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## Deconstructing New York City's High Line Park: The How, Why and Wherefore

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The High Line Park (HLP) – created from an old, unused rail line -- is located on the far west side of mid-town Manhattan in New York City. Open to the public for less than three years, the HLP has already attained iconic status as a landmark, destination location, act of civic boldness, engine of economic growth and breathtaking artistic vision. It has been praised by designers, lauded by the press, and trumpeted by politicians. Indeed, it has become the subject of such attention, glitz, celebrity and “hipness,” that, not surprisingly, numerous other high lines across the country are now being proposed by urban planners looking to replicate the apparently stunning success of a project that former City Council Speaker Gifford Miller anointed as the most important development for New York City since the creation of Central Park.<sup>2</sup>

This paper seeks to explore three issues for planners and politicians to consider: 1) how was the deal pulled off and what lessons can others draw from it; 2) is the High Line in fact a “success”; and, 3) is the “value” the High Line has apparently created for New York transferable to other locations?

One. This paper concludes that the deal was consummated through sophisticated land use planning by the City along with the critical addition of a new Mayor, which

1. Mr. Broder is the General Counsel of Conrail and has been personally involved with the HLP for over 20 years. The opinions and analyses set forth in this paper are the author's alone and do not represent the views of Conrail or its owners, CSX Corporation and Norfolk Southern Corporation. This paper was developed as a result of the University of Pennsylvania's MLA Capstone Project in December 2011. This paper was adapted for a presentation to the Capstone Symposium on May 10, 2012.

2. This is drawn from unpublished remarks delivered by Speaker Miller at the Summer, 2005 Highline Gala at Cipriani Wall Street.

allowed a number of diverse and seemingly irreconcilable interests to be harmonized. This public policy success was made possible by innovative political and public relations strategies by the community, an unusually significant financial contribution by private interests, and a community particularly well suited to a development like the HLP.

Two. The overwhelming consensus is that the HLP is a stunning success; a beautiful and unique new public amenity has been added to New York City that has provided an important catalyst to economic growth in the community. The long-term challenge will be sustaining unusually large maintenance costs for a park that is currently being privately funded. Another cautionary lesson is that the development that the HLP has helped engender has sped up the gentrification of this community; ironically, this has helped to lead to the exact opposite result that the community had hoped for by supporting preservation of the High Line.

Three. Whether the HLP model is transferrable is not at all clear. It is almost certain that the spectacular impact of the HLP in Manhattan cannot be duplicated elsewhere at the same scale and to the same extent. However, this has not stopped other communities from proceeding with plans for other High Line Parks, which will likely provide unique amenities and help spur economic development in other cities. Whether the payback on such investments is efficient or not is unclear.

### I. BACKGROUND

In the United States, railroads as a form of transportation began in earnest in the late 1820's with the introduction of the steam engine from England. The Hudson River Railroad line in New York was sponsored by wealthy merchants on the east side of the Hudson River in the 1840's, and ran from The Battery to Albany. The Westside Line was located at grade (on the street) along the river and carried people and freight beginning in the 1850's. During much of the 19<sup>th</sup> Century, the Hudson Line, known as the “Life Line of New York”, was a key artery through which critical products, both manufactured and finished, were transported to and from Manhattan. It was combined into the New York Central Railroad in the 1860's by the Commodore, Cornelius Vanderbilt.

During the late 1920's, in an early example of a private-public partnership, the Central, New York City and the predecessor to the Port Authority of New York and New Jersey undertook a massive project to grade separate the West Side Line. Entire businesses and warehouses were reconstructed to receive freight at the 2<sup>nd</sup> or 3<sup>rd</sup> floor to accommodate the new railroad structure, thus leading to the “High Line” moniker. Important businesses such as Nabisco, Bell Telephone, the New York Meat Market, and the like located along the line.

After World War II, the slow decline of manufacturing in New York commenced. In 1968, the Central merged with its arch-rival, the Pennsylvania Railroad of Philadelphia, into the Penn Central, which promptly filed the largest bankruptcy in U.S. history in 1971. The Penn Central, along with the bankruptcies of five other Northeastern and Mid-



West Railroads, led to the great rail crisis of the 1970's, forcing Congress to act, leading to the creation of Conrail.<sup>3</sup> On April 1, 1976, Conrail assumed responsibility for the High Line, never moving a single car of freight on it.

Beginning in earnest in the mid-1980's, the High Line was the subject of a series of lawsuits pitting local real estate interests called the Chelsea Property Owners (CPO) and New York City, who wanted the Line demolished, against Conrail, who sought to avoid what it estimated to be as much as a \$40 million liability, and local community interests opposed to development in Chelsea, who believed that the High Line provided protection against gentrification. From the early 1990's to 1999, the High Line remained in legal limbo.

