

# **AFTER THE KIMMEL CENTER: HOW CAN WE BETTER PLAN TO PROTECT OUR NEIGHBORHOODS, PARKS, AND VIEW CORRIDORS?**



The NYU Kimmel Center on Washington Square South as seen down Fifth Avenue, which now blocks the vista through the Washington Square Arch

## **A Report on Community Facilities, Zoning and Planning Reform**

Issued by the Greenwich Village Society  
for Historic Preservation



## Introduction

***This report grew out of a panel discussion and forum*** held by the Greenwich Village Society for Historic Preservation on April 30, 2002, called “After the Kimmel Center: How Can We Plan to Protect Our Neighborhoods, Parks, and View Corridors?” The spark for the event was the capping out of New York University’s new Kimmel Student Center on Washington Square South. GVSHP and a host of local and citywide groups had opposed the plans for this building three years earlier, when NYU first announced its plans to tear down the Loeb Student, and replace it with this new, larger building. It was clear that the new building would be too big, towering over Washington Square Park and the nearby South Village, which consists nearly exclusively of buildings of no more than 5 or 6 stories. It was also clear that the new building would cast a long shadow from the south side of the park, limiting the park’s sunlight and connection to the surrounding neighborhood.

***Unfortunately, when the building reached its full height and bulk***, it became clear that Kimmel would have an even greater and unforeseen impact: the view down Fifth Avenue through Washington Square Arch, for years one of New York’s great vistas, had been nearly obliterated. One used to be able to look down the Avenue through the arch and see downtown skyscrapers; now that is virtually impossible. In fact, from just a short distance to the north the Arch appears to be dwarfed and seemingly engulfed by the building; where arch and sky were previously dramatically framed by Lower Fifth Avenue, this view now looks more like a blind alley.

***In spite of all of this***, however, the proposed building, with the community facility bonus which nearly doubles the allowable floor area ratio, was considered “as of right” under existing law. Many assumed that given the wealth of historic resources in close proximity to the proposed building (which is in fact across the street from the Greenwich Village Historic District, across the street from Washington Square Park, and less than half a block from the landmarked Judson Memorial Church) there would be some greater degree of regulation or control over such a large project. There was not.

***The intent of the panel discussion and forum*** on April 30 (much like that of this report) was not to wring our hands about a building nearing completion and here to stay, but to say “what is wrong with the system which does not take into account these precious resources, and how can we change it?” The issues raised by the Kimmel Center are not unique to this location, and come up all over town in a variety of forms. Community Facility bonuses often allow extremely generous increases in the size of new buildings, regardless of how much of the project actually is a “community facility,” or whether or not it does indeed benefit the community. Views, sightlines, and impacts on parks are rarely accounted for in zoning. Zoning often allows buildings of substantially greater height (sometimes with no height restrictions whatsoever) than what surrounds them, even in residential districts with a consistent built environment. And new as-of-right projects in historic areas of the city receive no design review unless they are in landmark districts; thus areas like the South Village and many others with undeniable cultural and historic significance have no design review for new projects, even when they directly abut a

designated historic district or landmark.

***After a summer of study and exploration of the issues*** raised by this building and in the panel discussion and forum, in the fall of 2002 GVSHp issued the following report to give some tangible voice to concerns raised about this building, and hopefully synthesize them into a useful outline of problems and possible solutions. The report is by no means comprehensive, but is meant to summarize the needs which currently go unmet by our zoning and land use system as illustrated by this building, and offers recommendations for ways in which changes could be made. The Cooper Union Large Scale Development Plan, which followed the Kimmel Center's construction in 2002, raised some similar and some new issues, which also inspired some of the focus of the report. The issues raised by the report, its analysis, and its recommendations, however, are by no means purely specific to Greenwich Village or the East Village. They apply to situations which arise all over New York, and which require a citywide solution.

***This report is meant to hopefully offer some guidance*** to elected and appointed officials and community leaders seeking to address some of these problems. Its issuance in the Fall of 2002 is especially timely, as a new City Council and a new City Planning Commission appear poised to re-examine community facility issues in our zoning code, as well as possibly exploring other issues such as design controls and building bulk. Potential restructuring of the Landmarks Preservation Commission, and attempts by local community boards to look at zoning issues in their communities and consider rezoning or utilization of new zoning tools, also makes it important that these issues be heard and considered.

