

11-15-2004

Cityland, Volume 1, number 2, November 15, 2004

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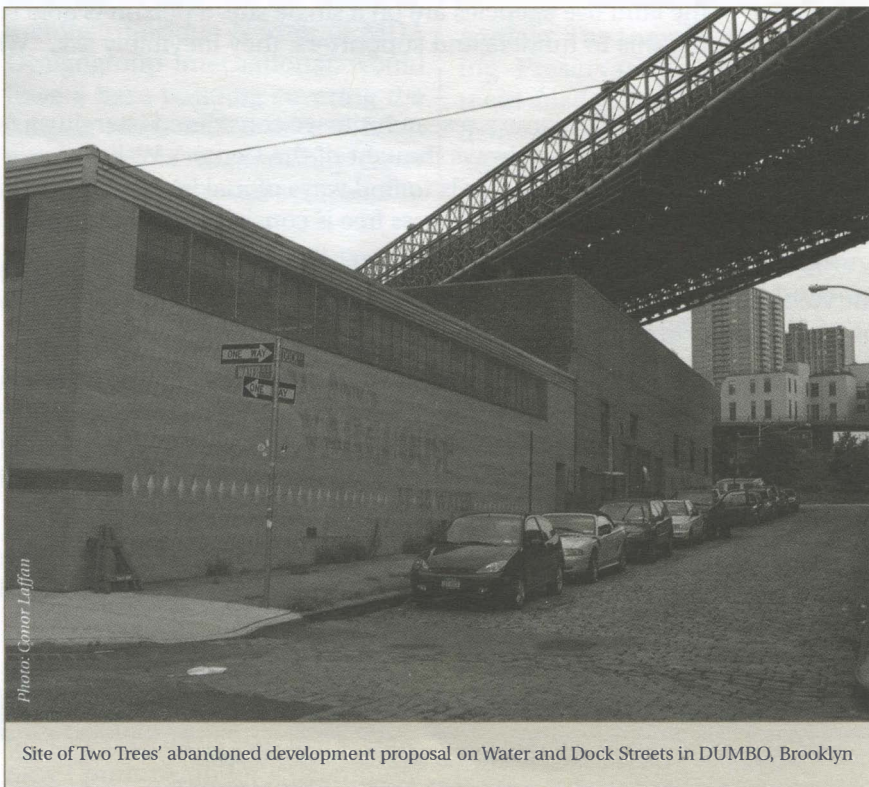
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Site of 'Two Trees' abandoned development proposal on Water and Dock Streets in DUMBO, Brooklyn

CITY COUNCIL

Special Permit/Rezoning DUMBO, Brooklyn

Developer withdraws on eve of Council vote

Tower to have been built adjacent to Brooklyn Bridge withdrawn within hours of Council's vote. With only one day remaining in the Council's 50-day review deadline, Two Trees Management Co., the developer of a proposed 178-foot residential tower adjacent to the Brooklyn Bridge side span, withdrew its application on October 13, 2004, the same day Council scheduled its vote.

The project was proposed for DUMBO along Water, Dock, and Front Streets, with a part of the site located directly beneath the Brook-

lyn Bridge. The Planning Commission had approved the 178-foot tower with 200 residential units, 327 parking spaces, retail and community facilities space on August 25, 2004, only after the developer reduced the building's height closest to the Brooklyn Bridge from 170 ft. to 88 ft., matching the Brooklyn Bridge roadway. Furthest from the Bridge, the building's height remained 178 ft.

The City Council's Subcommittee on Zoning and Franchises held a public hearing on September 21, 2004, but Chair Tony Avella delayed the vote until October 5, 2004, declaring that the development necessitated significant changes before approval by Subcommittee. On October 5th, the vote was again postponed until the morning of the (cont'd on page 19)

Why Access to Land Use Decisions on the Center's Web Site is Free.

The Center's Web site [www.citylaw.org] makes available through the Internet every decision currently rendered by New York City's land use agencies. Decisions and reports are uploaded with the generous help and professional assistance of the staffs of New York City's land use agencies. Access is free and the reports and decisions are fully searchable. This is a unique resource, not only in its comprehensiveness, but also in the fact that, because all of the land use agencies are on a single site, a person is able to search all agencies at the same time. When we explain this to funders and supporters, they inevitably ask, "Why doesn't the Center charge fees like WestLaw or Lexis?"

When the Web site became a research site we considered charging a fee for access, but decided against it for three reasons. First, we have always thought of the Center's Web site as a public resource much like the public library. A central goal of the Center is to find ways of making governmental decisions accessible and in a format that is useful and friendly. Keeping access free is consistent with the public library concept.

Secondly, we have benefitted mightily in this effort by the willing cooperation of agency staffs, who also see the Web site as assisting them to meet their responsibility to increase public access to agency decisions. Our part of the bargain is to work to keep access free.

Finally, the Center has so far been able to support the Web site through other means. In addition to direct donors, one source of support is subscription revenue from *CityLand*. We are gratified that so many of you have seen the value of *CityLand* and subscribed. We think that you are getting something special in the newsletter, but your subscription also helps keep access to the expanding library of New York City land use decisions on the Center's Web site free.

During the month of October 2004, New York City's primary land use agencies sent 90 new decisions and reports that the Center uploaded to the Web site, which now boasts more than 3,000 land use decisions. Happy searching.

—Ross Sandler

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13th, leaving only hours before the full Council vote in the afternoon. At the morning hearing, Chair Avela announced the developer's withdrawal, proclaiming it as a "huge victory for the community." Under the Charter, had the City Council not voted by October 14, 2004, it would have missed ULURP's 50-day deadline and the application would be deemed approved. With the withdrawal prior to the vote, the City must now refund a portion of Two Trees' filing fees.

As part of the original application, Two Trees had also applied for a special permit authorizing the residential conversion of 85 Water Street, a building within a state and national historic district. Two Trees did not withdraw this application and the Council approved it on October 13, 2004.

For the Planning Commission's consideration and ULURP process, see 1 *CityLand* 7 (October 15, 2004).

Council Res. Nos 633-36 (October 13, 2004); CPC Cal. No. 12 - 15, C 010645 ZMK (map amendment), C 010646 ZSK (special permit for height, court, yard and setback); C 010647 ZSK (special permit for parking); C 030492 ZSK (special permit for 85 Water Street) (August 25, 2004) (Water St.: Irving Gotbaum, Esq., Friedman & Gotbaum LLP, for Two Trees; John Beyer, Laura Cheng, Beyer Blinder Belle Architects & Planners, LLP). **CITYADMIN**

CITY COUNCIL

Special Permit/Rezoning
East Harlem, Manhattan

Council modifies hotel height; Commission to review

Height of Harlem hotel reduced to 478 feet. On October 27, 2004, the City Council approved, subject to a 40 ft. height reduction, the development of an iconic Harlem building for hotel, residential and commercial office space at 125th Street and Park Avenue in East Harlem. The Council modification,

which was approved by a vote of 47 to 2, reduced the building's height by 40 ft. from 518 ft. to 478 ft. Council's modification is the second reduction that the developers, 1800 Park Avenue LLC, have agreed to in order to gain City approval. The proposed new building, designed by Mexican architect Enrique Norten of MDA Designgroup International, would have a base building covering the full lot area, which at 150 ft. in height, would dramatically taper to a slim 453 ft. tower with a 25 ft. decorative extension.

Council Members Bill Perkins and Albert Vann voted against the project even with the height modification. Council Member Perkins indicated that the building is distinctively out of character with the other buildings in the area; and Council Member Vann argued that economic development was not always beneficial to the community. Council Member Koppell disputed both views, claiming that the building of a first-class hotel in Harlem symbolizes its renaissance.

A Council modification, under the City Charter, is sent to the Planning Commission for a determination on whether the reduction creates any significant land use or environmental issues. The Planning Commission has 15 days to recommend approval or make additional amendments. Thereafter, Council makes the final decision to adopt the resolution, with or without the Planning Commission's proposed amendments.

For the Planning Commission's consideration and ULURP process, see 1 *CityLand* 8 (October 15, 2004).

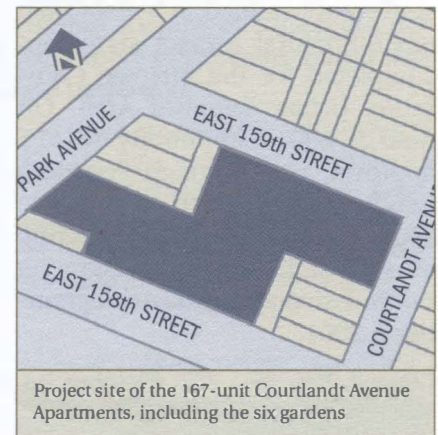
Council L.U. No. 286-88 (October 27, 2004); CPC Cal Nos. 34-36 C 040443 ZMM (map amendment); C 040444 ZSM (special permit for height/setback); C 040445 ZSM (special permit for parking) (September 8, 2004) (Harlem Park Hotel: Michael Caridi, Majic Development Group LLC, Paul Travis, Washington Square Partners, for 1800 Park Avenue LLC; MDA Designgroup International). **CITYADMIN**

CITY COUNCIL

UDAAP/Disposition
Melrose, Bronx

Community gardens slated for affordable housing

Site contains six community gardens. The Department of Housing Preservation and Development filed an application for the disposition of City-owned land and designation of an Urban Development Action Area for the construction of the Courtlandt Avenue Apartments, a five-story, 167-unit, low-income housing project in the Bronx.



