two buildings.

Manhattan Community Board 10 and Borough President Scott M. Stringer supported the proposal. Stringer, however, expressed concern about the higher density commercial uses that would be allowed in the proposed C4-5X district along the narrow West 117th Street. The borough president requested that L+M consider prohibiting office uses on or above the third floor and hotel uses on or above the second floor along West 117th Street.

At the Commission’s public hearing, L+M’s Tell Metzger explained that after certification, L+M considered altering the project by siting the affordable housing along West 116th Street and the condominium building along West 117th Street. Metzger, however, stated that L+M had reverted to its original plan and would site the affordable housing building along West 117th Street. Metzger pointed out that L+M planned to file a restrictive declaration or include a restriction in the Department of Housing Preservation and Development’s loan documents that would prohibit certain uses above the second floor of the building along West 117th Street. In response to a question regarding accessibility of the terrace, Metzger stated that it would be available only to condominium residents due to marketing and financing constraints, but added that this arrangement remained an “open issue.”

A representative of the Kalahari, a residential building at 40 East 116th Street, complained that L+M’s community outreach for the project had been “sorely lacking.” She did, however, note that the Kalahari welcomed the siting of the condominium building on West 116th Street, noting that it would support the continued revitalization of the 116th Street corridor.

The Commission has until September 19, 2011 to vote on the proposed rezoning.


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<td><strong>VARIANCES</strong></td>
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<td>Naira Lafit</td>
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<td>Bay People Inc.</td>
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<td>Breezy Pt. Co-op.</td>
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August 15, 2011
Designation
Clinton Hill, Brooklyn

New residential district near Brooklyn Navy Yard

Working-class 19th century buildings along Vanderbilt Avenue designated as a historic district. On July 12, 2011, Landmarks voted to designate the Wallabout Historic District in the Clinton Hill area of Brooklyn. The new district encompasses approximately 55 buildings along a stretch of Vanderbilt Avenue between Myrtle and Park Avenues near the Brooklyn Navy Yard. The district’s name is derived from the Belgian Walloons who settled the area in the 17th century.

The district is notable for its rare conglomeration of wood-framed dwellings constructed in the mid-19th century which largely housed Brooklyn Navy Yard workers. The area was not considered prestigious, and the laborers and tradesmen who lived there constructed less-expensive wooden buildings, rather than the brick and stone architecture that characterized other Brooklyn neighborhoods developed in the same period. The district includes Greek Revival, Italianate, and Gothic Revival architecture.

At the district’s public hearing on October 26, 2010, proponents of designation included local elected officials, residents, and preservationists. However, property owner Daniel Kimiabakhsh strongly objected to the inclusion of his recently constructed seven-story building at 122 Vanderbilt Avenue. 7 CityLand 157 (Nov. 15, 2010).

At the subsequent July 12 meeting, Landmarks’ research department recommended that Kimiabakhsh’s property be included in the district, but listed as a “no style” building in the district’s designation report. Mary Beth Betts, director of research at Landmarks, stated that removing the building from the district would create a gap “in an otherwise cohesive street front.”

The Commissioners unanimously approved the district’s designation. Commissioner Fred Bland noted the district’s importance to the City’s maritime history, and pointed to the district as evidence that there were still important and unprotected areas in the City to be discovered. Commissioner Mi-
Michael Goldblum commended the area’s historic and aesthetic qualities, and noted the scarcity of collections of wooden architecture in the City. Vice Chair Pablo Vengoechea agreed with Landmarks’ staff that including 122 Vanderbilt would be necessary for a “cohesive, recognizable district.”

Certificate of Appropriateness
Governors Island, Manhattan

Demolitions in Governors Island district approved

Late-period buildings dating from the island’s time as a military base will be cleared for open space. On July 26, 2011, Landmarks approved the Trust for Governors Island’s proposal to demolish six buildings and install landscaping in the Governors Island Historic District. The buildings are located in the southeast corner of the historic district and include a wood-frame garage, a mechanical shop, a ferry waiting room, two transformer buildings, and an exercise studio attached to barracks designed by McKim, Mead & White. The demolition was proposed in order to improve passenger circulation at the nearby ferry landing and to increase visual corridors on the island.

