

A New Life for Plazas:
Reimagining Privately Owned Public Spaces in New York City

by

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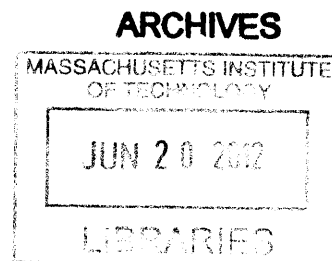
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ABSTRACT

Since 1961 the City of New York has allowed buildings to receive added floor area in exchange for privately owned public spaces. These spaces, typically in the form of small outdoor plazas, are spatially clustered in the densest areas of Manhattan and serve as a valuable public amenity for the residents and employees in these areas. Many of the 500+ spaces built before the last major overhaul of the design regulations in 2007 inhibit public use through poor design and management, and new zoning regulations dictate the design and operational standards that make new and redesigned plazas functional and usable. The recent resurgence of the public realm in New York City has brought attention to the quality of public space design and the activities that can take place in the public and private public spaces of the City. As the rate at which the City constructs new public parks slows and developers continue to provide new and redesigned privately owned public spaces, there exists the potential for new and innovative forms of public space given the variability of the designers. As zoning continues to govern these spaces, the administrative review process is increasingly discretionary and creates many levels of uncertainty for the developer and designer.

This thesis examines the regulations and administrative processes for new and redesigned plazas to recommend a level of regulation that is clear, flexible, and sustainable over time. The thesis also examines the elements of the public space projects of the past decade to recommend additional provisions in the zoning regulations to align the design of privately owned public spaces with the emerging ideals of public space design being demonstrated in parks, plazas, and waterfronts around the world. The recommendations presented explore policies for the appropriate level of design review oversight, for including the most appropriate urban elements prevalent in emerging public space trends, and for encouraging higher quality design in plazas.

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CHAPTER I

INTRODUCTION

Urban open space, whether considered an extension of or refuge from the street, offers a reprieve from the active city. The inventory of public space type continues to grow as cities continue to create unique forms of open space as a public amenity. New York City has seen a great deal of attention on the development and redevelopment of its open and recreation spaces since 2002 under the vision of Mayor Michael Bloomberg. In 2007 Mayor Bloomberg released PlaNYC, the City's long-term sustainability plan, which called for all New Yorkers to live within a 10-minute walk of a park.¹ In response, the City² has undergone a large overhaul of the public realm by reclaiming and revitalizing its 520 miles of waterfront,³ transforming unused street space into public plazas,⁴ preparing high performance landscape guidelines for public parks,⁵ and overhauling the design standards for public plazas.⁶

The quality and quantity of public space can be a valuable asset to a city's residents, particularly in the densest areas of New York City. At nearly 70,000 people per square mile Manhattan is the densest borough in New York City (and among the densest counties

1 City of New York. April 2011. *PlaNYC: A Greener, Greater New York*. New York. Retrieved from http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/planyc_2011_planyc_full_report.pdf, p. 34

2 "City" refers to New York City; "city" refers to cities generally.

3 City of New York. March 2011. *Vision 2020: New York City Comprehensive Waterfront Plan*. New York. Retrieved from <http://www.nyc.gov/html/dcp/pdf/cwp/vision2020_nyc_cwp.pdf>

4 *Pedestrians and Sidewalks: NYC Plaza Program*. 2012. New York City Department of Transportation. Accessed on May 12, 2012. <<http://www.nyc.gov/html/dot/html/sidewalks/publicplaza.shtml>>

5 Design Trust for Public Space and the New York City Department of Parks and Recreation. *High Performance Landscape Guidelines: 21st Century Parks for NYC*. New York. Retrieved from <http://www.designtrust.org/pubs/2011_HPLG.pdf>

6 *Public Plaza 2007 Text Amendment*. 2012. New York City Department of City Planning. Accessed on May 12, 2012. <http://www.nyc.gov/html/dcp/html/pops/pops_2007_ta.shtml>

Borough	Population (2010)	Borough Area (square miles)	Density (people/mi ²)	Open Space (SF)	Open Space Ratio (SF / Person)
Manhattan	1,585,873	22.78	69,606.23	121,236,366.24	1741.7459
Brooklyn	2,504,700	71.44	35,062.19	200,393,249.76	5715.366
Bronx	1,385,108	42.42	32,653.26	307,154,802.24	9406.5586
Queens	2,230,722	109.62	20,349.19	336,951,061.92	16558.451
Staten Island	468,730	57.88	8,098.32	332,402,134.68	41045.814

Table 1.1. Demographic and Public Open Space Data for New York City Data obtained from the New York City Department of Information, Technology & Telecommunications and New York City Department of City Planning

in the U.S.), but the density of open space is much lower than that of any other borough (Table 1.1).

In an effort to create more open space in the dense urban areas of Manhattan and downtown Brooklyn, New York City allows private building owners to provide privately owned public spaces (POPS) in return for the ability to build higher. In return for the receipt of the bonus floor area, the owner “has legally ceded significant rights associated with its private property, including the right to exclude others, and may no longer treat this part of the property as if fully privately owned.”⁷ The allowance of POPS is one of many ways in which cities use “incentive zoning” as a tool to relax zoning restrictions in return for public benefits from a private developer. The use of incentive zoning as a method to obtain more public space can be justified with reference to the theory of public goods: although the spaces are privately provided and managed, a non-market method of supply needs to be used in response to a ‘market failure’ of public open space provision.

The private provision of public space has, in effect, made building owners and developers the “Carnegies” of open space in the Manhattan. Over 3.5 million square feet of outdoor plazas and indoor spaces have been produced since 1961 – nearly one-tenth of Central Park or 30 average city blocks – but many have been made inaccessible or uninviting through poor design and management.⁸ As building owners with poor-quality spaces continue to benefit from the rental income of the additional floors allowed by the bonus plaza, one may argue that the value of added floor area exceeds the value shared by the public using these intentionally-barren and inaccessible spaces. The design and

⁷ Kayden, Jerold. 2005. Using and misusing law to design the public realm, in: E. Ben-Joseph and T. Szold (Eds.), *Regulating Place: Standards and the Shaping of Urban America*, pp. 115-140. New York: Routledge, p. 119

⁸ Kayden, J.S., New York City Department of City Planning, Municipal Art Society of New York. 2000. *Privately Owned Public Space: The New York City Experience*. New York: John Wiley and Sons, p. 43-4

SECTION NUMBER	SECTION	NO. OF PAGES	CHAPTER	ARTICLE
12-10	Definitions	81	Construction of Language and Definitions	General Provisions
81-20	Bulk Regulations	78	Special Midtown District	Special Purpose Districts (VIII)
62-90	Waterfront Access Plans	56	Special Regulations Applying in Waterfront Areas	Special Regulations Applicable to Certain Areas
81-70	Special Regulations for Theater Subdistrict	56	Special Midtown District	Special Purpose Districts (VIII)
23-90	Inclusionary Housing	45	Residential Bulk Regulations in Residence Districts	Residence District Regulations
23-60	Height and Setback Requirements	43	Residential Bulk Regulations in Residence Districts	Residence District Regulations
93-70	Public Access Requirements for Special Sites	40	Special Hudson Yards District	Special Purpose Districts (IX)
93-50	Special Height and Setback Regulations	38	Special Hudson Yards District	Special Purpose Districts (IX)
37-70	Public Plazas	35	Special Urban Design Regulations	Commercial District Regulations
62-30	Special Bulk Regulations	33	Special Regulations Applying in Waterfront Areas	Special Regulations Applicable to Certain Areas
62-60	Design Requirements for Waterfront Public Access	28	Special Regulations Applying in Waterfront Areas	Special Regulations Applicable to Certain Areas

Table 1.2. Zoning Resolution Sections by Page Number

operational standards for these spaces have been updated in 2007 through a new zoning text amendment that requires a higher standard of design and greater monitoring of performance. POPS, given the variability of the designer and developer, have the potential to exhibit a level of design excellence well-beyond that of a typical City park.

These spaces, governed by zoning regulations, will continue to be provided as long as the incentive zoning provision still exists in the New York City Zoning Resolution. The past performance of the spaces since 1961 suggests that private developers will continue to ‘follow the letter of the law’ and provide the minimum level of requirements in return for bonus floor area – whether it is to minimize construction and management costs or to avoid a lengthy review process – and increased regulation through zoning is intended to maximize the public benefit of these privately owned public spaces. As zoning continues

to govern these spaces, this thesis examines the regulations and administrative processes for new and redesigned plazas to recommend a level of regulation that is clear, flexible, and sustainable over time. Furthermore, this thesis expands on the recent resurgence of public space in New York City and recommends additional provisions in the zoning regulations to align the design of POPS with the emerging ideals of public space design being demonstrated in parks, plazas, and waterfronts around the world.

PROBLEM

Although the existing design regulations for privately owned public spaces, when followed correctly, guarantee a minimum level of usability and success, the zoning text is difficult to navigate and among the longest sections of the zoning resolution (Table 1.2). Prior to 2007, many of these spaces have been strategically designed to deter use through the installation of water sprays, spikes, hard surfaces, backless benches, and poor signage.⁹ The expanded zoning regulations address many of the design and management issues of the “pre-2007” plazas by explicitly stating the desired design elements and compliance reporting procedures to increase the usability of new plazas. Amanda Burden, Chairperson of the City Planning Commission, in an interview, noted that:

My objective is to get as many POPS – new POPS – through the process so that we have a legacy. [...] I want to track this meticulously from now to the end of the administration so that I have left a whole plethora of fantastic, enjoyable, inviting – also innovative – public spaces that really green the City.¹⁰

The research performed in this thesis shows that in the past ten years cities around the world have been providing innovative, exciting, dynamic spaces that are nothing short of spectacles. They are destination spaces that incorporate elements of lighting, color, water, landscapes, digital media, artwork, and product design. New forms of public space in New York City – such as the High Line, East River Waterfront Esplanade, Brooklyn Bridge Park, and Times Square – reflect many of the themes of public space design being employed in cities around the world. These projects are public or semi-public projects that have had minimal regulation on their designs and have been positioned in high-value areas that allow them to become a destination and a spectacle. This thesis argues that POPS, in contrast, are so tightly-regulated that they are “decorated sheds” – that all plazas are given the same components and must arrange them given the space’s physical constraints. At a time when product differentiation can make a building more attractive to

9 Kayden et al., 2000, p. 52-3

10 Burden, Amanda. Interview. 2 August 2011.

AREAS WITHIN 1/4-MILE OF OPEN SPACE

Public Parks and Plazas, Waterfront Parks, and Privately Owned Public Spaces

- Areas within 1/4 mile of park, plaza, waterfront park
- Remaining areas within 1/4 mile of POPS
- Areas not within 1/4 of park or POPS
- Privately Owned Public Space
- Water



Source: New York City Department of City Planning;
New York City Department of Parks and Recreation;
MIT Geodata Repository

Figure 1.1. Areas within 1/4 mile of City park and POPS. Green areas are considered part of met open space needs of City residents as of 2012. Purple areas are those “gaps” filled through access to POPS, but not identified by PlaNYC.

a tenant than another, the existing zoning makes it difficult to incorporate the emerging themes of public space design while also meeting the regulations.

According to the 2012 PlaNYC progress report, the borough of Manhattan is continually progressing towards its goal of providing access to public space to all New Yorkers within a 10-minute walk from their home.¹¹ POPS, however, are not included in the inventory of public space, but address a substantial gap in open space provision in midtown Manhattan (Figure 1.1). Although POPS may serve the open space needs of residents in the high-density areas of midtown, the City does not own the properties on which the public space exists, and this presents a challenge when planning for the future since the plaza may not be public space in perpetuity.¹² Concurrently, there is a spatial clustering of many POPS and public parks that have little relation with one another and fail to form a public space “network.” Although public space is an important asset to the City, the wealth of additional public space provided by POPS is not considered in a larger citywide strategy for open space.

As private developers continue to provide new and redesigned POPS, there exists the potential for innovative, dynamic, and different forms of public space given the variability of the designers – especially in areas where there is an “oversaturation” of public space. Although there are basic human desires that should be satisfied through the public provision of open space, high-quality spaces can serve both the basic needs of passive leisure while also offering new experiences in the City. Bryant Park is rather basic in its physical design, but offers a range of programs and events that go beyond the basic functions of sitting and walking. Allan Jacobs and Donald Appleyard in “Toward an Urban Design Manifesto” write that

A city should have magical places where fantasy is possible, a counter to and an escape from the mundaneness of everyday work and living. Architects and planners take cities and themselves too seriously; the result too often is deadliness and boredom, no imagination, no humor, alienating places. [...The city] has magic, or should have, and that depends on a certain sensuous, hedonic mood, on signs, on night lights, on fantasy, color, and other imagery.¹³

The argument for creativity in public space has been brought up by many architects and designers. In 2003 the Van Alen Institute hosted *OPEN: new designs for public space*, an exhibition for innovative public spaces from six continents that also facilitated a series of

11 City of New York. April 2012. *PlaNYC Progress Report 2012*. Retrieved from http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/PlaNYC_Progress_Report_2012_Web.pdf, p. 8

12 Compton, Nette. Interview. 18 April 2012.

13 Jacobs, Allan B. and Donald Appleyard. 1987. *Toward an Urban Design Manifesto*, in: M. Larice and E. Macdonald (Eds.), *The Urban Design Reader*, p. 98-108. New York: Routledge, p. 103

roundtable discussions to guide research and prompt discussion about key public space themes. On both iconic spaces and regulation, Sherida Paulsen, former Chair of the New York City Landmarks Preservation Commission, noted that “we specify how to measure public space by how many linear feet of benches there are or how many square feet of plaza area, etc. But there’s nothing in there about the experience.”¹⁴

In the search for “good” design of POPS, there exists a conundrum between design quality and oversight. The earliest POPS that were provided between 1961 and 1975 were allowed through the as-of-right provision in the Zoning Resolution, in which development can occur without review from the Department of City Planning. Although the quantity of open space was high (low oversight and easily administrable), quality suffered and warranted a review process in 1975. Higher quality, however, requires discretion and a longer review process, which may reduce the number of new and redesigned plazas (high oversight and harder to administer). Between 1961 and 1975 new plaza construction averaged 12.4 per year; between 1975 and 2007, new plaza construction averaged 5.9 per year.¹⁵ As POPS continue to be provided by private developers, a balance between design quality and administrative oversight will ensure a manageable number of projects with a high level of design that is appropriate for the public.

RESEARCH QUESTION

Public spaces are rapidly evolving and are moving away from the traditional public plaza model to include a host of new features such as digital media, new forms of lighting, and interactive structures. Given that developers will continue to provide public plazas as both an amenity and a generator of bonus floor area, **how adaptive are New York City’s current regulations to new concepts and if they are not, how might they be changed?**

Furthermore,

- *What is the appropriate and sustainable level of oversight for the design of privately owned public spaces?*
- *What does design quality mean today in urban open space?*
- *What is the balance between oversight and design quality?*

The thesis hypothesizes that although the existing design guidelines will continue to govern new and redesigned POPS, a different review process and additional clarity in the

14 Gastil, Raymond W. and Zoë Ryan (Eds.). 2004. *OPEN: New Designs for Public Space*. New York: Princeton Architectural Press, p. 24

15 Data obtained from the New York City Department of City Planning Privately Owned Public Space database

regulations will allow for high quality spaces that are administrable. Clarity in regulations and the review process will allow developers to budget accordingly and reduce the possibility of facing unexpected costs due to administrative delays. Furthermore, if public space is an important asset to the City then their review and approval should not be left to one person – namely the Chairperson of the City Planning Commission – but instead to a larger set of reviewers through a process that is more structured than the existing procedure, but not as lengthy as the public review procedure. And as developers continue to follow the letter of the law, any new elements that are desired should be clearly written in the Zoning Resolution as an option to meet existing functional guidelines with an appropriate level of flexibility for the designer.

SIGNIFICANCE OF RESEARCH

This study will help understand the tradeoffs between regulating design quality through zoning and administration. The provision of public space through incentive zoning has contributed to the City’s open space inventory and has addressed the open space needs of residents in the dense neighborhoods of midtown and Lower Manhattan.

Using standards and zoning to regulate urban design requires a careful consideration of the written standards themselves and the associated approval process, and this thesis attempts to find the appropriate balance between design quality and administrative review. The interests of the user (the public), the provider (the developer), and the administrator (the City) must be aligned to ensure that such a valuable asset such as open space in dense neighborhoods will be functional, quality, and abundant.

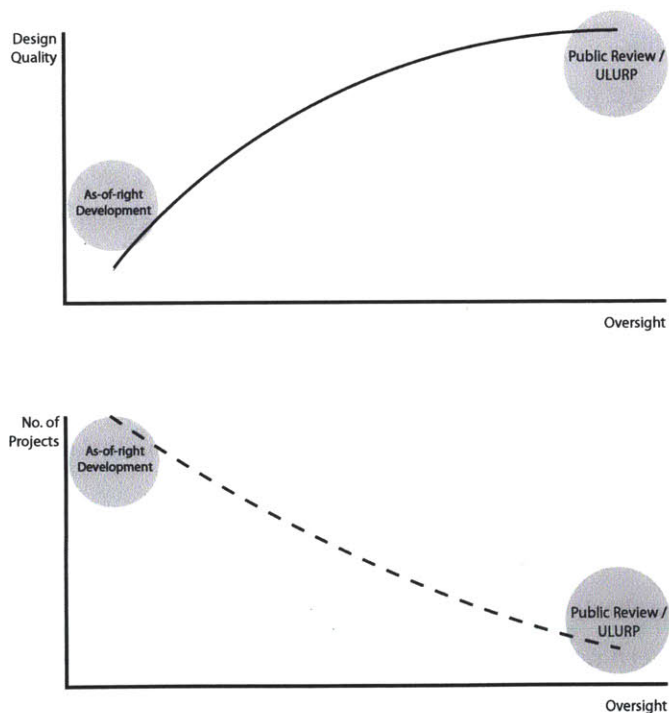


Figure 1.2. Balance between administrative oversight and design quality / number of projects.

LAND VALUE AND PUBLIC SPACE PROVISION

Land Value per square foot and the spatial clustering of POPS

- City Park and Waterfront Park
- Privately Owned Public Space
- Water

Land Value (\$US/lot square foot)

- 0 - 102.2
- 102.3 - 217.0
- 217.1 - 406.2
- 406.3 - 728.3
- 728.4 - 1361
- 1362 - 4415



Source: New York City Department of City Planning; New York City Department of Parks and Recreation; MIT Geodata Repository

Figure 1.3. Location of privately owned public spaces in high-value areas of Manhattan.

Revisions to the POPS text have been reactive; they have responded to the poor performance of previously-designed spaces in an attempt to guard against the worst case scenarios. One land use attorney and former DCP employee notes that there are “some instances where well-placed, broad open space that is not too busy is maybe not such a bad thing. [...] But the emphasis now is cramming [POPS] with junk.”¹⁶ Public spaces in countries such as Denmark, Spain, Australia, and the Netherlands are producing unique designs that incorporate elements of lighting, color, water, landscapes, digital media, artwork, and product design. These are elements that can be, to some extent, observed in many of the recent public and quasi-public public space projects being initiated or supported by New York City agencies, but are generally lacking in POPS. These projects, such as the High Line and East River Waterfront Esplanade, are both environmentally sensitive and creative. Amanda Burden herself said that she wanted to see new public spaces that were *innovative*.¹⁷ POPS are placed in the highest value areas of Manhattan and benefit from a large amount of foot traffic; they are, in theory, seen and used by New Yorkers and visitors every day (Figure 1.3).

In 2000 Jerold Kayden of Harvard University, the New York City Department of City Planning (DCP) and the Municipal Arts Society of New York (MAS) performed a comprehensive study of all POPS in New York City from 1998-1999. At this time, half of the 320 buildings during the study had non-compliant spaces, and most of these spaces were plazas pursuant to the first major overhaul of the design regulations (1975). The book brought awareness to the successful and, especially, the unsuccessful spaces that warranted a reform of the design and management guidelines set forth by the City for POPS in 1975. The Department of City Planning undertook another major overhaul of these guidelines and enacted new regulations in 2007 and 2009 to ensure that all new and redesigned POPS will be usable and accessible. The production of these spaces, however, is completely voluntary and is driven by new building construction or a desire to redesign a space, and the global financial crisis of 2008 has severely slowed new construction and efforts to improve older plazas. With little construction, the opportunity presents itself to propose policies for when much more new construction will take place.

At the same time, other forms of quality public space have been [and continue to be] produced by public agencies other than DCP. In 2011 the Department of City Planning released *Vision 2020: New York City Comprehensive Waterfront Plan*, a 10-

16 The interviewee has requested to remain anonymous.

17 Burden, Amanda. Interview. 2 August 2011.

year sustainability framework for increased water transport, waterfront access and economic opportunities. But even before its publication the City has undertaken a major reclamation of the waterfront through the design of new open space networks along nearly all of the City's major water bodies. The Department of Parks and Recreation, with the Design Trust for Public Space, has produced the *High Performance Landscape Guidelines: 21st Century Parks for NYC*, which outlines the practices and guidelines to ensure that every one of New York City's parks performs numerous ecological, social, and economic functions at the highest possible levels. The Department of Transportation, following a successful pilot program, has launched the NYC Plaza Program, a community-based program that creates neighborhood open spaces by transforming underused street space into usable and highly-functioning plazas. And nearing its completion is the High Line, an elevated railway reclaimed as a linear park that has transformed the West Chelsea neighborhood and has created an iconic and innovative public space through the effort of the community, activists, and many City agencies. The reclamation and resurgence of the public realm in New York City has required agencies beyond the Department of Parks and Recreation to take an active role in the design, management, and funding of these projects.

The recent *Occupy Wall Street* occupation of Zuccotti Park, a 30,000 square foot privately owned public space in Lower Manhattan, has in effect tested the 'publicness' of public space in New York City and has sparked a serious conversation around the management and design of public space in Manhattan. Users are asking for improved and usable public spaces while building owners are becoming more aware of their legal obligations to provide certain amenities as approved when the building was built. As new POPS are provided, the public will closely monitor them since they have the potential to provide a valuable resource to residents and visitors.

METHODS

Much of this thesis is descriptive and narrative to understand the existing and potential future landscape of public space in New York City. Nearly 100 urban public spaces from around the world that have been cited by landscape architects and designers were examined and the most common themes that were deemed appropriate and meaningful for urban open space in New York City were profiled. These were elements that, based on the author's judgment, were not precluded from the existing zoning regulations, or could be appended to existing provisions for amenities. In an effort to

understand the existing review process for new and redesigned POPS, interviews were held with city officials, designers, landscape architects, developers and attorneys who have been a part of a POPS design or redesign. The process for two plaza redesigns – 1114 Sixth Avenue (Grace) and 1095 Sixth Avenue (Verizon / Bell Atlantic) were examined to understand the level of administrative review and involvement in the review of a POPS application. Redesigns were selected because although they are subject to the latest design regulations, the vagueness of the zoning text illuminates the working relationship between the developer and DCP. Furthermore, the existing development approval processes (As-of-right, Certification, Authorization, and Urban Land Use Review Procedure) were examined. An evaluation of the design review process, the emerging trends in public space design, and conversations with individuals who have helped shaped New York City’s public realm helped inform potential strategies to align these ideals with the design of new and modified privately owned public spaces.

This thesis finds that clarity and flexibility must be balanced with a sustainable review process. The first recommendation is to advance the review process from Certification – in which applications are approved by the Chairperson of the City Planning Commission – to the longer Authorization process – in which the City Planning Commission reviews applications after an informal referral to the Community Board. Although the latter is a longer process, decisions are not left to the preferences of one person, and the process requires a set of findings that offer written justification for a decision. As the design ideals of the Chairpersons may change, the review from a larger group will ensure some continuity in process, as well as defer public space review to a commission that is normally charged with the logical growth and development of the City.