Project site of the 167-unit Courtlandt Avenue Apartments, including the six gardens

The 55,980 sq.ft. project site, bounded by Courtlandt and Park Avenues and East 158th and 159th Streets, is comprised of 16 lots, of which 11 are vacant, two contain abandoned buildings, and three contain six community gardens. The six gardens are part of the 543 City community gardens subject to a 2002 settlement agreement between the City and the State Attorney General. 8 *CityLaw* 116 (2002). Under the agreement, 198 gardens became permanent open spaces, 38 were set for development, and 114 became subject to a review process that could ultimately lead to development.

The six gardens on the project site were all subject to the garden review process, which required the City to offer the affected gardeners alternative properties for their gar-

dens. At the October 5, 2004 public hearing before the Subcommittee on Planning, Dispositions and Concessions, opponents to the development, including gardeners from the 314 East 159th Sunshine Garden, claimed that the City had not complied with the review process. HPD testified that alternative sites had been rejected by some gardeners, and no response was received to other offers.

The full Council approved the application on October 13, 2004.

ULURP Process: As co-lead agencies, City Planning and the Department of Environmental Protection determined that the project's potential impacts were sufficiently studied in a 1994 final environmental impact statement completed for the Melrose Commons Urban Renewal Area. On June 24, 2004, Community Board 1 approved and Borough President Adolfo Carrion agreed on August 3, 2004. Following a public hearing on August 11, 2004, the Planning Commission approved on September 8, 2004.

Council Res. No. 632 (October 13, 2004); CPC Cal. No. 24, C 040521 HAX (UDAAP/disposition of land) (September 8, 2004) (Courtlandt Ave. Apts.).

CITYADMIN

CITY COUNCIL

UDAAP/Disposition
East Harlem, Manhattan

Odyssey House facility approved

Facility to provide housing for low-income mentally ill. City Council approved the Planning Commission's resolution adopted on September 8, 2004, allowing the construction of a six-story building with 50 units for low-income persons with mental illnesses. The Council's action authorized the designation of an Urban Development Action Area and the transfer of six properties of City-owned land.

The project site, which is to be developed under the New York State office of Mental Health, is located on the north side of East 123rd Street between Park and Lexington Avenues in East Harlem. The site is part of the Park Avenue Urban Renewal Plan and comprises six City-owned properties totaling 10,000 sq.ft. Currently, the site contains underutilized vacant land and a vacant one-story garage, which will be demolished.

There were no speakers in opposition at the City Council's public hearing on October 5, 2004, and the full Council approved the application on October 13, 2004 by a vote of 50 to 0.

ULURP Process: The Department of Housing Preservation and Development, as lead agency, issued a negative declaration on November 8, 2002. Manhattan Community Board 11 voted to approve the project on June 15, 2004, by a vote of 21 to 8, and Borough President C. Virginia Fields agreed on June 29, 2004.

At the August 11, 2004 Planning Commission hearing, Commissioners Karen Phillips and Dolly Williams voiced concern about the over-saturation of facilities for homeless, addicts and transitional housing in the immediate area, asking Odyssey House if this had been taken into account. Odyssey House representatives stated that the organization has a solid record in East Harlem, which welcomed their three other facilities. Odyssey House pointed out that both Congressman Charles Rangel and Council Member Bill Perkins supported the project. The Commission unanimously approved the project on September 8, 2004.

Council Res. No. 631 (October 13, 2004); CPC Cal. No. 32, C 040438 HAM (UDAAP/disposition of land) (September 8, 2004), (Odyssey House: Durga Valabhaneni, for Odyssey House; Miriam Gonzalez, for HPD; Architect: UAI).

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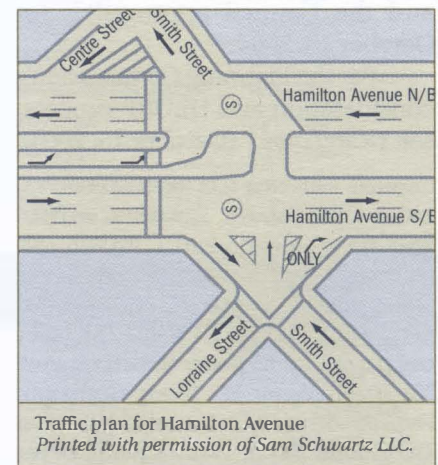
CITY COUNCIL

Special Permit/Rezoning
Red Hook, Brooklyn

Ikea development approved

Council cited economic and infrastructure improvements. On October 13, 2004, the Council approved the development of a 346,000 sq.ft. Ikea furniture store on the 22-acre waterfront of Red Hook, Brooklyn, by a vote of 50 to 1. The development includes a 6.3-acre esplanade/bikeway and an additional 70,000 sq.ft. of restaurant and retail space. Ikea forecasts that the project will create 500-600 jobs and potential employment for Red Hook residents.

Red Hook Council Member



Sara Gonzalez spearheaded the Council's effort to pass the resolution, arguing that Ikea will revitalize the community and spur economic growth. Council Member Charles Barron, representing a neighboring Brooklyn district, was the only member to vote in opposition to the project, stating that Ikea would not solve the community's problems because there were no guarantees that it would significantly increase employment or share profits with the community.

In addition to the furniture store and waterfront esplanade, Ikea also committed to fund major transportation modifications that will alter the traffic infrastructure

surrounding the development site. These modifications include eliminating the existing merge lanes from the Brooklyn-Battery Tunnel and the Brooklyn-Queens Expressway exit ramps; creating dedicated lanes leading into Hamilton Avenue and dedicated turn lanes from Hamilton Avenue into Smith Street leading to the Ikea entrance; and implementing a free ferry line from Manhattan and a free shuttle service from several Brooklyn subways.

For the Planning Commission's consideration and ULURP process, see 1 *CityLand* 5 (October 15, 2004).

Council Res. Nos. 641-645 (October 13, 2004)(Ikea Red Hook); CPC Cal. Nos. 27-31, C 030412 MMK (city map amendment), C 030413 ZMK (map amendment), C 030414 ZSK (special permit for use), C 030415 ZSK (special permit for height), N 030416 ZAK (modify waterfront controls) (September 8, 2004) (Red Hook Ikea: Jesse Masyr, Ray Levin, Ethan Goodman, Wachtel and Masyr; Sam Schwartz, Erich Arcement, Michael Barelli, Jee Mee Kim, Sam Schwartz, LLC; James Bry, Lee Weintraub, Greenberg Farrow Architects). **CITYADMIN**

CITY COUNCIL

Sidewalk cafés

East Side, Manhattan

Permit approved after compromise

Council approved application after delayed vote. Le Bilboquet Café, located at 25 East 63rd Street in Manhattan, sought approval of an unenclosed sidewalk café for four tables and eight chairs, which was heavily opposed by local residents. At the October 19, 2004 public hearing before the Subcommittee on Zoning and Franchises, a large number of the community appeared in opposition and, after several hours of testimony, the Subcommittee approved. The full Land Use Committee's vote was delayed at Council Member Eva Moskowitz's request. Prior to the

Land Use Committee's scheduled vote on October 27, 2004, community residents and the café owner privately negotiated a compromise, allowing 16 chairs, but requiring their removal by 7 p.m. every evening. The Land Use Committee and the full Council approved the permit the same day, with Council Member Moskowitz abstaining from the vote.

Council Res. No. 662 (October 27, 2004) (25 E. 63rd St.: Aaron Richard Golub, for Le Bilboquet; Shelly Friedman, for Ronald Perelman). **CITYADMIN**

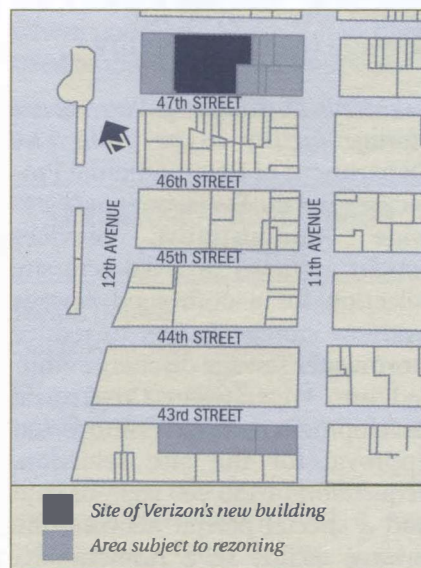
CITY PLANNING COMMISSION

Rezoning

Clinton, Manhattan

Rezoning approved for two Verizon sites

Commission approved Verizon's consolidation plans. Verizon New York, Inc. sought to rezone two sites that it occupies in Clinton, Manhattan. The first proposal would rezone a 45,200 sq.ft. site at the intersection of Eleventh Avenue and West 43rd Street from M2-3 to C6-4. The second would rezone a 143,300 sq.ft. full-block area, bounded by Eleventh Avenue, West 47th Street, Twelfth Avenue and West 48th Street, from M2-3 to M1-5. The Commission unanimously



approved both. Verizon intends to sell the upzoned West 43rd site and consolidate operations into a new building located within the West 47th Street rezoning.

The rezoning on the two West 43rd lots would allow commercial/residential uses and increase the sites' permitted building size from 90,400 sq.ft. to 452,000-542,400 sq.ft. Verizon argued that the one-story warehouse and six-story office on the site were antiquated, out-of-character and required upgrading.

The West 47th and 48th Street block, subject to the second rezoning, is primarily characterized by low-scale, one to four-story commercial and manufacturing uses with one vacant eleven-story building. Verizon's parking lot and two-story warehouse within the area would be demolished to make way for its new seven-story building.

At the August 11, 2004 Commission hearing, Verizon argued that, if approved, several adjacent buildings would be legalized since they currently exceeded the permitted size limitations. The Commissioners questioned why the West 43rd action could not wait for the Hudson Yards rezoning, and why the Commission should increase the property value solely for its immediate sale. Melanie Meyers, Verizon's attorney, stated that the proposals would be consistent with the existing character and Verizon had agreed to each condition requested by Manhattan Community Board 4, including design changes and the designation of truck routes.

