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February 12, 2008

Hon. Meenakshi Srinivasan, Chair
New York City Board of Standards and Appeals
40 Rector Street
New York, New York 10007

Re: In Support of Mid-Block Contextual Zoning, With Specific Reference to the Application of Congregation Shearith Israel to Construct a 105-Foot-Tall Mixed-Use Building at 6-10 West 70th Street on Manhattan's Upper West Side

Dear Chair Srinivasan:

I write most respectfully to ask that you deny the application put forward by Congregation Shearith Israel to exceed the low-rise, contextual "R8-B" zoning protecting the mid-block of West 70th Street between Central Park West and Columbus Avenue, as well as many other brownstone mid-blocks throughout the Upper West Side/Central Park West Historic District.

While I am not a neighbor of the proposed development site at 6-10 West 70th Street and the new building would not have the kind of immediate impact on my light, air or quality of life that it would most assuredly have on others whose properties lie in closer proximity, I can speak with some authority on the underlying principles of height and setback regulations and attest to the fact that breaching those principles in *this* case would most certainly have direct ramifications for quality of life in other neighborhoods throughout New York City. The layers of regulation protecting the brownstone mid-blocks of the Upper West Side are similar in essence to those protecting my own, predominantly low-rise neighborhood: Brooklyn Heights. These laws are strong on paper, but unceasingly relentless pressure to develop, even where proposed development is clearly out of line with the city's stated rules and the public welfare, raise legitimate concerns among residents and property owners that the bar is being lowered.

I believe that the Board of Standards and Appeals has a special mandate to ensure that one property owner or developer's ambitions do not usurp sound planning policy protecting the public at large. Over the past forty-plus years, as a citizen and a lawyer, I have worn a number of hats with various preservation and planning organizations. This letter expresses my own views, but certainly these roles inform my knowledge and thinking about the issues at stake whenever a private developer, whether for-profit or not-for-profit, seeks special exemption from the laws crafted to protect our city's neighborhoods from harmful development.

These laws are under assault. If one developer on some rationale or another is permitted an exception, can anyone believe that henceforth every developer will not also seek his own exception? And on what basis of subjective differentiation, of hair-splitting distinctions will it be possible to deny such exceptions. The dam will be broken, and the result will be a city made up of neighborhoods that are less stable, less beautiful and less *livable*.

I used similar language in a 2007 letter to Brooklyn Borough President Marty Markowitz in defense of the Cobble Hill LH-1 50-foot Limited Height District, a precursor to today's "contextual" zoning and a tool for responsible planning that fellow citizens and I worked with the City Planning Commission to create in 1967 in the form of the first Limited Height District in Brooklyn Heights. At that time, I co-chaired the Historic Preservation Committee of the Brooklyn Heights Association, the group that had just succeeded after a seven-year effort in getting Brooklyn Heights designated as New York City's first official historic district. It became immediately obvious that the historic district alone was not enough to protect Brooklyn Heights from out-of-scale development since nothing in the Landmarks Law gave the Landmarks Preservation Commission the authority to limit the height of buildings. The City Planning Commission agreed with us that a separate zoning tool was needed. I attach as background (1) an excerpt on the origination of the 50-foot Limited Height District arrangement from my 1993 Reminiscences on the occasion of my Landmark Lion Award from the Historic Districts Council, (2) my 12/22/66 Statement to the Board of Estimate, (3) my 6/7/67 Statement to the City Planning Commission, and (4) the 8/24/67 Board of Estimate Calendar entry containing the City Planning Commission's analysis.

The Landmarks Preservation Commission has clear-cut authority when it comes to the esthetic integrity of designated landmarks and historic districts. But what of light, air and other non-architectural elements that give a neighborhood its character and livability? These issues sit squarely in the jurisdiction of the City Planning Commission and, in the case of variances, the Board of Standards and Appeals. This is why many historic districts throughout the city have both landmark *and* zoning protection. While landmark protection has the power to influence materials, design and, to some degree, scale, zoning has the unique power to reduce development pressure—and thus preserve light, air and open space—by restricting height and bulk. A passage from the City Planning Commission's 1967 report on the Brooklyn Heights Limited Height District raises this point:

“While the Landmarks Preservation Commission is empowered to prevent, within statutory limits, the demolition or inappropriate exterior alteration of existing structures within a ‘historic district’, it is quite specifically barred from controlling the height or bulk of new buildings...”

The section of the Landmarks Law referred to is 25-307.b(3):

“All determinations of the commission pursuant to this subdivision b shall be made subject to the provisions of section 25-304 of this chapter, and the commission, in making any such determination, shall not apply any regulation, limitation, determination or restriction as to the height and bulk of buildings, the area of yards, courts or other open spaces, density of population, the location of

trades and industries, or location of buildings designed for specific uses, other than the regulations, limitations, determinations and restrictions as to such matters prescribed or made by or pursuant to applicable provisions of law, exclusive of this chapter...”