The six elements that were common in public space designs around the world and are most appropriate for urban open space in Manhattan are:

- *New forms of lighting*
- *Temporary structures and interactive artwork*
- *Canopy cover*
- *Digital media*
- *Customized urban furniture*
- *Integration of nature in the urban environment*

These elements are recommended to be written into the Zoning Resolution as either “Additional Amenities,” or as permitted obstructions and provisions as long as they are sufficiently substantiated. For example, a comprehensive lighting study is suggested to justify the required level of lighting and how a lighting plan may be more flexible than is

currently required. Many of guidelines that are currently written – i.e. for seating height and depth – were tried and tested by urban sociologist William Whyte in the 1970s during his Street Life Project, and his studies provided a basis for the particular measurements that were codified in the Zoning Resolution. Lighting, temporary structures, and digital media would be under the purview of the *Amenities* section (37-74), and canopy cover would be under the *Access and Circulation* section (37-20). Integration of nature in the urban environment would require a level of cooperation with the Department of Parks and Recreation through the guidance of their *High Performance Landscape Guidelines*. A shift to an Authorization can require such integration as a finding, and the Urban Design Office could play a supporting role for developers

THESIS STRUCTURE

The first section of this thesis introduces the topic and methods used. The second section is divided into two parts to address the fundamental and emerging trends of public space design. The first part discusses the elements that make successful urban open space, relying on a great deal of literature in the field of public space design. The second part identifies the elements of recent public space designs around the world that are most appropriate for urban open space in New York City. The third section examines the regulatory framework for privately owned public spaces, with some discussion on design review processes. Two recent redesigns were profiled to understand the actual review process and the level of administrative involvement in public space design. The fourth and final section presents recommendations for a mechanism through which future privately owned public spaces can be more flexible and creative in their designs to reflect the existing trends and futures of public space in New York City. This section concludes and discusses potential directions for future research.

CHAPTER II

PART 1: MAKING PUBLIC SPACE

ELEMENTS OF SUCCESSFUL URBAN PUBLIC SPACE

There are many methods of measuring the success of public space. Accessibility, usability, sustainability, and creativity are among the many measures. Public space can take many forms: waterfronts, passive landscape areas, active recreation areas, playgrounds, pocket parks and plazas, streets, and indoor spaces. This section primarily focuses on the elements that define successful *urban* public space – pocket parks and plazas, indoor spaces, and, to some extent, waterfronts. This effectively narrows the scope to those spaces that are most likely to be provided by private developers in New York City because of small lot size and the need for high density, and expands the discussion to include the issue of inclusiveness and management of public space.

Urban sociologist William H. Whyte noted that it is “difficult to design a space that will not attract people. What is remarkable is how often this has been accomplished.”¹ It was the work of William Whyte in 1971 that appears to have sparked the awareness of the quality of public space in urban centers. Inherent in Whyte’s analysis was that design and management of public space can affect social behavior. *The Social Life of Small Urban Spaces* has often been celebrated for the value of direct observation in research and Whyte’s observations served as the foundation for open space regulations in New York City and in other cities.

Through direct observation of successful urban public spaces Whyte outlined recommendations for good design. He observed that *people tend to sit where there are*

1 Whyte, William H. 1988. *City: Rediscovering the Center*. Doubleday: New York, p. 109

places to sit, and the more successful plazas provide a considerable amount of seating (whether directly through benches and chairs, or indirectly through comfortable steps). His recommendations for the height, depth, and flexibility of seating are all based on direct observation of social behavior.

Whyte writes that “the area where the street and plaza or open space meet is a key to success or failure. Ideally, the transition should be such that it’s hard to tell where one ends and the other begins.”² A space with a “good” relationship to the street creates visual enjoyment and secondary use from passersby who double-take and are tempted to (or do) enter the space. His example for a space that exemplifies this is Paley Park where the passersby almost always look into the space. Visual access creates an *extension of the sidewalk*, and stimulates impulse use of the space. A plaza should not be considered a relief from the city, but should be an extension of it. In short, “if people do not see a space, they will not use it.”³

Jan Gehl, in *Life Between Buildings: Using Public Space*, relates the quality of outdoor space to three types of outdoor activities:

- *Necessary Activities*. Those activities that are compulsory, such as going to school or work, shopping, running errands, etc. These activities take place throughout the year.
- *Optional Activities*. Those activities “that are participated in if there is a wish to do so and if time and place make it possible.”⁴ These include sunbathing, going for a stroll, and sitting.
- *Social Activities*. Those “resultant” activities that “develop in connection with the other activities because people are in the same space, meet, pass by one another, or are merely within view.”⁵

In poor quality outdoor areas, only strictly necessary activities take place. Gehl notes, however, that in high quality outdoor areas, roughly the same amount of necessary activities take place, but many more optional activities take place. In good, comfortable environments, many more opportunities are present. Gehl stresses the value of people in facilitating social activities, writing that “people are attracted to other people.”⁶ The presence of people allows for a range of opportunities, such as meeting, learning, inspiration, and stimulation. In studies performed on the streets of Copenhagen, Denmark and Melbourne, Australia in the 1970s and 1980s, improvements in the physical

2 Whyte, William H. 1980. *The Social Life of Small Urban Spaces*. Project for Public Spaces: New York, p. 57

3 *Ibid*, p. 58

4 Gehl, Jan. 2011. *Life Between Buildings: Using Public Space*. Washington: Island Press, p. 9

5 *Ibid*, p. 12

6 *Ibid*, p. 23

conditions of streets and the creation of pedestrian zones led to an increase in outdoor and social activity, showing a strong connection between quality and activity.

In his book, *Great Streets*, Allan Jacobs sets forth criteria for evaluating successful streets of all sizes, districts, and ages. Analogous to William Whyte's method of direct observation of successful public spaces to provide recommendations for good plaza design, Jacobs documented design elements and environmental behavior at notable "good" and "bad" streets around the world to develop a set of "requirements" for great streets. His criteria are not meant to "provide formulae or recipes, but to provide knowledge as a basis for designs of future great streets."⁷

Jacobs' judgment of good streets can be instructive in understanding the anatomy of successful privately owned public spaces as long as one believes that a "good" plaza should be an extension of the street.⁸ Given the intent of POPS to "provide safe spaces, with maximum visibility from the street and adjacent buildings," a space's visibility from the street can seriously encourage or inhibit its use.⁹ By transitivity, good public plazas should exhibit many of Jacobs' qualities of good streets. Using Jacobs' ideas and the common qualities observed among successful privately owned public spaces, the following themes embody the goals of good plaza design for users, developers, and designers: *Destination, Value Creation, Public Accessibility, Opportunities for Social Interaction and Gathering, Physical Comfort, and Participation.*

Destination. The most basic requisite for public space design is to make spaces usable, and this is the intent of many of New York City's regulations for POPS.¹⁰ Jerold Kayden describes a destination space as a "high-quality public space that attracts employees, residents, and visitors from outside, as well as from, the space's immediate neighborhood. [...] The design supports a broad audience. [...] Amenities are varied and frequently include some combination of food service, artwork, programmatic activities, restrooms, retail frontage, and water features, as well as seating, tables, trees, and other plantings." Furthermore, Jacobs writes that the best streets are "those that can be remembered" and a "truly great street is one that is representative."¹¹ A convenient space with amenities that meet the desires of the user will, in theory, make the space a destination in its own right. Beyond the basic functions, programming can contribute to the attractiveness of a space. Whyte writes that "food attracts people who attract more

7 Jacobs, Allan B. 1993. *Great Streets*. Cambridge: The MIT Press, p. 271

8 Whyte, 1980, p. 57

9 New York City Zoning Resolution, §37-70

10 Wolff, Adam. Interview. 9 April 2012.

11 Jacobs, p. 9

people.”¹² In a quasi-experiment a food cart was added to a plaza previously lacking any concessions, and Whyte found that not only did more people come to the space but more vendors entered the space and the adjacent restaurant opened an outdoor café.

Value Creation. The design of plazas and lobbies can increase the market value of their associated buildings as they display a sense of affluence and power.¹³ Hongyu Cai, in his MIT SM Architecture Studies/SM Real Estate Development thesis, quantifies the added exorbitant bonus in rent to buildings with POPS. Interestingly enough, he finds that a plaza of higher quality adds more value to office rent than those of lower quality.¹⁴ The results make the case for a better-designed POPS as a value creator for commercial buildings in high density areas of a city: a well-designed POPS generate an added \$5.05 per square foot of rent annually, but a poorly-designed POPS only adds \$2.11 per square foot. Regardless of the quality, there is a value-add through the provision of a POPS. The installation of an outdoor café is expected to create revenue streams for the restaurant that operates on the plaza and for the owner who receives rents from the restaurant operator. Again, food tends to attract more people and can be instrumental in creating a successful public space. These revenue-generating attractions require *foot traffic*. Part of the success of the plaza improvements and the Apple “glass cube” at 767 Fifth Avenue can be attributed to the positioning of the General Motors building near Central Park, where many pedestrians frequent. A well-positioned building and plaza can benefit from transit access, foot traffic, and other high-volume thoroughfares with appropriate food and retail.

Public Accessibility. Transparency at the edges of the space should blur the line between the public and private realm.¹⁵ Sightlines into the plaza should not be obstructed by design elements meant to deter use (tall planters, illegal gates). Jacobs writes that good streets should be “accessible to all, easy to find and easy to get to.”¹⁶ In addition, a common reason why some spaces are underutilized – especially in older POPS – is that they are ambiguously public: a passerby thinks twice before using the space, and if he is in the space he questions the legality of his presence. Some elements of the original design may still make the space ambiguous, but a clear demarcation of the space as public with a standardized public space signage helps demystify the privatization of the space. An active

12 Whyte, 1980, p. 52

13 Németh, Jeremy. 2009. Defining a Public: The Management of Privately Owned Public Space. *Urban Studies* 46 (11): 2463-2490, p. 2474

14 Cai, Hongyu. 2003. *Privately Owned Public Space Attached to Office Buildings in Manhattan: Economic and Urban Perspectives of Incentive Zoning*. Master’s Thesis. Massachusetts Institute of Technology, Cambridge, MA. Retrieved from <http://dspace.mit.edu>, p. 20

15 Jacobs, p. 285

16 *Ibid*, p. 8

management that is concerned with more than just maintenance and supports investment and activation of the space also fosters accessibility. Strategies for non-design elements such as surveillance and events can create or alter the user's perception of the publicness of the space.

Opportunities for Social Interaction and Gathering. Jacobs writes that the best streets "facilitate people acting and interacting to achieve in concert what they might not achieve alone."¹⁷ One finds that the installation of moveable chairs allows for flexible seating and arrangements for social interaction and tables effectively create a potential destination for meeting space. Whyte writes that "fixed seats are awkward in open spaces because there's so much space around them" and that architects tend to provide unusable, uncomfortable dimensions for benches.¹⁸ Food kiosks and restaurants fronting plazas are typically accompanied by open air cafés with moveable tables and chairs, and these elements can be used outside of lunchtime hours for meeting and relaxing. Additionally, programmable event space and the amenities that exist on the plaza area can be indicative of the potential for gathering and social engagements. The expanse hardscape of an older plaza can be filled with tables, chairs, and planters during the day, and cleared or rearranged for a concert in the evening.

Physical Comfort. The spatial arrangement of amenities, shape and orientation of the space, and relationship with surrounding buildings can affect the scale and microclimates of the space. The dimensions and proportions of buildings and other elements surrounding the plaza should not be imposing and should help create a comfortable, human scale.¹⁹ The space should also be physically safe thorough lighting and other interventions, and "should not provoke a sense of confinement" especially if the space is well-populated.²⁰ The climate should also be comfortable: sunlight when it is warm and shade when it is cool, and reasonable protection from the elements should be considered in the entire space, or in microclimates within the space. Whyte notes that "as Paley Park has demonstrated, if trees are planted closely together, the overlapping foliage provides a combination of shade that is very pleasing." He also observes that the best spaces closely tie sitting space with tree cover.²¹ People will return to those spaces that are most comfortable and functional.

Participation. A successful space should encourage participation and use among

17 *Ibid*
18 Whyte, 1980, p. 35
19 Jacobs, p. 278
20 *Ibid*, p. 8-9
21 Whyte, 1980, p. 47

active and passive users. Although designing for recreation would require an approach that differs from designing for passive leisure, opportunities should exist for a range of activities to take place. Pathways through and within the plaza should allow for free pedestrian circulation. Whyte writes that “circulation and sitting, in sum, are not antithetical but complementary.”²² The placement of sitting space along pedestrian routes allows pedestrians to easily locate seating, and simultaneously is ideal for people watching. Orientation, location and transparency can affect the diversity of users that engage in the public plaza. The plaza should be considered an extension of the street and ground-floor building frontages should be considerably dedicated to retail and food uses. A strategic combination of retail, food, and building entrances will create a natural level of activity on the plaza.²³

Beyond these “metrics” of successful urban public space, Whyte also makes reference to what he calls “triangulation.” He describes it as the “process by which some external stimulus provides a linkage between people and prompts strangers to talk to each other as though they were not.”²⁴ Stimuli can be physical objects or views; street performers and sculptures are typically cited as elements that can engage people. Developer Melvyn Kaufman was, in many ways, a champion of this idea, employing different schemes of art and color into his buildings, lobbies and plazas to make them unique, visually arresting, and bold. Architecture critic Paul Goldberger describes the ground floor plazas at 77 Water Street and 127 John Street as “an admirable, if awkward, attempt to break the sterile mold by injecting a bit of Disneyland into International Style purism.”²⁵ One may argue that such an approach is, as Goldberger may have been alluding to, a means of Imagineering – of “manufacturing place identities [that] involves deliberate use of symbols/themes (often drawn from existing places) to enhance place distinctiveness” and manufacture a sense of experience.²⁶

The Design Trust for Public Space and the New York City Department of Parks and Recreation recently published the *High Performance Landscape Guidelines: 21st Century Parks for NYC*, which describes the guidelines and best practices for designing and constructing new public spaces. Related to POPS, the document outlines the priority social and environmental considerations for pocket parks and plazas. These

22 Whyte, 1980, p.33

23 Whyte, 1980, p. 56

24 Whyte, 1980, p. 94

25 Goldberger, Paul. 9 Nov 1975. At Night, City Comes Out of Hiding. *New York Times*, p. R1

26 Carmona, Michael, S. Tiesdell, T. Heath, and T. Oc (Eds.). 2010. *Public Places – Urban Spaces: The Dimensions of Urban Design*. Amsterdam: Architectural Press, p. 126



Figure 2.1.1. “Saucers” as seat backs at Kaufman’s 77 Water Street arcade.

considerations are:

- **Understand the microclimate created by surrounding buildings** *by analyzing the site’s sun, shadow, and wind patterns.*
- **Design space as a catalyst for a vibrant public realm.**
- **Design planted areas for success** *through proper soil volume, drainage, and water for planting.*
- **Create microclimates and pockets of climate.**
- **Offer amenities to make the space more inviting** *such as moveable seating, the proper placement of waste receptacles, and careful lighting.*
- **Locate utilities, easements, and property lines** *to avoid complicated changes and delays from other agencies and property owners.*
- **Think of small spaces in connection to surrounding open spaces and uses.**²⁷

Successful public space designs should, above all, strive to address functionality and usability. The physical orientation, location, obstructions, and amenities can affect use and activity, and these physical features are fixed and are more enduring than programming and management strategies – both of which are important in the continued success of a space. Low-quality spaces may serve the necessary activities for users, but high-quality spaces have the potential to encourage optional and social activities for users while generating revenue for the developer and building owner. As noted previously, Jan Gehl discovered that in high-quality public spaces the amount of necessary activities taking

²⁷ Design Trust for Public Space and New York City Department of Parks & Recreation. 2010. *High Performance Landscape Guidelines: 21st Century Parks for NYC*. Vanguard Direct: New York, p. 45-6

place was no greater than at a “bad” space, but the number of optional activities was significantly higher.

PUBLIC SPACE MANAGEMENT

Management of public space can be as influential as its design. Mark Francis, in 1989, noted that “who uses public spaces has become a primary concern of private-space managers, with design and management being used in favor of affluent users and against less desirable users.”²⁸ He notes that the behavioral rules are not clear in many public spaces, and this is no truer than in POPS where the line between private and public is blurred such that the user often questions the legality of his presence. Concurrently, Stephen Carr and Kevin Lynch write that “public space becomes a battleground over appropriate behavior.”²⁹ The authors believe firmly that the sense of “public” depends on the management, and discusses the issues typically facing public space managers:

...The necessary management is accordingly complicated: to distinguish the harmful from the harmless, controlling the one without constraining the latter; to increase the general tolerance toward free use, while stabilizing a broad consensus of what is permissible; to separate – in time and in space – the activities of groups that have a low tolerance for each other; to provide marginal places where extremely free behavior can go on with little damage.³⁰

Jeremy Németh quantified the degree to which behavioral control was exerted through management characteristics in privately owned public spaces. The management approaches were defined in seven ways: *filtered spaces*, where subjective rules were posted for the benefit of retailers that fronted the space; *uninviting spaces*, where owners manage barren spaces for security or “the luxury of empty space”; *fortressed environments*, where owners and managers restrict physical and visual access using physical barriers; *panoptic places*, where surveillance cameras and security personnel monitor the space; *consumption spaces*, where public space has been used for private cafés; *eyes on the street*, where secondary surveillance (doorpersons, janitors) monitor the space; and *small-scale design*, where developers use small design measures to deter use, such as metal spikes on ledges.³¹ Susan Silberberg-Robinson writes that security as a form of control of public space is one of the most influential deterrents to use just short of design. Physical barriers and surveillance effectively privatize the space and lead the user to question his use of the

28 Francis, Mark. 1989. Control as a Dimension of Public-Space Quality, in: I. Altman and E. H. Zube (Eds), *Public Places and Spaces*, pp. 147-172. New York: Plenum Press, p. 150

29 Carr, Stephen and Lynch, K. 1981. Open Space: Freedom and Control, in: L. Taylor (Ed.), *Urban Open Spaces*, pp. 17-18. New York: Rizzoli, p. 17

30 *Ibid.*, p. 18

31 Németh

space.³²

Jerold Kayden, DCP and MAS' study of existing privately owned public spaces in 2000 evaluated how people used the spaces and how design encouraged or discouraged use. Spaces were classified into one of five ratings: *destination space*, *neighborhood space*, *hiatus space*, *circulation space*, and *marginal space*, where 'destination' is the highest-quality public space and 'marginal' lacks satisfactory levels of design, amenities, or aesthetics. At the time of the study (1998-1999), half of the buildings had non-compliant spaces, and most of these spaces were plazas pursuant to the 1975 regulations, suggesting that regulation of management is just as necessary as regulation of design.

In addition to increasing awareness of the privately owned public spaces in New York City, a result of the publication of *Privately Owned Public Space: The New York City Experience* was arming the public with the requirements of each space so that they may police the spaces themselves. Carr and Lynch themselves advocated for including users in the management of public space, and the book and the subsequent digital database allows the public to become part of the enforcement of these spaces.

Measures of "good" public space have been instrumental in the further analysis of privately owned public spaces. Using the digital database created from the book *Privately Owned Public Space: The New York City Experience*, Gregory Smithsimon assigned "grades" to developers and architects to provide evidence that developers play a decisive role in creating highly exclusive public spaces. Saky Yakas, architect and partner at Schuman, Lichtenstein, Claman & Efron, said in an interview with Smithsimon that

Although the intent of these [plazas] is to be public, a lot of the design is geared towards making people think before they use them. I mean, you know a lot of people don't know that these are public spaces. I think a lot of developers like them to not know they're public spaces. And one of the ways is how you do your fencing or how you change the grade, how you situate them in relationship to the buildings, how you use your cameras. They want them to be used, but you want a feel of exclusivity.³³

More recently researchers at the University of Glasgow have developed a model for comparing public spaces and providing an analytical and normative/perceptual method for public space. Through an extensive literature review, the authors have defined five dimensions of publicness: *ownership*, which is measured on a spectrum from public

32 Silberberg-Robinson, Susan. 2007. "The Secure City: Design and Perception of Public Space in Boston Post 9/11." Boston Society of Architects Research Grants in Architecture. http://architects.org/documents/education/researchgrants/2007/SilbergRobinson_2007_report.pdf

33 Smithsimon, Gregory. 2008. Dispersing the Crowd: Bonus Plazas and the Creation of Public Space. *Urban Affairs Review* 43 (3): 325-351, p. 337

ownership/public function/public use to private ownership/private use; *control*, which involves the privatization and policing of public space; *civility*, which describes how a space is managed and maintained; *physical configuration*, which describes the physical and visual accessibility into a space; and *animation*, which measures the amount to which activity and human engagement is supported. The model synthesizes the “narrow-minded” approaches of other authors and creates an exhaustive definition of what makes good public space, with management as an essential component.³⁴

PROGRAMMING

Much of the success of New York’s Bryant Park can be attributed to the value of programming in public space. The public park is managed by the Bryant Park Corporation (formerly the Bryant Park Restoration Corporation), a non-profit private company with a mission to:

create a rich and dynamic visual, cultural and intellectual outdoor experience for New Yorkers and visitors alike; to enhance the real estate values of its neighbors by continuously improving the park; to burnish the park’s status as a prime NYC tourist destination by presenting a meticulously maintained venue for free entertainment events; and to help prevent crime and disorder in the park by attracting thousands of patrons, at all hours, thus fostering a safe environment.³⁵

The Project for Public Spaces cites the innovative and flexible management program as a large contributor to the success of the park. Similarly, the Lower Manhattan Cultural Council aims to “stimulate conversation around key concepts and topics of the moment through the organization, production, and commissioning of a wide-ranging array of art installations, performances, and lectures that draw audiences to little known or overlooked locations citywide.”³⁶ Among the 26 venues for the annual River to River outdoor summer arts festival are four privately owned public spaces: One New York Plaza, the Elevated Acre at 55 Water Street, the World Financial Center, 88 Pine Street, and Zuccotti Park. Although these POPS are not considered part of the City’s larger open space inventory, their symbolic association with the River to River festival and their acknowledgement as gathering spaces makes them “more public” than many other POPS.

At one end of the spectrum of public space design lie those spaces that are open and unarticulated; at the other end are over-designed spaces. Open, unarticulated

³⁴ Varna, George and Steve Tiesdell. 2010. Assessing the Publicness of Public Space: The Star Model of Publicness. *Journal of Urban Design* 15 (4): 575-598

³⁵ *Our Mission: Bryant Park*. Bryant Park Corporation. 16 Apr. 2012. <<http://www.bryantpark.org/about-us/mission.html>>

³⁶ *Public Programming*. 2012. Lower Manhattan Cultural Council. 16 Apr. 2012. <http://www.lmcc.net/cultural_programs/>



Figure 2.1.2. Free concert at the open plaza at One New York Plaza.

spaces “allow their users to continually add and take back elements that facilitate desired activities.” At the other end of the spectrum, “overdesign may eliminate the opportunities for modification and personal use, a quality important to satisfying users’ public space rights.”³⁷ Public spaces, particularly those that are open, can be transformed for special occasions, festivals, concerts, events, and other celebrations. By periodically hosting events – typically organized by public space managers, city officials, or other local organizations – “the alterations to the ordinary state of a public setting facilitate new activities and transform users’ perceptions of the site.”³⁸ The “quads,” “courts,” and “ovals” of colleges and universities are – pedestrian paths aside – often open and unarticulated, with the potential to host planned events, including commencement activities and fairs, and unplanned events such as a pickup game of football.