The 172-acre island served as a U.S. Army base from 1821 until 1966. The island was then used by the Coast Guard until 1997. The Governors Island Historic District, designated in 1996, encompasses 92 acres in the northern portion of the island, including the Governors Island National Monument. In April 2010, the State transferred primary responsibility of the island to the City, which plans to redevelop the island’s southern portion into a recreational and cultural area. 7 City-Land 63 (May 15, 2010).

At the hearing, the Trust for Governors Island’s Claire Kelly testified that a 1986 mechanical shop would be demolished and replaced with landscaping, as would a non-contributing shed. The non-contributing garage would be eliminated from a 1902 home once used as officers’ quarters. An above-ground pool that was part of a former YMCA would also be demolished. The 1917 former ferry waiting room would be replaced with parking and an open plaza to be used as a queuing area for the Yankee Landing ferry.

The Historic Districts Council’s Nadezhda Williams opposed the proposal, claiming that the buildings did not intrude on open space and could easily be re-purposed for visitor services or other uses. The New York Landmarks Conservancy’s Andrea Goldwyn applauded the creation of a new park on the island, and agreed that the buildings did not contribute to the historic district. According to Chair Robert B. Tierney, Manhattan Community Board 1 supported the proposal.

Chair Tierney stated that the proposal was an appropriate step toward the City’s ongoing efforts to preserve and revitalize Governors Island. Commissioner Libby Ryan found that the removal of the buildings would be an important step in reviving the area. Commissioner Michael Goldblum agreed, finding that the proposal would enhance “the landmark quality of the overall site.” Landmarks unanimously approved the plan.

LPC: Governors Island, Manhattan (12-1781) (July 26, 2011).

Certificate of Appropriateness
Chelsea, Manhattan

New Brodsky project OK’d on Chelsea seminary

Private developer will purchase and adaptively reuse portion of General Theological Seminary and construct a new residential building. On July 19, 2011, Landmarks approved the Brodsky Organization’s plan to develop a six-story residential building on a site occupied by a tennis court within the General Theological Seminary’s campus at 400 West 21st Street in the Chelsea Historic District. The Seminary’s campus comprises one full block between West 20th and West 21st Streets, and Ninth and Tenth Avenues. Brodsky’s proposal also includes converting the adjacent West Building and three brick townhouses used as faculty housing into residential uses.

In an attempt to address its financial problems, the Seminary in 2006 first partnered with Brodsky to replace a dilapidated four-story building at the corner of West 21st Street and Ninth Avenue. Brodsky proposed building a seventeen-story tower with four floors of administrative space for the Seminary and thirteen floors of private housing. In response to intense community opposition, the project was first reduced to fifteen stories, and finally to seven stories in height. Landmarks in 2007 approved the seven-story project, known as Chelsea Enclave, along with a separate five-
story administrative building on the site of the tennis court. 4 CityLand 141 (Oct. 15, 2007). The administrative building was never developed.

At Landmarks’ June 21 public hearing on the new proposal, Daniel Brodsky testified that the 2007-approved project had not alleviated the Seminary’s financial difficulties. In order for the Seminary to resolve its $40 million debt, Brodsky agreed to purchase and redevelop the four on-campus buildings and the tennis court. Brodsky also agreed to renovate the interiors of several of the Seminary’s remaining buildings.

Architects Jack Beyer and Kate Lemos McHale, from Beyer Blinder Belle, presented the project. The design for the new residential building on the tennis court originally called for a new seven-story structure with set-back sixth and seventh floors visible from street level. The new building would feature a brick facade and brownstone base, and would connect to the converted West Building via a glass and steel structure. The proposal also called for landscape alterations to the campus, including removing and creating footpaths, and installing new fencing to demarcate the residential properties from the Seminary campus. Proposed alterations to the West Building would include modifications to doors and window openings, and the removal of the ivy covering the facade.

