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Gale A. Brewer, Borough President

**Testimony of Manhattan Borough President Gale A. Brewer
Proposed Int. No. 241-A
New York City Council Committee on Governmental Operations
March 16, 2018**

I want to start by thanking Speaker Johnson, Chair Cabrera, the members of the Governmental Operations Committee, Public Advocate Tish James and those who came today to participate in this hearing on a local law to create a truly independent Charter Revision Commission.

The law itself is pretty basic and self-explanatory, creating a Commission of 15 members with appointments from the Mayor, the Speaker, the Borough Presidents, the Public Advocate and the Comptroller. Council Staff has done an incredible job with a Committee report examining the history of Charter Revision in the City and the current context, so I just wanted to explain the reasoning behind my push for this independent charter commission.

I have been in government for over 40 years, and have tried to devote myself to improving its functioning and its accountability to those it represents. In my years on the City Council I worked on government reform as Chair of the Technology Committee and as Chair of the Committee on Governmental Operations. In both roles, I sought to improve how government functions and increase New Yorkers' access to government information and services.

I watched as seven Mayoral Charter Commissions came and went. Most were spring/summer affairs, often beginning in March or April and ending in late August or early September. Even worse, a couple of them started in June or July and ended around Labor Day. Now, everyone is entitled to their own opinion, but you cannot tell me that you can review the entire city charter, hear from all of the various constituencies in our City, debate issues, and come up with well-thought-out proposals in 40 or 50 days over the summer. And that doesn't even address the fact that most of them were convened not with the purpose of reviewing the entire charter, but to fulfill a particular Mayor's political agenda. In the case of the 2005 Charter Revision Commission, *The New York Times* reported that the Mayor announced what would end up on the ballot before he had even appointed the Commission members.

When the seventh such commission undertook its work in 2010, I was sitting where Chair Cabrera is now. I worked really hard with my Council colleagues on proposals that we strongly believed could improve the functioning of City government. They were not attempts to grab power, address grievances or gain political advantage. But many of them were proposals that were unlikely to be put forward by a group of people appointed by the Mayor.

Just to give three examples, one recommendation was designed to prevent the Mayor from using his revenue estimating power to thwart a Council budget with which he disagreed – something Mayor Giuliani did in 1998. Another proposal would allow more public input prior to

certification of a ULURP recommendation. A third would give the Council an advice and consent role in the appointment of the Corporation Counsel. These were modest yet very important proposals to improve the fairness and responsiveness of certain aspects of City government. However, they were also proposals that appointees of a Mayor are unlikely to put forward. In fact, we were told that Commission staff was interested in some of our budget proposals – specifically those designed to make the budget more programmatic as the 1989 Charter had intended – yet they nonetheless did not gain traction among the 15 appointees, all of whom were appointed by the Mayor.

So after the 1989 Charter had been in effect for 25 years and no Commission had attempted to address these kinds of issues that inevitably arise when powers and functions are reorganized, I started working with our City's Public Advocate on this proposal. We felt that a Commission that would be independent of any one elected official and that could take more than one election cycle to do its work would allow it to do what none of the Mayor-appointed commissions in the last 29 years have done – really study how the Charter has worked in light of almost three decades of experience, and reach out to as many of our constituents as possible to get their input.

The legislation was first introduced last year and I realized that the timing couldn't have been more perfect. In the last couple of years I have recognized a marked increase in New Yorkers' interest in the functioning of City government. In 2017 we had more than 1000 applications for a little more than 300 open Community Board slots in Manhattan. Many of our public ULURP hearings have been overflowing with residents. People are demanding more accountable government and more access to government. I truly believe that now is the time for the independent Commission we are proposing.

Finally, I wanted to address the concern some have raised over allegedly “dueling” Mayor and Council Charter Commissions. The Mayor certainly has the right to empanel a Charter Commission with an agenda to look at the important issues surrounding campaign finance and elections. But a Commission with such a focus that will place questions on the ballot in 2018 will not be “dueling” with a Commission that has a broader mandate and will not put anything on the ballot until 2019. Moreover, from 1998 to 2005 we had seven commissions in eight years! If the potential for two commissions in two years could be called “dueling commissions,” those commissions would have been a brawl. Yet they proposed changes to the Charter each year and the electorate approved some and disapproved others.

But I do believe that the proposed independent Commission would look favorably on many of the goals the Mayor outlined for his Commission. I think all of our ideas would benefit from the give and take and compromise that would be necessary in a Commission not controlled by any one elected official. If an idea is worth pursuing and capable of being put into practice, its proponents should be able to convince others of this and achieve consensus among a majority of the Commission. So I invite the Mayor to join with us so that we can all work together for the benefit of New Yorkers.

Again, I really want to thank the Speaker and my colleagues on the Council, and our other City elected officials who have been so supportive of this effort, and I look forward to working with all of you.

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Testimony before the City Council Committee on Governmental Operations, March 16, 2018 re Intro 241-A

Good morning, Chair Cabrera and members of the Committee, I am Angelina Martinez-Rubio, General Counsel for Queens Borough President Melinda Katz, and I will be reading a statement on behalf of Borough President Katz:

I am excited for the opportunity to provide testimony in support of Intro 241-A that will establish a Charter Revision Commission to draft a new or revised City Charter. I want to thank the sponsors, Speaker Johnson, Public Advocate James, Borough President Brewer and Council Member Kallos for their leadership and support of this initiative. I also want to thank Chair Cabrera and the members of the Committee on Governmental Operations for their oversight and input.

As most of you know, I have dedicated most of my career to serving the public. I believe that part of serving the public involves assessing how effectively government responds to the needs of constituents. And in order for government to be effective, it is important that we consider the structure in place that allows government to run. It is hard to believe that it has been almost 30 years since New York City has looked at its Charter as a whole to see how it is serving New Yorkers. We all know that in the last 30 years not only has the City changed, but more importantly, thanks to advances in technology, the way in which New Yorkers interact with my Office, with the City Council, with the Mayor, with Community Boards and all the agencies and entities covered under the New York City Charter has changed. So I say it is about time we take that closer look at the Charter, but not with the intent to make it all new, but rather to make it work better for New York City.

We need to look at where we are with the reforms from the 1989 Commission, we need to look at our budget and whether portions of it should be carved out independently, we need to look at the oversight and powers of Commissioners tasked with providing essential services to New Yorkers, we need to look at how to save tax payers money by streamlining or eliminating obsolete processes, and more importantly we need to look at our growth.

As Borough President of the great Borough of Queens, I am mindful of the remarkable growth underway here in the City of New York and especially in Queens its largest borough. Growth is expected to continue, but along with growth come challenges. Growth in a borough like Queens and a city like New York requires a comprehensive approach that aims to strengthen and uplift entire communities. We need to guide it, to sustain it, and make sure we have the infrastructure for our families to age gracefully and for our children to thrive. Community input throughout that growth is vital, and it is my hope that through establishing a Charter Revision Commission we can increase the opportunities for direct input from the community on how to best guide future growth, in addition to looking at the processes already in place. It is not a secret that in my 8 years as Council

Member and Chair of the Land Use Committee and now in my role as Borough President I have always advocated for robust community input in land use projects and I believe there are other areas within City government where community input should be mandated.

In closing I want to thank the groups and the members of the public present here today, because without their support and guidance in this process the vision of a new Charter could not happen. I look forward to working with all of you and to hosting the Commission at a public hearing in the great borough of Queens in the near future.



New York City Council
Testimony of Brooklyn Borough President Eric L. Adams
Committee on Governmental Operations
March 16, 2018

Good morning Chair Cabrera and members of the Committee on Governmental Operations. Thank you for the opportunity to testify today on the proposal to establish a charter revision commission to draft a new or revised city charter. I want to thank my fellow borough president, Gale Brewer, Public Advocate James, and Speaker Johnson, for providing this framework for how to create a more inclusive charter revision commission at a time when all too often decisions that impact future generations are left to one or two voices in a room. I support Intro. 241 being heard today for that reason, and I urge the Committee, the Council, and the Mayor to adopt this bill putting us a path for a charter review that couldn't come at a more apt time.

In this review, I believe we, as a city, must take a hard look at our campaign finance laws. Our system is often regarded as one of the best public-private campaign finance models in the country. While this may be true, it certainly does not mean that it has been a truly effective enough system to eliminate the barriers to entry for those interested in serving their fellow New Yorkers in elected office. In his 1907 State of the Union address, President Theodore Roosevelt called for a federal public financing system. In one paragraph, he touched on the role of corporations in elections, the presence of corruption, limits on contributions, the time politicians must spend soliciting money, and the role that public financing could have in helping to alleviate these challenges. It took over 60 years for a federal public financing regime to be put into place. That system is all but useless today because \$100 million is not enough to run a viable presidential campaign in the era of *Citizens United*.

New York City should be looking to refine its campaign finance system, not sit on its laurels and pat itself on the back. Our system still injects too much private money into our politics and shuts out the voices of those who have the least among us. Citywide candidates are much less likely to go door-to-door in East New York, one of the poorest census tracts in the United States, looking for donations and connecting with residents than they are to be in five-star restaurants on the Upper East Side. Imagine if residents at Gowanus Houses had as equal an opportunity to bend the ear of candidates as those living in Gramercy Park. Do we really think NYCHA would still have a heating crisis?

This charter revision must take a fresh look at our public financing system and see where we can learn from other cities that have either fully taken out, or severely limited the role of, private donations in political fundraising.

For example, in November 2015, voters in Seattle, Washington passed a citizen-led initiative known as "Honest Elections Seattle" (I-122). This enacted several campaign finance reforms that changed the way campaigns are typically financed for Seattle municipal candidates.

According to the program:

One major reform allows the Seattle Ethics and Elections Commission to distribute "Democracy Vouchers" to eligible Seattle residents. Other campaign reforms include campaign contribution limits for lobbyists and contractors.

Seattle is the first city in the nation to try this type of public campaign financing. The Seattle Ethics and Elections Commission is committed to increasing transparency, accountability, and accessibility for how Seattle elections are financed. Democracy Vouchers are a new way for Seattle residents to get more involved in their city government. Eligible Seattle residents will receive four \$25 paper certificates they can use to support a candidate running for Seattle City Council or City Attorney. The program will expand to include the Mayor's race in 2021.

Assigning Democracy Vouchers to a candidate is the same as donating to a candidate's campaign. Candidates may use Democracy Vouchers to finance campaign activities and are held to the same City of Seattle campaign spending laws under the City's election code. Candidates participating in the Democracy Voucher Program must follow strict reporting guidelines to qualify for the program.

In Arizona, Connecticut, Hawaii, Maine, and Minnesota, full public funding systems attempt to remove money as the determining factor in elections for governor, lieutenant governor, and state legislative offices. The Full Public Funding (FPF) mechanism generally works like the following:

1. A candidate for office, whether state or local, depending on the plan, collects a certain number of small donations, usually \$5. These donations do not go directly to the candidate, but rather to a pool of money that helps supplement the funding of the public funding system.
2. After collecting the required number of small contributions, the candidate qualifies to receive a set amount of money for the primary, if there is one, and another amount for the general election, if they win the primary.
3. In exchange for this publicly-funded financing, the candidate agrees not to accept contributions from anyone else. They also agree to return any unused portion to the fund. The amounts received are based on the office you are running for. All qualifying candidates for the legislature get the same allocation (at least in the

absence of a trigger mechanism). All qualifying candidates for the State Senate get the same amount as each other, but more than the State House candidates due to their larger districts.

The FPF system is voluntary, although there can be public pressure to join when your opponent has done so. The general idea is that the candidate is not accepting donations that go directly to his/her campaign, but to a public fund. By not accepting money directly for the campaign, candidates are less likely to be influenced by donors. The small, limited donation prevents any *quid pro quo*, at least as to the donation. Disclosure is also prevalent in these systems. Expenditures have to be detailed in regular reports to the State agency in charge of elections.

The goals of these FPF systems are to prevent corruption and the appearance of corruption, to minimize the influence of money in electoral politics, to allow candidates more time with constituents and less time with potential donors, to encourage more diverse participation in our electoral process in terms of candidates and voters, and to reignite public faith in democratic elections.

New York City uses a limited matching funds system where the first \$175 of a donation from a City resident is matched six times. However, it still allows for some fairly sizable donations directly to the candidate. It allows individuals to host fundraising parties for candidates. These individual “bundlers” are not hidden from the candidate; they know exactly who did what for them. Finally, the candidate still spends considerable time raising funds — and not talking to voters.

Public financing alone cannot solve all of the problems facing our election system, but it is a start. While the goal of raising the influence of the small donor is laudable (i.e. limited matching funds), too many people cannot afford to donate at all. Their voices are among those drowned out by massive spending by a small number at the top of the economic ladder. Matching funds do not help climb a ladder that you cannot even see. Alternatively, full public funding aims to remove the impediment that drowns out those voices.