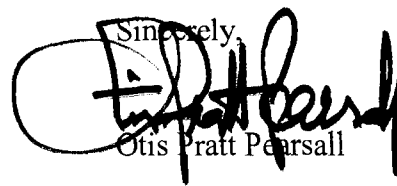
The City Planning Commission’s Brooklyn Heights decision continued:

“The proposed establishment of an LH-1 District within most of this ‘historic district’ would limit the height of buildings to a maximum of 50 feet above curb level. It is recognized that there are many existing buildings within the proposed boundaries that presently exceed this limit. The 50 foot height is, however, characteristic of the majority and of the best of the area—the fine individual buildings and, more especially, the many continuous rows of buildings which it is the Nation’s hope and the City’s expressed intention to see preserved.”

I include this excerpt because it is my understanding that Congregation Shearith Israel, in its current application, suggests that the presence of previously existing, non-conforming buildings in the mid-block of West 70th Street justifies the construction of yet another out-of-scale building. This argument clearly has no merit since to follow its logic would overturn, on a piecemeal basis, virtually every historic district and contextual zoning district in the city. It is obvious that allowing a new 9-story building on this particular block, where two anomalies already exist but do not yet overwhelm the low-rise character of the otherwise continuous brownstone rows, would significantly increase both the sense and reality of mass and volume in the mid-block, along with all of the inevitable consequences to the light and air that is already in scarce and therefore all the more precious supply on narrow side streets.

While some of the specifics vary between the Upper West Side, Brooklyn Heights, Cobble Hill and, for that matter, Greenwich Village, Park Slope, or any other New York neighborhood that has pursued a thoughtful planning course to determine its future shape, the basic principles are the same. Protective land-use regulations, in this case mid-block zoning, serve a valid public purpose. Neither the creation of Brooklyn Limited Height Districts in the 1960s nor the “R8-B” contextual zoning of Upper West Side mid-blocks in the 1980s were some frivolous surplusage, but coolly analytical responses to heated development.

I submit to you that when weighed against the important public interest in maintaining the integrity of these laws, the private interest of the developer, even where that developer is a non-profit religious institution, is *rarely* sufficient to justify the requested exception. We, the citizens of New York, look to the Board of Standards and Appeals to hold the line against variances, such as those proposed by Congregation Shearith Israel, that undermine the measured rationale of our city’s sound planning policies.

Sincerely,

Otis Pratt Pearsall

cc: Landmark West! ✓

**Otis Pratt Pearsall's Reminiscences Of The Nine Year
Effort To Designate Brooklyn Heights As
New York City's First Historic District And Its First
Limited Height District**

**Prepared on the Occasion of the Historic Districts
Council's 1993 Landmark Lion Award Presentation**

Borough Hall, Brooklyn, 3/8/93

What a marvelous honor this is to be your 1993 Landmark Lion and to receive such a splendid citation, all in this glorious landmark setting, for the restoration of which we owe a great debt to the Borough President's vision and determination and to the consummate skill of his architect, Bill Conklin. My thanks to the Historic Districts Council, to Borough President Golden and to each of you, and welcome, especially to those of you who have come from so many other historic districts throughout the City to this place where it literally all began.

I recognize, of course, that in honoring me, what we are actually doing is taking a moment to look back for some sense of our collective roots; and to celebrate the beginnings some 35 years ago of an incredible success story the importance of which to our City today could scarcely have been imagined by that band of urban pioneers who in the Fall of 1958 first gathered in the undercroft of the First Unitarian Church. And so I'm proud to accept this award on behalf of that original group and the many others who worked with the Brooklyn Heights Association over seven long years to achieve designation of the Heights as our first historic district on November 23, 1965.

There are still, I'm happy to say, a good number of those original preservationists in our midst: first and foremost, of course, my wife, Nancy, who was always in the forefront, organizing events, conducting surveys, preparing maps, and doing just about everything I got the credit for; Martin Schneider, who was co-chair of the original group before its absorption into the Association and thereafter active as an Association governor; Malcolm Chesney, who was central to the original leadership but tonight is enjoying Tobago; Ted Reid, our first conservation committee chairman, who is temporarily in Tokyo; Herb Kaufman, who was with us in important roles from start to finish; Dwight Demeritt, who performed exhaustive research in the Buildings Department and produced for the Landmarks Commission the photographic record of the Heights at its moment of designation; Ed Rullman who in 1962, when the Heights was put on hold for three years while the city-wide effort caught up, organized the Design Advisory Council which provided volunteer architectural guidance on proposed alterations and thus minimized the damage that would have otherwise occurred during that difficult period; and many others.

