

Reforming the New York City Zoning Resolution

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I want to begin by thanking all who are here for having taken time from your busy work schedules to come to an address entitled "Reforming the New York City Zoning Resolution." There are many who would find the subject of reforming the city's land use regulations less than absorbing. But as this audience knows, New York City's zoning ordinance is the central document shaping how our city grows and evolves.

It might be worth pausing at the start of a talk about zoning, to respond to those who will inevitably mouth the cliché, "New York's problem is that we confuse zoning with planning." The answer is simply, "No, we don't." New York City didn't emerge as the economic and cultural capital of the world overnight, or by accident. Several centuries of close collaboration and farsighted investment by the public and private sectors created this extraordinary place. No other city in history has ever spent as much time and effort trying to understand itself or create infrastructure and adopt policies to provide for future prosperity. To be sure, we have at times made serious mistakes and missed opportunities, but the sustained record of vision, leadership, and innovation of New York city's public officials, private entrepreneurs, and civic-minded citizens is remarkable. We have planned from our very conception and we will continue to do so.

At this point in our history, zoning is a fundamentally important tool in our effort to shape the kind of city we want to have, and is far more significant than any "master plan" could ever be. Why? Because New York City is already built out to its edges, with most of its critical infrastructure systems and land use patterns already in place. We change, not in sweeping ways, but organically, as a result of the reuse and redevelopment of individual properties. And no developed urban place in the world sees as much reuse and redevelopment as we do. The zoning resolution is our main method of managing and channeling that redevelopment and I have asked you here today because it is in crisis.

We are in crisis because this crucial document has become a hodgepodge of conflicting visions and objectives. Because the zoning is in many cases neither predictable nor comprehensible, it has become discredited in the eyes of the public. It is perceived to be the tool of those who manipulate it to achieve whatever result they or their clients want, regardless of the drafters' intent or the public interest. This apparent malleability has also unfairly undermined confidence in the overwhelmed public officials charged with interpreting and enforcing often-ambiguous rules.

We are in crisis because in many instances our zoning promotes an architectural vision that does violence to our urban fabric.

We are in crisis because we try to micromanage the world's most vital and varied urban economy with regulations that were drafted 40 years ago. As a result we have page upon page of anachronistic rules but often nothing to address new problems. Some communities are unprotected. At the same time, the over 900 pages of current zoning are full of traps for innocent businesses and property owners who wish to make investments that would be welcomed in any other American municipality.

And finally, we are in crisis because there are those who would use these evident deficiencies in the zoning resolution as an excuse for discarding the essential character of New York City: the openness to change and the welcoming of new people, buildings, businesses, and ideas. Under the guise of writing a new zoning resolution, they would slam shut the door and refuse to accommodate the ongoing growth and evolution that has allowed New York to thrive, while so many other older American cities have entered an era of decline.

It is precisely the fear of playing into the hands of such conservative tendencies that has stopped responsible government agencies most familiar with the shortcomings of the zoning resolution from undertaking significant reform. These are, in fact, reasonable fears. For most of our municipal officials, it has been far safer to muddle through with our existing flawed document than to risk opening the Pandora's box of zoning reform.

It is thus, not without some trepidation that I initiate this discussion. But, after more than five years as chairman of the New York City Planning Commission, and a combined two decades

in the land use field as a public official, housing advocate and Community Board Chairman, I am convinced that meaningful zoning reform can no longer wait. Further delay would allow continued damaging manipulation by those indifferent to the general consequences of their actions; the avoidable degradation of valued neighborhoods; lost opportunities for needed economic growth; and the possible eventual subversion of New York City's core values.

Let me begin, then, with a clear statement of the basic principles that we have a right to expect from our zoning:

1. Zoning must be predictable. Similar circumstances should produce similar results. That does not mean that all buildings should look alike or that all uses should be uniform. But potential outcomes in a given zoning district should produce a consistent level of impact on the surrounding community.
2. Zoning should be comprehensible. Any reasonably intelligent and diligent individual should be able to understand the range of possibilities that zoning permits on a given plot of land and the rationale for the regulatory framework.
3. Zoning must accommodate growth and change. It is essential that zoning provide the opportunity to develop residential, commercial, and industrial buildings and community facilities to meet the future needs of the city's expanding economy and dynamic population.
4. Zoning should respect the urban fabric and protect the quality of life. Neighborhoods should not be overwhelmed by inappropriate development.
5. Zoning must be enforceable. We must be realistic about the regulatory burden we impose on our economy and on those who enforce our rules. If we expect zoning violations to be taken seriously, we must respect the legitimate signals of the marketplace and not waste scarce administrative resources trying to squash the new without sound reasons.