A programming strategy that provides activities that are diverse, modest in scale, and frequent can establish a perception for a space, or create a new one in efforts to transform and reinvigorate a space. Concurrently, events and programs can exclude certain types of users. Some spaces, including many indoor spaces, close their doors to the public for private events; other spaces may charge an entrance fee. All public space users may not have the same preferences for music and art, but clear and intentional forms of exclusion – private events and admission fees – effectively privatize a space. This is a concern for the recently-redesigned Harmony Atrium (now the David Rubenstein Atrium), which serves as a remote visitor center for the Lincoln Center for the Performing

³⁷ Carr, Stephen, M. Francis, L. G. Rivlin, and A. M. Stone. 1992. *Public Space*. New York: Cambridge University Press, p.175

³⁸ *Ibid*



Figure 2.1.3. Left: “The Gates” on display in Central Park, New York City. Right: Redesigned David Rubenstein (Harmony) Atrium. Images from *The New York Times*.

Arts. Aside from free weekly concerts, the visitor center and visitor center are branded by Lincoln Center – even the stone floors echo the travertine floors of Lincoln Center.

Nonetheless, programming presents an opportunity for many forms of art to be on display in public space. What the public defines as “art” is a subject for another thesis, but public spaces can accommodate temporary and rotating forms of art. The Serpentine Gallery in Kensington Gardens, London, commissions internationally acclaimed architects and designers to build a temporary structure on the gallery’s lawn. Past designers include Zaha Hadid, Rem Koolhaas, and Frank Gehry. Brooklyn Bridge Park in New York City has frequent movie screenings in the summer overlooking the Manhattan skyline. Programmable public spaces such as New York’s Bryant Park are successful because they address the basic human desires for public space while also allowing for a varied schedule of activities.

NEW FORMS OF PUBLIC SPACE

During a series of fifteen panels partly-hosted by furniture-designer Landscape Forms, leading professions in design, planning, and development were charged with the question of “can a public landscape be considered successful if it is visually arresting, intellectually challenging, critically acclaimed, but rarely used?” Some panelists said *yes*, citing the “boldness of the vision, the exploration of new ideas, [and] the ability of the work to enchant and delight.”³⁹ Such artful spaces, use aside, are examples of place differentiation in city design and development. Place differentiation can be defined

³⁹ Hannah, Gail Greet. 2004. Creating the Built Environment: Issues and Trends in Design. *Landscape Forms*. <http://www.landscapeforms.com/en-us/whitepapers/Documents/creating_the_built_environment.pdf>

as “the deliberate creation (or invention) of place distinctiveness and differentiation through design.” Carmona *et. al* warn that cities often attempt to meet this goal with iconic buildings and “the serial repetition of exemplar urban design projects.” When multiple cities follow the same “formula” to reinvigorate and regenerate declining districts through place-marketing strategies, “the result is that all cities ultimately look similar, then a consequence is a loss of identity and that pursuing distinctiveness as a competitive strategy becomes a zero-sum game.”⁴⁰ One may argue that strict regulation of public space through standards may serve the same function of a “formula,” thus creating similar public spaces in new development.

Jan Gehl notes that people are using cities for optional and active activities more than for necessary activities. He writes that “recreational activities set high standards for the quality of city space,” and notes that in recent decades cities have added a host of recreational activities, cultural events, and sports and exercise in streets and public spaces.⁴¹ While performing comprehensive surveys in Copenhagen in the 1970s and 1980s that were inspired by the introduction of Strøget – the closing of the main street of the city to cars – Gehl reported that the primary reason that people were in the city was for shopping. In 2005 respondents were more likely to say, “to be in the city.” By 2005 the city had definitely become a goal in itself, a destination in its own right.”⁴² Citing Gehl’s study, Rianne van Melik *et. al* note that cities “realize that it is not sufficient for a city to have a number of iconic buildings and to host notable events. The image of the city and its lifestyle can also benefit from public spaces and good quality.”⁴³

The same authors note that central cities face growing competition from national and international cities, as well as from nearby district and peripheral shopping centers to attract mobile residents, tourists, capital and businesses. They note that for cities “to distinguish themselves, they therefore increasingly focus on and invest in their public spaces. These developments can play an important role in city marketing by lending a positive image to the city and its lifestyle.”⁴⁴ Public spaces in the Netherlands have been transformed into stages “for fun and excitement, providing more than their traditional fare of fountains and statues.”⁴⁵ The authors cite the redesign of Schouwburgplein to

40 Carmona *et. al*, p. 125

41 Gehl, Jan. 2007. Public Spaces for a Changing Public Life, in: C. W. Thompson and P. Travlou (Eds.), *Open Space: People Place*, p. 5-9. London: Taylor & Francis, p. 7

42 *Ibid*, p. 6

43 Van Melik, Rianne, Ira Van Aalst, and Jan Van Weesep. 2009. The private sector and public space in Dutch city centers. *Cities* 26 (4): 202-209, p. 203

44 Van Melik, Rianne, Ira Van Aalst, and Jan Van Weesep. 2007. Fear and fantasy in the public domain: The development of secured and themed urban space. *Journal of Urban Design* 12 (1): 25-42, p. 32

45 *Ibid*, p. 29

accommodate a new public function for concerts, outdoor film screenings and other events. Some elements include: electrical hookups, embedded metal hooks to secure objects, shops and cafés on the ground level of facing buildings, and being surrounded by a cinema, municipal theater, and music and convention center.

The use of “product differentiation” and “place marketing” can be seen in several new and redesigned POPS in Manhattan. In the redesign of the plaza outside of the General Motors Building near Central Park, a glass retail cube was installed that now serves as a retail space for Apple (Figure 2.1.4). The cube itself has become a spectacle, drawing visitors to the area to see and “experience” the store. At the recently-redesigned through-block plaza at 1095 Sixth Avenue (Verizon Building), the department store Target hosted a seasonal “pop-up” retail space for a new fashion line, drawing a crowd in excess of 300 people two hours prior to opening with a four-hour wait to enter the store (Figure 2.1.5).⁴⁶ At the new plaza at 839 Sixth Avenue, a “beer kiosk” known as BeerParc operates during the warm months of the summer, serving draft beers for patrons to enjoy in the POPS. A large movie screen can also be found in the plaza that projects a series of independent films and shorts. In all three cases, however, the “destination” is the program (Apple, Target, and BeerParc), and generally not the physical design or a mandated tenant.⁴⁷ The entrepreneurial actions of the property managers and owners are beyond the regulation of the POPS design guidelines, but are instrumental in attracting people to the buildings and plazas.

Chris Webster presents an argument for the need for differentiation in public space design in cities from the perspective of an economist. He writes that “in a city where ownership of public space is centralized, good urban design is undersupplied.” When open spaces are owned by a mix of private, public, and partnership organizations the profession of urban design becomes “a competitive creative industry.”⁴⁸ Until recently, the two providers of urban open space were the Department of Parks and Recreation, through the direct provision and design of parks, and the Department of City Planning, through the regulation of the design of POPS. Although private developers can exact a design of their own in a POPS, that proposed design must fit into the design elements mandated

46 *Missoni for Target Pop-up Shop*. 2011. Curbed Network. <http://ny.racked.com/tags/missoni-for-target-pop-up-shop>

47 Something should be said for the branding of Apple in the retail cube at the General Motors Building. The City does not have control over the retail tenant for that space, and neither does it have control over the tenant in the pop-up space at 1095 Sixth Avenue or the operator of the kiosk at 839 Sixth Avenue.

48 Webster, Chris. 2007. Property rights, public space and urban design. *Town Planning Review* 78 (1): 81-101, p. 98



Figure 2.1.4. Apple store at plaza at 767 Fifth Avenue (General Motors). Image from Apple, Inc.



Figure 2.1.5. Line outside of Target pop-up store at 1095 Sixth Avenue for the Missoni collection. Image from Curbed NY.

by the Department of City Planning. Webster writes that “the problem with a municipal government monopolistically supplying open space (or open-space quality control) is that the incentive to innovate is dulled (as with the monopolistic mall supplier). Diversification of the agencies and institutions supplying open space is likely to increase quality and diversity through competition.”⁴⁹

The example Webster provides is the unopposed market power of a monopolistic mall owner:

If a shopping mall in a small town is the only provider of an all-weather, managed shopping environment, its owner may act opportunistically by keeping rents high, underinvesting and underspending on management. [...] Its unopposed market power allows it to appropriate all the consumer surplus – the price premium shoppers and retailers are willing to pay to use and operate within the mall. If a second or third mall were permitted to operate in the town, mall owners would have an incentive to share that surplus with customers and retail tenants and the open spaces in the malls would increase in quality.⁵⁰

The most recent addition to the public realm has been the reclamation of unused streetscapes through the Department of Transportation’s Public Plaza Program. The re-imagination of streets as part of the public realm is one component of the great resurgence of public space being exhibited in New York City today, showing a shifting mindset in how public space is perceived.

Alexander Garvin, architect, planner and veteran of five city administrations, strongly believes that neighborhoods should be zoned “by thinking first about the shape

49 *Ibid.*, p. 99-100

50 *Ibid.*, p. 99

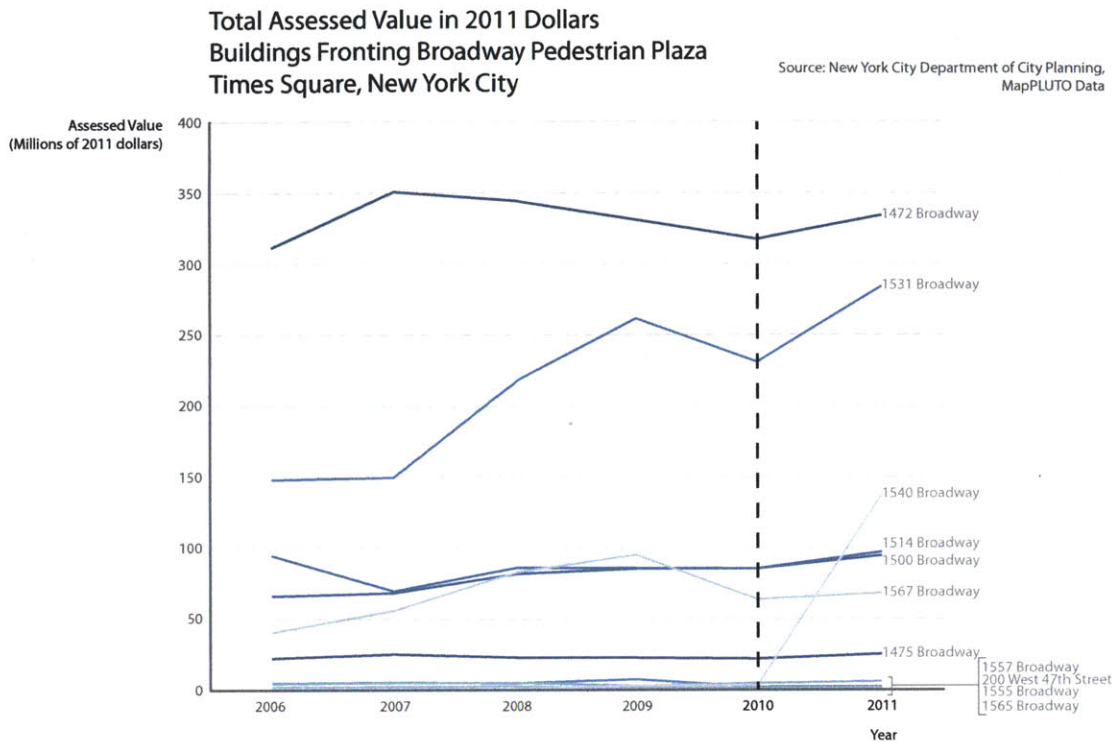


Figure 2.1.6. Increase in assessed value for properties along Broadway pedestrian plaza in Times Square.

of public space instead of private development.”⁵¹ The *New York Times* writes that the success of the High Line and the designs for Governors Island show “how much can be achieved, economically and architecturally, when city government and private interests make the public realm, on a grand scale, their shared interest.” Garvin cites the success of Rockefeller Center for being conceived around its public spaces, shop-lined passageways, and strategic configuration of subway entrances.⁵² An examination of the assessed value of the buildings fronting the pedestrianized portion of Broadway in Times Square shows an increase in value between 2010 and 2011 following the closing of Broadway in 2009.⁵³ If the closing of Broadway in Times Square can be compared to Strøget in Copenhagen, the availability of assessment data presents a simple measure of the monetary value of a shift

51 Kimmelman, Michael. 2 Dec 2011. Treasuring Urban Oases. *The New York Times*, Section AR, p. 1

52 *Ibid*

53 Given that the market adjustment process is subject to time delays because of the relatively slow rate of change of demand, there is a time lag between the closing of Broadway in 2009 and when the market value of a building can respond to that effect. It is assumed that market values decreased in 2010 given the perception that decreased vehicular traffic will lower retail sales; it may not have been until 2011 until the perception shifted. Any other improvements to the building that can contribute to increased value – lobby upgrades, etc. – can be assumed to be a response to the improvement of Broadway.

New Building Permits Manhattan, New York 2000 - 2012

Source: New York City Department
of Buildings Building Information
System (BIS)
<http://a810-bisweb.nyc.gov/bisweb/bispi00.jsp>

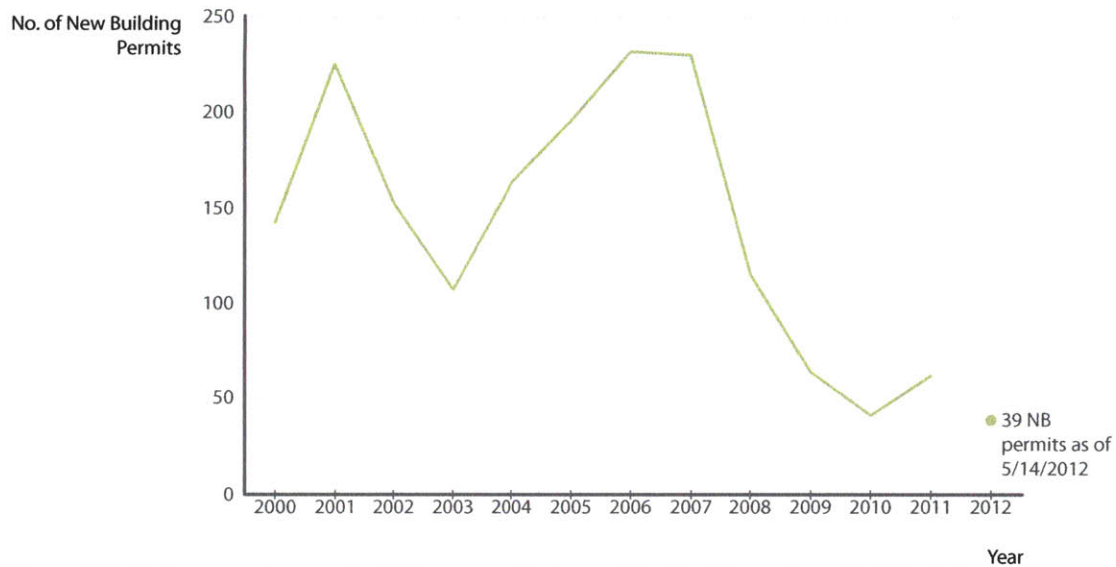


Figure 2.1.7. Increase in new building permits issued by the Department of Buildings after 2010.

New Building Permits Manhattan Community Boards 1, 5, 6, 8 2005 - 2012

Source: New York City
Department of Buildings
Building Information System
<http://a810-bisweb.nyc.gov/bisweb/bispi00.jsp>

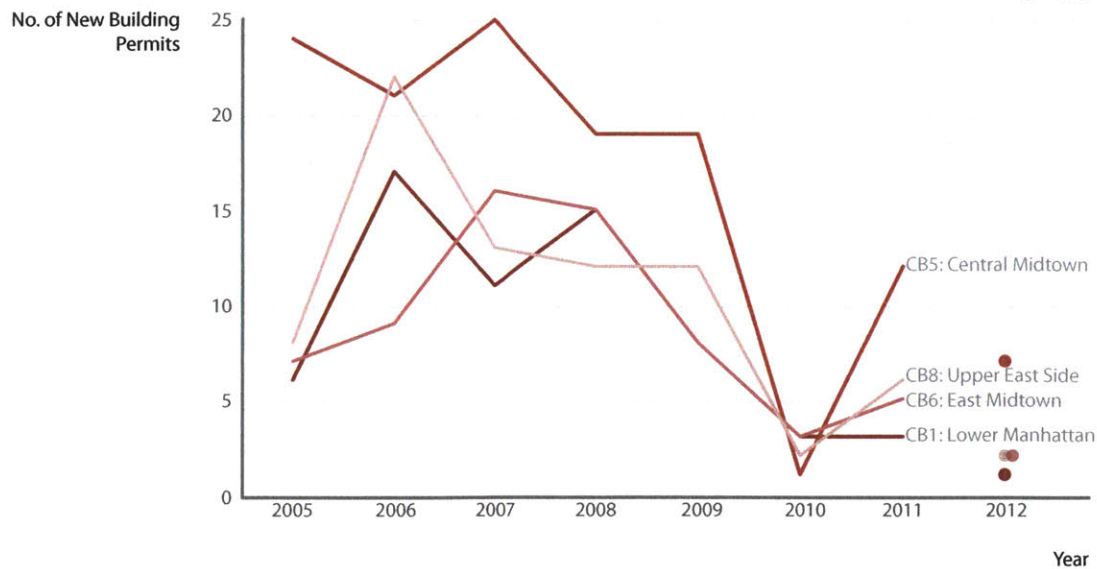


Figure 2.1.8. Increase in new building permits after 2010 in the areas with the highest concentration of privately owned public spaces.

in the mindset of how public space is perceived.

PART I CONCLUSION

As the public spaces of New York City are designed, redesigned, reclaimed, and reimagined, an opportunity exists to create new forms of public space. Figure 2.1.7 suggests that, although there has been a steep decline in new building permits between 2007 and 2010 following the global financial crisis, there are signs of increased construction activity in 2011 and 2012 (to date). Figure 2.1.8 shows that in the four Community Boards with the highest concentration of POPS (Lower Manhattan, Central Midtown, East Midtown, and the Upper East Side), construction activity is also increasing, and 20 of the 39 new building permits in Manhattan are within these four Community Boards. As new buildings are being constructed in these districts, new plazas may also be provided given that these areas benefit from the allowance of POPS as a bonus incentive.

The POPS guidelines and review— to be discussed in Chapter III – intend to address many of the functional elements outlined in this part of the chapter. As new POPS are provided in the near future, the City can shape the form of these plazas through regulation to align them with many of the emerging ideals of public space design being exhibited around the world. The quantity of parks, playgrounds, and plazas in New York City well-exceed that of large, “signature” spaces such as the High Line, Central Park, and Bryant Park. At the same time, the variability in the designers of POPS presents an opportunity for new spaces that are both functional and innovative. The second part of this chapter will explore the urban elements that are common in the public space designs across the world and appropriate for new and redesigned POPS.

CHAPTER II

PART 2: NEW URBAN ELEMENTS

THE GENERIC PUBLIC SPACE

The resurgence of public space in New York City has shaped not only the large, distinguished public spaces but the small neighborhood spaces as well. Notable projects that are identified on national and international levels – the High Line, Central Park, Bryant Park, Governors Island – are the “signature” spaces of New York City. These spaces are typically owned by the City, but are often privately managed. Beneath the signature spaces are the large parks and fields that host a range of recreational activities at the borough-scale. These include Prospect Park in Brooklyn, Van Cortlandt Park in the Bronx, and Flushing Meadows Corona Park in Queens. Small parks and playgrounds serve the basic functional and accessibility requirements for public space and are valuable assets for many neighborhoods. Beyond the aforementioned publicly-owned parks there exist two more public space types: privately owned public spaces (POPS) and the recent street plazas. POPS are typically located in high-density areas of Manhattan and downtown Brooklyn, and are an important open space amenity for residents and employees in these districts (see Chapter III). Street plazas are part of an initiative of the Department of Transportation (DOT), in which unused streetscapes are identified by local community groups and are transformed into hardscape plazas. The latter three space types – parks and playgrounds, POPS, and street plazas – are basic amenities for residents and visitors, but the rate at which POPS and street plazas are being provided is much faster



Figure 2.1.1. Public space hierarchy in New York City. Although waterfront spaces are not explicitly included, they would lie between signature spaces and large parks given the scale and recent significance of waterfront areas.

than that of parks and playgrounds.¹

There are basic human desires for public space – fundamental quality of life components – that residents prefer near their home – the “necessary activities” described in the first part of this chapter. Beyond these fundamental activities, there are attractions that people do not expect to be close to home: an art show, concert, or a professional baseball game. High-profile, signature spaces are attractions in their own right, and, given their scale and attention, require exemplary design. Carmona *et. al*, however, note that,

In the past, the status of a building and other structures as icons was acquired over time through physical distinctiveness and time-thickened social significance.

¹ There have been 10 new, 11 fully-redesigned, and 15 partially-redesigned POPS between 2002 and 2011. There have been 18 new DOT public plazas between 2008 and 2011.

In a more global age with cities competing globally, certain buildings are increasingly designed to be immediately iconic.²

The larger destination spaces are one component of a larger public space network and serve the necessary, optional, and social activities outlined by Gehl.³ The following level may be baseball fields, soccer fields, athletic facilities, and larger open spaces that may require travel from home. Small public parks, POPS, and DOT Public Plazas are the most immediately-accessible and satisfy the role of the smallest parks, in part, as the “generic public space.”

In its inventory of public space, the Department of Parks and Recreation does not include POPS in addressing the City’s goal to have every resident within 10 minutes of a park. Nette Compton, Director of Green Infrastructure at the Department of Parks and Recreation, notes that the reason is because the City has no control over the property, which complicates planning for 2030 and beyond since the POPS may not be public space in perpetuity.⁴ The debate over whether POPS should be considered City parks would require a chapter or section in itself, but the fundamental issues are maintenance and private property; the City may not be able to afford to maintain over 330 additional public spaces, and all property owners may be unwilling to surrender their private property to the City. At the same time, many of these spaces do address the basic human needs for public space.⁵

In an interview with the author, a New York-based landscape architect praised the POPS system over City parks despite a long application process.⁶ She notes that the Department of Parks and Recreation has a limited budget for maintenance and thus requires durable and less expensive materials and elements to make management and maintenance easier. Other high-quality Parks properties, such as the High Line and Bryant Park, are managed by private nonprofit organizations and have a broader base of financial support. The landscape architect believes that the Department of City Planning is much more visionary in its approach to public space, and that private developers are willing to maintain a public space of any quality greater than that of Parks’ properties. In her recent experience with developers and building owners, there has been a general request for public space designs that surpass that of a City park and that are differentiated

2 Carmona et. al, p. 126-7

3 Gehl, 2011, p.9

4 Compton, Nette. Interview. 18 April 2012.

5 Kayden, et.al (2000) scored POPS based on their potential use, not their use at the time of visit. A space that had the elements of a neighborhood space that was not used well would still be scored as a neighborhood space.

6 The interviewee requested to remain anonymous.

from other public spaces.

The POPS design guidelines – Zoning Resolution section 37-70 – address many, if not all, of the basic elements that make a usable public space. Public spaces around the world, however, incorporate many new elements that are not provided or encouraged in POPS. Given the relative flexibility and variability in the options for design, POPS present a great opportunity for innovation and creativity in public space design. The creativity and quality of a POPS relies on the sensibility and intent of the developer: particular developers understand the value of an attractive public space for their residents and tenants, while others may closely follow the regulations to minimize costs and maximize the floor area bonus. Those developers that request a higher quality of design will likely hire a landscape architecture firm with experience designing POPS.

