



CITY PLANNING COMMISSION

November 16, 2011/Calendar No. 10

N 120069 HKK

IN THE MATTER OF a communication dated September 22, 2011, from the Executive Director of the Landmarks Preservation Commission regarding the landmark designation of the Borough Hall Skyscraper District, designated by the Landmarks Preservation Commission on September 13, 2011 (List No. 447, LP No. 2449), Borough of Brooklyn, Community District 2. The district boundaries are:

bounded by a line beginning at the intersection of the southern curbline of Montague Street and the western curbline of Court Street, continuing southerly along the western curbline of Court Street to a point formed by its intersection with a line extending westerly from and parallel with the lowest stair riser of the front steps of Brooklyn Borough Hall at 209 Joralemon Street (aka 209-245 Joralemon Street, 1-43 Court Street, and 384 Adams Street), easterly along said line to a point formed by its intersection with a line extending northerly from and parallel to the eastern outside wall of Brooklyn Borough Hall at 209 Joralemon Street (aka 209-245 Joralemon Street, 1-43 Court Street, and 384 Adams Street), southerly along said line and across the roadbed of Joralemon Street to the southern curbline of Joralemon Street, easterly along said curbline to a point formed with its intersection with a line extending northerly along a portion of the eastern property line of 210 Joralemon Street (aka 208-230 Joralemon Street and 45-63 Court Street), southerly along a portion of said property line, easterly along a portion of the northern property line of 210 Joralemon Street (aka 208-230 Joralemon Street and 45-63 Court Street), southerly along a portion of the eastern property line of 210 Joralemon Street (aka 208-230 Joralemon Street and 45-63 Court Street) to a point formed by its intersection with a line extending easterly from a portion of the southern property line of 210 Joralemon Street (aka 208-230 Joralemon Street and 45-63 Court Street), westerly along said line and a portion of the southern property line of 210 Joralemon Street (aka 208-230 Joralemon Street and 45-63 Court Street), southerly along a portion of the eastern property line of 210 Joralemon Street (aka 208-230 Joralemon Street and 45-63 Court Street), westerly along a portion of the southerly property line of 210 Joralemon Street (aka 208-230 Joralemon Street and 45-63 Court Street) to the eastern curbline of Court Street, southerly along said curbline to the northern curbline of Livingston Street, across the roadbed of Court Street and along the northern curbline of Livingston Street to a point formed by its intersection with a line extending southerly from the western property line of 75 Livingston Street (aka 71-75 Livingston Street and 66 Court Street), northerly along said property line and a portion of the western property line of 62 Court Street (aka 58-64 Court Street), westerly along a portion of the southern property line of 62 Court Street (aka 58-64 Court Street), a portion of the southern property line of 50 Court Street (aka 46-50 Court Street and 194-204 Joralemon Street), and a portion of the southern property line of 186 Joralemon Street (aka 186-190 Joralemon Street), northerly along a portion of the western property line of 186 Joralemon Street (aka 186-190 Joralemon Street), westerly along a portion of the southern property line of 186 Joralemon Street (aka 186-190 Joralemon Street) and along a portion of the southern property line of 184 Joralemon Street, southerly along a portion of the eastern property line of 184 Joralemon Street, westerly along a portion of the southern property line of 184 Joralemon Street, northerly along the western property line of 184 Joralemon Street, across the roadbed of Joralemon Street, and along the western property line of 191 Joralemon Street (aka

187-191 Joralemon Street), easterly along the northern property lines of 191 Joralemon Street (aka 187-191 Joralemon Street) and 193 Joralemon Street and a portion of the northern property line of 44 Court Street (aka 38-44 Court Street and 195-207 Joralemon Street), northerly along the western property line of 186 Remsen Street (aka 184-188 Remsen Street) and across the roadbed of Remsen Street to the northern curbline of Remsen Street, westerly along said curbline of to a point formed by its intersection with a line extending southerly from a portion of the western property line of 188 Montague Street (aka 188-190 Montague Street and 165 Remsen Street), northerly along said property line, westerly along a portion of the southern property line of 188 Montague Street (aka 188-190 Montague Street and 165 Remsen Street) and the southern property line of 186 Montague Street (aka 184-186 Montague Street), northerly along the western property line of 186 Montague Street (aka 184-186 Montague Street) to the southern curbline of Montague Street, easterly along said curbline to the point of the beginning.

