

The City College of New York

INWOOD REZONING PROPOSAL REVIEW AND REPORT

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INWOOD REZONING PROPOSAL Review and Report

Introduction

A CCNY collective of faculty members representing the Spitzer School of Architecture's J. Max Bond Center for Urban Futures, The Colin Powell School for Civic and Global Leadership and the Center for Worker Education has reviewed the TECHNICAL MEMORANDUM 001 INWOOD REZONING PROPOSAL CEQR No. 17DME007M ULURP Nos.: 180073MMM, 180204 [A] ZMM, N180205 [A] ZRM 180206PPM, 180207PQM, and 180208HAM dated April 17, 2018. FEIS issued June 14, 2018. The City College of New York was asked by New York City Council Member Ydanis Rodriguez to review the Inwood Rezoning proposal and a Community Board 12 - Manhattan Resolution, dated March 21, 2018. The College responded by assembling a team of researchers and research assistants to review documentation to date and that which was issued after March 21, 2018. The time frame allotted for the review and report was approximately 12 weeks. The College was asked to report findings obtained from the documentation listed above as well as consider available information from community advocates, groups, and associated NYC rezoning proposals. This document reports on these findings as well as presents methods of review and analysis and mechanisms that may be considered for use in future planning, addendums and or negotiations toward achieving a holistic and balanced future rezoning plan for Inwood.

Premise

The goals contained within the INWOOD REZONING PROPOSAL, dated April 17, 2018 represent numerous policies and initiatives toward intelligent urban densification, increasing the provision of housing, economic opportunity, community services, physical and cultural preservation and advancement. Following several other New York City wide rezoning initiatives pursued under the de Blasio administration and before that the Bloomberg administration, the proposal represents a similar structure and framework in addition to incremental modifications addressing current development and economic trends as well as the specificity of the Inwood community and context. For more information on the Inwood Community see <https://www.osc.state.ny.us/osdc/rpt2-2016.pdf> *An Economic Snapshot of Washington Heights and Inwood, by Thomas P. DiNapoli New York State Comptroller Kenneth B. Bleiwas Deputy Comptroller*. However there has been and continues to be insufficient collection and or access of evidence and or historical data for our purposes to confirm that the rezoning frameworks adopted and those acted upon throughout the city have resulted in equitable distribution of economic opportunity, affordable housing, public services and or mitigated against business and residential displacement. The lack thereof of available empirical evidence that the proposed and adopted rezoning fulfills stated goals and correlates with either DEIS and or FEIS or corrects for real externalities also complicates validating current policies and the associated new rezoning proposals. With regard to local environmental economics this also indicates an immediate future need for further related data collection and analysis such as an economic / social cost-benefit analysis for example, that would encourage if not require agencies to refrain from any new proposals without first performing such cost-benefit analyses.

Furthermore there is mounting evidence that unintended consequences and highlighted concerns raised by CB12, political leadership and community groups will be exacerbated at least in part by the frameworks and policies contained within the rezoning initiatives. Neighborhood indicators which support such a conclusion include, Williamsburg and Bushwick in the Borough of Brooklyn as well as 125th Street in Harlem, each of which have undergone rezoning and according to several recent studies have experienced larger than estimated figures of business and residential displacement.

This document is intended to serve as an informative supplement to enhance continued community participation, dialogue and stakeholder negotiation beyond the adoption, amending, modifying and or rejection of a rezoning plan and or to serve as a collection of alternative methods of impact projection, identification and instrumental mechanisms which may operate independently and or in conjunction with an adopted and or modified rezoning. As mechanisms they operate as parallel methods to rezoning to encourage greater distribution of the estimated benefits and resources proposed to be available as a result of rezoning, be they, affordable housing, incentive funds, incentive fees, affordable commercial space, community benefits, environmental protections etc.

The CCNY report will address the following: Draft Environmental Impact Study, Affordable Housing and Mandatory Inclusionary Housing, Commercial and Economic Development with an emphasis on small businesses, Environmental and Resilience design guidelines with respect to the proposed development along the Harlem River, and the MTA rail yards. Additional City Agency documents may have been reviewed and or referred to in this report if and when they were obtained during the review process.

The CCNY report recognizes the following agencies, NYCEDC, DCP, SBS, HPP, HPD the office of the Manhattan Borough President Gail Brewer, the Office of Councilman Ydanis Rodriguez, Manhattan Community Board 12, U.S. Representative Adriano Espaillat and Uptown United as authors and contributors to the above mentioned Inwood Rezoning Proposal. Several of the above have produced documents which provide important critical examination of the referred to proposal, suggest community preferred alternatives and request supplemental and or revised resident and environmental protective measures. This proposal does not repeat information already contained within those documents. The content and proposed mechanisms presented within this document are intended to: (1) clarify correlations between proposed measures and community impact, (2) enhance the functionality of and or, (3) act as an addendum to the above mentioned proposal and or any proposal that may supersede it. The proposed presented here are identified and offered as a response to concerns expressed from the Councilman Ydanis Rodriguez's office, Community Board 12 Resolution dated March 21, 2018 and the Uptown United Platform.

Although not all concerns pertaining to the rezoning are considered here, the concerns that have repeatedly arisen are. They are, the AMI calculation offered in the DEIS, maximizing the potential for affordable and deeply affordable housing, maximizing potential of affordable

commercial space, displacement of current residents and business owners, preserving community and cultural assets and environmental and resilience design.

Neither the information and or the proposed mechanisms contained within nor any other part of this document is an endorsement, or recommendation in favor of, or against the Inwood Rezoning Proposal in its current form or any alternative proposal put forth through the public review process. The document does highlight what are identified as procedural inconsistencies that exist amongst stated intentions, analytical methodologies that appear incongruous with objective research and illustrates impact patterns that should be considered and weighed prior to the adoption of this and future plans and or proposals. Additionally, new models and mechanisms of research aimed at increasing affordable housing and economic development are presented to illustrate their potential benefit toward innovative, participatory and equitable future planning and development.

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Introduction:

The findings and mechanisms contained within this report are offered in the interest of the Inwood community, and the current City and State agencies and their associated policies, property owners and developers with an interest in equitable and sustainable community development. This review and report, recommended indicators and the mechanisms described within offer an independent evaluation of the best practices in inclusionary zoning and zoning recommendations aimed at promoting equitable and sustainable urban growth while sustaining an environment in which residential affordability is maintained and independently-owned small businesses can continue to compete, and considers their relevance to the Inwood neighborhood of New York City. The report exists as (1) a resource to further understand potential impacts; (2) Illustration of forces guiding those impacts, and; (3) actionable mechanisms or tools that may be implemented during and or after a planning and or rezoning initiative by any party to promote best uses and continued innovation of new models toward enhancing equitable development potential.

As frameworks for incentivized development beyond New York City endorsed Mandatory Inclusionary Housing, community space, etc. the report allows for the interest of the community, the City and it's associated agencies, private owners, business owners, developers and the public at large to coalesce as active co-development parties and encourages the use of incentive structures toward the creation of specific community and city based assets, ideally defined by that community. The general premise and principles of of each mechanism is offered in brief description. It should be noted that they do not by themselves represent a singular structure or framework of how they arranged and or operate. Each also will require some regulatory oversight as well as legislative city adoption prior to implementation in the form of plan modifications or amendments. Examples pertaining to other U.S. cities and agencies that have used them are provided to illustrate models of implementation. The offered mechanisms are intended to operate independently and or in conjunction with the allocations of dedicated pools of capital proposed by the Mayor's Office for rezoning areas through the Neighborhood Fund (administered by EDC), the Rezoning Fund (administered by DEP) and the Housing and Acquisition Funds (separate entities, both administered by HPD).

The mechanisms, address relevant research methods beyond those outlined in the CEQR manual and DEIS guidelines. They are limited in scope due to the time allotted and only address the following, taken from combined summaries from the Manhattan Borough President's Summary of Recommendation, CB12 Resolution, Uptown United and the office of City Councilman Ydanis Rodriguez staff's notes with stated the following priorities: (1) Create significantly more new affordable housing with more of it accessible to the average current Inwood residents; (2) Identify funding and funding programs to allow current tenants to remain in their homes; (3) Provide strategies for small local businesses to remain in the community; and (4) Provides opportunities for new local businesses, employment, and cultural resources to maintain Inwood's diversity and local character.