Six major elements are outlined in this section that have the potential to be appropriate in POPS; they define space, make space interactive, and have functional qualities beyond aesthetics. The mechanism to encourage or mandate these elements in POPS will be discussed in the following chapter, but this chapter notes those elements that are common in public spaces around the world and can be meaningful and applicable for New York City. In order to identify those public space elements, nearly 100 public space projects were examined and common elements were detailed in this section. The six elements were then tested against the POPS design regulations for the applicability in the Zoning Resolution and as elements that do not detract from public space use. It is important to note that the elements did not necessarily make a public space successful – many poor public spaces incorporate these elements, but there were a number of forces (or lack thereof) that caused those particular spaces to not function well: an aesthetically-pleasing public space does not necessarily make it functional. Following a brief discussion of artwork, the six elements are: *lighting, structures, canopy cover, digital media, urban furniture, and nature in the urban environment.*

ARTWORK

Artwork is currently permitted in POPS under the existing zoning regulations, but the regulations fail to describe what constitutes “artwork” and how it should function in a public space other than that,

Artwork that is provided as an additional amenity must integrate with the design of the public plaza. Artwork shall not interfere with public access, circulation or visual openness within the public plaza or between the public plaza and adjoining public areas. Artwork may not incorporate addresses, text or logos related to the

adjacent building or tenants of such building.⁷

In its report to Melbourne, Australia on the strategic planning, design, and programming of its public spaces, Gehl Architects recommends the use of art to add a human dimension to public space. Art, events, and interactive landscapes in public spaces “engage passers-by and prompt spontaneous interaction” and interpretation of streets and places.⁸ Gehl Architects outline four themes of art that are appropriate for public space: temporary art, permanent art, light, and “art at play.” Temporary art constitutes art that responds to the site location, function, usage and history and is particular to that space. “Art at play” includes the playful, interactive dimensions of public art. Of the four “arts,” light and *temporary, interactive* art have been incorporated most into public space.

The interpretation of “art” in public space has had a history of contention and interpretation in public space in New York City. The debate over the Tilted Arc at the Federal Plaza in New York in the early 1980s caused controversy around how art is commissioned in public space, with the conflict between art and audience at the core.⁹ At the IBM Atrium at 590 Madison Avenue, developer Edward Minskoff wished to transform one of the most respected and celebrated public spaces in the City into a de-facto art exhibition space in 1994 (Figure 2.2.3). The debate revolved around what makes art “public” and how the public should be involved in the redesign of the atrium. In 2005 artists Christo and Jeanne-Claude installed over 7,000 vinyl “gates” in Central Park as part of “The Gates” installation. The saffron-colored fabrics that hung from each gate received mixed reactions and were the center of national attention in both celebration and opposition. Within POPS, the plaza at 839 Sixth Avenue recently hosted a movie screen that displayed short, independent films to public space users (Figure 2.2.2). The Department of City Planning had to decide if the screen constituted “artwork” or if it was considered an illegal sign. The screen was recently interpreted under the purview of “artwork,” but has pushed the boundary (for POPS) to begin to define the possibilities in these spaces.

All amenities and features within a public space should have a functional component beyond aesthetics. Although the vagueness of the artwork allowance in POPS allows for flexibility – that it “must integrate with the design of the public plaza” – the

7 ZR §37-748: Additional Amenities

8 Gehl Architects. 2004. *Places for People – Melbourne 2004*. < http://www.gehlarchitects.dk/files/pdf/Melbourne_small.pdf>, p. 34

9 Earl, Samantha. 2011. *The tilted trajectory of public art: New York City, 1979-2005*. Master’s Thesis. Massachusetts Institute of Technology, Cambridge, MA. Retrieved from <http://dspace.mit.edu>, p. 39



Figure 2.2.2. “Multi-media art screen” facing plaza at 839 Sixth Avenue, New York. Image by Pete Davies, Curbed NY.



Figure 2.2.3. Existing artwork at IBM Atrium, 590 Madison Avenue, New York.

interpretation of the artwork and its effectiveness in integrating with the plaza depends on the preferences of the reviewer. The recommendations in Chapter IV will address the appropriate form of regulation – through zoning and review – to make artwork interactive and usable.

LIGHTING

The type, color, and placement of lighting fixtures can have a tremendous impact on how public space is seen and interpreted. At the Fuzi Pedestrian Zone in San Candido Bolzano, Italy, no freestanding stanchions light the public space and most of the light sources are hidden. In the main square the building façades reflect light, and on the shopping street the street surface reflects the light (Figure 2.2.4). By illuminating the facades, “the form of the main square is defined, highlighting historic details and strengthening the overall spatial character.”¹⁰ The lighting program, mixed with the flow of water and placement of other urban elements, places an emphasis on certain areas throughout the year to create a wide range of useful spaces with their own character.¹¹ At the Place des Terraux in Lyon, France, lighting in the ground changes the color of jets of water, and the buildings fronting the square are colorfully-lit during the annual Festival of Light (Figure 2.2.5). Other public spaces such as Finsbury Avenue Square in London, the Frederiksberg’s New Squares in Demark, and the Paseo del Ovalo and Plaza del Torico in Teural, Spain, use sunken uplighters and lighting in the ground to illuminate parts of the public space. The Kreielsheimer Promenade at Marion Oliver McCaw Hall has a

10 Gaventa, Sarah. 2006. *New Public Spaces*. Octopus Publishing Group: London, p. 76

11 Krauel, Jacobo. 2006. *New Urban Spaces*. Carles Broto i Comerma: Barcelona, p. 162



Figure 2.2.4. Stanchion-free lighting at Fuzi Pedestrian Zone, San Candido Bolzano, Italy. Image by Hertha Hurnaus, AllesWirdGut.



Figure 2.2.5. 2011 Festival of Lights in Lyon, France. Image by Muriel Chaulet, Ville de Lyon.

glowing “ceiling” with a series of translucent metal scrim overhead that are used in “a choreographed play of light” at night.¹² The use of light in a creative and artful way not only produces a spectacle in its own right, but helps program the public space as a 24-hour space – especially in public spaces that are not predominantly surrounded by residential units.

In the city of Lyon, France, lighting is used as a strategy to create a network of public spaces. The city has three public space plans: the “green” plan, which addresses the city’s public spaces; the “blue” plan, which addresses the “way the city meets the rivers”; and the “yellow” plan, which is the city’s lighting plan.¹³ Lyon’s public space planning “is coordinated with social policy with the aim of creating ‘a city with a human face’ and a city for all its inhabitants.”¹⁴ The lighting plan has set out “guidelines for the overall artistic and functional lighting of streets, squares, buildings and special urban elements such as the bridges and banks of the rivers, as well as selected historical monuments.”¹⁵

Public spaces can use different forms of lighting to increase visibility without having to increase brightness. In the South Baltic Region of the European Union a study is currently underway to investigate the best practices for Light Emitting Diode (LED) lighting in public space to reduce energy consumption and CO₂ emissions, adapt lighting to people’s actual needs during different times of the day through management, and to identify the aesthetic benefits to more creative forms of lighting. Theoretically, an LED

12 *Ibid*, p. 20

13 Gehl Architects. 2004. *Towards a fine City for People: Public Spaces and Public Life – London 2004*. <http://www.gehlarchitects.dk/files/pdf/London_small.pdf>, p. 112

14 *Ibid*, p. 114

15 *Ibid*, p. 112

lighting plan that is identical in cost to traditional lighting measures (discounted over time) should cause a developer to be indifferent between the two. If the former allows for more creative and dynamic lighting that may create a better space or add value, and the added value exceeds any added cost of maintenance, then the developer would choose the LED system. The *LED-Light in Public Space* project aims to ultimately “pilot LED lighting installations and best practice models and applicable LED solutions for lighting in public space as convincing arguments for future investments into lighting infrastructure in cities and regions of south BSR and beyond.”¹⁶ One study from the initiative showed that lighting forms that are more effective in their abilities to render all colors in the spectrum (measured by the Color Rendering Index, CRI) can reduce light intensity and still maintain a comfortable environment for public space users (Figure 2.2.6).¹⁷

APPLICABILITY TO NEW YORK CITY

The current zoning regulations require a minimum of 2 horizontal foot candles throughout all walkable and sitting areas, and that all lighting sources should be shielded from direct view.¹⁸ A New York-based landscape architect who has had experience designing POPS, among many other public spaces, believes that the requirement is too bright and requires unusually-tall stanchions to achieve the minimum lighting scheme. She believes that lighting warrants a study in its own right – much like all other public space elements have been tried and tested – and that the requirement should be more functional than anything else. The High Line employs LED lights that are placed below eye-level “to create a safe condition for walking, while allowing the eyes to adjust to the ambient light of the surrounding city sky” (Figure 2.2.7).¹⁹ The City of Boston began converting its 18,000 mercury vapor streetlights to LED in 2010, installing LED lighting in every neighborhood by the end of 2011. The city cites the increased energy and cost savings, minimization of light pollution, even distribution of light, enhanced color rendering and visibility, and long lifespan.²⁰ In POPS, new forms of lighting can benefit users through increased safety and visual aesthetics, and benefit building owners through minimal maintenance and lower energy costs.

16 *Project Result*. 2012. LED-Light in Public Space. 2012. <http://www.ledlightproject.eu/index.php?option=com_content&view=article&id=49&Itemid=37>

17 Sampaio, José Nuno. 2004. “Technology and Design – Users’ Needs.” *LED – Light in Public Space*. <http://www.ledlightproject.eu/images/stories/KHES2/sampaio_paradigm_shift_public_lighting.pdf>

18 ZR § 37-743

19 *Construction*. 2012. Friends of the High Line. <<http://www.thehighline.org/design/construction>>

20 *LED Street Lighting*. 2011. City of Boston. <<http://www.cityofboston.gov/publicworks/lighting/led.asp>>



Figure 2.2.6. Left: Traditional mercury vapor streetlamp. Right: LED uplighting on same street. Images by LED-Light in Public Space project.



Figure 2.2.7. LED lighting beneath High Line railing. Image by Flickr user *jlintz*.

STRUCTURES AS PUBLIC AMENITIES

In his film *The Social Life of Small Urban Spaces*, William Whyte observes the effect that unusual, but interactive, sculptures and artwork have on activity.²¹ People argue about it, touch it, walk underneath it, stand around it, look up at it – the artwork is a sociable structure. In his discussion of Louise Nevelson’s *Night Presences* that was once placed at the walkway to the Central Park Zoo, people sat on it, ate lunch on it, touched it, and argued about it – it had a Venturi effect to it that attracted people and flow to it (Figure 2.2.8). When it was moved to the central median of Park Avenue, the artwork saw no use.

More recently temporary, interactive structures have been incorporated into public

21 Whyte, William, dir. *The Social Life of Small Urban Spaces*. Municipal Arts Society, 1988



Figure 2.2.8. Sitting-on and touching Louise Nevelson's Night Presences. From *The Social Life of Small Urban Spaces* (film), 1988. Hosted on Vimeo.com by the Municipal Arts Society of New York.



Figure 2.2.9. *Be Palettø!* installation in Demark. Image by Aarhus School of Architecture. June 2010.



Figure 2.2.10. Flederhaus in Vienna, Austria. Image by Andrew Rosenberg, ArchDaily.com

spaces – either in the design of new spaces or as additions to unarticulated, open spaces. Instead of an obstruction, these elements have a human face to them that become part of the public space. In Denmark students at the Aarhus School of Architecture designed a temporary pavilion in a courtyard out of 420 overlapping pallets. The structure was made by stacking low-cost pallets in a manner that invited people to sit on it, climb it, and sit within it in a calm, insulated atmosphere (Figure 2.2.9). In Vienna, Austria, a five-story structure with 28 hammocks known as the “Flederhaus” sits in front of the city’s museum quarter. Designed by architects Heri + Salli, the open-air house is set in a public park and offers a unique setting to relax, socialize, and experience a new view of the city (Figure 2.2.10).

The Place Florence in Fez, Morocco consists of illuminated, lattice structures that

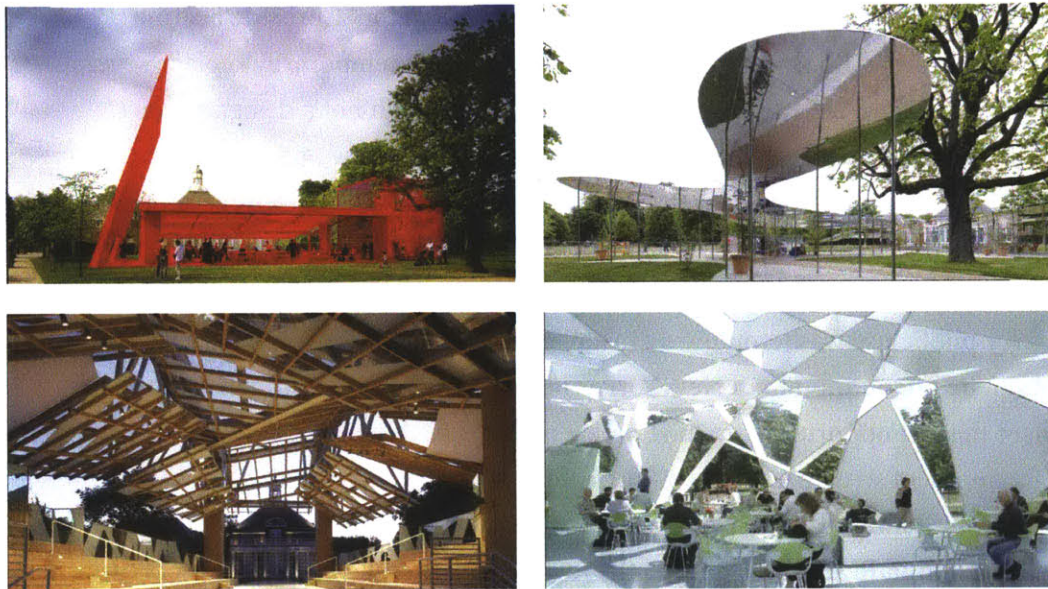


Figure 2.2.11. Temporary pavilions at the Serpentine Gallery in London. Images by Serpentine Gallery.

provide light for the square, offer a novel opportunity for seating, and serve as access to a below-grade parking structure. The structures serve as a public amenity, a source of illumination, and have a functional purpose by masking the garage entrance.

The Serpentine Gallery Pavilions in London provides a creative example of how New York City may consider reinvigorating the barren plazas that have resulted from the earliest POPS regulations. The Serpentine Gallery Pavilion commission is an “ongoing programme of temporary structures by internationally acclaimed architects and designers” and “has become an international site for architectural experimentation.”²² A pavilion sits in the Gallery’s lawn in the Kensington Gardens of London for three to six months and although each architect is commissioned, the prestige to design a structure on the site encourages each architect to approach the structure differently than the previous (Figure 2.2.11). The variability in the designer exhibits the value of competition and product differentiation explored in the first part of this chapter. Former designers include Zaha Hadid, Rem Koolhaas, and Frank Gehry. The Pavilion is a free and accessible public space that is accompanied by public talks and events.

In cities such as New York and San Francisco, ‘pop-up spaces’ have taken over public parking spaces, and typically in the form of cafés. The New York City Department

²² *Serpentine Gallery: Projects*. 2012. Serpentine Gallery. <http://www.serpentinegallery.org/architecture.html>

of Transportation has set forth design and technical criteria for “Curbside Seating Platforms” for ground-floor food establishments wishing to temporarily replace several parking spaces (Figure 2.2.12).²³ Guerilla Gardening, although not a design project per se, is a creative way of reclaiming old spaces and creating new ones. Spontaneous transformation of public spaces through community action “speaks volumes about our yearning to see nature in an urban environment.”²⁴ A temporary turf-covered bar was installed in an open plaza in Broadgate, London, and a pavilion providing a raised viewing platform for public use was temporarily installed on a main street in Clerkenwell, London. It would not be uncommon for a New Yorker to pass by a vacant lot or construction site and lament the lost opportunity to have a new open space there.

Examples of structures that fail to create a good public space do exist, but if incorporated well into a public space they have the potential to be an artful element. The Schouwburgplein in Rotterdam, despite the towering, crane-like lights that users can manipulate, has been cited by the Project for Public Spaces in its “Hall of Shame” because of the lack of programming within the square. Although the space is conducive to hosting large events, the installation of simple elements such as moveable tables and chairs in the center can add great value to the square as a usable and inviting public space.

APPLICABILITY TO NEW YORK CITY

The existing zoning text for artwork requires it to integrate well into the design of the plaza,²⁵ but such a finding would require a level of discretion that is technically not permitted under the existing approval process – the Certification.²⁶ Chapter IV will discuss the applicability of structures in new and redesigned POPS and the appropriate review process for providing this form of artwork. Adam Wolff, Deputy Director of the Manhattan Borough Office at DCP, shares the sentiment that barren “1961 Plazas” present the greatest opportunity for creativity given the ambiguity [and flexibility] of the regulations for redesigning a plaza.²⁷ The installation of a temporary, moveable structure is a potential strategy for reactivating a space and attracting users – a strategy already being exercised through the DOT’s curbside seating platforms. The DOT reported that during the pilot of four pop-up cafés, 40% of seats were occupied on average, and during

23 *Sidewalks & Pedestrians: Curbside Seating Platforms*. 2012. New York City Department of Transportation. <http://www.nyc.gov/html/dot/html/sidewalks/curbside-seating.shtml>

24 Gaventa, p. 161

25 ZR §37-748: Additional Amenities

26 The Certification process is a non-discretionary action by the Department of City Planning. See Chapter III for more information.

27 Wolff, Adam. Interview. 9 April 2012.



Figure 2.2.12. Pop-up café on Pearl Street, Lower Manhattan. Image by NYC Department of Transportation.

peak times occupancy ranged between 90% and 122%.²⁸ Their usage (and usage rates) demonstrates the success of temporary installations as a public amenity.

CANOPY COVER

A common theme in many spaces is the integration of canopy cover with physical structures (instead-of or in-addition to tree canopy cover). Canopies can provide year-round shelter from the sun, rain, and snow and can create a “ceiling” in an urban open space, with the potential to create a social space within a larger public space. Arbors and trellises can potentially offer similar effects and are considered a permitted obstruction in POPS.

Jacaranda Square in Sydney, Australia, incorporates a bright, translucent canopy into a public space that has many features of a successful public space. Sitting space is placed along the paved pedestrian path; a café with moveable seating is located at one end of the square; and an open lawn with trees offers a second “type” of public space in the square. The canopy is integrated into the public space by sheltering the fixed seating – and some of the moveable seating – but is an element that easily could have been replaced with large trees. The canopy, “with its sweeping interior curve, acts as a unifying element to the

28 New York City Department of Transportation. 2011. *2011 Pilot Program Evaluation Report*. Retrieved from http://www.nyc.gov/html/dot/downloads/pdf/curbside-seating_pilot-evaluation.pdf, p. 12



Figure 2.2.13. Canopy cover at Jacaranda Square, Sydney.
Image by Kyal Sheehan (landzine.com).



Figure 2.2.14. Lattice bamboo canopy at Young Architect's Program 2004. Museum of Modern Art - P.S. 1, New York. Image by Frank Oudeman, NL Architects.

whole space” (Figure 2.2.13).²⁹

At a larger scale, a canopy can enclose and define an entire public space. In Barcelona, Spain, the Mercat de Santa Caterina was redesigned to include a colorful, undulating roof. At the Metropol Parasol in Seville, Spain, the world’s largest wooden structure defines the public space as a series of connected undulating parasols of interlocking wooden panels. The structure houses a museum, market, restaurant, and panoramic terraces. Similarly, the Orquideorama in Medellin, Colombia, is a botanical garden covered by large hexagonal, polyester tiles that combine to form a honeycomb-like structure. The canopy mimics the shade that would have been provided by large trees in the jungle, and the canopy is flexible and adjustable to the park’s development.

The canopy need not be completely solid and can help define a space by establishing a “ceiling.” Freshly-cut bamboo poles were integrated into a temporary structure built in the courtyard of the P.S.1 Contemporary Arts Center in New York City that created four different microclimates that defined different experiences beneath the undulating lattice (Figure 2.2.14). In many spaces, lights are strung above and are seemingly ‘floating’ in the air.

APPLICABILITY TO NEW YORK CITY

²⁹ McGregor Westlake Architecture. *Jacaranda Square*. 2010. Australian Institute of Architects. <http://www.architecture.com.au/awards_search?option=showaward&entryno=2009027557>

Plazas were intended to be open and unobstructed to the sky, and so horizontal protrusions into the public space are minimized through the regulations. Canopies and awnings, according to the design guidelines for POPS, can occupy a maximum of 250 square feet, cannot project more than fifteen feet into the public plaza, and cannot have vertical supports.³⁰ Once fully enclosed, a POPS is then considered an indoor space and is subject to the special permit procedures of a covered pedestrian space.³¹ Covered pedestrian spaces, however, do not allow canopies or awnings unless “it can be clearly demonstrated that they will enhance design or pedestrian circulation.”³² In his discussion of bus shelters as amiable places, William Whyte writes that “if overhead shelter were provided and bit more space, these places could be far more amenable.”³³ As shelter from the rain and sun could be a valuable amenity in public spaces, their functional and aesthetic features may require a level of discretionary review that will be discussed in Chapter IV.

DIGITAL MEDIA

Digital media has, and will continue to, shape our everyday lives and how we interact with the city. Digital media has been incorporated into public spaces as forms of entertainment and information, offering a new perspective on space. In Zaragoza, Spain, the Portillo Memory Pavement tracks pedestrian movement by illuminating their footsteps across the open plaza. The Digital Water Pavilion is an interactive, digitally-controlled water curtain that was introduced at the 2008 Zaragoza World Expo. The water curtain can be programmed to display images or messages, and can sense an approaching object and let it through.³⁴

Digital media can be used as a vehicle for entertainment and learning in public space. The digital façade of the Plaza de las Letras in Madrid “aims to become a virtual space for exchange and communication with both visitors and locals. It is an infrastructure designed as an active support capable of promoting social responsibility, information transmission, social interaction and play-oriented experiences.”³⁵ The screens and signs in Times Square are at the extreme end of how such media can be incorporated into a space, but the potential of an LED screen to project information is endless. Its

30 ZR §37-726(c): Permitted obstructions – Canopies, awnings and marquees

31 ZR §74-87 Covered Pedestrian Space

32 ZR §74-872 Design requirements for covered pedestrian spaces

33 White, 1980, p. 100

34 Richards, Patti. *MIT architects design building with 'digital water' walls*. 10 July, 2007. MIT News – Massachusetts Institute of Technology. <<http://web.mit.edu/newsoffice/2007/waterbuilding-0711.html>>

35 Basulto, David. *Led Action Façade, Digital Façade for Medialab Prado / Langarita Navarro Arquitectos*. 14 Dec 2009. ArchDaily. Accessed 24 Apr 2012. <<http://www.archdaily.com/43582>>

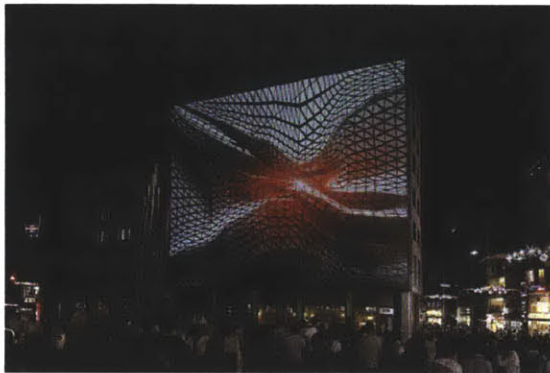


Figure 2.2.15. Augmented Structures installation in Istanbul. Image from ArchDaily.

