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**New York City Landmarks – Ruminations on
Cantilevers, Air Rights Transfers and
Appropriateness**

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AGENDA

- **Landmarks Preservation Commission**
- **Current Issues**
 - Affordable Housing
 - Transfer of Development Rights from a Landmark
 - Possible Legislation
 - Recent Applications
- **Types of Landmark Designation**
- **Alterations**
 - Permits
 - Appropriateness
 - Cantilevers
- **Process**
 - Community Board
 - Other Stakeholders
 - Commission Review



LANDMARKS PRESERVATION COMMISSION

➤ History

- Established in 1965 by local law
- Enacted in response to increased public awareness of the need to protect the city's architectural, historical and cultural heritage
- Triggered by events such as the demolition of Pennsylvania Station in 1963



LANDMARKS PRESERVATION COMMISSION

➤ Commissioners

- 11 commissioners, appointed by Mayor (3 vacancies)
 - Robert B. Tierney, Chair
 - Frederick Bland
 - Diana Chapin
 - Michael Devonshire
 - Michael Goldblum
 - Christopher Moore
 - Margery Perlmutter
 - Roberta Washington
- Chair-Designate Meenakshi Srinivasan
 - Nominated by Mayor, to be confirmed by City Council

➤ Staff

- Approximately 67 archaeologists, architects, attorneys, administrators, historians, preservationists, and researchers
 - Kate Daly, Executive Director
 - Mark A. Silberman, General Counsel
 - Sarah J. Carroll, Director of Preservation



LANDMARKS PRESERVATION COMMISSION

➤ Meenakshi Srinivasan

Meenakshi Srinivasan is a planner and urban designer, with longstanding commitment to public service. She has more than two decades of experience working in various aspects of New York City's land use process. Since 2004, she has served as the chair and commissioner of the Board of Standards and Appeals, which oversees zoning variance and special permit applications. During her tenure, she oversaw a major overhaul of the agency, bringing greater professionalism and rigor, streamlining its rules and practices, and increasing its transparency.

Previously, Ms. Srinivasan worked for the Manhattan Office of the Department of City Planning in various capacities, including as deputy director, team leader and project manager. She led some of the agency's highest profile projects, from the Theatre Subdistrict Rezoning in midtown to the contextual rezonings of East and Central Harlem. She directed planning for major cultural projects including the Museum of African Art.

An architect by training, Ms. Srinivasan was born in India and holds a Bachelor of Architecture from the School of Planning and Architecture in New Delhi, India. She earned a Master of Architecture and a Master of City Planning from the University of Pennsylvania. She is an honoree of the Society of Indo-American Engineers and Architects and the New York Society of Architects.



CURRENT ISSUES

- **Affordable Housing**
- **Transfer of Development Rights from a Landmark**
- **Possible Legislation**
- **Recent Applications**



AFFORDABLE HOUSING

➤ 2013 REBNY Study

- 28% of Manhattan is landmarked
- Only 5 new affordable housing units constructed on landmarked properties since 2003
- No affordable units constructed or rehabbed on landmarked properties since 2008
- Conclusion: The City needs to balance landmark preservation and housing needs more responsibly

➤ Mayor's Housing Policy

- Includes commitment to change land use regulations to promote housing creation
- City Planning will undertake a study to identify opportunities for using transferable development rights to promote housing development and other public goals
- To include consultation with owners of historic properties and other sites with potentially transferable development rights



TRANSFER OF DEVELOPMENT RIGHTS FROM A LANDMARK

➤ Zoning Resolution

- Provisions to compensate landmarked buildings for the potential financial losses stemming from the landmark preservation law
- Allow transfers of development rights from a zoning lot containing a landmark to:
 - A site across a street or, if on a corner, to any lot on another corner that touches the same intersection (ZR 74-79)
 - Within a wider area in the Grand Central Subdistrict (ZR 81-63), the South Street Seaport (ZR 91-60) and the Theater District (designated theaters, some of which are landmarks) (ZR 81-74)
- Requires:
 - A harmonious relationship between the new building and the landmark
 - A continuing maintenance for preservation of the landmark
- Requires approval of Landmarks Preservation Commission and City Planning Commission through Uniform Land Use Review Procedure (ULURP)