I have called for, and am reiterating again now, for 100 percent publicly-financed campaigns where every candidate has an equal footing to express their ideas. Fully publicly-financed elections will see more women running for office at a time when representation in the City Council has decreased since our last election. Fully publicly-financed campaigns have shown to increase minority participation in elected politics. A fully-funded system also takes away the *quid pro quo* corruption and will help restore faith in our electoral system.

I believe it is important we achieve a campaign finance system that:

1. Is fully publicly financed
2. Only contributes to candidates through a public pool of funding, rather than direct individual contribution.
3. Sets contribution maximums at a significantly low level.

I urge the upcoming charter review process to make 100% public financing a reality; it is, in fact, the most important reform I believe this review can pursue.



BRONX BOROUGH PRESIDENT RUBEN DIAZ JR.

**TESTIMONY OF BRONX BOROUGH PRESIDENT RUBEN DIAZ JR.
BEFORE THE NYC COUNCIL COMMITTEE ON GOVERNMENT
OPERATIONS IN SUPPORT OF INTRO 241-A.**

March 16, 2018

Good morning, Chairman Cabrera, my name is Thomas Lucania and I am here this morning on behalf of Bronx Borough President Ruben Diaz Jr. in support of Intro 241-A, the creation of the People's Charter Revision Commission.

It is been almost 30 years since the New York City Charter was reviewed comprehensively by a charter revision commission. In those 30 years, there have been a number of commissions created. However, each had specific agendas and did not address the many new issues that have presented themselves in the 21st century nor the effects that the charter revisions of 1989 have had on the governance of New York City.

This commission promises the residents of the City of New York an open, transparent and democratic process that will involve many individuals and advocacy groups. It will offer residents the opportunity to comment on what they think their government should look through public hearings and the effective use of social media. Since it is anticipated that the questions would be placed on the ballot in 2019, the commission will have enough time to do extensive outreach to communities throughout the city to solicit their opinions and give the commission an opportunity to deliberate and present changes to the charter that would have the greatest positive effect on our city.

I am pleased that this commission will give the leadership of the each of the boroughs a voice in this process. We, at the borough level, can provide a unique perspective on the issues, which affect our communities and the services that the city provides.

I hope that this commission will address such serious concerns as community involvement in the land-use review procedure, the transparency of the New York City budget process, the need for police reform, fair share issues, the weakening of borough governance due to the 1989 charter revisions and the need for independent budgets for citywide and borough officials and community boards.

Over the last 30 years, so much has changed in the way New York City is governed, such as the increased use of technology, the great strides being made in development throughout the city, the ability for people to obtain information instantaneously and the growing population of our city for starters. All of these issues requires us to take a new and bold look at the way our city is governed.

This new Peoples Charter Revision Commission is the best opportunity for the residents of the city, through discussion and debate and through the various social media platforms, to influence the way our city is governed.

I look forward to the speedy approval of Intro 241-A and to playing an active role in the discussions on these very important issues through this commission.

Thank you.

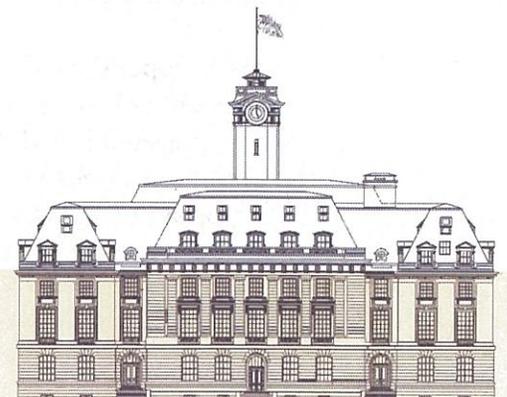
**Testimony of Staten Island Borough President James S. Oddo
New York City Council Committee on Government Operations
City Hall
March 16, 2018**

Chairman Cabrera and members of the City Council's Committee on Government Operations, my name is James Oddo and I serve as the Staten Island Borough President. Thank you for the opportunity to testify in favor of Introduction 241, a Local Law to establish a Charter Revision Commission to draft a new or revised City Charter. I want to acknowledge Public Advocate James and Borough President Brewer for sponsoring this Local Law—and Speaker Johnson for advancing the overdue effort to comprehensively review the City Charter.

I would like to begin my testimony by being frank; while I wholeheartedly believe in the necessity of a top-to-bottom review of the City Charter, I submit my support for this bill with some skepticism. I just can't forget the night of April 13, 2010 when Staten Island resident after Staten Island resident stood up to address the then-impaneled Charter Review Commission at a marathon hearing that nearly stretched to midnight.

The frustration in that room was palpable, but so was the hope. Staten Islanders took time out of their daily grind because they were promised an open process during which their voices would be heard. As a City Councilmember, I too was assured that the Charter Review Commission was starting from a blank slate and was going to rely on the input of residents, civic groups, and local elected officials to inform their recommendations on how to reform City government. The structure of government was radically transformed in 1989, and finally, after 21 years, we were going to deliberately evaluate the impact of those changes. It was an opportunity to improve how government delivered core services across the board, from transportation to education to public safety, etc.

Unfortunately, we were in for a rude awakening. I will not mince words about the 2010 Charter revision: it was a sham. From the very beginning, the outcome was predetermined. The main objective was to fulfill Mayor Bloomberg's charge to re-establish term limits, with some decorative changes around the edges to create the appearance of accomplishment. I do not for one second believe that a single plea or suggestion from a Staten Island resident was considered. Not a single one of the litany of reforms that I proposed ever saw the light of day in any form.



Now here we are, nearly eight years later, presented with another opportunity to enact meaningful reform. Some may wonder if it is a mirage. The difference is that now we have an entirely new slate of leadership, with a seemingly earnest desire to undertake real Charter revision. Therefore, we must all work diligently to ensure that the results match the rhetoric, and to ensure that all New York City residents, including those on Staten Island, are truly heard. It is incumbent upon us to finally take on the difficult questions raised by the 1989 Charter revision, particularly in the way in which it shifted power away from borough-level governance.

The reality is that reform is desperately needed, and we can't afford to allow any skepticism we may harbor lead to indifference. I was excited about the opportunity for reform even before the Mayor or City Council discussed the prospective formation of a commission, and I identified Charter revision as a top priority for my second term. Admittedly, I first publicly expressed my support for Charter revision in a tweetstorm reacting to the ineptitude of the Department of Design and Construction, but that is only one of many issues that bear addressing.

The United States Constitution was purposefully designed to be difficult to amend, and making wholesale changes to the New York State Constitution—as we learned last year when the Constitutional Convention ballot proposal was resoundingly voted down—is exceptionally controversial. That is why a legitimate Charter revision process is so important. When done right, it offers the best opportunity for reform at a level of government which has the most tangible impact on people's day-to-day lives. Unlike amending the U.S. or New York Constitutions, which invariably involve third-rail ideological issues, Charter revision seeks to address the nuts and bolts of how to best structure municipal government so that it could effectively perform its core functions: public safety, transportation, public education, etc.

Therefore, I am ready and able to actively participate in this iteration of reform as Speaker Johnson has described it—a broad, comprehensive, and open process without narrowly defined limitations. I believe that the proponents of this bill are sincere in their intent to improve City government, which is why I am submitting this testimony in support of the overall effort. I am, however, obliged to offer the following recommendations, gleaned from the 2010 hand-waving spectacle, which I believe will be critical if the Charter Revision Commission is to be successful:

Top-to-Bottom Review. The charge of Charter Commission must be to comprehensively review the entire charter with the specific focus of examining the impact of the 1989 Charter Revision. As the Borough President of Staten Island, I know firsthand that the 1989 reforms essentially gutted borough governance. The consequences of this radical shift should certainly make the list of issues the Commission will address.

An Independent Commission. The appointed members of the Commission must be independent—even from those by whom they are appointed. Moreover, members should be representative of the entire City. To address the shortcomings of the 2010 Commission, Staten Island should have more than one representative. It will also be important to staff the Commission with qualified experts and provide them with the necessary resources to effectively fulfill their mandate.

Meaningful Public Engagement. The 2010 Commission should be credited for hosting public hearings on Staten Island to gather feedback from residents. However, there are several changes to those hearings that should be considered in an effort to make them more inclusive, robust, and engaging. In 2010, the hearings started at 6:00 PM as residents were commuting, and therefore precluded from participating. There should be an effort to work with local elected officials to ensure that residents in each Council District are able to participate in the process. The Commission should also consider how to demonstrate to the public that the input they provide is being recorded and will be considered.

Appropriate Timeline. There was a consensus across the City that the 2010 Commission was operating within an unrealistically short timeframe. The Commission's push to get recommendations on the ballot in time for the election contributed to the impression that the whole effort was a farce. To avoid that pitfall, the Commission should be given a sufficient amount of time to deliberatively complete its work—free of external political considerations or artificial deadlines.

Transparency. This iteration of the Charter Review Commission should be empowered to leverage technology, so that it might offer unprecedented transparency into the process in an effort to dispel the perception that this effort, like the one in 2010, is rigged. The Commission will not be able to effectuate meaningful reform without public engagement and support. It will be critical to reverse the cynicism associated with Charter Revision if the Commission is to be successful.

I submit this testimony with cautious optimism that, with new and focused leadership, we can begin in earnest a process to make City government more responsive, efficient, and, effective. I look forward to the prospect of opening the hood to examine the balance of power, the budget process, agency structure and operations, and many other foundational issues that impact the quality of life of 8.5 million residents.

I will be ready with a list of proposals that has been growing, unaddressed, since 2010. For example, I will request that the Commission consider enabling borough presidents to call a joint-agency technical review meeting. These monthly meetings have been organized by my office to discuss land use proposals throughout Staten Island and are regularly attended by the borough commissioners of City Planning, Buildings, Transportation, Parks, and FDNY borough command.

These meetings keep all land use matters “front and center” until all involved city agency requirements are satisfied. Codifying this currently voluntary process in the City Charter will ensure continuity and replicate success across the five boroughs.

Of course, you will see me pound the table, repeating my call for local control and decentralization of certain administrative functions, like where to put a "Stop" sign, where to site bike lanes, which streets should be repaved, etc. Now in my second term as Borough President, I am even more convinced that restoring some semblance of borough governance—even if just at the administrative level—will significantly improve city services and quality of life.

I hope to bring these proposals and many others to a Commission that will become the gold standard of Charter reform.

**Testimony to the New York City Council
Governmental Operations Committee on the
Council Convening a Charter Revision Commission
March 16, 2018**

Good morning Chair Cabrera and members of the New York City Council Governmental Operations committee. My name is Alex Camarda, and I am the Senior Policy Advisor for Reinvent Albany. Reinvent Albany advocates for transparent and accountable government in New York, and is particularly interested in making city government more transparent. Here in New York City, we were instrumental in passing the city's [Open Data Law](#) and [subsequent amendments](#) - thank you for your help with those Chair Cabrera - and advocating for OpenFOIL legislation which led to the creation of the City's [OpenRecords](#) platform.

The bill before this committee today, Int. No. 241-A, will establish a Charter Revision Commission to draft a new or revised charter for the city of New York.

Mayor de Blasio is convening a Charter Revision Commission which intends to put proposals on the ballot this fall. [Reinvent Albany supported the Mayor calling a Charter Revision Commission](#) in part because of the emphasis on campaign finance reform and lobbying transparency, and the historic focus of past charter commissions on government accountability issues, for example in 2010 and 2003.

We believe it is in the best interest of the city for the Council and Mayor to negotiate and convene one commission to examine the entirety of the city's charter. Speaker Johnson has said he hopes the mayor will agree to this and so do we.¹ If the mayor and Council proceed with different and competing commissions, a number of incidents could unfold which could result in conflicting policy, public confusion, excessive politicization, inefficiency, and litigation. For instance, the mayor's commission could put measures on the ballot this fall, and the Council commission could immediately revisit the charter in 2019, even reversing proposals put forth by the mayor's commission and approved by the voters. In another scenario, the mayor could call a charter revision commission in 2018 and, separately in 2019 (or extend the 2018 commission's

¹ “[Johnson] said that he hoped that the mayor could be persuaded to join forces with the Council so that there could be a single charter review.” See:
<https://www.nytimes.com/2018/03/09/nyregion/nyc-council-mayor-charter-review.html>

work), which could seemingly bump off the ballot any referenda submitted by the Council-convened Charter Revision Commission, an act that may trigger litigation.

It is also possible the work of the two commissions will be complementary or, at least coexisting, rather than conflicting. None of the events described above may transpire, and the Council-initiated commission's work on the charter may proceed in 2019 with different charter revisions than the mayor's commission placing referenda on the ballot in 2018.

But there is no doubt two commissions convened in the same year would be unprecedented in recent memory and create a high degree of uncertainty.