No longer, unfortunately, in Brooklyn Heights but very much alive and well in his 18th Century home outside Lexington, Kentucky is the member of our group who

~~matter, and Brooklyn Heights, thanks to Clay Lancaster, having long since done its homework and being of one mind on designation, was the only district ready.~~

~~During the late Summer of 1965 we met a couple of times with Jim Van Derpool to review our state of readiness and especially the matter of boundaries. Jim had just one more task for us but that proved to be Herculean, the preparation of a card file providing date, style and other pertinent data for each of the 1,316 separate lots within the proposed district. The burden fell on Clay and Nancy Pearsall, and countless hours were devoted to this laborious exercise during the Summer and Fall of 1965. I certainly hope the Commission found it useful. Then in September we had the "dress rehearsal" mentioned earlier at an executive session of the Commission where the major, if only, issue was the boundary.~~

~~After seven years, November 17, 1965, the day of our hearing, perhaps should have been anticlimactic, but I promise you it was anything but. Supported by a great crowd of Heights rooters, the Association presented the entire case for designation that we had so carefully constructed over so many years. A large number of other Heights residents also spoke and it was immensely gratifying that with just two exceptions, the community was unanimously in favor.~~

~~The two exceptions were St. Francis College and the Watchtower Society. St. Francis, which was not familiar with the community's long pursuit of historic zoning, had recently purchased the Behr Mansion within the district and, learning of the hearing at the last minute, had decided somewhat hastily to take the safe course and voice opposition. But upon reviewing with the Association almost immediately after the hearing the implications of designation and anxious to be as one with the community on this important matter, acted at once to withdraw its opposition, leaving the Watchtower, which had plans for new construction, as the sole objector.~~

Just six days later, on November 23, 1965, the Commission promulgated its three-page designation decision and New York City had its first historic district, the Brooklyn Heights Historic District. Now some 28 years later, New York has 58 historic districts and each of you who struggled for the designation of your district has a story of commitment, hard work, disappointment and ultimate success not unlike ours. We just happened to be the first.

Hardly, however, had that fleeting glow of success subsided before we discovered that our legislative work was not yet at an end. Even before Mayor Wagner signed the Landmarks Law, the Association heard that the Watchtower Society was seeking to purchase as much of the block bounded by Columbia Heights, Clark, Willow and Pineapple Streets as possible, and eventually we learned that it had acquired the frontage along Columbia Heights between Clark and Pineapple to a depth of 100 feet on which it proposed to construct a 12 story "community facility."

This news, needless to say, caused us to scrutinize closely two key provisions of the new Landmarks Law, Sections 207-3.0 and 207-6.b (3) [now Sections 25-304 and 25-307.b (3)]. The former, dealing with the "Scope of Commission's Powers,"

stated that nothing should be construed as authorizing the Commission, in acting with respect to any historic district or improvement therein, to limit the height of buildings. And the latter reiterated that the Commission, in making its determinations, shall not apply any regulation, limitation, determination or restriction as to the height of buildings other than regulations, etc. otherwise provided by "law," which we understood to mean the Zoning Resolution. To our disgust we were forced to acknowledge based on these provisions that if open space for any reason became available in an historic district, a developer would surely argue that, regardless of the district's predominating scale, the height of permissible new construction was constrained solely by whatever limits pertained to the area under applicable zoning.

Naturally, we recognized that open space would inevitably occur over time in Brooklyn Heights or any other district for any number of reasons. Buildings sometimes simply collapse or are demolished by fire or explosion. Or the Commission might allow the demolition of a nondescript structure that did not contribute to a district's character. Or the Commission might be required to permit demolition on grounds of insufficient return, and we envisioned that this might occur where, for example, the value of several contiguous lots occupied by small houses might rise to reflect the potential for large scale development. But more specific to our immediate problem, we were very unsure how the limitation on demolition might be construed to work in the context of a nonprofit such as the Watchtower Society. In short, we were greatly concerned that we had discovered a serious possible gap in the statute's protection, with dangerous immediate and long-term implications for the Heights.

Since the Columbia Heights site included several buildings that clearly contributed to the district's character, we believed, but could not be certain, that we could block their demolition. But assuming they were demolished, the applicable Heights zoning would clearly permit a community facility of 12 stories or even more. What we needed, therefore, was a clear-cut height limitation tailored to the prevailing scale of our brownstones that would apply regardless of the circumstances giving rise to new construction. And since we were familiar with the 50 foot limitation originally imposed on the piers below the Esplanade following construction of the Brooklyn-Queens Expressway to protect our famous harbor view, it was no big jump to conceive the idea of proposing to the Planning Commission a Zoning Resolution amendment authorizing the Planning Commission to establish "Limited Height Districts" in areas previously designated by the Landmarks Commission as historic districts. Not only would a fifty foot height limitation assure that any future development conform to the brownstone scale of the Heights, which would result over time in some tendency to replace nonconforming structures with conforming ones, but it would remove virtually all future incentive to tear down brownstones in the first place.

Through the good offices of Beverly Moss Spatt who was then a Planning Commissioner we took the matter up with Millard Humpstone of the Planning Department's staff and, to our great relief, received a wholly favorable response. Here

was a government agency that not only understood our practical problem but was eager to be of help. We were thrilled.

The next step was a formal Association letter to Planning Chairman William F. R. Ballard explaining the statutory issue which, based on our review of over fifty preservation laws nationwide, was unique, its range of potential implications for the Heights, and our proposed limited height district solution. Although to minimize the risk of organized real estate industry opposition our actual proposal to Chairman Ballard contemplated a limited height district just for Brooklyn Heights, Mr. Humpstone preferred an amendment that would authorize the Planning Commission to create one or more limited height districts in any historic district since any district where scale contributed significantly to character would face issues similar to ours.