In 1999, Conrail conveyed the High Line to CSX. Along with the assumption of responsibility for the High Line by CSX, and increased pressure by the City and CPO for demolition, came the key development that was to change forever the uncertain future of the High Line – the creation of a new civic group with a new vision: Friends of the Highline (FHL).

## II. INTEREST GROUPS

**For the railroad**, the strategy was to cooperate with everyone and became known internally at CSX as the “Gumby” strategy – Gumby, the green, rubber cartoon character from the 1960's could bend any way one wanted. **For Property Owners**, led by Edison Parking which formed CPO in the early 1980's, the single purpose was to have the line demolished. They believed the Line was a “blight”, an “eyesore”, dangerous, and, most importantly, a fatal obstacle to their attempt to extract future development value from their property interests. **The City** from the mid-1980's until 2002, uniformly supported demolition of the High Line in order to spur economic and real estate development in Chelsea.<sup>4</sup> The City's position changed once Mayor Michael Bloomberg took office in January 2002. With FHL seeking to influence the political scene, the Mayor's Office agreed to seriously consider preservation of the High Line and its possible conversion to a park.

The last key group consisted of interests representing the local Chelsea community. Primarily there were the Community Boards (CB2 and 4), and the FHL, who were trying to preserve the viaduct and create a unique park. As the opportunity to preserve and convert the High Line to a park emerged, CB4 was one of the skeptics of that plan. Its primary concern still focused on limiting gentrification, and the High Line development posed a potential threat to that goal.<sup>5</sup> Similarly, a park like the High Line was likely to

3. For a history of the great rail crisis, see “The Wreck of the Penn Central” as well as the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. §701, et seq. which created Conrail.

4. Various other governmental entities have participated over time in the future of the High Line, including the Manhattan Borough President's office, local assemblymen and state senators, city council representatives, and the like. However, the City Administration has been the primary legal spokesperson for the City on the High Line over the years.

5. Interviews with Anna Levin (Nov. 1, 2011) and Lee Compton (Nov. 11, 2011).

attract tourists and a great deal of street activity to a quiet neighborhood.

FHL early on decided that it would not be anti-business or anti-development. FHL was very pragmatic, attempted to stay out of polarizing, collateral political issues, and worked through established government and civic channels. FHL first contacted Joel Sternfeld to photograph the High Line, which was then depicted in his book, *Walking the Highline*, with images of a wild, untouched industrial garden, snaking through long abandoned warehouses, with wild flowers and breath-taking, unique views of the Hudson River and mid-town Manhattan. Featured in a 2001 article in New York Magazine, these pictures were seen by numerous individuals, including actor Edward Norton, who immediately contacted FHL to offer his help. Norton's involvement brought a number of celebrities to the venture, raising the public cache of the High Line. FHL also worked with the Design for Trust, and ultimately sponsored a Design Competition which received over 700 entries from around the world that were displayed at Grand Central Station in 2003. Finalists in the competition, as well as submissions for the architectural design, were put on display for several months at an exhibition at the recently-reopened Museum of Modern Art in the summer of 2005.

On the political end, FHL leveraged its relationship with Council Speaker Miller, who provided the full assistance of City Council to help figure out a way to preserve the High Line and make CPO's opposition go away. When Deputy Mayor Dan Doctoroff of the Economic Development Corporation was made the point person on the High Line for the Administration, he insisted that FHL not just show him “pretty pictures, but the numbers.”

FHL retained consultants to undertake a cost-benefit analysis of a conversion of the High Line. At the same time, it began to work with the City and City Council to propose a major up-zoning for the far west side as a way to satisfy CPO and persuade it to drop its opposition. Finally, FHL pursued a funding strategy to pay for studies, lawyers and consultants. FHL worked with government officials for federal and local funding opportunities and grants, as well as private fundraising from celebrities and individuals with its “vision of what could be.”

## III. THE DEAL

Given the varying interests and motives, the years of gridlock and litigation, how did the transaction get accomplished? The documents making up the HLP transaction fill three large bound volumes. But all of these agreements were needed to satisfy everyone's interests.

For the railroad, the key was to simply get out of the High Line without any further cost and liability. To that end, the transaction provided individual releases and indemnities for all liability to CSX and Conrail from all individual landowners of record. In addition, given the long industrial history of the High Line, the concern over environmental liability was always present. An environmental insurance policy was provided to the



benefit of the railroads to secure the releases and indemnitees. In exchange, CSX agreed to donate the Line to the City.