As for the specific provisions of the Council's bill, Int. No. 241-A, it largely tracks the requirements in Municipal Home Rule Law, Article 4, Part 2, section 36. This law gives the Council flexibility regarding appointees to the commission. Reinvent Albany believes doing something as important as rewriting the City's Charter should include the diverse voices of the city as expressed through their elected officials. We therefore support that Int. No. 241-A includes appointees from all citywide elected officials and the borough presidents. We suggest the Chair of the Commission should be jointly chosen by the Mayor and Council Speaker. This would be more appealing and fair to the Mayor so the Commission would be precisely balanced between Mayor and Council.

Reinvent Albany also supports the provisions of this bill that prohibits lobbyists from serving on the commission, and requires the Conflicts of Interest Board (COIB) to restrict or limit outside activities by consultants who are doing business with the city if they serve on the commission.

We suggest the Council amend section 3(f) of the bill to clarify the Commission should follow the Freedom of Information Law and the Open Meetings Law which we believe it is already required to do under state law; webcast its hearings and meetings; and create a website posting and archiving testimony given to the Commission, minutes of meetings and hearings, and reports issued by the Commission. The bill should also require Commission members and staff be issued government emails and be required to use them exclusively for the commission's work.

Additionally, we recommend the Council clarify that lobbying the commission should be reported to the City Clerk's Office, as would be required for attempting to influence any other commission. The City's new lobbying database only displays lobbying activity back to 2013 so we cannot say with certainty that lobbying of previous commissions was reported to the Clerk's Office. It is our recollection that in 2010 the Clerk's Office modified the E-Lobbyist reporting system to allow lobbyists and clients to report lobbying the 2010 City Charter Revision Commission.

Thank you and I welcome any questions you may have.

CHARTER REVISION: Principles, Possibilities, Prospects

**Douglas Muzzio
Austin Marxe School of Public and International Affairs
Baruch College, CUNY**

**Testimony to the NYC City Council Committee on Governmental Operations
March 16, 2018**

QUESTIONS AND CONCERNS

Dueling Commissions

It appears we may have dueling charter commissions, one proposed by the Mayor and one by the Council.

In late December 2017 Public Advocate James and Manhattan Borough President Brewer introduced Intro 1830 which would establish a charter revision commission. The Public Advocate and Speaker Johnson (requested by the Manhattan Borough President) re-introduced it Intro 241-A in the new session in early January. Mayor de Blasio, in his February "State of the City" address, announced the creation of a charter revision commission, charging it the "mandate to propose a plan for deep public financing of local elections" and to make changes to the Board of Elections. It would have proposals on the ballot in the November 2018 general election. The mayor would appoint all the members of the commission.

The mayor can't mandate anything to a charter revision commission. Once it's called, it can examine from what to study to what to recommend. (And the proposals he mentioned in the speech could more quickly and efficiently enacted through city legislation by the City Council.) Putting a commission's recommendations to a November vote would require a final report in late August.

The Council Approach

Intro 241-A differs from the Mayor's proposal in several significant respects. First, it calls for a comprehensive view of the structure and operation of city government. Essentially, it could/would examine the 1989 Charter changes in light of challenges and opportunities that have arisen in thirty years. If it did so, recommendations probably could be placed on the ballot in November, 2019. Second, the members of the commission would be selected by citywide, boroughwide, and local officials (through the Council) -- offering a diverse, and presumable more representative, views on fundamental matters. Of the fifteen, four are appointed by the Mayor, four by the Council, one each to the five borough presidents, the comptroller, and the public advocate. The chairperson would be chosen by the Speaker.

Questions for a 2018 Charter Commission

Charter revision itself raises two sets of questions: those on process and structure and those on possible/needed /likely substantive proposals. Among the process and structure questions:

- What should be guiding goals and principles of the commission?
- What makes a "good" commission and commissioners?
- What is desirable staffing, budget, timeframe?

- What has been/is/ought to be the role of the mayor and his relationship with institutions/offices of New York City government?
- What has been/is/ought to be the role of the City Council and its relationship with institutions/offices of New York City government?

Any meaningful review of today's charter must begin with the 1989 charter changes. What has worked? What hasn't? Why? How have post-1989 commissions attempted to "fix" it? Have they been successful? How do we "fix" it now? Any unwanted consequences lurking?

A comprehensive charter review will likely/ought to be framed by three broad themes (as it did in 1989): centralized power vs. local advice and consent, governmental checks and balances (essentially, how to contain the power of the mayor), and expansion of an informed and efficacious electorate.

Recommendations

A 2018 charter commission should:

1. Articulate clear and compelling goals

The 2010 commission never defined its goals. The proposed commissions ought to. The 1986-88 Ravitch commission, believing that charters and, hence, charter changes should reflect clear and compelling goals, adopted a number of goals "to provide logic, rationale, and context for various decisions to more universal principles..." The chair of the successor 1989 commission, Frederick Schwarz, restated these goals in his "Initial Proposals" in April 1989:

- balancing power/checking power
- increasing participation/adding voices
- enhancing government efficiency and effectiveness
- fixing accountability
- ensuring fair representation

Without clearly articulated goals, a commission's deliberations are ultimately directionless. It can get you places where you don't/ought not want to be. Neither the preliminary staff report nor the final report to the 2010 commission provided a discussion of any principles that structured the choice of the alternatives and recommendations offered.

The Citizens Union and the City Council, for example, offered sometimes overlapping overarching goals to the 2010 commission. The City Council submission stated three goals/objectives: 1. "greater community participation in the government" 2. "more transparency to the work of the City government" 3. "strengthen accountability of, and in turn, the public's confidence in City government." The Citizens Union in its "2010 City Charter Revision Recommendations" proposed five "major objectives": 1. "ensure checks and balances" 2. "open elections" 3. "strengthen accountability" 4. "protect integrity" 5. "increase transparency."

2. Address significant/feasible substantive areas

Significant issues include those mentioned in the 2010 commission's final staff report "Issues for Future Consideration" (pp. 65-107) and rigorously analyzed in the symposium held at New York Law School in 2013 and the articles in the school's law review.

Among the matters that a 2018 commission could address (with different degrees of likelihood) are, broadly, governmental structure/processes and land use/planning/zoning.

a. Governmental Structure/Process

A charter revision commission should/could:

- address the powers and purviews of the Mayor, City Council (e.g. enhance its budgetary role, make it a full-time body with limits on earned outside income), Comptroller (e.g. power to establish or sign off on revenue estimates), Public

Advocate (i.e. retain or eliminate, maintain, enhance or reduce authority; dedicated funding stream; subpoena power), Borough Presidents (e.g. retain or eliminate, maintain, reduce or enhance authority such as in land use decision making and capital planning and budgeting); Community Boards (e.g. enhanced role in planning/land use; professional support)

- alternative electoral/voting systems; voter participation and effect (e.g. instant runoff voting)
- ethics (e.g. appointments to and purview/procedures of Conflict of Interest Board; oversight of lobbying activities)
- procurement (e.g. enhanced bidding and contracting oversight by Comptroller or Council)
- charter content (e.g. move much of charter to Administrative Code); remove anachronisms

b. Land Use/Zoning/Planning

A charter revision commission could/should:

- Consider land use policies since land is one of the principal stakes in the New York political game; land use policies affect the city and the well-being of its neighborhoods and residents.
- Critics of the status quo – specifically the Uniform Land Use Review Process (ULURP) –see it as inefficient, time consuming and often wrong-headed, in need of “streamlining” with shorter time frames for review and the elimination of steps.
- Others want enhanced purview and greater powers for community boards and the City Council on zoning and land use matters.

TWO CAUTIONS

Beware the unintended consequences.

Jimmy Flannery, the Chicago sewer inspector, machine ward heeler, sleuth and protagonist of Robert Campbell's crime series, has a warning in *The 600 Pound Gorilla* for those who would tinker with a city's government:

"A thing like a city government is like a tower built out of match sticks. It stands so rickety you think one breath'll knock it flat. Somebody decides to fix it. Take out this rotten beam and that rotten brick. Chop out a floor, pump out the basement, add a garden room. Then everybody acts surprised when it comes crashing down."

And Yogi: "If you're going to build a better mouse trap, you better make sure there are mice out there"

Question/comments: There is no specification in the Intro that the members of the commission must be residents of the city. Is this an omission or conscious policy? Also, there appears to be duplication of Sec 2c,d and Sec 3d,e



**Testimony by Stanley Fritz,
Campaigns Manager at Citizen Action of New York
Before the New York City Council Committee on Government Operations
Chairman Francisco Cabrera**

March 16, 2018

Good morning and thank you for holding this hearing and for examining the important issues of how our City government functions.

My name is Stanley Fritz, Campaigns Director at Citizen Action of New York. Citizen Action is a grassroots membership organization taking on big issues that are at the center of transforming society – issues like: quality education and after-school programs for all our kids guaranteed quality, affordable health care public financing of election campaigns dismantling racism and promoting racial justice a more progressive tax system.

Citizen Action has long been a leader on the cause of government reform and accountability, seeking to make our City and State governments more responsive to the needs of ordinary New Yorkers. We led the way over 25 years ago in the fight to create NYC's small donor matching fund system, and we've led the way on fights for fair elections, fair redistricting, and a range of other good government policies ever since.

I am here today in support of this effort to examine how structural reforms to our City government could help it best serve its citizens. I want to commend Council Speaker Corey Johnson, Public Advocate Tish James, and of course our dear friend and founding member of Citizen Action, Borough President Gale Brewer, on the hard work they've put into INTRO 241 for a charter revision commission.

Citizen Action believes that after 30 years, it is about time to again consider these fundamental questions of City governance, and supports all the efforts, including this proposal, to look into ways to make the next several decades of New York City governance as equitable and progressive as possible.

We have two suggestions regarding the Council's consideration of this issue that could make the process of charter revision more equitable and open.

First, we suggest that the Council consider appropriating funds, both in 2018 and especially in 2019, for a significant public education effort to engage the people of the City in the discussion of charter revision and to make sure that the voters are aware of what they may vote for or against in 2019. Additionally, when processes like this take place, poor and low income communities are left out of the conversation, for no other reason than a lack of awareness around the process. We can change that by providing education, and engaging these communities from the very beginning stages.

This public education is especially vital next year because without any city wide or statewide offices on the 2019 ballot, there is the possibility that turnout will be very low in the 2019 election and any recommendations for restructuring City government deserve to be judged by a broad and representative slice of the City's electorate.

Second, we have noticed one piece of the draft legislation before you today that we'd encourage you to consider amending: Section 1 subsection C. This section clearly has a noble intent: to prevent the charter revision commission from being taken over by lobbyists. We support that intent.

However, the language in this section would end up excluding many of the people you might ideally want on such a commission. That's because defining the excluded category as *anyone* who has conducted any lobbying activities as defined by section 3-211 of the City Code would mean excluding any staff person at a nonprofit organization who has ever met with their City Councilman and requested support for local programs.

In fact, it would exclude virtually the entire NYC good-government community, including the sorts of advocates who are testifying before you today, as virtually all of us have met with one of you or testified at hearings like this one, and as a result have filled out the forms mandated by state law that lump us in with professional lobbyists.

So we would encourage the committee to look at amending that language to only exclude people who have lobbied on behalf of for-profit entities, or to allow individuals who have lobbied to be on the commission if they are first vetted by the City's Conflicts of Interest Board.

Thank you once again for examining this issue and delving into the topic of City Charter revision, and we look forward to working with you in the future on this issue and other areas of importance to the communities we represent.



Regional Plan Association Testimony before the New York City Council Committee on Governmental Operations on Intro 241-2018 establishing a charter revision commission to draft a new or revised city charter

Pierina Ana Sanchez, New York Director

March 16, 2018

Good morning, my name is Pierina Ana Sanchez and I am the New York Director at Regional Plan Association, an urban planning, research and advocacy organization that aims to improve the New York metropolitan region's equity, health, sustainability, and economy. I am here today to testify in support of [Intro 241-2018](#), which would establish a Charter Revision Commission to draft a new or revised city charter.

A review of the charter is necessary

It has been nearly 30 years since the city's charter was last comprehensively reviewed, and the City has changed dramatically. Between 2005 and 2015, nearly 90% of jobs and population growth within the New York metropolitan region happened within NYC's boundaries, a complete reversal of 1975-2005 trends. In the past three decades, our transit system was in crisis, came out of crisis, and has gone back into crisis again. All the while, inequality has continued ever upward, with wealth concentration for top earners, wage depression for the lowest income New Yorkers, and persistent inequities along racial and ethnic lines.

