

## D. PLANNING HISTORY

The corridor encompassing Hudson River Park and the adjacent highway (Route 9A, or West Street) was the subject of more than two decades of citizen activism and planning before even the first shovel could be placed in the ground to start building the park. The story begins in 1973, with the collapse of a section of elevated highway that used to run along the length of the park. At that point, a controversial plan called “Westway” was proposed. Westway would have filled a portion of the Hudson River with landfill, and would have included a combination of buildings and parks on the newly created land. The highway would have been submerged, beneath the various land uses.

Though supported by the local, state and federal governments, the project was withdrawn after years of legal battles with local environmental and community activists. The project was officially withdrawn in 1985.

### WEST SIDE TASK FORCE

Following the defeat of the Westway project, the Governor of New York State and the Mayor of New York City appointed the “West Side Task Force” to develop recommendations for the reconstruction of the West Side Highway and to establish guidelines for the future development of the waterfront.

In its final report of January, 1987, the West Side Task Force recommended that the replacement roadway be a six lane, at-grade, urban boulevard. The Task Force also endorsed a plan for a continuous public esplanade/walkway, a bicycle path, and other active and passive uses to draw people to the waterfront. The New York State Department of Transportation (DOT) established the Route 9A Reconstruction Project to plan and build the highway and bikeway/walkway, based on the Task Force concepts, leaving others to consider plans for the park.

### WEST SIDE WATERFRONT PANEL

In 1988, acting on Task Force recommendations, the Governor and the Mayor created the West Side Waterfront Panel to: develop design guidelines and a financing mechanism for a Hudson River esplanade; to develop land use recommendations for the piers and waterfront area; and to coordinate the Panel’s work with the planning efforts for the reconstruction of Route 9A.

The panel advanced the recommendations of the Task Force, extending the park study area from 42nd Street (the Task Force’s northern boundary) to 59th Street, advocating for the restoration and preservation of 13 public piers, and setting restrictive limits on new waterfront development. Working together with community groups, waterfront users, and business, civic, and labor leaders, as well as government agencies and elected officials, the panel prepared its recommendations and issued a plan entitled *A Vision for the Hudson River Waterfront Park* (the “Vision Statement”), in November 1990.

Also in 1990, Section 383-a of Chapter 190 of the Laws of 1990 of the State of New York established limits on construction in and along the river from Battery Park north to West 35th Street.

### HUDSON RIVER PARK CONSERVANCY

The Panel’s Vision Statement recommended that the Governor and the Mayor create a successor organization to oversee the planning, design, permitting, and construction of a proposed park. That organization was the Hudson River Park Conservancy (HRPC), created by a 1992 Memorandum of Understanding (MOU) between the State and City. Created as a subsidiary of the Empire State Development Corporation (ESDC), HRPC’s mandate was to further the park plan, secure regulatory approvals, and construct the waterfront park. The Park was to be funded primarily from capital from the State and City. Park compatible, revenue producing uses were to support park operations and maintenance.

HRPC set about meeting its objectives in two ways. The first was to refine the Vision Statement and produce a more specific plan through an extensive community design process. For this task, HRPC hired a master design consultant, Quennell Rothschild Associates/Signe Nielsen. In addition, professional landscape architects were selected by each of the three Community Boards bordering the park and engaged by HRPC to serve as liaisons to the local community in the design process. This broad-based community design initiative began in 1994 and lasted for a full year.

During this process, HRPC and its design team refined the park plan; listened to future park users' issues, needs, and suggestions; revised the project's goals and objectives; and developed the *Concept and Financial Plan* (the "Concept Plan") for the Hudson River Park. Completed in 1995, the Concept Plan presented a preliminary plan for the Park that was subject to further definition, review, and revision as programming and engineering details were examined. However, the plan was specific enough to be the point of departure in preparing an Environmental Impact Statement (EIS).