TRANSFER OF DEVELOPMENT RIGHTS FROM A LANDMARK

➤ Rarely Used

- According to the Furman Center, between 2003 and 2011, there were only two ZR 74-79 landmark transfers
- According to *The Real Deal*, only 14 such transfers have occurred since the program's creation
- Expense and hassle of a lengthy ULURP discourages developers
- Most development rights transfers involving landmarks utilize an as-of-right zoning lot merger
 - Involves joining together two or more contiguous lots



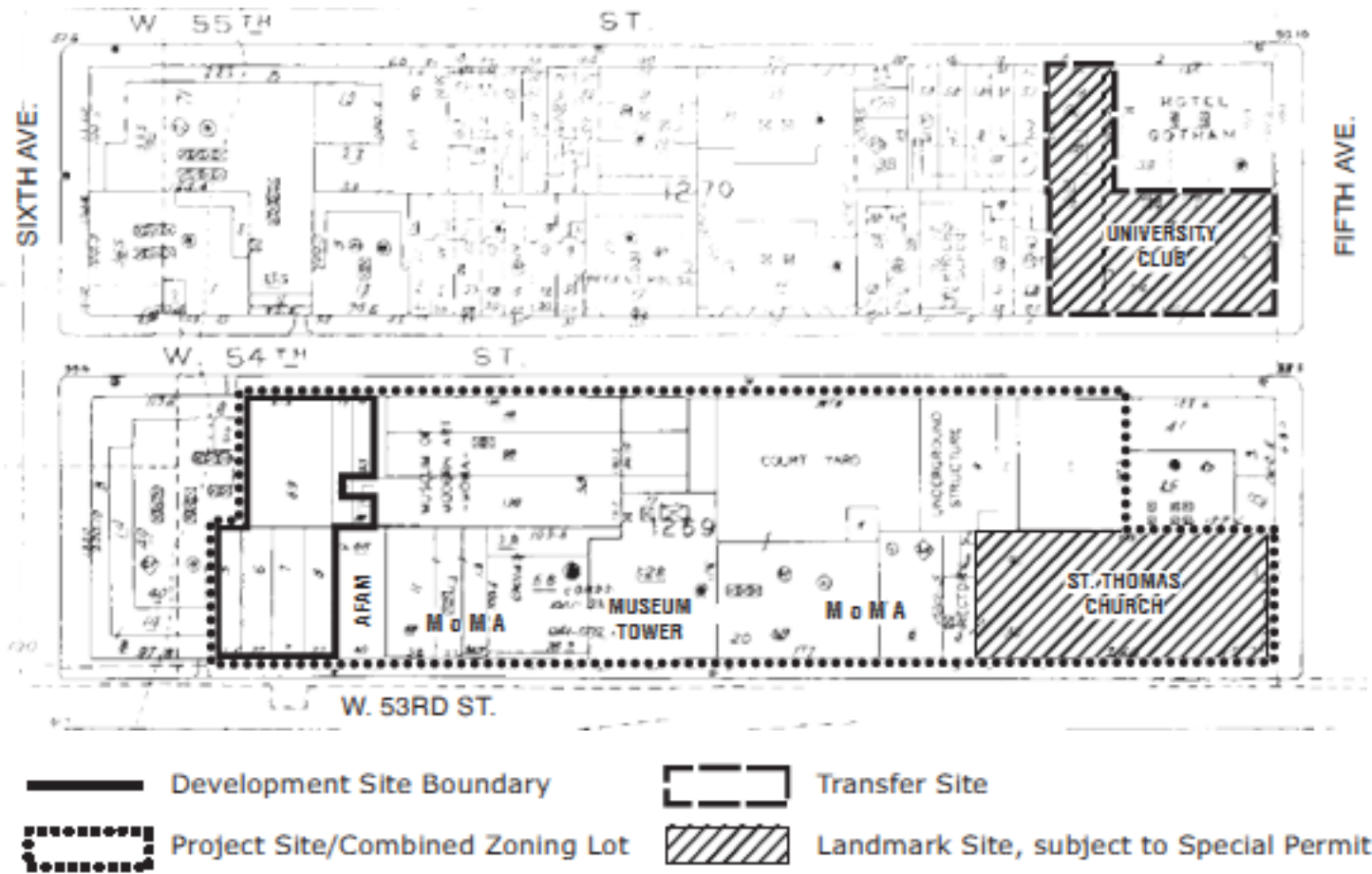
TRANSFER OF DEVELOPMENT RIGHTS FROM A LANDMARK

➤ MoMA

- University Club transferred development rights to Jean Nouvel-designed Hines tower on 53rd St.
 - MoMA zoning lot
 - University Club located across 54th St.
 - Utilized ZR 74-79 and 81-212 (Special Midtown District transfers)
- Also purchased development rights from St. Thomas Church
 - Located on same zoning lot
 - Received a special permit pursuant to ZR 74-711 and 81-277 to allow for a zoning lot containing a landmark to waive bulk regulations
- Required restoration work and continuing maintenance program for both landmarks
- Approved in 2009



TRANSFER OF DEVELOPMENT RIGHTS FROM A LANDMARK



POSSIBLE LEGISLATION

➤ Demolition Bill to Be Proposed

- Manhattan Borough President Gale Brewer plans to introduce
- Would require the Commission to review demolition permits of any building over 50 years old and decide whether to consider for landmark status
- Would apply to 80% of all city buildings and 91% of buildings in Manhattan
- Would codify a prohibition on owners of buildings under consideration for landmark status from gaining demolition permits
- Inspired by the scheduled demolition of the Rizzoli bookstore building on W. 57th Street



RECENT APPLICATIONS

➤ Hardship Application Denied

- The Commission recently denied a hardship application to demolish two Upper East Side tenement buildings, part of the City and Suburban Homes First Avenue Estates
 - The Commission was not convinced that the owner could not make a reasonable return on the property
 - Chairman Tierney stated: “There is something quite illogical to a landlord who claims rents are too low but does not make any attempt to rent the apartments.”