All this change requires much more proactive and inclusive planning than the city engages in today. In fact, our land use governance tools and processes are fractured. There is no overarching public framework driving land use decisions. This makes it difficult for us to answer questions like how neighborhoods are chosen to be rezoned, how other communities will contribute to the citywide goal of addressing the affordable housing crisis, and whether sufficient resources exist to aid communities in accommodating the growth without displacement. Next, local entities charged with making land use decisions – our community boards – are under resourced. And, processes including environmental review for evaluating and approving proposed development projects are time-consuming, expensive, and worse, inefficient. Last, but certainly not least, public review often meaningfully excludes many stakeholders until it is too late to affect decisions, especially in low-income communities of color.

The result is that our city is not producing the homes, commercial spaces and other infrastructure sorely needed to continue to thrive. Even beneficial projects take too long or cost too much to reach completion, as environmental review is pressured to answer questions far beyond environmental impact. And for projects that do reach completion, the benefits are often uneven, with adverse impacts often overlooked or unmitigated. At the neighborhood scale, these inefficiencies come together to deepen inequality as wealthier neighborhoods are often able to identify resources to navigate the complex processes, while low-income communities are less able to affect outcomes.

Inclusive City: Strategies for more Equitable and Predictable Land Use in NYC

In our Fourth Regional Plan, we highlighted the need to make local planning [more inclusive, predictable and efficient](#), and over the course of 2017, we participated with the Offices of Manhattan Borough President Gale Brewer, City Council Member Antonio Reynoso and over 40 community and land use

experts citywide to identify strategies for reform. Together, the working group released a white paper titled [Inclusive City: Strategies to achieve more equitable and predictable land use in New York City](#).

While the strategies identified were oriented around three topics (dramatically increasing resources for planning in New York City, transparency for the public, and reforming environmental review), Charter Revision is needed to accomplish some of the most important recommendations. Planning comprehensively and empowering communities to have more of a say in their own futures will require a rethinking of the balance of power in the city.

Recommendations for Intro 241's Charter Revision Commission

Thus, we support the convening of a Charter Revision Commission to conduct a comprehensive review of the New York City Charter, and especially, of land use governance and planning practices. Charter revision commissions may be convened through State or City legislative action, as well as by public referendum, but all except one in New York City's history have been convened by mayoral action. **We are agnostic about the convening entity, yet express the following priorities:**

- **Regarding membership:** As presently proposed in Intro 241-2018, the commission would consist of 15 members appointed by city elected officials, with a proposed new or revised charter to be submitted to the electors of New York City no later than the second general election after the enactment of the law. We recommend the bill include language that appointees to the commission must represent a diversity of perspectives and have expertise on a variety of subjects, including land use.
- **Regarding inclusive outreach:** We also recommend the bill include more language to ensure outreach is broad, inclusive and meaningful. Outreach strategies should make strong use of social media and survey technology, include broad geographic coverage, and partnerships with organizations across the city to ensure underrepresented perspectives are heard.
- **Regarding scope:** Finally, we urge that land use governance be a part of the scope.

We commend Speaker Corey Johnson, Public Advocate Letitia James, Manhattan Borough President Gale Brewer and Council Member Ben Kallos on Intro 241, and urge the City Council and Mayor to support this bill and sign-it into law.



Inclusive City

Strategies to achieve more equitable and predictable land use in New York City

January 2018

Acknowledgments

This report summarizes meetings, discussion, research, and draft documents created collaboratively among members of a land use reform working group in 2017, facilitated by the Offices of Manhattan Borough President Gale Brewer, Council Member Antonio Reynoso and Regional Plan Association. We would thank the following individuals who provided factual information, insights, and suggestions throughout the drafting and editing of this report:

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Executive Summary

Introduction

Mayor Bill de Blasio's first term was marked by many accomplishments, including the enactment of one of the most expansive inclusionary housing programs in the nation.¹ At the end of the first term, the administration was on track to surpass its 2013 goal to create and preserve 200,000 units of housing,² and even increased the goal to 300,000. Yet, one area of the administration's housing plan had seen slower progress. Efforts to upzone 15 communities to create more capacity for affordable housing across the City encountered fierce resistance. To date, only three of these rezonings have passed, while one stalled and others are making much slower progress to address community and stakeholder concerns.

The public remains in the dark about why these places were chosen, how other neighborhoods will contribute to the citywide goal of addressing the affordable housing crisis, and whether sufficient resources exist to aid communities in accommodating the growth without displacement. The de Blasio administration's proposed neighborhood rezonings have been almost exclusively in low-income communities of color. While it isn't wrong for the city to turn an eye toward these neighborhoods — many of which have been disinvested in and ignored for decades — efforts to upzone these and other neighborhoods would be aided by a public rationale for how the neighborhoods are selected, and clarity about how resources will be allocated to ensure fair neighborhood outcomes.

A comprehensive citywide planning framework would provide this rationale. It would create publicly accepted criteria and guidelines for where and how rezonings should occur, and more broadly, it would enable the City to reach a shared vision with community level targets for its accomplishment. Creating an Office of Community Planning would enable more local stakeholders to have a say in the future of their neighborhoods, and could

serve to strengthen the entities most likely to engage in neighborhood-level planning efforts, including community boards. More community based plans would be a boon to the city's planning efforts, as these surface important priorities and ideas that are often broader and more holistic than what can be contained in individual land use proposals, including opportunities for schools, jobs and economic development, daycare, housing, open space and more. Next, increasing transparency in land use processes before and during formal procedures would improve public faith in the city's land use procedures. In a city with a comprehensive planning framework and strong community planning, less pressure would fall on environmental review studies used to analyze actions that are not as-of-right. Still, transparently revising the analysis tools and formulas in environmental review would ensure stakeholders have the best information available to make land use decisions where environmental review is triggered, and ensuring adverse impacts are mitigated as promised would restore public trust.

As the mayor and New York City elected officials enters their second term, they should explore how land use governance reform can yield better outcomes for all stakeholders, including for developers who seek less local opposition and more predictability, and especially for the most vulnerable in our city who fear displacement from their neighborhoods.

A land use reform working group of over 40 community and land use experts convened to identify strategies for reform. Facilitation was provided by the Offices of Manhattan Borough President Gale Brewer, City Council Member Antonio Reynoso and Regional Plan Association. The working group drew on recommendations from the Campaign for Community Based Planning's taskforce, active from 2000 to 2009, with the goal to support and strengthen the role of community planning citywide. The working group updated the taskforce's proposals to reflect today's planning landscape, but the goals remain similar and are perhaps even more relevant as the city's economy continues to improve, and communities seek to balance the need for growth against the displacement pressures of gentrification. The working group also drew from the white paper titled "*Proposal to Increase Community Engagement in Private Development Plans*" produced by the Office of Council Member Antonio Reynoso in 2016, Manhattan Borough President Gale Brewer's strong positive results with pre-

¹ New York City. 2016. "Builders of Affordable Housing Applaud Passage of Historic Housing Reforms." Retrieved from: <http://www1.nyc.gov/office-of-the-mayor/news/296-16/builders-affordable-housing-applaud-passage-historic-housing-reforms>

² de Blasio, William and Alicia Glen. 2013. "Housing New York: A 5 Borough 10 Year Plan." Retrieved from: http://www1.nyc.gov/assets/housing/downloads/pdf/housing_plan.pdf

ULURP planning processes and community screening and training initiatives, and Regional Plan Association's *Fourth Regional Plan* recommendations on local planning. The challenges and opportunities identified by the working group are summarized below.

Challenges

There is no overarching public framework driving land use decisions; entities charged with making land use decisions are under resourced; processes including environmental review requirements for evaluating and approving proposed development projects are time-consuming, expensive, arcane and inefficient; and finally, public review requirements often exclude residents, many who are shut out of the process until it is too late to affect decisions, especially in low-income communities of color.

The result is that our land use governance tools and processes are not delivering the homes, commercial space and other infrastructure the city sorely needs. Even beneficial projects take too long or cost too much to reach completion. And for projects that do reach completion, the benefits are often uneven, with adverse impacts overlooked and unmitigated. At the neighborhood scale, these inefficiencies come together to deepen inequality as wealthier neighborhoods are often able to identify resources to navigate the complex processes, while low-income communities are less able to affect outcomes.

Opportunities

To create growth that better meets the city's needs and ensure current residents benefit, New York City's planning and approval processes should be reformed to be more inclusive, equitable, and predictable, using the best tools available for addressing a wide range of impacts. The working group offered four primary strategies for consideration:

1. Dramatically increase the amount of proactive planning in New York City.

- ▶ Create a citywide comprehensive planning framework with community-district level targets, including for housing creation and public facilities siting, in collaboration with communities and local elected officials.
- ▶ Increase resources and support for neighborhoods to engage in community planning, with standing, by creating an Office of Community Planning.



Working Group Meeting

Source: RPA

- ▶ Reform community boards by standardizing the application and selection process, taking steps to ensure they are representative of the communities they serve, professionalizing and resourcing boards, and increasing their visibility to the general public.
- ▶ Ensure citywide and community goals are transparently met through cross acceptance, a negotiating process to achieve alignment between the citywide framework and community plans.
- ▶ Explore new revenue streams to increase resources and support for communities to engage in planning.

2. Increase communication, participation, and transparency in development decisions before and during formal procedures.

- ▶ Improve and democratize available information about private and publicly initiated land use proposals to ensure that residents have a voice in the decisions that shape their communities.

3. Improve accountability, oversight, and enforcement in the City Environmental Quality Review process.

- ▶ Address inaccuracies in environmental review report preparation.
- ▶ Ensure funding and implementation of mitigation measures identified in environmental impact statements.
- ▶ Track neighborhood outcomes after land use actions are approved for lessons learned.

4. Update the City Environmental Quality Review technical manual to ensure accuracy.

- ▶ Convene an expert panel to review and propose updates to metrics and evaluation methodologies in the City Environmental Quality Review (CEQR) Technical Manual, and subject updates to public review and comment, and update regularly.

In addition to these strategies, the working group recommended that New York City examine best practices from other cities, both in and outside of the U.S. Many cities complete reviews and approvals in far less time, and often with more effective public engagement.

Getting it done

Implementation of these strategies would be through one of three mechanisms: administrative changes, legislation or the convening of a Charter Revision Commission. Some strategies could be implemented through simple administrative changes, such as the convening of an expert panel to review CEQR guidelines, while others might best be accomplished through legislative action. Still others would require more fundamental changes best achieved through reforms to the New York City Charter. Reforms are not without precedent in New York City. Charter Revision Commissions have been convened as close together as every four years,³ with the last one taking place in 2010,⁴ and one was recently proposed in Public Advocate Letitia James and Manhattan Borough President Gale Brewer.⁵ Charter revision commissions may be convened through State or City legislative action, as well as by public referendum, but all except one in New York City's history have been convened by mayoral action.^{6,7}

³ Katz, Miranda. Gotham Gazette. 2016. "Why Do NYC Community Boards Have So Little Power?" Retrieved from: http://gothamist.com/2016/04/12/nyc_community_board_explainer.php

⁴ New York City Charter Revision Commission. 2010. "Final Report of the 2010 New York City Charter Revision Commission." Retrieved from: http://www1.nyc.gov/assets/charter/downloads/pdf/final_report_of_the_2010_charter_revision_commission_9-1-10.pdf

