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## Planning NYC's next 50 years

*New York's real estate planning gurus tackle the next 50 years of zoning*

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By Leigh Kamping-Carder



Planning Commissioner Amanda Burden

This year marks the 50th anniversary of the city's comprehensive "Zoning Resolution," which dictated what types of development could go where.

The rules have undergone changes since taking effect in 1961, but in many ways, they continue to reflect the concerns of a prior era -- when the automobile was king, manufacturing a steady source of employment and the Internet a far-off dream.

"We are occupying a social realm that's different than [what] we constructed 50 years ago," developer Jonathan Rose, founder of the eponymous real estate firm, said at a conference last month organized by the Department of City Planning, the Harvard University Graduate School of Design and the Steven L. Newman Real Estate Institute of Baruch College.

As the Zoning Resolution passes the half-century mark, the kind of radical revamp that took place in the 1950s is not in the works. But city planners, academics and real estate professionals are crafting proposals that will shape the way developers build in the coming years: unlocking underused land, updating Midtown's aging office stock, incorporating sustainability, and redefining "mixed-use" in ways that blur residential and commercial districts.

### New proposals

Last year, for example, the Real Estate Board of New York submitted a request to the city that effectively calls for the "up-zoning" of Midtown.

Some of the older Midtown buildings have larger floor-to-area ratios than what is currently allowed, since they were grandfathered in under the pre-1961 code. Under today's zoning rules, building owners can make modifications to the structures, but if one burned to the ground, it couldn't be rebuilt at the same size, explained Jerold Kayden, an urban planning professor at Harvard. (Kayden cochaired the zoning conference with the chair of the City Planning Commission, Amanda Burden.)

That creates a disincentive for developers to demolish these aging buildings, and instead preserves structures ill-suited to modern office life, said REBNY chair Mary Ann Tighe. REBNY has advocated allowing developers to tear down existing structures and rebuild at the same FAR, an idea the planning department is analyzing.

It would not be the first Midtown rezoning.

In 1982, the city created the "Special Midtown District," a zoning distinction meant to shift development from the overbuilt eastern section of the neighborhood to the west and south. In parts of Midtown, the rezoning imposed limits on height and FAR, as well as protections for theaters; it also created different bulk and density requirements for development on avenues and mid-blocks.

“This city planning commission has been one of the most forward-looking, certainly in memory,” Tighe said in a brief interview. “They’ve got two more years to go, and I’m hoping in those two years they take this [proposal].”

Another priority for the city is sustainability, which was not a consideration for 1960s-era planners. Later this month, the commission will unveil a plan to strip the zoning code of obstacles to green building, making it easier for developers and building owners to add green roofs, solar panels and other environmentally minded features.

The city is also using federal funds to study East New York and the Bronx Metro-North corridor with an eye to improve transportation access and, in the case of East New York, identify potential land-use changes.

### **Bloomberg’s legacy**

New York has come a long way since 1916, when it became the first city in the U.S. to enact a comprehensive zoning law. At the time, New Yorkers had begun to protest the loss of light and air as taller buildings began to appear in Manhattan. The early rules called for height and bulk limits for buildings, and favored those that rose into slender towers, allowing light to reach the street.

By the 1950s, however, those rules were insufficient. After years of consultation and revision, the city passed the Zoning Resolution in 1961, with the overall effect of increasing allowable bulk in commercial districts, while protecting residential neighborhoods.

In the intervening decades, the city has made further additions and amendments, including introducing inclusionary zoning to encourage the construction of affordable housing, rezoning waterfront land to create parks (a priority for Burden), and requiring environmentally focused sidewalk features, such as street tree plantings and bicycle parking.

Mayor Michael Bloomberg and his administration, in particular, have actively wielded zoning as a tool to remake the city. Under Burden, the city planning commission has overseen 114 rezonings in areas like the Hudson Yards and Willets Point, covering almost 37 percent of New York’s land area. It’s by far the most extensive reshaping of the city in decades, according to Robert Steel, deputy mayor for economic development.

“Zoning is not planning,” Burden said at the conference. “Zoning is a tool to implement a vision and a plan.”

### **Mixing up mixed-use**

Despite the changes, however, some experts say the core of the 1961 Zoning Resolution is unsuited to the realities of modern life, and needs to be revisited. For one, critics say, it strictly regulates use at a time when property uses are becoming more fluid.

