

**Rezoning New York City: A Case Study of East Harlem**

by

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**Submitted to the Program in Real Estate Development in Conjunction with the Center for Real Estate in Partial Fulfillment of the Requirements for the Degree of Master of Science in Real Estate Development**

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Center for Real Estate  
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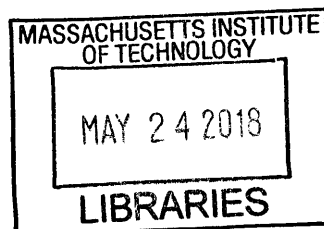
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## **ABSTRACT**

New York City is projected to add nearly one million residents by the year 2040. At a time when housing supply and affordability are a significant factor for global competitiveness, the city has implemented a variety of regulations and incentives to encourage new development. Current Mayor Bill de Blasio's housing strategy includes an initiative to rezone several neighborhoods to accommodate higher density, encouraging the private real estate development industry to build more units while requiring that a portion of those units be made permanently affordable. While rezoning actions are often studied years later in order to provide enough time to measure their success, the city's plan calls for as many as 15 neighborhoods to be rezoned within 10 years. A real-time analysis of an individual neighborhood rezoning proposal, approved during the time of this thesis, provides the ability to evaluate research questions related to how rezoning is being carried out now and how participants may alter their strategies going forward. The neighborhood of East Harlem, the third area in the city to undergo this rezoning process, is thus used as a case study for how rezoning is carried out, compromised and ultimately approved. The analysis reveals that the total amount of new residential development made possible through rezoning is limited compared to a "no action" scenario. Thus, the most significant impacts of rezoning are not to dramatically increase the number of new residential units to be built, but rather to require that a portion of those new units are made affordable through the introduction of the city's mandatory inclusionary housing program. Additionally, the rezoning process resulted in significant city commitments to public investments in the neighborhood. Yet, these commitments are not guaranteed within a specific timeframe and are almost entirely the responsibility of the public sector to implement. While the ability of rezoning to produce a significant number of new residential units is limited, rezoning will continue to serve as a primary means for the city to attempt to house its growing population.

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To my family, thank you for your unconditional encouragement and confidence. Every accomplishment is because of you.



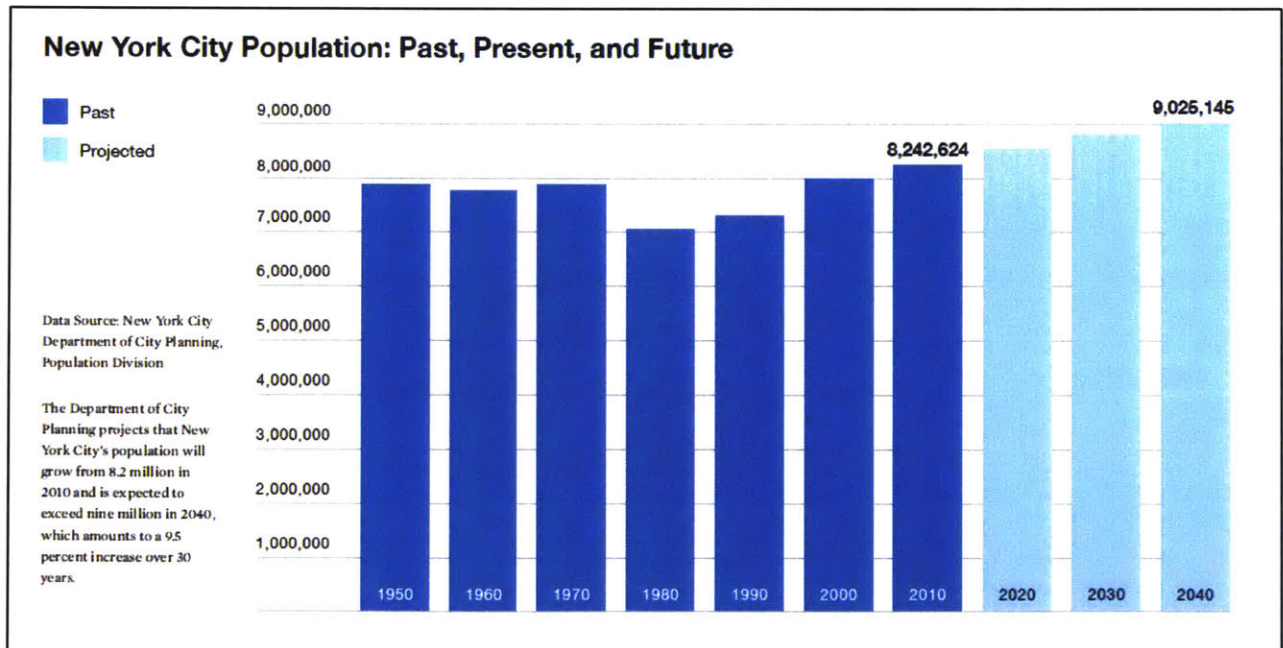
## Chapter 1: Introduction

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### Background

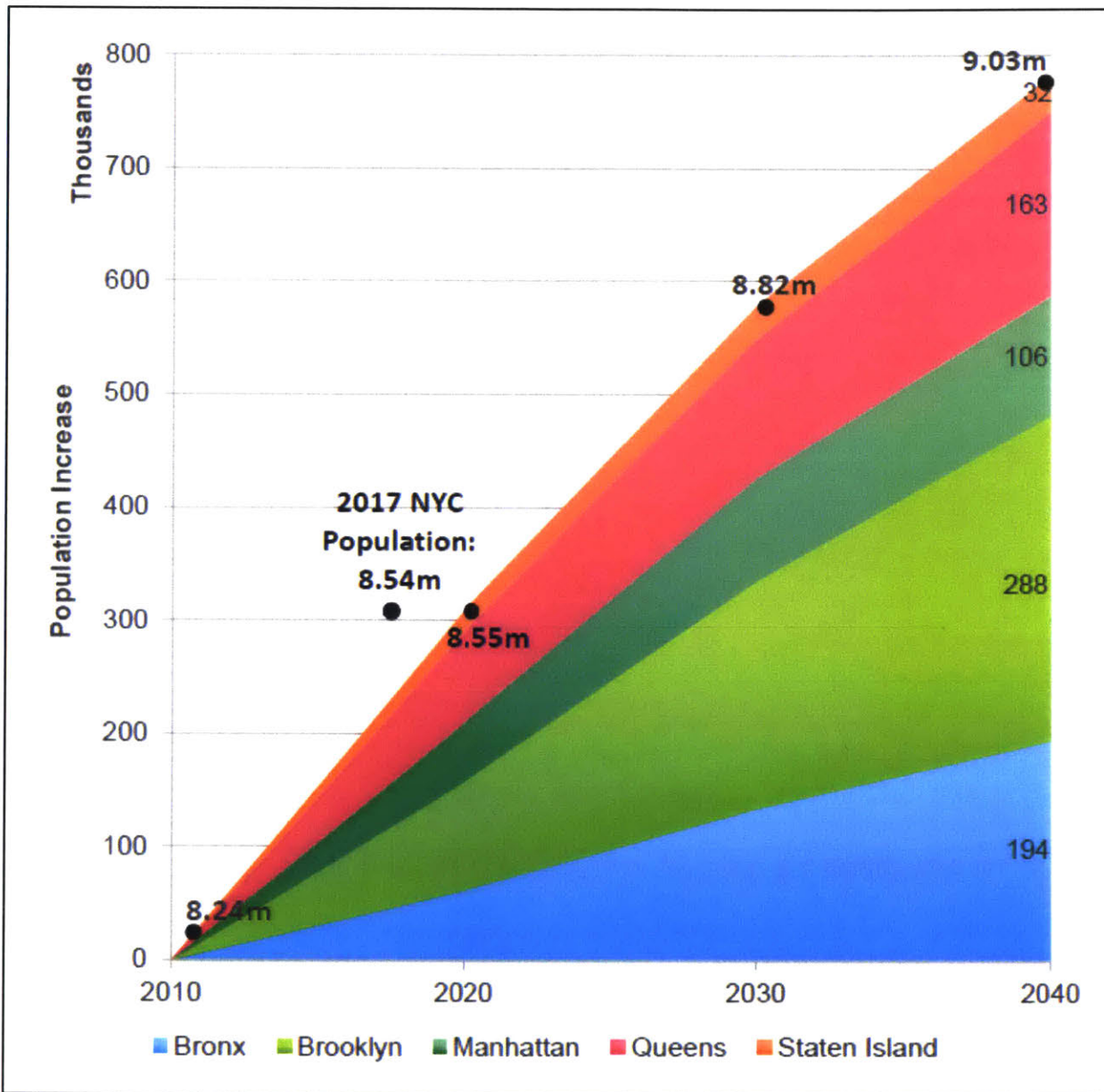
New York City has historically led the United States with the largest and most diverse population, highest development densities, and biggest investment markets. This identity as a dominant economic and cultural center continues to drive population growth. Already the hub of the most populous metropolitan region and by itself the most populous city in the United States, New York City is projected to reach over 9 million residents by the year 2040, more than twice the size of the next largest city, Los Angeles (US Census Bureau).

### New York City Population Growth



*Source: Housing New York, A Five-Borough, Ten-Year Plan 2014*

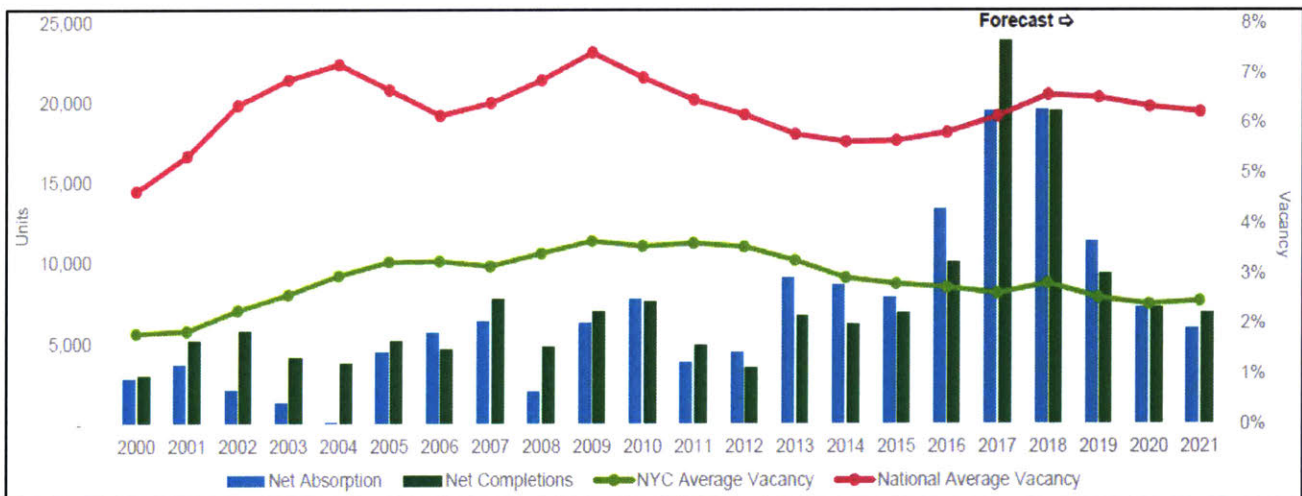
New York City Population Growth by Borough



*The chart above shows the population for New York City from 2010 and a 10-year projection of growth through 2040. The colored bars show the projected population growth for each of the city's five boroughs, and the number on the right-hand side represents the total projected population growth for the year 2040. For example, the Bronx is projected to grow by 194,000 people, Brooklyn by 288,000, Manhattan by 106,000 and so forth. The chart shows that the most growth is projected to occur in the Bronx and Brooklyn. Source: US Census Bureau 2017*

However, the city’s identity as a dominant global economic and commercial center is also characterized by a struggle to accommodate its population with adequate housing supply and affordability. Despite a building boom and influx of new multifamily rental supply, vacancy rates remain low, hovering near or below 3%, about half the national average and even at the height of the Great Recession. In effect, housing demand for multifamily rental is outpacing supply. This trend is significant at a time when “provision and quality of housing is increasingly becoming a major determinate for global urban competitiveness” (Keenan and Chakrabarti).

New York City Multifamily Rental Completions, Absorption & Vacancy Rate



*The chart above provides a historical trend for construction completions, absorption and vacancy rates from the year 2000 to present day as well as projections through the year 2021. The blue and green bars on the chart above show the number of multifamily rental units completed and absorbed. The light green and pink lines show the average vacancy rates for New York City and nationally. Source: CoStar, Real Capital Analytics 2017*

At the municipal level, New York City's mayors have turned to a variety of regulations and incentives to encourage new development to meet population growth. Current Mayor Bill de Blasio campaigned on a platform whose top issue was housing affordability. His *Housing New York* plan, first released in 2014, included a substantial goal to rezone several neighborhoods to accommodate higher density. The plan's premise is to establish higher residential densities in certain neighborhoods along with a mandatory requirement to include a portion of new units as permanently affordable.

Since 2014, the administration has completed two rezonings in East New York, Brooklyn and Far Rockaway, Queens. At least three neighborhood studies, precursors to formal rezoning proposals, are underway. Additionally, after recently being re-elected in November 2017, de Blasio released an updated *Housing New York 2.0* plan, increasing the total goal to build or preserve affordable units from 200,000 to 300,000. (The plan includes a variety of measures to reach this goal – not all through rezoning.)

Rezoning actions are often studied years after the fact in order to provide enough time to measure their success, yet the original *Housing New York* plan called for as many as 15 neighborhoods to be rezoned within the 10-year scope of the plan (though the track record of the plan so far indicates this number may be too ambitious). This thesis provides a real-time analysis of an individual rezoning proposal, ongoing and approved during the time of this study, in order to reveal how the de Blasio administration and the Department of City Planning (DCP) are executing the plan and the types of measures and negotiations that will continue to take place over the next few years.