Lastly this report offers an independent evaluation of the best practices in identifying rezoning proposal impact, mechanisms for inclusionary zoning, affordable and deeply affordable housing, community based economic development, a brief catalogue of resource and literature, policy and program review from several US cities and their relevance to the Inwood and New York City.

Part One:

Mechanisms for Crafting an Expanded Inclusionary Zoning Policy

Shawn L. Rickenbacker

RESIDENTIAL BACKGROUND

A review of the Inwood Reasonable Worst Case Development Scenario (RWCDs) and the (DEIS) Draft Environmental Impact Statement (DEIS) has revealed that the methodologies utilized to assess impact and forecast future scenarios does not account for two outlying factors, rent stabilized apartments and underbuilt residential buildings. Each of these factors correlate to both higher amounts of development and displacement than estimated and presented in each of the above mentioned documents. The magnitude of such omissions is worth greater consideration in lieu of the explicitly stated goals of the provision of affordable housing.

Rezoning historically stimulates the development of predominately new market rate residential buildings. The adoption of a Mandatory Inclusionary Housing policy is a response to this fact in an effort to increase and or maintain the affordable housing stock. When such new development occurs the development market has historically responded to the increased real estate values through new building construction which in turn increases supply in the categories of (1) new and or (2) redevelopment of existing multifamily properties. These property types are often described as 'soft-sites'. Soft-sites which are not accounted for in the RWCDs and or DEIS / FEIS do not allow for an accurate evaluation of both the redevelopment pressures geared toward maximizing investments and or the canvassing of real estate portfolio opportunities and expansion within the rezoning area. If such soft-sites are to undergo redevelopment there would be increased potential of indirect displacement of low-income residents as well as those currently paying preferential rents. Recent historical research and evidence associated with Williamsburg, and Bushwick, Brooklyn indicate a strong correlation between soft-sites and displacement affecting lower and moderate income communities.

Moreover this new development supply is typically delivered to the market, after rezoning development has commenced or completed. The renewed supply is then offered at sales and rental rates exceeding those prior to rezoning or new development. It should also be noted that construction costs particularly in New York City have risen steadily in the last 10 years of which these cost are typically passed along to the consumer in increased rental or purchase rates. As development proceeds the effect is market pressure on nearby properties i.e. 'Soft Sites' to compete with the rise in market comparables, thus transitioning these sites into higher priced market categories through unit transition and or displacement.

Future Planning / MTA Inwood Rail Yards

Although several parcels, lots and publicly owned properties which lie adjacent to the designated rezoning area have not been included in the proposal and associated studies they deserve careful inspection and review due to their potential to inform the current and or future proposals. Of major interest and consequence is the Inwood MTA Rail Yards which represents a significant amount of developable real estate, estimated at 40 acres and is currently owned by public agencies. Technically speaking this real estate is as deemed “air rights”. If the MTA and associated agencies were to sell “air rights” above the Inwood Rail Yards, this could allow for new diversified mixed used development, including residential, commercial, cultural, educational and open space. More importantly the sale of such “air rights” could allow for significant investment into Mayor de Blasio’s affordable housing initiative. The environmental performance model potential due to its adjacency to the Harlem River is also worth noting. The CCNY report strongly recommends that an immediate study of the feasibility, best practices of urban design and environmental impact be initiated to ensure a comprehensive understanding of the future impact and design that can be publicly and professionally contributed to and reviewed by the associated agencies, institutions and Inwood community.

Current Housing and Proposed Affordability

Currently Inwood’s rental inventory consists of approximately 60% rent regulated apartments. Of this 60% identified as rent regulated, 30% of these are preferential rent leased apartments. This information is currently not represented and or sufficiently considered with regard to future impacts and displacement. The rezoning plan is focused on providing affordable housing through Mandatory Inclusion housing. This provision alone represents an estimated 1,300 affordable residential units. This number of units and its associated AMI requirements by all accounts under serves both the current and many future inhabitants of Inwood existing outside of the prescribed qualifications outlined by EDC and the rezoning plan.

Report Objective

Identify additional mechanisms beyond Mandatory Inclusionary Housing and encourage affordable, and deeply affordable residential unit development. Such mechanisms could be made available to the community, City agencies and developers for longer term refinement and incentive development of the proposed rezoning plan. Deeply Affordable Housing appears outside of the scope of the rezoning plan, however has been addressed by City officials, Manhattan Community Board 12 and general community as a concern. As of this report the aspect of affordable and deeply affordable housing will fall upon the private real estate development market. The perceived value and incentive of MIH amongst private developers is mixed based on a recent survey and evidenced in the unsuccessful 4650 Broadway development proposal. Additionally funding sources and programs for such will also fall upon private developers and or not for profit developers competing for tax credits and other available resources across the city. Although these issues do not indicate a referendum on MIH as a policy it does suggest that additional mechanisms could supplement the MIH policy. Additionally these mechanisms may be applied on a case by case, site by site basis allowing for community, local leaders and developer collaborative development participation. The offered

mechanisms are intended to expand resource opportunity for deeply affordable housing which would otherwise prove insufficient in number and increasingly difficult amidst limited capital resources and national competition for those resources (federal tax credits).

1. Restrictive Declarations

To encourage a participatory redevelopment process, community leadership in conjunction with the relevant city agencies may seek to employ the use of Restrictive Declarations. The use and techniques are described below, taken from the NYC Zoning Handbook.

**NYC Zoning Handbook:
Special Zoning Techniques
Chapter 10**

Use of Restrictive Declarations

As a condition of certain special permits and some zoning changes, the Commission may require applicants to sign and record a restrictive declaration that places conditions on the future use and development of their land. These conditions may be designated to control building design or land use or to require that impacts caused by the development be mitigated by the provision of a public space or facility.

The restrictive declaration can be useful as a way of "fine tuning" the use or bulk controls of the standard district regulation where there are features of a site or proposed project that appear to require specialized conditions or restrictions. It can also be useful as a way of ensuring that such conditions and restrictions remain binding on the land even if the proposed project presented in an application does not move forward to completion and different development takes place.

The restrictive declaration is a covenant running with the land which binds the present owners and all successors. It, therefore, gives notice to future owners of the conditions and restrictions that are continuously binding on the land.

2. Incentive Zoning/Overlay

Incentive zoning provides a bonus, usually in the form of additional floor area, in exchange for the provision of a public amenity or affordable housing. There are incentive bonuses for the provision of public plazas (privately owned public spaces), visual or performing arts spaces, subway improvements, theater preservation, FRESH food stores and affordable housing (Inclusionary Housing Program)

Incentive zoning has proven to be an effective method for a municipality to achieve the advantages of a desired community benefit, such as providing more public amenities, increased housing options through greater density, needed affordable housing, and a pedestrian-friendly

environment, all of which provide a community living environment that responds to the needs and quality of life Livable New York Resource Manual.

<http://www.aging.ny.gov/LivableNY/ResourceManual/Index.cfm> 2 II.2.f issues of various resident groups, including older adults, individuals with disabilities, young-adult workers, and others. Since incentive zoning is market-based and voluntary, no public subsidies are required for the resulting public amenities.

Resource—examples and ordinances: "Inclusionary Housing/Bonus Density/Incentives" Affordable Housing Ordinances/Flexible Provisions. Seattle, WA: Municipal Research and Service Center of Washington. Links to numerous examples of inclusionary zoning: <http://www.mrsc.org/subjects/Housing/ords.aspx>.

"Housing Affordable to Elderly Households," Board of Supervisors Policy—Policy No. I-79, County of San Diego, CA: <http://www.sdcountry.ca.gov/cob/docs/policy/I-79.pdf>.

City of Burlington, VT< Community and Economic Development Office: 24 V.S.A Chapter 117, Burlington Comprehensive Development Ordinance, Article 9— Inclusionary and Replacement Housing, Part I—Inclusionary Zoning: http://www.ci.burlington.vt.us/planning/zoning/cdo/docs/article_09_housing.pdf.