Eventually a satisfactory set of amendments authorizing creation of one or more 50, 70, or 100 foot limited height districts in, but not necessarily coterminous with the boundaries of, designated historic districts were developed and in November 1966 were approved by the Commission. Now came the hard part, approval by the Board of Estimate. As we had predicted, the real estate industry was resolutely opposed to this notion of superseding in historic districts the ordinary zoning regulations governing height, and fought us toe to toe. Happily, however, this was pre-Charter Revision, when a Borough President, if you could persuade him of the justice of your cause, had the clout to even the odds for individual neighborhoods caught up in the powerful cross-currents of big city politics. Abe Stark was in our corner on this one and with his help in December 1966 the Board of Estimate narrowly approved the limited height district enabling amendments by a vote of 12 to 10.

Now it was a matter of designating Brooklyn Heights the first LH-1, or 50 foot, Limited Height District. Although we made elaborate supporting presentations, it really wasn't necessary. The real estate industry, it seemed, didn't care about the particular Brooklyn Heights case, only the authorization of limited height districts in broad, and having lost that battle did not oppose ours. So in June 1967 the Planning Commission designated the bulk of the Brooklyn Heights Historic District the first 50-foot Limited Height District and in August, at a hearing attended by a large group of Brooklyn Heights residents, the Board of Estimate approved.

The City's rationale for this unprecedented action, set forth in Millard Humpstone's report for the City Planning Commission to the Board of Estimate, may not be widely understood and so, I think, bears repeating here:

"The Landmarks Preservation Commission, in designating the Brooklyn Heights area as an 'historic district', recognized that its history and the general excellence and homogeneity of its buildings warranted keeping the character of the area substantially as it is. This decision has not only been confirmed by the Board of Estimate but the national importance of Brooklyn Heights

was recognized by the Federal Government in January 1965 when it was designated a National Historic Landmark.

"While the Landmarks Preservation Commission is empowered to prevent, within statutory limits, the demolition or inappropriate exterior alteration of existing structures within a 'historic district', it is quite specifically barred from controlling the height or bulk of new buildings which might be built on parcels which are presently empty or which might, in the future, become available for redevelopment. Yet an important characteristic of Brooklyn Heights is the generally uniform height of buildings--typically three and a half or four stories--and it is essential that this generally uniform height be maintained if the character of the district is to be preserved.

"The proposed establishment of an LH-1 District within most of this 'historic district' would limit the height of buildings to a maximum of 50 feet above curb level. It is recognized that there are many existing buildings within the proposed boundaries that presently exceed this limit. The 50-foot height is, however, characteristic of the majority and of the best of the area--the fine individual buildings and, more especially, the many continuous rows of buildings which it is the Nation's hope and the City's expressed intention to see preserved. Existing intrusions will, of course, be unaffected by the proposal; constructed before the zoning change they can remain as a matter of right. The LH-1 designation will, however, prevent their replacement by new structures higher than 50 feet. Thus, the proposal will not only prevent the further spread of intrusive structures in a designated 'historic district' but may act, over the years, effectively to reduce their number and so bring about throughout the entire district, the harmony and homogeneity that are now characteristic of its best parts."

As an historical footnote I should mention that while the effort to obtain limited height district status was on-going, the Association, with the active involvement of Planning Commissioner Sweeney, made good use of its imminent prospect and our historic district status to reach a relatively happy settlement with the Watchtower Society. This, in essence, involved the Society giving up its proposed 12-story structure along Columbia Heights between Clark and Pineapple Streets, demolition at the corner of Clark and Pineapple Streets of the nondescript Norwegian Club, the nineteenth century origins of which were unrecognizable, and construction in its place and behind the front parlors of three adjoining houses of the first new building in an historic district, a contemporary treatment barely over 50 feet in height

sensitively modeled in brick by Ulrich Franzen to gently echo the bays of the house row next door.

So it was that by August 1967, just nine years after that original group of urban pioneers began meeting in Don McKinney's undercroft, the struggle for legal protection of Brooklyn Heights' architectural heritage was finally over. Since that time, while there certainly has been some minor erosion, we have not suffered the loss of a single house or a single stoop or, indeed, any of the depredations which motivated us at the outset and along the way. To the contrary, the high value the community learned through the preservation effort to place on our historic architecture has brought about a wealth of splendid restoration.

Yes, to be sure, we still live with significant problems, the St. George, piers redevelopment, and institutional expansion, to name just a few. But compared to the fragility we faced 30 years ago, history has fully vindicated Richard Margolis' extravagant editorial prediction in March 1959 that "historic zoning would virtually guarantee stability on the Heights." Grandest of all, the miracle Margolis predicted has proved true not just for the Heights but for our multiplicity of historic districts throughout the City.

I am enormously proud of what you and we together have accomplished for the permanent enrichment of our City, both culturally and economically. And as I stated to Eric Allison in acknowledging his kind proposal to honor me with your award, looking back, it is clear that nothing in the hurly-burly of a lifetime career has given me such satisfaction as watching the trickle that began in Brooklyn Heights become the powerful preservationist torrent of today.

Thank you for the immense honor of naming me your Landmark Lion for 1993.

BROOKLYN HEIGHTS ASSOCIATION, INC.