***This report will be distributed*** to the Mayor, the Borough Presidents, Members of the City Planning Commission, the City Council, other elected officials, the Landmarks Preservation Commission, local community boards, and neighborhood, planning and preservation organizations. It is GVSHp's hope to work with all of them to improve our current zoning system. We hope to prevent future Kimmel Centers from being built while allowing our City to continue to grow and meet its citizen's needs. Most importantly, we hope to improve the built environment of our neighborhoods and communities by facilitating the preservation of the best of what is there, and ensuring that future development takes place in a fair and rational system which contributes to, rather than detracts from, the health and character of our neighborhoods.

## **I The Need: Reform of the Community Facility Zoning Allowance**

**The Problem:** The current additional zoning allowance for community facilities is much too generous, and is applied illogically and inconsistently to different zoning districts. While offering an additional zoning allowance for some types of community facilities in some zoning districts may make sense, under the current system huge increases in allowable size for community facilities are permitted in many residential districts, even when the purported “community facility” is only a fraction of the new building. In general, the “community benefit” derived from many community facilities, which come at the cost of buildings of vastly increased allowable size, is questionable at best.

### **Recommendations:**

*The system should be re-examined. Community Facility Allowances should be rationalized and restricted in their applicability to ensure that community facilities do not overwhelm neighborhoods by virtue of their size or scale. Particular attention should be paid toward ensuring that in certain districts, such as R6 and R7 districts, overly generous bonuses that encourage undue concentration of facilities, especially very large ones which are out of scale with their surroundings are not allowed. Allowances should not be more generous than are actually necessary for the needs of the community. Also, inclusion of community facilities as a fraction of a building should not create a vastly increased zoning allowance for an entire building. Specifically:*

♦ The allowable floor area ratio (FAR) for community facilities in R6 and R7 zones (which covers much of the Village and many other older, densely built, low-rise residential areas) is nearly double that for all other types of new buildings in these areas, and significantly greater than the percentage increase for a community facility allowance than in virtually any other residential district (see chart 1). This allowance is far too great. By contrast, in many other districts which are commercially zoned, the allowable FAR for community facilities is almost the same as for all other new buildings, which, given these areas’ greater ability to absorb large buildings, does not make much sense (see chart 2). *The allowable FAR for community facilities in R6 and R7 and similar residential districts should be lowered significantly, closer to the level allowed for other structures in these districts; or*

♦ *Developing a system to make the community facility zoning allowance discretionary, especially for residential areas and/or when the allowable increase in FAR is significant (such as in R6 and R7 zones), should be considered; or*

♦ *Developing a system to cap the number of community facility allowances in each community board should be considered.* Some areas of New York City, such as Community Boards 2 & 3, Manhattan, have a very high concentration of buildings built larger than normally allowed because of the community facility zoning allowance, and under the current system they are likely to become home to several more. Developing a cap would seem consistent with the intention of the original provision, to allow the

development of community facilities throughout the city so that all communities might be served by needed facilities, and not to allow any one area to be consistently developed at this increased size and density.

◆ Currently, a relatively small portion of a building can actually be built for a community facility, and yet the allowable zoning square footage of the entire building is increased.

***Allowance of a building of significantly increased size when only a relatively small portion of the building is in fact a community facility should be discontinued.*** For example, in an R7-2 district, in which residential buildings have a maximum FAR of 3.44, a building can have a community facility with an FAR of just 3.06 and still achieve a total FAR of 6.5 for the building, the maximum allowable FAR for a building in an R7-2 district which includes a community facility.

## II The Need: **Comprehensive Master Planning from Institutions**

**The Problem:** Some communities, such as Greenwich Village and the East Village, suffer for the lack of long-term, publicly reviewed planning for the large-scale, ongoing construction by the institutions which are located there (see figures).

### **Recommendations:**

◆ In zoning districts where community facility allowances permit substantially larger buildings, ***master plans should be required of institutions in order for them to receive more than one community facility allowance. These master plans should be subject to public review, evaluation of their cumulative impact, and discretionary approval, in order to receive the community facility zoning allowance.*** If an institution seeks the maximum (or a substantial) community facility zoning allowance, it should automatically trigger a requirement for generation of a master plan, the entirety of which would be subject to analysis, review and approval. Future projects by the institution should have to conform to the approved plan or be subject to a new analysis, review, and approval. Cities such as Seattle already require such institutional master plans.