In approving both applications on October 6, 2004, the Commission recognized that Verizon's current facility was inadequate for consolidating its operations.

ULURP Process: The Planning Commission, as lead agency, issued a negative declaration on June 7, 2004. Community Board 4 approved the West 43rd rezoning but recommended that low-income housing

New Applications Filed with DCP - 9/28 - 10/28, 2004

| APPLICANT | PROJECT/ADDRESS | DESCRIPTION | ULURP # | REPRESENTATIVE |
|---------------------------------------|---|---|------------------------|-------------------|
| ZONING TEXT AND MAP AMENDMENTS | | | | |
| City Planning | Greenpoint Williamsburg, BK | Rezone 184 blocks | 050110ZRK 050111ZMK | City Planning |
| City Planning | Port Morris-Bruckner, BX | Rezone 11 blocks | 050120ZMX | City Planning |
| 5th Ave. 58th Co. | 767 5th Ave., MN | Mod.(streetwall) & add retail | 050117ZRM 050116ZCM | Kramer Levin |
| City Planning | Bay Ridge Text and Map Amendment, BK | Eliminate 5 preservation areas; text change to the spec. dist. | 050133ZRK 050134ZRK | City Planning |
| Councilman Lanza | Great Kills/Tottenville, SI | Rezone 24-blocks (C3-C3-A) | 050143ZMR | Councilman Lanza |
| Councilman Lanza | Richmond Valley, SI | Rezone (R3X to R1-2) on Page, Amboy and Terrace Ave. | 050144ZMR | Councilman Lanza |
| Councilman Lanza | Bay Terrace Rezoning, SI | Rezone (27 Blocks) from R3-1 to R3X | 050145ZMR | Councilman Lanza |
| OTHER ACTIONS | | | | |
| HPD | 1536 Broadway, BK | UDAAP for retail space | 050121HAK | HPD |
| Solow Bldg. Co. | 9 W. 57th St., MN | Cert. added retail sq.ft. not in FAR | 050123ZCM | Kramer Levin |
| 161 Hudson LLC | 161 Hudson St., MN | Allow 3 lofts | 050118ZCM | Greenberg Traurig |
| DCAS | 917 Kent Ave., BK | Removal of restrictions on deed | 050125PPK | DCAS |
| DCAS | Engine 201/Ladder 114, 5113-17 4th Ave., BK | Site selection for fire house | 050132PCK | Fire Dept. |
| DCAS | Shellbank Basin, QN | Site selection (air compressor station) | 050141PCQ | DEP |
| DCAS | Engine Co. 160/Rescue 5, 1850 Clove Rd., SI | Site selection for fire vehicle storage | 050138PSR | Fire Dept. |
| Van Tassel Enter. | 901 Lamont Ave., SI | Subdivide lot into 2; build 2 homes | 050131RCR | Michael Deruvo |
| Elizabeth Steigert | 64 Cedarcliff Rd., SI | Subdivide lot into 2; build 1-fam. home in spec. hillside dist. | 050139ZCR 050140ZCR | Thomas Avitabile |
| Steve Nisan | 93 Meisner Ave., SI | Mod. topo. for 1-fam. home | 050142ZAR | Steven Savino |
| Dan Paolucci | 412 Forest Ave., SI | Expand commer. bldg. (hillside dist.) | 050128ZAR | Salvadeo Assoc. |
| 42 W.18th Co. | 38 W. 18th St., MN | Conform to LPC approval | 020244AZSM | Greenberg Traurig |

be required for any increase in floor area over that permitted to mirror the Hudson Yards proposed rezoning. The Community Board disapproved the West 47th rezoning unless truck routes were designated; proper lighting added to the building's facade; and Verizon complied with mandatory tree planting provisions. On August 2, 2004, Borough President C. Virginia Fields approved the proposal with similar conditions.

Council's Land Use Committee approved on November 4, 2004. The full Council must still review.

CPC Cal. Nos. 11-12, C 040249 ZMM (W. 43rd map amendment), C 040250 ZMM (W. 47th map amendment) (October 6, 2004) (Verizon Rezoning: Walter Zupans, HLW Designs; Melanie Meyers, Fried, Frank, Harris, Shriver & Jacobson, LLP for Verizon). **CITYADMIN**

CITY PLANNING COMMISSION

**Special Permit/Acquisition
Westchester Square, Bronx**

Bronx site okayed for sewage overflow facility

New 12-million gallon sewage storage facility to be built. The Department of Environmental Protection and the Department of City-wide Administrative Services sought approval of a 3.6-acre site selection for a combined sewage overflow storage facility to reduce stormwater sewage discharge emitted into Westchester Creek. The development required Commission approval for the site selection, acquisition of 155,900 sq.ft. of land and a special permit allowing the sewage facility in a residentially-

zoned area of the Bronx.

The site is located along an unmapped street in the southwestern portion of the Bronx Psychiatric Center, roughly bounded on the north by Waters Place, east by Eastchester Road and west by Industrial Place. The sewage facility would include a two-story operation building, with air treatment and mechanical facilities, and a 25-foot deep underground storage tank, 348 ft. by 170 ft. in dimension.

In its applications, DEP claimed that the facility – required to meet federal standards – would reduce sewage discharges into Westchester Creek by 70%. DEP also stated that the site was the only one found with adequate land in proximity to existing sewage conduits.

Following an August 11, 2004 public hearing, the Commission unanimously approved on September 22, 2004, finding the site appropriate due to its size, proximity to other sewage conduits, and a sufficient distance from residential uses. The Commission noted that DEP had considered and rejected an alternative site proposed by Borough President Adolfo Carrion as infeasible due to its slope.

ULURP Process: Lead agency DEP issued a negative declaration on February 21, 2003. The Commission certified the application on May 24, 2004, sending it to Bronx Community Board 11. The Community Board did not hold a public hearing, but voted to approve on June 24, 2004. Borough President Carrion disapproved, recommending an alternative site, 1,200 ft. east of the chosen site. Because this recommendation was filed after the 30-day ULURP deadline, however, the Commission was not required to consider the site. Nevertheless, DEP analyzed and rejected the site.

CPC Cal. Nos. 9-10 C 030272 ZSX (special permit), C 030271 PCX (site selection/acquisition) (September 22, 2004) (Westchester Creek CSO Facility). **CITYADMIN**

City Planning Comm. ULURP Certifications

| PROJECT | DESCRIPTION | COMMUNITY BD. | ULURP NO. | CERTIFIED |
|-------------------------------------|--|---------------|---|------------|
| 541 Broadway | Modification to allow Use Group 6 in an M1-5B zoning district | MN 2 | 040351ZSM | 10/4/2004 |
| Greenpoint-Williamsburg Rezoning | Zoning map change; zoning text change; and amendment to City map | BK 1 | 050111ZMK N050110ZRK 040415MMK 040416MMK 040417MMK 040418MMK | 10/4/2004 |
| Port Morris/Bruckner Blvd. Rezoning | Zoning map change along Bruckner Blvd. | BX 1 | 050120ZMX | 10/4/2004 |
| Project Green Hope | Special permit for 7-story community facility with 70 units for homeless | MN 11 | 050072HAM 050073ZSM | 10/18/2004 |
| Anchor Project | UDAAP/disposition of City land for commercial buildings | BK 4 BK 16 | 050121HAK | 10/18/2004 |
| Special Bay Ridge Dist. | Zoning map change and text amendment | BK 10 | N050133ZRK 050134ZMK | 10/18/2004 |
| Clove Lake | Zoning map change | SI 1 | 040410ZMR | 10/18/2004 |
| NY Public Library | Site selection/acquisition of private land | SI 1 | 040540PCR | 10/18/2004 |

CITY PLANNING COMMISSION

Special Permit/Disposition Jamaica, Queens

Queens Hospital Center to get new senior care center

Private company to convert City building to 296-person senior continuum care center. Health & Hospitals Corporation, Citywide Administrative Services and the Margaret Tietz Nursing and Rehabilitation Center sought the disposition of City-owned land, a special permit to exceed a nursing home bed limit, and an exception to height and setback to permit the Skyline Commons project, a 296-person senior continuum care facility within the existing Queens Hospital Center in Jamaica Queens.

Queens Hospital Center, owned by the City and operated by HHC, has ten buildings totaling 848,934 sq.ft. on a campus bounded by Grand Central Parkway, Parsons, Goethals, 82nd Drive and 161st and 164th Streets. All ten buildings are used for hospital and administrative services, with no dedicated senior facilities.

Skyline Commons proposed to sublease a partially-occupied, 238,012 sq.ft. ten-story building and add 12,355 sq.ft. The facility will be privately operated by New Life

Management & Development, Inc. and the nonprofit corporation Margaret Tietz. Skyline Commons will contain a mix of unit types from private retirement apartments, to partial-care units and full-care, nursing home beds. Jamaica Queens already exceeds the nursing home bed limit contained in the zoning code, so the facility required an additional special permit.

The Commission unanimously approved on September 22, 2004, finding that the project would not increase traffic or the need for emergency vehicles, and it would be a significant benefit to the community.

ULURP Process: HHC, as lead

agency, released a negative declaration on April 29, 2004. Community Board 8 approved by a vote of 25 to two on July 14, 2004, with the two dissenters voicing opposition to the overdevelopment of community facilities in the immediate area. On August 3, 2004, Borough President Helen Marshall approved the application. City Council's review is pending.

CPC Cal. Nos. 14-15 C 040356 PPQ (disposition of city land), C 040357 ZSQ (special permit for nursing home and height/setback) (September 22, 2004) (Queens Hospital/Skyline Commons).