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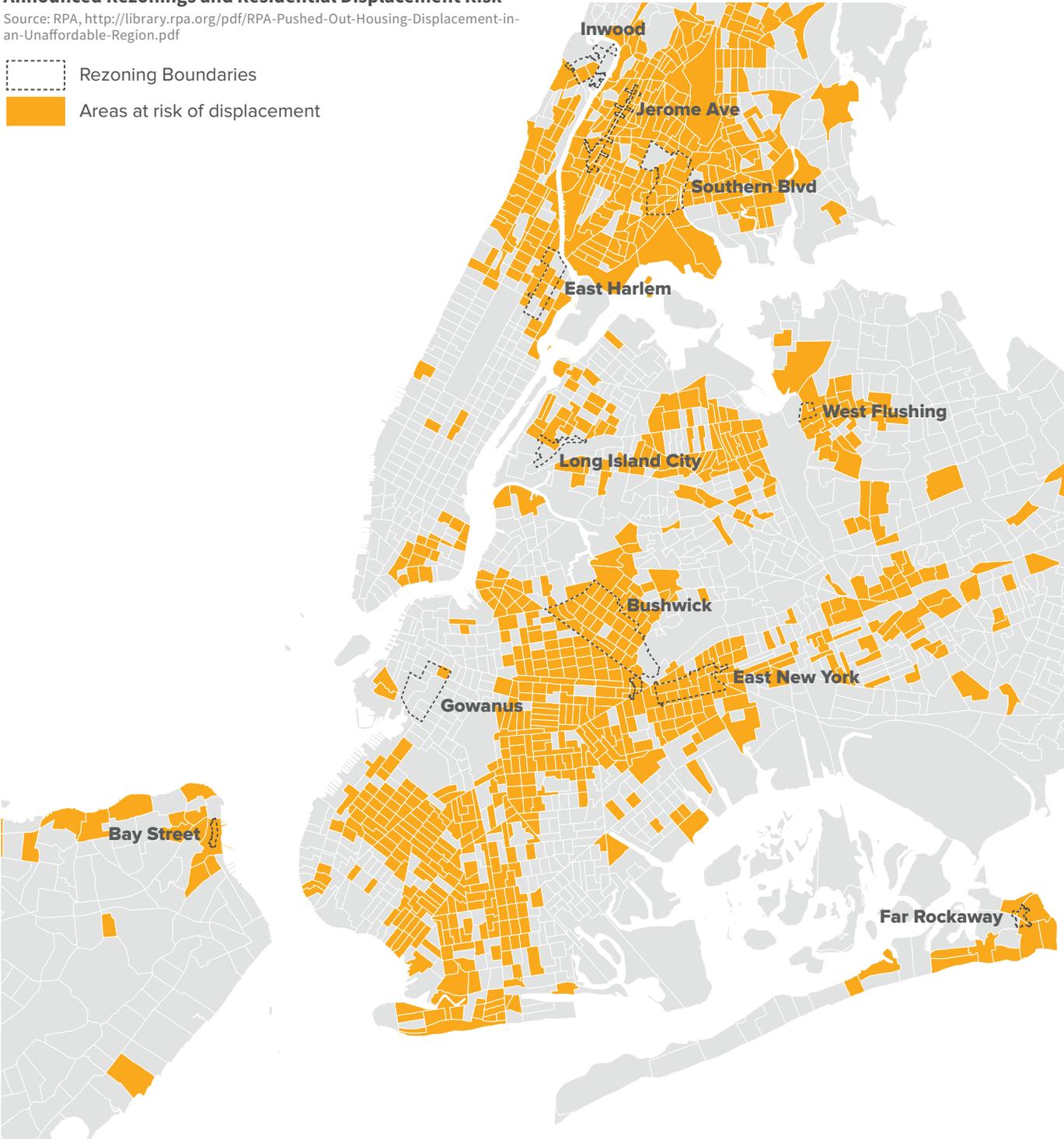
⁷ Friedlander, Jeffrey. 2003. "New York City Charter Revision." New York Law Journal. Retrieved from: <http://www.nyc.gov/html/law/downloads/pdf/ar092203.pdf>

Working Group Recommendations

Announced Rezoning and Residential Displacement Risk

Source: RPA, <http://library.rpa.org/pdf/RPA-Pushed-Out-Housing-Displacement-in-an-Unaffordable-Region.pdf>

-  Rezoning Boundaries
-  Areas at risk of displacement



Objective 1

Dramatically increase the amount of proactive planning in New York City

New York City has heard from prominent civic groups and academics for decades about potential benefits that would come from a comprehensive planning framework that sets direction for neighborhood and site proposals.^{8,9,10,11} Attempts in 1939 and 1950 were defeated,¹² and in 1969, the City even prepared a comprehensive plan with community targets but failed to adopt it.^{13,14} Reasons often cited for the failure include how onerous it was to obtain information, and a sense the plan was obsolete by the time it was complete.

But decades later, more advanced technologies have greatly expanded access to information, and the City has the tools to create and maintain a comprehensive planning framework as never before. *PlaNYC* and *OneNYC* demonstrate the City's ability to think long term and holistically, and a citywide comprehensive planning framework would go a step further by including community district level targets, including those for housing creation and public facilities. A comprehensive planning framework would greatly ease public concerns around disproportionate impacts by ensuring proposed zoning changes and other actions analyze and disclose how they further or undermine adherence to the comprehensive planning framework, which would in turn have been produced with strong, meaningful public participation.

The City already has the building blocks for the creation of a comprehensive framework. It has a strategic plan, collects statements of district needs annually from each community board, and maintains updated public dashboards with

copious amounts of information, including facilities needs and updated demographic and economic information for each community district. The City also has long-range plans for some agencies and on specific topics such as *Housing New York*. The initial framework could be a publicly digestible compilation of these existing priorities and needs, with borough and community district level goals informed by the public, and updated regularly via a prescribed process.

Once the comprehensive planning framework is in place, it would serve as a foundation for community-based planning efforts. Strengthened community planning would help set specific planning goals at the neighborhood level that are aligned with the citywide framework, but would need greater administrative support in order to function well.

Through adopting a process like New Jersey's "cross acceptance" — a negotiating process designed to align plans produced at different levels of government — both the citywide planning framework and community goals can be met. In the case of private applications, a comprehensive planning framework would help communities better respond to developers, and give developers more certainty with respect to what projects are likely to be approved.

Strategies

1. Create a citywide comprehensive planning framework, in collaboration with communities and local elected officials.

The initial framework could be an integration of existing priorities and planning resources made public, in robust conversation with communities and local elected officials. The framework would provide much-needed guidance and context for both public and private planning proposals, and would ensure planning takes place through an equity lens as the City continues to grow. The framework would:

- ▶ **Engage all stakeholders** including community boards, community-based organizations, and borough presidents' offices in establishing guiding principles for future developments.
- ▶ **Be based, initially, on existing citywide and community district level planning resources, such as agency strategic plans, needs statements, *OneNYC*, *Housing New York*, as well as existing community-based plans.** As such, the framework would create a thorough inventory of existing needs.

⁸ Citizens Housing and Planning Council. 2010. "Land Use and the City Charter." Retrieved from: <http://chpcny.org/wp-content/uploads/2010/06/City-Charter-CHPC-Final-Position-Paper.pdf>

⁹ Pratt Center for Community Development. 2010. "City Charter Revision: Where Land Use Fits In." Retrieved from: http://prattcenter.net/sites/default/files/prattcenter_Charterbrief.pdf

¹⁰ RPA. 2017. Fourth Regional Plan: Fix the Institutions that are Failing Us - Make the planning and development process more inclusive, predictable, and efficient." Retrieved from: www.fourthplan.org

¹¹ Angotti, Tom. 2010. "Land Use and the New York City Charter." Retrieved from: <http://www.hunter.cuny.edu/ccpd/repository/files/charterreport-angotti-2.pdf>

¹² Murphy, Jarret. 2010. "Five Boroughs. One City. No Plan." Retrieved from: <https://citylimits.org/2010/12/21/five-boroughs-one-city-no-plan/>

¹³ Dunlap, David. 1992. "Some Land use History Highlights." The New York Times. Retrieved from: <http://www.nytimes.com/1992/04/12/realestate/some-land-use-history-highlights.html>

¹⁴ New York University Center for NYC Law. 2013. "Former CPC Chair Discussed 1969 Plan for NYC." Retrieved from: <http://www.citylandnyc.org/former-cpc-chair-discussed-1969-plan-for-new-york-city/>

- ▶ **Be updated regularly in an integrated fashion with the documents that inform it**, via a prescribed process. The framework should be updated at least every 10 years.
- ▶ **Be publicly available online at all times**, for public consumption and to aid community planning efforts.
- ▶ **Include citywide and community district targets** for growth, affordable housing, fair share of facilities siting, infrastructure needs, economic development, sustainability benchmarks, and propose how these targets could generally be achieved citywide and at the community district level, in collaboration with community boards, community-based organizations, and borough presidents' offices.
- ▶ **Protect residents from displacement.** The framework should account for the need to protect vulnerable communities against residential displacement.
- ▶ **Inform citywide efforts** including agency plans, rezonings and the City's 10-year Capital Strategy.

2. Increase resources and support for neighborhoods to engage in community planning by creating an Office of Community Planning.

The 1975 Charter revision sought to give communities a central role in the planning process and introduced community planning as a broad practice that was subsequently narrowed to Section 197A of the Charter, enabling community boards, the City Planning Commission, and borough presidents to submit local plans for the development, growth, and improvement of the city and boroughs. Since 1975, fewer than a dozen 197A plans have been approved due to a combination of factors, including how onerous 197A plans are to prepare. Despite this low number, as of 2009, over 100 community based plans had been completed, indicating local appetite for community planning.¹⁵ Community plans are valuable and if well-resourced and given standing, can result in a more equitable system, where even less-resourced communities with technical assistance can engage effectively in planning processes.

The working group recommends the City create and fund an Office of Community Planning that would:

- ▶ **Be driven by community priorities, have technical expertise, and be independent.** The Office would

¹⁵ The Municipal Arts Society of New York. 2009. "Resources." Retrieved from: <https://communitybasedplanning.wordpress.com/>

enable bottom-up planning efforts, and serve as a resource to communities, instead of driving planning efforts. The Office should have the technical expertise and resources to support community planning, including 197A efforts, but should also be independent enough to allow work to be driven by communities. As such, there are several options as to where to house the Office, including within the Department of City Planning, directly within the Office of the Mayor, with a citywide elected official, or as a standalone entity, similar to New York City's Independent Budget Office. Other cities, including Seattle, WA,¹⁶ Arlington VA¹⁷ and Denver CO,¹⁸ have offices of community planning housed in different areas. New York City could consult with them regarding the best location and structure for this Office.

- ▶ **Provide technical assistance** for community groups and community boards that engage in planning initiatives.
- ▶ **Assist with development and implementation of community-based plans both within and outside the 197A framework** in partnership with borough president's offices. Criteria for community plan acceptance by the Office could be established following the Philadelphia model,¹⁹ which validates community plans led by non-governmental entities according to objective criteria. Funding could be made available to borough presidents and City Council members pursuing and implementing community plans with local community boards and/or community-based organizations.
- ▶ **Approve consultants to produce formal environmental review documents**, with the Office of Environmental Coordination, including for Environmental Assessment Statements (EASs) and Environmental Impact Statements (EISs) for both public and private projects. Regarding environmental review, the Office could incentivize the compilation of data from multiple EISs to reduce duplication of such efforts. In the long

¹⁶ City of Seattle. 2018. "Office of Planning and Community Development." Retrieved from: <http://www.seattle.gov/opcd/>

¹⁷ City of Arlington. 2018. "Department of Community Planning, Housing and Development." Retrieved from: <https://departments.arlingtonva.us/planning-housing-development/>

¹⁸ City of Denver. 2018. "Community Planning and Development." Retrieved from: <https://www.denvergov.org/content/denvergov/en/community-planning-and-development.html>

¹⁹ Philadelphia City Planning Commission. 2010. "Community Planning Guidelines." Retrieved from: <http://www.phila.gov/CityPlanning/plans/PDF/Community%20Plan%20Acceptance%20Guidelines.pdf>

term, the Office could consider shifting all environmental review studies to DCP.

- ▶ **Review land use proposals and plans for cross acceptance with other plans and/or the comprehensive planning framework.** The office could review land use proposals for consistency with community based plans, and with the citywide comprehensive planning framework. Given the track record of participatory budgeting - arrived at through an inclusive process with broad community participation for the purposes of empowering residents and strengthening communities²⁰ — the Office would ensure a direct tie between community planning and participatory budgeting ballot items by maintaining information about participatory budgeting ideas and priorities to inform community planning efforts, and vice versa.
- ▶ **Waive fees for community-based plans that lead to ULURP** (Uniform Land Use Review Procedure) on a case-by-case basis.
- ▶ **Ensure NYC OpenData, PLUTO and other community district data is consistent and readily available to the public.** To further strengthen the ability of communities to engage in community planning, the Office should ensure data and project information necessary for meaningful analysis is publicly available in a consistent and accessible manner (e.g. consistent geographies), for use by ordinary residents. Information available to the public should be standardized, comprehensive, and available for all community districts. User friendly scenario planning tools, such as those that measure jobs access or evaluate health impacts, should also be included. DCP's community profiles are an excellent place to start. In addition, the City should make preset queries within the NYC Open Data portal and/or elsewhere available to aid in evaluating land use proposals.

3. Reform community boards by standardizing the application and selection process, professionalizing and resourcing boards, and increasing visibility to the general public.

In 1975, Mayor Lindsay codified community planning boards as the most local unit of government into the City Charter. The codification followed the establishment of 12 community planning councils under Mayor Wagner in

1950,²¹ which became 62 planning districts with boards to advise the development of the 1969 master plan that were subsequently consolidated to 59 community planning boards. Today's 59 community boards remain a model for local governance across the country, and yet, they represent a promise made and broken.

There is a general lack of public awareness about community boards. They do not always reflect the demographics — including the racial/ethnic composition, age distribution, educational attainment levels, and housing tenure — of the communities they serve. Lack of planning expertise on boards can lead to challenges proactively engaging in planning processes, and with planning proposals. Lack of transparency requirements can lead to undisclosed real and apparent conflicts-of-interest. This is particularly unacceptable given the available technology that could address these issues.

