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Atlantic Yards: This Generation's Penn Station?

Norman Oder



To proponents, the \$4 billion Atlantic Yards project in Brooklyn, New York, is a model of urban redevelopment.¹ Designed by the architect Frank Gehry and consisting of sixteen towers and a basketball arena on 22 acres, it would extend and revitalize Brooklyn's downtown, add residential density near a transit hub, and include subsidized housing. It also would return professional sports to the borough, which hasn't been "major league" since the baseball Dodgers left for Los Angeles in 1958.

To detractors, however, Atlantic Yards represents "extreme density" and the corruption of public pro-

cesses. Including nearly three hundred apartments per acre, it would encroach on surrounding historic lowrise neighborhoods, burden local infrastructure, and create a deadening pattern of superblocks. Critics also claim its present form depends on hundreds of millions of dollars in public subsidies, tax breaks, and increased development rights, plus the use of eminent domain to benefit politically powerful special interests.

Kent Barwick, president of New York's venerable Municipal Art Society (MAS), sponsor of a recent exhibition on the work of Jane Jacobs, has suggested that Atlantic Yards might

be "this generation's Penn Station" because of the "absurdity" of the public processes involved. Just as the demolition of that landmark structure in 1963 for an arena and office complex accelerated the preservation movement, the battle over Atlantic Yards has prompted new outrage in the city about single-source deals and inadequate community consultation.

Above: The architect Frank Gehry and the developer Bruce Ratner are tweaked in references to a legal battle and traffic woes. Photo by Tracy Collins/3c.com; artwork by Patti Hagan and Schellie Hagan.



lines and a branch of the Long Island Railroad converge, it would also compound traffic at corners already plagued by gridlock. The project would also include 1,100 arena parking spaces and more than 2,500 spaces for the housing, thanks to antiquated city policies that require 0.4 spaces per household in outer-borough projects, no matter the adjacency of transit. Critics also point out that the arena, Gehry's first, would not only be wrapped by highrise structures but also sit directly across one street from row houses. (The state must still override zoning that bans sports facilities within two hundred feet of residences.)

On two sides, the arena would also present glass walls near major avenues, an effort at openness that has

raised security qualms. And for construction staging, the developer would capitalize on a dubious claim of blight to snag a 100-foot wide rectangle, later to house a 272-foot building, at least five times as tall as its neighbors.