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Statement of Otis Pratt Pearsall,
Co-Chairman of the Historic Preservation
Committee of the Brooklyn
Heights Association, before the
Board of Estimate, City of New York

Mr. Mayor, and members of the Board of Estimate, the Brooklyn Heights Association strongly recommends your immediate approval of the amendment to the Zoning Resolution concerning the establishment of "Limited Height Districts". The Association, which has continuously served the Brooklyn Heights community for over 56 years, presently consists of nearly 1500 dues-paying Heights residents, a very large number of whom are property owners.

Since Brooklyn Heights has been an operating historic district for just over a year, and since it is reasonable to assume that portions of the Heights are likely to be mapped as Limited Height Districts should the amendment be approved, the Association appears uniquely qualified to judge the amendment's merits.

What reason is there for the amendment? The proposed amendment is absolutely essential in

order to close a crucial gap in the protection offered historic districts under the existing Landmarks Preservation Law.

While the Preservation Law approved by Mayor Wagner on April 19, 1965 vested significant power in the Landmarks Commission it nevertheless prohibits the Landmarks Commission from considering the factor of scale in making its determinations. Under Section 207-6.b.(3) of this law, the appropriateness of height is to be determined solely by reference to the Zoning Resolution. Representatives of the Brooklyn Heights Association have carefully studied over 50 preservation statutes now in effect from coast to coast and we believe that New York City's Preservation Law is the only one which does not provide for control of height in administering historic districts.

As you know, the Preservation Law does not give the Landmarks Commission power to prohibit demolition under all circumstances. Accordingly, apart from building sites already available, it is not only possible but probable that open space suitable for new construction will become available within historic districts. Since the

Preservation Law does not give the Landmarks Commission power to control the height of new construction, it would be possible, for example, to erect a very tall building right in the middle of the City's most elegant row of Greek Revival town houses.

Unfortunately, the threat of such a disaster is not hypothetical; it has proven real and immediate. Last spring, long after the designation of Brooklyn Heights as an historic district, the Association learned of well advanced plans to erect a 12-story building in one of the best preserved sections of Brooklyn Heights. In this particular case, after a number of meetings with Association representatives, the owner has commenced to display good will and forbearance, and it may be that we will escape a real catastrophe. But obviously it is impractical to count on forbearance, and very recently we have received word of a second threat with equally serious implications. Thus, even now we are faced with a substantial danger to the integrity of Brooklyn Heights notwithstanding its dual designation as a National Landmark by the Federal Government and as an historic district by our own Landmarks Commission.

Considerations of scale are clearly crucial to the effective preservation of historic districts. The Landmarks Commission could do its job perfectly and yet, because it is not permitted to consider the matter of height, not prevent the destructive impact of inharmonious new construction. This is why the proposed amendment must be approved.

Under the Landmarks Law considerations of height within historic districts are to be determined in accordance with the Zoning Resolution. The proposed amendment would introduce into the Zoning Resolution for the first time height determination criteria especially tailored for use in meeting the special problems of historic districts. By providing that the Planning Commission may map as Limited Height Districts all or portions of areas already designated as historic districts, the amendment would make available a flexible new tool to assure that the esthetic integrity of historic districts will not be destroyed through erection of structures out of scale with their immediate surroundings.

Flexibility is achieved by the availability of three categories of Limited Height

Districts, which would respectively limit the height of new construction to 50 feet, 70 feet and 100 feet, and by the fact that the Planning Commission, depending upon the circumstances, could employ one, or all in combination, or none of these Limited Height Districts within a given historic district.

Thus, under the proposed amendment the Planning Commission has discretion to determine whether or not to create a Limited Height District in any historic district. It would not be required to create a Limited Height District in any historic district, or portion thereof, where it would be inappropriate.

Further, the Planning Commission may determine whether all or just part of a historic district should be a Limited Height District. The Commission would not be required to map all of a given historic district as a Limited Height District if it considered that such treatment was appropriate in only one part.

Finally, the Commission would have power with respect to a given historic district to map one portion as a 50 foot Limited Height

District, another portion as a 70 foot Limited Height District, and another portion as a 100 foot Limited Height District, without mapping still other portions as Limited Height Districts at all.

The Brooklyn Heights Association believes that the proposed amendment represents a highly intelligent and urgently required supplement to the existing scheme of statutory protection for our City's historic districts. We are convinced that without it, the present apparent protection is illusory. And so, for our own sake and for the sake of future generations, we urge your immediate approval of the proposed amendment.

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June 7, 1967

Statement of Otis Pratt Pearsall, Co-Chairman of the Historic Preservation Committee of the Brooklyn Heights Association, before the City Planning Commission, City of New York, in support of designating Brooklyn Heights an LH-1 Limited Height District

Mr. Chairman, and members of the Commission, the Brooklyn Heights Association strongly recommends your immediate designation of an LH-1 Limited Height District, with boundaries substantially as described in the notice of this hearing, within the historic district of Brooklyn Heights.