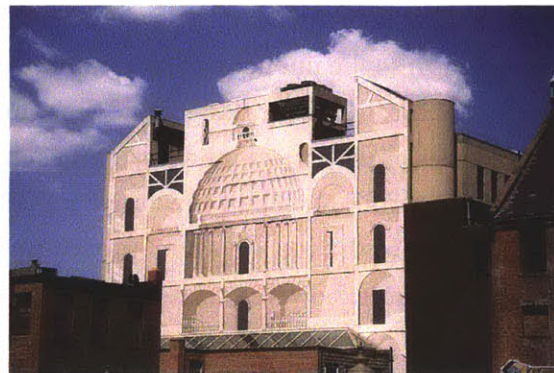


Figure 2.2.16. "Trompe l'Oeil, Prints and Boxes," Boston Architectural Center. Boston, Massachusetts. Image by Richard Haas.

prominence in the public space allows it to be an attraction and the use of digital media allows it to be programmable for nearly any use. On a building façade in Galatasaray Square in Istanbul an architectural surface interprets sounds through visual arts. Such visual arts can be an option for articulating a blank wall of an adjacent building fronting a plaza, much like the towering west elevation of the Boston Architectural College on Newbury Street, Boston is adorned with a mural of a Classical-style building and dome (Figure 2.2.16).

Such screens, if not thoughtfully located and controlled, can draw too much visual attention to the screen and be detrimental to the character of a public space. Local authorities in London were advised on the installation of large digital screens in public spaces and were offered the recommendation that “generally, screens should be considered only where they form an integral part of a wider vision for an area and as part of an overall design for a space.”³⁶ An LED screen can have a community development benefit “by providing local programming that could highlight local arts, cultural and educational activities,” but this would require close monitoring and regulation by DCP.³⁷

APPLICABILITY TO NEW YORK CITY

Digital media – depending on its form – can contribute-to or detract-from the success of a public space. The form of the installation and the process through which it is provided can define and “select” the audience. Samantha Earl, in her MIT Master in

³⁶ English Heritage and the Commission for Architecture and the Built Environment. 2009. *Large Digital Screens in Public Spaces*. Historic Environment Local Management. < <http://www.helm.org.uk/upload/pdf/Large-digital-screens.pdf?1335023186>>, p. 12

³⁷ *Ibid*, p. 6

City Planning thesis, details the convoluted relationship between artwork and planning, and calls for a more integrated policy approach between the two spheres.³⁸ The recent installation of “multimedia art screen” in the plaza at 839 Sixth Avenue has sparked a conversation at the Department of City Planning around how to interpret forms of artwork that have not been anticipated.

CUSTOMIZING URBAN FURNITURE

Given that the basic dimensions of seating and other urban elements have been established (in the Zoning Resolution), urban furniture can be adapted aesthetically while still maintaining the basic, comfortable dimensions mandated. Gehl Architects, in their report to the city of Melbourne in 2004, write that “the suite of street furniture that has been designed and dispersed throughout the central city has become a ‘signature’ to its local character.”³⁹ Many examples exist in public spaces where lampposts, benches, chairs, tables, litter receptacles, and other types of urban furniture take a unique form. The Hafencity Public Spaces in Hamburg, Germany, use new forms of seating and lighting to celebrate the industrial and maritime history of the area. The Gran Via de las Cortes Catalanas in Barcelona, Spain, is lined with a park with a series of specially designed benches with reference to animals, marine features, and flying objects.

William Whyte, in *The Social Life of Small Urban Spaces*, writes that the inadvertent use of street furniture offers a lesson about how useful these elements can be beyond their normal function. Using trash receptacles as an example, he notes that “as receptacles, they were terrible, [... but] people used them as small tables, sometimes sat on them, used them as ledges for re-sorting packages.”⁴⁰ With fire hydrants and standpipes useful for tying shoelaces and occasionally sitting, perhaps new urban furniture can be designed with multiple purposes in mind.

Urban furniture can have both an artful and functional component to it. It is not uncommon to have fixed tables and chairs double as chess boards in New York City parks, but the through block Chess Park in Glendale, California houses five light towers fashioned after the shape of chess pieces. The King Tower “sits as a giant, story-telling throne where community members can engage in outreach activities such as performances and book readings.”⁴¹ The towers help organize the park into three zones

38 Earl, 2011

39 Gehl Architects, Melbourne 2004, p. 46

40 Whyte, 1980, p. 100

41 Krauel, Jacobo. 2009. *Urban Spaces: Environments for the Future*. Carles Broto i Comerma: Barcelona, p. 252



Figure 2.2.17. Stadtlounge in St. Gallen, Switzerland. Image by artist Carlos Martinez.



Figure 2.2.18. Soft Rocker at the Festival of Arts, Science, and Technology, MIT, 2011. Image by Philip Ropert, MIT.

by both reinforcing their particular themes and serving as buffers between the others. In the Stadtlounge in St. Gallen, Switzerland, seats, benches, tables, and other elements are covered in a blazing red carpet as they emerge from the red, rubber ground (Figure 2.1.17). The “uniform surface resembles a cloth that has been laid over the entire area” and the carpet “generates a relaxed, lounge ambiance, which is transferred to the building façades.”⁴² During the Festival of Arts, Science and Technology (FAST) at the Massachusetts Institute of Technology (MIT) in 2011, clean energy charging stations disguised as outdoor rocking furniture were placed in the campus’ central court (Figure 2.2.18). Users were able to plug USB devices to enjoy lighting loops at night, and during the day energy would be stored through physical rocking and the absorption of the sun’s rays.

In Cambridge, England, benches and litter receptacles were installed in a public space that turned “street furniture into kinetic art.” Benches and bins chuckled, sang when the sun came out, and wandered around the public square. In cold weather the benches would shiver, and on trash-collection day “the bins gather around pedestrians like pigeons and line up to be emptied.”⁴³ The gentle playfulness of the furniture puts a human face on them.

APPLICABILITY TO NEW YORK CITY

Even in New York City the more recent high-profile spaces have unique forms of seating. At the East River Waterfront Esplanade in Manhattan, “bar stools” line part of the railing, giving users a clear and unobstructed view of the East River. Safety regulations

42 *Ibid*, p. 8

43 Gaventa, p. 191



Figure 2.2.19. Bar stool seating at East River Waterfront Esplanade, New York. Image by *The New York Times*.

require the railing to be at a reasonably tall height, so instead of placing benches and chairs on the ground the designers found a novel way of overcoming the barrier (Figure 2.2.19). The “peel-up” benches of the High Line not only become sitting space, but some “mutate” into water fountains and planters (Figure 2.2.20). These benches have become recognizable and unique to the High Line, and serve as a unifying theme throughout the linear park.

HYBRIDING NATURE WITH THE URBAN ENVIRONMENT

As cities look to the future plan for the “sustainable city,” larger public space projects serve both a recreational and ecological function. Instead of the paved, concrete urban plaza, public spaces have been more closely integrated with natural features and environmental engineering functions – and much to the benefit of the owner and the City. Although landscaping can slow rainwater runoff, a storm water management system that is incorporated into a public space can allow the owner to harvest and reuse some of that water. There is also an educational component to it and, if implemented correctly, the system may be of little maintenance cost to the owner.

Ecological features and landscaping should be functional aesthetically, ecologically, and for public use. The High Line is one example of integrating landscaping with movement in a novel fashion. The ‘agri-tecture’ approach and planking system provides “long, gradual tapering of planks into planting beds [that] form a richly integrated and combed carpet rather than segregated pathways and planting areas. [...] New plantings



Figure 2.2.20. Mix of walking surfaces, sitting space, and landscape on the High Line, New York. Image by Iwan Baan, Friends of the High Line.

build upon the existing landscape character” by creating multiple microclimates as wetland and dry woodland species vary the horticultural mix.⁴⁴ The Ecoboulevard in Madrid, Spain, is lined with three large cylindrical structures that are intended to “play the role that a grand tree would [...], while regulating the atmosphere of the spaces it contains.”⁴⁵ These large metal structures are lined with climbing plants on a thermal screen and crowned with photovoltaic panels, wind sensors, and atomizers to regulate the temperature and humidity of the space. The structures are easy to take apart and moved, and “can be put up wherever a regeneration of urban activity is in order.”⁴⁶ At Vache Noir in Paris, France, structures planted with panels of suspended vegetation also serve as ventilation shafts for an underground parking garage.

Less intrusive, ‘planted’ elements can also be placed in public spaces. The Bilbao Jardín in Bilbao, Spain, is a path of planting that runs in undulating lines along a staircase, offering a different perspective of a footbridge connecting two skyscrapers. In Tokyo, Japan, the Green Green Screen is a 900-foot long living, growing screen of plants that provides visual relief on a busy street from an adjacent construction site. The screen has felt pockets to hold earth for the plants, a hosepipe that trickles water down, and a gutter to keep the pavement dry. Although not permitted in POPS, advertising on the wall generates \$100,000 every six weeks, making the project self-funding.⁴⁷

APPLICABILITY TO NEW YORK CITY

The Design Trust for Public Space and the Department of Parks and Recreation

44 Per, Aurora Fernández and Javier Apa. 2008. *The Public Chance: New urban landscapes*. Gráficas Satamaría: Vitoria-Gasteiz, p. 316-7

45 *Ibid*, p. 94

46 *Ibid*

47 Gaventa, p. 172

recently published the *High Performance Landscape Guidelines: 21st Century Parks for NYC*, which outlines the best practices in site process (design, construction, and maintenance) and site systems (soils, water, vegetation). Charles McKinney, Principal Urban Designer of the Department of Parks and Recreation, writes that our “21st century parks must improve the ecological viability of our city while providing a better quality of urban life.”⁴⁸ In the guidelines for POPS, planting and trees are prescribed “to provide comfort, shade, and textural variety.” Planting beds placed above subsurface structures “shall have drainage systems to prevent collection and pooling of water.” The prescribed soil depths are to ensure the viability of the trees and beds. In its provision for street tree planting, if the Department of Parks and Recreation deems the site not feasible to accommodate all required street trees, then the trees can be planted offsite.⁴⁹ This is not the only case where standards are deferred to another agency. In the installation of bicycle parking, bike racks must be provided in accordance to the Department of Transportation’s standards. To be discussed in Chapter IV, the opportunity exists to follow the existing framework set forth in the *High Performance Landscape Guidelines* to create new small urban spaces that are both sociable and ecological.

PART II CONCLUSION

The elements discussed in this chapter are not all-inclusive of the elements seen in public spaces around the world. Color is another theme that is well-used in many spaces, but it is not necessarily precluded by the Zoning Resolution. It, however, is an element that can undo the framework set forth by the Zoning Resolution to make a space usable and functional; the use of harsh and offensive colors and materials can discourage use in what would otherwise be a very functional and comfortable space. Water is another theme that was common in many spaces, but many of the spaces in New York City are far from any natural water elements. Water features are an unpopular amenity in public spaces because of the cost of maintenance and the fear of them becoming a de-facto toilet or shower. But to develop a water feature that requires little maintenance presents a challenge and opportunity to the artist, the engineer, and the architect.

The first part of the chapter illustrated the elements that create a successful urban open space. The conclusion of that section showed that there is a trend of more construction in the areas where POPS are most concentrated, indicating a possibility of more POPS being provided in the near future. As the existing regulations have established

48 Design Trust for Public Space, 2010, p. 8
49 ZR §37-742 Planting and trees

the framework for functional public spaces, the elements described in this part of the chapter – lighting, interactive structures, canopy cover, digital media, custom urban furniture, and ecological features – can be encouraged in new and redesigned POPS given that these spaces are governed by zoning. Although the large destination spaces of New York and the world exhibit these features, not many new ones will be constructed in the near future. Whyte writes that

The fact is, however, that for the foreseeable future the opportunities in the center city are going to be for small spaces. And there are great opportunities. True, costs are prodigious – even in the case of incentive zoning, expensive tradeoffs are included. But the costs are high because so many people are to be served. A less costly place somewhere else can be a poor bargain.⁵⁰

As developers and City residents become more aware of the presence and value of public space in New York – particularly following the Occupy Wall Street tension regarding the legality of camping in Zuccotti Park, a privately owned public space – new public spaces may begin to demonstrate a higher level of design.

The next chapter will examine the regulatory framework through which new and redesigned POPS are reviewed and approved. The fourth and final chapter will bring together the discussion in chapters II and III to form recommendations for how the City of New York may integrate the themes of this chapter into the design and use of privately owned public spaces.

50 Whyte, 1980, p. 98

CHAPTER III

REGULATION

A BRIEF HISTORY OF PRIVATELY OWNED PUBLIC SPACES

In 1961 the City of New York formally revised the 1916 Zoning Resolution – the nation’s first comprehensive zoning ordinance regulating the height and bulk of newly-constructed buildings. Despite the comprehensiveness of the new resolution, the most intriguing public policy that resulted from the revision was the inauguration of incentive zoning through the provision of privately owned public spaces. Incentive zoning has allowed developers, through the provision of publicly-accessible spaces, to receive bonus floor area beyond the maximum floor area ratio permitted for that zoning lot.¹ The hallmark of incentive zoning is the public-private partnership driven principally by real estate economics and the market; the *encouragement* of the provision of these spaces has allowed for a market-determined spatial clustering within high density areas where there was little to no open space.²

A 1958 report by Voorhees, Walker, Smith and Smith for a new Zoning Resolution called for the provision of open space as a bonus device “to bring more light and air into streets surrounded by tall buildings, as well as to create more usable open space.”³ The recommended bonus provision was three feet of additional floor area for each square foot of open space or plaza provided, but a report by the New York Chapter of the American

1 New York City Planning Commission/Department of City Planning. 1961. *Zoning Maps and Resolution*. New York, p. 123. The Zoning Resolution defines *floor area ratio* as “the total *floor area* on a *zoning lot*, divided by the *lot area* of that *zoning lot*.”

2 Kayden et al., 2000, p. 44

3 Voorhees, Walker, Smith and Smith. August 1958. *Zoning New York City: A Proposal for a Zoning Resolution for the City of New York submitted to the City Planning Commission*. p. x

Institute of Architects (AIA) recommended a maximum of 20% increase in the floor area ratio to sufficiently encourage an “investment builder to forgo the high rentals for street level space.”⁴ A zoning lot with a maximum allowable FAR of 18 would be able to increase its FAR to 21.6, which may translate to at least seven additional floors for a tower with 50% lot coverage. Furthermore, construction costs are generally higher for a tall building on a small footprint than a shorter building with the same floor area on a larger footprint.

The AIA cited the austere elegance of the plazas of the Seagram Building on Park Avenue, the Canada House and the Corning Glass Building on Fifth Avenue as models for urban open space in Manhattan. Furthermore, the report proposed that an additional bonus should be provided for other open spaces such as arcades, side yards, rear yards and interior courts, citing the courtyard garden of the Lever House at 390 Park Avenue.⁵ The result of many of the office and residential buildings that followed resembled the tower-in-the-park schemes made popular by French architect Charles-Édouard Jeanneret – more commonly known as Le Corbusier. Buildings were designed on a relationship to open space rather than to streets, creating structures that had little relation to one another “amid discontinuous pockets of open space.”⁶

In 1970 the City Planning Commission allowed the addition of the covered pedestrian space (CPS) as a bonusable public space. The CPS was based on the European model of active, glass-roofed, furnished arcades lined with shops and other amenities. Walter Benjamin notes in *The Arcades Project* that “on the narrow sidewalks [of Paris] the pedestrian was extremely cramped, and so strolling took place principally in the arcades, which offered protection from bad weather and from the traffic.”⁷ Although many of the covered pedestrian spaces in New York City have not been exceptionally successful, the CPS continues to provide a potentially valuable resource as a destination and a link to a more comprehensive pedestrian circulation network.

Although there have been over fifty amendments to the zoning text, the regulations for public plazas have seen two major revisions in efforts to create better design and management standards for POPS: in 1975 and, more recently, in 2007. The two revisions have been the result of studies performed by, arguably, the three

4 New York Chapter, American Institute of Architects. 1959. *Analysis and Recommendations, Proposed Zoning Resolution for City of New York*. New York: Committee on Civic Design and Development, p. 29-30

5 *Ibid*, p. 30

6 Barnett, Jonathan. 1987. *The Elusive City: Five Centuries of Design, Ambition and Miscalculation*. London: The Herbert Press, p. 130-1

7 Benjamin, Walter and Tiedemann, Rolf, Eiland, Howard, and McLaughlin, Kevin (Eds). 1999. *The Arcades Project*. Cambridge: Belknap Press, p. 32

authorities on the design and regulation of privately owned public spaces: William H. Whyte, Jerold S. Kayden and the New York City Department of City Planning (DCP). William Whyte's documentation of the social life at plazas in New York City "first established that the products of incentive zoning discouraged public use, and framed that shortcoming as a breach of the contract between developers and the public realm"⁸ and his recommendations for "good" plaza design prompted the City Planning Commission to create new design standards for these spaces, which amended the Zoning Resolution in 1975. These recommendations outlined measurements and orientation of plaza amenities based on examples of successful plazas. In a study published in 2000, Kayden, in collaboration with DCP and the Municipal Arts Society of New York (MAS), found that many of these privately owned public spaces were "nothing more than desultorily situated strips of expanses of barren surface, and many are privatized by locked gates, usurpation by adjacent private uses, and diminution of required amenities, in contravention of applicable legal requirements."⁹ In 2007, the City Planning Commission adopted another major revision to the plaza regulations that embodied many of the values of Whyte's work while raising the minimum standards for design and management to ensure "better" spaces to address the evaluations performed by Kayden and his team of researchers.

THE BURDEN OF POPS

The earliest POPS text changes have typically been additions of new varieties of public spaces that increased the catalog of bonusable public space for developers. These spaces, however, often lacked amenities to draw and retain visitors, but were consistent with the tower-in-the-park urban design vision of the 1961 Zoning Resolution. Developers have typically chosen to "follow the letter of the law" and provide the bare minimum requirements for plaza amenities to receive the maximum bonus floor area. Many of these spaces have been strategically designed to deter use through the installation of water sprays, spikes, hard surfaces, backless benches, and poor signage.¹⁰ As plazas were designed and redesigned, the Department of City Planning responded to unfavorable design and management issues that were permissible under the existing text by modifying the POPS zoning text. Many of the past efforts to revise and revisit the design regulations were spearheaded by the urban designers and planners in the borough offices of the

8 Smithsimon, Gregory. 2008. Dispersing the Crowd: Bonus Plazas and the Creation of Public Space. *Urban Affairs Review* 43 (3): 325-351, p. 331

9 Kayden, 2005, p. 116

10 Kayden et al., 2000, p. 52-3

Department of City Planning and not by the CPC Chairperson. In practice, when public space is not a priority of the Chairperson the charge of ensuring a quality POPS falls on the appropriate borough office.

The City employs many zoning tools in an effort to ‘regulate experience,’ and the accumulated knowledge from 50 years of successful and unsuccessful open space provisions have shaped the POPS guidelines that, arguably, guarantees a minimum level of usability.¹¹ When Amanda Burden was appointed Chairperson of the City Planning Commission and Director of the Department of City Planning in 2002, she took it upon herself to improve the zoning related to POPS by correcting the provisions that developers and building owners did not normally include in their public space designs.¹² From 1983 to 1990 Burden was responsible for the planning and design of Battery Park City and oversaw the design of all open spaces. She served on the City Planning Commission from 1990 until she was appointed Chairperson in 2002.¹³ During her time as Commissioner and Chairperson she worked with staff in the Manhattan Borough Office, Urban Design Division and other offices that have had experience with the design and review of public plazas in the past to identify the common design and management issues in new and redesigned plaza applications in anticipation of a zoning text reform. The intent of the new guidelines was to allow flexibility in design while also guarding against the ‘worst case.’ Commissioner Burden, in an interview, noted:

[...] and I think now we can be sure that every public space can be good...each one of these is going to get better and better and better. But we had to really push because the instinct of a private landlord is not make seating inviting. I think that, and my strong conviction is, well-used public space enhances the value of any development. And so that is why I’ve pushed so hard on it – not just for the benefit of New Yorkers but also it adds to the attractiveness of an area from a real estate value point of view.¹⁴

Much, if not all, of the amendments reflect “tried” and “tested” forms of public space design. Although Burden extends a great deal of oversight on plaza applications, she hopes that the zoning text will serve as a mechanism to guarantee successful public spaces during times when public space is not a priority for future Chairpersons.

Burden has made design a clear priority for the Department of City Planning and the Bloomberg administration, and her impact on built projects extends beyond POPS

11 Too, Patrick. Interview. 14 November 2011.

12 Burden, Amanda. Interview. 2 August 2011.

13 Gordon, Meryl. 23 June 2011. “Champion of Cities.” The Wall Street Journal. <http://online.wsj.com/article/SB10001424052702304186404576388122537294568.html>

14 Burden, Amanda. Interview. 2 August 2011.

through the largest rezoning agenda since 1961, comprising of over 115 neighborhood rezonings over more than 10,300 city blocks.¹⁵ Her attention to detail and commitment to public space has shifted the agency's attitude from development to design, and her re-inauguration of the Urban Design Office attests to the value of good design in new development. The POPS text is very thorough and addresses many of the functional components addressed in the first part of Chapter II. With design as a priority for the agency, the Department of City Planning should consider the means by which they can continue to advance the quality of POPS – to add layers of innovation and creativity to the basic functionality of these small spaces. As city officials and developers have a greater design sensibility, the opportunity presents itself to advance the design options of POPS through a tool that the City can control: zoning.

REGULATORY FRAMEWORK

All bonus plaza and public space designs and redesigns are part of the Certification process, which is one of three levels of approval within the Department of City Planning. *Certifications* require administrative action, typically by the Chairperson, in which a project is reviewed against a checklist for compliance (Figure 3.1). It is a non-discretionary action “informing the Department of Buildings that an as-of-right development has complied with specific conditions set forth in accordance with provisions of the Zoning Resolution.”¹⁶ *Authorization* entails more discretion and requires a review by the City Planning Commission, in which they submit findings that justify the project (Figure 3.2). A *Special Permit* requires a full Urban Land Use Review Procedure (ULURP), which involves the Chairperson, City Planning Commission (CPC), affected Community Boards and Borough Presidents and, if needed, the City Council or Mayor, and may take one year or longer, depending on the actions of the involved reviewers (Figure 3.3). Despite the long timeline, the process is rather transparent and structured, so applicants have a sense of how the process may take form. However, the “clock” does not include the pre-application process, during which the Department of City Planning, Community Board, Borough President, and City Council review the application and supporting documents. The length of the pre-application process depends on the complexity of the application. The final approval of a plaza is at the sole discretion of the Chairperson of the CPC and

15 Burden, Amanda. Neighborhoods Count: Celebrating DCP Rezoning. 2012. New York City Department of City Planning. <http://www.nyc.gov/html/dcp/html/rezonings/index.shtml>

16 New York City Department of City Planning. 2012. Zoning Glossary. Retrieved from <<http://www.nyc.gov/html/dcp/html/zone/glossary.shtml>>

**CITY PLANNING COMMISSION
CHAIRPERSON**



Figure 3.1. Certification process.