I am certain we can achieve these results if we are prepared to make dramatic reforms to our current zoning resolution. There are some who will find that statement disappointing because they would like to discard the entire 900-page document and start from scratch. Every few years someone suggests we appoint a panel of distinguished citizens to conduct a high-minded debate on how to draft new zoning. Such an effort would be futile and unnecessary. The last time this was tried it took two decades and produced a document with all the flaws that we must now correct. Those calling for a new zoning resolution do so for many different reasons—some of which are obviously in conflict. Starting from scratch would lead us into a quagmire from which we might never emerge. Many aspects of our current zoning work well. New York doesn't need a new zoning resolution, only a better one. We know the key issues that create anachronistic and ineffective zoning, and they can and should be addressed now.

To understand how best to fix our zoning, it's worth taking a moment to review how we arrived at our current situation. New York City has always been a pioneer of zoning innovation. Our 1916 ordinance was the first comprehensive effort in the nation to employ height, lot coverage and use restrictions to create a proper balance between demographic and economic growth and an improved quality of life. The 1916 zoning ushered in the city's great building boom of the 1920's and established the physical characteristics of most neighborhoods. The quality of the housing stock dramatically improved and we emerged with the familiar uniform streetscapes of Broadway, Central Park West, Park Avenue, Ocean Parkway, and the Grand Concourse. The 1916 zoning allowed for the construction of beloved commercial monuments like the Chrysler, Daily News, and Empire State Buildings, while also establishing the consistent scale of most of the city's low-density communities.

But while the 1916 zoning must be judged a great success, it had its failings. It permitted densities that would be intolerable today (in Floor Area Ratio terms yielding residential buildings of over 20 FAR and commercial buildings in excess of 30 FAR). Subsequent calculations indicate that at full build-out it would have sanctioned a city of 55 million residents. The aesthetics of the 1916 zoning worked fine for the grand apartments of the wealthy that could tuck butler's pantries and maid's rooms off back alleys, but did not serve as well for constructing high density middle class housing. Similarly, while the 1916 resolution provided great protections for wealthy neighborhoods and carriage trade businesses, it permitted an extremely wide range of uses in less affluent areas, subjecting most of the city's residents to far more adverse environmental conditions than any New Yorker experiences today.

So, in 1961, a half century later, New York enacted a comprehensive rezoning which dramatically reduced allowable densities (cut by 80%) to address "overbuilding and congestion," introduced provisions for the ubiquitous automobile, and deliberately introduced incentives to create a more open city. Despite exuberant input and initial support from a broad-based civic coalition, the new 1961 zoning soon came under attack for its destructive practical consequences.

In fact, many of the problems we confront in zoning today derive from tentative and haphazard attempts to correct some of the structural mistakes that were made in 1961. Our present regulatory morass is the result of hundreds of amendments that nibble at the flaws of the original document. But despite numerous changes, the 1961 zoning still governs large swaths of the city, at least as one of several regulatory schemes. Our current predicament is that our zoning resolution has a discredited underlying vision, tempered by a series of quick fixes of varying effectiveness, for a city that was mostly built under a completely different set of regulations. No wonder we're confused!

Before I proceed to describe our agenda for structural reform, we should acknowledge the key success of the 1961 zoning. It established an appropriate hierarchy of densities, radiating out from the Manhattan core to the city's vast outlying neighborhoods of small homes. These densities broadly match the carrying capacity of our infrastructure and offer New Yorkers a wide range of living environments to choose from.

There are some who will object to the assertion that, by and large, the densities established by the 1961 zoning are appropriate. They will mistakenly argue that zoning is allowing the city to become intolerably dense, taxing the infrastructure, and ruining the character of our neighborhoods. But the facts clearly refute such a view: New York City's population has been stable for almost fifty years. Even adding a half million to the current official Census Bureau estimate of 7.4 million New Yorkers would put us at essentially the same population we had at our peaks in 1950 and 1970. Similarly, our employment is still a few hundred thousand jobs below the 1969 peak of 3.8 million. Even the Upper East Side of Manhattan, the densest area of the United States, has considerably fewer residents than it did several decades ago. Density is not the problem.