The Association, which has continuously served the Brooklyn Heights community for over 56 years, presently consists of nearly 1500 dues-paying Heights residents, a very large number of whom are property owners. We make this recommendation, just as we recommended establishment of the historic district, notwithstanding our normal hesitance with respect to any loss of individual control over use of property. We do so because we recognize on the basis of harsh experience that, absent appropriate preservation controls, including

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control over height, Brooklyn Heights will surely lose the distinctive character from which its material values, no less than its spiritual ones, clearly emanate. On balance, we consider that the loss of this character, which has earned for generations the praise of discriminating observers, has drawn to the Heights large numbers of its residents, and has sparked and fed over the past 12 years a renaissance trebling and quadrupling real estate values, is a danger far more to be feared than the loss of any individual's right to destroy the beauty of his own property, and thereby the beauty and value of his neighbors' property.

What reason is there for designating Brooklyn Heights a Limited Height District when already it is an historic district under the jurisdiction of the Landmarks Commission? The answer is simple. The proposed designation is absolutely essential in order to close a gaping hole in the protection afforded Brooklyn Heights under the existing Landmarks Preservation Law.

While the Preservation Law approved by Mayor Wagner on April 19, 1965 vested significant power in the Landmarks Commission it nevertheless prohibits the Landmarks Commission from considering

the factor of scale in making its determinations. Under Section 207-6.b.(3) of this law, the appropriateness of height is to be determined solely by reference to the Zoning Resolution. Representatives of the Brooklyn Heights Association have carefully studied over 50 preservation statutes now in effect from coast to coast and we believe that New York City's Preservation Law is the only one which does not provide for control of height in administering historic districts.

That height controls are in such general use elsewhere simply reflects a common sense recognition that no historic district which to begin with substantially retains the harmony of its original scale can be meaningfully preserved if the integrity of such scale is sacrificed. Permeate such a district with a sufficient number of out-of-scale structures and like magic it will vanish as such, leaving behind nothing worthwhile or at best a handful of unrelated, individual landmarks. Of course, such landmarks, if sufficiently worthy, should certainly be preserved. But individual monuments cannot convey the character and atmosphere of the City as it was. This can only be achieved through an historic district, a dense

grouping of homogeneous structures which retain in high degree the integrity of their original architecture.

Within New York City, the historic district concept is uniquely exemplified by Brooklyn Heights. By far, it is the finest remaining microcosm of our City as it was more than 100 years ago. Saved by the East River from the development experienced by similar areas in downtown Manhattan, and left behind as Brooklyn expanded out into its open areas, Brooklyn Heights remains remarkably free of out-of-scale structures and non-residential uses, and, block after block, looks today much as it did at the outset of the Civil War. There worked some of America's finest architects, men like Minard La Fever and Richard Upjohn, who left behind a quantity of elegant dwellings and public buildings which still testify to the skill, imagination and drive of an era that changed our City from a concentration of structures south of Chambers Street to a world center of commerce and industry.

Clustered around early churches at the river's edge remain the original, narrow, tree-lined streets with their blue-stone sidewalks and rows of stately frame, brick and brownstone houses

representing in finest flower each of the principal architectural styles of the 19th Century. Of the 1230 buildings within the proposed Limited Height District, at least 663 were built before the Civil War and at least 1042 before the turn of the Century. There are 56 Federal, 398 Greek Revival, 44 Gothic Revival, and 196 Anglo-Italianate buildings as well as 201 buildings in eclectic and miscellaneous styles, not to mention 61 early carriage-houses grouped largely along unspoiled mews. In addition, 180 buildings the original styles of which are as yet unknown or which were originally without recognized style are of generally conforming scale.

Only 91 buildings, representing less than 7% of all structures within the proposed district, exceed five stories in height and only 40, or 3%, exceed six stories. Of these 40, just 4 are higher than 12 stories.

Clearly, therefore, the houses of three and four stories above a basement overwhelmingly predominate, and from the totality of these interesting old buildings, arrayed on irregular streets, with unexpected vistas, emanates an appearance, and, even more, a spirit and character of old New York

which no single part thereof, and certainly no individual landmark, could possibly provide.

The tangible impact of Brooklyn Heights' special character is amply demonstrated by the remarkable renaissance experienced by the area over the past twelve years. For a number of years up to about 1955, Brooklyn Heights had been slipping downhill. Property values, particularly along streets on the periphery, were falling and several blocks could only be characterized as slums. Then young couples, attracted by the character of the area and the opportunity for civilized living so close to their jobs in downtown Manhattan, commenced the purchase and restoration of run-down rooming houses. They were joined by friends, and their friend's friends. And the rest is history. Today the established reputation of Brooklyn Heights as an historic area and National Landmark continues to attract buyers for century-old residences at ever-increasing prices, currently ranging from approximately \$70,000 to \$150,000, and up.

The Association is of the view that designation of Brooklyn Heights as a fifty foot Limited Height District, by aiding the preservation of its special character and hence its long-

term desirability as a place to live, will serve to protect and enhance present property values.

On the other hand, we are convinced that absent such designation the great cultural asset New York City has in Brooklyn Heights cannot withstand the test of years. The Landmarks Commission can do its job perfectly and yet, because it is not permitted to consider matters of height, fail to prevent the destructive impact of inharmonious construction. The danger is from two directions:

- (1) the addition of further floors to existing structures; and
- (2) brand new construction.