CITYADMIN

BOARD OF STANDARDS & APPEALS

Variance Williamsburg, Brooklyn

New building approved after two-story reduction

Four-story building will have 27 new dwellings. BSA approved a use variance, allowing the new construction of a four-story, 27-unit residential building with 14 underground parking spaces in an M1-2 zoning district on the corner of North 7th and Berry Streets in Williamsburg. The building site, comprising two



lots totaling 15,840 sq.ft., contains a former garage and a vacant one-story structure previously used as a food processing facility.

The original application, which sought a six-story 43-unit building, was reduced and redesigned to address Brooklyn Community Board 1's concern that the proposed structure would be bulkier than neighboring buildings. Even with the reduction, the Community Board still opposed the development.

At the BSA, the applicant argued that the current building was outdated, its design was limited to food processing, and it would be too costly to make it functional for manufacturing since its foundation was less than 10 ft. from the L subway tunnel. BSA granted the variance, agreeing that the proximity to the subway tunnel created a hardship and, following a site visit, agreed that the existing character of the street was residential. BSA further noted that the reduced development complies with City Planning's proposed rezoning of Greenpoint-Williamsburg, currently undergoing public review under ULURP.

BSA Cal. No. 183-03-BZ (October 19, 2004) (118/120 Berry Street, BK; Mitchell S. Ross, Esq., Augusta & Ross, for North Berry Capital Group, LLC; Karl Fischer, Lisa Chow, Karl Fischer Architect; Lockwood Greene Engineering & Construction; Severud Associates Consulting Engineers, P.C.). **CITYADMIN**

BOARD OF STANDARDS & APPEALS

Variance

Upper East Side, Manhattan

Parking variance approved

Lapsed 1980 variance re-instated and parking spaces increased in Upper East Side apartment. BSA renewed a lapsed variance for the owners of a 116-unit co-op at 1199 Park Avenue at the corner of East 94th Street. The original variance, which allowed the public lease of excess parking spaces not utilized by the

buildings' tenants, lapsed in 1980.

The applicants stated that, in 1980 at the time of the variance's expiration, 1199 Park Avenue was being converted to a co-op and the required renewal was not conveyed to the new owners. In 1993, a certificate of occupancy was issued permitting only 59 spaces. When a new parking operator, Majestic Car Park, LLC, took over the garage, it noticed a discrepancy and argued that the square footage of the garage permitted 74 spaces.

BSA agreed and re-instated the variance at 74 spaces for a 10-year term. Community Board 8 supported the application.

BSA Cal. No. 40-63-BZ (October 19, 2004) (1199 Park Avenue, MN: Francis R. Angelino, Esq., for Park Hill Tenants Corp.). **CITYADMIN**

BOARD OF STANDARDS & APPEALS

Variance

Cobble Hill, Brooklyn

New mixed-use building okayed after size reduction

Variance will allow 11 new dwellings and ground floor commercial in a manufacturing zone. BSA approved a use variance, permitting a five-story residential development with ground floor commercial on an M1-1 zoned lot with unobstructed views of lower Manhattan at the corner of Columbia and Congress Streets in Brooklyn.

When the project site, two lots totaling 4,773 sq.ft., was purchased by the variance applicants, Isaac,

New Applications Filed with BSA - Oct. 1-28, 2004

| APPLICANT | PROJECT/ADDRESS | DESCRIPTION | APP. # | REPRESENTATIVE |
|----------------------------|----------------------------|--|------------|----------------------|
| VARIANCES | | | | |
| Century 21 | 26 Cortland St., MN | Expansion of mezzanine | 331-04-BZ | Jay A. Segal, Esq. |
| Sephardic Center | 6208-16 Strickland, BK | Bulk variance for synagogue | 326-04-BZ | Fredrick A. Becker |
| Yad Yosef | 1036-44 Ocean Pkwy., BK | Bulk variance for synagogue | 345-04-BZ | Fredrick A. Becker |
| NWRE 202 Corp. | 202-01 Northern Blvd., BK | Auto sales in C2-2 district | 344-04-BZ | Alfonso Duarte, P.E. |
| Hi-Tech Equipment | 806-14 Coney Island, BK | Warehouse to hotel in R5 zone | 338-04-BZ | Martyn & Don Weston |
| Rockaway Imp. | 110 Franklin Ave., BK | Residential use in M district | 328-04-BZ | Howard Goldman |
| L&L Realty | 135-28 Roosevelt, Ave., QN | Parking/loading/setback variance | 334-04-BZ | Sheldon Lobel, P.C. |
| Fabian Org. II | 60-11 83rd Pl., QN | Variance for 3-family home | 335-04-BZ | Joseph Morsellino |
| Fabian Org. II | 60-15 83rd Pl., QN | Variance for 3-family home | 336-04-BZ | Joseph Morsellino |
| Fabian Org. II | 60-17 83rd Pl., QN | Variance for 3-family home | 336-04-BZ | Joseph Morsellino |
| Beth Gavriel | 66-35 108th St., QN | Enlarge community facility | 327-04-BZ | Sheldon Lobel, P.C. |
| A & V Racanelli | 1579 Forest Ave., SI | Parking/rear yard variance | 340-04-BZ | Joseph Morsellino |
| SPECIAL PERMITS | | | | |
| Kramer & Wurtz, Inc. | 157-30 Willets Blvd., QN | Add canopy over gas station island | 339-04-BZ | Erik Palatnik, P.C. |
| Chava Lobel | 1410-14 E. 24th St., BK | 1-family home exceeding FAR, yard | 332-04-BZ | Erik Palatnik, P.C. |
| APPEALS | | | | |
| Riley Realty Corp. | 10-03 Channel Rd., QN | 1-family home in mapped st. | 329-04-A | Jeffrey Geary, R.A. |
| Breezy Point Co-op. | 115 Beach 215th St., QN | 1-family home not fronting mapped st. | 341-04-A | Gary Lenhart, R.A. |
| Breezy Point Co-op. | 124 Reid Ave., QN | 1-family home not fronting mapped st. | 342-04-A | Gary Lenhart, R.A. |
| Breezy Point Co-op. | 35 Beach 220th St., QN | 1-family home not fronting mapped st. | 343-04-A | Gary Lenhart, R.A. |
| Kevin Kane | 91 Wakefield Rd., SI | 1-family home in mapped st. | 325-04-A | Rothkrug Rothkrug |
| EXTEND CONSTRUCTION PERIOD | | | | |
| Anamika K. Sahni | 1420 Balcom Ave., BX | DOB permit #200819383 | 349-04-BZY | Rothkrug Rothkrug |
| A.C. Ramirez | 3058 Cross Bx. Expwy, BX | DOB permit #200910407 | 348-04-BZY | Rothkrug Rothkrug |
| A.C. Ramirez | 3056 Cross Bx. Expwy, BX | DOB permit #200919416 | 347-04-BZY | Rothkrug Rothkrug |
| GRA V LLC | 3329-33 Giles Place, BX | DOB permit #200869024-01; 200911754-01 | 346-04-BZY | Sheldon Lobel, P.C. |
| Arlington Suites | 3220-28 Arlington, BX | DOB permit #200859053-01 | 330-04-BZY | Howard Goldman |
| 3618 LLC | 640 237th St., BX | DOB permit #200877694, 200876436 | 333-04-BZY | Kramer Levin |

Jacqueline, and Maurice Douek, it contained two vacant four-story residential buildings. Initially intending to rehabilitate the buildings, the applicants let both buildings sit vacant for several years. In 1992, after Buildings issued an unsafe determination, the buildings were demolished, the foundation walls retained, and the entire lot paved.

At the BSA hearing, the applicants argued that the paucity of existing manufacturing use in the immediate area, compounded by the small and irregular shape of the project site, made it impractical to construct manufacturing uses on the site. BSA agreed, highlighting the small size of the subject site and finding that Columbia Street was primarily residential in character. BSA approved a five-story building with 11 dwelling units and ground floor commercial uses, reduced from a six-story, 18-unit proposal. The modifications to the project stemmed from concerns of Brooklyn Community Board 6 and elected officials over the project height and its lack of neighborhood-serving retail.

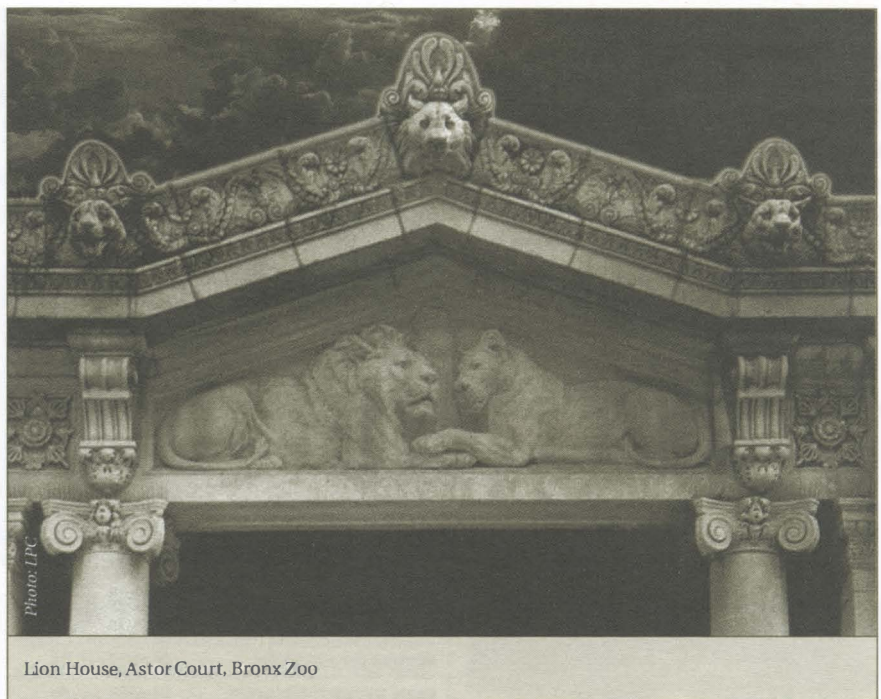
BSA Cal. No. 231-03-BZ (October 5, 2004) (63 & 65 Columbia Street, BK: Janice Cahalane, Sheldon Lobel, P.C., for Douek; Gary Silver, Gary Silver Architects). **CITYADMIN**

LANDMARKS PRESERVATION COMMISSION

Binding Report
Upper East Side, Manhattan

Hunter College to renovate Roosevelt House

Extensive renovations approved for Sara Delano Roosevelt House. At the October 26, 2004 Landmarks hearing, Hunter College gained approval of its extensive plans to restore and preserve the Sara Delano Roosevelt Memorial House, designated in 1973 and located at 47-49 East 65th Street. Sara Delano Roosevelt was the mother of Franklin Delano Roosevelt, the 32nd President of the



Lion House, Astor Court, Bronx Zoo

United States, who lived in the house with his wife, Eleanor, and convalesced there from polio in 1921-1922.