Manhattan Community Board 4 and the Council of Chelsea Block Associations opposed the plan. A representative from the Block Associations stated that the new building would “overpower and overshadow” the West Building, block views of the Seminary’s campus, and eliminate too much open space. A representative of State Senator Thomas Duane testified that the new building’s rectangular massing would disturb “the balance of the campus.”

The Commissioners found the alterations to the West Building appropriate, but objected to the massing of the new building on the tennis court. Commissioner Michael Goldblum said the new building’s proposed seventh floor was excessive, and recommended that Brodsky refine the glass and metal structure linking it to the West Building. The other Commissioners concurred, and Chair Robert B. Tierney asked Brodsky to return to Landmarks with a modified proposal.

Brodsky returned in July with a revised proposal that removed the new building’s seventh floor. The new building’s cornice was lowered and its total height was reduced by two feet. The height of the glass and metal structure linking the new building to the West Building was also reduced, and a green roof was added.

Chair Tierney found the new building and proposed interventions appropriate and the result of a “thoughtful, constructive process.” The Commissioners generally agreed and unanimously approved Brodsky’s revised proposal.


LANDMARKS PRESERVATION COMMISSION

Certificate of Appropriateness
Meatpacking District, Manhattan

Four-story addition near High Line approved

Project approved after height was further reduced by eight feet. On July 19, 2011, Landmarks approved Taconic Investment Partners’ revised proposal to build a four-story addition above a low-rise Moderne-style building across the street from the High Line at 837 Washington Street in the Gansevoort Market Historic District. Taconic first proposed a seven-story addition in November 2010, which it then reduced and resubmitted to Landmarks in April of 2011. The Commissioners generally praised the Morris Adjmi-designed torqued glass and steel tower, but expressed reservations about approving such a large and visible addition to a contributing building in a historic district. 8 CityLand 62 (May 15, 2011).

At a June meeting, Taconic presented a plan nearly identical in design to the previous iteration, but with floor heights reduced to create a building eight feet shorter than the prior proposal. Architectural consultant Bill Higgins explained that the vertical steel beams would now be visible through the storefronts of the existing building, which demonstrated the interplay between the new addition and existing building.

While the Commissioners approved of the design, they were concerned about what kind of precedent the proposal would have. General Counsel Mark Silberman predicted that the project would result in more developers seeking to build large and visible additions. Commissioner Margery Perlmuter noted that the district had
evolved from an industrial area to a residential neighborhood, and that buildings in the district should be allowed to grow vertically. Noting that the district included buildings in a variety of heights and styles, Commissioner Michael Goldblum stated that the proposal allowed the area “to change in an appropriate way.” Chair Robert B. Tierney would have liked to see the project further reduced by one story, but he did not want to counter the majority of support. Tierney did not believe that the approval would establish a precedent, noting that the proposal set a “high bar” by virtue of the quality of the architecture and the “expression of ideas.”

Commissioners Libby Ryan and Michael Devonshire voted against approval. Ryan said that while the design would be exciting, she believed it would be inappropriate to add four-stories to a contributing building. Devonshire would have supported the proposal if it had been one story shorter, but believed that the current plan was like adding a “ten-gallon hat” to the building.


**LANDMARKS PRESERVATION COMMISSION**

**Designation Hearings**

**Manhattan**

**Martha Washington and Barbizon hotels considered**

*The Martha Washington Hotel and Barbizon Hotel for Women provided housing for single women pursuing careers.* In July 2011, Landmarks held public hearings for the potential designation of two residential hotels in Manhattan that served an emerging class of professional women in the early 20th Century. The Martha Washington Hotel is located at 30 East 30th Street, and the Barbizon Hotel for Women is located at 140 East 63rd Street.

Architect Robert W. Gibson designed the Martha Washington Hotel, which was completed in 1903. The hotel was run by the Women’s Hotel Company. It is one of the earliest examples of a residence catering to single professional women. The twelve-story, Renaissance Revival-style structure provided 500 long-term rooms and 150 rooms for transient tenants. The hotel began admitting male tenants in 1998. The Martha Washington Hotel is now the Hotel Thirty-Thirty.