The study of rezoning in New York City is also critical in the local development context, as the city is unique for its “as-of-right” development rules. Unlike other large cities, so long as proposed development complies with zoning, no discretionary approval is needed. While developers have the option to seek an individual rezoning through the municipal Uniform Land Use Review Procedure (ULURP), typical developments build to the existing zoning in order to reduce entitlement risk and allow the project to benefit from faster permitting and building approval. Thus, the new allowable densities approved through rezoning represent the maximum amount of new development that is likely to occur through as-of-right building.

### **Research Questions and Methodology**

For these reasons, this thesis analyzed the recently approved rezoning in East Harlem, Manhattan as a case study for how rezoning is being used as a tool to meet population growth and housing demand. Specifically, the thesis considered the following exploratory research questions:

- Was the rezoning process successful?
- How was the process compromised?
- What is the new residential development capacity under the new zoning, and which market players are advantaged/disadvantaged?
- What will happen to the neighborhood?

Using the case study method, both quantitative and qualitative data was gathered, including:

- Transaction data on development sites in selected areas, accessed using CoStar
- Building permit and certificate of occupancy data, accessed using NYC Department of Buildings database
- Demographic and neighborhood characteristic data, accessed using the NYU Furman Center coredata.nyc platform
- Qualitative interviews to ascertain how acquisitions strategy is influenced by rezoning and how various actors are participating formally and informally in the rezoning process

This thesis is intended to provide timely information for both public and private sector interests. From a private perspective, an analysis of the new rezoning can inform real estate development acquisitions and shape a developer's conceptualization of project planning and market opportunities. From a public perspective, this study adds to the discourse on how rezoning is being carried out and the types of policy tools and negotiating measures being used by the city to encourage development. Additionally, as rezoning proposals will continue to take shape for the next several years, this analysis seeks to provide a foundational contribution for future studies of the de Blasio administration's rezoning efforts as a whole.

In this spirit, the ability of both sectors to work together to provide housing for the city's growing population is a goal best described by Alicia Glen, New York City Deputy Mayor for Housing and Development, who said, "It's all about, to what extent can you use the resources of the private sector, and the resources the public sector has, to put together the best deals you can possibly do."

## Chapter 2: Literature Review

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New York City has long been on the forefront of enacting land use policies to regulate development. Its zoning ordinance, adopted in 1916, was the first such comprehensive measure in the nation. The last comprehensive amendment to the 1916 ordinance took place in 1961; since that time, rezoning has only occurred at the individual project and neighborhood levels. The city first began developing and adopting voluntary inclusionary zoning programs in the 1980s (Maneval). More recently, the city has begun to include mandatory inclusionary requirements as part of proposals to rezone neighborhoods for additional residential development.

Given this context, the literature review explores the following themes:

- How much new housing is needed to meet population growth?
- How has rezoning in New York City been studied? What does it reveal about how rezoning processes have changed over time?
- What are the roles of the various actors in rezoning? How do these actors view their role in the process?
- How is rezoning measured to be successful or unsuccessful?

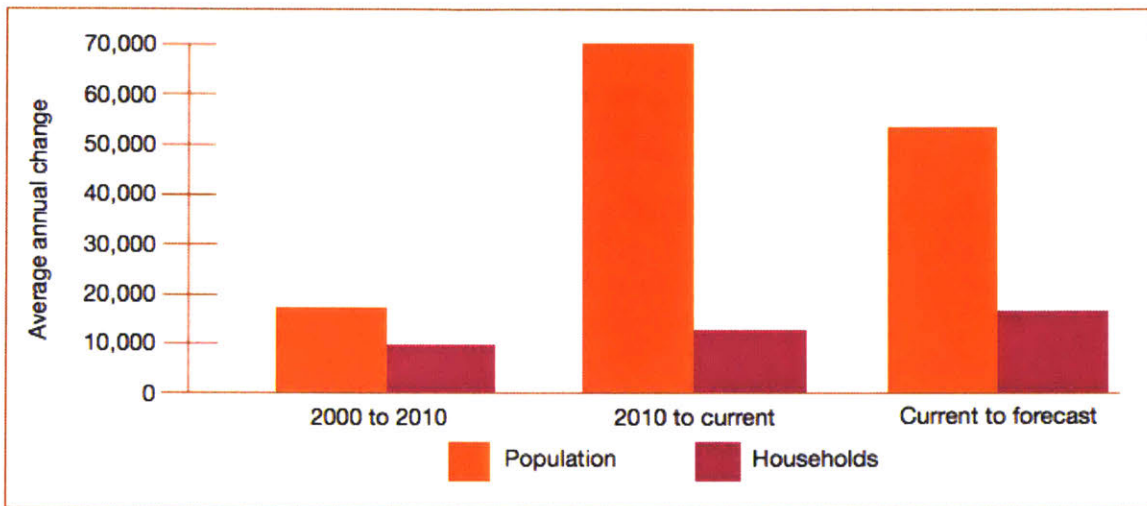
### **How much new housing is needed to meet population growth?**

While New York City's growth rate has slowed overall, it continues to outpace forecasts. In 2017, one estimate of the city's current population at 8.54 million already nearly matched the projection for the year 2020 of 8.55 million (US Census Bureau). These record levels of growth



have prompted economists and planners to how population and household growth is being met with construction and housing supply.

Population and Household Growth in New York City, Year 2000 to Forecast Year 2018

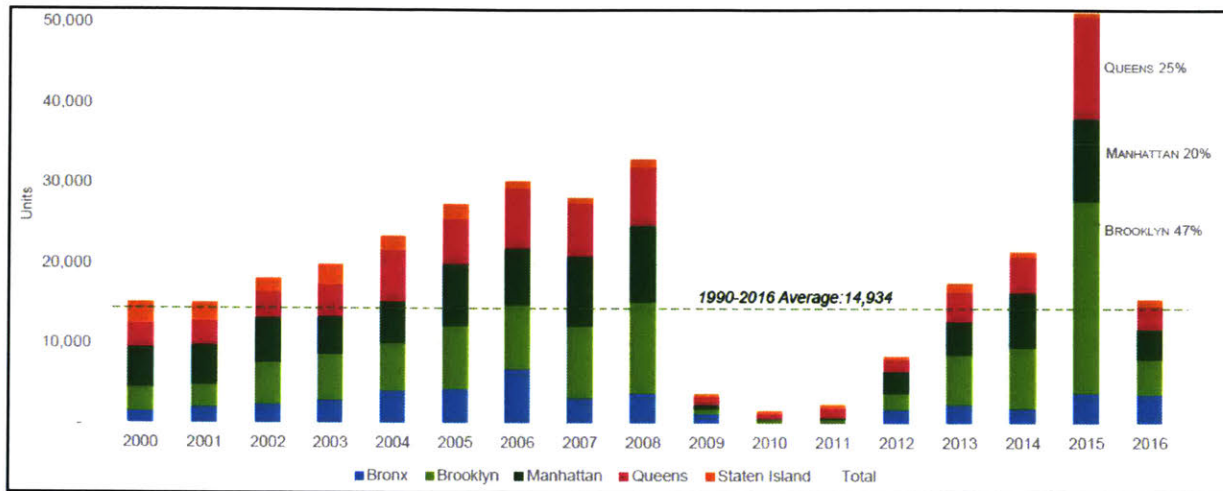


*An analysis released by HUD in 2016 indicated that New York City's rate of population growth peaked in 2010-2013, and since that time has slightly slowed. Source: US Department of Housing and Urban Development Office of Policy Development and Research 2016*

The New York Building Congress estimates that 20,000 new residential units are needed each year to replace lost stock (buildings that are demolished due to obsolescence or otherwise made unavailable for occupancy) and accommodate population growth (New York Building Congress 2017). Its *2017-2019 Construction Outlook* report estimated that 37,700 new units were built in 2016, and 26,700 units will be built through the end of 2017. It forecasts 24,000 new units to be built in 2018 and 22,000 units in 2019.



Residential Units Authorized by New Building Permits in New York City



*This chart shows a historical trend of units authorized by new residential building permits in New York City, by borough. (It is important to note that not every unit authorized by a building permit may result in a constructed unit, but building permits are commonly used as one measure of construction activity and production of new supply. For example, the visible spike in 2015 has been attributed to developers desiring to have their projects approved prior to the expiration of the former local 421(a) tax abatement program.) This data lags slightly below the New York Building Congress’s estimates of actual units constructed. Source: NYU Furman Center, NYC Rent Guidelines Board, NYC Department of Buildings, CoStar 2017*

These estimates indicate that the number of units constructed annually between 2016 and 2019 (projected) exceed the goal of 20,000 units. This finding is consistent with a 2010 policy brief by the NYU Furman Center examining whether housing supply is keeping pace with population growth, in which it predicted that “the recent increase in number of new units permitted suggests that the difference between population and housing unit growth may narrow in the coming years as these permitted housing units come on-line.”

With regard to how and where these new residents are accommodated, Columbia University researchers Jesse Keenan and Vishaan Chakrabarti produced a quantitative analysis in their 2013 book entitled *NYC 2040: Housing the Next One Million New Yorkers*. After analyzing properties

that they determined to be feasible for development across the city, they concluded that “approximately 70% of the new residents could be accommodated through infill development within the existing fabric of NYC’s diverse neighborhoods.”

For the remaining 30%, Keenan and Chakrabarti tested the ability of certain “hyperurban zones” to accommodate additional development using two scenarios. The first scenario distributed the residential units to house approximately 300,000 people through “rational allocation.” The second scenario maximized out the total capacity of each zone without regard for any infrastructural capacity or proximity to other highly developed areas, resulting in residential units to house approximately 473,000 people.

While it provides a useful methodology and visual tool to consider how new development capacity can be spatially distributed throughout the city, it is clear that rezoning could never hope to accomplish the levels of density needed to make such a strategy viable. Indeed, Keenan and Chakrabarti note that “New York City has arguably not developed the zoning capacity and market mechanisms to house the anticipated additional population.” Moreover, the estimate that 70% of new residents could be accommodated through infill development is made with the caveat that “the majority of this surplus FAR (extraordinary amount of excess FAR ostensibly available for redevelopment) is not developable because of a variety of reasons – lots are too small for lawful development, existing buildings have no economic incentive to be recapitalized so as to capture small amounts of excess FAR, historic landmarking, environmental contamination, lack of market fundamentals and depth.”

Thus, in this context, the study suggests that the often long-winded and controversial process of rezoning ultimately results in only a fraction of the units needed to support population growth. Moreover, rezoning does not even guarantee that these units will be built – only that the residential capacity is available should the private real estate development industry be inclined to seize the opportunity.

**How has rezoning in New York City been studied? What does it reveal about how rezoning processes have changed over time?**

The most relevant and recent studies of rezoning in New York City analyze former Mayor Michael Bloomberg’s administration, the immediate predecessor to current Mayor de Blasio. These works offer historical context to compare with current efforts.

In 2010, the New York University (NYU) Furman Center for Real Estate & Urban Policy published a policy brief analyzing 76 rezonings completed under the Bloomberg administration between 2003 and 2007. Interestingly, the majority of these rezonings were classified as “downzoning” or “contextual rezoning”– the opposite of the new growth targets released by the de Blasio administration. (Contextual rezoning is defined as “any zoning change to a lot that does not increase or decrease its development capacity by more than 10%,” and typically prohibits certain kinds of new development from occurring with the stated goal of preserving existing neighborhood character.) In fact, “of the 188,000 lots that were included in a City-initiated rezoning action, almost 63% were subject to a contextual-only rezoning, 23% were downzoned and 14% were upzoned.”

New Residential Square Footage Allowed Under New Zoning (Bloomberg Administration)

**Table A: Residential Development Capacity and the Impact of Rezoning, by Borough (2003–2007)**

	<i>Residential Capacity, by Sq Ft (2003)</i>	<i>% Land Area Rezoned</i>	<i>Change in Residential Capacity, by Sq Ft (as of 2007)</i>	<i>% Capacity Change</i>
The Bronx	980,000,000	18.4%	290,000	0.0%
Brooklyn	1,606,000,000	13.9%	19,950,000	1.2%
Manhattan	1,466,000,000	5.3%	34,150,000	2.3%
Queens	1,342,000,000	19.0%	37,850,000	2.8%
Staten Island	435,000,000	22.9%	5,980,000	1.4%
<b>NYC</b>	<b>5,829,000,000</b>	<b>17.7%</b>	<b>98,220,000</b>	<b>1.7%</b>

*This table shows the total number of square feet of residential capacity by borough in 2003, along with the square foot and percentage change in potential residential capacity enacted as part of rezoning efforts under the Bloomberg administration. As the table shows, while some 5.28 billion square feet of residential capacity existed in 2003, rezoning added about 98 million square feet, or an increase of less than 2%. Source: NYU Furman Center 2010*

This finding is consistent with the viewpoint of a 2015 thesis by Leo Goldberg, which analyzed 120 neighborhood rezonings completed by the Bloomberg administration between 2002 and 2014. Goldberg writes that “much of the 1961 zoning map which the Bloomberg administration inherited neither accurately described the existing built environment, nor projected for the type of growth that the city needed. The mainstream perspective [...] was that zoning was too permissive in residential neighborhoods, while too restrictive in most commercial and industrial areas. Bloomberg described the city as ‘penned in by land-use restrictions that no longer made any sense.’” While this last premise may still hold true for the current administration, rezoning under Mayor de Blasio appears to be dramatically different in that it has focused exclusively on rezoning for additional new development capacity.

**What are the roles of the various actors in rezoning? How do these actors view their role in the process?**

Goldberg's work also evaluated the social and political context of rezoning, offering a window into how the roles of various actors are conceptualized. Quoting Fainstein in *New York For Sale*, "although government agencies play an important role in affecting the physical environment, the main progenitor of changes in physical form [...] is the private real estate development industry." Goldberg concludes that "a small cast of well-connected firms whose influence was multiplied by their importance to multiple development projects" heavily influenced the Bloomberg rezonings. However, the private real estate development industry tends not to appear prominently in the public rezoning process – a theory that will be explored in the context of the East Harlem process.