The proposed changes include modifying the fence, installing a barrier-free access chairlift, installing rooftop mechanical equipment and rooftop and rear yard additions.

Referring to the clash between the modern chairlift and the historical preservation, Commissioner Gerner stated that, "If the technology had existed then, it would have been used." The House was purchased by CUNY after Sara Roosevelt's death in 1934.

The final permit's issuance is pending approval of final plans by Landmarks.

LPC Item. No. 5 Case No. 05-2261 (October 26, 2004).

LANDMARKS PRESERVATION COMMISSION

Binding Report
New York Zoological Park, Bronx

Lion House to get \$18.9 million face lift

Work will restore features removed since its 1899-1910 construction. Landmarks issued a

binding report approving an \$18.9 million renovation of the Lion House at the Bronx Zoo, a designated City landmark since 2000, which was built in 1899-1910 and designed by Heins & La Farge.

The Department of Design & Construction proposed substantial repair work, including restoration of the carved terra cotta, copper roofing, limestone and brick masonry and existing parapets. To return the Lion House to its original appearance, DDC proposed new chimneys, skylights, doors and a studio cage, all to mirror historic plans. Alterations would include construction of a tall retaining wall, replacement of entry stairs with a gradual ramp, relocation of two lion sculptures, and the addition of new enlarged windows, doors and sculptures.

During the approval process, DDC reduced the retaining wall, eliminated banners and removed existing modern doors. In approving the work, Landmarks found that the repairs and renovations would return the Lion House to its original condition, help promote its long term preservation and would not detract from the significant historic fabric of the Lion House.

The Commission conditioned the permit on the additional approval of final drawings of the proposed new sculpture, the window and door colors, and samples of the mortar, brick and stone to be used. The Commission limited exterior work to be done

by hand and only on days when the temperature remained 45 degrees or higher for the 72-hour period prior to commencement of work.

Lion House, Astor Court, Bronx Zoo, BX, CRB 05-2195, (September 21, 2004).

CITYADMIN

LANDMARKS PRESERVATION COMMISSION

Permit Issued

SoHo, Manhattan

Owner gets third change to approval

Residential building to be built at Wooster and West Broadway. Arun Bhatia sought a third amendment to the design approved by a 1990 Landmarks permit, which allowed the new construction on one of the few undeveloped sites in SoHo of a six-story hotel with a two story penthouse. The site, 137-139 Wooster Street, is a block-through lot between Prince and West Houston and is within the SoHo-Cast Iron Historic District. The application followed two previously approved amendments, which sought to change the approved hotel use to dwellings and also sought changes in design.

The latest application proposed changes to the Wooster and West Broadway facades, maintaining the original proposal's overall massing and volume. The revised Wooster Street facade is comprised of a predominantly gray-green painted metal and glass facade framed by tan brick piers, with a storefront at the ground floor, and a two-story metal clad set-back penthouse. The revised West Broadway facade is faced with tan brick, and contains punched window openings, a metal and glass storefront, and a two-story metal clad set-back penthouse. As initially approved, the depth of the windows on both facades was less pronounced, and the renderings indicated a grayer color palette.

Landmarks found the design in harmony with surrounding buildings, noting the existence of mostly six-story masonry loft structures, which constitute a strong and unified street wall.

137-139 Wooster Street, MN, COFA# 05-2436 (September 27, 2004). CITYADMIN

Landmarks Actions - Sept/Oct. Hearings

FINAL PERMIT TO BE ISSUED AFTER LANDMARKS RECEIVES CONFORMING PLANS

| ADDRESS | LANDMARK HISTORIC DISTRICT | DESCRIPTION | CASE | APP'D |
|--|-----------------------------|--|---------|---------|
| September 28, 2004 | | | | |
| 1-11 East 29th St., MN | Church of Transfiguration | Modify areaway/relocate window | 05-1638 | Yes |
| 325-333 Broadway, MN | 325-333 Broadway Bldg. | Legalize rooftop equipment | 05-0100 | Yes |
| 367-369 Bleecker St., MN | Greenwich Village HD | Build roof deck/fence/railings | 05-0241 | Yes |
| 698 Madison Ave., MN | Upper East Side HD | Legalize changes to fire stair | 05-1509 | Yes |
| 700 Madison Ave., MN | Upper East Side HD | Legalize alterations at rear yard | 05-1508 | Yes |
| 960 Madison Ave., MN | Upper East Side HD | Legalize storefront cladding/gate | 04-2526 | In part |
| 326 W. 87th St., MN | Riverside-West End HD | Construct rear yard addition | 04-6837 | Yes |
| 313-315 W. 91st St., MN | Riverside-West End HD | Create areaway/install chair lift | 04-6288 | No |
| 26 Orange St., BK | Brooklyn Heights HD | Construct rooftop addition | 05-1271 | Yes |
| 37-56 83rd St., QN | Jackson Heights HD | Legalize fence/gate & new door | 04-7678 | No |
| 5816 Clarendon Rd., BK | Wyckoff Farmhouse | Reconstruct historic barn | 05-1263 | Yes |
| October 12, 2004 | | | | |
| 302 Canal St., MN | Tribeca East HD | Install storefront infill | 05-1340 | Yes |
| 218-224 W. 4th St., MN | Greenwich Village HD | Legalize signage | 03-0291 | No |
| 373 6th Ave, MN | Greenwich Village HD | Legalize signage, door, flagpole | 04-7520 | No |
| 9-11 E. 19th St., MN | Ladies' Mile HD | Legalize signage, gate and flagpole | 04-6798 | In part |
| 346-354 6th Ave., MN | Greenwich Village HD | Build 3-story/PH addition | 05-1295 | Yes |
| 50 Hicks St., BK | Brooklyn Heights HD | Legalize storefront/windows | 04-6030 | In part |
| 160 Montague, BK | Brooklyn Heights HD | Modify storefront | 05-1070 | No |
| 103-105 Montague, BK | Brooklyn Heights HD | Legalize canopy | 05-0030 | No |
| 1 Montgomery Pl. & 125-135 8th Ave., BK | Park Slope HD | Rooftop addition at 1 Montgomery; New 4-story bldg. at 125-123 8th | 04-7225 | Yes |
| 130 Hollywood Ave., QN | Douglaston HD | Legalize work not in COFA #03-2608 | 05-0389 | W/Mod |
| October 19, 2004 | | | | |
| 130 W. 42nd St., MN | Bush Tower | Replace storefront infill | 04-3854 | Yes |
| 699-703 5th Ave., MN | St. Regis Hotel | Modify approved storefronts | 02-1849 | No |
| 509 Seguin Ave., SI | Mannee-Seguin Homestead | Construct 3 new houses on lot | 04-2058 | Yes |
| 39 E. 19th St., MN | Ladies' Mile HD | Replace storefront infill | 05-0824 | W/Mod |
| 929-933 Broadway, MN | Ladies' Mile HD | Construct rooftop/infill, alter facades | 02-4316 | Yes |
| 312 Bowery, MN | NoHo East HD | Infill & rooftop/rear yd. addition | 04-6183 | Yes |
| 10 5th Ave., MN | Greenwich Village HD | Install barrier-free access ramp | 05-1545 | Yes |
| 407 W. 13th St. MN | Gansevoort Market HD | Install storefront infill | 05-1871 | Yes |
| 267 W. 4th St., MN | Greenwich Village HD | Replace storefront | 05-0217 | Yes |
| 269 W. 4th St., MN | Greenwich Village HD | Replace storefront | 05-0219 | Yes |
| 130 7th Ave., MN | Greenwich Village HD | Install infill/awning/mechanical | 05-0521 | Yes |
| 21-23 S. William St., MN | Stone Street HD | Rooftop addition, windows/balconies | 04-8117 | In part |
| 207 E. 17th St., MN | Stuyvesant Square HD | Rooftop addition/rear facade | 04-6438 | Yes |
| 27 E. 67th St., MN | Upper East Side HD | Legalize AC unit | 04-6428 | No |
| October 26, 2004 | | | | |
| 47-49 E. 65th St., MN | Sara Delano Roosevelt House | New addition, install chairlift | 05-2261 | Yes |
| 45 E. 63rd St., MN | Upper East Side HD | Alter front facade | 05-1347 | Yes |
| Bold indicates the decision is covered in this issue | | | | |

LANDMARKS PRESERVATION COMMISSION

Designation

East Village, Manhattan

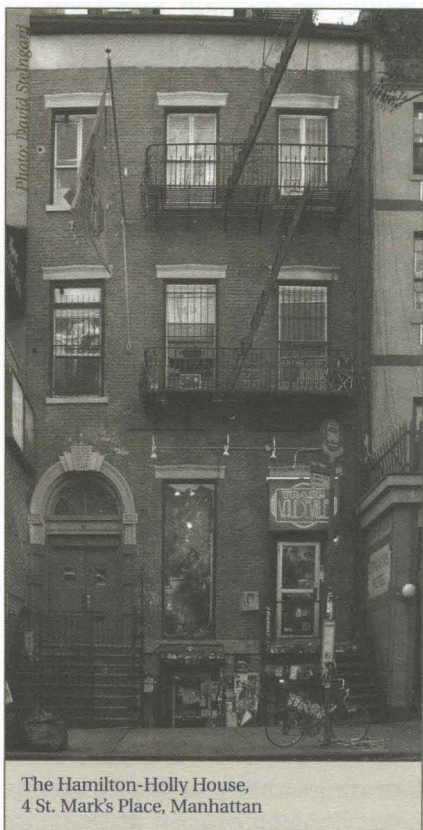
Hamilton-Holly House

4 St. Mark's Place, Manhattan.

On October 19, 2004, Landmarks designated, as an individual landmark, the 1831 East Village federal style town house, which in 1833 became the home of Col. Alexander Hamilton, son of Alexander Hamilton.