At a hearing on July 12, the hotel’s owner supported designation. A representative of the hotel pointed out that the owner had spent a significant amount of money to renovate the building’s interior and looked forward to working with Landmarks to restore the entire property.

The 23-story, Murgatroyd & Ogden-designed Barbizon Hotel was completed in 1928. The brick-and-sandstone building reflects the stepped-back massing mandated by the 1916 zoning resolution. Notable tenants of the 700-room hotel included Grace Kelly, Sylvia Plath, Lauren Bacall, and Joan Didion. The Barbizon has been listed on the National Register of Historic Places since 1982. The hotel first began admitting men in 1981. The building was converted to condominiums in 2005, and is now known as Barbizon 63.

At a hearing on July 26, preservationists supported designating the hotel. The Friends of the Upper East Side’s Tara Kelly expanded on the Barbizon’s history, noting that for much of its existence it did not permit men above the first floor, and imposed rules of dress and conduct on its residents.

Landmarks did not schedule votes for either building.

LPC: Martha Washington Hotel, 30 East 30th Street, Manhattan (LP-2428) (July 12, 2011); Barbizon Hotel for Women, 140 East 63rd Street, Manhattan (LP-2495) (July 26, 2011).

**ADMINISTRATIVE DECISIONS**

**Environmental Control Board**

**Upper East Side, Manhattan**

**Apartment building owner defeats facade report NOV**

*Distinction between basement and cellar explained.* The Department of Buildings issued Supreme Company LLC a notice of violation for failing to file a required report concerning the periodic inspection of the exterior walls of its building at 1659 York Avenue in Manhattan’s Upper East Side. Supreme contested the NOV at a hearing before an ALJ, claiming that it was exempt from the filing requirement since its building did not exceed six stories. Supreme’s architect stated that the certificate of occupancy showed that the building had six stories plus a cellar. Buildings claimed the lowest floor was not a cellar, but rather a basement.

Pursuant to the City’s Building Code, cellars were not counted as stories when measuring the height of a building. Basements, on the other hand, were counted as stories. The Building Code defined “cellar” as a portion of a building that is partly or wholly underground and has one-half or more of its clear height below the grade plane. “Basement” was defined as a story partly below the grade plane and having less than one-half its clear height below the grade plane.

The ALJ sustained the NOV, crediting Buildings’ field inspector’s observations. Supreme appealed to the Environmental Control Board. For the first time on appeal, Supreme submitted architectural drawings and photographs to support its architect’s statements.

The Board reversed the ALJ’s decision and dismissed the NOV. Even though the drawings and photographs were submitted for the first time on appeal, the Board decided to consider them because they clarified the architect’s statements submitted to the ALJ. The
Board concluded that Supreme’s evidence established that the building had only six stories and a cellar. Thus, Supreme was not required to submit exterior wall reports.

NVC v. Supreme Company LLC, ECB Appeal No. 1100160 (May 19, 2011).

COURT DECISIONS

ESDC/EDC

DUMBO, Brooklyn

Citizens win protection of historic Tobacco Warehouse

Court ruled that the National Park Service unlawfully removed warehouse and adjacent building from park boundaries. In 2001, the National Park Service awarded to the New York State Office of Parks, Recreation, and Historic Preservation a federal Land and Water Conservation Fund grant to help fund a cove restoration project in Empire Fulton Ferry State Park in DUMBO, Brooklyn. The Park Service’s grant was contingent on the State Office of Parks agreeing that the restoration project area would be used for public outdoor recreation.

The approved boundary map of the park area included the Tobacco Warehouse building and the adjacent Empire Stores warehouse bordering the park along Water Street. The dilapidated Tobacco Warehouse has been listed on the National Register of Historic Places since 1974. The State Office of Parks stabilized the Tobacco Warehouse, removed its collapsing roof, and opened the building to the public. Empire Stores was used to house the park’s administrative offices and a public restroom.