Concerning the roles of public sector actors, Laura Wolf-Powers evaluated upzoning in Greenpoint-Williamsburg, Brooklyn and Long Island City, Queens, two areas that have arguably achieved great success in the form of booming development. In her 2005 article, she writes:

"Where agglomeration and centrality are crucial aspects of a city's competitive advantage, one finds strong evidence supporting the precept that markets in land favor users who produce the highest economic return per square foot of built space. However, market forces do not automatically yield an intensity or mix of land uses that is broadly optimal. [...] Land use planners, both by placing controls on use and density in individual districts and by planning comprehensively for the development of a community or region as a whole, are seen to temper and guide the market in ways that serve the long-term

economic and social interests of the city's population (Heilbrun 1974; Kaiser and Godschalk 2000; Meck, Wack, and Zimet 2000)."

This statement speaks to the role that public sector actors often take on, mediating between the private sector and the community. Highest and best use thinking does not always prevail in the public process. In this sense, from a pure economic perspective, zoning as a tool is compromised in that "it has changed private rights into public rights and market decisions into political decisions" (Wheaton).

### **How is rezoning measured to be successful or unsuccessful?**

Whether rezoning is successful is, of course, in the eye of the beholder. The Furman Center policy brief offers specific questions, including:

- "How likely is it that new capacity will be developed for residential use?"
- "What effects do the rezonings have on the amount and type of development activity?"
- "How do the rezonings affect property values?"
- "Are rezonings followed by changes in the demographics or other characteristics of the neighborhood?"

An additional metric is offered by Goldberg, who writes that "due to their high option value, vacant lot prices are known to be a strong indicator of future development activity." By measuring the change in per square foot assessed land value, Goldberg attempted to address the level of speculation occurring in areas subject to upzoning. This methodology speaks to the

concept of “entrepreneurial profit” in commercial finance theory, which hypothesizes that “visionary real estate developers who develop a better use for a given site (or better site for a given use) than anyone else could have imagined [results in] site acquisition where developer’s investment value is greater than anyone else’s investment value for the given site” (Geltner 2017). It is thus implied that land acquisition in East Harlem has already been affected by rezoning, years before its formal approval.

From a qualitative sense, “there is little empirical work examining how rezonings actually affect a neighborhood” (Armstrong et al). Researchers must often rely on anecdotal information and the common theme among some community members that rezoning will only result in the enrichment of private developers and the displacement of existing residents. In this sense, the study of rezoning is perhaps better re-characterized as a means of considering how zoning is used as a tool to extract value. What must the public sector and the community put on the table in order to attract private investment and stimulate additional growth? And how are these tradeoffs valued differently?

In response to these types of questions, Stony Brook political science professor Peter D. Salins argues against the “overwhelming temptation” to use rezoning as a negotiation tool. In an article entitled “Zoning for Growth and Change,” he writes that

“zoning for sale is a bad idea, however inviting the opportunity and whatever the ostensible short-term aesthetic or functional benefits. It is *unfair* because it is a game that only a handful of well-funded developers, flanked by costly lobbyists lawyers, and

expeditors, can play. It is *inefficient* because there is no adequate economic test of the costs or benefits of the trade-offs and because it capitalizes the negotiation potential in arbitrage and speculation, distorting the price of the land. Finally, it is *cynical* because it announces that many of the supposedly critical objective parameters of zoning regulation are not so important after all. They can be waived for a price.”

In this sense, Salins seems to argue in favor of larger-scale flexibility in the zoning ordinance, rather than piecemeal or case-by-case negotiations made for individual sites. The topic of undertaking a comprehensive amendment to the 1961 New York City zoning ordinance has been debated at length; however, given the sheer size and complexity, rezoning amendments have only occurred at the neighborhood level, an approach continued by the de Blasio administration. (This approach appears to be typical of most large cities.)

At a macroeconomic level, rezoning can also be measured to be successful based on its ability to correct market failures. In an article entitled “Zoning and Land Use Planning: An Economic Perspective,” William C. Wheaton writes that “zoning, by being a power of local government, cannot address a range of external ‘failures’ in the operation of the private land market [...] most zoning decisions focus on the redistribution of wealth and property among different groups, and not on the internalization of externalities that would improve the efficiency of the land market.”

Because it is so recent, little empirical work exists analyzing the rezonings completed under the de Blasio administration. This study will provide foundational information that can be used for further and future study of rezonings in New York City.



### Chapter 3: Methodology

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Based on the results of the literature review, the methodology for the thesis centered around the analysis of an individual rezoning process. The rationale behind this choice was based on the following factors:

- *Location of the subject area.* East Harlem is the first neighborhood in Manhattan to be rezoned under the de Blasio administration, and particularly in a centralized part of Manhattan. Relative to the previous two approved neighborhood rezonings (East New York, Brooklyn and Far Rockaway, Queens), East Harlem occupies a significantly more centralized location and provides a much shorter commute to the major job centers of Manhattan.
- *Timing of the study.* The East Harlem rezoning process was ongoing, and ultimately approved, during the time of the thesis study. This timing presented an opportunity to observe how, at different points of the approval process, negotiations impacted each iteration of the plan and led to its passage. Additionally, it allowed for the study to be exploratory in nature and forward-looking, in an attempt to provide exposure to the types of decisions and considerations that stakeholders in the process were experiencing.
- *Role of key actors in the context of the political cycle.* The major decision points of the East Harlem rezoning process occurred leading up to the most recent municipal election in November 2017. In particular, the City Council Speaker, Melissa Mark-Viverito, who

represented East Harlem, could not seek re-election due to term limits and Mayor de Blasio was seeking re-election. How this timing influenced the actions and compromises of these key actors is a feature unique to the East Harlem rezoning.

With additional regard to timing, of particular note was the fact that a study of any area rezoned under the de Blasio administration would not be able to measure the most common metric by which rezoning is deemed to be successful: the actual number of units built thereafter.

Consequently, the appropriate methodology for the study required the ability to primarily be exploratory and speculative in nature.

After reviewing a number of articles in order to provide a framework for research, the case study methodology was selected. The case study methodology is appropriate for the aims of this research because it is highly flexible and allows the researcher to explore a variety of data. However, the case study method often relies primarily on qualitative data. One description of qualitative research notes that it is typically “subjective in approach as it seeks to understand human behavior and reasons that govern such behavior. Researchers have the tendency to become subjectively immersed in the subject matter in this type of research method” (MIT Center for Real Estate Thesis Preparation Course 2017).

In light of this point, a scholarly paper entitled “Quantitative and qualitative research in the built environment: application of ‘mixed’ research approach” promotes the benefits of using a combination of quantitative and qualitative strategies. Noting that “existing built environment research utilises either strong qualitative or, more often, strong quantitative methodologies,” the

authors state that the traditional selection of a single method can be limiting. As a result, the final methodology for the thesis included both quantitative and qualitative data, as considered in the left quadrants of the table below.

Description of Quantitative and Qualitative Research Methods

	<b>Exploratory</b> (Inductive; Hypothesis Generating)	<b>Explanatory</b> (Deductive; Hypothesis Testing)
Quantitative	<ul style="list-style-type: none"> <li>• Data mining/collecting</li> </ul>	<ul style="list-style-type: none"> <li>• Statistical Analysis</li> </ul>
Qualitative	<ul style="list-style-type: none"> <li>• Interviews; open ended</li> <li>• One-off cases</li> </ul>	<ul style="list-style-type: none"> <li>• Structured Interviews (pre-specified)</li> <li>• Case/Example comparisons</li> </ul>

*Given the timing and aims of the study, it was most appropriate to use the methods shown in the left quadrants of this table. Source: MIT Center for Real Estate Thesis Preparation Course 2017*

Specifically, the thesis used the following data sources:

- Real estate market reports and technical reports
- Public building permits data
- Demographic/neighborhood measures from public CoreData.nyc database
- Qualitative interviews
- Press coverage
- Public hearings

The collection, analysis and discussion of this data follows in Chapters 4 through 7.

## **Chapter 4: Overview of *Housing New York* and East Harlem Neighborhood**

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This chapter begins with an overview of the rezoning goals articulated in the *Housing New York* plan, in order to provide a foundation for how this policy action is being considered in combination with other components of the initiative. Subsequently, it includes a profile of the neighborhood of East Harlem to offer historical and demographic information as well as previous zoning history. To conclude, it synthesizes the material from these two explanatory sections of the chapter and comments on the reasons why East Harlem was chosen for rezoning.

### ***Housing New York: A Framework for Rezoning***

In 2013, Bill de Blasio, former New York City Council Member and then New York City Public Advocate, ran for Mayor. He campaigned on a platform whose top issue was affordable housing and shortly after his election, in May 2014, he released *Housing New York: A Five-Borough, Ten-Year Plan*. Citing a “crisis of affordability” caused by sluggish wage growth, continued desirability of the city as a place to live and inadequate housing production, the plan’s stated goal was to create or preserve 200,000 units of affordable housing.

The word “rezone” or “rezoning” appears only nine times in the 117-page plan, and rather than as a standalone tactic, is discussed as a component of other strategies. The majority of references to rezoning occur in a section entitled “Pursue Affordable Housing and Community Development Opportunities in All Five Boroughs.” Within this section, eleven potential areas for rezoning are referred to as “case studies” where:

“The City will work together with local communities to identify corridors or portions of neighborhoods where changes to zoning can enable additional housing development. For example, currently permitted residential densities often do not reflect an area’s full potential based on its accessibility to transit and centers of employment.”

Possible Areas for Rezoning Designated in *Housing New York Plan*



*Eleven areas are referred to as “case study” opportunities for new housing in the Housing New York plan. Source: Housing New York: A Five-Borough, Ten-Year Plan 2014.*

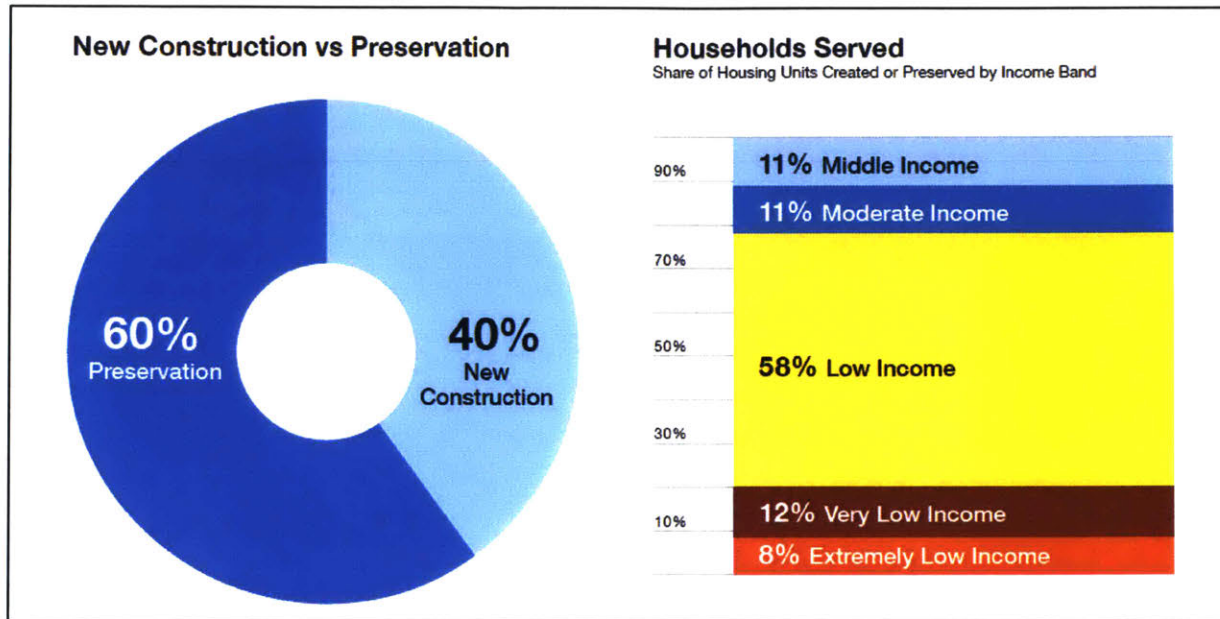
The concept of rezoning in the plan is consistently tied to the Mandatory Inclusionary Housing (MIH) Program, and is characterized secondarily to the program's expansion. In a nod to flexibility, the plan indicates that MIH requirements will be implemented "in rezonings that substantially increase potential housing capacity in strong markets" and that "to ensure the effectiveness of mandatory inclusionary zoning in transitioning neighborhoods, the City will provide flexible options for meeting the requirements."

In a separate section of the plan entitled "Change Zoning and Land Use Regulations to Promote Housing Creation," the plan more specifically details the mechanics of how rezoning changes might take shape, including:

- Reductions in parking requirements
- Modifying height and setback limits
- Removing "tower-in-the-park" zoning (a term that is used to describe a zoning regulation typical in the mid-20<sup>th</sup> century, referring to the requirement for large amounts of open space or parking lots around residential towers)
- Eliminating the maximum FAR for residential buildings (12.0 by New York state statute) in favor of limits established by zoning

The plan does not estimate how many new housing units are expected to be generated through rezoning alone. However, it does specify a target of 40%, or 80,000 of the total 200,000 housing unit goal, to be achieved through new construction.

## Goal Number of New Residential Units and Income Levels Served



*The goal to create or preserve 200,000 units of affordable housing does not attribute a specific unit number goal to any single strategy. Rather, the plan looks at the goal holistically and offers only a split between the number of units achieved through preservation versus new construction.*

*It also sets targets for the household income levels to be served by either type of unit. Source: *Housing New York: A Five-Borough, Ten-Year Plan 2014.**

Beyond the reference to East Harlem as an area for case study, the plan does not include any specific goals for the neighborhood rezoning. The East Harlem Neighborhood Plan, discussed in greater detail in later chapters, was developed as an intermediate step following *Housing New York* and preceding the formal rezoning proposal.