As park planning continued, HRPC issued the *Design Guidelines Master Plan* in October 1997. This document established a design philosophy for the Park and provided direction for future designers of the various geographic segments. A core principle was to allow for each segment to have a different designer and character while still establishing some consistent overall park components that would unify the five-mile park and provide for a sense of identify. Additional purposes were to identify essential activities, uses, and design elements that should be included as more detailed designs were drafted, and to ensure that as the park design progressed, and the goals of the Park were attained.

The *Design Guidelines Master Plan* was guided by three principal themes: the river as a great natural and recreational resource; the cultural and human history of the river and its waterfront; and, connections to Manhattan's west-side neighborhoods.

Because public access is one of the Park's primary goals, the plan called for renewed public access and recreational space on the piers. Ten major gateway entrances were proposed at key cross streets to provide safe access across Route 9A and to connect Manhattan's west side neighborhoods with the Park. Historical and ecological interpretation was suggested to enhance the park experience and further celebrate the links between the City and its waterfront. Several design elements were intended to get park users closer to the Hudson River, including look-outs and get-downs. Boating facilities, including non-motorized watercraft launches and boat houses, water taxi landings, boat moorings, and docking facilities were proposed for waterborne recreation.

Natural resource protection was another objective. To further an understanding of the ecological importance of the river, plans called for an "estuarium" (a river research and education center) as well as ecological piers, pile fields for fish habitat, and upland habitat areas designed for native plants and birds..

As planning for the Park continued, HRPC and ESDC commenced the project's environmental review process. Following two public scoping sessions, project planners released a Draft Environmental Impact Statement (DEIS) in April 1997. The DEIS was prepared pursuant to the State Environmental Quality Review Act (SEQRA) and its implementing regulations and the City Environmental Quality Review (CEQR) local law. After a public hearing in February 1998 and corresponding public comment period, a Final Environmental Impact Statement (FEIS) was issued in May 1998. Following another comment period and adoption of the Statement of Findings in July 1998 by ESDC, the SEQRA lead agency, the State completed the environmental review process for the Park. Meanwhile, permit applications had been filed with the New York State Department of Environmental Conservation (DEC) and the U.S. Army Corps of Engineers (ACOE).

## HUDSON RIVER PARK ACT

In June 1998, the New York State legislature passed the Hudson River Park Act. Signed by Governor George E. Pataki in September 1998, this milestone legislation formally designated the project area as a

park and established the Hudson River Park Trust to continue the planning, construction, management, and operation of the park. In approving the Act, the State legislature found that:

- ! Planning and development of the Hudson River Park as a public resource was a matter of State concern and in the interest of the people of the State. Further, the Park will enhance the ability of New Yorkers to enjoy the Hudson River, one of the great natural and public resources of the State.
- ! The marine environment of the Park is known to provide critical habitat for striped bass and other aquatic species. It is in the public interest to protect and conserve this habitat.
- ! Quality of life and economic benefits can be derived from creating the Park.
- ! The Park will encourage, promote, and expand public access to the river, promote water-based recreation, and enhance the natural, cultural and historic aspects of the Hudson River.
- ! It is in the public interest to encourage park uses and allow limited commercial uses in the Park.

The Act defines how the Park areas may be used. For example, it cites Piers 25, 26, 32, 34, 42, 45, 46, 51, 54, 62, 63, 64, 84, 95, 96, and 97 and the railroad float bridge (Pier 66a) as being dedicated exclusively to park use. In addition, according to the Act, at least 50 percent of the footprint of Pier 40 is to be set aside as public open space (passive or active).

Park uses as defined by the Act include: passive and active public open spaces; the arts and performing arts; small-scale boating for recreational and educational purposes that enhance access to, and enjoyment of, the water; environmental education and research, including museums; historic or cultural preservation including historic ships and vessels; wildlife and habitat protection; and facilities incidental to public access for enjoyment of park uses such as concession and information stands, comfort stations, boathouses, marinas, and water taxis.

Uses that are specifically prohibited throughout the Park are residential, manufacturing, commercial office and warehousing, hotels, incompatible government uses, casino and riverboat gambling, and most motorized aircraft. Facilities specifically cited as not being park uses are amusement parks, television and film studios, commercial for-profit cinemas, and parking facilities.