The Hamilton-Holly House, a residential and retail town house at 4 St. Mark's Place in the East Village, is notable for its distinctive 26-foot width and 3-1/2 story height as well as its varied history for housing several East Village theatrical groups. The designation was recommended by several preservation groups and supported by State Senator Thomas Duane, State Assembly member Deborah Glick and Council Member Margarita Lopez.

Designation List 357, LP-2157, October 19, 2004.



The Hamilton-Holly House,
4 St. Mark's Place, Manhattan

LANDMARKS PRESERVATION COMMISSION

Designation

Bayside, Queens

35-34 Bell Boulevard

Landmarks designates a Queens single-family cobblestone building. Supported by the owner and at the urging of Council Member Tony Avella, Landmarks design-



35-34 Bell Boulevard, Bayside, Queens
Photo: LPC

nated the single-family home at 35-34 Bell Boulevard in Bayside, Queens, noting its construction entirely of rugged, uncut cobblestones as its most distinguishing feature. Built in 1905-1906, 35-34 Bell Boulevard is a Colonial Revival-Style home influenced by the Arts and Crafts movement. It was part of a subdivision of the last 100 acres of the Abraham Bell farm, in Bayside, where cobblestone walls had been used to mark the farms' boundaries.

Designation List 357, LP-2154, October 19, 2004.

LANDMARKS PRESERVATION COMMISSION

Permit Denied

Upper West Side, Manhattan

Changes to 1897 rowhouse denied

Owner denied access lift, sidewalk excavation and a new passageway. The owner of 313-

315 West 91st Street, two Renaissance-style rowhouses designed by Charles True and built in 1897, sought a permit to excavate the sidewalk along the western end of 315 West 91st Street to create a passageway. The buildings, two of a series of seven historic mansions, are located within the Riverside Drive-West End Historic District designated by Landmarks in 1989. Within the passageway, the owner proposed to build a new stairway, an access lift and a glass and cement mortar stairway railing.

Landmarks denied the application, finding that a passageway was not a historic feature present in any of the mansions comprising the historic district and the proposed access-lift design would detract from the integrity and architectural character of 315 West 91st's bowed-frontage. In making the determination, Landmarks stated that the West 91st rowhouses were comprised of four distinct designs that varied in a unique pattern down the street. The subject buildings differed in design, with 315 West 91st having a full bow-fronted facade, while 313 West 91st has a projecting bay. The owner's proposed changes to the full bow-fronted facade at 315 West 91st were too significant to approve.

313-315 West 91st Street, MN, CD 05-2446
(September 29, 2004). CITYADMIN

DEPARTMENT OF BUILDINGS

Violation

Queens

Owner fined for not removing unused illegal unit

Vacant illegal unit added by a previous owner. Buildings charged Jose Hernandez for maintaining an illegally converted third unit in a two-family dwelling. The cellar of Hernandez's building was converted prior to his ownership into a sep-

arate living unit – including a bedroom, bathroom and kitchen area with a gas line – in violation of the Administrative Code. At the hearing, Hernandez acknowledged the existence of the third unit, but argued that the unit pre-existed his ownership and, since the unit was vacant and used only for storage, no use violation occurred. Rejecting both arguments, the ALJ fined Hernandez \$800 for the illegal conversion and \$50 per day for 45 days or until the condition was mitigated.

On appeal, the Environmental Control Board affirmed, ruling that a violation occurred whether or not anyone was living in the unit because the cellar was designed as a separate unit. The Board found that the Code made it a violation to not only add the illegal unit, but to keep it.

NYC v. Hernandez, ECB Appeal No. 41213, June 29, 2004. **CITYADMIN**

COURT DECISIONS

City Council

Van Cortlandt Park, Bronx

Water filtration plant goes forward

Water filtration plant survives two lawsuits. In a 1997 settlement agreement with the federal government, the Department of Environmental Protection agreed to build a filtration plant for the Croton Reservoir. DEP selected 23 acres in Van Cortlandt Park in the Bronx to build the plant. In 2001, the Court of Appeals ruled that extended construction on park land required State approval. 7 *CityLaw* 41 (2001). In 2003, the state legislature gave the required authorization to construct the plant in the park. In July 2004, DEP completed a supplemental environmental impact statement, and on September 28, 2004, the City Council approved the plant location and construction.

The Friends of Van Cortlandt Park claimed that the approval vio-

lated a zoning resolution requirement that no building permit be issued on former public park land without the Planning Commission's creation of a new zoning district. The City argued that it had made a determination to override the zoning resolution requirements because the benefits of siting the plant at that location were important, the project was approved for water filtration use only and, designating a zoning district would serve no purpose.

On October 7, 2004, Justice William A. Wetzel denied a temporary restraining order, ruling that the formal zoning process was not required and that the override was valid because the City sufficiently evaluated the need for the plant.

In a separate but related case, on September 30, 2004, Justice James P. Dollard denied a request by the Croton Watershed Clean Water Coalition to halt the City from beginning work on the water filtration plant, ruling that the City's method of filtration was valid.

Friends of Van Cortlandt Park v. DEP, Index No. 114036/2004, Oct. 7, 2004 (N.Y. City Sup. Ct.) (Wetzel, J.) (Howard Epstein, for Friends; Michael A. Cardozo, Susan Amron, Janet Siegel, for DEP); *Croton Watershed Clean Water Coalition v. DEP*, Index No. 21923/04, Sept. 30, 2004, (Qns. City Sup. Ct.) (Dollard, J.) (Michael A. Cardozo, Susan Amron, Janet Siegel, for DEP).

COURT DECISION

City Planning Department
South Richmond, Staten Island

Refusal to issue school seating certification upheld

Staten Island residential developer denied certification. Salvatore Culotta wanted to build 12 dwelling units in six detached residences on property he owned in the Special South Richmond Development District, a special zoning district created by the City in 1977. Before applying to Buildings for a permit, however, Culotta was required to

apply to City Planning for a certification that there was sufficient school capacity to accommodate the expected increase in school children. When Culotta filed for certification in 2004, City Planning withheld it because the property had an outstanding Buildings violation for the alleged unauthorized removal of a tree.

Culotta filed an article 78 petition to compel City Planning to issue the certification. Justice Eric N. Vitaliano dismissed the petition, finding that, under the Zoning Resolution, City Planning could adopt reasonable guidelines for issuing certifications and that its policy of withholding certificates from a developer with outstanding violations was reasonable. The outstanding Buildings violation would prevent the project from proceeding and issuing a certificate would only serve to hold up school seats that may otherwise be used for other project developments.

In an alternate holding, which was never briefed to the court, Justice Vitaliano found that the school seating certification provisions of the Special South Richmond Zoning Resolution, unchanged since 1977, did not reflect the fact that in 2002 the Board of Education was stripped of all of its executive powers and school certifications were not one of its listed remaining functions. City Planning could not lawfully issue a certification to Culotta, unless the Zoning Resolution was amended to assign responsibility for assessing school capacity to the newly created Department of Education.

Culotta v. Dep't of City Planning, 2004 N.Y. Misc. LEXIS 1574 (Sept. 29, 2004) (Richmond City Sup. Ct.) (Vitaliano, J.) (Michael A. Cardozo, Ave Maria Brennan, for City Planning).

CITYLAND Comment: The City's position is that the changes to the education law do not affect City Planning's ability to issue a certificate. The Department of Capacity

Planning and Utilization under the School Construction Authority will continue to provide City Planning with the necessary information in order to issue certifications. The City does not plan to appeal the decision.

COURT DECISIONS

City Council

South Street Seaport, Manhattan

Claim of spot zoning and taking at Seaport rebuffed

Down-zoning in South Street Seaport upheld. Peck Slip Assoc. LLC, the owner of a surface parking lot at 250 Water Street, sued the City seeking to invalidate City Council's down-zoning of the South Street Seaport area on a claim that the rezoning made 250 Water Street impossible to develop.

In April 2003, the City Council approved a South Street Seaport down-zoning, reducing the permitted height and mass of all future development in a 10-block area of Lower Manhattan bounded by Dover, Pearl, Fulton and South Streets. (See map on back.) The rezoned area corresponded to the boundaries of the 1977 Landmarks designation of the South Street Seaport Historic District, and culminated almost 40 years of City, State and community land use decisions on South Street Seaport.