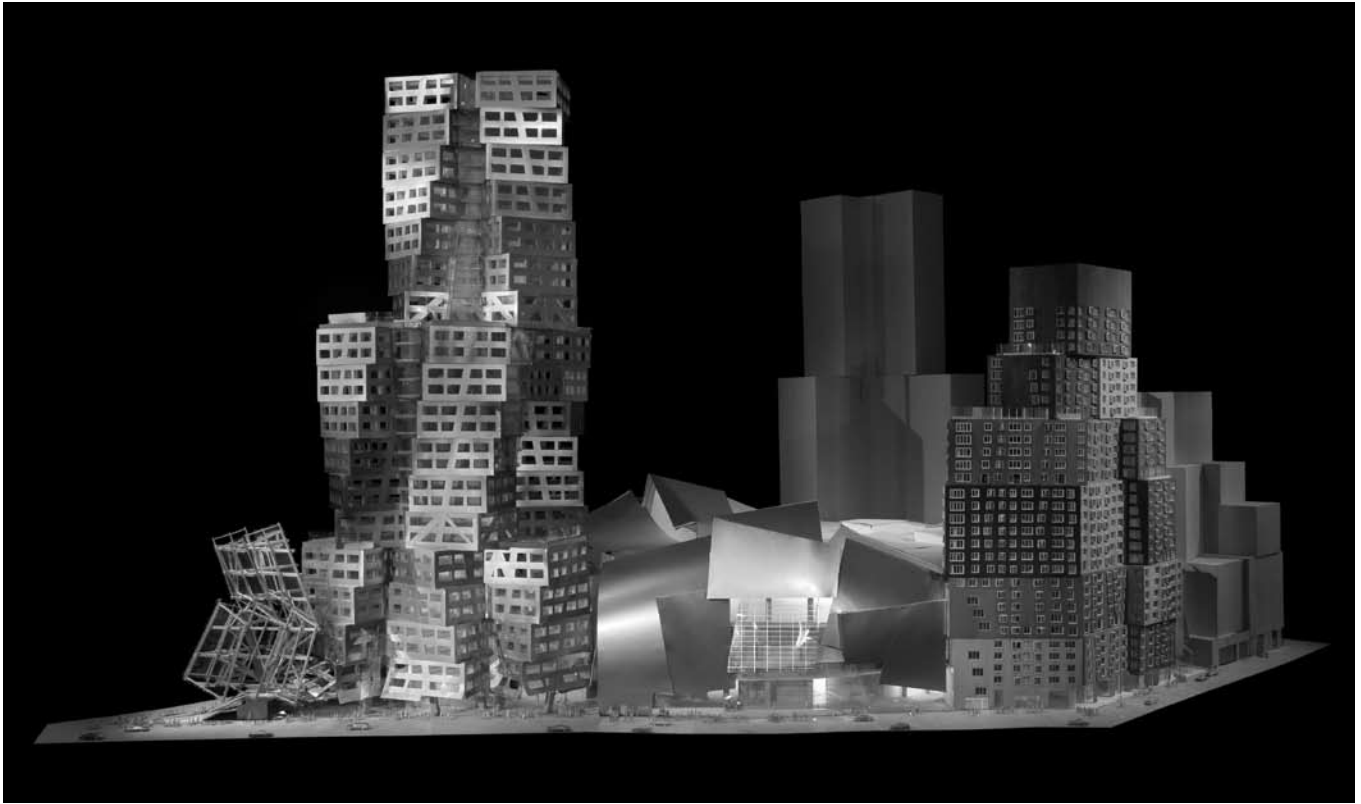
The State Override

Other neighborhood complaints, resonating citywide, have targeted the way permits have been issued by state and local agencies. Typically, such a project would have to go through New York City's Uniform Land Use Review Procedure (ULURP)—a post-Robert Moses reform which requires an advisory vote from affected local community boards, mandated public hearings, and approval by the City Planning Commission and City

Council. But Atlantic Yards was fast-tracked via the Empire State Development Corporation (ESDC), the alter ego of the state Urban Development Corporation. The agency, formed in 1968 in the wake of the assassination of Martin Luther King, Jr., was granted "amazing powers"—in the words of the noted planner Alex Garvin—to override zoning and pursue eminent domain to assist the poor.

Opposite: The Atlantic Yards site plan creates two superblocks. Drawing from Atlantic Yards Final Environmental Impact Statement.

Above: Photosimulation by local photographer Jonathan Barkey, based on 2006 plan (since trimmed), shows perspective from south side of Dean Street below project's center. Image from [www.pbase.com/AtlanticYards](http://www.pbase.com/).



Today, the ESDC typically shepherds megaprojects like the Times Square redevelopment and Ground Zero reconstruction. Thus, while the ESDC conducted three public meetings to collect testimony during the Atlantic Yards environmental review, the process produced few changes—and a lawsuit-proof record of more than 22,000 pages.²

Perhaps the most contentious claim made to justify the redevelopment is that the site—an irregular area chosen by the developer, not by public process—is blighted. Among other blight criteria, the ESDC has cited buildings that do not fulfill more than 60 percent of their development rights.

Certainly, some buildings within the project footprint are moribund and decrepit. But industrial buildings in the footprint and nearby were

recently renovated into luxury condos after spot rezonings, and residences just outside the project boundary have sold for seven figures in Brooklyn's booming real estate market.

Nevertheless, the ESDC claimed that only the Atlantic Yards project could remove the persistent blight stemming from the railyard—even though no attempt had been made to market the property before Forest City Ratner announced its plan, nor the adjacent blocks rezoned—both alternative paths to development.³

Years of Contention

Atlantic Yards has generated great contentiousness, and its future remains murky.

Barwick's MAS and some neighborhood groups have accepted the project's inevitability and lobbied for

revisions—in particular, criticizing indefinite “interim surface parking” and open space (designed by Laurie Olin) that appears private, as well as calling for a new administrative structure to oversee the project's construction.⁴

However, the grassroots coalition Develop Don't Destroy Brooklyn has organized two lawsuits with support from residents in adjacent gentrified neighborhoods and several civic groups, and watchdog blogs like “No Land Grab” and my own “Atlantic Yards Report” have maintained persistent online analysis and criticism of the project.

Of the two lawsuits, one was a federal challenge to the use of eminent domain.⁵ The plaintiffs argued that the project was a sweetheart deal, benefiting the developer

more than the public. Among other things, they pointed out that city and state officials had backed the Atlantic Yards proposal eighteen months before the railyard was even put up for bid.⁶ However, both the trial and appeals courts have ruled that judges must defer to the public benefits (housing, sports facility, improved transit facilities, blight removal, etc.) found by the ESDC, and that non-blighted properties may be added to a project outline. A long-shot Supreme Court appeal has been filed.

The other suit, in state court, charged inadequacies in environmental review. It, too, was defeated in the trial court.