RECENT APPLICATIONS

➤ Hardship Application Denied

- Standard for commercial properties: cannot earn a reasonable return, which has been defined as 6% of assessed value
 - Standard for tax-exempt properties: no longer adequate or suitable for carrying out the organization's charitable purposes
- According to *The New York Times*, the Commission has received 16 hardship applications since its inception and has granted 11 requests
 - Most recent hardship application approved: St. Vincent's Hospital's 2008 request to demolish the O'Toole Building



RECENT APPLICATIONS

➤ Domino Sugar Rooftop Addition

- On January 14, 2014, the Commission voted to issue a Certificate of Appropriateness to the Domino Sugar Refinery in connection with its conversion to commercial and office use.
- When the Commission designated Domino in 2007, it was with the understanding that the vacant factory would be modified for adaptive reuse
- The plan includes glass-and-steel additions on two roofs, demolition of non-historic accretions, and the creation of windows and balconies
- In response to Commissioner comments, the applicants lowered an addition to allow the original brick building to be visible from the street
- The applicants also modified the placement of the historic “Domino Sugar” sign to give it a “more dominant, heroic, and asymmetric” relationship to the new addition



RECENT APPLICATIONS

- **Domino Sugar Rooftop Addition**



RECENT APPLICATIONS

➤ Church of St. Luke's in the Fields

- In May, the Commission approved a scaled-down version of a proposal for a school expansion and new residential building
- Height of residential tower had been reduced by 32 feet from the original proposal
- 20% of the units will be affordable housing
- Full-block campus on the western edge of the Greenwich Village Historic District



TYPES OF LANDMARK DESIGNATION

➤ Individual

- Properties, objects, or buildings designated for their exterior architectural features
- Grand Central Terminal (1967), Brooklyn Bridge (1967), The American Fine Arts Society (1968), Steinway Hall (2001), Domino Sugar Refinery (2007)