Allan Mallach (1984), Inclusionary Housing Programs: Policies and Practice. New Brunswick, NJ: Rutgers University Center for Urban Policy Research.

Anita R. Brown-Graham (editor) (2004), Locally Initiated Inclusionary Zoning Programs: a Guide for Local Governments in North Carolina and Beyond. Chapel

Hill, NC: University of North Carolina, School of Government. Includes: Overview of Inclusionary Zoning, Types of Inclusionary Zoning Programs, 15 Recommendations for Local Governments in Implementing an Inclusionary Zoning Program, Local Governments' Statutory Authority to Engage in Inclusionary Zoning Programs, and Constitutional Limitations on Inclusionary Zoning.

http://openlibrary.org/books/OL3456007M/Locally_initiated_inclusionary_zoning_programs.

Resource—written and web: Patricia E. Salkin (2000), "Senior Housing and Zoning," New York Zoning Law and Practice, Fourth Edition, Chapter 23. St. Paul, MN: West Group.

Patricia E. Salkin (Fall, 2003), "Zoning and land Use Planning: Where Will All the Baby Boomers Go? Planning and Zoning for An Aging Population," Real Estate Law Journal.

PolicyLink, New York City and Oakland, CA, a national research and action institute advancing economic and social equity by Lifting Up What Works®, based on a belief that equity—just, fair, and green inclusion—must drive all policy decisions:

<http://www.policylink.org/site/c.lkIXLbMNJrE/b.5136441/k.BD4A/Home.htm>. "Inclusionary

Zoning Tool Kit" (2003):

http://www.policylink.org/site/c.lkIXLbMNJrE/b.5137027/k.FF49/Inclusionary_Zoning.htm.

Go To 2040, Chicago Metropolitan Agency for Planning, Chicago, IL: "Inclusionary Zoning—Appendix: Case Studies":

<http://www.cmap.illinois.gov/strategy-papers/inclusionaryzoning/references>.

3. Incentive Fee Fund, Linkage Fees, Buy Back Program

The following excerpt is taken from the City of Denver Legislation, all references, intentions and project descriptions are part of the adopted ordinance passed in 2016.

<https://denver.legistar.com/LegislationDetail.aspx?ID=3299789&GUID=6F865C83-42C3-4BAF-B0A5-27DD3E46274B>

Incentive Fee Examples:

Model City: Denver

Incentive Fee Fund, is intended to allow the a city (“City”) to fund various types of affordable and low-income housing, and revised the DMRC (Denver Revised Municipal Code) to permit developers to construct buildings in the IO-1 overlay at heights in excess of the base zoning—between eight and 16 stories—as long as they build a certain amount of affordable units or, in the case of non-residential buildings, provide community benefits commensurate with the costs to build those additional units. The amount of affordable units required for those portions of any building constructed above the base height permitted by the underlying zone district is four times what is required under the City’s current affordable housing linkage fee provisions, which were passed in fall 2016 (“Linkage Fee Ordinance”).

Incentive Fee Fund and Incentive Height Requirements To further implement the new incentive height allowances, Denver City Council voted to add a new Article VI to Chapter 27 of the Denver Revised Municipal Code (“Incentive Fee Ordinance”) creating the Incentive Fee Fund. The Incentive Fee Fund will be used for production/preservation of rental housing and for-sale housing, homebuyer assistance programs, development of housing for homeless persons and support for low-income at-risk persons in danger of losing existing homes, and will be administered by the executive director of the City’s Office of Economic Development (“OED”).

The Incentive Fee Ordinance allows structures within the Incentive Overlay districts to exceed their base height in exchange for payment of additional fees, construction of additional affordable units or provision of other community serving benefits. The requirements for taking advantage of increased height opportunities under the Incentive Fee Ordinance build upon the existing requirements to either pay linkage fees or build affordable units as required in the Linkage Fee Ordinance.

Any fees required to be paid under the Incentive Fee Ordinance are in addition to, and above and beyond, the fees required to be paid under the Linkage Fee Ordinance. Any project electing to take advantage of increased height allowance under the Incentive Fee Ordinance must pay fees required under the Linkage Fee Ordinance for all stories up to the permitted base height, together with four times that amount for each and every story of the subject structure above and beyond the permitted base height.

Residential and “Mixed-Use Residential” Requirements Residential and “mixed-use residential structures” (as defined in the Incentive Fee Ordinance) must actually build the number of affordable units required under both the Linkage Fee Ordinance and the Incentive Fee Ordinance. The number of affordable units required under the Incentive Fee Ordinance is determined by multiplying the number of affordable units under the Linkage Fee Ordinance by four. These units may be provided on the subject property or at an off-site subject to the IO-1 overlay. Further, affordable units must be of the same tender—in other words, for-sale multifamily units must build other for sale multifamily units.

Non-residential and “Mixed-Use Non-Residential” Requirements Non-residential and “mixed-use non-residential” (as defined in the Incentive Fee Ordinance) developers within the IO-1 overlay are required to comply with one of the following: (1) pay both the fees required under the Linkage Fee Ordinance and Incentive Fee Ordinance; (2) build the required total affordable units required under the Linkage Fee Ordinance and Incentive Fee Ordinance, either at a structure located on other real property subject to the IO-1 overlay or, in a mixed-use non-residential structure located at the subject property; or (3) pay the entire fee due under the Linkage Fee Ordinance and execute a community benefits agreement.

4. Community Benefits Agreement

A “community benefits agreement” is an agreement entered into between an applicant and the City, administered by OED, allowing an applicant to provide community serving uses for a portion of the proposed structure in place of payment of the incentive height linkage fees. OED, in consultation with Community Planning and Development, will determine the applicable community serving uses for each community benefits agreement. The community benefit is intended to be commensurate with the cost of providing the affordable units that otherwise would have been required under the Incentive Fee Ordinance. These agreements are intended to include, without limitation, rent-reduction rate, time period, collateral and default remedies such as re-leasing or recapture of any obtained incentive height linkage fee savings. All community benefits agreements must be executed prior to approval of a site development plan or issuance of building permits.

5. Commercial Linkage Fees

The proposed rezoning allows for new commercial development. However there is no correlation and or direct benefit to affordable housing, and or preservation. A commercial

linkage fee may be considered as an overlay or otherwise to further address community needs and concerns regarding affordable housing and preservation.

Overview

As people move into new market-rate homes and office buildings, they generate a need for services typically provided by low-wage workers, such as restaurant and retail work.

Recognition of this link has led to growing interest in the use of housing impact (HIF) and commercial linkage fees (CLF). These fees are assessed by square foot or by unit on new, market-rate residential development and commercial development as defined in each jurisdiction's ordinances.

Linkage fees "link" other forms of development with a community's needs for affordable housing. Linkage fees are typically charged to developers and then spent on affordable housing preservation or production through existing housing programs. Linkage fee ordinances are one way to leverage private markets to produce affordable housing, fund homeownership programs, or preserve existing affordable rental housing.

Linkage fees help meet a housing need that may be produced when new development occurs. For instance, the development of an office or retail complex in a station area will bring many employment opportunities to the area, including minimum wage jobs that may not pay enough so that a household can work and live in the same community – or even a nearby community that is connected to the workplace by affordable transit. Linkage fees, most often charged to developers on a square foot basis, can then supplement an affordable housing funding program that targets station areas.

It is worth noting that revenue generated from linkage fees do fluctuate according to the rate of development within a given local. Fees are typically levied when a new development occurs. Therefore how much revenue and will be generated may difficult to predict and depends on the markets response to several development factors as well as development opportunity.

Sources:

<https://nonprofithousing.org/bay-area-impact-fees/>
<https://abag.ca.gov/files/CommercialLinkageFees.pdf>

Resources:

Inclusionaryhousing.org published a primer on linkage fees specific to the Bay Area.