In order to maximize the potential of community boards, the working group recommends that the City:

- ▶ **Create a standardized application form for all boards/boroughs.** Supplemental forms may be added on a borough or community district basis, but general consistency around a base-form across boroughs is necessary.
- ▶ **Institute independent screening committees** within the offices of the borough president as part of the selection process. Members should be publicly announced and charged with instructions and selection criteria. The screening committee will be comprised of representatives from good government groups, civic organizations, a member of the Public Advocate's office, and staff members of the borough president's office. Screening committee responsibilities would include: reviewing all new applications, and recommending applicants to advance to the selection process. Decisions regarding board appointments should be made after review of all assessment materials, which should include applications, attendance records for renewals, committee participation, board member performance, Council Members and community board chairs consultations, unique and needed skill sets, interviews, and observations from participation in borough-specific activities.
- ▶ **Require each borough president to annually document and report upon the composition of each**

²⁰ Participatory Budgeting in New York City. 2016. "About the NYC Process" Retrieved from: <http://pbny.org/content/about-new-york-city-process>

²¹ New York City Office of the Mayor. 2010. Handbook for Community Board Members. Retrieved from: <http://www.nyc.gov/html/cau/downloads/pdf/handbook.pdf>

community board in the borough, using the Community District Profile for each district.

- ▶ **Require each borough president to address inconsistencies** between community demographics and community board membership, as documented in the composition report by creating targeted outreach plans for each community district.
- ▶ **Fund a full-time planner for each board** to be hired and employed directly by the board, and work closely with the Department of City Planning on their district's behalf, as recommended in the New York City Charter.
- ▶ **Require annual, standardized training** for board members and staff, especially in land use, zoning, housing, transportation, budget, service delivery, and conflict-of-interest.
- ▶ **Implement consistent attendance requirements and appointment timelines.** Make attendance and voting records available to the public online.
- ▶ **Reduce real, potential and apparent conflicts of interest.** Require members to annually submit conflict-of-interest documentation, monitored by the borough president's office or the City.
- ▶ **Provide support for more meeting outreach.** Provide boards with funding for community outreach and engagement, including but not limited to website management, social media, advertising in local press, events, direct resident engagement, and translation services.
- ▶ **Enable broader participation** by providing boards with funding for childcare, interpretation and refreshments at meetings.
- ▶ **Publicize community boards.** Create an ongoing, citywide outreach and public service announcement campaign to inform New Yorkers about what community boards do, and membership opportunities.

4. Ensure citywide and community goals are transparently met through mandated cross acceptance.

- ▶ **Require cross acceptance.** With a comprehensive planning framework, well-resourced community planning, and professionalized community boards in place, cross acceptance would be the requirement that ensures community and citywide goals achieve



Community Planning in Bushwick

Source: www.bushwickcommunityplan.org

and remain in alignment. Cross acceptance is a negotiation process to compare and achieve alignment between plans for overlapping places produced by different entities, in this case, community plans and the comprehensive planning framework. The City could model its process after New Jersey's,²² with DCP conducting the comparison process on the City's behalf, and community boards, neighborhood organizations and city council members responding and negotiating with the City at specified intervals. The process would result in a cross acceptance report comparing community plans with the comprehensive planning framework and outlining compromises reached, which could be approved through a process similar to ULURP. The report would contain written consistency findings between the citywide comprehensive planning framework and any community plans registered with the Office of Community Planning.

5. Explore new revenue streams to increase resources and support for communities to engage in planning.

Because the aforementioned strategies require funding, the City could consider instituting additional fees to cover some portion of implementation:

- ▶ **Impose a fee for processing applications** for private development to support community planning initiatives, with oversight by the Office of Community Planning.

²² New Jersey State Department of State. 2004. "2004 Cross-Acceptance Manual." Retrieved from: <http://www.sussex.nj.us/documents/planning/crossacceptance/camanual.pdf>

Objective 2

Increase communication, participation, and transparency in development decisions before and during formal procedures

At first glance, there may seem to be an inherent tension between expanding stakeholder engagement and making the planning process faster and more predictable. Experience has shown, however, that not taking stakeholder input into account — and especially early in the process — can slow down projects, or even stall them indefinitely. Early and inclusive participation in project planning can reduce opposition and litigation — especially when combined with clear timelines and evaluation criteria — and thereby provide greater predictability overall.

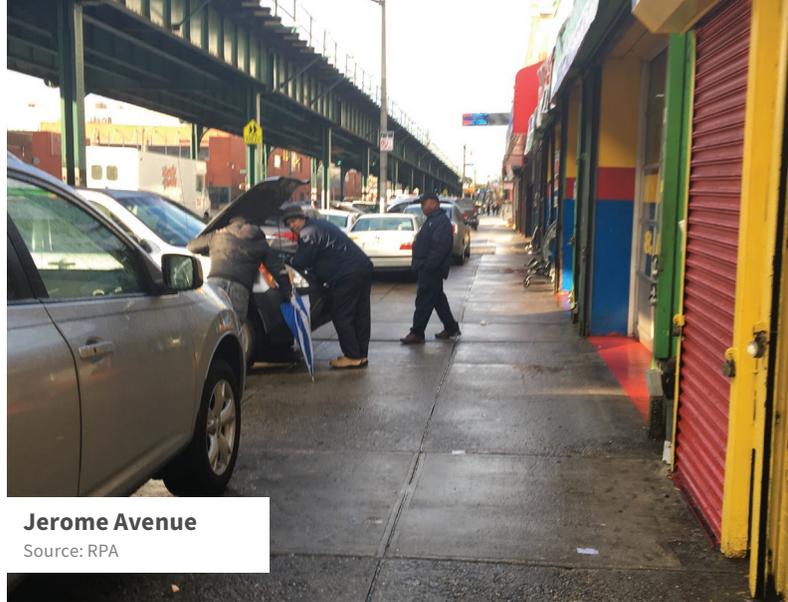
New York City leads in the area of predictability. Most actions in the city take place as-of-right, meaning they require no public approvals process so long as they conform to existing zoning regulations. However, non-conforming actions, also called discretionary actions, require environmental and public review or ULURP. As summarized in the Office of Council Member Antonio Reynoso's 2016 "*Proposal to Increase Community Engagement in Private Development Plans*,"²³ the City recently implemented a new system called BluePrint²⁴ to further streamline projects into public review, which includes the following steps:

- 1. Initial meeting:** The applicant sets up an informational meeting with their corresponding DCP borough office, presents basic information to DCP staff, and submits a Pre-Application Statement (PAS).²⁵ DCP then works with the applicant to refine the proposal and to determine what level of environmental review will be required.
- 2. Environmental Impact Statement:** The applicant submits a draft Environmental Assessment Statement (EAS) and a Land Use Application. The EAS provides

²³ Tauber, Lacey. 2016. "Proposal to Increase Community Engagement in Private Development Plans." Retrieved from: <https://www.scribd.com/document/331964133/Proposal-from-Council-Member-Antonio-Reynoso>

²⁴ Chaban, Matt. 2012. "A New BluePrint: City to Speed Up Land use Reviews." Retrieved from: <http://observer.com/2012/06/a-new-blueprint-city-to-speed-up-land-use-reviews/>

²⁵ New York City Department of City Planning. 2016. "Pre-Application Statement." Retrieved from: <https://www1.nyc.gov/assets/planning/download/pdf/applicants/applicant-portal/preappstatement.pdf>



Jerome Avenue

Source: RPA

an initial analysis of the environmental impact that the development may have on the surrounding area. If the EAS results in a "negative declaration" of adverse impact, no public input is required at this phase.

- 3. Environmental Impact Statement:** If the EAS finds that the proposal will potentially have an adverse environmental impact, the applicant must prepare a more detailed environmental review, known as an Environmental Impact Statement (EIS). The preparation of an EIS requires a public hearing to introduce the scope of work to all parties that may be affected and allow public comment. The period of time in which the scope of work is determined is called "scoping." After the scope of work is determined, a Draft EIS is completed.
- 4. Certification:** Once the EAS and if necessary the Draft EIS are complete, DCP may certify the application for the ULURP.²⁶
- 5. ULURP begins:** The City's ULURP formally starts at the time of certification of the application, and mandates that the proposal be reviewed within no more than 215 days. ULURP is the public's opportunity to weigh in, since the affected community boards and borough presidents hold non-mandatory public hearings on the proposal before arriving at non-binding recommendations. Then, the City Planning Commission and City Council hold public hearings on the proposal, and ultimately either disapprove it or approve it, often with minor, mostly technical, changes.

ULURP is a model around the country of a clear and predictable approvals timeline, but only once a proposal is certified as ready for review. Prior to certification, there is not a clear process or timeline for public input. And after certification, it is difficult to substantively change a project in response to community feedback.

²⁶ New York City Department of City Planning. 2016. "Application Process Overview." Retrieved from: <http://www1.nyc.gov/site/planning/applicants/applicant-portal/application-process.page>

In fact, the land use reform working group originally convened to address precisely the issue of a lack of opportunity for public participation early on in tions that trigger ULURP. Specifically, working group members were concerned that communities do not have adequate opportunity to engage with private development proposals. By the time a project gets to ULURP or even scoping, many of the substantive decisions have already been made. This is disempowering to communities, which has been expressed through community protests over the last few years. Members expressed concerns about outreach, engagement, participation, and transparency in both public and private proposals.

Even in recent cases where the City has attempted to engage in community planning prior to certification, such as in East Harlem and East New York, there is room for improvement with respect to level of community participation, or predictability around what happens with community recommendations even after a very effective planning process. The strategies below would democratize available information across all proposals, privately initiated proposals, City-sponsored proposals (including rezonings,) and also to improve other types of proposals that do not trigger ULURP. They would increase low public participation, and importantly, aid the City in doing more to ensure outcomes have not been predetermined before community stakeholders are able to engage. The implementation of an Office of Community Planning, described in the previous section, would also aid these goals.

Strategies

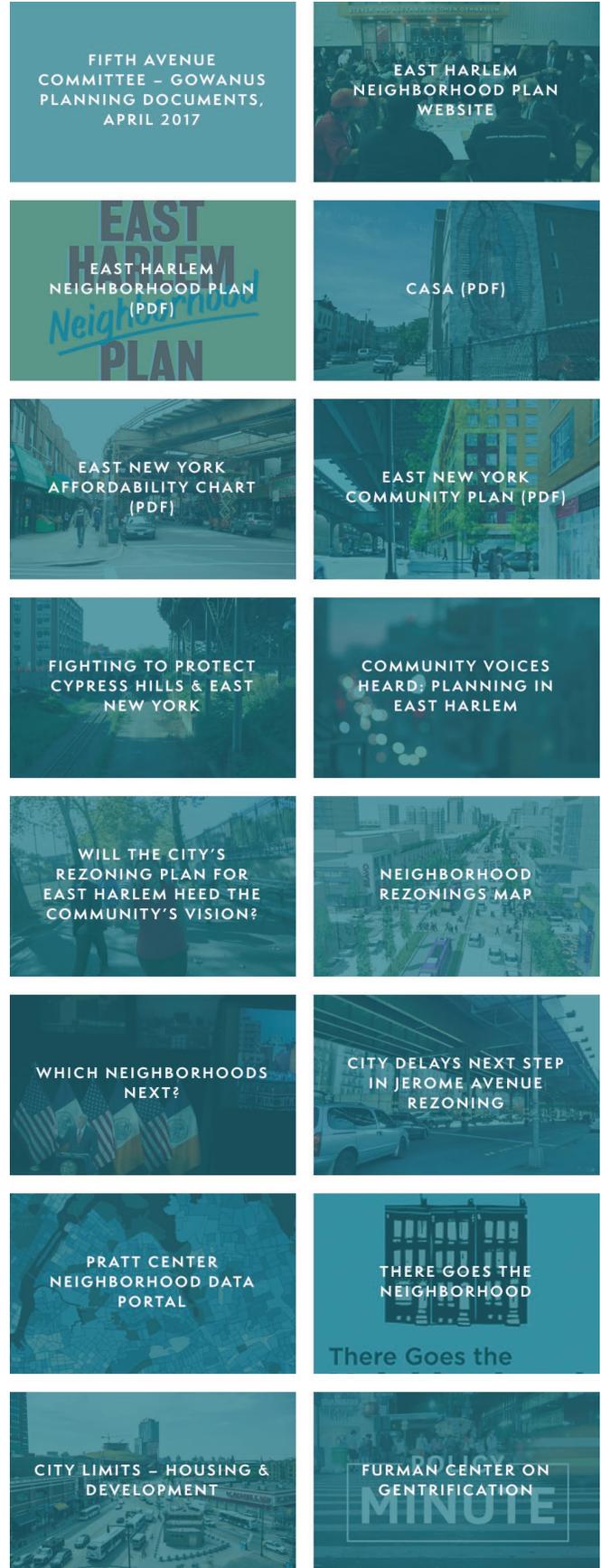
1. All Proposals.