Reviews application and related documents
Forwards applications and documents to Community Board (informal referral)

COMMUNITY BOARD

Notifies public
Holds public meeting
Makes recommendations to CPC and BB
Can waive rights on franchise RFPs and leases

**BOROUGH PRESIDENT +
BOROUGH BOARD**

BP submits recommendations to CPC or waives right to do so
BB may hold public hearing and submit recommendation to CPC or waive right to do so



Figure 3.2. Authorization process. Applications are sent to the Community Board through an informal review process (opaque section of diagram).

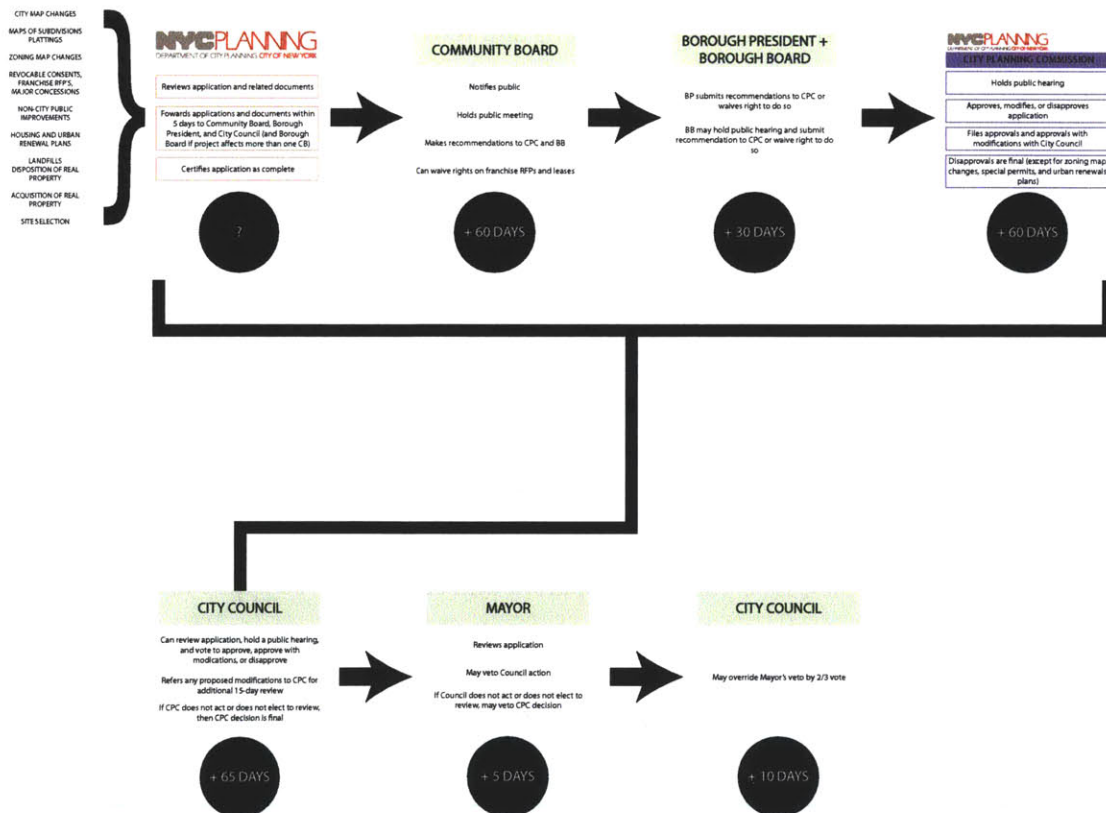


Figure 3.3. Diagram of the Urban Land Use Review Procedure. The first component of the process – the “pre-application” process – is the Certification process in Figure 3.1. The black circles represent the maximum number of days allowed for that phase of the process. Following the Certification, the ULURP is intended to take no more than one year. The Certification process and any required modifications can prolong the process.

therefore the approved design almost always reflect his or her preferences.

Most development in New York City, however, takes place under the “As-of-right” provision. Such developments and enlargements are projects that comply with all of the applicable zoning regulations and do not require any discretionary action from the City Planning Commission.¹⁷ Because the Department of City Planning does not review every new project, standards and guidelines for bulk, height, and, in some cases, design are detailed in the Zoning Resolution. Developers wishing to circumvent the as-of-right provisions must request a special permit from the City Planning Commission.

When a building owner or developer has an interest in providing or redesigning a POPS, they must first have a series of informal design reviews with DCP staff to prepare the application for Certification. The reviewers on the DCP side typically include:

- The liaison for the Community Board in which the plaza in question will be designed
- The borough office’s urban designer, Patrick Too (former Principal Urban Designer at the time of the publishing of *Privately Owned Public Space: The New York City Experience* and current member of the Manhattan Office staff)
- The Director of the Manhattan Office, Edith Hsu-Chen
- Members of the Counsel’s Office, the agency’s legal and compliance staff

This team of reviewers will work with the building owner and their hired staff of architects, lawyers, and other representatives to have the plaza drawings as close to certification-quality as possible. The staff uses its best judgment of the Chairperson’s preferences to present drawings that he or she will be “comfortable” with. These drawings are typically technical with color renderings for illustration purposes. These added renderings can be hand sketches or computer-generated. Once the staff believes the drawings are ready they are brought to the Chairperson for review. If he or she has comments they will be relayed to the applicant, who will then send revised drawings to the Manhattan Office. Another meeting with the Chairperson will be scheduled and the process will be iterated until the Chairperson approves of the design.¹⁸

Once the Chairperson certifies the drawings, the applicant must submit technical black and white drawings that will legally define how the plaza will be designed and constructed. The drawings must be reviewed by the Technical Review Division (TRD) before the plaza is approved for construction. Only after the plaza drawings are approved can a building owner receive a building permit from the Department of Buildings to construct with the bonus floor area. A certificate of occupancy cannot be issued for the

17 *Ibid*

18 Schonfeld, Ivan. Interview. 16 March 2011.

bonused floor area until the plaza or public space has been substantially completed and verified by the Department of City Planning and the Department of Buildings. A building that violates any condition of the public space provisions – a “non-compliance” – may be assessed a fine. Multiple non-compliances and fines may lead to legal action from the City.

In addition to following the design guidelines for POPS, developers must first meet the dimensional and locational requirements set forth by the zoning district’s regulations; depending on the zoning district, a public plaza may be the space leftover.¹⁹ Street-wall requirements may not allow a plaza to be on a major avenue; a manufacturing district may require a rear yard, but not within 100 feet of a corner (such as in the M1-6 manufacturing district). The result could very well be a through block plaza depending on the size of the zoning lot.

Plazas built pursuant to the 1961 or 1975 open space zoning are not subject to the 2007 regulations unless they request a design change certification. The redesign of a plaza is never required, nor will it increase the amount of bonus floor area if the associated building has already reached the allowable maximum bonus floor area for that city district. A plaza is allowed a design change “provided that such changes do not increase any non-compliance with the new public plaza standards.”²⁰ A modified plaza is still subject to the regulations under which it was last approved, but must be *in more accordance* with the existing regulations. Any modification to a POPS requires Chairperson Certification, but because there is no clear definition of “in greater accordance,” the length of the process depends on the level of redesign and the preferences of the Chairperson. The plaza applicant has flexibility in what provisions will be considered to be in greater accordance, but the final provisions are part of a negotiation with the Department of City Planning and the Chairperson.

PUBLIC PLAZA TEXT

The revised zoning text for the design of privately owned public spaces is very thorough regarding the size, dimension, orientation and location of any and all amenities.

The intent of the plazas is:

- (a) to serve a variety of users of the public plaza area;
- (b) to provide spaces for solitary users while at the same time providing opportunities for social interaction for small groups; and

¹⁹ The Department of City Planning defines a zoning district as “a residential, commercial or manufacturing area of the city within which zoning regulations govern land use and building bulk. Special purpose zoning districts have distinctive qualities where regulations are tailored to the neighborhood.”

²⁰ *Ibid*, p. 37

(c) to provide safe spaces, with maximum visibility from the street and adjacent buildings²¹

Applications for new and redesigned plazas are reviewed “not for how they look in terms of beauty, but in terms of enjoyment.”²² The text describes the requirements for: plaza area, dimensions, orientation, sidewalk frontage, plaza level, circulation paths, subway entrances, steps, obstructions and hours of access. Furthermore, design regulations prescribe the required amount of seating, planting, lighting, signage, and retail frontage. The actual length, area, and number of each required amenity are not of concern for this thesis, but it should be noted again that those numbers have been the result of tried and tested measurements of 50 years of plaza designs and redesigns. Because of the constant revision, the POPS text is one of the longest and most detailed sections of the Zoning Resolution (approximately 35 pages); this has, as one land use lawyer and veteran of several DCP Chairperson administrations, also made it the hardest section to navigate.²³

The five basic themes of the public plaza text are: seating, planting, tree cover, visibility and management. The first three are what Commissioner Burden believes are the most basic elements that would ensure a comfortable, usable and enjoyable public space.²⁴ Visibility into the plaza has been a great concern for the writers of the design regulation, and much importance has been placed on the first fifteen feet of the plaza area to facilitate public access and visibility into a public plaza. 50% of the first fifteen feet must be unobstructed and the maximum height of an obstruction may be no higher than two feet from the ground (with the exception of lighting, trees, etc.).

Periodic reporting is required by building owners every three years for new plazas according to the 2007 regulations, and DCP staff is required to perform regular inspections of plazas to ensure compliance and issue violations if necessary.

BONUS BEYOND BONUS

Although there are multiple means of achieving additional floor area through bonus provisions, the maximum increase in floor area – that is, unless clearly specified in the Zoning Resolution or allowed by special permit – is capped at 20%. The maximum permitted bonus floor area that can be generated through the provision of a public plaza is ten square feet for every square foot of plaza, with some commercial districts limiting

21 ZR §37-70

22 Burden, Interview, 2011

23 The interviewee has requested to remain anonymous.

24 Burden, Interview, 2011

Bonus square feet per square foot of plaza area	Zoning District
4	C6-2, C6-1
6	C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5, C5-1, C5-2, C5-4, C6-1A, C6-3, C6-4, C6-5, C6-6, C6-7, C6-8, C6-9, R10, R9
10	C6-7, C6-6, C6-9, C5-5, C5-3

Table 3.1. Floor area bonus by zoning district. Information from privately owned public spaces text amendment (N 070497 ZRY).

the maximum to four or six square feet of bonus floor area for every square foot of plaza space. The maximum permitted bonus floor area for an arcade is three square feet for every square foot of arcade space, with a maximum set at two square feet for some commercial districts (Table 3.1).²⁵

Interestingly enough, the *minimum* permitted bonus floor area is eight square feet for each square foot of covered pedestrian space, with the minimum permitted at eleven in some commercial districts. Through the provision of escalators to other uses (i.e. retail) on any floor-level above the sidewalk and the increase in height, the bonus floor area may be increased to a maximum of eleven or fourteen depending on the district, with each provision accounting for an additional 1.5 bonus square feet. Furthermore, major and necessary subway access – as determined appropriate by the City Planning Commission – may allow an additional two bonus square feet per square foot of covered pedestrian space over the maximum amount previously specified. Thus, a developer in C6-7 commercial district could receive up to an additional 16 square feet of floor area for each square foot of covered pedestrian space. These floor area bonuses are irrespective of special zoning districts, which themselves allow for additional bonus floor area through other amenities.

The 61-story Trump Tower on Fifth Avenue achieved just that through a combination of additional floor area allowable through the POPS system and a special zoning district. Originally allowed 53 stories as-of-right, the addition of a covered pedestrian space on the ground level and basement level, as well as five stories of retail connected by escalators and two rooftop “terraces” allowed Donald Trump an additional 100,000 square feet of floor area – enough for eight stories. Trump, in an interview for the *New York Times*, said that he “only put the stores in because of the bonus.”²⁶

Of the nearly 330 commercial and residential buildings that have a privately owned public space, 15 have covered pedestrian spaces whose areas total nearly 160,000

²⁵ ZR §33-13, §34-223, §34-224

²⁶ Scardino, Albert. 8 Feb 1986. Trump Finds Big ‘Bonus’ On 5th Ave. *New York Times*, pg. 33



Figure 3.4. Escalators connecting additional levels of the covered pedestrian space at Trump Tower, New York.

square feet – or equivalent to the southern portion of Union Square Park.²⁷ The most common forms of indoor public space have been *covered pedestrian space, through block arcade, through block connection, and through block galleria*, and 52 buildings have one or more of these indoor space types.²⁸ Covered pedestrian spaces (CPS) are allowed by special permit in commercial districts, and because the CPS undergoes discretionary review by the City Planning Commission the same level of detail as public plazas need not be provided in the Zoning Resolution text. The zoning text is very prescriptive in the size, dimensions and additional bonus provisions, but the final bonus amount and specific amenities are determined after the CPC finds that the CPS is: clearly visible as a public space; is located at the principal level of pedestrian circulation; has appropriate commercial and retail uses on the ground floor; and will have a useful role in meeting the public need for sheltered space.²⁹ However, since the CPS is

subject to the Urban Land Use Review Procedure, the length of the review process may be a disincentive for developers to provide this public space type. Furthermore, maintenance of an indoor space – heating, air conditioning, and materials that are less durable than those used in outdoor plazas – may add to the costs of providing an indoor public space.

Unlike a new public plaza that requires a compliance report to be submitted to DCP every three years, the design set forth in the special permit remains the same until the building is demolished or a modification is made to the special permit. A redesign or reconfiguration of the CPS would require a modification of the special permit.

The last revision to the CPS zoning text was made in 1996, twelve years prior to the publishing of this paper. The last CPS to be provided was at 17 Penn Plaza, approved by the CPC in 1990. In 2005 an application was submitted to the CPC to provide a CPS at

27 Data obtained from the New York City Department of City Planning Privately Owned Public Space Database
28 *Ibid*
29 ZR §74-873

15 William Street, but the application was terminated in 2009 by the Department of City Planning.³⁰ In 2007 the CPS at 575 Fifth Avenue received a Chairperson Certification to modify the design and upgrade the public space, and this remains to be the only new or modified CPS of the past two decades.

In an effort to determine the most appropriate level of oversight for new and redesigned privately owned public spaces, perhaps the required level of discretionary review (ULURP) and uncertainty in the specific areas and dimensions of amenities (unlike the detailed regulations for outdoor public plazas) is suggestive of the effect of review on the provision of public amenities through incentive zoning. The more the City wants to ensure good design, the more oversight is required. In the case of the CPS, too much oversight may have contributed to few indoor public spaces.

POPS SINCE 2002

Since Amanda Burden assumed the role of Chairperson of the City Planning Commission and Director of the Department of City Planning in 2002, there have been 10 new POPS, 11 full redesigns, and 14 partial redesigns. Among the full redesigns is Grace Plaza at 1114 Sixth Avenue. The privately owned public space at the Grace Building has been cited as one of the worst public spaces in America.³¹ Having been completed before the first major update to the zoning regulations of privately owned public spaces in 1975, the minimalist space was “produced under the lenient ‘as-of-right’ standards” of the inaugural text adopted in 1961.³² The redesign of the plaza serves as a good example of a poorly-functioning POPS that has been redesigned to accommodate a greater amount of public use.

Few, if any, of the new plazas have received much media attention. It is instead the redesigned spaces that receive attention: Zuccotti Park was recently the site of the Occupy Wall Street movement in Lower Manhattan; the plaza at the General Motors Building hosts the iconic Apple “glass cube”; Grace Plaza and the Elevated Acre at 55 Water Street have received much media attention as dangerous, unusable public spaces prior to their redesign; and the Harmony Atrium has been redesigned under the stewardship [and brand] of Lincoln Center. It is not surprising that the most celebrated new and redesigned POPS are the redesigned special permit spaces: the Elevated Acre at 55 Water Street, Zuccotti Park, and the Harmony Atrium. These special permit spaces were not subject

30 Land Use Application I 050439 ZSM

31 Project for Public Spaces. *Hall of Shame: Grace Plaza*. Retrieved from http://www.pps.org/great_public_spaces/one?public_place_id=153

32 Kayden, et al., 2000, p. 130

to all of the design regulations set forth for public plazas, but were provided in exchange for a variance from the zoning regulations at the time of construction. At the same time, a special permit plaza presents an opportunity for the City and the public to provide feedback during the design process.

POPS are technically under the purview of the Certification, but Commissioner Burden exercises a great deal of discretion in her review of new and redesigned POPS applications. In an interview with Melissa Cerezo, City Planner for the Manhattan Office of the Department of City Planning, she notes that the process is more about preference than compliance or requirements: *preferences always override compliance*. This, she said, is true of every redesign.³³ The review process is meant “to prevent worst-case situations” and seeks to not be unreasonable with out-of-scope requirements.

STANDARDS OR DESIGN REVIEW?

To preface *The Social Life of Small Urban Spaces*, William Whyte writes that “zoning is certainly not the ideal way to achieve the better design of spaces. It ought to be done for its own sake. For economics alone, it makes sense.”³⁴ The standards set forth for the design of privately owned public spaces are a response to 50 years of poor plaza design, but the text gives a clear sense to the developer what is expected before any interaction with DCP. The plaza has “come to have an excessively important role in the design of the city” because it was the major incentive provision of the 1961 Zoning Resolution. Jonathan Barnett, in *Urban Design as Public Policy*, writes that “zoning can be made into one of those basic methods of designing cities,” using standards to define the type of design and development that the City would like to see.³⁵ Prior to the design standards set forth in the 1975 revision to the POPS regulations, plazas (and the resulting floor area bonus) were allowed as-of-right, which required no review from DCP. Although they are currently allowed by Certification, the case studies to follow will illuminate the discretion that Amanda Burden exercises over the design of these spaces. This begs the question: what is the appropriate level of administrative review with DCP for plazas?

According to Shirvani (1981), there are two ends of the urban design review spectrum – at one end is the capital-intensive, self-administering regulation, and at the other is the labor-intensive, discretionary review (Figure 3.5).³⁶ The self-administering

33 Cerezo, Melissa. Interview. 4 March 2011

34 Whyte, 1980, p. 15

35 Barnett, Jonathan. 1974. *Urban Design as Public Policy*. McGraw Hill: New York, p. 26

36 Shirvani, Hamid. 1981. *Urban Design Review: A Guide for Planners*. Planners Press, American Planning Association: Washington, D.C., p. 24-5

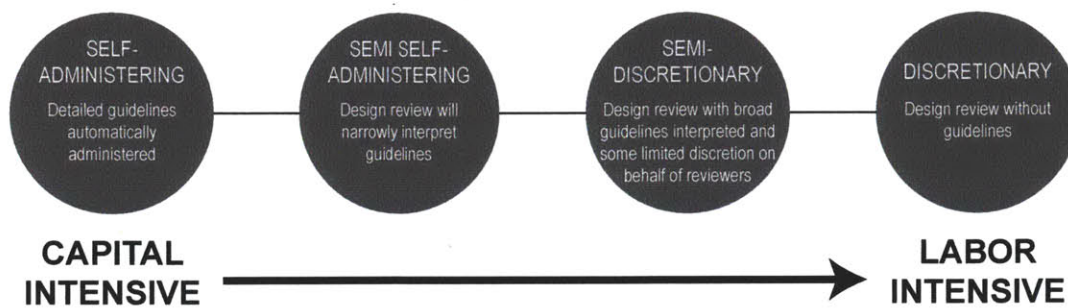


Figure 3.5. Design review processes. Adapted from Shirvani, *Urban Design Review*.

process requires advanced planning and preparation of design guidelines by city planners so that developers and architects have flexibility to select among options as long as they meet the minimum requirements prescribed. An example of this is the New York City Housing Quality Program of the 1970s, in which building designs had to accumulate 85 “points” from 26 elements in four categories: neighborhood impact, recreation space, security and safety, and building interior. Designers could forfeit points in one category and accumulate more in another, but a minimum must be met for each element and category. Furthermore, special zoning districts, such as the Midtown Special District in Manhattan, have design and planning guidelines outlined in the Zoning Resolution that intend to preserve and expand a character, stabilize development, and to guide future growth.³⁷ Certain urban design features, such as continuity of street wall and requirements for mandatory illuminated signs in Times Square, are allowed as-of-right. The discretionary review process involves individual design studies, and guidelines are tailored to each specific project. A developer that wishes to circumvent the specified zoning for a district because of hardship or other reasons may request a variance or special permit, which requires some level of discretionary review.

The choice of the “review” process depends on the desires of the municipality. If design quality is the goal, then full discretionary review will ensure thoughtful and quality products. If quantity is the goal, then the self-administering (or “as-of-right”) process will ease the administrative process and can encourage more development. The limited oversight in the as-of-right process, however, makes it challenging for city agencies to ensure quality.

When standards are issued, developers may be more inclined to follow the letter of the law in an effort to minimize design, review, and construction costs (as seen

37 ZR §84-00

with the provision of POPS). Shirvani writes that the “aesthetic elements of design, for instance, may suffer if prescriptive standards inadvertently promote blandness or excessive homogeneity.”³⁸ He continues to write that rigid prescriptive standards “restrict the amount of creative input that can be included in the design solutions.”³⁹ In New York City, only a very small number of developments are reviewed by the Department of City Planning; well over 90% are built as-of-right following the standards set forth in the Zoning Resolution. Because of this popular option, standards are written into law to guide the development of the City.

In a survey of public officials and developers in suburban single-family housing markets, Eran Ben-Joseph finds that “burdensome aspects of regulations still center on issues of government bureaucracy, discretion, and organization.”⁴⁰ The frequently-repeated comments that developers shared during the study were:

- [...] *We can deal with just about anything if it is known. What hurt[s] us are the inconsistent approval times and regulation changes after the approval of the preliminary plat.*
- *Regulatory agencies exceed their authority to practice social engineering, architecture, and micro-management.*
- *The biggest problem that we see with regulations is not the regulations themselves, but the various interpretations by staff and zoning officials.*
- *They make up their own rules.*⁴¹

The Urban Land Institute, in the same paper, notes that “the delay caused by the regulatory maze produces higher cost housing through holding costs, increased expenses due to risk, uncertainty, overhead, and inflated cost of labor and materials, and other more hidden costs.”⁴² The survey showed that public officials and developers agree that straightforward design alternatives to zoning variances that are written into code are preferred over the long administrative design review process.

The discretionary review process, although a means for developers to build beyond the height and bulk regulations set forth by the Zoning Resolution, has an uncertain length given that the time depends on the actions and recommendations of multiple reviewing bodies. Although the ULURP process is intended to last approximately one year following the pre-application process, the average number of days for all completed

38 Shirvani, p. 74

39 *Ibid*, p. 76

40 Ben-Joseph, Eran. 2003. *Subdivision Regulations: Practices and Attitudes. A Survey of Public Officials and Developers in the Nation's Fastest Growing Single Family Housing Markets* (Lincoln Institute Product Code: WP03EB1). Lincoln Institute of Land Policy, p. 6

41 *Ibid*, p. 6-7

42 *Ibid*, p. 17

applications for special permits between November 13, 1987 and May 15, 2012 was 565 days (n=585).⁴³ Furthermore, Eran Ben-Joseph notes that developers view zoning relief and variances as “major undertakings” given the time and resources required during the approval process.⁴⁴ Barnett writes that the special permit process “allows the City government considerable discretion, which makes it difficult for the public to be certain that it knows what is going on.”⁴⁵ Barnett would advocate for a self-administering process that still allows some flexibility in design. He writes that

It isn't necessary to design all the buildings if you have reached an understanding of the salient points of the overall design, know exactly which ones are most crucial, and understand the steps required to make sure that what is important will actually be done.⁴⁶

The Housing Quality Program achieves this intent as it “relates zoning to the actual design process, the basis of which is choice.”⁴⁷ It serves as a substitute to the design process with a far simpler document and is an “evaluative tool to codify the variables of design choice, and give architects and developers assistance in their own decision making process.”⁴⁸ Thomas Nally in his MIT Master in City Planning thesis, notes that “performance standards controlling some elements of design issues do offer developers a choice in how to meet the requirements and may even stimulate innovation toward more economical solutions.”⁴⁹

When comparing the performance standards of the Housing Quality Program to a process that may be appropriate for privately owned public spaces, housing design can follow such regulations because a building interior and a public space operate at different scales. Quality design of a building's interior spaces will not necessarily have the same effect on a neighborhood than the quality design of a public space. Since the design of POPS escape the ULURP, a process must be defined that removes the possibility of any arbitrariness from the existing Certification process, or standardizes a process that developers and applicants can, with some assurance, appropriately anticipate the length of approval.