For more information on Linkage Fees see

<https://www.denvergov.org/content/dam/denvergov/Portals/690/Housing/Linkage%20Fee%20-%20Final%20Rules%20and%20Regulations%20-%20Published.pdf>

6. Community Land Trust

To take advantage of recently passed City Council legislation, it is recommended that the identification and or creation of community based nonprofit entities capable of entering regulatory agreements with the city are either identified and or created to compete for city and institutional support in acquiring properties for development and or long term management. Ongoing efforts should be coordinated to compile an inventory report of city owned parcels, and properties suitable for acquisition, development and or management.

There is an ongoing effort to form a community land trust in Inwood, and the model has been embraced more broadly citywide and nationally¹. The Northern Manhattan CLT is part of a “learning exchange” with a dozen organizations with functioning or planned CLTs, funded through the Department of Housing Preservation and Development, and that has been meeting regularly since last year, and will continue to meet until the middle of next year. There have further been proposals to create a CLT from other quarters, but there needs to be strong analysis of how a CLT could be funded and land conveyed in a way that fulfills the mission of the CLT to preserve and create truly affordable housing.

7. Non Profit and Limited Profit Developers

Both here in the United States incentivized development aimed at producing 100% affordable housing units is used to ensure that the available housing stock keeps pace with the need and demand. By all measurements here in the United States and in New York City in particular affordable housing and the housing supply in general is not keeping up with demand. There are several factors contributing to this, however a primary factor is the high cost of land acquisition and construction within New York City. When weighed against for profit developer profits and margins the prospect of building affordable housing offered at lower sales and rental prices become increasingly difficult and at substantially lower profit margins than mid market or luxury offerings. To mitigate against this factor it would be in the interest of the City to encourage and or adopt a supportive program servicing non-profit and limited profit developers. This would also complement the growing national trend of Community Land Trust and further open up the market of real estate development. An additional advantage to supporting such developers would be increasing market competition, thereby theoretically adding more units and thus producing a more competitive consumer pricing market. With respect to supply versus demand; according to the Furman Institute’s *State of New York City’s Housing and Neighborhoods 2017* report the City’s adult population has grown 11 percent from 2000 to 2016, compared to New York City’s housing stock which has grown by 8 percent for the same period. This combined with economic and job growth indicates an increase in housing demand. The demand in

¹ See, e.g., Abigail Savitch-Lew, “The NYC Community Land Trust Movement Wants to Go Big.” <https://citylimits.org/2018/01/08/the-nyc-community-land-trust-movement-wants-to-go-big/>; for a sense of how flexible the model is, see, e.g., “Cano Martin Pena Community Land Trust,” <https://www.world-habitat.org/world-habitat-awards/winners-and-finalists/cano-martin-pena-community-land-trust/>

housing subsequently puts pressure on the housing market resulting in higher prices for housing across all income bands. In the case of Inwood, the need is especially acute in the affordable range serving low to moderate income households.

8. Comprehensive Geographic Planning

Comprehensive planning is essential toward meeting New York City's growing housing needs, infrastructural needs and vision of a balanced urban future. In the review of the Inwood Rezoning, several of the City and Community stated goals albeit plausible are hampered due to the economic constraints and factors associated with land acquisition and development cost. Throughout the Rezoning Plan, development sites, and soft sites have been identified of which the rezoning plan's number of housing units and the calculus of commercial space is based upon. To date City Councilman Ydanis Rodriguez, Manhattan Borough President Gail Brewer, CB12 and the community have each stated both a recognizable need and rationale for additional mixed income, affordable and deeply affordable housing as well as other supportive programs such as schools, cultural programs, and public space. Based on the geographic limits of the current plan and the amount of privately owned parcels available for future development, there is limited opportunity to introduce significant measures to address the added affordable housing need and other desired programs. Taking a long term comprehensive view and following recent precedent such as Hudson Yards, Sunnyside Railyard and Concourse Yards, the approximate 40 acres of the Inwood Railyard should be considered in parallel to the current and future plans of Inwood. The three examples above have each undergone vitally important feasibility studies. The importance of such studies are numerous. Firstly, to generate a comprehensive understanding of the potential impact of integration into their respective context. Secondly, to assess value such as a cost benefit analysis. And lastly maximize the potential of what would now be considered underutilized infrastructural urban landscapes. These three generalized assertions coupled with rezoning considerations greatly lessens the future burden on existing units as well as proposed units within the current plan. As public held property there are numerous financial advantages to both the City and community. The consideration of the Inwood Railyard as comprehensive future and or smart planning strategy would allow for public and private interest to further gauge the City's ability to meet its challenges of continued densification and growth.

Part Two:

Recommendations for Assessing Risks of and Responses to Residential Displacement

John Krinsky

Assessing the rezoning plan for Inwood for its effects on affordable housing in the neighborhood immediately shows a neighborhood *already* in transition. The last five years have seen an influx of white residents, a slight decline in the percentage of Latino/a residents, a rather sudden jump in the median household income, a distinct spike in asking rents, and a corresponding, though still attenuated increase in median rents. In short, Inwood is in a process of gentrification, but remains a neighborhood that is still *largely* affordable to many of its residents, but with that affordability increasingly threatened.

The assessment that follows asks several key questions that should be considered carefully when thinking about the benefits and costs of rezoning.

- Given the existing threats to stability and affordability, would a rezoning add to the threats or mitigate them?
- What do we know—and what can we know—about the forces that put residents in danger of being displaced?
- How do we start to study and understand possible spillover effects of the rezoning to other areas in the community district that are not subject to rezoning?

In what follows, I draw on data collected from the Furman Center, the Department of Housing and Urban Development, and the Association of Housing and Community Development (ANHD) “Displacement Alert Project” database (hereafter, DAP) and other research to create a profile of the community district’s changes and housing threats over time.

I then propose a more detailed model of displacement risks that draws on landlord behavior, for which data collection is ongoing (there was insufficient time to complete this as the invitation to assess the rezoning came too late to do more). Part of the problem is that there are data that are difficult to obtain at all, much less in a timely fashion, that would likely give a greater sense of which tenants were in danger of displacement and where. It is premised on the idea that markets are *social institutions* rather than some abstract plane of existence where supply and demand curves meet and tend toward optimization. Indeed, in a highly regulated environment with extremely durable goods, the latter approach would be absurd. Instead, we must come to terms with the fact that tenants are not displaced *passively*, but that quite often, they are displaced *by landlords* who, in pursuit of profits, hike up rents, and sometimes go to significant lengths—both legal and not—to do so. Further, they do so with the help of—and in debt to—lenders whose institutions are bounded very differently, both from a geographical and regulatory point of view. If we should have learned anything from the financial crisis of 2007 it should have been that housing markets are also debt markets and that the primary actors in

both—landlords and lenders—are less and less beholden to specific places and to the people who live in them. If they can, through regulatory means, *change the people who are buying in any given geographic location to their advantage*, they will. *But unless we get serious about understanding the risks that the model suggests, we should not pretend that we are taking the risk of displacement seriously.*

What we know

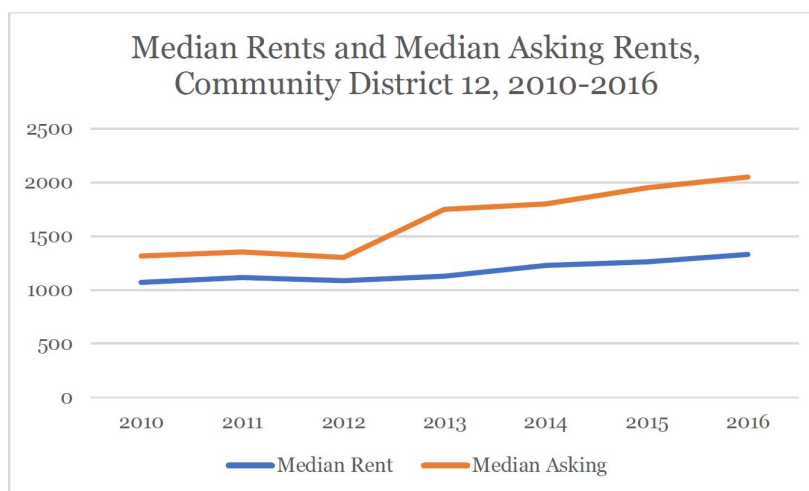
Gentrification

Inwood is the process of gentrification and with gentrification comes a threat of displacement; whether this displacement is from a home—i.e., an apartment in a neighborhood building—or from the immediate neighborhood, the larger neighborhood (Washington Heights-Inwood), or from the City itself is difficult to track. But it is clear that low-income residents facing rising rents, high rent-burdens, and evictions are at least at greater risk of displacement and, if they are not displaced, face increasing hardship in place. Neither is a good outcome.