Outreach requirements:

- **Make a set of potential development scenarios available for review online.** The preparation of an EIS requires analysis of possible alternatives to the proposed development. Currently, the alternatives analysis generally only covers the “no-build” scenario and the proposed project “with-action” scenario. If a community-based plan, vision or principles exists for the associated area, a development scenario that fits into the parameters of such plan should be considered as a third alternative. The third alternative should also take public input into account, and be finalized and available for public review before scoping begins — including but not limited to what is required in the City Environmental Quality Review technical manual. Ultimately, through

Community Planning Work Supported by the Neighborhood First Fund, with related analysis and coverage

Source: <https://neighborhoodsfirstfund.nyc/the-work/>



this process, for applicable actions, a “Community Input Alternative Scenario” would be reached and evaluated in an EIS in addition to the No-Build and With-Action development scenarios.

- ▶ **Ensure public materials are accessible.** Materials distributed before and during scoping must comply with the City’s language access laws,²⁷ use plain-language, and include visuals, including zoning maps and accurate renderings and photo-simulations.
- ▶ **Acknowledge and mitigate for the digital divide.** In addition to publication online, ensure that information about proposals (including visuals, and public input opportunities) are distributed in local and/or ethnic press; on signage in the affected area; as well as through community-based organizations, churches, television, radio, subway and bus advertisements.
- ▶ **Require community boards to maintain a list of neighborhood groups.** This list should be used to notify about participation opportunity, and should include (but not be limited to) community-based organizations, faith-based groups, block associations, parent associations, as recommended in the NYC Charter.

Public participation requirements

- ▶ **Require documentation of outreach efforts and participation,** including number of attendees at meetings and hearings, as well as constituencies represented. Ensure that this documentation is included in public materials at each phase of the approval process.
- ▶ **Ensure that the Office of Community Planning and borough presidents’ offices provide technical assistance** for community boards and community based organizations that are engaging with proposals.

2. Private Development Proposals.

- ▶ **Publish Department of City Planning accepted complete Pre-Application Statements (PAS)** within a set timeframe with the associated community board, borough president, Council member(s), and the public online.
- ▶ **Enable community boards, borough presidents or City Council members to require a public meeting before submission of an EAS.** These three entities

²⁷ New York City Law Department. 2008. “Law Department Language Access Implementation Plan.” Retrieved from: <http://www.nyc.gov/html/law/downloads/pdf/language-access-plan-law-department.pdf>



Community Planning in Jackson Heights

Source: RPA

should require a private applicant proposing substantial development to hold a public meeting to share their proposal and solicit input about community priorities. The threshold for substantial developments should be set for projects that do not require an EIS; one option would be to base on gross square footage or size of project area. Community members should have the opportunity to provide comments at this event and in writing for a period of 30 days, which the developer should use to inform the EAS. The developer should then present a revised plan to the entities.

- ▶ **Require on-site signage during pre-certification and ULURP** that includes visuals, notice of public input opportunities, contact information including phone number and email, and web links to more detailed information about the proposal.

3. Public (City-Sponsored) Development Proposals.

- ▶ **Provide consistent baseline data.** City agencies and the newly established Office of Community Planning should provide consistent baseline data to inform participation (e.g. consistent geographies).
- ▶ **Conduct community needs assessment before initiating disposition of public sites.** For public site dispositions that require ULURP, the City should not initiate ULURP until a significant community needs assessment is completed that accompanies the RFP, to inform applicants on City selection criteria.
- ▶ **Require community input for disposition of public sites prior to approval before ULURP.** Include information about community priorities in any request for proposal (RFP) documents, and make good faith efforts to get the word out to the public about planned dispositions.

4. Other Types of Proposals.

▶ **Create a public database of active Board of Standards and Appeals²⁸ (BSA) variance applications and notify community boards and Council members.**

BSA variances grant relief from zoning to unduly restricted parcels. The working group recommends that the City make applications public and notify community boards and local elected officials about any applications. Relief granted should be limited to the minimum needed to alleviate the hardship.

▶ **Support implementation of New York City Council Intro 1533-2017,²⁹ which would create reporting and notice requirements for summary actions regarding Urban Renewal Plans.**

▶ **Democratize decision making in the public realm.** Work with additional City agencies with purview over elements of the public realm, including streets and parks, to democratize decision making around these public assets.

²⁸ New York City Board of Standards and Appeals. 2012. "Rules of Practice and Procedure." Retrieved from: http://www1.nyc.gov/assets/bsa/forms/rules_of_practice_procedure.pdf

²⁹ New York City Council. 2017. "Reporting requirements for summary actions involving urban renewal plans." Retrieved from: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3013575&GUID=8EC960FE-04B8-4E56-A978-E1FF212AAF88&FullText=1>



East Harlem, NY

Source: RPA

Objective 3:

Improve accountability, oversight, and enforcement in the City Environmental Quality Review process

Proposals that may potentially have adverse environmental impacts require applicants to prepare an environmental review study, known as an EIS. Yet, there are several troubling aspects built into preparation and follow-through. First, project applicants - whether a private developer or a City agency - choose and hire their own EIS preparation consultants, or prepare the EIS in-house in the case of a city agency. This can create a conflict-of-interest, where consultants are incentivized to please the applicant and find no adverse impacts even where they may exist. Oversight, as proposed below, would ensure consultants or agency staff preparers have not made errors in the EIS preparation.

Finally, even when environmental review analyses do find that adverse impacts are likely to occur, there is no formal mechanism, either through agency rules or within the *CEQR Technical Manual*, to compel applicants to fix the problem. This should be remedied. In some cases, agency or private applicants do commit to mitigation measures, yet until recently, those have not been systematically tracked. Passage of Local Law 175 of 2016³⁰ created a Citywide Commitment Tracker that enabled tracking for City-initiated rezoning applications, but for private applications, this information is still difficult to access, and accountability for developers to implement mitigation measures is lacking.

Strategies

1. Address inaccuracies environmental review report preparation.

- ▶ **Ensure lead City Agency staff review all externally produced DEIS' for accuracy** and proactively address any issues before the approval of a DEIS and ULURP certification. The Office of Community Planning may also identify neighborhood stakeholders to aid in review of draft materials. Create consequences for the preparer for use of irrelevant, false, misleading, and/or

³⁰ New York City Council. 2016. "Establishing a public list of commitments made by the city in connection with city planning commission decisions subject to council review." Retrieved from: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2637116&GUID=AB629863-4E14-4F88-8AEC-D03AED71CD90>

incomplete information, including claw back provisions for decisions made using improperly prepared EIS'. Deny certification or invalidate ULURP decisions made with false, misleading, or incomplete information.

2. Ensure funding and implementation of mitigation measures identified in an EIS.

- ▶ **Allow community stakeholders to weigh in** on mitigation measures during EIS preparation.
- ▶ **Track all mitigation measures in the Citywide Commitment Tracker.** For all EIS' prepared, including publicly and privately initiated projects.
- ▶ **Ensure funding exists** to cover mitigation costs. An escrow account can be created to hold mitigation funds before proposed mitigation measures are deemed acceptable by a lead agency. The Office of Community Planning and borough president offices should monitor the funds to ensure sufficient funding is available throughout implementation. Any mitigation funding would be held in this account. Alternatively, the model pursued in the approvals for 1 Vanderbilt in East Midtown, where all improvements and mitigations had to be completed prior to issuance of the certificate of occupancy.³¹
- ▶ **Contract with independent organizations to monitor implementation.** Where a proposed project requires mitigation, encourage identification of an independent organization or organizations willing to monitor implementation of mitigation measures via a contract with the applicant by the time the DEIS is released. The independent organization(s) should have no conflict of interest, and be equipped to monitor the implementation of the mitigation measures.
- ▶ **Aid smaller non-profit applicants** to ensure the community receives mitigation measures where adverse impacts are predicted.

3. Track neighborhood outcomes after land use actions are approved for lessons learned.

After an EIS is prepared and approved and ULURP is complete, communities do not have the opportunity to revisit whether what was predicted in EIS came to fruition. Furthermore, specific future as-of-right actions should be

³¹ Hawkins, Andrew. 2014. "\$210M upgrade for Grand Central's subway unveiled" Retrieved from: <http://www.crainsnewyork.com/article/20140908/BLOGS04/140909874/-210m-upgrade-for-grand-centrals-subway-unveiled>

evaluated against the land use applications that enabled them. The working group recommends that the City:

- ▶ **Assist community stakeholders.** The Office of Community Planning should assist community stakeholders who seek information about what a prior EIS predicted.
- ▶ **Analyze post-EIS as-of-right actions** Actions that increase density, such as zoning lot mergers, transfer of development rights, and assemblages that were not evaluated in an EIS should be evaluated in a technical memorandum, which could be prepared by the Office of Community Planning.



Fordham Road Station

Source: RPA

Land Use, Zoning & Public Policy		Socioeconomic Conditions	Community Facilities & Services	Open Space
Shadows	Historic & Cultural Resources	Urban Design & Visual Resources	Natural Resources	
	Hazardous Materials		Water & Sewer Infrastructure	Solid Waste & Sanitation Services
Energy	Transportation	Air Quality		Greenhouse Gas Emissions
Noise		Public Health	Neighborhood Character	Construction

CEQR Technical Manual Analysis Areas

Source: http://www.nyc.gov/html/oec/downloads/pdf/2014_ceqr_tm/2014_ceqr_technical_manual.pdf

Objective 4:

Update the City Environmental Quality Review Technical Manual Guidelines to Ensure Accuracy

While public review and participation for discretionary land use applications is governed by ULURP, environmental review analyses are outlined in the *City Environmental Quality Review (CEQR) Technical Manual*.³² Environmental review analyses and chapters are long and winding, often leaving community board members and residents alike daunted by their length and technical language.

Length and complexity aside, to many, environmental reviews often seem to apply arbitrary criteria that downplay residents' concerns, such as displacement fears. For instance, the 2005 proposal to rezone industrial areas in Williamsburg to residential was determined to have no significant impact on business displacement in the area, though the area saw a dramatic shift in the ensuing years. In 2007, 5,000 new apartments in Jamaica were deemed to represent no significant adverse impact for subway crowding.³³ And a 2006 plan led to a new Yankee Stadium being constructed on a former large city park, which was to be replaced at public expense over a number of years by a collection of smaller parks, was said to have no significant adverse impact on open space. In 2017, some of the land slated to replace the old park was being considered by the de Blasio administration for housing development.³⁴ In recent neighborhood rezonings including East New York,³⁵ East Harlem,³⁶ and Jerome Avenue,³⁷ environmental review documents have predicted no adverse impact on residential

displacement, despite the deep economic vulnerability of residents³⁸ and reports of increased tenant harassment.³⁹

Thus, critical CEQR methodologies are not keeping up with the dramatic changes to New York City's ecological, social, and built environments. In *Housing New York*, the administration indicated that it would review the CEQR process to improve efficiency and make EIS more comprehensible to the general public and affected communities. The City said it would examine how environmental review is undertaken in other jurisdictions in order to incorporate best practices. The City should prioritize this recommendation and involve the public in this update.

Strategies

1. Convene an expert panel to review and propose updates to metrics methodologies in the *CEQR Technical Manual*, subject updates to public review and comment, and update regularly.

All chapters of the *CEQR Technical Manual* should be thoroughly reviewed. Suggestions are included below regarding chapters and issues that require particular attention. The expert panel should include representatives from community-based organizations that engage in environmental review in their advocacy work, especially those that have brought into question prior CEQR actions to engage them on improvements. Newer firms with proposals to innovate arcane procedures should be invited to comment as well. In revising the technical manual, the expert panel should consider how to highlight positive benefits, instead of just negative impacts, of proposed projects. And, a broader range of topics, including the social determinants of health, should be evaluated. The panel's recommendations should be reviewed by the public. Possible updates to existing chapters are offered below.