In 2008, the State Office of Parks requested that the National Park Service accept a revised park boundary map which excluded the Tobacco Warehouse and Empire Stores. The State Office of Parks said that the buildings were not suitable for public outdoor recreational opportunities. The National Park Service agreed and excluded the warehouses from the park’s boundaries. The State Office of Parks later conveyed the parkland and the warehouses to the Brooklyn Bridge Park Corporation, which planned to incorporate the land into the proposed Brooklyn Bridge Park.

In 2010, the Brooklyn Bridge Park Corporation selected St. Ann’s Warehouse, which operates a performance space across from Empire Stores, to rehabilitate and convert the Tobacco Warehouse into a performance space with an outdoor garden. As part of the project’s environmental review, St. Ann’s planned to drill multiple holes in the warehouse’s concrete floors to perform soil tests. The Brooklyn Heights Association opposed the project, citing concerns about how the drilling would impact the historic structure, and requested that the National Park Service reverse its decision to exclude the Tobacco Warehouse and Empire Stores from the park’s boundaries. In 2011 the National Park Service issued a final determination upholding the exclusion.

A coalition of community groups, including the Brooklyn Heights Association, the Fulton Landing Association, and the New York Landmarks Conservancy, filed suit in federal court seeking a preliminary injunction to set aside the National Park Service’s decision and to prevent St. Ann’s from proceeding with its Tobacco Warehouse project. District Court Judge Eric N. Vitaliano in April 2011 granted a preliminary injunction, ruling that the coalition demonstrated a clear showing of irreparable harm and would likely succeed in establishing that the National Park Service violated federal law. The coalition then moved for summary judgment.

Judge Vitaliano granted the motion, finding that the National Park Service violated federal laws when excluding the warehouses from the official park map. The Court rejected the claim that the warehouses had been mistakenly included in the original park map and pointed out that the federal Land and Water Conservation Fund Act established a procedure whereby the National Park Service could replace the property with substitute land of equal or greater value.


COURT DECISIONS

Board of Standards & Appeals
Upper West Side, Manhattan

Central Park West synagogue variance upheld

Court rejected neighbors’ article 78 challenge to nine-story mixed-use building adjacent to landmarked synagogue. Congregation Shearith Israel applied to BSA for a variance to build a nine-story mixed-used building adjacent to its landmarked synagogue at the corner of West 70th Street and Central Park West in the Upper West Side-Central Park West Historic District. In addition to the synagogue, Shearith Israel owns a four-story parsonage house to the south of the synagogue along Central Park West and a four-story community house to the west of the synagogue along West 70th Street. Shearith Israel planned to demolish the community house to build the project. The proposed building’s first four floors would be occupied by community facility uses, including adult education classrooms, a Jewish day school, and a synagogue reception and banquet area. The top five floors would be developed into five market-rate condominiums.

The majority of Shearith Israel’s zoning lot is zoned R10A, but a portion of the lot along West 70th Street is zoned R8B. Shearith Israel needed the variance because the 105-foot...
Andrew H. Kimball discusses the continued revitalization of the Brooklyn Navy Yard

Andrew H. Kimball, CEO and president of the Brooklyn Navy Yard Development Corporation, is responsible for overseeing the redevelopment of the Brooklyn Navy Yard, a 300-acre industrial park on the Brooklyn waterfront. The not-for-profit corporation manages the Navy Yard on behalf of its owner, the City.

Kimball, a New York City native, earned a bachelor’s degree in History and Government from Hamilton College in 1987. After graduation he was accepted to the Coro Fellows Program in Public Affairs. One of his fellowship placements focused on urban economic development policy at the New York State Urban Development Corporation (now known as the Empire State Development Corporation). The placement evolved into a full-time position where Kimball worked on streamlining ESDC’s loan and grant programs.

Pursuing his interest in not-for-profit management, Kimball in 1995 joined the New York Public Library as chief of staff, later becoming vice president of government affairs. Kimball led an initiative to rebuild the institution’s branch libraries, helping to raise nearly $250 million in public funding to do so.

