ARCHITECTURE VIEW

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New York's Zoning Law Is Out of Bounds

This is about New York's Frankenstein zoning. In an attempt to legislate an impossible balance between a profitable city and a liveable city, New York has created a monster. The process by which good intentions and innovative practice are turned into an urban nightmare has been gradual and technically arcane. But what has been happening, insidiously and overtly, is that the whole idea and administration of zoning has been turned upside down. It has been subverted from a way to control building bulk and size to a method for getting bigger buildings than ever.

If that seems like an anachronism, it is: exactly the kind of overbuilding is being encouraged that the law was designed to prohibit. The result, which is just beginning to be visible, are ranks of oppressively massive, sun- and-light-blocking structures of a size and bulk that we have never seen in such concentration before. Their outline is appearing on Madison Avenue from 53d to 57th Streets, where the steel is going up for Tishman's 42-story, block-long building from 53d to 54th Streets, while another tower rises across Madison at 55th Street, and the gargantuan A.T.& T. and I.B.M. buildings are taking shape, respectively, from 55th to 56th, and 56th to 57th Streets. The huge Trump Tower is beginning to loom on the Bonwit Teller site at 56th and Fifth.

This four-block stretch will be a showcase of the new superscale. It is just as revealing of the manipulative, negotiable and mutable art that New York's zoning has become. And because what New York does in zoning is emulated by the rest of the country, whether it is innovative and constructive or dangerous and foolish, other cities will probably follow an example that has evolved from a rational system of controls to an ad hoc exercise in horsetrading that is a clear environmental disaster.

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Zoning, after all, is meant to be a set of rational regulations that puts restrictions on the size and nature of construction in a city, in the interest of such essential things as light, air, views, density, public amenity and general ambience. These considerations are believed to be in the larger community interest to a degree that justifies the control of private enterprise; in this case, the operation of real estate. During the 65 years in which zoning laws have been made and tested in this country, the courts have upheld both the need and constitutionality of such controls.

What New York has done is to turn restrictive zoning, in the traditional sense of prohibitions or limitations, into a kind of permissive zoning, negotiated on a case-to-case basis. The controls have been undermined by discretionary changes in the law aimed at everything from increasing the tax base to promoting better architectural design. The profitable, glittering prizes of ever-larger blockbusters are going to the developers and their lawyers, while the city amends and revises the zoning to make it possible. The irreconcilable objectives of development and restraint have created a classic Catch-22 dilemma.

The situation has become disturbing enough so that the City Planning Commission has prepared a zoning and development study aimed at correcting some of the most glaring defects and abuses. It is a sensitive and sophisticated study with some useful recommendations, but unfortunately, it does not go far enough. There is an attempt to reestablish the limits of the zoning passed in 1961 — a "reform" that has its irony, since those limits were far too generous at the time.

Technically, the guide to the permitted size of a building in New York is known as the Floor Area Ratio (FAR), or the size of the structure in relation to the size of the site. Over the years, this mysterious and magic figure has risen from a proposed standard of FAR 15 to a universal FAR 18 and a not uncommon and monstrous FAR 21.6. These increases have supposedly been balanced by requiring the builder to provide public amenities such as open space, or to build theaters and shops to maintain the character of special districts. A number of these features, such as arcades and midblock passages, have turned out to be far less desirable than anyone thought, particularly as tradeoffs for the increased bulk and density. In addition, a sophisticated builder has been able to put together a package of bonuses and special legal tricks in ways never envisioned by the writers and rewriters of the zoning law.

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Some outrageous practices are now possible. A building that piggybacks bonuses for special district features and/or automatic bonuses for plazas and arcades, may also add floors acquired through air rights transfer from a neighboring, small structure. When these extras are figured in terms of a very large plot acquired through such arcane practices as zoning lot merger, the structure becomes enormous — as in the case of the mammoth Trump Tower on the Bonwit Teller site. When the developer and his architect tell you virtuously and seriously that at the city-approved 21.6 they are still below the maximum permitted by this zoning con game, a new definition of chutzpah has been born.