➤ Historic Districts

- Areas of the city with a special character, special historical or aesthetic interest, distinct “sense of place”
- Brooklyn Heights (1965), Ladies’ Mile (1989), Park Avenue (2014)

➤ Interior

- Interior spaces, customarily accessible to the public
- Grand Central Terminal (1987), Rainbow Room (2012), Steinway & Sons Reception Room and Hallway (2013)

➤ Scenic

- Landscape features or groups of features on city-owned property
- Central Park (1974), Brooklyn’s Eastern Parkway (1978)



ALTERATIONS

- **Commission approval is required for:**
 - Construction, restoration, reconstruction, alteration, enlargement or demolition of a building:
 - Located in a historic district
 - Designated landmark
 - Which contains a designated interior landmark
 - New construction
 - Within a historic district
 - Affecting any designated property
 - Exterior changes:
 - Before beginning work on the exterior if the work requires a Department of Buildings (DOB) permit
 - For any project that will affect the exterior appearance, even if a DOB permit is not needed
 - Interior changes only when:
 - A DOB permit is required
 - The changes will affect the exterior of the building
 - The building's interior has been designated an interior landmark



ALTERATIONS

➤ Permit Types

- Certificate of No Effect
- Permit for Minor Work
- Certificate of Appropriateness



ALTERATIONS

➤ Certificate of No Effect (Staff-Level Approval)

- May be issued when the proposed work:
 - Requires a DOB permit, but
 - Will not affect protected architectural features or detract from the special character of a historic district
- Examples
 - Interior renovations that require DOB permits
 - Installation of plumbing and heating equipment
 - Other minimal renovations that do not adversely affect significant features of the building, as determined by the Commission
- No public hearing is required
- A denial of a Certificate of No Effect is a determination that the proposed work would affect a significant protected architectural feature and a Certificate of Appropriateness would be required



ALTERATIONS

➤ **Permit for Minor Work (Staff-Level Approval)**

- May be issued when the proposed work:
 - Does not require a DOB permit, but
 - Will affect significant protected architectural features
- Standard
 - Commission reviews the proposed changes to determine whether they are appropriate to the building and/or the historic district
- Examples
 - Window or door replacement
 - Masonry cleaning or repair
 - Restoration of architectural details
- No public hearing is required
- If a Permit for Minor Work is denied, may apply for a Certificate of Appropriateness



ALTERATIONS

- **Certificate of Appropriateness (COFA)**
 - Issuance of a COFA requires a public hearing before the Commission

 - A COFA is required when the proposed work
 - Requires a Department of Buildings permit (or Permit for Minor work has been denied)
 - And will affect significant protected architectural features



APPROPRIATENESS

- The Commission must determine that the proposed work would be appropriate for and consistent with the effectuation of the purposes of the Landmarks Law
- In determining the “appropriateness” of the proposed work, the Commission considers:
 - The effects of the proposed work on the significant features of the landmark and the compatibility of the proposed changes with the building's appearance and character
 - Including whether the applicant proposes to remove original or historic materials
 - The building's architectural, historical, and cultural significance and its architectural style, as well as the arrangement, proportions, materials, textures, and colors of the existing and proposed designs, among other factors



APPROPRIATENESS

- The proposed changes may be compared against:
 - The condition of the building at the time of designation
 - The current condition as altered by approved changes
 - A documented original or other pre-designation condition
- In a historic district, the effect of the proposed work on neighboring buildings and on the special character of the district
- The Commission has approved:
 - New construction that is sensitive to what has come before
 - Alterations that clearly delineate historic and modern elements
 - Modern adaptations of historic features
 - Cantilevers over designated buildings



CANTILEVERS

➤ **The American Fine Arts Society/Extell**

- Commission approved a COFA to allow a portion of Extell's 57th Street tower to cantilever over the American Fine Arts Society building, home of the Art Students League (ASL)
- Tower will rise to over 1,400 feet, with a Nordstrom at its base and residences and a hotel above
- Cantilever will extend 28 feet over ASL, starting 195 feet above the roof of the building (about 30 stories above the ground)
- Commission's review was limited to the project's impact on the landmarked site (appropriateness of the cantilever)
- Commission was not reviewing the as-of-right design and scale of the tower
- Commission found that the cantilever would have negligible impact on the landmark site and would not disrupt the complete perception of the landmark