Kimball later became director of operations for NYC 2012, Daniel L. Doctoroff’s privately funded bid to bring the 2012 Summer Olympic Games to New York City. Although the City was not selected, Kimball notes that the bid accelerated many important initiatives, including the rezoning and revitalization of the Greenpoint-Williamsburg waterfront, the creation of Freshkills Park, and the extension of the No. 7 subway line and redevelopment of Manhattan’s Far West Side.

In December 2005, Mayor Michael R. Bloomberg appointed Kimball to lead the Brooklyn Navy Yard Development Corporation (BNYDC).

A city unto itself. Established in 1801, the Brooklyn Navy Yard served as a military facility for more than 150 years until it was closed in 1966 by the federal government. The City subsequently assumed ownership and re-opened the site in 1971 as an industrial park. Today, the Navy Yard boasts 40 acres of developable land and is home to more than 275 businesses employing more than 5,800 individuals.

Kimball states that the City has invested more than $250 million in infrastructure improvements to remediate nearly 50 years of deferred maintenance, including the replacement of water and sewer lines dating from the Civil War era. The BNYDC has leveraged this investment to generate more than $500 million in private investment. Kimball states that 100 percent of the revenue is reinvested into the Navy Yard to renovate existing infrastructure and build new industrial space.

The Navy Yard is currently undergoing an expansion that will add nearly two million square feet of space and create 2,000 new jobs over the next two to three years. And with 30 acres of developable land remaining, plans for which will be announced over the next twelve months, there are no signs that the Navy Yard will be slowing down any time soon.

Recipe for success. The Navy Yard’s 40 buildings have been 99 percent leased over the last six years and include production studios, woodworking shops, artists and architects, and a knitting mill. Kimball says that this high occupancy rate is due to the “hassle-free environment” that the walled-off industrial yard provides. Tenants can park trucks without fear of parking violations and can generate noise without disturbing neighbors. Tenants also take comfort knowing that additional space will be available for them should their businesses expand. Other amenities the Navy Yard offers include a tax credit of up to $1,000 per employee for companies that relocate from the Manhattan core, or from out-of-state by virtue of the Navy Yard being one of the City’s sixteen Industrial Business Zones.

Green industry. The BNYDC’s commitment to sustainability has transformed the Navy Yard into a national model for sustainable urban industrial parks. To foster the growth of the Navy Yard’s existing cluster of green businesses, and to be a good neighbor to surrounding communities, all infrastructure improvements at the Navy Yard are carried out with a focus on sustainability. The Navy Yard now features the nation’s first multi-story, multi-tenant LEED-certified industrial building, with twelve new LEED-certified buildings either completed or under design and construction. The Navy Yard also features the City’s first building-mounted wind turbines, as well as the country’s first wind/solar-powered street lamps. A LEED-platinum visitor and exhibition center is slated to open in November and will highlight the history of the Navy Yard, profile its tenants, and showcase how the site has developed into a model for sustainability.

Admirals Row. On June 20, 2011 the City announced the start of the public review process for the proposed transfer of the Navy Yard’s six-acre Admirals Row site from the federal government to the City. The U.S. Army National Guard Bureau retains control of the parcel along Flushing Avenue for the past 40 years. After the transfer, the site will become part of Navy Yard. The BNYDC would oversee the redevelopment of the site, including the construction of a 74,000 sq.ft. supermarket with 127,000 sq.ft. of industrial space located above, and the restoration of two of the twelve existing historic structures on the site. The BNYDC is currently engaged in a competitive process to select a development partner for the site. If the transfer is approved, the project would break ground in 2012.

— Eugene Travers

CITYLAND PROFILES

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venue-generating purposes and not in furtherance of the congregation’s programmatic needs, BSA required Shearith Israel to demonstrate that it could not realize a reasonable economic return from an as-of-right residential development.

Elected officials, preservationists, and residents opposed the project. Opponents argued, among other things, that the lot’s split zoning was not a unique physical condition, noting that four other properties in the area are also zoned R10A and R8B. Opponents also argued that Shearith Israel used the wrong economic model to demonstrate that it was unable to earn a reasonable return from an as-of-right development. Further, Manhattan Community Board 7 and neighboring property owners argued that the project would reduce access to light and air for residents along West 70th Street and Central Park West. 5 CityLand 28 (March 15, 2008).