However, forget the technicalities for a moment. Instead, consider these facts. The history of New York zoning began in 1916 with the completion of the Equitable Building at 120 Broadway, a 40-story structure built solidly and straight up, covering 100 percent of its site except for a few lightwells. The immediate reaction was shock and a successful rush for tax reductions by Equitable's neighbors, on the grounds of reduced value and lower rentals due to the obstruction of light and air. The Equitable shadow covered four streets to the north and led to New York's, and the country's, first zoning law.

The legislation that was enacted limited the building's bulk by a formula based on the width of the street, and required setbacks above a certain height, following an imaginary line called the sky exposure plane, to guarantee light and air. This produced the familiar New York ziggurat, or if the builder preferred a tower to setbacks, one that could cover no more than 25 percent of the site, to eliminate shadows and obstruction. When the building pace accelerated, even these restrictions seemed too permissive. After several attempts at change, a revised zoning law was passed in 1961.

This zoning reform was sold — falsely, as it turned out — on the basis of reduced size and density for commercial buildings. But its Catch-22 character began with a provision for an automatic bonus of extra floors for a tower that provided a plaza or arcade, which immediately established this larger building type as the norm.

To encourage the tower and plaza, the Planning Commission gave special permits that waived height and setback restrictions. To offset the greater bulk and density that inevitably resulted, something called incentive zoning was devised. This innovative procedure was meant to sweeten the bigger buildings by requiring public amenities at street level. To get the amenities, more bonuses were given. That, in turn, made more big buildings, and the creation of special districts with additional bonusable features made the structures even larger — like Olympic Tower on Fifth Avenue. Virtually all had to be individually bargained for with the Planning Commission.

The result has been a gradual erosion of the city's amenity on a large scale, even as important small amenities have been provided. Anyone except a real estate man knows how much more crowded and less pleasant New York has become in recent years. One is constantly forced to balance the city's unparalleled attractions and increasing discom-

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forts. When congested streets become obstacle races and the new towers turn them into cold, sunless canyons on early winter afternoons, when one fights the downdrafts across those plazas and getting anywhere ceases to be any fun at all, density is part of the problem. There are also good arguments that overbuilding in midtown contributes to the city's economic woes, rather than correcting them. As Stephen Zoll pointed out in his essay on "Superville" in the summer 1973 issue of The Massachusetts Review, "As the center builds up, the perimeter crumbles." That often irreversible disinvestment does not appear in official development calculations.

The high cost of building is driven up by the high cost of land, and the price of Manhattan land is driven still higher by permissive zoning. The developer now pays prices that gamble on the increases that he thinks he can "negotiate" from the city with deals that include the sop of a star architect or the lure of a desirable corporate client. The process has ceased to be one of limits and controls; it is a giant poker game with constantly changing rules in which the developer always ups the ante and holds the aces.

Which brings us to the ultimate Catch-22. Today's buildings, born out of the most complex regulatory processes, either repeat or exceed all of the original sins that made the need for the first restrictive legislation clear in 1916. Sky plane exposure is routinely flouted by special permits. Land coverage constantly exceeds legal limits. Jonathan Barnett, the original head of the city's Urban Design Group, states in an article in the current issue of New York Affairs that the new Philip Morris headquarters has higher tower coverage and both the I.B.M. and A.T.& T. buildings have taller walls going up from the building line than the Equitable Building had in 1916. Some construction has gone back to 80 to 100 percent land coverage. Traditional zoning restrictions have simply been set aside. Mr. Barnett asks, not at all rhetorically, "Are these minor infractions of the zoning? And does it matter?"

It matters. When the Equitable Building covered close to 100 percent of its site with walls rising straight from the street without setbacks, corrective controls were enacted. Now we have managed to "reform," amend and manipulate these controls to make it legal to do exactly what was outlawed in the first place. The only difference between then and now is the excessively brutal scale today, and a process that rewards, rather than prohibits, creeping gigantism. Call it a giveaway, call it exploitation, call it clever legal sophistry, or just call it the failure of good intentions. But don't call it zoning.

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