What then has been going on? The answer is that while our population has not grown, we have more households of fewer people on average than we did before. Average household size dropped from 3.2 in 1950 to 2.5 in 1990, and the number of households increased by half a million. A more affluent population wants larger bedrooms, bigger kitchens, more bathrooms, and better electric service; things taken for granted in the rest of the country. We are encountering an equivalent phenomenon in commercial development where in the past three decades the average worker's space requirements have expanded from 125 square feet to 250. Businesses are also seeking higher standards of finish, amenity, and unobstructed floor plates that can usually be best achieved in new buildings.

Thus, our housing and business places are being modernized without expanding our population or job base. And it is essential that this continue. If the city is to thrive people must have adequate housing choices and businesses must have room to grow and create the jobs we need. There is no need to apologize for our present urban density.

The reality is that New York City is among the most benign arrangements for accommodating large numbers of people in a complex, prosperous, and sustainable environment ever achieved. That is why people of all income levels from all over the world continue to come here. In short, New York needs more development, not less.

But supporting development does not mean that the City should be indifferent to how and where development occurs. And it is on this subject that the 1961 zoning failed egregiously. The 1961 zoning imposed an aesthetic regime of a "tower-in-the-park" which has proven to be a fundamentally flawed, anti-urban and anti-New York concept. Indeed, this aesthetic was under siege from the moment it went into effect. At the same time that New York City unveiled its preferred architectural vision of towers surrounded by often-sterile open space, critics of the urban renewal aesthetic were just finding their voices. It did not take long for most New Yorkers to discover that something had gone seriously wrong.

Of course, tall tower buildings are not in and of themselves bad and the best have become some of our city's most beloved icons. However, we have learned some painful lessons. One lesson is that the visual disorientation of urban towers needs to be ameliorated by a well-designed base that relates to the traditional cityscape. Another lesson has been that the

concept of providing incentives to real estate developers to provide public open space on private properties produces largely unsatisfactory results. This is especially true in residential neighborhoods, despite repeated attempts at reform.

A third lesson of the post 1961 era has been that views have become so prized that we unleashed an intense desire for building height without regard for neighborhood character or scale. Each new building tries to achieve better views by being taller than the last. The consequence has been a powerful inducement to break away vertically as far as possible from the neighborhood pack. While there is nothing wrong with nice views, it is not necessary to have a city shaped by a desperate grab for them.

Of course, we have known all this for a long time. We have tried so hard to address the failings of the tower-in-the-park concept in a subtle and politically shrewd manner that we have tied our zoning up in knots and left ourselves prey to all sorts of chicanery.

What then are we to do? Most of us may agree that a tower 900 feet tall is far too much in a residential community, but achieving consensus on what should be permitted is not always easy. Sound new zoning must balance the flexibility to allow innovative design with a respect for community character. It must also permit developers to build profitably (or else there will be no building) and to produce products that consumers desire.

Well, I have concluded that the time has arrived to stop being subtle. We are going to drive a stake through the heart of tower in the park zoning and its trail of exceptions, caveats, and interpretive gymnastics. The Department of City Planning will shortly propose a new, unified set of bulk regulations for middle to high-density development wherever the 1961 rules still apply. The unified bulk standards will replace the current overlapping regulations we now have with a simple set of workable, predictable rules. They will establish clear height limits for all zoning districts outside the central business districts and they will address how buildings relate to the street, where the public has most of its contact. We will permit suitable towers and design flexibility, but prevent out-of-scale development.

For New York City, height limits are a radical step, but they are clearly needed. In the past, the Department of City Planning has opposed height limits as an unwarranted intrusion on building design. Some people, aware of our longstanding position, have suggested limits on "zoning lot mergers" as an alternative means of effectively limiting height. But such an effort would, at best, introduce more complexity and arcane formulas to keep zoning lawyers busy for years to come. We should approach our objective by a direct and effective means.