Pursuant to Section 3020.8(a) and (b) of the City Charter, the City Planning Commission shall submit to the City Council a report with respect to the relation of the designation by the Landmarks Preservation Commission, whether of a historic district or a landmark, to the Zoning Resolution, projected public improvements, and any plans for the development, growth, improvement or renewal of the area involved.

On September 13, 2011, the Landmarks Preservation Commission (LPC) designated the Borough Hall Skyscraper Historic District (List No. 447; LP-2449). The district encompasses 21 buildings within Downtown Brooklyn. The buildings within the district are predominantly large office buildings built near Brooklyn Borough Hall (formerly the Brooklyn City Hall). The historic district includes buildings fronting on Court Street between Montague Street and Livingston Street, to the north and south of Borough Hall. It also includes a number of buildings that front on Montague, Remsen and Joralemon streets west of Court Street.

According to the LPC's report on the proposed district, the ensemble of 21 buildings in the Borough Hall Skyscraper Historic District are significant for their historic importance as the heart of Brooklyn's Downtown office district, as notable examples of the skyscraper and tall office building typologies, and for their continuing existence in a neighborhood that has undergone radical changes to much of its built environment.

The area comprising the Borough Hall Skyscraper Historic District was zoned as part of the Special Downtown Brooklyn District when it was created in 2001 (N 000241 (B1) ZRY) and was rezoned to C5-2A and C6-1 zoning districts as part of a related action (C 010199 ZMY).

The Downtown Brooklyn Special District was adopted with several goals. According to Article X, Chapter 1, the general goals of the Special District are:

- “(a) to strengthen the business core of Downtown Brooklyn by improving the working and living environments;
- (b) to foster development in Downtown Brooklyn and provide direction and incentives for further growth where appropriate;
- (c) to create and provide a transition between the Downtown commercial core and the lower-scale residential communities of Fort Greene, Boerum Hill, Cobble Hill and Brooklyn Heights;
- (d) to encourage the design of new buildings that are in character with the area;
- (e) to preserve the historic architectural character of development along certain streets and avenues and the pedestrian orientation of ground floor uses, and thus safeguard the vitality of Downtown Brooklyn;
- (f) to improve the quality of development in Downtown Brooklyn by fostering the provision of specified public amenities in appropriate locations;
- (g) to improve visual amenity by establishing special sign regulations within the Fulton Mall and Atlantic Avenue Subdistricts; and
- (h) to promote the most desirable use of land and building development for Downtown Brooklyn and thus conserve the value of land and buildings and thereby protect the City's tax revenues.”

In 2002, a small section of the proposed Borough Hall Skyscraper Historic District was rezoned to C5-4 as part of the Brooklyn Law School rezoning (C 020097 ZMK). C5-2A and C5-4 zoning districts allow all residential uses, all community facility uses, and office, retail and light manufacturing uses. All uses permitted within these districts have a Floor Area Ratio (FAR) limit of 10 FAR. The C6-1 zoning district allows all uses permitted in the C5-2A and C5-4 zoning districts but also a wider range of office, retail, light manufacturing and amusement uses, allowing up to 6.0 FAR for commercial uses, up to 3.44 FAR for residential uses and up to 6.5 FAR for community facilities. The zoning change to C5-2A was a change from height factor zoning to contextual zoning with no change in permitted FAR. The CPC report for the rezoning

(C 010199 ZMY) explained the change as follows:

“This area of five full blocks and four block frontages between Clinton and Court Streets north of Livingston Street would be rezoned from C5-2 and C6-4 to C5-2A, a contextual zoning district with a street wall requirement and a building height limit. The Commission notes that this area is characterized by pre-war, mid- and high-rise office and institutional buildings built to the street line along Court and Montague Streets. It is directly adjacent to the low- to mid-rise Brooklyn Heights Historic District across Clinton Street. The contextual envelope of the proposed C5-2A district would result in a building form for new developments that would be compatible with existing buildings and would therefore provide an appropriate transition between Downtown Brooklyn and Brooklyn Heights.”

Ten of the 21 buildings within the Historic District are over-built under the current zoning, with densities up to 23 FAR.

The ensemble of 21 buildings in the Borough Hall Skyscraper Historic District are significant for their historic importance as the heart of Brooklyn’s downtown office district, as notable examples of the skyscraper and tall office building typologies, and for their continuing existence in a neighborhood that has undergone radical changes to much of its built environment.

All landmark buildings or buildings within Historic Districts are eligible to apply for use and bulk waivers pursuant to Section 74-711 of the Zoning Resolution. Pursuant to Section 74-79, no transfer of development rights is permitted from any structure within an historic district.