Prior to the rezoning, Peck Slip submitted several development proposals to Landmarks for 250 Water Street with all but one, a 1991 office development, being denied. Peck Slip never developed the 1991-approved building. When Manhattan Community Board 1 proposed the down-zoning, Peck Slip publicly stated that its property would be undevelopable, a contention that triggered an economic study by the Economic Development Corporation. The study found that a 250 Water Street develop-

ment, restricted to the proposed lower size and mass (a 6.02 FAR) would have a 20% rate of return, potentially increasing to 35% with use of Liberty Bonds.

Following the down-zoning's approval, Peck Slip sought a declaratory judgment in state court, seeking to void the rezoning. It argued that the down-zoning constituted unlawful spot zoning or, alternatively, a taking.

Justice Michael Stallman denied Peck Slip's claims, finding that the rezoning was lawful and the takings challenge was premature since Peck Slip had not sought or been denied approval of a code-compliant development under the new zoning.

Peck Slip Assoc. LLC v. City Council, N.Y.L.J., Oct. 13, 2004 at 18, (N.Y.Cty.Sup.Ct.) (Stallman, J.).

COURT DECISIONS

Board of Standards & Appeals

Mill Island, Brooklyn

Use variance for mini-storage facility denied

Site now used for bus parking lot. Enopac Holding LLC, which since 1995 operated a parking lot for 150-180 school buses on its property located at 6055-6065 Strickland Avenue in Brooklyn, sought a use variance from the BSA to allow the construction of six mini-storage buildings on the property. Although the site historically contained several heavy and light industrial uses, including a waste treatment facility, the City rezoned the area in 1996 to residential R3-1.

BSA denied the variance, finding that six large garage buildings would be extremely detrimental to a proposed adjacent development of 52 semi-detached homes, and would permanently change the character of the residentially-zoned neighborhood. BSA rejected consideration of

Enopac's claim that the 52-unit construction, due to high remediation costs, would be abandoned. BSA also found that, although the parking lot pre-existed the rezoning, it was less permanent than the six proposed structures.

Enopac filed an article 78 petition, seeking to vacate BSA's decision, but Justice Edward Lehner upheld BSA's decision, stressing that the court's review was limited solely to whether BSA was arbitrary in its decision. Justice Lehner ruled that the BSA's conclusion was not arbitrary. The court noted, however, that the mini-storage use seemed less offensive to adjacent residential uses than a large bus parking lot and that in the court's opinion six new buildings did not seem more permanent than a surface parking lot.

In re Enopac Holding LLC v. BSA, N.Y.L.J., Oct. 15, 2004 at 23, (N.Y.Cty.Sup.Ct.) (Lehner, J.) (Deidre Carson, Jay Segal, Greenberg Traurig LLP, for Enopac); BSA Cal. No. 281-99-BZ (April 27, 2004) (6055 Strickland Ave, BK).

| CITYADMIN Decisions on www.citylaw.org | | |
|--|---------------------|-----------------|
| AGENCY NAME | NUMBER OF DECISIONS | YEARS AVAILABLE |
| BSA | 1,347 | 2002-Present |
| Council | 733 | 2002-Present |
| CPC | 250 | 2003-Present |
| DOB | 61 | 1999-Present |
| Landmarks | 829 | 2003-Present |
| Loft Board | 1,162 | 1996-Present |
| CITYADMIN indicates a decision is available at citylaw.org | | |

CITYLAND Corrections:

In the October 15, 2004 issue, 137-139 Wooster Street was identified as being in the Ladies' Mile Historic District. It is in the SoHo Cast-Iron Historic District.

For BSA Case No. 19-04-BZ, the correct representative was Sheldon Lobel, P.C.

New Decisions Added to www.citylaw.org – October 2004*

CITY COUNCIL

| RES. NOS. | PROJECT | DESCRIPTION | DATE |
|------------|-----------------------------|---|------------|
| 630 | Jamaica Hills Rezoning, QN | Map amendment (covers 28-blocks) | 10/13/2004 |
| 631 | Odyssey House, MN | UDAAP (6-story bldg., 50 units of affordable housing) | 10/13/2004 |
| 632 | Courtlandt Ave. Apts., BX | UDAAP (5-story bldg., 167 units of affordable housing) | 10/13/2004 |
| 633-35 | 38 Water St., BK | Withdrawal application for map amendment and special permit | 10/13/2004 |
| 636 | 85 Water St., BK | Special permit for residential use | 10/13/2004 |
| 637 | 5 East 3rd St., MN | UDAAP (covers 1-lot territory) | 10/13/2004 |
| 638 | Edgemere, QN | UDAAP (covers 50-lot territory) | 10/13/2004 |
| 639 | 224 West 49th St., MN | Withdrawal application for sidewalk café | 10/13/2004 |
| 640 | 2418 Broadway, MN | Sidewalk café | 10/13/2004 |
| 641-45 | Ikea Red Hook, BK | Map amendment; special permit; modify water controls | 10/13/2004 |
| 646 | Beatrice Catullo Houses, BX | UDAAP (7-story bldg., 83 units for seniors) | 10/13/2004 |
| 647 | Clinton, MN | Resolution amendment to increase sign projection | 10/13/2004 |
| 661 | 696 Madison Ave., MN | Sidewalk café | 10/27/2004 |
| 662 | 25 East 63rd St., MN | Sidewalk café | 10/27/2004 |
| LU. 286-88 | Harlem Park Hotel, MN | Height modification; referred to Planning Commission | 10/27/2004 |

CITY PLANNING COMMISSION

| PROJECT NAME | DESCRIPTION | COMM. BD. | ULURP # | DATE |
|--|---|-----------|------------------------|------------|
| Clinton Bulk Regulations | Text amendment (limit ht. and bulk) | MN 4 | N050030ZRM | 10/20/2004 |
| Ozzie Wilson Senior Housing | UDAAP 66-units low-income housing | BK 4 | C040490HAK; C040491HUK | 10/20/2004 |
| Stone Ridge Homes | City property disposition for 38 units | QN 13 | C040437PPQ | 10/20/2004 |
| Verizon West 43rd/47th Street Rezoning | Map amendments | MN 4 | C040249ZMM; C040250ZMM | 10/6/2004 |
| Plazoleta Hotel | UDAAP 54 units for homeless | BX 3 | C040442HAX | 10/6/2004 |
| CD 13 Sanitation Garage | Acquisition of property at 2012 Neptune Ave. | BK 13 | C040199PQK | 9/22/2004 |
| Westchester Creek CSO Facility | Site selection; special permit (use) | BX 11 | C030271PCX; C030272ZSX | 9/22/2004 |
| Queens Hospital/Skyline Commons | Disposition of city-owned property; special permit (beds/ht./setback) | QN 8 | C040357ZSQ; C040356PPQ | 9/22/2004 |

BOARD OF STANDARDS & APPEALS

| ADDRESS | DESCRIPTION | ACTION | CASE NO. | REPRESENTATIVE |
|--------------------------|--|--------|-----------|---------------------------|
| 5 Beekman, MN | Permit exception to stair/hall enclosure | App'd | 383-03-A | Zygmunt Staszewski, PE. |
| 444 Broadway, MN | Legalize physical culture establishment | App'd | 388-03-BZ | Francis R. Angelino, Esq. |
| 1199 Park Ave., MN | Extension of use variance (10 yrs.) for parking garage | App'd | 40-63-BZ | Francis R. Angelino, Esq. |
| 206 W. 23rd St., MN | Permit hair salon in commercial building | App'd | 183-04-BZ | Sheldon Lobel, PC. |
| 293 E. 207th St., BX | Variance (use) for parking lot | App'd | 373-03-BZ | The Agusta Group |
| 3007 E. Tremont Ave., BX | Extension of use variance (10 yrs.) for diner | App'd | 88-92-BZ | Kenneth H. Koons, A.I.A. |
| 1651 52nd St., BK | Variance (FAR, yard) to enlarge 1-family dwelling | App'd | 358-03-BZ | Harold Weinberg, PE. |
| 1378 E. 28th St., BK | Enlarge 1-family dwelling (FAR, yard) | App'd | 188-04-BZ | Moshe M. Friedman, PE. |
| 63-65 Columbia St., BK | Variance for 11 unit residential/commercial | App'd | 231-03-BZ | Sheldon Lobel, PC. |
| 1259 E. 28th St., BK | Variance (FAR, yard) to enlarge 1-family dwelling | App'd | 139-04-BZ | Eric Palatnik, PC. |
| 6201 Ave. U, BK | Extension to complete construct. for gas station | App'd | 554-54-BZ | Sheldon Lobel, PC. |
| 118 Berry St., BK | Variance (use) for residential building | App'd | 183-03-BZ | Agusta & Ross |
| 2323 Ave. S, BK | Variance (FAR, yard) to enlarge 1-family dwelling | App'd | 17-04-BZ | Fredrick A. Becker |
| 2252 Linden Blvd., BK | Variance (use) for retail store in R5 district | App'd | 40-04-BZ | Agusta & Ross |
| 1035 Ocean Pkwy, BK | Variance (yard) to enlarge 1-family dwelling | App'd | 158-04-BZ | Sheldon Lobel, PC. |
| 1765 E. 23rd St., BK | Enlarge 1-family dwelling (FAR, yard) | App'd | 166-04-BZ | Sheldon Lobel, PC. |
| 1376 E. 24th St., BK | Enlarge 1-family dwelling (FAR, yard) | App'd | 191-04-BZ | Eric Palatnik, PC. |
| 2074 Atlantic Ave., BK | Permit construction of warehouse in residential | App'd | 284-04-BZ | Raymond Levin |
| 14 Gotham Walk, QN | Enlarge 1-family dwelling not fronting on mapped st. | App'd | 149-04-A | Gary Lenhart, R.A. |
| 42 Olive Walk, QN | Alter 1-family dwelling not fronting mapped st. | App'd | 171-04-A | Zygmunt Staszewski |
| 39 Irving Walk, QN | Enlarge 1-family dwelling within bed of mapped st. | App'd | 221-04-A | Gary Lenhart, R.A. |
| 13 Courtney Lane, QN | Alter 1-family dwelling not fronting mapped st. | App'd | 248-04-A | Gary Lenhart, R.A. |
| 14 Thetford Lane, QN | Alter 1-family dwelling not fronting mapped st. | App'd | 251-04-A | Zygmunt Staszewski |