BSA granted the variance, finding that the existence of four other sites with the same split zoning within a 51-block area did not defeat a finding that Shearith Israel’s site possessed a unique condition. BSA also found that the congregation demonstrated that it could not obtain a reasonable return with an as-of-right development. BSA ruled that Shearith Israel used the appropriate methodology to calculate the rate of return for its alternative development proposals.

Two nearby property owners and the preservation group Landmark West! filed article 78 petitions challenging BSA’s decision. The property owners reiterated the arguments presented at BSA including that an as-of-right mixed-use development would provide Shearith Israel with a reasonable return that would not adversely affect the neighboring buildings. The property owners also argued that BSA should have required Shearith Israel to discriminate. Noting the concerns of the property owners, the court pointed out that it was limited to determining whether BSA’s determination lacked a rational basis. The property owners appealed the decision.

The First Department affirmed the lower court, ruling that BSA had satisfied the statute in granting the variance.

Kettaneh v. BSA, 2011 N.Y. Slip Op. 05410 (1st Dep’t June 23, 2011) (Attorneys: Jeffrey D. Friedlander, Ronald E. Sternberg, for BSA; Claude M. Millman, for Shearith Israel; Alan D. Sugarman, for property owners; David Rosenberg, for Landmark West!).

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**New Decisions Added to CITYADMIN www.citylaw.org – July 2011**

**CITY COUNCIL**

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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.
### New Decisions Added to **CITYADMIN** www.citylaw.org – July 2011*