CITY PLANNING COMMISSION PUBLIC HEARING

Pursuant to Section 3020.8(a) of the City Charter, the City Planning Commission held a public hearing on October 19, 2011, (Calendar No. 20). Four speakers testified against the project and none were in support. Those testifying included the President of the Board of Directors of the

Heights 75 Owners Corporation, a member of the board of directors of the Court-Livingston-Schermerhorn Business Improvement District, a representative of the Real Estate Board of New York (REBNY), and the attorney for a property owner who owns four commercial buildings within the historic district.

The speakers stated that they were concerned that the proposed historic district would result in an increase in the costs of maintaining buildings within the historic district, and could hurt property values. The representative of the Heights 75 Owners Corporation testified that their building, a residential co-op at 75 Livingston Street, has been well maintained, but that the costs of maintaining the building were already high, and proposed district would increase the costs of future maintenance.

The speakers also opined that some of buildings within the proposed historic district appear to have limited architectural and historic merit.

The representatives of REBNY and the commercial property owner stated that the proposed district will make it more difficult to attract retailers to the proposed historic district, due to the additional review required by the Landmarks Preservation Commission. This concern was reiterated in a letter received after the hearing from the President and CEO of the Brooklyn Chamber of Commerce.

The representative of REBNY opined that the proposed historic district conflicts with the Downtown Brooklyn Special District's goals of strengthening the Downtown Brooklyn Special District and offering incentives for growth in the Downtown Brooklyn Special District.

CONSIDERATION

The City Planning Commission has evaluated the Borough Hall Skyscraper Historic District in relation to the Zoning Resolution, projected public improvements and plans for the development, growth and improvements in the vicinity of the area involved.

The Commission considered the testimony of the REBNY representative in opposition to the designation, based on the contention that the proposed landmark district conflicts with the goals of the Downtown Brooklyn Special District. The Commission believes that the historic district supports the goals of the Special Downtown Brooklyn District. The stated goal of the Special District is to “create and provide a transition between the Downtown commercial core and the lower-scale residential communities of... Brooklyn Heights;” and “to encourage the design of new buildings that are in character with the area.” The Special District was also created in conjunction with a zoning change that required new buildings to be built at the street line or to line up with adjacent buildings to be in context with existing development. The proposed historic district is located in a transitional area between the historic and lower scale Brooklyn Heights row-house neighborhood and the office and civic core of Downtown Brooklyn, and contains many pre-war buildings built to the street line. The Commission believes that proposed historic district, which recognizes the historic and architectural importance of buildings within this area, complements the goals of the Special Downtown Brooklyn District and therefore is not in conflict with the Special District.

The City Planning Commission believes that the proposed district does not conflict with the goals of the Downtown Brooklyn Special District as listed in Article X, Chapter 1 of the Zoning Resolution. The Commission believes the designation of the Borough Hall Skyscraper Historic District is consistent with plans for the area’s future development and improvement. In addition, the Commission is not aware of any conflicts between the subject Historic District designation and projected public improvements or any plans for development, growth, improvement, or renewal in the vicinity of the Historic District.

AMANDA M. BURDEN, FAICP, Chair

ANGELA M. BATTAGLIA, RAYANNE BESSER, IRWIN G. CANTOR, P.E.,

ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,

NATHAN LEVENTHAL, ANNA HAYES LEVIN, ORLANDO MARIN,

SHIRLEY A. MCRAE, Commissioners

KAREN A. PHILLIPS, Commissioner Voting No

REMARKS OF COMMISSIONER ALFRED C. CERULLO, III on the
BOROUGH HALL SKYSCRAPER HISTORIC DISTRICT N120069 HKK

November 16, 2011

I think it's important for the record to reflect some concerns that I have, and also some of the thoughts that we as a Commission have discussed over the past weeks that arise out of our consideration of this item.

While it certainly isn't the first historic district application we are considering, it seems to be the first – that -at least for me, is most questionable on the merits, and best highlights what I believe is a flawed process.

While one, some, a few- of the individual buildings that are wrapped inside this proposed designation may have individual distinction to warrant landmark status, I don't believe that the group of them in the 21 before us do. Now of course, I am not a Landmark's Commissioner- so I didn't have the benefit of a full discussion on the merits of this district. And of course, that is part of the problem.

Unfortunately we are stuck in a process that affords us very little in terms of substance, yet, our decision has profound importance because it helps move this process forward.