### **East Harlem: Manhattan’s First Little Italy, Spanish Harlem and “El Barrio”**

In the early 20<sup>th</sup> century, East Harlem was known as Manhattan’s first little Italy. Following World War II, the neighborhood experienced a major demographic shift, with more Spanish-speaking residents moving in, giving way to neighborhood the name “Spanish Harlem.” The neighborhood has also historically been known as a home for immigrants and new Americans.



Today, the neighborhood is often locally called “El Barrio,” reflecting the predominantly Spanish-speaking population.

### East Harlem Neighborhood Boundaries



*The neighborhood of East Harlem is bounded by Central Park to the west, the Harlem River to the north, the East river to the east, and the Upper East Side neighborhood to the south. East Harlem is served by the 4/5/6 subway lines.*

*Source: NYC DCP, New York Times*

Notably, as the neighborhood has experienced changes, the once clear boundary at East 96<sup>th</sup> Street distinguishing East Harlem from the Upper East Side has blurred. Going back to 2013, a non-profit developer remarked in an article that “the neighborhood is really starting to gentrify and attract for-profit developers — 96th Street is no longer the hard line dividing the Upper East Side and Harlem [...] there isn’t a lot of property available for us to rehab or do new development, so that is really our challenge.”



## **Built Form and Housing Stock**

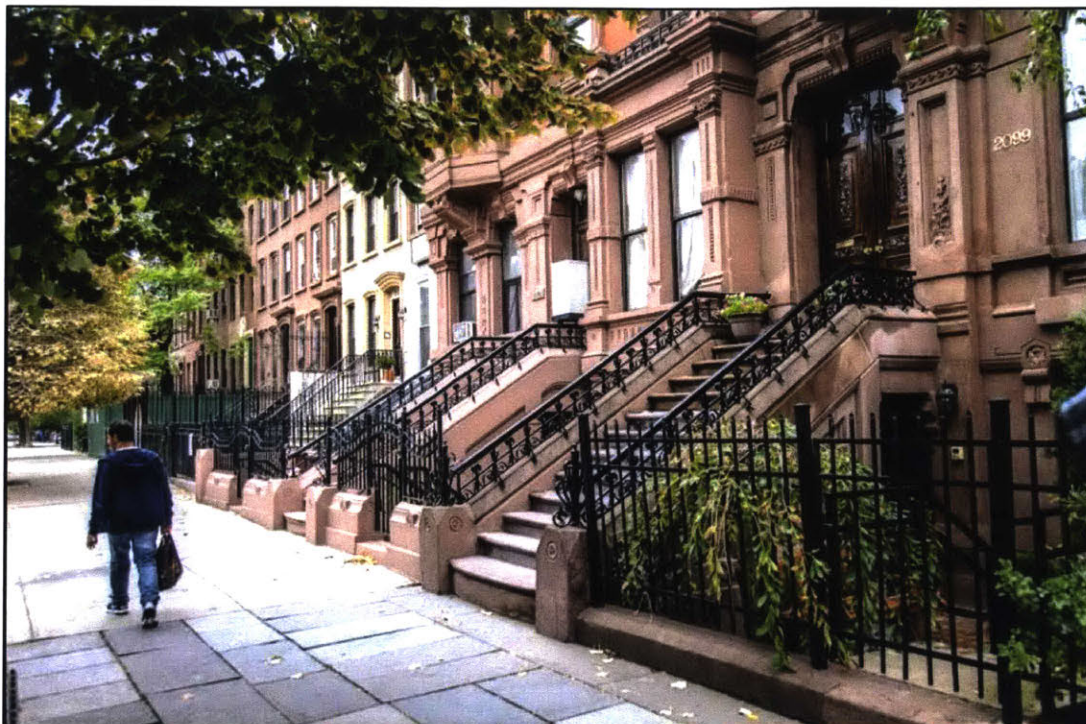
The housing stock in East Harlem is characterized by two starkly different products types: brownstones and towers. 5-story brownstones, some dating back to the 1900s, feature prominently along major corridors. At the same time, the neighborhood has the largest concentration of New York City Housing Authority (NYCHA) public housing in Manhattan. East Harlem’s 34,000 residents living in NYCHA housing represent 9% of New York City’s entire NYCHA population (NYC DCP). This housing is typified by mid-century “tower-in-the-park” developments, often composing multiple blocks. These “NYCHA superblocks” punctuate major north-south corridors.

### East Harlem Housing Stock



*“A stretch of five-story buildings along 116th Street between Park and Lexington Avenues.”  
Source: New York Times*

## East Harlem Housing Stock

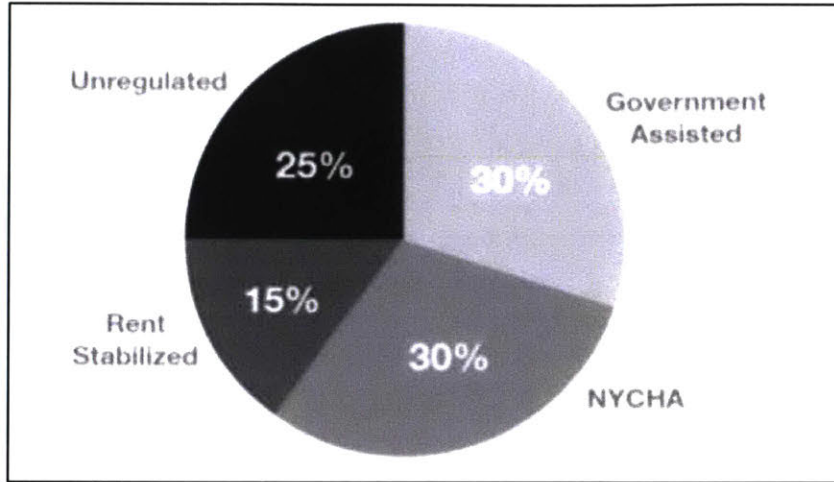


*“Residential stock includes brownstones, like these on Fifth Avenue between 129th and 130th Streets.” Source: New York Times*

In addition to NYCHA housing, East Harlem also has a large percentage of units that are rent-regulated through other city programs. However, these rent-regulated units are subject to a variety of rules and procedures that do not necessarily ensure their affordability in perpetuity. As market interest in the area and other factors cause rents to increase, fear of losing these units factors into rezoning and concerns that are raised during the public approval process.



Regulatory Status of Existing Homes in Manhattan Community District 11



*The pie chart above shows that just a quarter of existing housing stock is unregulated, or subject to “market rent.” Note: This chart represents the housing stock for the entirety of Community District 11, which includes East Harlem and other neighborhoods.  
Source: NYC DCP*

**Changes in the Real Estate Market**

Real estate market conditions have changed over the past several years. According to DCP, over 50% of East Harlem’s 126,000 residents are considered “rent burdened,” which is defined as paying more than one-third of their income toward housing. Market rents in the area have also been rising faster than the city as a whole, leading the neighborhood to be designated as one of New York City’s fastest gentrifying areas (NYU Furman Center).

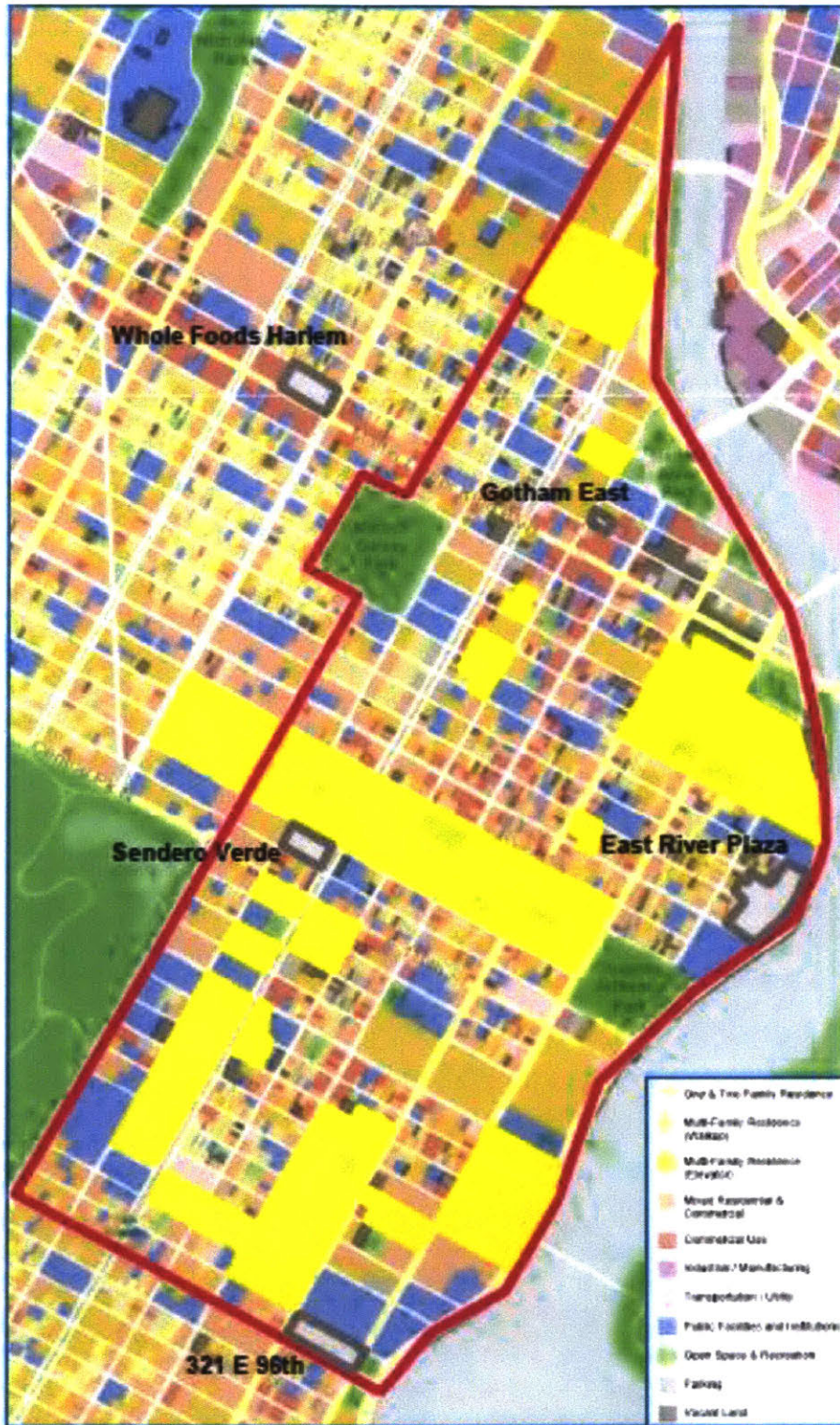
As of 2017, several large-scale new and planned developments are underway, speaking to ongoing change in the neighborhood. These developments include:

- East River Plaza (Blumenfeld Development, Forest City Ratner) – 1,100-unit rental complex atop East River Plaza Mall (tenants include Costco, Target)

- Sendero Verde (Jonathan Rose, L+M) – 655-unit affordable project on city-owned site
- 321 E 96<sup>th</sup> Street (Avalon Bay) – 68 story tower with 1,100 rental units (30% affordable), 3 public high schools, ground lease on city property
- Gotham East (Blumenfeld Development) – as-of-right 11 story, 233-unit rental building with 20% affordable units
- Nearby, Harlem Whole Foods Market opened in July 2017

The map on the following page shows the existing land use patterns for East Harlem along with recent notable new and planned developments. The general neighborhood boundary is outlined in pink, and the new and planned developments are outlined in grey. Additionally, a distinct feature of East Harlem’s existing built form are the properties outlined in yellow. These properties represent existing NYCHA public housing. The volume and intensity of these “NYCHA superblocs” are unique to East Harlem, and sometimes serve to physically cut off major north-south avenues in the rest of the neighborhood.