Some indicators of gentrification are a trend of a widening gap between median and asking rents. Data are readily available only for Community District 12 (Washington Heights-Inwood) as a whole, but the picture is both significant and corroborated by spot-checks on buildings in Inwood on Streeteasy and other real-estate websites (Figure 1).²

Gentrification is also usually understood as the replacement of a lower-income population, usually people of color, with whiter, richer people in the neighborhood. The data bear this out, as well, as we see a spike in the median income of the neighborhood (Figure 2) and a decline in the percentage of Latina/o residents, though Washington Heights-Inwood retain a significantly Latina/o and specifically Dominican character (Figure 3).

Figure 1.



² Data for the following five figures are drawn from the Furman Center’s annual State of New York City’s Housing and Neighborhoods reports for the reported years.

Figure 2

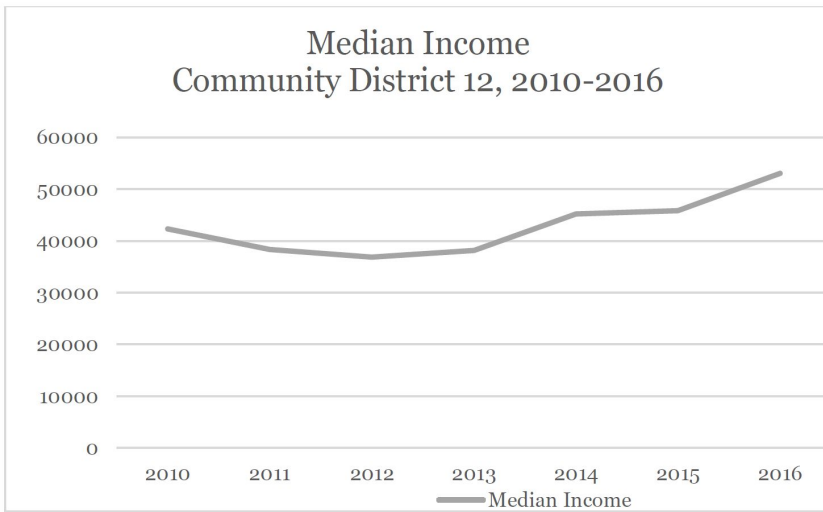
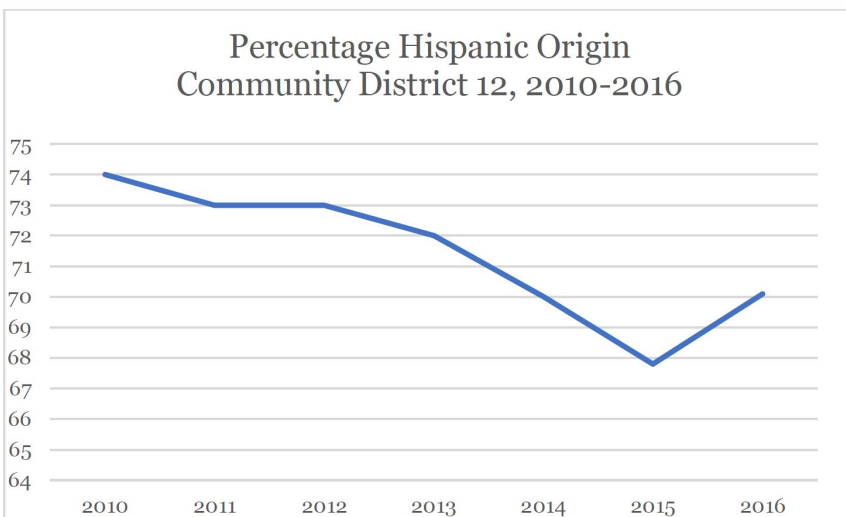


Figure 3



In all three figures, we see 2013 as an inflection point: median asking rents jumped, median income started to increase, and the Latina/o population began to decline. Nearly all of the decline, furthermore, was made up in White movers into the neighborhood.

While it is entirely possible, of course, that the decline in Latina/o presence—still a small decline in percentage terms—is simply voluntary, the dynamics of asking rents make this interpretation highly suspect.

Displacement risks

If we look more deeply at the data, we can make some more observations that help us to understand the risks tenants face.

Figure 4 shows the shortfall between a rent affordable at 30 percent of median income and the asking rents in the neighborhood. Some background here is also important: More than 60 percent of the neighborhood’s housing stock is rent-regulated but an estimated thirty percent of renters are paying “preferential rents” that are lower than legally allowable rents but can therefore be hiked to the allowable rent on a new lease. This can leave renters vulnerable to having to go from a rent that is close to the median—and close to affordable—to having to pay the “asking rent.” Thus, Figure 4 is a significant indicator of vulnerability, particularly as the ability of many of these renters to afford housing elsewhere in the City is very low.

Figure 4

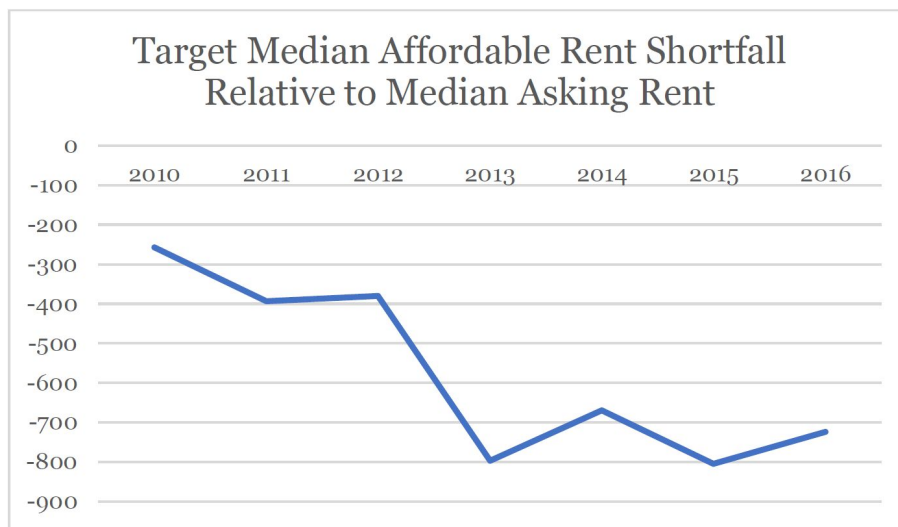


Figure 5

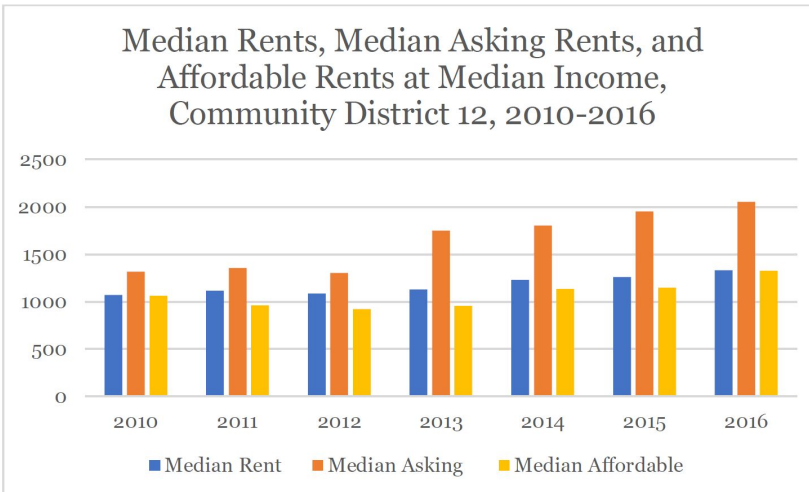


Figure 5 represents these data somewhat differently, comparing median rents, asking rents, and rents affordable at the neighborhood median income (at 30 percent of income).