We can simply and quickly draft zoning to deter the worst attributes of recent building. But far more difficult is the challenge of trying to encourage new buildings to be better. We must be careful to avoid becoming a city that celebrates context over innovation, the past over the future. In recent years, New York's elites and civic groups have embraced a historicist aesthetic a little too enthusiastically. This is not Colonial Williamsburg and the world's greatest and most dynamic city should be a hospitable environment for bold new structures. It would be a tragedy if our unified bulk regulations were to suppress the next generation of great buildings—the Rockefeller Centers, Lever Houses or Seagram Buildings of tomorrow. Instead of cloaking ourselves only in the architectural garb of the nineteenth and early twentieth centuries, we must be able to add to our built environment the best of the early 21st century as well. But encouraging good new architecture in the economic, political, and regulatory climate of New York City is a daunting task.

I will now describe the one deliberate exception to our new height and bulk rules. The public process should be able to grant waivers from some regulations on the basis of exceptional design. Let us instill the quest for beauty into the powerful economic drive of this city's real estate entrepreneurs. If that extra height is so important, let it be it the developer's architect who earns it, not his lawyer.

Unfortunately, the public sector everywhere has a pretty dismal record when it comes to involving itself in subjective aesthetic decisions and the subject is fraught with practical and legal pitfalls. But if we can bend over backward on behalf of great old buildings, I am confident we can figure out how to do so for great new ones too. To that end, (and hopefully to avoid the mistakes other cities have made in this area) I will be convening an advisory body to help us figure out how we can prudently introduce such values into our zoning.

Of course, runaway heights and undistinguished architecture are not the only symptoms of New York City's zoning crisis. We have other major problems that we should confront as well.

Antiquated parking rules inflict needless hassles and cause avoidable congestion when reasonable rules can accommodate New Yorkers' cars. It's time to adapt zoning to the realities of the automobile, even in a city as dense and transit-oriented as New York.

New York is the only American city, actually, the only major world city, that does not permit downtown residences to provide parking for residents who own cars. In much of Manhattan, new developments may not exceed one space for every five new apartments.

The endless search for a legal spot on the street and the \$450 garage space are at least as much a result of zoning as an unavoidable phenomenon of urban life. Our rules were introduced in 1982 to reduce the number of cars entering the central business district by reducing available parking. It didn't work. The number of parking spaces is down 10 percent while car use and ownership are up. After extensive study, we have decided to adopt a more realistic approach that continues to discourage automobile commuter parking but better reflects car ownership patterns in dense neighborhoods. We will also update our parking requirements in lower density areas to insure that auto-oriented businesses like movie multiplexes provide enough parking to avoid having their patrons cruise around adjoining residential areas.

Community facilities present another subject of zoning that demands substantial reform. The 1961 zoning established the most liberal regulations in the nation for schools, colleges, universities, houses of worship, hospitals, and medical offices. They are widely permitted in residential districts and are usually allowed to be much larger than neighboring homes. An ill-advised 1974 zoning amendment subsequently banned all these institutions from our underutilized manufacturing districts on the curious and untested theory that they were a threat to industrial businesses. The result has been that market forces have channeled the immense growth of these uses into vulnerable residential neighborhoods. Our zoning has assisted in transforming treasured community assets into looming threats.

Common sense requires us to restore some balance by imposing necessary use, bulk and parking regulations to lessen the adverse effects of community facilities on residential neighborhoods. At the same time, we will reopen manufacturing zones to these uses. Though some may believe community facilities should not be permitted at all in residential areas, that would be unworkable. Many of these uses need to be near residential areas and there simply is not enough space available or affordable in commercial zones. But it is true that some of the more commercial enterprises, like medical offices, can be guided to cluster in neighborhood office buildings. That would be a realistic expectation once we update our commercial district regulations.

Like many other of its provisions, the zoning resolution's commercial regulations have not kept pace with the evolution of the city. We still essentially rely on exhaustive lists of businesses from the 1950's to tell us what is allowed to go where. These lists make for amusing reading but often don't offer meaningful guidance to a modern economy. We have detailed descriptions of where we can accommodate something called a "frozen food locker," but nothing on how to treat computer, video, or even telephone stores. For five years I have been wondering what was intended by the dictate that some auto service stations must only use "hand tools." Not surprisingly, many of our rules are often ignored. There are now more than 15,000 perfectly harmless businesses operating in locations where they are theoretically in violation of the zoning. Most of them are blissfully unaware of their outlaw status.