In accordance with the Act, State lands within the Park are under the jurisdiction of the State Office of Parks, Recreation, and Historic Preservation (OPRHP), underwater lands are under the jurisdiction of the DEC, and City of New York property is under the jurisdiction of the New York City Department of Parks and Recreation (DPR). The Trust assumes the management of the lands and waters under lease agreements with the City and State.

The Act also designated the water areas within the Park as the Hudson River Park Estuarine Sanctuary in recognition of the fact that the water is an important habitat for many marine and estuarine species. To protect these waters, the Act requires the Trust to develop a Hudson River Park Estuarine Sanctuary Management Plan (ESMP). The Act designates the Park's water section as an Estuarine Sanctuary A subject to the environmental conservation law including the Hudson River Estuary Management Program established pursuant to Section 11-0306 . . . and the rules, regulations, and guidelines of the [DEC] applicable to that program, as well as . . . the restrictions and limitations set forth in this Act. @ The Act requires preparation of the ESMP in consultation with DEC, DEP, and other City, State, and Federal agencies, as well as any appropriate educational and research institutes. Mandates for the plan are to:

- ! Conserve marine resources found in the Sanctuary with special consideration for habitat values;
- ! Provide for environmental education and research; and

- ! Allow public recreational use of the water for boating, fishing, and swimming and authorized commercial maritime uses and other permitted water-dependent uses.

The Act notes that the ESMP may designate water surface use zones where motorized and non-motorized craft can travel with preservation zones or restrictions on noise and other potential nuisance conditions.

In addition to the limitations imposed through the adoption of the ESMP, the Act mandates that within the water area:

- ! Only water-dependent uses are permitted;
- ! In the aggregate, no more than eight acres of the Park's water area may be covered or altered by floating structures or minor improvements;
- ! Structures built on floating structures must be limited to one-story and must be water-dependent; and
- ! No excavation or placement of dredge spoils is allowed.

A copy of the Act can be found on this website.

## **E. APPLICABLE ENVIRONMENTAL AND LAND USE LAWS AND PUBLIC POLICIES**

Construction of the Hudson River Park required both Federal and State environmental permits and approvals, including from the US Army Corps of Engineers, the Advisory Council on Historic Preservation, the NYS Department of Environmental Conservation, and the State Historic Preservation Office. All of these agencies conducted extensive public review processes and held hearings before ultimately issuing permits.

At this stage, the Trust has authorization to build all Park segments. Additional permits will be required for any future elements not previously submitted to the relevant agencies for review.

In issuing the permits, both DEC and ACOE identified numerous permit conditions. In its ongoing planning for the park, the Trust must ensure that design and construction activities are consistent with the following requirements, among others:

- ! No in-water construction work can occur between November 1st and April 30th in order to protect the critical overwintering period for marine life that utilizes the Park.
- ! No discharge of fill is allowed with the exception of: the construction of beach areas at the Gansevoort Peninsula and immediately south of Pier 76; jacketing to protect pier piles; and, maintenance of infrastructure, such as bulkhead repairs (repaired bulkheads must not be more than 18 inches into the water from the existing bulkhead). All backfill must be clean material such as sand, gravel, or crushed rock.
- ! No increase in the historic load-bearing capacity of the piers to be repaired or reconstructed.
- ! No more than a 10-percent increase or decrease in the pile density below piers to be reconstructed or repaired during the construction process. A density of 75 percent is to be maintained in pile fields after the completion of construction.

- ! Techniques to protect water quality during construction such as floating containment booms, and other mechanisms, such as floating platforms, to minimize the potential for drift and suspension of debris.