To put this into some perspective, 25.3 percent of Community District 12 had household incomes below \$20,000 in 2016. The *shortfall* of \$723.75 per month between the median affordable rent in the neighborhood and the median asking rent is 30 percent of the income for households making \$28,950 per year. Of course, this *also* means that median rents for the neighborhood are *already* out of reach—and have been for a long time—for a full quarter of the neighborhood’s residents, which is why the Furman Center finds that in 2016, 45.5 percent of low-income households were severely rent-burdened (paid more than 50 percent of their incomes on rent) up from 41.6 percent in 2010, and that neighborhood-wide, the figures for 2016 were 32.3 and for 2010, 30.2 percent.

Tom Waters of CSS calculates that even if no rezoning happened, there would be about 9,100 people moving within the area and within a ½-mile radius of the zoning district every year, which means that most will have significant problems affording housing in the neighborhood or in the city as a whole. If rents go up in the area—and beyond the zoning area itself—as a result of rezoning, this difficulty will get even more significant. (Waters bases this on ongoing patterns of moving, but it is significant, too, that nearly the same number of renters have preferential rents in the neighborhood).[1]

If we take a closer look at the data, we can begin to see some clearer signs of displacement risks. For example, in ANHD’s annual report on risks to affordable housing, Community District 12 has consistently been in the top 20 and in ten community districts in the city in housing court litigations. In 2017, it was second in the city. And yet, *in 2017, Community District 12 did not score among the highest 20 in the percentage of households paying more than 30 percent of their incomes on rent* (rent burden) in spite of the large numbers of both all residents and low-income residents who are *severely* rent-burdened.

What does this suggest? It suggests both that landlords may be being extra-aggressive in bringing housing-court litigations against Community District 12 residents and/or that these litigations are targeted at those least able to pay rent—and even less able to pay the new,

inflated asking rents in the neighborhood. In any case, it begins to do what we must: train our attention to landlord strategies.

Displacement Risks: A New Model

Background

It is critical to understand that residents of rent-regulated apartments *are not* protected from displacement risks. The CEQR manual's guidelines for studying displacement suggests that they are, but the manual was completed in 1993, prior to (and nearly contemporaneously with) a change in rent regulation first enacted in City Council and then made permanent in state law four years later. (And while the manual has been updated several times through 2014, its rule not to consider rent regulated tenants in displacement analysis still stands.)^[2] The change in rent regulation allowed for vacancy bonuses and luxury decontrol, meaning that landlords could hike up their rents by 20 percent on new leases (rather than *renewed* leases) and could pull their units from rent stabilization completely when the unit's rent exceeded \$2,000 per month. The latter number has since been adjusted upward to \$2,700 per month. In any case, these changes incentivized rent-regulated landlords to turn over their units as often as possible. This added to an already available strategy of hiking rents due to major capital improvements (MCIs), a portion of the value of which can be added to the base rent even after the expense of the MCI has been amortized.

It is important to understand both the issue of deregulation and the neighborhood and market conditions in assessing risks of tenant displacement. In neighborhoods where rents are increasing rapidly, it may be a sign that landlords are paying significantly more for their properties than earlier landlords did and are hiking rents accordingly. As this appears possible, other property owners will follow suit, sometimes ignoring the limits set by rent regulations, and sometimes by removing preferential rents.

It may also be that landlords are buying property speculatively, paying significantly more for the property than its rent roll will support at its current levels. Typically, property firms that do this can absorb losses for a while and therefore tend to be larger firms.

Financial vulnerability indicators

The Association of Neighborhood and Housing Development (ANHD) has suggested that the sales price divided by the annual rent roll—the Gross Rent Multiplier (GRM)—serves as a good indicator of financial vulnerability, with speculative buying beginning with a GRM of 11 or more.^[3] GRMs are useful statistics because they can give a guideline for what average rents *should be* at GRMs set at specific points.

Accordingly, one way of tracing financial vulnerability would be to get the sales prices for every building in the neighborhood for the last two sales, and then compare the target rents at a GRM of 11 and see how much this differs from, for example, the median rent in the neighborhood for the same years.

Scraping ACRIS for *all of* the last sales of buildings in Inwood zip codes is time-consuming and beyond what we could produce to this point. But if we look only at buildings sold (where deeds were transferred) from February 2017 through April 2018 in zip codes 10034 and 10040, we can see that the median rent at a GRM of 11 is \$1953.28, which is just less than \$100 below the median asking rent, and \$623.28 *above* the median rent. *Thus, we can see that the new sales in the neighborhood are geared toward the asking rents and rely financially on rents that are far above the median.*

The same story can be told for properties with “spreader mortgages” across numerous properties. For example, one portfolio, including a *dozen* properties, mainly in Washington Heights-Inwood—but one in Queens—and four in the rezoning area and another three just outside it, has a single mortgage of \$243,649,710, covering a total of 937 units. At a GRM of 11, this comes out to \$1,970 per month as a target rent. Again, this is nearly 50 percent more than the median rents in Community District 12.

Ideally, we could find out the *actual* GRMs for the buildings, but actual rents are not available on a building-by-building basis, and only tenants can get information about their own rents.

Another indicator of financial trouble—and possibly, other trouble—in rental housing is the incidence of tax arrears. When building owners stop paying taxes and water bills, they are often not paying for basic repairs, either. Historically, this has been the case where cash flow is weak, since nonpayment of taxes and water fees can result in the sale of tax liens and ultimately foreclosure or pressure to sell the property for less than its market value. In 2013, Community District 12 was the *only* community district in Manhattan with a top-ten incidence of residential properties with tax arrears in the top ten, as ranked by ANHD. Just over one in twenty (5.4 percent) of buildings had one or more years of tax or water arrears.

If combined with high GRMs, tax liens may be an indicator of overleveraged buying—when a property owner’s calculations of expected profit outstrip their ability to realize it.

Finally, we can potentially understand more about landlord strategies if we understand what else is in their portfolios. If landlords consistently buy buildings at GRMs that are extremely high, that should be a warning sign that they do not intend to run the buildings in a manner affordable to current tenants.

Material strategy indicators

Another way of turning over apartments is making the living conditions so bad that tenants want to leave. Upon vacancy, again, building owners can hike up rents and also apply MCIs as they renovate the very buildings that they have let slide into disrepair.

Not making repairs or doing adequate maintenance is also, of course, a possible business model regardless of vacancy bonuses and incentives for turnover. What is not spent on repairs and maintenance can be put toward profit or toward more building purchases. Either way, tenants suffer and consider moving.

The main indicators of disrepair, again, gathered by ANHD's Displacement Alert Project are complaints and violations lodged with and issued by the Department of Housing Preservation and Development (HPD). ANHD's DAP reports show buildings that have new complaints and violations each month, and a different database, the proprietary Building Indicator Project (BIP) shows quarterly reports on how many violations and of what sort remain open (i.e., unresolved), though for a different but overlapping set of buildings.

Almost paradoxically, building owners can also use *renovation* as a way to harass tenants by creating noise and dust conditions, leaks, and other nuisances designed to drive tenants away. Hence, the DAP reports include filings by building owners for permits from the Department of Buildings.

A distinction between the HPD complaints and violations and the DOB permits, beyond the obvious, is that it is most often tenants' collective action that leads to the filing of HPD complaints and the dispatch of inspectors, while the DOB permitting process is initiated by the landlords. Thus, there is some selection bias in the first measure, since it is not necessarily more likely to pick up buildings in poor condition, but certainly more likely to select buildings whose tenants are organized.

For some buildings in areas undergoing rezoning, the recently expanded Certificate of No Harassment (CONH) holds out some hope for tenants. Under the program, certain landlords, including those already found to have been harassing tenants, have to apply for a CONH and HPD will contact tenants and former tenants to ensure that there has been no harassment. In the event that there is, landlords will be denied building permits for a period of five years. To understand the effect that CONH will have on indicators of harassment—or whether they will result in fewer permits being sought—is still unclear.