CPO was “bought off by good zoning.”<sup>6</sup> The only way CPO would go along with giving up its demolition claims was to receive substantial up-zoning. CPO’s primary leverage was the ability to delay the transaction, as its legal claims were unlikely to prevail in the long run. The transaction could not be final until the up-zoning was effective. Key to this was the creation of a transferable development rights area (TDR). This enabled High Line-encumbered private property owners to sell their new, unbuilt TDRs – also known as “air rights” – to non-contiguous landowners for development away from the sites immediately beneath the trestle. This was achieved in a Zoning Resolution of the City creating the “Special West Chelsea District” (SWCD). The SWCD contained a substantial increase in the Floor Area Ratio (FAR) permitting greater height, or redistribution in bulk, on a given lot, as well creation of the “transfer area” for the TDRs beyond the immediately neighboring parcels. What this meant for Edison Parking was the ability to construct two, large towers on its property that never would have been possible without preservation of the High Line and creation of the TDRs.

For the community, it was a little more complicated. CB4 always had opposed too much development and gentrification. Conversion of the High Line into a park now seemed to defeat that purpose. The affordable housing contingent was concerned about gentrification driving up housing prices and pushing out low to moderate income residents. FHL was able to thread this needle with the City by making some last minute changes to the proposed zoning, including a 30% set aside for affordable housing, and providing some restrictions in density and height.<sup>7</sup> In the end, CB4 backed the High Line conversion, as did the other members of the community. On November 4, 2005, the transaction closed, with CSX deeding the High Line to the City.

#### IV. WHAT IS THE RESULT OF THE HLP? IS IT A SUCCESS?

New York now possesses a spectacular, new public amenity. Is it a good deal? Is it good for the City, the community, the economy?

**The City.** Was the HLP investment a good one? In a November 1, 2011 press release trumpeting the high-end leather goods manufacturer, Coach, as the first anchor tenant for the first office tower for the Hudson Railyard development, Mayor Bloomberg credited the HLP as a “significant contributor in the revitalization of Manhattan’s West Side” and a “powerful catalyst for private investment”. According to a study cited by the City, from 2000 to 2010, the population within the rezoned area grew more than 60%; new building permits in the immediate vicinity of the HLP doubled and at least 29 major development projects have been initiated (19 completed, 10 underway). The City claims

6. This quote is attributed to Mr. Gottesman by a number of interviewees, including Douglas Sarini, CPO’s primary operative. November 4, 2011 interview.

7. Details of the zoning can be found at <http://www.nyc.gov/html/dep/html/westchelsea/westchelsea3b.shtml>

those 29 projects account for more than \$2 billion in private investment, 12,000 jobs, 2,558 new residential units, 1,000 hotel rooms, more than 423,000 square feet of new office space and 85,000 square feet of new art gallery space. The Mayor also noted that in May, construction on the new downtown home of the Whitney Museum began, which will anchor the southern end of the HLP when it opens in 2015.

The analysis also notes the HLP contributes to the profile and cachet of the neighborhood, with over 250 film and print shoots in 2010; and the HLP has had 3 million visitors to date with 40% coming from more than 45 miles away, making the park “one of the most tourist- and visitor-oriented parks in the world.” The study finds that residential units proximate to the HLP gained between 5-6% more value from 2007 to 2010 than neighboring areas. In addition, comparable sale values of newly constructed units compared with the other study areas gained about 20% more value each year from 2007 to 2010. The study concludes that the HLP has generated nearly \$65 million in additional property taxes and, over 20 years, will create incremental revenue for the City from taxes of over \$2 billion, \$970 million on a present value basis. In summary, over 20 years, the study concludes that the City’s projected net gain in tax revenue from residential real estate appreciation and incremental visitor spending associated with the HLP is just over \$1 billion in present value terms. Accounting for the City’s investment of about \$115 million, the City’s net benefit over 20 years will be over \$900 million or a return of over 800 percent.

It is important to note that the Chelsea community was not the urban wasteland one might imagine. Beginning in the mid-1980’s, Chelsea had seen an influx of video, music, dance and other arts. By the late 1980’s, a number of trendy art galleries started coming to the area. The City’s investment rested on the strong base of an existing, vibrant, urban arts cluster. The HLP is more properly viewed as a catalyst that provided a significant multiplier effect in a neighborhood that was already changing and growing. The HLP took a community already in transition and put it on steroids.

