

Zoning Imagination

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development rights on the landmark site itself, it no longer pays to tear the landmark down. Second, the owner of the landmark obtains a substantial source of income, reducing hardship and permitting maintenance. Third, the process gives developers "found" land. In turn, this gives the city taxes. If the city owns the landmark, transferral of air rights provides income, maintenance and protection at the same time.

In addition, air rights are the carrot that helps the city get concessions in design from the builder. In the case of the proposed U.S. Lines building at the Battery, which would be the beneficiary of Custom House air rights, this means improvements in street and subway circulation that would not otherwise be obtained.

Without creative use of air rights in this way, many New York landmarks will be doomed. Without a thoughtful approach to zoning as a tool for clearly understood objectives of master plan and urban design, few contributions to the city's beauty and utility will be made in the future. The "strict constructionists" who oppose imaginative use of the law in this way can only offer as the alternative a pointless game of maps and numbers for bureaucrats and profiteers to play.

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A potential small boom in the transfer of air rights over landmark buildings is blowing up the usual storm that touches any aspect of zoning in this city. Money, as always, is at the root of the matter, in the form of the grotesquely high cost of Manhattan land.

Contrary to popular belief, the designation of a landmark building does not save it from destruction, but merely offers a temporary delay until the owner proves economic hardship and preservation possibilities are exhausted. At going prices of up to \$500 a square foot for the land the buildings stand on, it is not hard to prove that an opulently baroque Custom House, a coolly classical Appellate Court, a dingily magnificent Grand Central Terminal or a gently domestic Amster Yard are not paying their way. Whether the buildings are publicly or privately owned, the economics are the same—and fatal. Demolition for more profitable construction is only a matter of time.

Fortunately, the air rights over these older buildings are a negotiable commodity. By reckoning the unused portions of the permitted zoning envelope at commercial rates, and allowing this "air" to be sold or leased for development on neighboring sites, preservationists, promoters and the city all benefit.

First, since it is no longer possible to use the full