*Bold indicates the decision is covered in this issue † Indicates covered in an earlier issue

BOARD OF STANDARDS & APPEALS (CONTINUED)

| ADDRESS | DESCRIPTION | ACTION | CASE NO. | REPRESENTATIVE |
|-----------------------------------|---|--------|------------|----------------------------|
| 222-44 Braddock, QN | Renewal of variance for auto service station | App'd | 585-91-BZ | Tarek M. Zeid |
| 90-06 Pitkin Ave., QN | Renewal lapsed variance for woodworking factory | App'd | 162-04-BZ | Agusta & Ross |
| 260-09 Nassau Blvd., QN | Extension of use variance (10 yrs.) for gas station | App'd | 67-91-BZ | Howard S. Weiss, Esq. |
| 102-01 66th Rd., QN | Extension special permit (10 yrs.) for parking garage | App'd | 221-88-BZ | Kramer Levin |
| 159-04 Cross Bay Blvd., QN | Permit to redevelop gas station | App'd | 1018-65-BZ | Sheldon Lobel, P.C. |
| 40 Queens Walk, QN | Enlarge 1-family dwelling not fronting on mapped st. | App'd | 213-04-A | Joseph A. Sherry |
| 18 Essex Walk, QN | Enlarge 1-family dwelling not fronting on mapped st. | App'd | 214-04-A | Joseph A. Sherry |
| 4 Jamaica Walk, QN | Enlarge 1-family dwelling not fronting on mapped st. | App'd | 215-04-A | Joseph A. Sherry |
| 14 Essex Walk, QN | Enlarge 1-family dwelling not fronting on mapped st. | App'd | 216-04-A | Joseph A. Sherry |
| 464 Seabreeze Ave., QN | Enlarge 1-family dwelling not fronting on mapped st. | App'd | 217-04-A | Joseph A. Sherry |
| 100-23-39th Ave., QN | Construction of resid. bldg. in bed of mapped st. | App'd | 218-04-A | The Agusta Group |
| 212-95 26th Ave., QN | Extension special permit (1 yr.) for amusement arcade | App'd | 739-76-BZ | Joseph P. Morsellino, Esq. |
| 69-91 75th St., QN | Permit gym in manufacturing district | App'd | 70-04-BZ | Rothkrug Rothkrug |
| 375 Tennyson Dr., SI | Variance for 1-family dwelling (FAR, yard) | App'd | 205-04-BZ | Philip L. Rampulla |
| 1491 Richmond Rd., SI | Revoke cert. of occup. retail store in R2 dist. | App'd | 44-04-A | Dep't of Buildings |
| 96 Driggs St./ 23 Lillian Pl., SI | 2-family dwelling within bed of mapped st. | App'd | 68/69-04-A | Steven Barshov |

LANDMARKS PRESERVATION COMMISSION

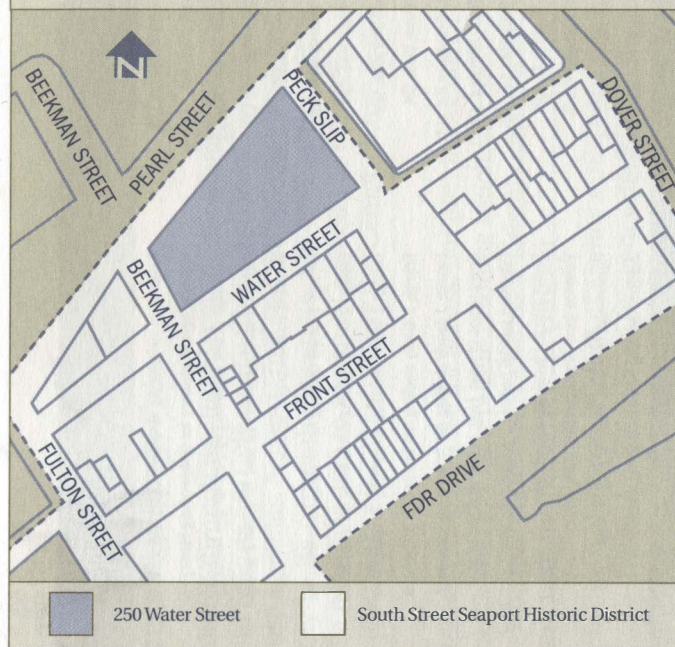
| ADDRESS | LANDMARK/HISTORIC DISTRICT | DESCRIPTION | CASE | APP'D | ISSUED |
|--------------------------------|-------------------------------------|--|---------|---------|-----------|
| CERTIFICATE OF APPROPRIATENESS | | | | | |
| 325 Broadway, MN | Broadway Building | Legalize A/C units, interior alterations | 05-2402 | Yes | 9/28/2004 |
| 75 Rockefeller Plaza, MN | Warner Comm. Bldg. | Remove signs and drop box, replace door | 05-2329 | Yes | 9/30/2004 |
| 137-139 Wooster St., MN | Soho-Cast Iron Hist. Dist. | Alter facade of new building | 05-2436 | Yes | 9/27/2004 |
| 424 6th Ave., MN | Greenwich Village Hist. Dist. | Install bulkheads at storefront | 05-2337 | In Part | 9/24/2004 |
| 200 Mercer St., MN | Noho Hist. Dist. | Install chimney flues | 05-2298 | Yes | 9/23/2004 |
| 131 E. 64th St., MN | UES Hist. Dist. | One-story/rear yard additions | 05-2442 | In Part | 9/29/2004 |
| 926 Madison Ave., MN | UES Hist. Dist. | Legalize security gates; install awnings | 05-2377 | Yes | 9/28/2004 |
| 129 E. 73rd St., MN | UES Hist. Dist. | Replace doors | 05-2334 | Yes | 9/24/2004 |
| 1316 Madison Ave., MN | Carnegie Hill Hist. Dist. | Legalize canopy | 05-2274 | No | 9/22/2004 |
| 313-315 W. 91st St., MN | Riverside-West End Hist. Dist. | Passageway, stairs, lift | 05-2446 | No | 9/29/2004 |
| 132 Montague St., BK | Brooklyn Heights Hist. Dist. | Install metal post/sign | 05-2332 | Yes | 9/24/2004 |
| 95 Kent St., BK | Greenpoint Hist. Dist. | Replace shingles, install windows/frames | 05-2391 | Yes | 9/28/2004 |
| 598 7th St., BK | Park Slope Hist. Dist. | Legalize windows | 05-2444 | No | 9/29/2004 |
| 37-56 83rd St., QN | Jackson Heights Hist. Dist. | Legalize door, fence; alter stoop | 05-2421 | No | 9/29/2004 |
| BINDING REPORTS | | | | | |
| † Riverside Park, MN | Scenic Landmark/Riverside Pk. & Dr. | Install elevator, replace railing | 05-2139 | Yes | 9/20/2004 |
| 2300 Southern Blvd., BX | Lion House, Astor Court, Bronx Zoo | Renovations | 05-2195 | Yes | 9/21/2004 |

Buildings Permits for Projects over \$2,000,000 - October 2004

| BUSINESS OWNER | SITE | INITIAL PROJECT COSTS | DESCRIPTION | APPROVED |
|-------------------------------|------------------------|-----------------------|-------------------------------|------------|
| Graig Murphy, Witkoff Group | 10 Hanover Sq., MN | \$24,510,000 | Change of use | Pending |
| David Walentas | 70 Washington St., BK | \$12,500,000 | Manuf. to retail/residential | Pending |
| Peter Levanson | 90 West St., MN | \$8,500,000 | Repair landmark facade | Pending |
| Irvin Rosenthal, UJA Fed. NY | 130 E. 59th St., MN | \$6,638,000 | Structural modifications | Pending |
| NYC School Construction Auth. | 20 Houston St., SI | \$6,000,000 | E. Markham roof replacement | 10/28/2004 |
| Mark Litvin, City Center | 130 W. 56th St., MN | \$4,350,000 | install AC/chillers | Pending |
| Irvin Rosenthal, UJA Fed. NY | 130 E. 59th St., MN | \$3,801,000 | HVAC/plumbing | Pending |
| Irvin Rosenthal, UJA Fed. NY | 130 E. 59th St., MN | \$3,320,000 | reconfigure bldg. core | Pending |
| NYC School Construction Auth. | 364 Sackman St., BK | \$2,770,591 | PS150 reroofing | Pending |
| Fordham University | 441 E. Fordham Rd., BX | \$2,400,000 | renovate existing facility | Pending |
| Charles Cohen | 632 Fifth Ave., MN | \$2,136,000 | Install non-bearing walls | Pending |
| New York Public Library | 466 Fifth Ave., MN | \$2,050,000 | renov. 1st floor mezzanine | Pending |
| Gregg Singer, 9th 10th LLC | 605 E. 9th St., MN | \$2,027,820 | change use, build extension | Pending |
| Mark Weissstuch, Congre. Eman | 1 E. 61st St., MN | \$2,000,000 | wall repair, floors, ceilings | 10/6/2004 |
| Northshore LJ Health | 270-05 76 Ave., QN | \$2,000,000 | site demo, paving, grading | Pending |

*Bold indicates the decision is covered in this issue † Indicates covered in an earlier issue

For full story on 250 Water St., see page 29.



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