In addition to receiving its ACOE and DEC permits, the Park has also demonstrated compliance with various other federal, state and city policies and regulations, including the following:

## SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT

The Hudson River Park is part of the Lower Hudson River Significant Coastal Fish and Wildlife Habitat, as designated by NYS DOS in 1992. While the designation report recognizes that most of the shoreline along this reach of the habitat has been disturbed through filling, bulkheading, and development, this ecosystem is considered one of only a few large tidal river systems in the northeastern United States and provides important ecological features. For example, as stated in the designation report, the Lower Hudson River provides wintering habitat for large numbers of striped bass between mid-November and mid-April and, may be critical habitat in the life cycle of the striped bass by providing a sheltered environment with abundant food sources associated with the winter position of the river's salt front.

Juvenile striped bass may also take advantage of physiological or ecological benefits associated with the transition area between estuarine brackish and higher-salinity coastal environments. Fish surveys have also found summer/winter flounder, white perch, Atlantic tomcod, Atlantic silversides, bay anchovy, hogchokers and American eel in significant numbers. This reach may also be important for bluefish and weakfish young-of-year and both Atlantic sturgeon and shortnose (adult only) sturgeon. American shad and blue crabs also contribute to the fishery. Biota of the lower trophic levels are also present in substantial numbers and provide an important food source. These include planktonic forms such as copepods, rotifers, mysid shrimp, and benthic forms such as nematodes, oligochaetes, polychaetes, and amphipods.

As recommended in the designation report, current habitat values can be protected by maintaining the types of structural diversity found along the shoreline, limiting or preventing dredging, and filling or platforming on dense piles in this region of the Hudson River. In issuing its Coastal Zone Consistency determination, DOS found the Park project to be consistent with the preservation and protection objectives of this habitat.

## NEW YORK CITY ZONING

A zoning text amendment was required to allow parkland in the M2 and M3, New York City zoning districts that cover the Park (south of 59th Street). The zoning text amendment was approved in September 1998. The project has also complied with a special zoning certification of New York City's zoning resolution (62-711[e]) with respect to waterfront public access and visual corridors and, has demonstrated compliance with the zoning text amendment through a waterfront access plan.

## NEW YORK CITY LOCAL WATERFRONT REVITALIZATION PROGRAM

The Park was designed in conformity with the policies stated in the New York City's Local Waterfront Revitalization Program (LWRP). The LWRP was developed in accordance with State's Coastal Zone Management Program and the Federal Coastal Zone Management Act. The City's LWRP was approved by DOS and NOAA in 1982. The LWRP identifies the Hudson River waterfront as an area in need of public access. Other objectives were preservation and enhancement of visual quality and view corridors, preservation of historic resources, and protection of water resources and aquatic habitat.

An examination of the consistency of the Park with the policies of the LWRP was made during the environmental review process and examined by DOS pursuant to the coastal zone consistency provisions of the Federal permit review process. A compliance statement prepared by DOS found that the Park is consistent with the 44 State and 12 City policies of the LWRP.

## NEW YORK CITY COMPREHENSIVE WATERFRONT PLAN

In 1992, the New York City adopted the NYC Comprehensive Waterfront Plan (Reclaiming the City's Edge). This was a comprehensive examination of New York City's waterfront and established a series of recommendations for the various reaches along its 564 miles of waterfront. Recommended for the Hudson River Park reach was increased waterfront access, a continuous esplanade, and continued dockage for excursion and cruise ships. The Park meets the objectives of this plan.

## COMPREHENSIVE MANHATTAN WATERFRONT PLAN

The Comprehensive Manhattan Waterfront Plan was released by the Manhattan Borough President in 1995 and a modified plan was adopted as New York City policy under Section 197-a of the New York City Charter. With specific proposals for each of Manhattan's waterfront segments, the plan calls for increased ferry transportation, tourist attractions, waterborne cargo transportation, and a continuous publicly accessible esplanade around the island. On the Hudson River waterfront south of 59th Street, the plan supports the objectives of a Hudson River Park, proposing to replace such incompatible uses as parking, tow pounds, and warehousing, with recreational and tourist facilities. This ESMP furthers the recommendations of that plan.