New Developments in East Harlem (Overlaid with Existing Land Use Patterns Base Map)



*Source: NYC DCP, NYC Open Data 2017*

## **Zoning History**

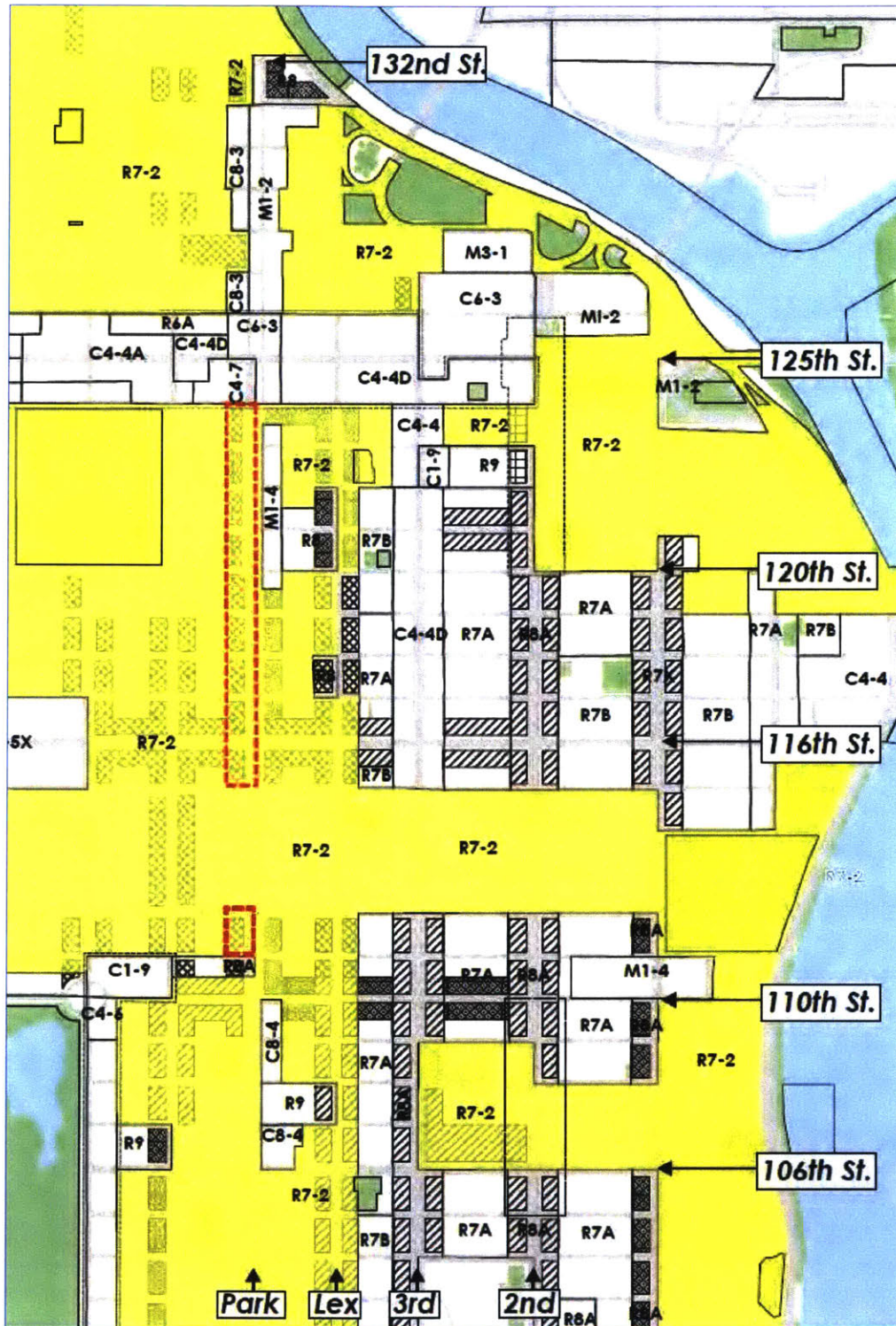
The 1961 New York City zoning ordinance established much of the neighborhood as R7-2, which encouraged taller buildings on larger lots with less lot coverage, in the style of “tower-in-the-park.” Leading up to the current rezoning effort, much of the 1961 zoning had remained unchanged, with the exception of three amendments:

- In 2003, 57 blocks (generally east of Lexington Avenue between 99<sup>th</sup> Street and East 122<sup>nd</sup> Street) were rezoned, increasing density along major avenues and introducing contextual districts to encourage more development.
- In 2008, Special 125<sup>th</sup> Street District was created, focused on incentivizing mixed-use and providing a bonus for inclusion of nonprofit arts spaces.
- Also in 2008, East 125<sup>th</sup> Street between Second and Third Avenues were rezoned to C6-3 to encourage more development.

The maps on the following two pages show the existing zoning and the new designations adopted in the 2003 rezoning process. As shown on the map on the next page, prior to the current rezoning effort, much of East Harlem remained zoned as R7-2 tower districts, with 3.44 FAR (areas shown in yellow). This zoning resulted in relatively low density despite being located along major north-south corridors. (The red dashed lines indicate where new residential development was prohibited due to proximity to the western side of the Metro-North viaduct.)



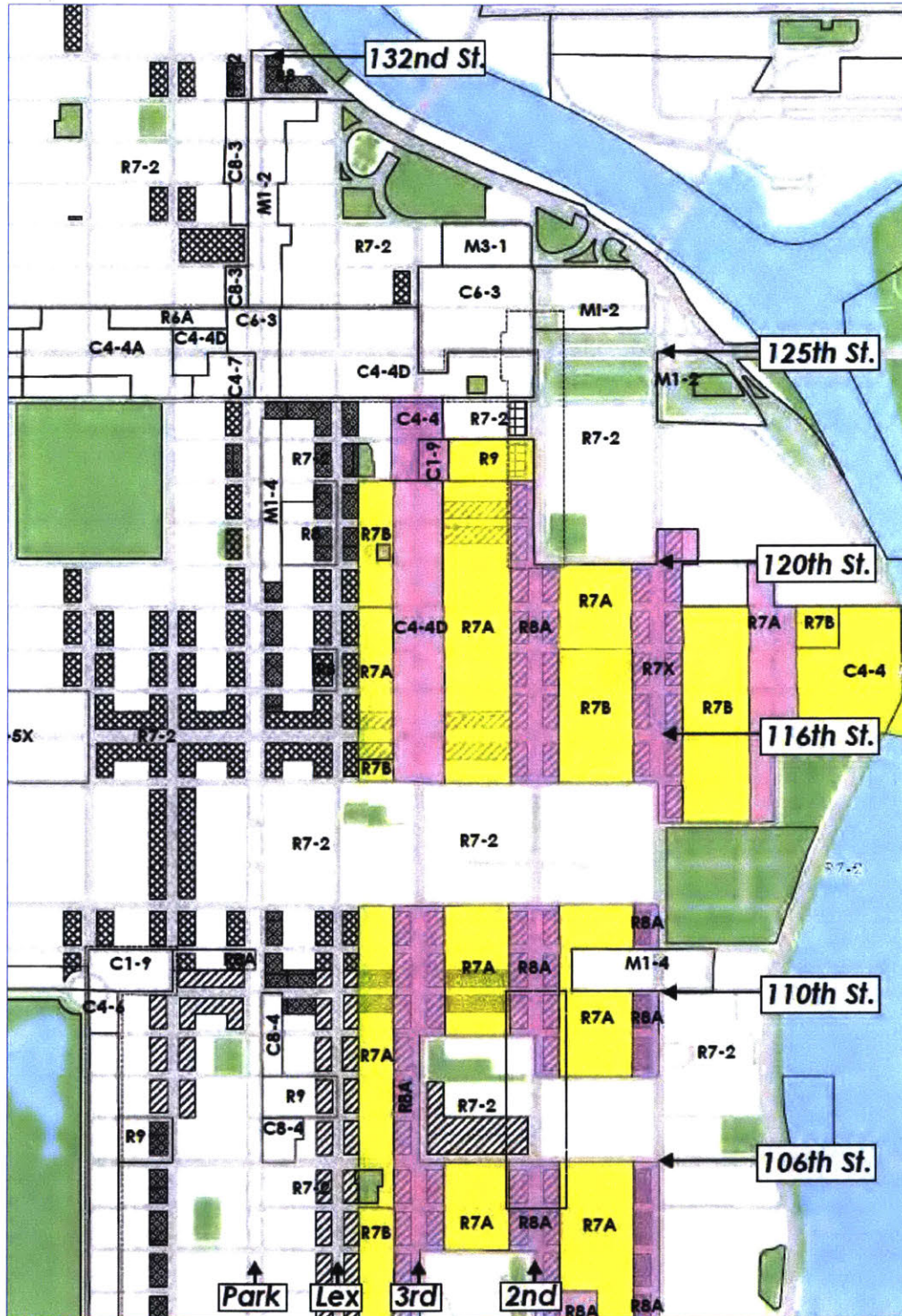
East Harlem Existing Zoning



Source: NYC DCP 2017



New Zoning Designations from 2003 East Harlem Rezoning Process



Source: NYC DCP 2017



In 2003, the city approved a rezoning plan focused on the part of the neighborhood east of Lexington Avenue. As shown on the map on the preceding page, the purple and yellow areas reflect the zoning changes approved through that process. Primarily, the rezoning established contextual zoning districts on midblocks and increased density on 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Avenues, with new maximum FAR.

### **Why East Harlem?**

East Harlem was formally announced as a neighborhood for rezoning in 2015. At that time, it was one of the first four neighborhoods designated by the mayor for rezoning. The policy rationale for including East Harlem centered around the following factors. First, much of the existing zoning dated back to the original zoning text of 1961. In particular, the existing zoning maintained a number of manufacturing districts and limited density, preventing the addition of significant amounts of new housing. Second, the previous rezonings that had occurred had not resulted in significant amounts of new development. Finally, rezoning proponents argued that gentrification was already taking place in the neighborhood and that without changes, there would be no policy tool in place to facilitate the construction of affordable housing. The existing zoning did not include any requirement for inclusionary housing.

Following this announcement, City Council Speaker Melissa Mark-Viverito led the formation of a task force to create the East Harlem Neighborhood Plan. The plan acted as a precursor to the formal rezoning proposal. The East Harlem Neighborhood Plan is discussed in the next chapters in the context of the overall East Harlem rezoning proposal.

## **Chapter 5: Key Issues in the East Harlem Rezoning Plan**

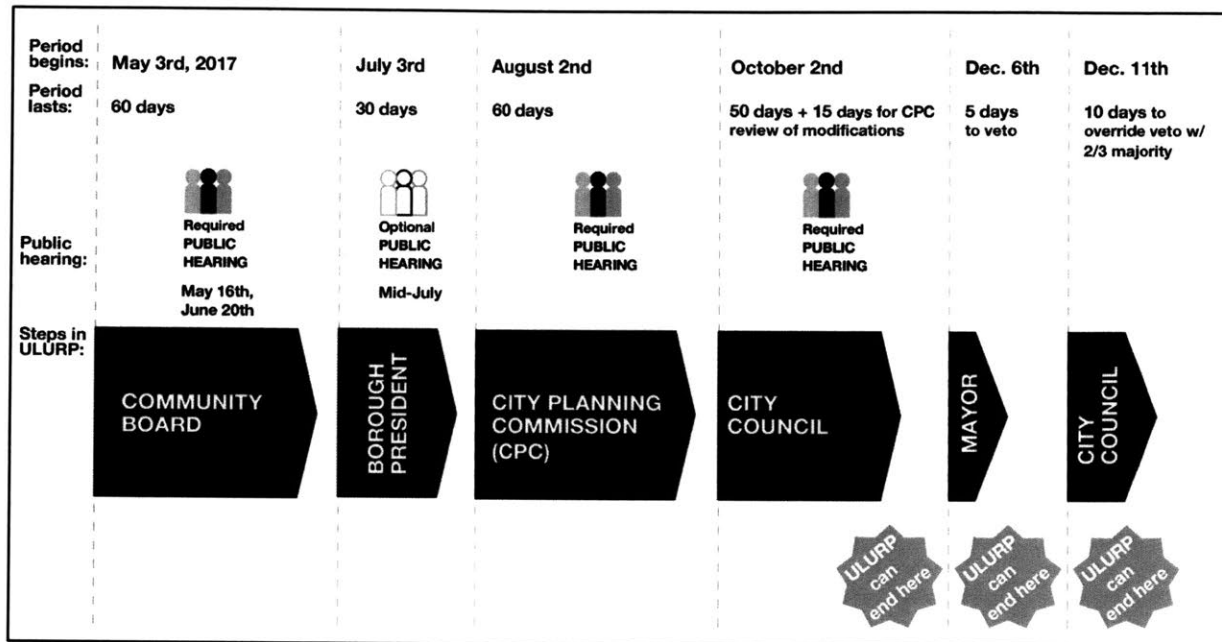
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This chapter describes the East Harlem rezoning proposal, specifically to identify and examine the plan's major modifications at key points in the public approval process.

For organizational purposes and to provide a sense of the timing associated with major changes, the iterations of the plan are laid out in the context of the formal city review process, called the Uniform Land Use Review Procedure (ULURP). Rezoning proposals go through the ULURP process prior to adoption, and are subject to a series of required public hearings and votes that ultimately shape the final product. The first two steps of the approval process involve the Community Board and the Borough President, but both of these votes are considered "advisory." The City Planning Commission approval is advisory in nature, but if it disapproves, the City Council and Mayor may override their recommendation. The City Council and Mayor have final formal approval rights over the proposal.

As outlined on the diagram below, there are six major steps of the ULURP process. (The dates listed at the top of the diagram are for example purposes only.) The diagram assumes that at each step of the process, the acting official or public body will take the maximum amount of days allowed under statute to review and vote on the rezoning plan.

## ULURP Process Diagram



*Source: East Harlem Neighborhood Plan 2016*

In the context of this timeline, this chapter focuses on the major themes and issues raised throughout the plan’s development. Three key issues were selected in order to provide for a more directed discussion of how these issues were ultimately negotiated, as opposed to providing an exhaustive description of all elements contained within the plan.

### **Scope of the Rezoning Plan**

The rezoning area covered 96 blocks, focusing primarily on the eastern side of the neighborhood and along the major north-south corridors on Park, Lexington, Third and Second Avenues. These boundaries were chosen in response to the previous areas of the neighborhood that had already been rezoned and to reflect DCP’s stated priority to focus on the major north-south corridors connecting the neighborhood to other parts of the city.

# Rezoning Area Map



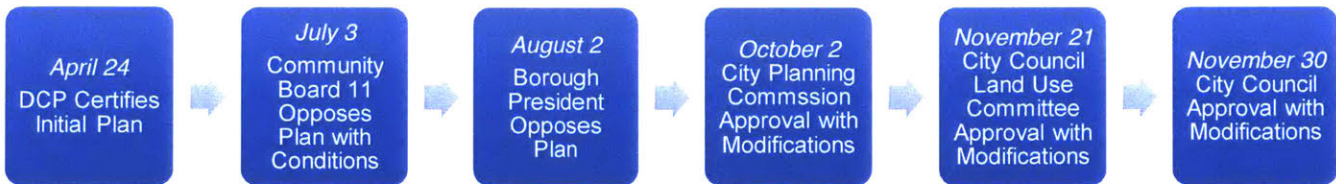
*The areas outlined in red were ultimately included in the rezoning plan. Source: East Harlem Rezoning Final Environmental Impact Statement 2017*



## Rezoning Public Approval Process Key Decision Points

The timeline below summarizes the dates and decisions of the formal steps in the ULURP process. (A more detailed timeline is included as an appendix at the end of this chapter.)