**The Community.** The reason CB4 and others supported preservation of the High Line over the previous 25 years largely was driven by a desire to keep development out, residential and commercial real estate prices down, and the gritty, industrial feel of the neighborhood intact. In fact, creation of the HLP and preservation of the line itself seems to have had the opposite effect

The Community fully recognizes the trade off at this time. Most people interviewed have been won over by the HLP and have enjoyed the new restaurants, stores and ambiance. Through participation in the rezoning, an affordable housing set aside was achieved and the maximum zoning bonuses limited.

The community was also successful in the up-zoning in obtaining certain key changes before the SWCD was approved. These changes included maintaining a manufacturing designation for the middle of the numbered blocks, aiding the galleries. Similarly, the allowed FAR was reduced in the Chelsea Historic District and the higher FARs were moved northward and out of the more residential areas of the community.



For FHL, the HLP has made it a thriving business. Effective May 26, 2009 (just before the first phase of the park opened), FHL entered into a License Agreement with the City's Department of Parks to assume management, maintenance and operation of the Park on behalf of the City.<sup>8</sup> FHL says that the annual operations and maintenance cost is between \$2.5-3 million, with another \$2-3 million to support overhead and staff costs. These annual costs make the HLP an extremely expensive park to run; far higher than a typical park. Roughly speaking, the HLP costs \$500,000 per acre to maintain as compared with \$10,000 per acre for other New York City parks. It also places an enormous burden on FHL to find sources of revenue to support this expenditure over the long term.<sup>9</sup>

## V. TRANSFERABILITY

The HLP is not the first of its kind. Indeed, FHL readily credits as an inspiration the Promenade Plantee in Paris, a 2.9 mile path built on the old Vincennes Railway line and opened in 1993. The Promenade is not the economic dynamo that the HLP is, and was really a jumping off point for FHL.

Other places where the HLP has served as an inspiration includes the Bloomingdale Line (2.7 miles) on the northwest side of Chicago, formerly part of the Milwaukee Road, currently in the design stage. In Jersey City, the Embankment Coalition was formed in the late 1990's to utilize the Pennsylvania Railroad's former 6<sup>th</sup> Street Embankment as a trail, park and extension of the Northeast Greenway. The project the furthest along and with firm City and business support is the Reading Viaduct in Philadelphia.

The Reading Viaduct (RV), presently owned by the Reading Company – the reorganized entity arising from the bankruptcy of the railroad and now in the film business in California – was built in 1893 to serve the Reading Terminal, the Reading's grand passenger station in downtown Philadelphia. Just north of Vine Street, the viaduct runs east and west along Callowhill Street. Today, the remaining viaduct is about a mile, going east from 11<sup>th</sup> street and Callowhill to 8<sup>th</sup> street, and then swinging north and terminating just above Spring Garden Street, a distance of about 1 mile. The City, the Center City District (CCD), and a number of businesses support conversion to a park. Running adjacent to what may eventually become a northern extension of Philadelphia's Chinatown, local residents in that area oppose conversion and support demolition – they fear the gentrification the park might bring, citing the HLP as a negative example. Applying the HLP's lessons to the RV shows the challenges that such a project brings.

From a funding standpoint, the City is not in a position to contribute the kinds of funds New York did in creating the HLP. Similarly, Philadelphia is not New York and to date, the celebrity cachet that helped propel the Highline does not appear to exist locally. That cachet created much of the momentum for the private giving campaign that was so successful in New York.

8. License Agreement between New York City Department of Parks and Recreation and FHL, dated May 26, 2009.

9. Interview with Peter Mullen, September 27, 2011.

For now, the Reading Viaduct does not appear to have the alignment of interests that existed in 2001 in New York. The Reading is a hold out; a significant and influential portion of the local community is strongly opposed; and the economy is such that it does not support the magnitude of government investment in infrastructure that is needed. A re-zoning strategy, like that which ultimately preserved the High Line, may be needed to bring off the RV project as well.

## VI. CONCLUSION

It is remarkable how, in many respects, things have come full circle for the High Line. What was once one of the most important pieces of transportation infrastructure in the nation's largest city – the product of a massive public, private partnership creating enormous economic development -- has now become one of the most important pieces of civic infrastructure in the nation's largest city -- also the product of a massive public, private partnership that is creating enormous economic development for New York. In between, and for about 65 years, it sat idly by, a forgotten, derelict “blight” and “eyesore”. Who woulda' think it.

Postscript: On July 25, 2012, CSX donated the Hudson Yards section of the Highline to the City. Fundraising is well under way to develop this last piece in conjunction with the development of the Hudson Yards.