## HUDSON RIVER VALLEY GREENWAY

In 1988, the New York State Legislature created the Hudson River Valley Greenway Council to study ways to enhance public use and enjoyment of the Hudson River Valley from the Battery in Manhattan to the Mohawk River north of Albany. The resulting report recommended that a Greenway be created by: (1) designating a geographical region encompassing the 12 counties along the Hudson River; (2) establishing a voluntary Hudson River compact, called the Hudson River Valley Greenway Committee, initially composed of the 82 municipalities and counties in the 12-county valley; (3) creating a Greenway Conservancy to fund and provide technical assistance for projects in the development of the Greenway; and (4), establishing a Hudson River Trail to extend along both sides of the river. This ESMP supports the Greenway and the Hudson River Park is a vital link in the waterfront trail.

## PUBLIC TRUST DOCTRINE

The Public Trust Doctrine is a common-law doctrine that dates back to Roman times. The ancient doctrine held that, “by the law of nature these things are common to all mankind; the air, running water, the sea, and consequently the shores of the sea.” Water bodies were important for commerce, sustenance, and survival, and the need for access to the shoreline and waters has been recognized historically. These rights of the public are called Public Trust Rights. Unless these rights have been conveyed, the State retains these underwater lands and waters in trust for the benefit of the public, hence the title Public Trust Doctrine.

Hudson River Park meets the intent of the Public Trust Doctrine by opening the waterfront to the people and enhancing access to and on the water.

## G. PARK DESIGN AND CONSTRUCTION 2000-2008

Hudson River Park Trust staff and the architects, landscape architects and engineers selected to design each of the various park segments began the detailed design phase of park development by holding meetings with the local community members over a several month period to establish the specific program for the piers and upland area in each community. The Park, like Route 9A, was divided into sections beginning with Battery Park City and moving north to 59<sup>th</sup> Street. Designers were selected for one or more segments, depending on their size and geography. In the south, Segments 2/3 (Lower Manhattan and Tribeca) were to be designed by Sasaki Associates, to be followed by Mathews Nielsen; Segment 4 (Greenwich Village) by Abel Bainnson Butz; Segment 5 (Chelsea) by Michael Van Valkenburgh Associates; and Segments 6/7 (Midtown and Clinton) by Richard Dattner Architects/Miceli Kulik Williams Joint venture.

Each neighborhood’s park was designed with areas for active and passive recreation and human powered boating. All segments have a children’s playground, plans for a comfort station, opportunities for small food concessions, a water taxi stop, and throughout the park there are four boathouses and several classrooms. Beyond those features, the Park designers were provided with standard elements for the esplanade, including pavers, railings and lighting, developed by the Trust’s project management/design coordination team to create a unique and cohesive connection from Battery Park City up to 59<sup>th</sup> Street. Every community also had a great deal of input into their own segment’s program and design. The result is a design that reflects the character of the adjacent neighborhoods while still feeling like a unified whole.

Construction in Greenwich Village, the first section completed, began in 1999 on the upland and in 2000 on the piers. It consisted of the reconstruction of three piers – 45, 46 and 51 – for active

and passive recreation and a playground. The Greenwich Village area opened in 2003 and quickly became a much loved and heavily used open space. Greenwich Village was followed by Clinton 'Cove' in 2005 and then Piers 66 and 84 in 2006, along with the upland area from W. 26<sup>th</sup> St. to W. 29<sup>th</sup> Street. During this time the Trust also completed the Courtyard Ballfields in Pier 40 and the Chelsea Waterside Playground. Prior to 2000, New York State Department of Transportation, which had built the five mile bikeway adjacent to Hudson River Park, also constructed two parks on the east side of the new Route 9A boulevard - 14<sup>th</sup> St. Park and Chelsea Waterside Park – which were then legally transferred to the Trust by the Hudson River Park Act.

In 2008, the northern portion of Tribeca's park will open to the public, as will the northern portion of Chelsea Cove. The remainder of both these sections, currently under construction, should be complete by late 2009/early 2010, at which point roughly 80 percent of the Park will be built and open for use.