Of course, the addition of a floor to an existing structure clearly involves the alteration of an exterior architectural feature within the meaning of the Preservation Law. Indeed, no exterior alteration can have graver consequences for the original nineteenth century appearance of a row of houses than the sudden sprouting of an incongruous addition above a generally uniform cornice line. Nonetheless, because this type of alteration involves a matter of height controlled by the Zoning Resolution, the jurisdiction of the Landmarks Commission to prevent it is highly questionable. Since it would

be impossible in the case of many houses on Brooklyn Heights to add another story without exceeding a height of fifty feet, the proposed Limited Height District would go a long way toward obviating the danger from this quarter.

But obviously the primary danger is brand new construction. As you know, the Preservation Law does not give the Landmarks Commission power to prohibit demolition under all circumstances. Furthermore, over the years, a certain number of structures are bound to be destroyed by fire and other natural catastrophe. Accordingly, apart from building sites already available, it is not only possible but probable that open space suitable for new construction will become available within Brooklyn Heights. Since the Preservation Law does not give the Landmarks Commission power to control the height of new construction, it would be possible, for example, to erect a very tall structure right in the middle of one of our City's most elegant rows of Greek Revival town houses.

Unfortunately, the threat of such a disaster is not hypothetical; it has proven real and immediate. Last spring, months after the designation of Brooklyn Heights as an historic district,

the Association learned of well advanced plans to erect a 12-story building on a full half block in one of the best preserved sections of Brooklyn Heights. After a number of meetings with Association representatives the owner was persuaded to restrict his construction to a site 50' by 100'. But we were then startled to discover that, even so, it would be possible under R-6 zoning to erect a so-called community facility as high as ten stories.

In this particular case, the owner has displayed forbearance, and it may be that we will escape a real catastrophe. But obviously it is impractical to count on forbearance. And, in fact, we have been informed of a second threat with equally serious implications. Thus, even now we are faced with a substantial danger to the integrity of Brooklyn Heights notwithstanding its dual designation as a National Landmark by the Federal Government and as an historic district by our own Landmarks Commission. The plain fact is that only its further designation as an LH-1 Limited Height District can arrest the piecemeal decimation of Brooklyn Heights by new construction of non-conforming scale.

On the question of boundaries, while we

would prefer the Limited Height District to coincide precisely with the historic district, we are in substantial agreement with the proposal of the Commission. We especially applaud the inclusion of Montague Street and the north side of Atlantic Avenue.

Although devoted to local shopping, Montague Street is presently characterized by structures in keeping with the scale and, for the most part, the age of the surrounding neighborhood. Indeed, along its entire length within the proposed district there are only nine buildings which exceed five stories. Montague Street is the central axis of Brooklyn Heights. Its high-rise development would certainly create a divisive barrier no less devastating than that which was almost inflicted by the original, pre-Promenade proposal that the Brooklyn-Queens Expressway bisect the Heights. But happily this oppressive prospect, otherwise a distinct possibility with disastrous implications for the historic district, would be precluded by the proposed LH-1 designation.

We feel that inclusion of the north side of Atlantic Avenue within the Limited Height District is similarly important. This broad thoroughfare

forms the natural and historical southern boundary of Brooklyn Heights, and most of the structures along its north side are integral with those elsewhere in the historic district with respect to scale, style and age. While some of these structures are not for the moment in the best of condition, there has been much improvement of late, and there is every reason to expect that in time this row will enjoy the same renaissance as has been experienced immediately to the north. Moreover, should further reason be required to bar high-rise development along the north side of Atlantic Avenue, it may readily be found in the disastrous consequences such development would clearly have for the splendid rows of Greek Revival houses on the south side of State Street. Hence, we heartily approve the Commission's proposal to include this area within the Limited Height District.

The Association, however, does wish to recommend one amendment of the proposed boundary. We consider that the frontage along Clinton Street between Montague and Pierrepont Streets, occupied by Minard Lafever's Church of the Holy Trinity and George B. Post's Long Island Historical Society building, is a crucial and inexplicable omission

which should be rectified. While for some reason this area has been zoned commercial it has not in fact ever been commercial except for a couple of shops on the ground floor of the Historical Society, and hence its zoning status should present no significant obstacle to inclusion within the Limited Height District.

One final point. The Brooklyn Heights historic district is unique. It's a one-of-a-kind. No other area in the City, however worthy, approaches its qualifications. Hence, there should be no concern on anyone's part that designation of Brooklyn Heights as a Limited Height District would serve as an automatic precedent for similar designations elsewhere. On the other hand, the Limited Height District amendment to the Zoning Resolution was conceived and promulgated with particular reference to Brooklyn Heights, and so, if it is ever to be applicable anywhere, Brooklyn Heights should be the place.

Accordingly, the Association urges your immediate designation of Brooklyn Heights as an LH-1 Limited Height District.

CALENDAR
of the
Board of Estimate
of The City of New York

THURSDAY, AUGUST 24, 1967

MEETING at 10:30 A.M.

in the
City Hall

(No. 3)

Prepared under the direction of Ruth W. Whaley, Secretary,
Board of Estimate, by Bernard J. Ghee, Calendar Clerk.