One example is the lobby of the Ace Hotel, where hotel guests lounge cheek by jowl with professionals busy at their laptops. “This is the world we’re moving into, a much more mixed-use world,” Rose said.

But the stringent restrictions of the 1961 Zoning Resolution -- which largely segregate neighborhoods into residential or commercial zones -- inhibit this trend, he said. (Another outdated rule? The prohibition on four or more unrelated individuals living in a single apartment.)

Advocates of “form-based” zoning, which has already been adopted in Miami, Denver and other U.S. cities, support an approach that weighs the characteristics of a development ahead of what it is used for, relying on standards for the physical form of buildings, rather than categories like “residential” or “manufacturing.” Even more elastic is “performance-based zoning,” which Kayden described as setting qualitative standards for buildings. Under performance-based zoning, for example, an industrial plant that meets proper noise, environmental and other controls could exist in an otherwise residential neighborhood.

Of course, this idea doesn’t sit well with everyone.

“I believe in mixed-use, but only to a certain extent,” said Brendan Aguayo, director of development at Brooklyn brokerage Aguayo & Huebener Realty Group. If a neighborhood is residential, it should stay residential, and if a neighborhood is commercial, it should stay commercial, he added.

No proposals to adopt form-based zoning are currently on the table in New York, but its influence is being felt here. The planning director who oversaw Denver’s zoning transformation, Peter Park, now a professor at Harvard, spoke about his

experiences at last month's conference, for example. And, others think the city is on the brink of making changes.

"I wouldn't be surprised if the city loosens up use restrictions," said Harvard's Kayden.

For Paul Goldberger, the architecture critic for the New Yorker, it is also worth remembering the limits of zoning, and the effects of "serendipity" on transforming the landscape of the city. After all, he said, the streetscape provides its own template. "We don't start with a blank canvas," he said.

"The final challenge of the 21st century has to be to keep in mind that [New York's] physical form needs to be managed and guided, but that it cannot be wholly controlled by planners," he said. "Nor should it be."

## **Zoning success and failures**

Cities use rezoning to nudge development in one direction or another, or to achieve policy objectives such as creating more housing or protecting certain industries. But not all rezonings accomplish the desired effect. Here's a look at some of New York City's zoning successes and disappointments.

### **SUCCESS STORIES**

#### *Midtown Special District, 1982*

These specialized zoning rules allow for major retail stores on Fifth Avenue and protected landmark theaters in an entertainment subdistrict around Times Square. Experts credit these rules with helping to transform the once seedy square into an international destination, and fostering development further west.

#### *Downtown Brooklyn Special District, 2004*

Since the City Planning Commission won approval to increase the allowable floor-to-area ratio in Downtown Brooklyn, more than 1 million square feet of commercial space and more than 4,200 residential units have been added (or planned) in the city's third-largest business district.

#### *West Chelsea, 2005*

The signature feature of West Chelsea's redevelopment -- prompted by a rezoning from light manufacturing to commercial and residential use may be the former railway tracks, which is now, of course, an elevated park known as the High Line. But no less transformative is the \$2 billion that private investors have plowed into this 16-block area.

### **LETDOWNS**

#### *Garment District, 1987*

Intended to protect New York's apparel production industry, the Garment District's zoning rules restrict the conversion of industrial buildings to residential, office or hotel use in this swath of the West 30s. But critics say the zoning is outdated because it ignores the market's demand for office space, and also depresses rents.

#### *Fourth Avenue, Brooklyn, 2003*

The city rezoned Park Slope's stretch of Fourth Avenue in 2003 (enlarging the rezoned area in 2005) to allow for 12-story buildings in the formerly low-rise corridor. Condominiums and hotels have sprouted along the avenue, but the area has failed to become the vibrant streetscape once imagined. Now, the City Planning Commission is recommending a 56-block-long, enhanced commercial district that would require ground-floor retail, which was absent from the last rezoning.

### **TO BE DETERMINED**

#### *Greenpoint-Williamsburg, 2005*

Rezoning 200 blocks in North Brooklyn from manufacturing to residential use paved the way for the development of 10,000 new housing units. So far, 3,600 units have been built many of them on the eve of the market crash, leading some observers at the time to predict a condominium glut. But just because the area's real estate market is on more solid footing, that doesn't mean its future isn't being watched as closely.