Chapter 4: Land Use, Zoning and Public Policy

Regulations and Coordination

- **Require consideration of existing community-based plans in the public policy section of EIS' and in EAS**

³² New York City Department of Environmental Coordination. "CEQR: City Environmental Quality Review Technical Manual." Retrieved from: http://www.nyc.gov/html/oec/downloads/pdf/2014_ceqr_tm/2014_ceqr_technical_manual.pdf

³³ Murphy, Jarret. 2010. "Five Boroughs. One City. No Plan." Retrieved from: <https://citylimits.org/2010/12/21/five-boroughs-one-city-no-plan/>

³⁴ Arden, Patrick. 2017. "De Blasio Housing Plan Seeks Land Promised as Yankees Replacement Park." Retrieved from: <https://www.villagevoice.com/2017/09/05/de-blasio-housing-plan-seeks-land-promised-as-yankees-replacement-park/>

³⁵ New York City Department of City Planning. 2015. "East New York Rezoning Proposal: Final Environmental Impact Statement." Retrieved from: <https://www1.nyc.gov/site/planning/applicants/env-review/east-new-york.page>

³⁶ New York City Department of City Planning. 2017. "East Harlem Rezoning Proposal: Final Environmental Impact Statement." Retrieved from: <https://www1.nyc.gov/site/planning/applicants/env-review/east-harlem.page>

³⁷ New York City Department of City Planning. 2017. "Jerome Avenue Rezoning: Final Environmental Impact Statement." Retrieved from: <https://www1.nyc.gov/site/planning/applicants/env-review/jerome-avenue.page>

³⁸ Sanchez, Pierina, Gates, Moses & Sarah Serpas. "Pushed Out: Housing Displacement in an Unaffordable Region." Retrieved from: <http://library.rpa.org/pdf/RPA-Pushed-Out-Housing-Displacement-in-an-Unaffordable-Region.pdf>

³⁹ 2015. Bussanich, Marc. "Development Spurs Tenant Harassment in Bronx, Groups Say" Retrieved from: <https://citylimits.org/2015/10/19/development-spurs-tenant-harassment-in-bronx-protesters-say/>

form. Community-based plans — 197A or otherwise — should be used to develop a third alternative.

- ▶ **Require assessment of cumulative impacts and citywide equity.** How a proposed project may interact or worsen existing environmental conditions should be considered.

Sustainability

- ▶ **Enforce NYC Sustainability goals.** All projects should be evaluated for reduction of GHG, water use, sewer system impacts, energy use, and sustainable construction methods in relation to citywide sustainability goals. Actions found to negatively affect the City's progress in meeting sustainability goals should be considered to have a potential significant adverse impact, and be required to identify mitigation measures and alternatives.
- ▶ **Require the evaluation of an Optimal Sustainable Alternative.** This alternative would show a project utilizing the highest feasible level of sustainable practices for construction, energy, daylighting, urban heat island reduction, air quality, noise, water use, solid waste generation, shadow impacts, GHG reduction, and protection of view corridors.
- ▶ **Add Social Resiliency as area of analysis.** A social resiliency analysis would measure a proposed project's effect on the ability of residents, infrastructure and social networks to adapt and recover after an emergency. The analysis could include social network mapping in partnership with residents and community-based organizations with deep collective knowledge of the area. This could be evaluated in tandem with impacts on climate change readiness.

Fair Share & Cumulative Impact

- ▶ **Require Fair Share analysis in Environmental Justice communities.**⁴⁰ Depending upon existing socioeconomic conditions of the neighborhood (e.g. low-income status per U.S. Census and DCP definitions), fair share analysis should be required. The evaluation should address if a project encourages an equitable distribution of city facilities and the *CEQR Technical Manual* should be updated to include methodologies for conducting the assessment.
- ▶ **Strengthen cumulative impact analyses.** EISs should be required to include a list of all projects included in

⁴⁰ New York State Department of Environmental Conservation. 2000. "County Maps Showing Potential Environmental Justice Areas." Retrieved from: <http://www.dec.ny.gov/public/899.html>



Jamaica, Queens

Source: RPA

the No-Action development scenario that would occur within the project area or would affect the project area by the build year of the proposed project. The cumulative impacts, including but not limited to greenhouse gas emissions, shadows, traffic, and construction should be evaluated and mitigation identified, if applicable.

Chapter 5: Socioeconomic Conditions

Indirect residential displacement

- ▶ **Expand indirect displacement evaluation to include all housing units.** The *CEQR Technical Manual* allows EIS preparers to presume that tenants living in rent regulated or stabilized housing (buildings with 6 units or more built before 1974) are safe from indirect displacement risk, disregarding the overwhelming number of such units that have been removed from stabilization either lawfully or through deceptive practices. Yet, tenants in many regulated or stabilized units are under threat, especially those in units that may soon be aging out of protections. In addition to including these units in indirect displacement risk analyses, the City should make accurate information and mapping on the number and location of citywide rent-regulated and rent-stabilized units publicly available.
- ▶ **Remove assumption that new housing units directly reduce potential for displacement.** The *CEQR Technical Manual* should not assume that new market rate or luxury development at the neighborhood level mitigates against income- or race-based displacement; there is no evidence for this assumption. The addition of units affordable to existing residents are the best tool for mitigating displacement.
- ▶ **Evaluate how new development may accelerate ongoing trends of neighborhood change that contribute to displacement.** Methodology should be developed to project how new development may accelerate trends of socioeconomic change, for instance,

by considering increased speculation or harassment incentives given citywide housing market trends.

- ▶ **Require qualitative evaluation of neighborhood housing trends, including interviews.** To better understand local dynamics and economics of neighborhood change, quantitative analysis of neighborhood change should be supported with qualitative research. The *CEQR Technical Manual* should require that people familiar with housing trends and pressures in the neighborhood be interviewed to more fully understand the role that the proposed project may play in neighborhood change, including neighborhood associations or organizations, real estate professionals, and landlords.

Fair Housing

- ▶ **Require analysis of fair housing impact.** Evaluate new development's impact upon issues of fair housing and segregation. As a recipient of federal housing funds, New York City is under an obligation to "affirmatively further" the purposes of the Federal Fair Housing Act.⁴¹ The *CEQR Technical Manual* should be modified to require the evaluation of direct and indirect residential displacement, and whether a project would result in disproportionate impacts on protected classes of residents or would perpetuate or exacerbate an area's historical patterns of segregation. The City should also complete its required Assessment of Fair Housing according to the timetable set out by the U.S. Department of Housing and Urban Development in 2015⁴² in order to provide the foundation for much-needed modifications to the *CEQR Technical Manual*.

Workforce and Small Business

- ▶ **Require analysis of workforce/quality jobs impact.** Development proposals touted as opportunities for local economic development should include requirements for targeted training and contracting, wage standards, benefit packages, and safety training, which would empower workers to support themselves and their families in New York City. Effects on small businesses should also specifically be evaluated.

⁴¹ U.S. Department of Housing and Urban Development. 2015. "Affirmatively Furthering Fair Housing." Retrieved from: https://www.huduser.gov/portal/affht_pt.html

⁴² U.S. Housing and Urban Development. 2015. "HUD Rule on Affirmatively Furthering Fair Housing." Retrieved from: https://www.huduser.gov/portal/affht_pt.html#final-rule

Chapter 6: Community Facilities

School capacity

- ▶ **Update school capacity metrics.** The school capacity methodology should account for the space consumed by Charter schools within public school buildings. The EIS should not take into account school seat capacity for projects in the Department of Education's five-year capital plan unless expansions are underway.

Chapter 8: Shadows

Shadow Assessment

- ▶ **Evaluate shadow and light impacts more broadly.** EIS' should disclose shadow impacts on public assets, including streets, sidewalks, public buildings; non-park public lands, and publicly owned private areas. A daylighting evaluation should also accompany projects subject to CEQR.
- ▶ **Evaluate potential for solar.** The *CEQR Technical Manual* should evaluate how proposed projects could impact the development of solar energy systems for buildings in the study area. Use of solar energy systems should be included an optimal sustainable development alternative analysis.

Chapter 10: Urban Design and Visual Resources

Assessment

- ▶ **Require broader evaluation of urban design.** Require photo-simulations to depict the full height of proposed development, not just from the pedestrian perspective.
- ▶ **Add urban design metrics.** Add metrics for urban design impacts that are measurable, including streetwall, active ground floor uses and transparency, curb-cuts, outdoor uses (sidewalk cafes / public plazas / arcades), sidewalk width and on-street parking at curb.

Chapter 20: Public Health

Public Health Assessment Framework

- ▶ **Update the definition of health to reflect current understanding of the broad determinants of health, and consideration for health equity.** Update the *CEQR Technical Manual's* definition of health to reflect current standards for health equity and to acknowledge the social determinants of health. Definitions should align with those used by the global public health community (e.g. World Health Organization; Robert Wood Johnson

Foundation; U.S. Office of Disease Prevention and Health Promotion).

- ▶ **Include an analysis of the social determinants of health.** All EIS' should consider well-established social determinants of health and health equity in terms of impact on existing health disparities and environmental justice. Examples include housing adequacy and affordability; economic diversity; proximity of retail food sources; and residential segregation by race, ethnicity, or class.
- ▶ **Structure the chapter as a Health Impact Assessment.** A Health Impact Assessment (HIA) is a structured process to assess the potential health impacts of a policy, plan, or project, and make recommendations on how to mitigate negative health impacts and to maximize potential health benefits.
- ▶ **Transit accessibility.** Analyze ADA compliance in area transit.

Chapter 22: Construction

Appropriateness of evaluation

- ▶ **Revise the threshold for requiring detailed construction analysis.** A detailed construction analysis should be required for all major buildings as defined by New York City Department of Buildings — buildings that will have 10 or more stories, will be 125 feet or taller, or have a footprint of 100,000 square feet or more⁴³ — or plots of land up for review that are large enough to accommodate a major building. These criteria should apply regardless of the expected duration of the construction.

Assessment

- ▶ **Expanded construction analyses.** Construction analyses should include health and safety considerations of the immediate environment being developed, any abatement work that may be required to make the site safe for workers and the general public, the size of the workforce needed for the project, whether and which skilled trades are needed to safely develop the site based on the construction analysis, assessment of the percentage of these workers that can be hired from the local community, and the impact the construction

workforce would have on the local environment with respect to wages and benefits, career longevity, safety training and safety record of contractors.

Scoping

Study Area

- ▶ **Broaden the analysis area.** A project EIS should be required to analyze possible future developments adjacent but outside of specific EIS scoping areas, in order to more holistically account for impacts. While the working group recommends that the City should identify a framework for determining overall study boundaries, project should not be permitted to advance to ULURP until the impacts from proposed or possible nearby developments are taken into account in the DEIS.

⁴³ New York City Department of Buildings. 2017. "Obtain a: Site Safety Manager Certification." Retrieved from: <https://www1.nyc.gov/site/buildings/industry/site-safety-manager-certification.page>

Acronyms

NYC: New York City

DCP: The New York City Department of City Planning

CB: Community Board

EAS: Environmental Assessment Statement

EIS: Environmental Impact Statement

DEIS: Draft Environmental Impact Statement

FEIS: Final Environmental Impact Statement

ULURP: Uniform Land Use Review Procedure

CEQR: City Environmental Quality Review

Scoping: The time period in which the public can provide input into the scope of work for an EIS

RFP: Request for Proposals

BSA: Board of Standards and Appeals

Variance: An exception to zoning law, that allows you to develop your property in a way that is at odds with the zoning laws in place because you were able to prove your unduly restricted parcel needs relief from the zoning code

NYC Open Data: A web portal that allows the public to access data about New York City, available here <https://opendata.cityofnewyork.us/>

PLUTO: Extensive land use and geographic data at the tax lot level made available by DCP, here <https://www1.nyc.gov/site/planning/data-maps/open-data/dwn-pluto-mappluto.page>

**THE COUNCIL
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THE CITY OF NEW YORK**

Borough President
(Please group BR
together, if possible)

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Name: Isaac Gornodetski

Address: _____

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I represent: Citizen Action of New York

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Name: DOUGLAS MUZZIO

Address: PAROCH COLLEGE, CODY

I represent: SELF

Address: _____

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THE CITY OF NEW YORK

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(PLEASE PRINT)

Name: RYAN LYNCH ~~COS~~ SENAR

Address: 209 DONALDSON STREET, BROOKLYN, NY 1

I represent: OFFICE OF BROOKLYN BOND PRESIDENT ELIC ADAMS

Address: _____

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Name: Stanley Fritz

Address: 335 Edgecombe Ave, New York, NY

I represent: Citizen Action of New York

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Name: Gale A Brewer Manhattan BP

Address: 1 Centre St.

I represent: _____

Address: _____

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Date: 3/16/2018

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Name: Ethan GERINGER-SAMETH

Address: 299 Broadway, Suite 700 NY, NY 10007

I represent: Citizens Union

Address: _____

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in favor in opposition

Date: 3/16/18

(PLEASE PRINT)

Name: BARBARA ZUCKER

Address: 222 PARK AVE 50 NYC 10003

I represent: WOMENS CITY CLUB OF NY

Address: 110 E 40th NYC



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Name: SUSAN LARNER

Address: 80 Broad St., Ste 2703, NY, NY

I represent: Common Cause / NY

Address: 80 Broad St., Ste 2703, NY, NY

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Name: Pierina Sanchez

Address: 31 Whitehall St., 16th Fl

I represent: Regional Plan Assoc

Address: _____

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(PLEASE PRINT)

Name: Letitia James

Address: 1 Centre St., 15th Fl. N

I represent: New York city Public Advocate

Address: _____

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