The proposed hospital complex would be located to serve a primary service area of Canarsie, Flatlands and Sheepshead Bay and would also serve a secondary service area of East New York, Bensonhurst, Midwood, Gravesend, Coney Island and Ozone Park. Existing hospitals within these areas will not be adequate to meet the anticipated medical, surgical, obstetrical and emergency service requirements of the expanding population of these areas. The existing R5 District would permit the construction of a hospital only barely sufficient to cover the present needs of the community. It would be shortsighted, in the case of such a major investment, not to allow for the necessary future expansion. This can be accomplished only if the proposed rezoning is approved. In addition, the proposed zoning would permit a more appropriate alignment of the initial phase of the main building to provide a more open view of Paerdegat Basin. It should be noted that the change in zoning would not affect the proposed height of the hospital.

The area proposed to be rezoned from R5 to R6 is limited to the specific site to be occupied by the hospital. The Commission has no plans to expand the scope of the rezoning to increase the permissible residential bulk in the surrounding areas.

It was determined that the amendment under consideration would provide appropriate zoning for the area involved and it was adopted, together with a resolution, which was filed with the Secretary of the Board of Estimate, in accordance with the provisions of Section 200 of the New York Charter, on August 17, 1967.

The Board of Estimate may approve, disapprove or modify the recommendation of the City Planning Commission within 60 days from the date of the filing of such recommendation with the Board which period will expire on October 16, 1967.

For consideration.

No. 236

R-4733

IN THE MATTER of a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section Nos. 12d and 16c, establishing an LH-1 District within the area bounded by Atlantic Avenue, Brooklyn-Queens Connecting Highway, Poplar Street, Hicks Street, Middagh Street, Henry Street, Clark Street, Monroe Place, a line 100 feet south of Clark Street, a line 100 feet west of Clinton Street, Aitken Place and Livingston Street, and a line 100 feet west of Court Street, Borough of Brooklyn, as shown on a diagram bearing the signature of the Secretary of the City Planning Commission and dated May 24, 1967.

REPORT of the City Planning Commission (CP-19829, dated August 16, 1967), stating that the action was initiated on the request of the Brooklyn Heights Association. The area involved comprises most of an area which was designated as an "historic district" by the Landmarks Preservation Commission on November 23, 1965 and which was approved by the Board of Estimate on February 10, 1966 (Cal. No. 22).

The proposed amendment was the subject of a public hearing duly held by the Commission on June 7, 1967 (Cal. No. 32) at which a representative of the Brooklyn

Heights Association, several property owners, and a local legislator appeared in favor of the proposal. Several representatives of the Watchtower Bible and Tract Society, the owners of a plot within the block bounded by Columbia Heights, Pineapple Street, Willow Street and Clark Street, requested that they be permitted to proceed with the construction of a previously planned building which would not comply with the 50-foot height limitation of the proposed LH-1 District.

The Commission is in receipt of communications from a number of residents of the Brooklyn Heights area expressing their support.

The Landmarks Preservation Commission, in designating the Brooklyn Heights area as an "historic district", recognized that its history and the general excellence and homogeneity of its buildings warranted keeping the character of the area substantially as it is. This decision has not only been confirmed by the Board of Estimate but the national importance of Brooklyn Heights was recognized by the Federal Government in January 1965 when it was designated a National Historic Landmark.

While the Landmarks Preservation Commission is empowered to prevent, within statutory limits, the demolition or inappropriate exterior alteration of existing structures within a "historic district", it is quite specifically barred from controlling the height or bulk of new buildings which might be built on parcels which are presently empty or which might, in the future, become available for redevelopment. Yet an important characteristic of Brooklyn Heights is the generally uniform height of buildings—typically three and a half or four stories—and it is essential that this generally uniform height be maintained if the character of the district is to be preserved.

The proposed establishment of an LH-1 District within most of this "historic district" would limit the height of buildings to a maximum of 50 feet above curb level. It is recognized that there are many existing buildings within the proposed boundaries that presently exceed this limit. The 50-foot height is, however, characteristic of the majority and of the best of the area—the fine individual buildings and, more especially, the many continuous rows of buildings which it is the Nation's hope and the City's expressed intention to see preserved. Existing intrusions will, of course, be unaffected by the proposal; constructed before the zoning change they can remain as a matter of right. The LH-1 designation will, however, prevent their replacement by new structures higher than 50 feet. Thus, the proposal will not only prevent the further spread of intrusive structures in a designated "historic district" but may act, over the years, effectively to reduce their number and so bring about throughout the entire district, the harmony and homogeneity that are now characteristic of its best parts.

It was determined that the amendment under consideration would provide appropriate zoning for the area involved and it was adopted, together with a resolution, which was filed with the Secretary of the Board of Estimate, in accordance with the provisions of Section 200 of the New York City Charter, on August 17, 1967.

The Board of Estimate may approve, disapprove or modify the recommendation of the City Planning Commission within 60 days from the date of the filing of such recommendation with the Board which period will expire on October 16, 1967.

For consideration.