### Timeline of ULURP Decisions



*The formal ULURP process in East Harlem spanned about seven months in 2017. The ULURP timeline reflects only the statutory required steps to process and approve the rezoning. For example, in the case of East Harlem, nearly three years of preparatory work preceded the ULURP, including the creation of the East Harlem Neighborhood Plan. While the plan acted to inform the formal rezoning proposal, it was not facilitated by DCP and much of the opposition to rezoning centered around the differences between the Neighborhood Plan and DCP's proposal.*

*Source: NYC DCP*

Over the course of fall 2016, DCP made a number of public scoping presentations to present a framework for the rezoning proposal and to gather public input. Following these meetings, in April 2017, DCP released the initial plan (an action referred to formally as certification of the ULURP application), the formal review process began. The statutory timeline for ULURP review is limited to a total of about seven months based on the maximum number of days allotted for each individual review period. Consequently, and especially as the plan proceeded past the advisory votes of the Community Board and Borough President toward its formal and binding approvals, negotiation of key issues became compressed and the plan underwent a series of accelerated changes within the span of about two months.

### **Key Issue 1: Residential Height Limits, FAR and Density**

The related issues of height limits, FAR and density were often combined into a single discussion point, and during the process were primarily referred to in terms of height limits. The height of new potential buildings was an issue intensified by local sentiment that the East Harlem neighborhood is distinct from, and should not be made similar to the Upper East Side, its neighbor to the south where towers are a common type of built form. (Public comment typically characterized the height distinction between the two neighborhoods in qualitative terms, and the East Harlem Neighborhood Plan did not include a specific height limit beyond promoting a cap in general.)

The original proposal identified new zoning designations, the majority of which called for “height factor” districts with no maximum buildings heights. Instead, building heights would be limited by the maximum FAR, which ranged depending on the specific zoning designation up to 12.0. Where height limits did exist, they typically allowed for maximum heights of 30-35 stories.

This issue featured prominently in the public discussion, and was cited as a factor in the Manhattan Borough President’s recommendation to oppose the draft plan in August 2017. Perhaps anticipating that this recommendation would require changes to be made to the plan, two days following the announcement of the Borough President’s opposition to the plan, DCP released a technical amendment proposing a 215-foot height limit along Park Avenue and 175-foot height limit along Lexington, Third and Second Avenues. However, the changes affected only a handful of sites in the rezoning area, and did not result in any significant changes to the environmental impact analysis (the formal document that identifies the maximum potential

impacts of the plan on a variety of neighborhood conditions like traffic, noise and anticipated amount of development).

At the City Planning Commission level, additional concern over height limits resulted in a more substantial modification to the plan that instituted height limits in all areas. The key message from this modification was that the new height limits “ensure that no building – even on the widest avenues – would be taller than 32 stories in height (by point of reference, Taino Towers [*an existing NYCHA property*] is 35 stories) and therefore in keeping with the varied existing built form of the neighborhood” (City Planning Commission). The 32-story height limit coincided with a maximum height of approximately 325 feet.

The City Council’s deliberations and eventual approval further reduced maximum height limits and corresponding FAR and density. In particular, areas that were previously established with a range of maximum building heights (for example, 28-32 stories) were replaced with maximum building height limits measured in feet (in this case, 215 feet or 235 feet). It appears that these modifications were made without substantial time to allow for an analysis of how lower height limits could effectively work against achieving the maximum allowable FAR (and thus the most number of affordable units possible).

Final Rezoning Plan Density and Height Limits

**Table 1**  
**Proposed Density and Height Limits by Zoning District**

Proposed Zoning District	Approved Actions		Potential Modifications	
	Max Density (FAR)	Max Height (Ft)	Max Density (FAR)	Max Height (Ft)
M1-6/R9	8.5	285	8.5	215
M1-6/R10	12.0	350	12.0 <sup>1</sup>	295 <sup>1</sup>
R7D/C2-5	5.6	115	5.6	115 <sup>2</sup>
R7D/C1-5	5.6	115	5.6	115
R8A/C2-5	—	—	7.2	215
R9/C2-5	8.5	285/325	9.0 <sup>3</sup>	215
R9A/C2-5	—	—	8.5	175 <sup>4</sup>
R10/C2-5	12.0	325	10.0 <sup>5</sup>	275 <sup>5</sup>
C6-4	12.0	N/A	12.0 <sup>6</sup>	N/A
C4-6	12.0	325	10 <sup>7</sup>	235 <sup>7</sup>

**Notes:**  
<sup>1</sup> Maximum FAR of 10.0 and height limit of 275 feet along Park Avenue between East 120th and East 124th Streets  
<sup>2</sup> Maximum height limit of 215 feet along Park Avenue  
<sup>3</sup> Maximum FAR of 8.5 along Park Avenue  
<sup>4</sup> Maximum height limits of 215 and 325 feet within TA Special District with provision of easement or infrastructure improvements  
<sup>5</sup> Maximum FAR of 9 and height limit of 255 feet along Park Avenue between East 121st and East 122nd Streets  
<sup>6</sup> Maximum FAR of 10.0 along Park Avenue between East 122nd and East 124th Streets  
<sup>7</sup> Maximum FAR of 9.0 and building height capped at 215 feet along Third Avenue between East 115th and East 122nd Streets

*The final maximum densities and height limits are listed on the right-hand side of the table under the heading “Potential Modifications.” These limits reflected the final position of decision-makers that new buildings should not exceed the height of existing buildings in the neighborhood. However, since the maximum FAR remained the same, buildings could be allowed to be greater in bulk rather than height. Source: East Harlem Rezoning Post Final Environmental Impact Statement Technical Memorandum 003 2017*

**Key Issue 2: Mandatory Inclusionary Housing (MIH) Requirements**

Central to the plan was the introduction of MIH in all rezoned areas that allow for residential housing, based on the previously adopted citywide MIH program. The premise is to allow increased density in exchange for requiring a percentage of residential floor area to be rent restricted at certain income levels (using Area Median Income, or AMI). Specifically, the proposal offered two primary options:



- Option 1: 25% of residential floor area is restricted to residents with income levels averaging 60% of AMI. In addition, 10% of residential floor area is restricted to residents with income levels at 40% of AMI.
- Option 2: 30% of residential floor area is restricted to residents with income levels averaging 80% of AMI.

The debate around MIH centered around levels and percentages of affordability. The East Harlem Neighborhood Plan largely took the position that there should be as much permanent affordability as possible, and the most critical opposition commentary during the ULURP review argued that there should be 100% permanent affordability for all new units. The MIH requirements adopted in the final plan were not significantly different than the original proposal. Ultimately, the City Planning Commission and City Council approved Options 1 and 3, which represented a deeper level of affordability as follows:

- “*MIH Option 1* requires that 25% of residential floor area be made available to households earning 60% of AMI, on average. There is an additional stipulation that 10% of residential floor area will need to be made available to households earning 40% of AMI, on average.
- *MIH Option 3* requires that 20% of residential floor area be made available to households earning 40% of AMI, on average.”

These levels of affordability reflect the previously adopted citywide MIH program, which was subject to a separate approval process. By having a citywide MIH policy already in place, a selection of potential affordability options was already available to place into the rezoning proposal. Since much of the rezoning area included changes to residential zoning, the majority of the rezoning area is now subject to these affordability requirements.



### **Key Issue 3: Accompanying Public Investments**

The amount and timing of public investments to support new growth and address existing neighborhood concerns featured prominently in the public rezoning discussion. The city's commitments to these investments were central to gaining the approval of City Council Speaker Mark-Viverito.

Accordingly, as the plan reached the City Planning Commission level, the Mayor's office issued a 29-page letter outlining the administration's commitments to accompany the rezoning action. Billed as "East Harlem Points of Agreement," the letter identified 57 actions across 13 categories, which were represented as "comprehensive neighborhood investments in housing, transportation, public space, community services, and culture [...] [which] reflect over \$178 million in new City funding." The largest individual commitment included over \$50 million in funding toward repairing existing NYCHA buildings.

Of the 13 categories of commitments, only one concerned the actual rezoning text. Referred to only as "follow-up actions," the commitments were listed at the very end of the document:

- "54. Integrate subway station entrances into building envelopes at East 116<sup>th</sup> Street and Lexington Avenue"
- "55. Study parking requirements in East Harlem"
- "56. Establish a height limit in the R10 district on Park Ave between East 122<sup>nd</sup> and East 14<sup>th</sup> Streets"
- "57. Follow up correction to height limit on Park Ave between East 115<sup>th</sup> and East 118<sup>th</sup> Streets"

While commitments to preserving, developing and improving access and economic opportunities in affordable housing were featured in the document, many of the strategies were related to areas outside of the rezoning scope, such as health, education, sanitation. Overall, only the modifications related to the rezoning text itself could be codified in the final approved plan.

### **The Final Plan**

The final plan as approved by the City Council on November 30, 2017, was represented to be dramatically different than its initial release by the DCP seven months prior. In the three key areas identified in this chapter, the key changes between the initial and final plans are summarized in the table on the following page.

Summary of Key Issues and Results in East Harlem Rezoning

<u>Key Issue</u>	<u>Existing Zoning</u>	<u>Initial Plan</u>	<u>Final Plan</u>
<b>Residential Height Limits, FAR &amp; Density</b>	<ul style="list-style-type: none"> <li>No height limits in R7-2 districts</li> </ul>	<ul style="list-style-type: none"> <li>Height limits based on maximum FAR (roughly 28-32 stories)</li> <li>In some limited areas, no height limits proposed</li> </ul>	<ul style="list-style-type: none"> <li>Height limits established for all areas, ranging from 75 to 325 feet</li> </ul>
<b>Mandatory Inclusionary Housing (MIH) Requirements</b>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Option 1: 25% of residential floor area restricted to income levels averaging 60% of AMI, and 10% of residential floor area restricted to income levels at 40% of AMI.</li> <li>Option 2: 30% of residential floor area restricted to income levels averaging 80% of AMI.</li> </ul>	<ul style="list-style-type: none"> <li>Option 1 (same as Initial Plan)</li> <li>Option 3: 20% of residential floor area made available to households earning 40% of AMI, on average.</li> </ul>
<b>Accompanying Public Investments</b>	<ul style="list-style-type: none"> <li>Specific commitments governed individually by agencies</li> </ul>	<ul style="list-style-type: none"> <li>Broad commitments outlined by DCP in partnership with other city agencies</li> </ul>	<ul style="list-style-type: none"> <li>57-point commitment letter with identified timelines and reporting requirements</li> </ul>

## Timeline of East Harlem Rezoning

**May 2014** – *Housing New York* plan released by Mayor de Blasio

**Spring 2015** – East Harlem announced as a neighborhood to undergo rezoning. Speaker Mark-Viverito convenes Steering Committee, holds workshops and public hearings over two years.

**February 2016** – East Harlem Neighborhood Plan (EHNP) released

**October 2016** – DCP presents Draft Planning Framework for East Harlem Neighborhood Study

**December 2016** – East Harlem Rezoning Scoping Hearing Presentation

**April 24, 2017** – DCP certifies initial East Harlem rezoning plan (also referred to as East Harlem Initiative), beginning formal public review process under ULURP

**July 3, 2017** – Manhattan Community Board 11 recommendation to oppose rezoning plan (with conditions)

**August 2, 2017** – Manhattan Borough President recommendation to oppose rezoning plan

**August 7, 2017** – DCP releases technical amendment establishing some new height limits

**August 23, 2017** – City Planning Commission public hearing on draft plan

**September 18, 2017** – DCP presents modified plan to City Planning Commission public hearing with lower height limits

**October 2, 2017** – City Planning Commission votes to approve rezoning plan with modifications to height limits

**October 11, 2017** – City Council Subcommittee on Zoning and Franchises public hearing on modified draft plan

**November 2, 2017** – Speaker Mark-Viverito convenes community forum on draft plan

**November 21, 2017** – City Council Land Use Committee votes to approve plan with modifications to height and density. Mayor's office submits 57-point letter outlining commitments to public investments in East Harlem.

**November 30, 2017** – City Council votes to approve East Harlem rezoning with modifications to height, density and rezoning area.

## **Chapter 6: Analysis and Discussion**

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The analysis and discussion of the rezoning plan is split into two parts: 1) Potential Development Impacts, 2) Political/Process Evaluation.

### **Potential Development Impacts**

The first portion of the analysis concerns the quantitative number of new residential units projected to be added as a result of rezoning.

#### *Total Potential New Growth*

The final plan as adopted by the City Council projected a net increase of 2,682 residential dwelling units. This estimate is based on a 10-year development horizon and represents the “reasonable worst-case development scenario” (RWCDs), which is used for purposes of environmental analysis in order to forecast the maximum potential impacts of the plan.

Prior to reaching the City Council, the total projected net increase in units remained the same throughout the entire process – a higher count of 3,488 units. However, at the very last stage of the process, the City Council made further reductions to height and density that resulted in a loss of 806 projected new units. The loss of these units represented about a 30% reduction in the total net number of units anticipated to be built as a result of the rezoning.