◆ ***When issues of saturation of communities by community facilities arise, master planning should be linked to assistance by the City in identifying and establishing locations for auxiliary or secondary campuses for institutions.*** An institution's need to find space for new facilities should be accommodated, and institutions do naturally gravitate toward a concentrated, campus-type arrangement for their facilities. Institutions are understandably disinclined to build new facilities which stand alone and isolated from their other facilities, but might be more favorably inclined to building clusters of buildings in a new location where they can add future facilities in close proximity to each other, and which can easily be linked to their primary campuses by mass transit.

Rather than simply giving institutions a blank check to overbuild in a few communities, the City should, as part of any required Master Plan, assist institutions in finding locations to begin secondary campuses. This can and should be done as part of the City's economic development infrastructure, through the Economic Development Corporation, or perhaps through a new agency specifically focusing on this need.

*Institutions, when not overly concentrated in one area, can provide a source of stability and economic stimulus to communities.*

### III The Need: **Controlling Development on Park Perimeters and Preventing Park Shadowing**

**The Problem:** City zoning currently does not in any way take into account the impact of buildings on parks in terms of shadowing. In fact, allowable zoning bulk is often increased by virtue of proximity to parks. In a city with the lowest ratio of parks space per capita of any city in America (and especially in community districts such as Greenwich Village and the East Village where the ratios are even lower), parks must be protected from inappropriate perimeter development which diminishes their ability to provide green space and refuge (see figure 1) .

#### **Recommendations:**

♦ *Zoning should be created for the area around neighborhood parks (such as Washington Square Park) which protects the sunlight exposure plane.* The 1991 study by the Parks Council "Preserving Sunlight in New York City Parks: A Zoning Proposal," along with regulations that have been implemented in San Francisco and Philadelphia, can be looked to as models for how this could be achieved.

### IV The Need: **Modification of Zoning Bulk, Height, and Massing Requirements to Encourage Compatibility Between New Development and the Existing Built Environment**

**The Problem:** Currently the zoning in too much of Greenwich Village and the East Village (and other similar neighborhoods) allows the construction of buildings whose height or size is too great for their surroundings. *Because our zoning is largely based on floor area ratio (FAR) rather than actual bulk, height, or massing, new buildings may be incompatible with their surroundings even when, by zoning measurements, they are deemed to be similar to their context* (see figures).

#### **Recommendations:**

♦ *The zoning in neighborhoods like Greenwich Village should prescribe height limits and massing and setback requirements based on their built context, in addition to the current system of setting a maximum FAR.* While some potential means of achieving this currently exist in New York's zoning code (such as contextual zoning), and others have been contemplated (such as the unified bulk zoning), some provisions of these measures may not be appropriate for our neighborhoods (in the current system of 'contextual zoning,' the "quality housing provision," and the inclusion of exceptional tall existing buildings as the 'context' upon which allowable new buildings are based have been pointed to by some as examples of this). *A broader range of zoning tools, including intermediate zoning classes and contextual zoning which can be more closely tailored to the needs of the community, should be offered.*

♦ *At the very least, FAR allowances should be coupled with absolute height caps, especially on structures built under the existing community use facility allowances.* In many areas of Greenwich Village and similar neighborhoods, the community facility zoning allowance permits structures to be built with nearly twice the FAR permitted for privately developed buildings. Combined with the fact that community facilities often have much greater floor heights, *community facilities in these areas may be almost three times the height and size of any other new structure permitted* (see figures).

## V The Need: **Ensuring Appropriate Zoning of Areas Surrounding Historic Districts and Individual Landmarks**

**The Problem:** Development surrounding landmarks and historic districts is not regulated in any way to take into account its impact upon, or compatibility with, their historic surroundings or neighbors (see figures). Thus a building like the Kimmel Center is built to extreme bulk, regardless of its location across the street from an historic district, directly behind the Washington Square Arch monument, and half a block from one of New York's most venerable landmarks, Judson Memorial Church (designed by Stanford White).