While Forest City Ratner sought a speedy schedule to resolve the inevitable appeal, hoping to open the arena by 2010, a state appellate court scheduled oral arguments for September of 2008, making it unlikely the developer will be able to meet this timetable. Even though the developer has begun demolishing buildings it owns and constructing a temporary railyard, it can't start arena construction until the lawsuits are cleared.⁷

Indeed, the developer acknowledged in March 2008 to the *New York Times* that all but the arena was on indefinite hold, blaming lawsuits and the credit crunch.⁸ The newspaper also reported that the developer was taking the unusual step of essentially cold-calling office tenants for the flagship tower. Faced with the looming possibility of a standalone arena sans towers, *Times* architecture critic Nicolai Ouroussoff, who called Gehry's design for the arena block "a tour de force," urged the architect to walk away from the project.⁹

On May 4, Bruce Ratner asserted in a *New York Daily News* op-ed piece that the project would be completed by 2018; the next day new designs

for three buildings were released. (Missing was the promised green roof on the arena.) Still, there's ample reason to question the timetable, and thus the delivery of promised public benefits, such as eight acres of open space and subsidized housing.¹⁰ An ESDC document shows that, after approving a project, "anticipated" to last a decade, the agency has now given the developer up to six years after the close of litigation and the exercise of eminent domain to build the arena, up to twelve years to build the first five towers, and an unspecified amount of time for the rest of the project. The developer has begun marketing 130 luxury suites, averaging \$300,000 a year.¹¹ This would offset a good chunk of the cost of building the arena—assuming it ever gets built.

Notes

1. As approved in December 2006, the project would cost \$4 billion. Rising construction costs have already boosted the expected arena tab from \$637.2 million to \$950 million, by far the country's most expensive arena ever. That suggests a significant increase in the overall price tag.

2. Former Deputy Mayor for Economic Development Dan Doctoroff has claimed that the city has learned from Robert Moses and managed to achieve development without alienating communities, characterizing the city's efforts as "making omelets without breaking eggs." However, in a December 2007 interview after he announced his departure from city government, Doctoroff acknowledged to the *New York Observer* that criticism of Atlantic Yards had had an impact: "If it happened again, and the state were to ask if I would encourage them to take Atlantic Yards through the ULURP process, I would say yes." (However, the ULURP process has its own problems, and is no panacea.) Mayor Michael Bloomberg's vaunted PlaNYC 2030 sustainability effort now posits much more community consultation for development over railyards or highway cuts.

3. While numerous states have reformed eminent domain laws in the wake of the United States Supreme Court's 2005 *Kelo v. New London* decision, New York has yet to act.

4. The Regional Plan Association, while announcing support for the project's first phase, has nonetheless criticized the lack of government planning and public input during the early stages, as well as an absence of consistent public oversight over the long term.

5. About 35 of 334 residents remain, as well as a handful of 33 businesses, along with a homeless shelter; many of the developer's buyouts have been accompanied by gag orders.

6. They drew significantly on Supreme Court Justice Anthony Kennedy's nonbinding concurrence joining the controversial 2005 *Kelo v. New London* eminent domain decision, which set out criteria for legitimacy such as an open bid process and commitment of public funds before most private beneficiaries were known.

7. The complete project probably will not be successful in any case without the enactment of larger policy changes to reduce traffic impacts, like proposed congestion pricing.

8. However, the limited pool of affordable housing financing preceded the credit crunch.

9. [Http://www.nytimes.com/2008/03/21/arts/design/21atla.html](http://www.nytimes.com/2008/03/21/arts/design/21atla.html).

10. Ratner stated, "We anticipate finishing all of Atlantic Yards by 2018." However, his cousin, Chuck Ratner, CEO of the parent company Forest City Enterprises, in 2007 told investment analysts (in response to questions about three other projects), "As you know, in our business, these things take a very long time, most often, frankly, longer than we anticipate."

11. The developer also has a \$400 million arena naming rights deal with Barclays Capital and several other "partnerships" in the wings.

For more on the Atlantic Yards project, visit the following websites: FCRC.com—Forest City Ratner Companies; AtlanticYards.com—official Atlantic Yards site; AtlanticYardsReport.com—author's site; DDDDB.net—Develop Don't Destroy Brooklyn; NoLandGrab.org—No Land Grab; www.empire.state.ny.us/AtlanticYards/—ESDC's Atlantic Yards site. AtlanticLots.com—Municipal Art Society site.

Opposite: A May 2008 revision of the arena block shows a newly rectilinear office tower and an arena with less glass and a new metal skin. Model/rendering by Gehry Partners.