“Reasonable Worst-Case Development Scenario” (RWCDS) for Rezoning Plan  
(Prior to City Council Modifications)

**Table S-1a**

**2027 RWCDS No Action and With Action Land Uses**

Land Use	No Action Condition	With Action Condition	Increment
<b>Residential</b>			
Total Residential	2,472 DU	5,960 DU	+ 3,488DU
<b>Commercial</b>			
Commercial Retail	385,009 sf	507,551 sf	+ 122,542 sf
Hotel	32,974 sf	0 sf	- 32,974 sf
Office	76,559 sf	219,771 sf	+ 143,212 sf
Auto-related	10,592 sf	0 sf	- 10,592 sf
Storage	57,614 sf	0 sf	-57,614 sf
<b>Total Commercial</b>	<b>562,748 sf</b>	<b>727,322 sf</b>	<b>+ 164,575 sf</b>
<b>Other Uses</b>			
Total Community Facility	7,395 sf	112,437 sf	+ 105,042 sf
Total Industrial	22,777 sf	155,171 sf	+ 132,394 sf
<b>Parking</b>			
Parking (floor area)	120,907 sf	102,504 sf	- 18,403 sf
<b>Population<sup>1</sup></b>			
Residents	5,959	14,364	+ 8,405
Workers	1,723	3,265	1,543
<b>Note:</b>			
<sup>1</sup> Assumes 2.41 persons per DU for residential units in Manhattan Community District 11. Estimate of workers based on standard industry rates, as follows: 1 employee per 250 sf of office; 3 employees per 1,000 sf of retail, 1 employee per 25 DU, 1 employee per 2.67 hotel rooms (400 sf per hotel room), 1 employee per 1,000 sf of industrial, 1 employee per 15,000 sf of warehouse uses, 1 employee per 11.4 students in Pre-K school uses, 3 employees per 1,000 sf of all other community facility uses, 1 employee per 50 parking spaces, 1 employee per 200 sf restaurant, 1 employee per 250 sf grocery store, and 1 employee per 25 dwelling units (residential).			

*Source: East Harlem Rezoning Final Environmental Impact Statement*

The table above shows the projected net impacts of the rezoning plan for all land uses, at the time of the plan’s recommended approval at the City Planning Commission level. Of most importance to this analysis is the first row, which projects that with no action whatsoever, nearly 2,500 new residential units would be added over the next 10 years (with no affordable housing requirement). The effect of the rezoning was to add to this increment by nearly 3,500 units, or about 1.4 times the number of units if there were to be no action.



Effect of City Council Reductions on the Final Rezoning Plan RWCDs

**Table 2**  
**Incremental Difference Between Approved Actions and Potential Modifications**

Use	Approved Actions Increment	Potential Modifications Increment	Difference
Commercial (gsf)	164,574	164,574	0
Community Facility (gsf)	105,042	105,042	0
Industrial (gsf)	132,394	132,394	0
Total Residential Dwelling Units (DUs)	3,488	2,682	-806
Workers	1,544	1,510	-34
Residents	8,405	6,464	-1941

*The final reductions made to maximum height and densities at the City Council level resulted in a net decrease in the number of residential dwelling units projected to be built.*

*Source: East Harlem Rezoning Post Final Environmental Impact Statement Technical Memorandum 003 2017*

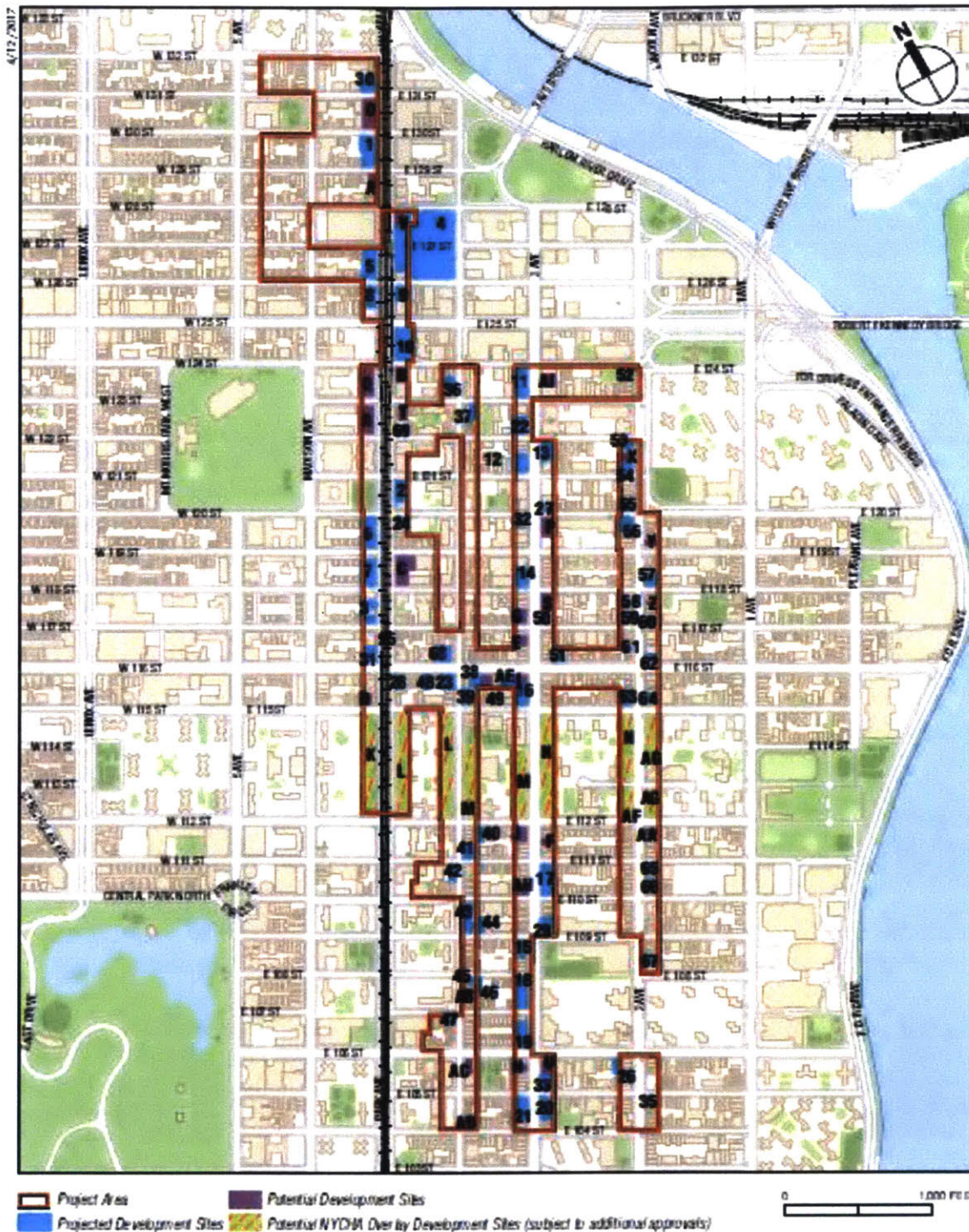
By comparison to the previous rezoning in East New York, which projected a net increase of 6,492 dwelling units, the relative increment of growth in East Harlem of 2,682 units is much more modest. Thus, by one measure of comparison, the total amount of potential new development in East Harlem is not as significant as in other areas. However, this moderately smaller amount of growth was represented to be reasonable and appropriate based on the existing zoning context. Comments from DCP indicated that from a staff perspective, the potential increment for growth in East Harlem was “likely to be small” because the neighborhood was already subject to high densities – so there was not much room to grow in the first place.

Potential Development Sites

DCP used criteria to identify “projected development sites” and “potential development sites.” Projected sites are defined as reasonably expected to be developed in a 10-year timeframe, whereas potential sites exceeded that timeframe and were anticipated to be developed later. The criteria for distinguishing projected development sites from potential development sites includes

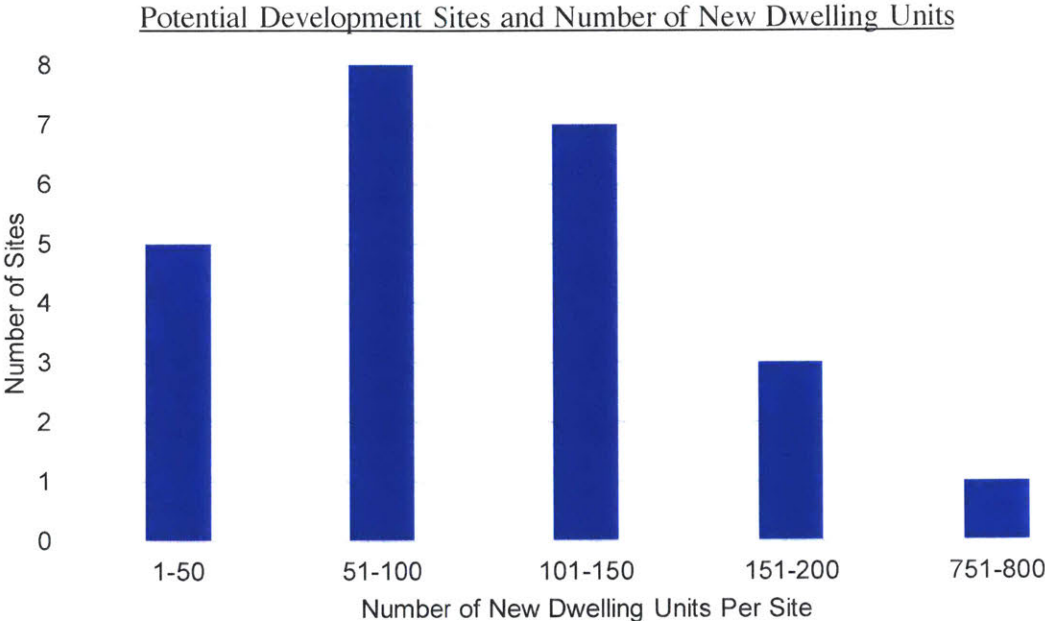
lot size and shape, whether there are existing businesses in place and whether the site will be subject to conversion from existing use to a new use. The final plan identified 102 development sites (68 projected and 34 potential) throughout the rezoning area. The map on the following page shows these sites. In the map, the projected development sites are shown in blue, while the potential development sites are shown in purple.

Projected and Potential Development Sites



Source: East Harlem Rezoning Final Environmental Impact Statement 2017

Based on available data, a sample of the final potential development sites as modified by the City Council reinforces the earlier point that rezoning would add a relatively small number of new units.



*Source: East Harlem Rezoning Post Final Environmental Impact Statement Technical Memorandum 003 2017*

As indicated in the chart, 84% of potential development sites are projected to add 150 or fewer new dwelling units. Three potential development sites are projected to add between 151-200 units, and only one site exceeds 200 units.

This data prompts two main insights. First, due to the scale of new development allowable under the new zoning, developers who can operate successfully at this smaller scale may be advantaged. For example, large market players may view the limited number of new units that

could be built on one site as not valuable enough to provide a return on investment. At the same time, smaller market players may be incentivized to enter the market at this scale, which also suggests that there is an opportunity for community-based or non-profit developers to compete and build new projects. Encouraging community-based or non-profit developers was mentioned as a goal specifically for city-owned property; however, it was not necessarily explicitly promoted as a policy goal for the overall rezoning.

To this point, a broader look at potential development sites demonstrates that there are large-scale projects proceeding outside the scope of rezoning. As mentioned in Chapter 4, several new and planned developments are underway, including:

- East River Plaza (Blumenfeld Development, Forest City Ratner) – 1,100-unit rental complex atop East River Plaza Mall (tenants include Costco, Target), percentage of affordable units to be determined
- Sendero Verde (Jonathan Rose, L+M) – 655-unit affordable project on city-owned site (analyzed as part of rezoning plan but considered a separate action)
- 321 E 96<sup>th</sup> Street (Avalon Bay) – 68 story tower with 1,100 rental units (30% affordable), 3 public high schools, ground lease on city property
- Gotham East (Blumenfeld Development) – as-of-right 11 story, 233-unit rental building with 20% affordable units
- Nearby, Harlem Whole Foods Market opened in July 2017 (no residential component, but often cited as a major draw for new residential development)



While both the East River Plaza and Sendero Verde projects are subject to individual ULURP review, the size of the developers engaging in these projects suggests that larger-scale players are taking advantage of the anticipated growth and value of the East Harlem market that is being facilitated by and reacted to in rezoning, but creating projects outside of the neighborhood rezoning process.

Second, the only potential development site exceeding 200 projected new units within the rezoning area is a publicly-owned parcel and currently the site of the NYCHA public housing. Spanning two blocks between East 126<sup>th</sup> and East 128<sup>th</sup> Streets between Park and Lexington Avenues, the site is immediately adjacent to both the Metro-North station and 4/5/6 subway station at East 125<sup>th</sup> Street and Martin Luther King, Jr. Boulevard. The inclusion of this site in the rezoning area highlights the stated goal of DCP to prioritize the transformation of Park Avenue and to capitalize on the connection to historic 125<sup>th</sup> Street and the larger Harlem neighborhood. The fact that there is only one large-scale site included in the rezoning area suggests that DCP's strategy is to continue to permit such projects through individual ULURP review, rather than attempting to initiate substantial development changes within the scope of rezoning. Choosing to leave large-scale projects out of the rezoning process reinforces the idea that the number of new residential units achieved through rezoning is limited in scale. However, allowing for large-scale projects to be negotiated at an individual scale may also advantage DCP and the community because public benefits and exactions from developers can be negotiated at a more specific level.

### **Political/Process Evaluation**

While the New York City Council has 51 members, the approval vote for rezoning typically is controlled by the member representing the area in question. As noted in *Crain's*, “recent tradition also gives local [City Council] members de facto veto power over land-use changes specific to their districts. For the most part, this has been the state of affairs since the early 1990s.” Thus, the influence of City Council Speaker Mark-Viverito featured prominently throughout the process. The themes critical to her eventual support of the rezoning were two-fold: the plan’s adherence to the East Harlem Neighborhood Plan, and the de Blasio administration’s commitment to associated public investments.

### **Conformity with East Harlem Neighborhood Plan**

The East Harlem Neighborhood Plan preceded the release of the city’s initial rezoning plan (an action formally known as certification of the ULURP application). The plan was developed over a two-year period following the announcement of East Harlem as a neighborhood for rezoning.