43 Data obtained from the New York City Department of City Planning Land Use and CEQR Application Tracking System. Median number of days was 410; standard deviation of 483.8; maximum number of days was 3965.

44 Ben-Joseph, p. 24

45 Barnett, 1974, p. 47

46 *Ibid*, p. 58

47 Urban Design Council of the City of New York. 1973. *Housing Quality: A Program for Zoning Reform*. Urban Design Council of the City of New York: New York, p. 12

48 Nally, Thomas. 1977. *Design Review: Alternative Models of Administration*. Master's Thesis. Massachusetts Institute of Technology, Cambridge, MA. Retrieved from <http://dspace.mit.edu>, p. 224

49 *Ibid*, p. 290

CASE STUDY 1: GRACE PLAZA REDESIGN



Figure 3.6. STK kiosk under construction at Grace Plaza, June 2011.

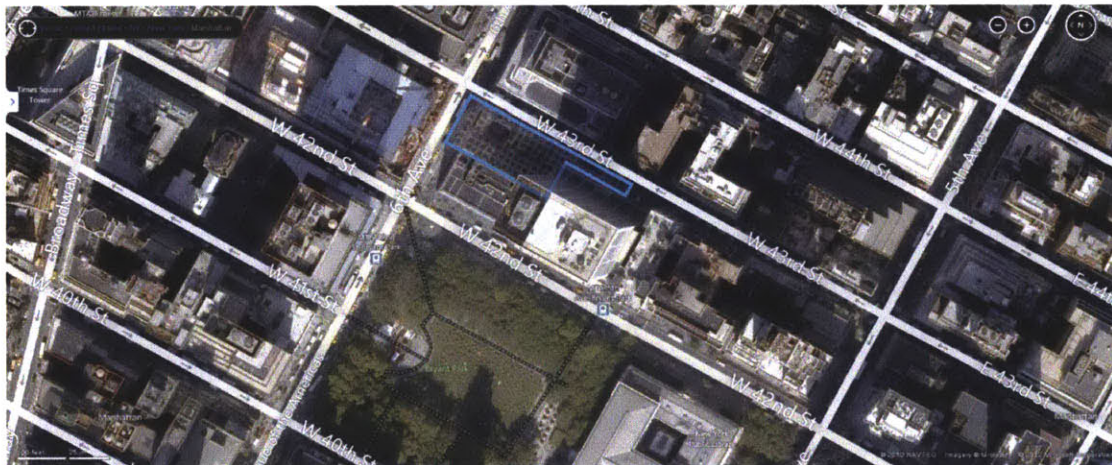


Figure 3.7. Grace Plaza outlined in blue. Building entrances are from 43rd and 42nd streets and from the plaza from Sixth Avenue.

Grace Plaza exemplifies the design and management problems that have commonly characterized privately owned public spaces produced pursuant to the 1961 zoning regulations. The original design of Grace Plaza fosters an uninviting space for security – “an image of affluence indulged in the luxury of empty space.”⁵⁰ The expansive plaza symbolizes power and a strong visual entrance to the Grace Building, and the lack of amenities reflects a purposeful design to discourage use. Although the redesign will

be discussed further, the improvement in the quantity of amenities is suggestive of the uninviting condition of the previously-designed space. Previously, only 9% of the elevated plaza was filled with amenities – namely large planters, benches, and litter receptacles; the new provisions increase this amount to 27% of the total area. The barren plaza only provided 0.345 linear feet of seating per 30 square feet of plaza; the 1975 and 2007 regulations require 1 linear foot per 30 square feet of plaza. All seating was fixed, and no moveable chairs and tables for social gathering and interaction were provided. The average lighting was 0.5 foot candles; the 1975 and 2007 regulations require a minimum average of 2 foot candles. Furthermore, no signage marked the space as public. The increase in the quantity of amenities alone is indicative of an effort to foster more activity.

As discussed in the Chapter II, management of public space can be as influential as its design. Mark Francis writes that public space managers strategically affect the design and management of the spaces to prevent undesirables from using the space.⁵¹ Barbara Steward of the *New York Times* described the space as:

...a long, wide expanse of pale limestone, with dark rectangles that echo the skyscraper's dark walls looming alone. [...] It has the colors of a prison yard, and is situated on the north side of the building, where the sun never shines. It has a deeply impersonal feel, and the few people resting there at lunchtime Monday looked isolated, alone.⁵²

The barren space not only served as a visual deterrent to use, but was also home to drug dealers and other illicit behavior that spilled over from nearby Bryant Park and Times Square. In his exhaustive survey of the privately owned public spaces in New York City, Jerold Kayden writes that “an audit of the bottoms of planters at the Grace plaza in the late 1980s would yield dozens of empty multicolored crack vials in the dirt.”⁵³ The populace of undesirables and the imageability of the Grace Corporation produced a battle for control of the plaza: a battle between control as *use* and control as *management*. When the owner hired private security guards to patrol the space, one guard recounted, “You can get killed if you don’t know how to deal with [the dealers]. Don’t let them get to know you, don’t get friendly with them.”⁵⁴ Had there been more amenities and programming of the space to make it less barren, perhaps the space would have been used more as a public space and less as a home to crime.

51 Francis, p. 150

52 Steward, Barbara. 22 April 1999. Public Plazas That Turn the Public Off. *New York Times*, Section B p. 6

53 Kayden et. al, 2000, p. 130

54 *Ibid*

REASONS FOR REDESIGN

In 2009, nearly 40 years after the space was produced, the owner submitted an application to the Department of City Planning to redesign the plaza. Although the reasons for redesigning the space are argued for economic reasons, the redesign offered the plaza an opportunity to address the design and management issues that have defined the space.

Poor Paving. The sub-level space underneath the plaza, occupied by the International Center for Photography (ICP), has had water leakage and damage due to paving issues on the plaza above. In order to preserve the tenant space and its operational issues, the entire surface, formerly paved with travertine and concrete, will be paved with jet mist granite thermal finish.

Commercial Space. Although retail fronts 43rd Street, no commercial space fronts the Sixth Avenue entrance from the Grace Plaza. “STK,” who operates an upscale restaurant in the Meatpacking District, approached Brookfield Properties to operate a restaurant and kiosk on the plaza. The restaurant would front the plaza and would have an open air café for seating, and would also have a concession out of the kiosk that would serve more reasonably-priced food items. This cheaper option would ensure that the café is not seemingly operated solely by the expensive restaurant, thereby allowing a broader base of users to inhabit the space.

Although water damage and commercial interests spurred the renovation of the plaza, the nature of the plan seeks to create a more usable and “public” space. Previously having 0.345 linear feet of seating per 30 square feet of plaza area, that measure increased to 1.21. The amount of planting increased from 756 square feet (4% of plaza area) to 1,970 square feet (9% of plaza area). Moveable seating is now provided through 142 moveable chairs and 32 moveable tables; a food kiosk is currently operating on the plaza; the lighting of small areas was increased; and five public space signs are now provided.⁵⁵⁵⁶ The final amenity quantities and specific design elements of the space, however, are the result of an iterative process in which the DCP Chairperson, Brookfield Properties and STK resolved competing interests.

DESIGN THROUGH PROCESS

Visual accessibility – into and within the plaza – was one of the major concerns

55 Moed de Armas & Shannon, Dwg. Z-2, “Zoning Compliance I,” rev. 26 October 2009
56 Moed de Armas & Shannon, Dwg. Z-3, “Zoning Compliance II,” rev. 26 October 2009

of the Chairperson throughout the design process.⁵⁷ Large tub planters lined the 43rd Street entrance to the plaza that the Chairperson felt created a psychological and visual barrier. The owner, however, wanted to preserve these tub planters and place them around the open air café to create an “oasis.” But placing the large tub planters around the café would effectively privatize it: a businessperson who brought his or her own lunch may think twice about sitting in the café and would possibly sit somewhere else in the plaza. Although the submitted plan includes six planters surrounding the café, the Chairperson and the owner agreed to reduce that number to four. The Chairperson also requested that the tubs be reduced to less than three feet in height so that the height of the ICP pavilion was not compromised. Ideally, the Chairperson would remove the tubs and instead put low-level planters around the café.

The commercial operator, STK, and Brookfield Properties wanted as much separation as possible between the open air café and the public space, effectively privatizing the café. They would have preferred the café be closer to the restaurant entrance than was approved (12 feet), and would have also advocated for the large tub planters. Although the number of planting tubs surrounding the café was reduced, a flush-to-grade planting bed was placed on the west side of the café. The planting bed, although at grade, may serve as a small psychological deterrent to the café because, on paper, the café appears to be “cut off” from the rest of the plaza to Sixth Avenue.

Another issue the plan attempts to address is preserving circulation paths. Site studies conducted by DCP showed that pedestrians cut through the plaza to get to Sixth Avenue or 43rd Street. However, once amenities are included – which are legally termed “permitted obstructions” – these paths can be obstructed or altered. Through the design process, the location of the café was changed several times to retain the width of these paths. The placement of the tubs, planting beds, and the preservation of pedestrian paths are examples of the implementation obstacles to the private provision of public goods – that the interests of the private actor and the public are not always aligned. Had the DCP reviewers not advocated for these design elements that foster pedestrian use, it is unclear if they would have been provided. At the same time, the approach of the designers for Grace may not necessarily have been precluded by the design guidelines for POPS.

Scale was one of the largest concerns of the Department in redesigning the space. The dramatic Grace Building had a windowless façade on the North side of the building fronting the plaza. The plaza was also very deep from Sixth Avenue to the building

57 Cerezo, Interview, 2011

entrance (215 feet). The large space and windowless façade together create a long visual corridor that also makes the pedestrian feel small. The Department intended to create a “comfy urban room environment” by rescaling the space to the pedestrian – to create a human scale. The plan calls for sittable planter ledges that “bump out” from the wall and shorter benches that are more scaled down to the pedestrian. Long, continuous benches would reinforce the long visual corridor that already exists in the plaza. The planters will also contain large trees that extend the entirety of the blank façade to minimize the amount of blank wall. The design approach of the agency indicates a tendency to “co-design” a space by subjecting the proposal to a great deal of discretion.

PROCESS: ISSUES AND CONCERNS

One issue that prolonged the approval process was the café placement and the furniture surrounding it. Despite the working relationship that was established between the building owner and the Department, both Brookfield Properties and the Chairperson were firm in their positions about the café; the stubbornness of both sides led to an impasse.⁵⁸ Once an agreement was made, the Chairperson had many comments concerning the details of the plaza – all of which were of little concern to Brookfield. The Department’s preference for visual accessibility into the plaza also caused a large back-and-forth as both sides struggled to agree on the appropriate number of trees along the street line. The existing conditions did not allow for a sub-grade planter, but DCP did not want the trees in tubs. Attempts to push the planter into the pavement to create a more porous feeling along the perimeter of the plaza only lengthened the process. In later iterations about the number of tables and chairs and dimensions of sections of the plaza, many revisions were the result of the Chairperson’s indecision to agree on the proper dimensions and number of amenities.

The central issue that appears to have lengthened the process is the timing between responding to the Chairperson’s comments and receiving comments on the revised drawings. Having to review projects of multiple scales across the City – from the design of a plaza to that of a large-scale development – it has proved difficult to schedule meeting times with the Chairperson. In past years, the Manhattan Borough Office held bi-weekly meetings with Commissioner Burden, at which time she would review all Manhattan projects scheduled for Certification or City Planning Commission review. The difficulty with the process has been relying heavily on one person – without having scheduled times

58 Schonfeld, Interview, 2011

dedicated for review, the uncertainty in timing may create unanticipated costs for the applicant.

CASE STUDY II: 1095 SIXTH AVENUE REDESIGN

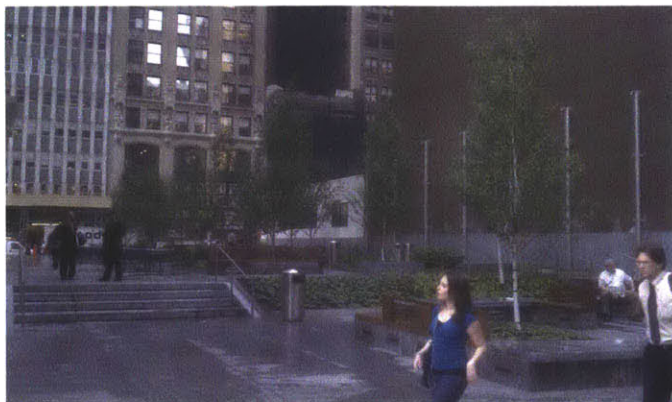


Figure 3.8. View into through block plaza at 1095 Sixth Avenue from 42nd Street, June 2011.

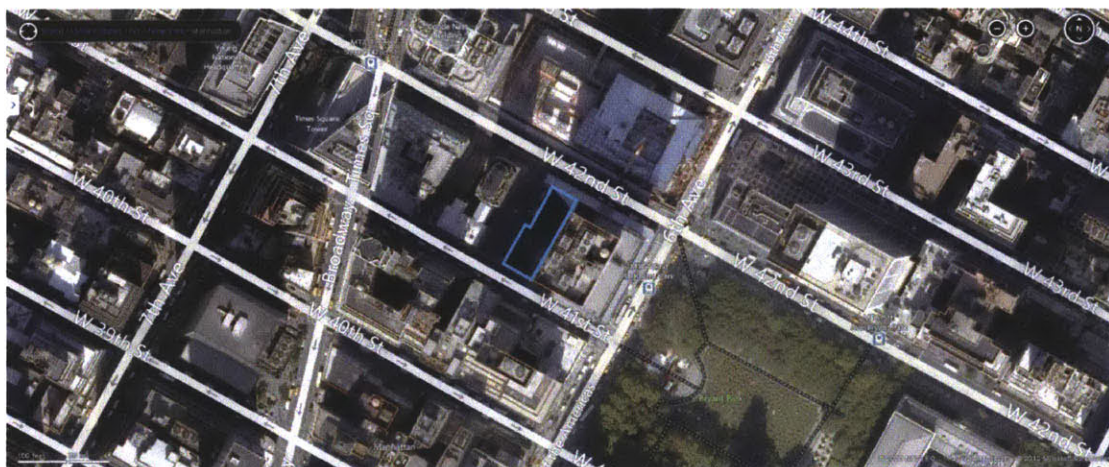


Figure 3.9. Through block plaza at 1095 Sixth Avenue outlined in blue. The principal building entrance was previously on Sixth Avenue; following the completion of the plaza and adjacent retail building, the office entrance will be moved to the plaza and retail will front Sixth Avenue.

The special permit plaza at 1095 Sixth Avenue is located one block west of the Grace Building and serves as through-block access between West 41st and 42nd streets. Like Grace Plaza, the plaza at 1095 experienced much of the crime and drug-use spillover from nearby Bryant Park and the Times Square neighborhood in the 1980s, but in return for nighttime closings the owner agreed to upgrade the plaza in 1989 and 1990.⁵⁹ As part of a new development project by Equity Office, the building owner, to reclad 1095

59 Kayden et al., 2000, p. 126

Sixth Avenue and to construct a new three-story retail building at 124 West 42nd Street the plaza between the two buildings was redesigned and opened in late 2010. In this case the building owner had a very strong working relationship with DCP and has “not been overly-burdened” with the process but was unsatisfied with DCP’s attitude towards economic hardships.

DESIGN OF THE PREVIOUSLY-APPROVED PLAZA

The 17,034 square foot plaza, completed in 1971, was classified by Jerold Kayden as a “neighborhood” space in 2000. Granite benches with “uncomfortably obtuse angled backs” and “plentiful fixed metal benches and seats” offer seating beneath two mature trees and individual trees in concrete planters (30 total trees). Shade can be sought beneath a trellis and brick waterfall pools that once operated in the space were removed at the time of Kayden’s study. In addition, a subway concourse is accessible from both entrances to the plaza.⁶⁰ During the 1980s the fountain was used as a communal bathtub and bathroom by the homeless and was [illegally] removed from operation. A representative at 1095 Sixth Avenue described the plaza as “big” and “cumbersome.”⁶¹

REDESIGNING THE PLAZA AT 1095 SIXTH AVENUE

REASONS FOR REDESIGN

The plaza modification in 2010 is part of a development project headed by Equity Office and Cushman Wakefield, Equity Office’s retail-brokerage consultant, to reconfigure the two “very ugly buildings adjacent to the plaza” at 124 West 42nd Street into a three-story glass-enclosed retail and entertainment building. Equity Office intends to place the building entrance on the through-block plaza (and off Sixth Avenue) and construct a new retail structure adjacent-to and below the plaza, with the plaza as the “centerpiece” to a new retail destination for Times Square. The approved plaza modification was the second plan presented to DCP: the first design attempted to lower the steel beneath the plaza to create a ramped up plaza without stairs, but this design was budgeted to be \$28 million and proved to be financially unfeasible for Equity Office.⁶² A new architect (Moed de Armas & Shannon) was hired and produced a design that was more affordable (\$9 million) and less ambitious. The review process began in August 2009 and certification was awarded in early April 2010.⁶³

60 *Ibid*, p. 127

61 The interviewee has requested to remain anonymous.

62 Land Use Application ID: M 890491B ZSM

63 Land Use Application IDs: N 100242 ZCM, N 110364 ZCM

The previously designed plaza had 0.67 linear feet per 30 square feet of plaza area – the new design has 1.13. The new plaza has 92, moveable chairs and 23 moveable tables; 1,100 additional square feet of planting; two drinking fountains; and two bicycle racks.⁶⁴ With the renovation of an adjacent structure, the owner intends to move the subway station entrance from West 41st Street to the northern portion of the plaza on West 42nd Street. During the process, the plaza area will be expanded to the west by reducing the square footage of the new building at 124 West 42nd Street by 2,200 square feet, thereby creating a straight pass-through between 41st and 42nd streets⁶⁵ The representatives had fewer reservations than those from other plazas about the design review process, but issues were still far from non-existent.

PROCESS: ISSUES AND CONCERNS

Despite a strong working relationship between 1095 Sixth Avenue and the DCP, the DCP staff was described as not being very accommodating and stubborn in their principles and ideals for public space design. The representative felt that DCP wanted the plaza to be designed in a particular manner and was not open to other opinions. The first plaza design was submitted prior to the global financial crisis in 2008 and was a rather ambitious proposal that sought to bring a considerable amount of the plaza in greater accordance with the 2007/2009 regulations. The design went through much change because of the level of redesign requested, but when the financial crisis struck the U.S. in late 2008 Equity Office could not justify spending \$28 million and withdrew the plaza plans. DCP was not sympathetic to Equity Office's financial situation; the representative notes that DCP will consider obstructions or existing conditions that would not make an intervention feasible, but are not concerned with financing issues.

The first design was proposed before Equity Office's redevelopment plan for the building adjacent to the plaza, at which time the owner was not prepared to make modifications to their façades. Through the design review DCP requested more transparency along the ground floor through the use of glass and doors, and wished to see artwork and a water feature in the plaza. Similar to Grace, there were two floors of rentable space beneath the plaza and the fear of water leakage from a water feature held the design review process for some time. The representative believed that water features function well aesthetically but the cost of maintenance far exceeds the few benefits to

64 Moed de Armas & Shannon, Dwg. Z-1, "Zoning Compliance," rev. 25 January 2010

65 Moed de Armas & Shannon, Dwg. Z-1.1, "Zoning Compliance," rev. 25 January 2010

66 Moed de Armas & Shannon, Dwg. Z-2, "Proposed Site Plan," rev. 25 January 2010

value creation and is thus not an attractive investment. The representative respected the fact that the design review process tries to improve public spaces, but “the idea that [the staff] can dictate how and when you do something is frustrating.”

In March 2011, Commissioner Burden approved a second set of plans with minor changes: she requested a few more moveable tables and chairs, an elevation of the newly-design building fronting the plaza, but refused to allow a six-foot cantilevered roof over the plaza. Instead of prolonging the process any further by requiring more review, Equity Office submitted the revised application per the Chairperson’s modification. The representative noted, however, that it took six weeks from the date of certification to receive a permit from the Department of Buildings (DOB) to begin construction, and a permit to begin demolition and construction of the new building cannot be issued until the Chairperson sends a letter to DOB approving the plaza design.

Although timing was not as much of an issue as it was with the redesign of Grace Plaza, the process during the 1095 Sixth Avenue plaza redesign also demonstrates the level of discretion that is exhibited by DCP. Despite following the regulations, certain design elements were required beyond what was intended from the applicant. At no time during the process was any organization outside of DCP consulted: the design and modification of this public amenity was decided between the applicant and DCP.

OTHER ISSUES AND CONCERNS

The length of time between stages, even for those who have had relative success with the process, has been a general concern for every interviewee. In addition to the added costs of a prolonged process there is also a level of stress for the building owner as the response time for DCP staff is never certain. One land use attorney noted that it took two months to schedule a meeting with the Chairperson to get approval before officially submitting the plaza plans for Certification. The recommendations of the interviewees call for a more structured and streamline process – whether faster or with a set clock, much like the ULURP.⁶⁷

DCP DESIGN FOCUS

A land use attorney has ascribed DCP’s design focus as one of three major bottlenecks in the review process. A plaza cannot be built unless the Chairperson approves the design, and the Department’s attention to design has brought a much more

⁶⁷ All of the interviewees in this section, unless otherwise noted, have requested to remain anonymous.

critical eye to design elements within plazas. Previous Chairpersons have viewed the role of the agency as advisors to the mayor on land use issues separate from design. In some cases, however, the Department dictated the color of wood or stone paving, the type of trash cans and the seating depth (having already been in accordance with the regulations) – modifications and comments that are out of the scope of the design guidelines.

The recent text amendment for redesigning a plaza has been written in such a way to give the Chairperson more discretion in Certification process. The phrase “*in greater accordance*” is not used anywhere else in the Zoning Resolution but in section 37-625 which states that

Design changes to existing plazas, residential plazas or urban plazas may be made only upon certification by the Chairperson of the City Planning Commission that such changes would result in a plaza, residential plaza or urban plaza that is in greater accordance with the standards set forth in Section 37-70 (PUBLIC PLAZAS).⁶⁸

The phrase cannot be defined by its use in other sections of the Zoning Resolution, which creates uncertainty in the application process. Building owners and property managers have also noted that a reason why other owners may not redesign their plazas is because they are not cognizant of what it means to be compliant and they are unclear of the process length. Furthermore, the Department’s preference for design and amenities has created, what some may argue, crowded plazas. Some believe that the design regulations and Department preferences are “too restrictive” and allow little to no flexibility in design by the developer or architect. Perhaps there are some instances where having a well-placed, broad open space that is not too busy is not too unpleasant.⁶⁹

TECHNICAL REVIEW

Another bottleneck identified by two interviewees was the technical revision of approved drawings. Following Chairperson-certification the approved plaza must submit technical drawings to the agency’s Technical Review Division (TRD), which reviews the documents that will legally define the requirements for construction and maintenance. Interviewees have noted that there is a delay in the review of technical drawings and that the division is typically already overloaded with drawings before receiving approved plaza plans. One person reviews all documents and only lengthens the time between TRD review and any additional comments on the plans. Similar to many building owners’

68 City Planning Commission, 2007, p. 96

69 Consider the plaza at the Seagram Building, a focus of William Whyte’s study in *The Social Life of Small Urban Spaces*.

knowledge of the length of the design review process, the uncertainty in length of TRD review is believed to be a reason why building owners are discouraged from entering the redesign process. The drawings are, however, enforceable legal documents and construction must reflect the filed drawings.