### **Recommendations:**

♦ *Zoning surrounding currently designated landmarks and historic districts should be reviewed to ensure that development take place in a manner compatible with them, as has been examined and suggested for many years by groups such as the Historic Districts Council and the Municipal Art Society.* Whenever possible, allowable uses and building height and size in surrounding areas should be made compatible with and similar to those of the nearby designated districts and sites. Sightlines toward significant features of landmarks and districts should also be preserved, and sightlines of new structures from designated districts should be avoided (i.e. *new buildings on the edges of districts should not be built in such a way as to "loom over" a historic district*). For

example, the area surrounding the Gramercy Park Historic District was rezoned to be more compatible with the buildings of the historic district, although only many years after designation.

♦ *Zoning around new individual and district landmark designations should be automatically studied following designation, with an eye toward creating an appropriately sized “buffer zone.”* The processes of designating an historic district and examining rezoning its surroundings should go hand in hand, or at least be linked.

## VI The Need: **Protection of Significant View Corridors**

**The Problem:** With a few exceptions, there are no provisions in the New York City zoning code to preserve significant view corridors. As a result, the Kimmel Center has blocked the vista down Fifth Avenue through Washington Square Arch, one of New York’s iconic views for over a century (see cover figure and figures 2 and 3).

### **Recommendations:**

*While the combined effect of the nearly complete Kimmel Center and the new NYU Law School under construction (one block to the west) will be the permanent destruction of the Fifth Avenue/Washington Square Arch view corridor, other surviving view corridors should be preserved through zoning regulations.*

♦ *Significant views and view corridors should be identified and zoning developed to ensure their preservation.* The city’s waterfront zoning, and zoning for Brooklyn Heights and special natural districts in Riverdale and Staten Island include provisions for the preservation of view corridors; these and other tools should be employed to preserve iconic or otherwise exceptional and highly valued views and view corridors in New York City.

## VII The Need: **Ensuring Landmark Designation Protections Are Afforded to Worthy Areas**

**The Problem:** Because of a lack of funding to the New York City Landmarks Preservation Commission (LPC), the LPC no longer has a survey staff and has less than half the research staff it had ten years ago. The LPC actually has a smaller budget now than it did ten years ago and a 21% smaller staff to regulate 20% more buildings and process 63% more applications. As a result, *the waiting time for review of a proposed landmark designation can be great, and only a limited number of district designations may be reviewed in any given year, pitting communities seeking landmark designation against*



*each other and creating a zero-sum game for our neighborhoods.* The responsibility for the research on districts required for consideration of designation too often falls on the shoulders of communities and advocates, further increasing waiting time. Areas proposed for landmarking with widespread support, such as several in Greenwich Village, can wait for years for even formal consideration of designation.

#### **Recommendations:**

♦ *The LPC should be given adequate resources to ensure that areas worthy of preservation, such as the South Village (where the Kimmel Center is located) are researched and reviewed in a timely fashion, and, if appropriate, afforded landmark protections.* Had this area of the South Village been designated an historic district, as many assumed it was, this building would undoubtedly not have been allowed to be built in its present form.

### **VIII The Need: Effective Tools to Promote the Preservation of Older and Compatibly Sized Buildings in Areas Not Designated Historic Districts, and to Encourage Compatible Character and High Quality Design Standards in New Buildings Throughout the City.**

**The Problem:** Currently, unless a site is designated by the Landmarks Preservation Commission, *there is virtually no public incentive to encourage retention of older buildings or buildings which fit the built context of their surroundings, or to encourage high quality designs in new buildings.* The City has often stated that “not everything can and should be landmarked,” and has discouraged the seeking of landmark status solely for the purpose of preventing the loss of existing character, compatibility, or scale in a neighborhood. However, few other options exist to achieve this goal. There is a lack of city incentives to encourage the retention, maintenance, or adaptive reuse of non-landmarked buildings. And beyond contextual zoning’s prescriptions on bulk and massing (previously discussed), special district provisions are among the only tools offered by the City to try to ensure appropriate and compatible design of new buildings or re-use of older ones. However, special district provisions have come to be laxly enforced (if at all, in some cases), offer a limited range of tools to address design issues, and appear to be out of favor by the City as a planning tool, with no new districts enacted in many years. If landmark protection is not to be considered a panacea for all efforts to retain scale, history, and compatibility of the built environment in our neighborhoods, then other options must be offered.