Ostensibly, the objectives from DCP and those contained in the East Harlem Neighborhood Plan were similar – for example, preserving the unique community of East Harlem, allowing for additional growth supported by infrastructure investments and preserving and maintaining affordable housing to reduce displacement. Yet, even with some common stated goals, *how* those goals would be achieved was typically where planning objectives and the Neighborhood Plan diverged. For example, in terms of preventing displacement, DCP argued rezoning for additional density was better than the status quo, which would allow for development to occur without any affordable housing requirements. The harshest critics of rezoning argued that any rezoning

would result in displacement and that preventing displacement should be achieved only through strict housing preservation measures and affordability requirements.

Conformity with the East Harlem Neighborhood Plan was used as a bargaining tool throughout the process. Every iteration of the rezoning plan was directly compared to the East Harlem Neighborhood Plan, and opponents of rezoning successfully used it to achieve reductions in height and density at each major approval stage.

The East Harlem Neighborhood Plan itself was a new experiment in the sense that its creation took place independently of DCP. While other rezoning processes have typically produced a new neighborhood plan concurrently with a rezoning proposal, the East Harlem Neighborhood Plan process took place prior, and DCP intentionally kept distance to provide for neighborhood ownership of this portion of the process. Given that the process was spearheaded by her office, the creation of the plan is a reflection of a leadership and strategy decision made by City Council Speaker Mark-Viverito and speaks to her role as a mediator between the community and the administration.

Bifurcation of the two processes was beneficial in the sense that it created conditions for the community to assert its priorities early on. However, it also set the stage for the rezoning process to be compromised. While DCP argued that it modeled its plan from the East Harlem Neighborhood Plan, any discrepancies between the two documents contributed to mistrust in the process. (Where the plans did deviate, the argument was typically that the rezoning plan was attempting to provide the most objective and appropriate type of density, based on planning



rationale and evaluating infrastructure in the area.) DCP indicated that in retrospect, it would consider more substantial participation in the development of the East Harlem Neighborhood Plan to try to pre-empt some of the later disagreements over height and density.

*Commitment to Associated Public Investments*

The rezoning process became the forum for several community concerns that were related, but could not be directly controlled by the mechanism of rezoning. As one DCP planner noted, rezoning became associated with problems people were already having in the neighborhood. Often, attempts to address these concerns fell under the jurisdiction of agencies other than DCP. For example, the principal concern around displacement of existing residents pressured the city Housing Preservation and Development (HPD) department to develop a new preservation plan aggressively targeted at keeping existing housing stock in the neighborhood affordable. Similarly, Speaker Mark-Viverito advocated for related commitments, such as permanent affordability for 100% of units developed on any city-owned sites, incorporation of community-based and non-profit developers in HPD projects and investment to improve NYCHA properties.

The first 17 commitments contained in the de Blasio administration's letter outlining associated public investments are all programs or initiatives related to the preservation or development of new affordable housing beyond the scope of the rezoning itself.

Excerpt from Mayor’s Commitment Letter

Preserve Affordable Housing .....
1. Keep homes affordable by continuing to offer loans and tax incentives to building owners .....
2. Continue promoting programs that help owners make repairs and preserve affordability .....
3. Pilot a Landlord Ambassadors Program to provide technical assistance to East Harlem property owners.....
4. Fund and support the East Harlem/El Barrio Community Land Trust .....
5. Implement the Neighborhood Pillars Program to help community organizations acquire rent stabilized buildings
6. Invest in capital improvements in New York City Housing Authority (NYCHA) developments within East Harlem..
7. Continue to improve housing quality through rigorous enforcement of the Housing Maintenance Code .....
8. Continue to provide free legal representation to East Harlem tenants facing harassment.....
9. Educate tenants about their rights and resources to prevent displacement .....
10. Continue to work with the Tenant Harassment Prevention Task Force to investigate and take action against landlords who harass tenants .....
11. Establish a “Certificate of No Harassment” (CONH) Pilot Program .....
12. Include East Harlem in the new “Partners in Preservation” initiative to develop a comprehensive anti-displacement strategy for the neighborhood .....
Develop New Affordable Housing.....
13. Prioritize the development of over 2,600 affordable homes on publicly owned land.....
14. Prioritize additional public sites for affordable housing development .....
15. Continue to offer financing to incentivize the development of affordable housing that exceeds minimum MIH requirements .....
16. Support mission-driven groups interested in developing affordable housing on underutilized sites.....
17. Explore opportunities to finance the development of affordable artist housing.....

*The leading commitments by the Mayor’s office represent efforts outside the power of the rezoning mechanism itself to preserve affordable housing. Source: East Harlem Points of Agreement Letter dated November 21, 2017*

Also of note is that all of these public investments rely on the public sector to fund and administer. The only requirement on the part of the private sector exists within the new MIH requirement that a portion of new units be made affordable.

### *Effect of Timing on the Final Plan*

An additional element heavily influencing the final plan was the timeframe for ULURP review combined with the Speaker's departure from office due to term limits. In order to provide Speaker Mark-Viverito with the opportunity to vote on the final plan before she left office, the beginning of the seven-month statutory timeline for ULURP review could not be delayed past April 2017. Furthermore, as opposition built following the recommendations of the Community Board and Borough President, the plan continued to be pushed back. "Politics undermines policy and planning," noted one participant in a public hearing, opining that last-minute changes in the plan were not necessarily substantiated by planning rationale but rather seen as necessary to provide sufficient justification for decision-makers to vote in favor of the plan.

### **Strategies for Future Processes**

Observations of the public process revealed the following five key takeaways, and suggest how various actors may adjust their strategies for future rezoning processes.

First, one of the primary points made by rezoning opponents concerned the difference of approach between the East Harlem Neighborhood Plan and the final rezoning plan. Specifically, the East Harlem Neighborhood Plan proposed a larger rezoning area with smaller increases in density throughout, while the final plan had a smaller rezoning area with higher densities. While the former approach was deemed unlikely to provide sufficient economic incentive for development to occur, the ultimate rezoning plan was successfully challenged in that its final densities limited the height of new potential buildings to what exists today (30-35 stories). This standard may carry through in future rezonings of neighborhoods with an established built form.

Second, DCP's strategy of staying distant from the creation of the East Neighborhood Plan functioned as a "double-edged sword," and it is unclear whether the advantages outweigh the disadvantages of not taking a more active role in this process. For example, had DCP gotten involved earlier on, some of the discussions around height limits and density could have occurred earlier on and outside of the higher-stakes votes toward the end of the ULURP process.

Third, a related disadvantage in the East Harlem process was that the timing of announcing public investments did not always coincide neatly with ULURP milestones. This was primarily due to the need for additional resources to coordinate with other city agencies who have the primary responsibility for matters that could not be addressed by the zoning mechanism itself. In the future, DCP's ability to coordinate with other agencies and develop a comprehensive package of public investments and commitments could have functioned to bolster the initial rezoning proposal and limit concessions made throughout the process. While the rezoning approval vote was contingent upon this commitment letter being issued, there is no binding legal requirement for the mayor's office to implement the actions (though there is a political capital cost to not following through).

Fourth, from a community stakeholders' perspective, in the public hearing process, participants tended to fall into one of two blocs – those opposed to any rezoning, and those willing to negotiate. Additionally, compared to the previous rezoning process for East New York, the East Harlem process drew additional interest from residents in other neighborhoods. Residents in neighborhoods that had already been rezoned or that were in the pipeline began to form

coalitions to oppose all rezonings in all neighborhoods. The extent to which the two blocs collaborate to further leverage their positions could play a larger role going forward.

Finally, notably absent from testifying during the public process were real estate developers. It is difficult to ascertain exactly how the industry exerted influence on the process, and whether it overall played more of a passive role simply observing how the final negotiations unfolded.

Interviews suggested that as the plan neared its final approval, select players in the industry were consulted for input by the Speaker's office. However, these conversations would all have taken place outside of public forums. In this way, the structure of the rezoning process advantages the industry because they have found alternate means of potentially influencing the process – which leads to more mistrust on the part of some community members.

Ultimately, as Manhattan Borough President Gale Brewer noted, the process “requires trust building and a deep knowledge of constituencies.” However, in the release of the updated *Housing New York 2.0* plan in November 2017, the concept of rezoning is barely mentioned and no neighborhoods are named, reflecting the challenge that the administration faces in pursuing the future rezonings needed to accomplish its policy goals.



## Chapter 7: Conclusion

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As one participant in the process noted, the East Harlem rezoning could be considered successful simply for the fact that it achieved approval. Together with the approved rezoning plans in East New York and Far Rockaway, the three plans are projected to result in a net increase of 15,486 new residential units. This number represents nearly 20% of *Housing New York's* original goal for construction of 80,000 new residential units.

However, the increasing controversy associated with each neighborhood rezoning process since *Housing New York's* release in 2014 suggests that the de Blasio administration must be that much more strategic going forward in its selection of neighborhoods for rezoning and timing of such announcements. The initiative's original goal of rezoning up to 15 neighborhoods in 10 years is unlikely to come to fruition, simply due to the city resources, political capital and time needed to successfully shepherd each rezoning plan through all necessary public approvals.

Additionally, comparing the number of new residential units permitted under rezoning to a status quo, "no action" scenario suggests that rezoning is a limited tool for building new residential capacity. Consider that the East Harlem rezoning plan projects a net maximum increase of 2,682 new residential units over a 10-year time period. The city's analysis indicated that with no rezoning action, the neighborhood would be projected to add 2,472 new residential units over the same 10-year period. This comparison suggests that the impact of rezoning is not to dramatically increase the number of new residential units to be built, but rather to require that a portion of those new residential units are affordable to certain income levels.

Indeed, some of the biggest projects in East Harlem are proceeding outside of rezoning, suggesting that market players in the area prefer to either build as-of-right (utilize the existing zoning on sites), or are willing to take their chances negotiating for additional density on an individual project level (individual projects desiring a change in zoning can go through a fully discretionary ULURP review). Thus, the success of rezoning in adding new residential development will also depend on the interest of market players in building at the scale allowed under the new regulations, along with fundamental real estate market factors such as rent levels, interest rates, availability of capital, preference for real estate over other investments, construction costs and competing development projects in the area.

Going forward, four takeaways of the East Harlem process may figure prominently in future neighborhood rezoning plans in New York City. First, the development of a standalone neighborhood plan will be considered as a blueprint and necessary foundation to build community trust, prior to the release of the formal rezoning proposal. The pre-existing East Harlem Neighborhood Plan functioned as a critical means for opponents to compare the formal rezoning plan as well as to obtain commitments from the city in areas outside of rezoning. The Neighborhood Plan was also held up as a symbol that good faith discussions had taken place to establish neighborhood priorities, separate and apart from any rezoning that might occur. Since the deviation of the Neighborhood Plan from the rezoning plan set up many difficult negotiations during the rezoning process, DCP will accordingly be faced with a decision point as to whether to become more directly involved in the development of new neighborhood plans.

Comments from DCP have indicated that their level of involvement in the neighborhood plan may also increase if there is more time leading up to the release of DCP's rezoning proposal. Time constraints in the East Harlem process due to the Speaker's departure from office placed a hard deadline on when DCP's proposal needed to be released. Flexibility on the release date may allow for DCP to become more involved in the development of the neighborhood plan (perhaps lengthening the amount of time taken to develop the neighborhood plan).

Second, the final East Harlem rezoning plan established that new buildings would not exceed the height of existing buildings in the neighborhood. (This premise was not necessarily promoted by DCP, which had prepared several detailed massing renderings to show the various options for building heights under the proposed rezoning.) Though it may not necessarily be appropriate in all cases (for example, existing or planned infrastructure may support greater density), limiting the height of new buildings to what already exists in the neighborhood provides a simple, tangible and visual tool that is easy to understand and accessible to a wide variety of participants in the rezoning process. This limitation may become a standard or prevailing negotiating point, particularly for neighborhoods whose current built form is at a lower density.

Third, rezoning resulted in a new set of public investments, increased engagement and demand in the East Harlem neighborhood. Critics of rezoning were successful in leveraging their opposition to gain concessions from the city, memorialized in a comprehensive letter of commitments issued toward the end of the rezoning approval process. Though it remains to be seen how these commitments will be carried out, it is reasonable to expect that future neighborhoods undergoing rezoning will demand an accompanying package of public investments across several policy

areas – and that city agencies must be prepared to develop and present this plan earlier on in the process.

Finally, the role of a single City Councilmember in voicing support for or opposition to the plan cannot be understated. The role of Speaker Mark-Viverito in leading the development of the East Harlem Neighborhood Plan and acting as the lead negotiator for the plan's final iterations functioned to carry the plan across the finish line. The timing of future rezoning plans will undoubtedly take into account the current representative for the area and the types of pressures that may uniquely factor in, such as term limits, election cycles and existing neighborhood conditions.

Now that the rezoning plan has been approved, its impact will of course be measured by how the neighborhood will develop. When considering what causes neighborhoods to develop and how much of new growth can be attributed to zoning versus market demand, an area of particular interest is whether certain portions of the neighborhood will develop first or faster. For example, DCP emphasized the northern portion of the neighborhood at East 125<sup>th</sup> Street and Park Avenue (closer to the established Harlem corridor) as a priority growth area. However, the southern portion of the neighborhood at East 96<sup>th</sup> Street may be more attractive to developers wishing to capitalize on the cachet of the established Upper East Side neighborhood. Areas for future study could explore this question, as well as to evaluate how rezoning benefits are overlaid with approval of the new local 421a tax abatement program, which provides tax relief for developers constructing a portion of new residential units as affordable. (Since the implementation of the new 421a program, called Affordable New York, is unfolding, it is unclear whether developers

are allowed to take advantage of overlapping benefits provided by both MIH and tax abatement – though the affordability requirements in the new 421a program are at higher income levels than MIH.)

As noted by City Councilmember Donovan Richards, “the reality is there is no one simple answer to address every challenge [...] we need to use every tool and invent a few more” to address the city’s housing challenge. While it may be limited, rezoning will continue to function as a primary means for the city to attempt to house its growing population.

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