I believe that we should be looking at this overall process with an eye perhaps toward giving us some real say in these designations, or toward taking us out of the process completely. Especially if, we continue to develop our decisions- these Reports- with the legal interpretation, despite its thoughtfulness- that we are only to look at proposed PUBLIC improvements in a designation area –which I – respectfully- disagree with.

It is likely that this designation will have an impact on the building owners and tenants: the process of conversion, modification, alteration- will face new delays and increased costs. Not to mention the impact on the ability of commercial owners - due to this new bureaucracy -to secure retail tenants in a timely fashion. And this on the heels of yesterday's story in Crain's New York Business that referenced this application and cited that vacancy rates in some of the buildings within the historic districts borders are between 20 and 28% -- 2 to 3 times higher than the Manhattan average.

It is my recollection that this reality is one of the reasons that this Department and this Commission have spent so many years and extensive work to create a land-use environment

through other special districts and zoning changes that will not merely encourage new development- but create it.

Generally historic district designations are for those areas that no one would ever want to see changed.

Given the fact that we have long recognized that this area needs revitalization and renewed attention- I hope that this designation does not prove contrary to what most would hope for this community.

With that said, and in recognition of our purview in matters such as this, I reluctantly vote yes.

REMARKS OF COMMISSIONER NATHAN LEVENTHAL on the
BOROUGH HALL SKYSCRAPER HISTORIC DISTRICT N120069 HKK

November 16, 2011

I want to associate myself with the comments of our colleagues, particularly those of Commissioner Cerullo.

I understand that our role is not to review the judgment of the Landmarks Preservation Commission in designating this historic district. And that is as it should be for that Commission is charged with that responsibility and has the particular expertise to discharge it.

With respect to the role we do have -- that of determining whether the proposed designation is in conflict with plans for improvements, developments, etc. -- I would make two points.

First, I do not believe that those who have objected to the designation on this ground have yet put forth sufficiently specific and persuasive reasons to support their conclusion. If there is an opportunity for them to present further evidence of such conflicts as this designation process continues, I would encourage them to do so.

Second, with respect to the nature of our review, I would encourage this Commission and the staff of the Department to review the language, legislative history and, if possible, speak with members and staff of the Charter Revision Commission of 1989, where I served as an Officer. I believe they may discover that, under the language adopted in the Charter, this Commission actually has a broader purview, one which is not limited to conflicts with plans for public improvements. By interpreting the Charter to include the examination of plans for private projects in its determination of whether there is a conflict with the designation of a landmark or historic district, this Commission could better exercise its overall planning function and insure that landmark designations, however laudable, would not impede progress in neighborhood and economic development.

I vote yes.

DISSENTING STATEMENT OF COMMISSIONER KAREN A. PHILLIPS on the
BOROUGH HALL SKYSCRAPER HISTORIC DISTRICT N120069 HKK

November 16, 2011

The Borough Hall Skyscraper Historic District has spurred more discussion than any landmark designation proposal during my tenure on the City Planning Commission (CPC). The points previously made by my colleagues have merit, and should lead to further investigation into the conflicts between the current policy of the Landmarks Commission and the CPC.

I will not review all of the points made, but, repeating a point that I have made on previous Landmark Commission designation proposals within Special Districts that I have not supported - **the City Planning Department and the City Planning Commission should not give our power away!** The proposed Brooklyn Skyscraper District supersedes the Downtown Brooklyn Special District established in 2004 by a vote of CPC and approval by the City Council. The goal of the rezoning was to “foster development in the area, encourage the design of new buildings that are in character with the area and to preserve the historic architectural character of development along certain streets and avenues and the pedestrian orientation of ground floor uses.” After laying this groundwork, the CPC demonstrated our support of the merits of this action by the recent approval of a disposition of NYC property through a lease that will substantially change the Brooklyn Borough municipal building with the addition of retail space on the ground floor. The character was protected when CPC rezoned a portion of the Special District so that the structures in the proposed historic district would not be demolished for new larger buildings.

From my experiences in development that heralded preservation in an economically distressed community, the impact of landmarking is the additional time that the approval process takes, and increased expenses that often deters new investment. The existing Special District in contrast maintains the contextual character while continuing the rejuvenation of downtown Brooklyn experienced in the last 5 years in the area.

In the presentation made by Paul Goldberger at yesterday’s wonderful Zoning Conference, I took note of his suggestions for zoning when he said that we should seek “new ways to protect context and scale,” and asked for balance in ‘addressing qualities [to be preserved] but embracing change.’ These aspects, I feel, are the role of an effective City Planning Department and Commission.

I vote NO on the designation of the Borough Hall Skyscraper Historic District.