#### **Recommendations:**

◆ ***Other potential tools such as tax incentives for the retention and upkeep of older buildings, including those not necessarily landmarked, should be examined.*** Such tools might help retain the character of some buildings and areas that, while perhaps not appropriate for landmarking, nevertheless offer compelling reasons in terms of neighborhood scale and built environment, for their retention.

◆ ***Utilization of the concept of “conservation zones,” such as those utilized by cities throughout the country, should be considered for appropriate areas of New York City.*** Conservation zones generally regulate development more loosely than historic districts; for instance, they may prohibit some demolitions without a review, and require new development to fit certain basic building forms already prevalent in the district, prescribing size, scale, massing, and building footprint. Conservation zones have been proven an effective means of retaining neighborhood character and encouraging the retention of older and compatibly scaled structures in neighborhoods in cities across the country. It must be clear, however, that any regulatory structure such as this should not be considered a substitute for the landmarking of appropriate sites and areas of the city. Any site or district that meets the criteria of landmarks law must continue to qualify for designation and landmarks protection. Conservation zones or any other similar tools should only be considered as an additional incentive for the retention of buildings that do not qualify for landmark or historic district designation.

◆ ***If the City is no longer interested in enacting new special districts, other tools should be created with the ability to regulate development in areas of the city with special needs that cannot be addressed by the terms of conventional zoning districts.*** The City should offer a wider range of regulatory features or design guidelines for areas of the city deemed to have a special quality, feature or character worth preserving. Existing special district provisions, however, should be uniformly and reliably enforced, in order to provide the protections they were intended to offer for the preservation of key urban characteristics in certain areas of the city.

◆ While the reasons for this are complex, ***the level of design quality for much of New York’s new construction leaves much room for improvement.*** The experiences of other cities should be examined to try to identify ways in which better design quality can be promoted. ***New building designs that contribute to a neighborhood and the city not just by virtue of size or shape but also materials, façade treatment, and relation to their context, should be encouraged, and it should be a priority of government to find ways to promote and facilitate this.***

# Addendum

### Chart 1

ZONING CATEGORY	MAXIMUM FLOOR AREA RATIO	COMMUNITY FACILITY FLOOR AREA RATIO	PERCENTAGE INCREASE FOR COMMUNITY FACILITY ALLOWANCE (if FAR > 2)
R1	.5	1	-
R2	.5	1	-
R3	.5	1	-
R4	.75	2	-
R5	1.25	2	-
R6	2.43	4.8	97.53%
R7	3.44	4.8	39.53%
R7-2	3.44	6.5	88.93%
R8	6.02	6.5	16.69%
R9	7.52	10	32.98%
R10	10.0	10.0	0%

*The highest percentage increases in FAR for community facilities in residential districts can be found in R6 and R7 zones, reaching almost double the normally allowable FAR.*

## Chart 2

ZONING CATEGORY	MAXIMUM FLOOR AREA RATIO	COMMUNITY FACILITY FLOOR AREA RATIO	PERCENTAGE INCREASE FOR COMMUNITY FACILITY ALLOWANCE (if FAR more than 2)
C1-6	2	6.5	225%
C1-7	2	6.5	225%
C1-8	2	10	400%
C1-9	2	10	400%
C2-6	2	6.5	225%
C2-7, C2-8	2	10	400%
C3	.5	1	-
C4-1	1	2	-
C4-2, C4-2F, C4-3	3.4	4.8	41.18%
C4-4, C4-5	3.4	6.5	90%
C4-6	3.4	10	194.12%
C4-7	10	10	0%
C5-1	4	10	150%
C5-2	10	10	0%
C5-2A, C5-2.5,	12	12	0%
C5-3	15	15	0%
C5-4	10	10	0%
C5-5	15	15	0%
C5-P	8	8	0%
C6-1, C6-1A	6	6.5	8.33%
C6-1G	6	6	0%
C6-2, C6-2G, C6-2G	6	6.5	8.33%
C6-4	10	10	0%
C6-4.5	12	12	0%
C6-4M	10	10	0%
C6-5	10	10	0%
C6-5.5	12	12	0%
C6-6	15	15	0%
C6-6.5	12	12	0%
C6-7	15	15	0%
C6-7T	14	14	0%
C6-8	10	10	0%
C6-9	10	15	50%
C8-1	1	2.4	140%
C8-2	2	4.8	140%
C8-3	2	6.5	225%
C8-4	5	6.5	30%

*Many of the more common Commercial districts, by contrast, allow much smaller increases in FAR for community facilities, or none at all.*

## Figure 1

The Kimmel Center, as pictured below, on the south side of Washington Square Park. The new building will cast a long shadow across much of the park.