Regulatory strategy indicators

The DAP website, as well as the justfix.nyc website list for each address the number of units that have been deregulated, or, in the rarer instance, regulated between 2007 and 2016. Many deregulated units in a building may be an indicator of the building-owner's strategy, but it may also be an indication of the *history* of the building prior to their ownership. Using ACRIIS data, it should be relatively simple to see whether a given building owner or a preceding owner is aggressively moving units to deregulation, a move that is certainly threatens tenants with displacement and makes it very unlikely that the unit will be re-tenanted by a household of equal or lesser means than the previous occupant.

Justfix.nyc's website also lists the *other* buildings in a given building-owner's portfolio, and the proportion of deregulated to total units in a whole portfolio may also be an indicator of a building-owner's overall strategy: even if one or another building does not have many deregulated units, the other buildings in the portfolio may portend what is to come.

Litigious strategies

One of the greatest dangers for tenants fearing displacement is obviously eviction. Significant numbers of evictions per unit in a building can indicate how aggressive a building owner is in trying to turn over apartments. But in addition to “marshals’ evictions”—i.e., eviction cases in which the Marshals have been ordered to carry out the eviction, there are ways in which landlords use the courts to harass and threaten tenants. Specifically, they will bring many more eviction cases than they are likely to win, either to prepare the way for future successful evictions (e.g., when tenants do not live up to stipulations to which they agree under pressure from landlords’ lawyers) or simply to pressure tenants to leave.

Similar to the expansion of the Certificate of No Harassment program, the city council recently passed a citywide right to counsel in Housing Court. While not everyone is income-qualified for a free attorney, the right to counsel is anticipated to reduce significantly the number of eviction cases landlords bring against tenants overall. Also similar to CONH, the roll0ut of the right to counsel is likely to hit some speed bumps and its effect on eviction cases is not known yet.

Other indications

Other indications of landlords’ efforts to dislocate tenants include hiking up preferential rents and making buyout offers. Neither is easy to track, and therefore are nearly impossible to use as “indicators” even though we know that they are common.

Integrating the Indicators

Aggregation across time and ownership

There are a number of possible ways to integrate the indicators. For one, we could simply list them, as ANHD does, and suggest that risks are severe when a certain number of indicators appear in a given month (or over a given period of time), and less severe when fewer do. This makes sense as a first cut at the data, but it does not necessarily give us any leverage over landlord strategies. It suggests, indeed, that all tactics are available at all times and that all landlords will essentially act in the same ways. This is, however, testable, and it makes sense to do so, lest we overplay some risks and downplay others.

Another would be to look at properties over a longer period of time. Ideally, we could have a window of several years *before* and *after* a rezoning was first announced to understand whether or not the anticipation of rezoning has an effect on landlord strategies, or conversely, whether initial moves to gentrify an area trigger rezoning plans. Short of this, looking at properties at an interval of greater than one month at a time seems advisable. To get at overall strategies, it would be best to look at each property over the course of their ownership by particular landlords within a window of at least several years.

Properties could also be grouped by ownership to see whether landlords follow consistent investment strategies across their buildings in a given neighborhood and/or across their portfolios.

Factors and types

One way of thinking about the aggregation of risk would be to explore whether some tactics are more regularly used in the company of other tactics, and whether patterns of tactical combinations can help us to classify landlord strategies into “types” with varying degrees of conformity to type used as a predictor of the severity of the threat.

For example, an owner of multiple buildings might have bought the buildings at a point at which they did not produce a GRM over 11, and perhaps have GRMs at less than that. But this owner might have a significant number of open HPD violations and eviction cases brought against tenants. Another owner might have high GRMs, make repairs, but focus on raising preferential rents. If these patterns were to hold across buildings and owners, we might consider strong examples of the types to be more risky situations than weaker ones.

Of course, it *could* be that building owners’ strategies to displace tenants—to the extent that they do—are selected in a less ordered fashion. Exploratory statistical analysis across buildings should be able to shed light on this question.

Quantifying risk and at-risk residents

An alternative approach, which might be simpler, would note that buildings in which units have been deregulated are ones that *already* demonstrate considerable risk, as do buildings in which many tenants are paying preferential rents, and in which there have been many evictions. These conditions—which could also be extended to owners’ portfolios—are at least relatively *direct* threats. It might, accordingly, make more sense to consider these as higher-level indicators of risk than violations, high GRMs, etc.

What we don’t know and why it’s important to know it

Who and how many people have already been displaced?

In Inwood and in other neighborhoods facing rezoning, gentrification and displacement pressures already exist and predate the rezoning itself. The announcement of an intent to rezone can help to unleash speculation, but it is equally possible that speculation predates rezoning plans (as seems to be the case currently in Inwood). But all this means is that people have already been displaced. The trouble is that we don’t have a clear picture of how many people, from what buildings, and under what circumstances. We know, for example, from justfix.nyc’s data, that relative to its whole portfolio, Barberry Rose management was more aggressive in bringing eviction cases against tenants in 10034 and 10040, with an average of 7 more evictions per building. Looked at another way, it brought 1.4 eviction cases per unit per

building between 2013 and 2015 in these buildings, as against 0.57 per unit per building across its whole portfolio during the same period. While these are evictions cases rather than marshals' evictions, we can surmise that some portion of these tenants have lost their housing in Barberry Rose-owned buildings. The trouble is that it is exceedingly difficult to know which ones, and which ones left as a result of legal pressure even before a judge signed an order.

Actual rents paid by tenants in particular buildings, whether regulated or preferential rent

Without knowing what the actual rents paid by tenants in particular buildings are, it is impossible to know what the real GRMs are for buildings, and therefore, too, impossible to perfectly accurately look at them as an indicator of landlord strategies. On the other hand, the construction of target rents at specific GRMs goes some way toward indicating where the price-rent ratios for buildings lie.

The other problem with not knowing the actual rents paid is that we neither know whether specific landlords are renting at preferential rents more than others, whether and how they use preferential rents to pressure tenants into accepting substandard conditions, and whether there are tipping points beyond which rents become too expensive for (particularly) low-income tenant households.

Incomes of tenants in most-at-risk buildings

Related to the problem of not knowing the actual rents is not knowing the incomes of the residents in the most-at-risk buildings. Accordingly, it is difficult to be able to tell, for any particular building, whether the tenants are paying a lot more than they can afford or are on the cusp of being asked to do so. And for buildings such as 4861 Broadway, a mixed-use building in the "Commercial U" with a recent history of violations and 14 of its 146 units deregulated between 2007 and 2016, and a \$28 million mortgage from Signature Bank (translating to \$1,452 per month at a GRM of 11), it would be important to know whether tenants made over \$57,000 a year, the point at which it would be affordable at 30 percent of income. It is also nearly \$4,000 more per year than the current neighborhood median income, but about 63 percent of AMI for a four-person household). Otherwise, we should expect that they are in danger of income-based displacement.

Vulnerability of tenants to holdover actions, etc. for lease violations

In neighborhoods like Inwood, where there are many people with limited English proficiency, the risk that tenants are technically in violation of their leases increases. Further, there are tenants who are not on the leases of apartments that have been continuously occupied by their families for many years, even through several generations. These tenants are especially vulnerable to displacement through eviction proceedings.

Relationship of lenders to landlords

There are a handful of lenders (e.g., Signature Bank, New York Community Bank) that have significant market share in multifamily residential loans in the neighborhood, and it is important to gauge whether there are significant links between the banks and landlord behavior. If landlords have aggressive strategies to turnover apartments, putting tenants at risk of displacement, or if sales prices—as in the buildings sold in the last year and a half in 10034 and 10040—are set close to median asking rents, then it is clear that the lenders are helping to drive tenants out. This has been a problem for a long time—the Northwest Bronx Community and Clergy Coalition and the Community Service Society issued a tenant organizing handbook for overleveraged buildings in 1996 based on work that NWBCCC had done beginning in the 1980s—but it’s important to understand the dynamics in particular neighborhoods and to see, for example, if some lenders are more predatory than others. Doing so suggests two things: First, it suggests that if there is variation in lender behavior, there is nothing *necessary* about “the market” that drives lenders to give loans that are far out of proportion to existing rent rolls. Second, it suggests that before rezoning and providing new incentives for investment, some regulation of lending with an eye toward preservation is in order.