CANTILEVERS

➤ The American Fine Arts Society/Extell



The Art Students
League Building 1929



Renderings of Extell's proposed mixed-use tower, located at 217 West
57th Street



CANTILEVERS

- **West 23rd Street (Ladies' Mile Historic District)**
 - Commission approved a cantilever over an existing building in the Ladies' Mile Historic District as part of a new building on a vacant adjacent lot
 - Commission found that the proposed cantilever is expressed in multiple layers that relate to the interlocking forms of the new building and, therefore, does not associate itself with, or detract from, the lower adjacent building
 - Proposed use and bulk waivers under ZR 74-711 required a continuing maintenance plan for adjacent landmark at 35 West 23rd Street



COMMUNITY BOARD

➤ Role of the Community Board

- Appointed community representatives provide input on issues before City agencies
 - Advisory only
- Commission's published guidance instructs that a proposal must be presented to the local Community Board before the Commission's public hearing
 - Landmarks Committee and full Community Board
- Community Board review is not limited to specified criteria
 - Review may be based on Community Board interpretation of Commission criteria, concerns raised by community members, or a variety of other factors



COMMUNITY BOARD

- **Response to American Fine Arts Society/Extell Cantilever**
 - Community Board Five's Landmarks Committee initially recommended approval of the application, based on what they considered to be the Commission's appropriateness criteria
 - However, the full Community Board recommended denial of the application in response to other concerns raised by community members





The 1892 American Fine Arts Society Building – The Art Students League



COMMUNITY BOARD

➤ Response to Ladies' Mile Cantilever

- CB5 recommended approval of the new building application, including the cantilever, because:
 - The new building would be an appropriate addition to the district as an innovative modern interpretation of historic elements endemic to the Ladies' Mile Historic District which relate harmoniously to the district and the adjacent landmark building
 - The adjacent landmark building would be restored and subject to a continuing maintenance program



OTHER STAKEHOLDERS

➤ **Community and Civic Groups, Elected Officials**

- You may also seek support from:
 - Relevant community and civic groups, such as:
 - Municipal Art Society
 - New York Landmarks Conservancy
 - Historic Districts Council
 - American Institute of Architects
 - Landmarks West!
 - Neighborhood associations and institutional neighbors
 - Elected officials, such as:
 - City Council Members
 - State Senators and Assembly Members
 - Borough President



COMMISSION REVIEW

➤ Public Hearing

- A public hearing must be held for each COFA application
- Presentation
 - Applicant explains the proposed work and why appropriate
- Public testimony
 - Elected officials, Community Board representatives, community groups, and other interested individuals may comment or submit written statements



COMMISSION REVIEW

➤ **Commission Discussion & Vote**

- Commission is not confined to consideration of the facts, views, testimony or evidence submitted at the hearing
- The Commission may:
 - Vote to approve or deny
 - Request more information and ask applicant to return
 - Continue the public hearing
 - Or keep the record open for submission of additional written information and comments
 - Postpone a decision because a motion to approve or deny did not carry
- Commission action requires a vote of at least six of the eleven Commissioners
- The commission must make its decision within 90 working days after an application is filed



GOVERNING LAW

- **New York City Charter**
 - Chapter 74: Landmarks Preservation Commission (Attached)

- **Administrative Code of the City of New York**
 - Title 25: Land Use, Chapter 3: Landmarks Preservation and Historic Districts (Attached)

- **Rules of the City of New York**
 - Title 63: Landmarks Preservation Commission
 - <http://www.nyc.gov/html/lpc/downloads/pdf/pubs/rules.pdf>

- **New York City Zoning Resolution – § 74-79**
 - Certain Provisions Governing Development Rights Transfers (Attached)

- **Permit Application Guide**
 - Lists the required application materials, criteria for qualifying for a permit, and related preservation principles
 - http://www.nyc.gov/html/lpc/downloads/pdf/pubs/App_Guide_Complete_Version.pdf



Questions?



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