Current regulations impede small business activity and undermine attempts at enforcement against real nuisances. Unnecessary restrictions make it impractical for doctors or local service businesses to locate on the second floors of neighborhood commercial buildings. The result is that medical offices are pushed into nearby residential areas and service businesses to the suburbs. For the first time in forty years we are proposing a comprehensive revision of the commercial use rules. Instead of trying to micro-manage these uses block by block with not much success, we will create broad categories of businesses according to their size and impact. Let us worry about auto repair and poultry slaughtering; we can leave the musical instrument repair shops and children's play spaces alone.

Updating the commercial use regulations makes obvious sense; but one might well wonder whether it is really possible. Our recent record of rationalizing commercial regulations in manufacturing areas has been a deep disappointment. While this issue has languished in political limbo for several years, not a single application for permission to build a supermarket or any other regulated large store has been approved. Meanwhile, New Yorkers continue to

drive millions of miles each year, and spend billions of dollars, to shop in the suburbs. Our elected officials must join in rising to the occasion to allow supermarkets and other large stores to serve and employ New Yorkers without having to become enmeshed in years of bitter local political battles.

As a final observation, I should point out that not every zoning problem is the fault of our beleaguered ordinance. Our powerful economy creates great incentives to overlook inconvenient laws. The strict billboard regulations we have along arterial highways have been thwarted by ridiculous subterfuges and a casual disregard for rules we have only a limited ability to enforce. We will not sit passively as the city is bombarded with illegal and inappropriate signs. In cooperation with the City Council we will quickly enact new regulations that shut loopholes and give teeth to our enforcement efforts.

The problems of enforcement are not just limited to signs. As many of you know, the difficult task of enforcing the city's vast, contradictory, and ambiguous zoning resolution falls not to us at City Planning, but to the Department of Buildings. The many changes I have outlined today will make their task easier, by providing clear direction and ensuring that prohibitions exist for a substantial and defensible reason. Stripping away obsolete and unworkable provisions, will make the zoning resolution more accessible to the public, who can then assist as the city's "eyes and ears" in reporting zoning violations. Under today's rules, a citizen would have to be a zoning junkie to have any chance of knowing whether or not a given use or building complied with the law. A lean and straightforward set of regulations will ultimately benefit all of us, in our private, public, and civic endeavors.

I have laid out a long and ambitious agenda, and you have all been very kind to listen patiently as I unveiled it. I will not take further advantage of your tolerance. But, in conclusion, I do want to address the question of implementation. Everything I have spoken about this morning is, or will soon be ready to enter the public review process. There is no reason we can't put most of these reforms in place within twelve to eighteen months. Of course, we will have extensive discussions and much opportunity for public comment in the coming months, and our proposals will be refined by that rigorous process. If we all approach this effort with a constructive and cooperative outlook, we will soon emerge with a zoning resolution suitable for a new millennium.

On the other hand, if we succumb to the myopic, partisan, and intolerant attitudes that are the less attractive side of our political and civic, and entrepreneurial cultures, we will squander the opportunity for meaningful reform. I indicated earlier that I was aware that I might well be opening Pandora's Box. I have done so because I think the state of our zoning warrants it and because after two decades of intimate involvement in the New York City's land use process, I am convinced we have the capacity to solve problems together. But I am also not naïve. I have mentioned several of the pitfalls and challenges these proposals are likely to encounter. I am sure there are many more I cannot anticipate. We will approach the coming debate with an open mind and a commitment to listen. But if the process becomes destructive and is hijacked by those who would consciously or not threaten our city's future, I will abort the zoning reform and discard these initiatives.

As the Chairman of the Planning Commission and Director of the Planning Department, my job is to keep an ear tuned to the small quiet voice of the city's future population and their interests, even in the face of deafening roars from those who are here now. More than eighty years ago our predecessors turned to zoning to shape the future of New York City. Those of us here today enjoy the benefits of their wisdom and concern for our well being. We can repay them by following their example of thinking not just of ourselves, but also of those who will come after us. Good zoning requires a careful balancing of competing needs and time horizons. That is a difficult task, but we are up to it. Thank you.