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<td>88 MacDougal St., MN</td>
<td>MacDougal Sullivan Gdns. HD</td>
<td>Repaint facade</td>
<td>12-2385</td>
<td>Yes</td>
<td>7/8/2011</td>
</tr>
<tr>
<td>20 Bond St., MN</td>
<td>NoHo HD Ext.</td>
<td>Erect wall sign</td>
<td>12-2063</td>
<td>Yes</td>
<td>6/28/2011</td>
</tr>
<tr>
<td>527 Hudson St., MN</td>
<td>Greenwich Village HD</td>
<td>Reconstruct facade</td>
<td>12-2735</td>
<td>Yes</td>
<td>7/18/2011</td>
</tr>
<tr>
<td>740 Broadway, MN</td>
<td>NoHo HD</td>
<td>Inst. signs, infill, bulkheads</td>
<td>12-2820</td>
<td>Yes</td>
<td>7/20/2011</td>
</tr>
<tr>
<td>33 Fifth Ave., MN</td>
<td>Greenwich Village HD</td>
<td>Legalize penthouse alterations</td>
<td>11-6091</td>
<td>No</td>
<td>6/27/2011</td>
</tr>
<tr>
<td>29 Bethune St., MN</td>
<td>Greenwich Village HD</td>
<td>Const. dormer, repl. roofing</td>
<td>12-1835</td>
<td>Yes</td>
<td>6/22/2011</td>
</tr>
<tr>
<td>21 Seventh Ave., MN</td>
<td>Greenwich Village HD</td>
<td>Replace infill portions</td>
<td>12-2663</td>
<td>Yes</td>
<td>7/15/2011</td>
</tr>
<tr>
<td>149 W. 13th St., MN</td>
<td>Greenwich Village HD</td>
<td>Const. roof add, reconstruct stoop</td>
<td>12-2157</td>
<td>Yes</td>
<td>6/30/2011</td>
</tr>
<tr>
<td>150 Fifth Ave., MN</td>
<td>Ladies' Mile HD</td>
<td>Replace storefront infill</td>
<td>12-1858</td>
<td>Yes</td>
<td>6/22/2011</td>
</tr>
<tr>
<td>110 E. 70th St., MN</td>
<td>Upper East Side HD</td>
<td>Create awesway</td>
<td>12-2066</td>
<td>Yes</td>
<td>6/28/2011</td>
</tr>
<tr>
<td>306 Columbus Ave., MN</td>
<td>Upper West Side/CPW HD</td>
<td>Install bracket sign</td>
<td>12-1886</td>
<td>Yes</td>
<td>6/23/2011</td>
</tr>
<tr>
<td>305 W. 78th St., MN</td>
<td>West End Collegiate HD</td>
<td>Construct dormer addition</td>
<td>12-2035</td>
<td>Yes</td>
<td>6/28/2011</td>
</tr>
<tr>
<td>119 W. 85th St., MN</td>
<td>Upper West/CPW HD</td>
<td>Remove dormer, alter roofline</td>
<td>12-2490</td>
<td>Yes</td>
<td>7/12/2011</td>
</tr>
<tr>
<td>2 W. 80th St., MN</td>
<td>Upper West/CPW HD</td>
<td>Install access ramp, mod. stairs</td>
<td>12-2074</td>
<td>Yes</td>
<td>6/28/2011</td>
</tr>
<tr>
<td>131 E. 95th St., MN</td>
<td>Carnegie Hill HD</td>
<td>Construct rear yard addition</td>
<td>12-1845</td>
<td>Yes</td>
<td>6/22/2011</td>
</tr>
<tr>
<td>22 W. 95th St., MN</td>
<td>Upper West Side/CPW HD</td>
<td>Legalize security grilles</td>
<td>12-1804</td>
<td>Yes</td>
<td>6/21/2011</td>
</tr>
<tr>
<td>141 State St., BK</td>
<td>Brooklyn Heights HD</td>
<td>Construct roof deck</td>
<td>12-2457</td>
<td>Yes</td>
<td>7/12/2011</td>
</tr>
<tr>
<td>96 Jay St., BK</td>
<td>Brooklyn Heights HD</td>
<td>Remove dormer, inst. mech. equip.</td>
<td>12-2746</td>
<td>Yes</td>
<td>7/19/2011</td>
</tr>
<tr>
<td>76 Henry St., BK</td>
<td>Brooklyn Heights HD</td>
<td>Legalize rear yard addition</td>
<td>12-2043</td>
<td>Yes</td>
<td>6/28/2011</td>
</tr>
<tr>
<td>9 College Pl., BK</td>
<td>Brooklyn Heights HD</td>
<td>Maintain signage for 1 year</td>
<td>12-2234</td>
<td>Yes</td>
<td>7/5/2011</td>
</tr>
<tr>
<td>280 Hicks St., BK</td>
<td>Brooklyn Heights HD</td>
<td>Const. roof add, mod. windows</td>
<td>12-1853</td>
<td>Yes</td>
<td>6/22/2011</td>
</tr>
<tr>
<td>417 Hicks St., BK</td>
<td>Cobble Hill HD</td>
<td>Est. master plan (windows)</td>
<td>12-2829</td>
<td>Yes</td>
<td>7/20/2011</td>
</tr>
<tr>
<td>439 Hicks St., BK</td>
<td>Cobble Hill HD</td>
<td>Est. master plan (windows)</td>
<td>12-2831</td>
<td>Yes</td>
<td>7/20/2011</td>
</tr>
<tr>
<td>184 Berkeley Pl., BK</td>
<td>Park Slope HD</td>
<td>Construct rear yard addition</td>
<td>12-2183</td>
<td>Yes</td>
<td>7/1/2011</td>
</tr>
</tbody>
</table>

*Bold indicates the decision is covered in this issue. The symbol † indicates that the decision was covered in a previous issue. City Council decisions available in hard copy format at the Center for New York City Law.*
Federal court reversed National Park Service's decision to exclude the Tobacco Warehouse and the Empire Stores warehouse from the boundaries of Empire Fulton Ferry State Park. See story on page 112.

Upcoming Events

FIFTH ANNUAL CONFERENCE
TRENDS IN NYC LAND USE AND DEVELOPMENT

Thursday, November 3, 2011, 1:30 p.m. to 5:00 p.m.

New York Law School
185 West Broadway (between Worth & Leonard Streets), New York, New York

CLE credit available.
Registration required.
For more information contact Sarah Knowles at 212-431-2383

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