## Figures 2 and 3



NYU Kimmel Center blocking off view down Fifth Avenue through Washington Square Arch.



Figure 4

**Community facilities with sheer walls  
looming over 2 to 4 story neighbors.**  
All too frequently, current zoning does not prescribe  
height limits, setbacks, or massing requirements,  
regardless of the consistency of the built  
environment around it.





Figure 5

**14-story community facility in the midst of a nearly  
unbroken line of 2 to 4 story, 19<sup>th</sup> and early 20<sup>th</sup>  
century buildings.**

**Unless a site is in a designated historic district, there  
are rarely any guidelines to promote new  
construction which takes into account  
the character of its surroundings.**



**Figure 6**

**NYU dormitory on  
3<sup>rd</sup> Avenue, with  
neighboring  
3-story 19<sup>th</sup> century  
structures.**

*This building is within four blocks of at least 5  
similarly out-of-scale community facilities built  
within the last 15 years, with at least two more  
currently planned.*

*Requiring Master Plans of institutions would  
help prevent this kind of disproportionate  
concentration which can overwhelm and destroy  
the scale of vital neighborhoods.*



**NYU Dormitory  
on 3<sup>rd</sup> Avenue  
St. Mark's Historic  
District behind and  
right, with spire  
of St. Mark's Church  
(1799) visible.**

## Figure 7

**20-story dormitory community facility abutting  
St. Mark's Historic District -- to the left and behind  
(the district consists largely of 4 and 5 story houses,  
among the oldest in New York).**

**Under current zoning, proximity to Historic Districts  
does not affect size or scale of allowable new development,  
and perimeter areas are rarely rezoned  
to ensure compatibility with neighboring historic districts.**



## **Participants in April 30, 2002 “After the Kimmel Center” Panel Discussion**

Frank E. Sanchis – Frank is the Executive Director of the Municipal Art Society, a private, non-profit membership organization that champions excellence in urban design and planning. He is the former Vice-President for Stewardship of Historic Sites at the National Trust for Historic Preservation, and former Executive Director of the Landmarks Preservation Commission. He is an architect and preservationist by training.

Alex Herrera – Alex is Director of Technical Services at the NY Landmarks Conservancy, a not-for-profit organization that offers technical and financial assistance to owners of landmarked buildings. The Conservancy also takes on educational and advocacy roles in its pursuit of the advancement of historic preservation in the city and state. Alex was also formerly the Director of Preservation at the NYC Landmarks Preservation Commission, a post he held for ten years.

Doris Diether – Doris is currently the Vice-Chair of the Community Board #2 Zoning Committee, has been a Community Board #2 member since 1964, and has been the chair or vice-chair of its zoning committee for over 35 years. Since the 1980's she has been a private zoning consultant and a lecturer on zoning. She was an early member and eventual President of “Save the Village,” a community group working towards downzoning, landmarking, and eviction and demolition prevention in Greenwich Village.

Chris Collins – Chris is the Deputy Director of the City Council's Land Use Division and Counsel to the City Council's Land Use Committee. He also served two terms as Chair of Manhattan's Community Board 8 on the Upper East Side. He is now a resident of Chelsea and serves on the Board of Directors of Friends of the High Line, a non-profit organization dedicated to the adaptive re-use of the elevated rail line on Manhattan's Far West Side.

Alan Gerson – Alan was elected to his first term on the New York City Council in 2001, representing the 1<sup>st</sup> Council district which includes the Washington Square park area as well as parts of the South Village, East Village, and Lower East Side, and Manhattan south of Canal Street. He sits on the Economic Development and Parks and Recreation Committees (among others), and Chairs the Council's Select Committee on Lower Manhattan Redevelopment. A long-time member and former chair of Community Board #2, he is also a life-long resident of the Washington Square area.

Richard Barth – Richard has worked for many years in the New York City Department of City Planning, and is the Director of its Manhattan Planning Office. He has an extensive background in urban planning and land use issues.