DCP STAFF TIMING

The responsiveness and approach of the DCP staff during the review procedure is another aspect that can lengthen the design review process. Much of the recent Manhattan Office staff has been praised for their timely responses and efforts to move the plaza redesigns quickly through the design review, but the slow-response and attitude of the “higher-ups” in the agency does not allow for an expedient process. A delayed response or contact from DCP staff leads the building owner to bear the cost of a longer process. In some cases, as seen in the previous examples, the staff has little sense of the costs associated with a plaza redesign and is thereby unaware of the financial burden that he/she is causing. These costs include: architect fees, lawyer fees, printing costs, filing fees, interest on mortgage and property taxes on unimproved projects. And when older staff overrides the decisions of younger planners the planner and applicant may be put in a difficult situation when addressing non-procedural decisions.

Former planners have noted that the agency does not share much of the private sector attitude that “time is money” and the simultaneous management of multiple projects is sometimes not the approach of DCP staff. One land use lawyer who was a former construction manager used the analogy of trains running on parallel tracks: a construction manager or developer will operate multiple trains on parallel tracks to see faster completion, but planners like to “step off one train and hop on another, and then step off that one and hop on a different one.” The delay in response and movement between recommendations may be without concern to the financial burden imposed on the applicant.

EXISTING CONDITIONS

Before a plaza can begin the design review process it must cure any violations and non-compliances that exist. The fines imposed as a result of non-compliance may sometimes be small and insignificant to a building owner and the owner may continue to pay the fine instead of cure the violation or redesign. Enforcement in itself is weak and the Department of Buildings is the agency that issues violations and fines. DCP must request DOB to inspect a plaza, but plaza inspections are typically not a priority for an agency that

might be more concerned with structurally-unstable buildings across the City. As a result, many non-compliant plazas go unnoticed and violations remain un-cured, leading to circumstances that often-times impede public use of a plaza.

Some of the non-compliances that have been assigned to plazas improve access and use more than they deter it. Arcades, according to the 1961 regulations, are not required to have amenities, but some building owners have used the space for café seating [without DCP approval]. In order to enter the design review process the building owner is required to remove the seating – to *deactivate* the space. Current DCP staff share the sentiment that some non-compliances are not harmful and perhaps should be allowed to remain during the review process.

In the summer of 2011, a new amendment was approved that allows the installation of moveable tables and chairs in the unused arcades along Water Street, a main thoroughfare on the east side of Lower Manhattan. Furthermore, efforts are being made in the Manhattan Borough Office to have a “Design Change Light” process, in which applicants making “minor” modifications can have an expedited review process. This effort, however, recognizes the oversight and discretion challenges of the agency and attempts to create a formalized process for minor levels of design changes.

CONCLUSION

This chapter discussed the regulatory framework for reviewing new and redesigned privately owned public spaces. Although most plazas are reviewed under the Certification process, which is a non-discretionary action by the Department of City Planning through which the Chairperson of the City Planning Commission informs the Department of Buildings that an as-of-right development has complied with the specific conditions of the Zoning Resolution, the Department of City Planning exercises a level of discretionary review that is beyond the scope of the Certification process. The recent resurgence of public space in New York City has illuminated the value of quality public space design to City residents and visitors, but the review and approval of privately owned public spaces lies with one person – the Chairperson of the City Planning Commission. At the same time, the use of discretion in reviewing new and redesigned plaza applications ensures a high level of design quality, but lengthens what should be a short approval process.

This chapter has shown that developers can respond to a longer process if the actual length can be made clear. Furthermore, clarity in the regulations can help

make comments and recommendations less arbitrary if they are supported by the zoning text. More and more has planning and development involved a series of legal counsels and attorneys, and as the design of valuable public space in New York City is governed by zoning, the use of clear and substantiated regulation can reduce delays in legal interpretations of zoning text. The next chapter will bring together the findings in Chapter II with those in this chapter to recommend an appropriate level of review and amendments that will offer more clarity in the application process and allow for a high level of design.

CHAPTER IV

CONCLUSION AND RECOMMENDATIONS

This final and concluding chapter aims to address three questions: *What is the ideal level of oversight for the design of privately owned public spaces? What does design quality mean today? What is the balance between oversight and design quality?* The examination of the qualities of successful public space in the first part of Chapter II established a framework for creating functional public space. This thesis has argued that the themes that create good public space are: *Destination, Value Creation, Public Accessibility, Opportunities for Social Interaction and Gathering, Physical Comfort, and Participation*. Beyond the design of public space, proper management and programming can ensure continued use and quality and can be as influential as the initial design. The second part of Chapter II described the recent trends in public space design around the world that are most meaningful and applicable for urban open space in New York City. Chapter III outlined the regulatory framework for designing and regulating privately owned public spaces, and examined two recent plaza redesigns and the shared concerns with the plaza review process. The chapter discovered that the current level of discretion exercised by the Department of City Planning is beyond the scope of the actual legal process, and creates a level of uncertainty and length in the process that produces a financial burden for the applicant. This chapter will make recommendations for the appropriate level of design review oversight, for including the most appropriate urban elements prevalent in emerging public space trends, and for encouraging higher quality design in plazas.

Underlying the debate of how to encourage quality design and innovation in

public space and how to properly review it is the need for *clarity*. What makes the as-of-right tool so popular is that developers know that as long as they meet the standards, they will be granted a building permit. What was discovered in Chapter III is that a lack in clarity is a disincentive to redesign poorly-functioning privately owned public spaces. If the City wants quality design then it must make that clear. Mary Anne Tighe, Chair of the Real Estate Board of New York and Chief Executive Officer of CB Richard Ellis New York, said in the *Zoning the City* conference that “we do need something to allow capital to have some comfort that it’s going to move forward in a timely fashion.”¹ This thesis assumes that developers will, in an effort to reduce any unintended variables and length in review, follow the Zoning Resolution closely. Amanda Burden, in an interview, noted that prior to the 2009 POPS guidelines followup revision that one applicant did not provide the amount of planting that she desired. When she referred the text, she saw that the desired amount was not written. Immediately after certifying the application, she went back and codified the requirement. As the example shows, if what is desired is not made clear, then developers and applicants will not know that they should make that provision.

The recommendations in this chapter are divided into two sections: *Oversight and Process* and *Standards and Design Quality*. Within each section are specific recommendations for actions and amendments to be taken by the Department of City Planning.

OVERSIGHT AND PROCESS

An appropriate and sustainable level of oversight for reviewing the design of POPS clearly lies between an as-of-right process and a full discretionary review process. What the City has learned from the POPS constructed between 1961 and 1975 is that without oversight, developers will follow the letter of the law and produce unusable or barren spaces. What developers and building owners have learned through the provision of POPS since 2007 is that close and arbitrary review can lengthen the application process, leading to added time and cost. The circuit of land use lawyers in New York City is rather small, and since all applications are filed by law firms, attorneys are well-aware of the POPS review process and allowances and precedents set in previous reviews. The conundrum is that if the City desires quality design, then discretionary review is a likely option; but if public space is so highly-demanded, the cost of review may inhibit creativity. The following two recommendations for administrative review are intended to provide an

¹ Tighe, Mary Anne. 2011. Where do we go from here? *Zoning the City: Addressing New York's 21st Century Challenges*. New York, NY, McGraw-Hill Conference Center

appropriate review and strategy for new and redesigned POPS, which are an important asset to the larger public space network of New York City.

New and redesigned privately owned public spaces should be approved via Authorization

Commissioner Burden places a great emphasis on design, but it is not clear if design will be a priority of the next City Planning Commission Chairperson. There must be a clear and standard method for review so that applicants know what to expect. Not only has the Department of City Planning made a simple process – the Certification – a cumbersome one because of an attention to detail, but one person should not be charged with approving the design of valuable public space – an amenity often sited in dense areas of the City with little open space.

If the role of the Chairperson in the Certification process is for approval, then applicants need to be sure that the Chairperson will do just that. Borough staff should work with the applicant to ensure that they meet the requirements for new and redesigned POPS set forth in the Zoning Resolution, but discretionary review should not be left to one person’s personal preferences. If the applicant has met the standards, the Commission must make certain findings. Those findings would be:

- (a) to serve a variety of users of the public plaza area;
- (b) to provide spaces for solitary users while at the same time providing opportunities for social interaction for small groups; and
- (c) to provide safe spaces, with maximum visibility from the #street# and adjacent #buildings# and with multiple avenues for ingress and egress.²

By involving the entire Commission, the Chairperson may be less likely to act arbitrarily among the other Commissioners. Furthermore, the “POPS process” can be detailed in Section 37-70 to include a specific timeline for different actions.

A common issue expressed by many applicants was *scheduling* – finding time in the Chairperson’s schedule to review a series of plans has become difficult. The City Planning Commission generally meets every Monday for review, and hence scheduling a review would be dependent on the time for the applicant to meet the regulations, and not on both the applicant’s progress and the Chairperson’s schedule.

On paper, the Authorization may be longer than the Certification process, but there is more transparency in the process, which would be attractive to developers and

2 ZR §37-70 PUBLIC PLAZAS

applicants.³ Furthermore, changes in the Chairperson will not adversely affect the quality of plazas that are approved. One may argue that non-designers have no role in reviewing design proposals, but the design should be left to the landscape architect and not the City. The City Planning Commission's comments and recommendations, if any, should be based on the findings, which address functionality and not detailed design elements.

Privately owned public spaces should be considered as part of the City's larger open space network

POPS are a valuable resource for many dense neighborhoods as an open space amenity, but are not considered in the City's long term sustainability plan, PlaNYC. Since the City does not actually own the property the POPS is located on, it becomes difficult to properly plan for the future of these spaces. These spaces, however, are often of higher quality than the "generic" City park. If multiple City agencies are part of the development of public space, a concerted and coordinated effort should be undertaken given the shared goal. The Department of Transportation, in its Public Plaza Program, requires applicants to demonstrate a need for public space in the neighborhood, acknowledging that the new plaza will fit into a larger open space network. Furthermore, the DOT will design the plaza using in-house designers, with consultation from the Urban Design Office at DCP.

If the review of POPS is moved to Authorization, one of the required findings can be that the applicant demonstrate that they follow the appropriate considerations for pocket parks and plazas in the *High Performance Landscape Guidelines* for City parks (and, if applicable, for parks over structures). At the same time, this will allow the City to consider POPS as part of an open space network, perhaps as a "second-tier" public space, but nonetheless acknowledging the benefit of these spaces. In addition to potentially providing a well-designed space, a new POPS can meet one definition of a 21st century park as an ecologically functional one.

By making applicants cognizant of nearby public spaces, they may be inclined to set their space apart from the others. This may encourage the innovation and space differentiation discussed in the second part of Chapter II.

STANDARDS AND DESIGN QUALITY

Six elements were identified in Chapter II that were prevalent in many urban open

³ The median number of days for a Certification not requiring an environmental review is 103 days (last 372 completed applications since May 17, 2012); the median number of days for an Authorization not requiring an environmental review is 288 days (last 217 completed applications since May 17, 2012). 19 Authorizations (18.4%) were completed in fewer than 103 days.

space designs around the world and can be applicable at the size and scale of a privately owned public space. The elements were:

- *Lighting*
- *Temporary structures and interactive artwork*
- *Canopy cover*
- *Digital media*
- *Customized urban furniture*
- *Integration of nature in the urban environment*

The intent of the second part of Chapter II was to identify these elements for their functionality beyond aesthetics. Having reviewed nearly 100 public space projects around the world, one major finding was that visually pleasing (even visually “arresting”) public spaces were not always usable and functional. One major (and basic) goal of the Department of City Planning is to ensure that each new and redesigned POPS is first usable, functional, comfortable, and accessible. Although many POPS will never become the signature spaces of the world, they can be both innovative and functional as a small urban space. The elements listed above can easily be incorporated into the design of a space, but can provide new and unique amenities that can change how public space is perceived. The following two recommendations are intended to encourage quality design without mandating it. Ultimately, these recommendations will make clear the City’s desire for quality open space, as well as clearly outline the options available for new designs.

Celebrate good design (and point out bad design) so that developers know what the City prefers

If the City wants good design in public space, then developers need to know what good public space looks like. In Chapter II it was noted that the developer has a great influence in dictating and determining the ultimate design outcome. Most developers are not landscape architects – or planners for that matter – but they can acquire a design sensibility. People remember places they like; everyone has a sense of what makes a comfortable public space, it is just a matter of translating that inherent sensibility into physical design. Since the City does not have aesthetic standards, developers can design spaces based on their personal preferences. If the City celebrates the POPS that are high-quality, developers could attempt to incorporate the successful elements of the award-winning spaces into their new design and the overall perception of public space can be affected.

During an initiative to improve the Privately Owned Public Space Database

with the Department of City Planning in 2010, DCP planners desired to have new and redesigned plazas be attributed a data field titled “Precedent Space.” The intent was to note the existing plaza design that demonstrated similar site characteristics and challenges. DCP already refers specific plazas as examples of successful urban open space – if these were presented before the applicant has prepared a well-thought design, this may remove some of the delays incurred through any discretionary review.

Define the elements of Part 2 of Chapter II in the Zoning Resolution as permitted obstructions and amenities

In the search for more clarity in the regulations and to limit uncertainty in the approval process, desired amenities and elements should be clearly outlined in the Zoning Resolution. If the developer or designer wishes to include a particular element or take a design approach that is not clearly written in the design guidelines, the developer may not pursue that direction in fear of comments and suggestions from the Department of City Planning. The elements listed in Chapter II are defined below in the appropriate sections of Section 37-70, the urban design guidelines for public plazas.

Lighting. Section 37-743 describes the lighting and electrical power requirements for POPS with the intent that plazas shall be “illuminated to provide for safe use and enjoyment of all areas.”⁴ There must be a minimum of 2 foot candles throughout all walkable and sitting areas, and a minimum of 0.5 foot candles in all other areas. In his discussion of the Housing Quality Program, Thomas Nally writes that “all of the standards are measurable – though the basic for measurement is not always substantiated and can appear arbitrary in the text. [...] Some justification for these specific measurements may add credibility to their standing.”⁵ Chapter II cites an ongoing LED study in public spaces in the South Baltic Region of the European Union, and the results thus far suggest that up-lighting, LEDs, and other lamps may allow for lower light intensity while still maintaining a safe level of visibility. A comprehensive lighting study should be undertaken in existing POPS to determine the appropriate levels of lighting, and what new forms of lighting are equally as effective. New fixtures can be temporarily installed in existing public spaces and used instead of the space’s normal lighting system.

Temporary structures and interactive artwork. Artwork is allowed in POPS as an

4 ZR §37-743 Lighting and electrical power
5 Nally, p. 230

additional amenity and must “integrate with the design of the public plaza.”⁶ What constitutes artwork and how well it integrates with the design of the public plaza is up to a tremendous amount of discretion, which is left to the reviewer – in this case, the Chairperson of the City Planning Commission. If spaces must be functional and inviting, then artwork should have an interactive component to it that physically makes it part of the public space. The text for artwork can be revised to require artwork to be interactive, and a separate subsection can be dedicated to temporary structures. If the barren, unused spaces built between 1961 and 1975 are the greatest opportunities for change and creativity, then structures may only be applicable on these spaces. Like kiosks, temporary structures can also be allowed through a separate review process.

Canopy cover. Arbors and trellises are permitted obstructions in a plaza, but only canopies of 250 square feet (maximum) that project at most 15 feet into the plaza are permitted without vertical supports.⁷ A provision can be made to allow canopies intended to provide shade and shelter, or lattice canopies of particular dimensions as a form of artwork.

Digital media. Digital media may need to be considered artwork just as the movie screen at 839 Sixth Avenue was. At 1095 Sixth Avenue there was a brief consideration for allowing users play video games on a screen projecting into the plaza. Because the applications of digital media to public space are endless, the type, form, and function of digital media would require some level of review. However, by explicitly stating that “digital media” is permitted as a form of artwork in a public space, designers and artists may be inclined to consider it in their design scheme.

Customized urban furniture. The standards for seating have been tried and tested, but creative products can be designed for public spaces. Recently urban furniture has received some accolades, such as the zipper bench in Battery Park designed by WXY Architecture + Urban Design. No barriers currently exist to provide such innovation in furniture, but innovative urban furniture can be listed under Additional Amenities if there is fear that some forms may not be inviting or comfortable.

Integration of nature in the urban environment. Although planting is already

6 ZR §37-748(a) Additional amenities – Artwork
7 ZR §37-726(c) Permitted obstructions – Canopies, awnings and marquees

required in new plazas, new forms of pavement, water, and features with ecological functions can be integrated as environmental and interactive features into the public space. One important element that William Whyte noted in the *Social Life of Small Urban Spaces* and is a consideration in the *High Performance Landscape Guidelines* for City parks is the creation of microclimates. Measuring a microclimate might not be feasible, but requiring applicants to follow the document prepared by the Design Trust for Public Space and the Department of Parks and Recreation may encourage more applicants to integrate natural features into their designs for stormwater management and microclimates. A physical element, structure, or obstruction that has an environmental engineering function may be considered an additional amenity.

DISCUSSION

Regulation is surely the least favorable method of achieving good design. Zoning is not a tool that typically encourages innovation and high quality design – it is more of a regulatory barrier that must be overcome. But it is the tool that has guided the design of many of the public spaces in the highest-valued areas of Manhattan. The recommendations listed in this chapter address the appropriate level of oversight in the review of POPS designs, and the appropriate elements that reflect the public space ideals being employed all over the world. This thesis is not intended to be entirely reactive. The resurgence of public space has put the spotlight on New York City's urban open spaces, and residents place a higher value on quality public space such that opportunities present themselves to provide spaces that are not only functional but memorable.

This thesis could have easily recommended that the aforementioned elements be required in new and redesigned POPS. But designers place a tremendous value on flexibility – on not being weighed down by rules. These elements have not been appropriately explored and employed in the parks and plazas of New York City, but have the potential to create new or varied experiences in the “generic public space.” If the 50+ years of the provision of privately owned public spaces have demonstrated anything, it is that as long as the incentive to receive extra floor area exists, developers will generally follow the letter of the law to reduce costs in design, construction, and management. An incentive for “good design” would potentially result in much litigation since what constitutes “good design” is very arbitrary. Standards for public space should be both basic and specific enough that the City gets what it wants while still allowing a level of flexibility for the designer to address the problem creatively.

The recommendations set forth in this thesis are a step toward clarity in that the desired elements are laid out as options, and the review process, despite moving a level higher in the “ladder,” would be more sustainable as Chairpersons change. If the specific process for a POPS is structured and if the general length of time is communicated early, then developers can appropriately budget for the review. If the developer typically has “the upper hand,” then recommendations should be framed in a way that developers can realize a profit.

In considering POPS as part of a larger citywide open space network, some of the responsibilities of public parks should be shouldered on to new POPS. Plazas that provide play equipment for children and other recreational elements for adults – bocce ball courts, for example – that make the spaces neighborhood centers could easily be incorporated into new POPS. Playgrounds are already allowed in the design guidelines as an additional amenity for plazas greater than 5,000 square feet, but if the perception of these spaces shifts from being ambiguously public to spaces that reflect the needs of the community, the increased provision of public space through POPS allows them to address desired public amenities not being provided elsewhere. These spaces, although having the ability to be redesigned, will exist as long as the building still stands. If new buildings will stand for at least another 60 to 70 years, then a sustainability plan that projects 30 years into the future can easily consider a strategic approach for existing privately owned public spaces.

This thesis has, unmistakably, taken a very “Manhattan-centric” approach. Although the value of small urban spaces can be felt across the entire City, the scarcity of quality public space in Manhattan has required the private provision of this public good through incentive zoning.

FUTURE RESEARCH

Future research should be geared towards encouraging building owners and developers to produce high quality public space. An economic analysis of the value of quality public space design would be most instrumental in encouraging “better” design, since projects will not be undertaken unless it can be demonstrated that there will be a positive net present value. Two products should result: the first is empirical evidence if quality design will increase the value of a property, and the second is an economic strategy to encourage building owners to redesign poorly-functioning POPS. Although there is no bonus floor area incentive for redesigning a POPS, perhaps a building owner can receive some tax relief when improving a public space. This will help justify the redesign

financially, as well as provide a real incentive for improvements.

In an academic setting, where fiscal and bureaucratic constraints may not be of the highest concern in exploring ideas, perhaps some of the most explorative and innovative ideas for reimagining privately owned public spaces may arise. In 2011 the Department of City Planning, with the Office of the Bronx Borough President, the Harlem River Working Group and the Bronx Council for Environmental Quality, co-hosted a site and systems planning studio with students at the Massachusetts Institute of Technology to solicit creative ideas to reimagine the Harlem River waterfront. When budgets are tight, schools and universities may be able to fund such ideas programs through public service grants. The Department of City Planning should consider working with a design studio at a nearby school (i.e. Columbia University) to consider some design schemes for select privately owned public spaces. Although the ideas may not be immediately implementable, whole designs or specific elements that are appropriate and feasible may be explored in actual designs. Furthermore, such a method would be a means of testing the emerging ideals of public space design in public plazas.

If a serious “open space network” or master plan would be pursued, how would new public spaces respond to the existing ones? How could the City locate and design different levels of public space types such that the opportunity for relaxation, leisure, or recreation is always readily available? Furthermore, how can the community desires and needs for public space amenities be addressed early in the design process?

On the issue of discretionary review, an investigation of the issues and concerns of the pre-application process for the ULURP may help make the process more structured, transparent, and timely. With new and redesigned POPS applications, efforts have been made to require a “letter of intent” from the applicant at the beginning of a POPS design process to track the full length of the application process beyond the formal Certification.

Research should continue in an effort to make new and redesigned privately owned public spaces a clear part of the public realm. As more people move into the City,⁸ the need for public space continues to grow, and the resurgence of public space has demanded a higher level of design quality. As the availability and quality of public space informs where we live and work, an appropriate and sustainable regulatory approach to public space will create an effective and desirable layer of “urban oases” in the areas of the City where they are needed most.

⁸ Roberts, Sam. 11 Nov 2011. Happy to Call the City Home, More Now Move In Than Out. *New York Times*, Section A p. 6

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RESOURCES

- Building Information System (BIS), NYC Department of Buildings
- Automated City Register Information System (ACRIS), NYC Department of Finance
- Land Use and City Environmental Quality Review Application Tracking System (LUCATS), NYC Department of City Planning
- MapPLUTO Data, NYC Department of City Planning
- Privately Owned Public Spaces Database, NYC Department of City Planning

INTERVIEWS

- Amanda Burden
Director, New York City Department of City Planning
Chairperson, New York City Planning Commission
- Melissa Cerezo
City Planner, Manhattan Borough Office, New York City Department of City Planning
- Nette Compton
Director of Green Infrastructure, New York City Department of Parks and Recreation
- Ivan Schonfeld
Senior Planning and Development Specialist, Bryan Cave LLP
- Patrick Too
Urban Designer and City Planner, Manhattan Borough Office, New York City Department of City Planning
- Adam Wolff
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6 interviewees have requested to remain anonymous in this paper.

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