Assessing Risks of Rezoning

Rezoning presents specific risks that have been addressed largely in the Uptown Unite platform and alternative plan. But they are worth repeating here and expanding in some measure.

The first risk is the *non-replacements of lost units*. If we could get some measure of how much displacement has already occurred—let’s say even since the 2013 inflection point—we could get a sense of how many units we might want to see developed in specific income bands to replace ones that have already been lost. We already know, for example, that 453 households have been evicted in 2017 in Inwood. We also know that, based on justfix.nyc’s count, for *just the buildings that showed up in ANHD’s DAP data*, 1,153 units were taken out of rent stabilization from 2007 through 2016 in zip codes 10034 and 10040. We cannot tell the overlap between these numbers and evictions, nor of other evictions before 2017 or other eviction cases, harassment, conversions from preferential rents or other rent-hikes that have resulted in displacement. But even with this very rough count, we come close to the projected *increase* in “affordable” units projected under rezoning plans (between 1,325 and 1,563).

Related to this is the *inadequacy of the income bands under Mandatory Inclusionary Housing (MIH)* for the neighborhood as a whole. For a four-person household, the 80-percent-of-median rent would be \$1,812 per month. To be sure, this is below the median asking rent in Community District 12 of \$2,050 per month, but it’s also nearly \$500 more per month than both the median rent of \$1,330 per month and the rent that is affordable at the median income for the neighborhood \$1,326 per month. The idea that displacement and gentrification could be addressed by MIH quotas—at almost whatever level—is, in this context, not simply fantastical but hallucinatory.

Of course, rezoning presents the risk of *direct displacement through redevelopment*. Given the current state of the rezoning proposal, it is difficult to assess what these risks would be. In the

unamended plan, which also included the Inwood Library redevelopment, the EDC estimated that between 1,325 and 1,563 new affordable units would be built, depending upon the options taken by developers under the MIH rules. But with the possibility that in the Commercial U, some FAR first envisioned for affordable housing might be sacrificed to more commercial space suggests that these numbers are even more out-of-date. They have not, it seems, been revised substantially.

There has been *talk* about several developers working on deals that would provide significant affordable housing as part of the rezoning—above the requirements of MIH. But because these would be negotiated deals that would boost support for the rezoning, they require a significant amount of faith in the follow-through of speculative developers, a faith that could be misplaced if political or economic conditions change, and they certainly provide no real opportunity for public review.

In any case, *only* in the event that all or most of these units conformed to something close to HPD's a deep affordability option, with an average rent affordable at 40 percent AMI would they be affordable to people in the neighborhood, and even have the potential to reach some of Inwood's lower-income residents. The Uptown United plan called for 100 percent affordable development at an average of 48 percent of AMI for a four-person household, the rents would be \$1,087 per month, well below the median of \$1,330 and just over half of the median asking rent. Importantly, according to the Rent Guidelines Board, the average cost of operating an apartment in a post-1946 building with 20-99 units in Upper Manhattan is \$968 per month. For pre-1947 apartments, the median is \$886 per month. Nonspeculative landlords could make this work, but it would also mean that their financiers were more responsible, as well.

The trouble is that even *with* the planned new units, there is a strong potential for *indirect displacement* and a *worsening quality of life for low-income renters who remain in the neighborhood*. The reason is simple: current landlords in the neighborhood understand the "market" to support median asking rents that are more than 50 percent higher than the median rents in the neighborhood. Accordingly, as we have seen, large landlords are setting rents at this higher level, which will mean that upward pressure on rents throughout the zoning area *and beyond* will continue unabated and likely worsen. Any idea that increased supply will lower rents is countered by the already-significant disjuncture between median rents (the rents that prevail in the local market) and asking rents.

The only real questions are whether the expansion of Certificate of No Harassment (CONH) and Right to Counsel (RTC) in Inwood will mitigate the effects of landlords' aggressively trying to turn over their units. There is simply not enough evidence yet on the effects of these programs on landlord strategies to know.

Recommendations

There should be no rush to rezone Inwood. With the City Council and Mayor's charter revision commissions in the process of taking public comment about proposed changes to the City Charter, it would be surprising if suggestions for changing land use procedures is not one of the foremost concerns of city residents. Specifically, the failure of the CEQR manual to specify that

the required EIS take account of rent-stabilized housing is, given what has been presented above, a gaping hole in our ability to predict and understand the dynamics of displacement. That Inwood is still so deeply rent-regulated shines especial light on this problem. Approving a rezoning without a thorough study of displacement dynamics focused especially on landlord behavior seems both premature and frankly, negligent.

And there is a reason that affordable housing advocates and tenants are concerned about rezoning. The recent history of neighborhood rezoning has been one of displacement and rising rents, even with so-called “affordable housing” provided either through MIH or through city programs prior to the current administration. All indicators are that Inwood needs far stronger tenant protections before new development incentives are contemplated for the area. Already, landlords are concentrating portfolios in the area; already asking rents are inflated far above median rents. Already, Community District 12 landlords enjoy the second-highest *increase in* Net Operating Income in Manhattan and the fifth-highest in the city. And already, Northern Manhattan accounts for 80 percent of the cases in Manhattan’s Housing Court.

No rezoning should proceed in Inwood until HPD devises a new term sheet that is geared toward local—Community District-level—income distributions with some adjustor for fair housing. In this way, low- and moderate-income communities of color would not fall victim to gentrification-by-affordable-housing as has been the case in previous rezonings and with significant portions of non-mandatory affordable development under both this and the previous administration. It would also temper the speculative impulse in such neighborhoods while allowing for measured redevelopment with responsible owners.

Gentrification-by-affordable-housing does not promote mixed-income neighborhoods, but rather imposes disruptive and damaging churn on the longer-term residents of a neighborhood. As Leo Goldberg^[4] has shown, especially in “hybrid” neighborhoods such as Inwood (where the upzoning is targeted and where wholesale changes in land use are not contemplated) these pressures can result in rapid demographic change.

No zoning should proceed without a solid and staffed Partners in Preservation Program already on the ground. This program must take into account the risk factors elaborated in this working paper, and have access to the data that are, at this moment, hard to come by. As the Jerome Avenue Points of Agreement memo from Deputy Mayor Glen indicates, a “Partners in Preservation” program would provide “risk assessment”:

This initiative will seek to identify and prevent the deregulation of affordable homes in CDs 4 and 5. HPD will conduct an analysis of the existing housing stock, including an inventory of all regulated affordable housing to the extent possible using existing data sources and an assessment of the potential for displacement and/or deregulation.^[5]

Any risk assessment that does not focus on landlord behavior, but rather adheres to an older model of displacement risk by landlords who simply cannot keep up with the cost or demands of their buildings and tenants who are priced out by “the market,” will fundamentally miss what is happening in Inwood and will be unprepared to deal with the fallout from rezoning. HPD cannot be left to do this risk assessment on its own but must do so with community groups who are

already working to help tenants in danger of displacement stay in their homes and ensure that they are safe.

This working paper has sought to spell out what we know and what we do not about the risks of displacement in Inwood, and to propose a different way of looking at these risks than has been commonly done before. To approach the rezoning without thinking clearly about the behavior of landlords and lenders is to court an irresponsibly optimistic view of what happens next.

[1] Tom Waters, “Profiles of Rezoning Study Areas,” typescript.

[2] See Renae Widdison, *It Matters How We Count: Understanding the Methodology used to assess Indirect Residential Displacement in New York City's City Environmental Quality Review Technical Manual*. Master's thesis. Pratt Institute, 2018.

[3] Historically, average GRMs fluctuate considerably. See <https://realestatevaluation.wordpress.com/2009/09/03/a-little-bit-of-history-gross-rent-multipliers-in-new-york-city-over-time/> What is particularly striking is that GRMs of 11 are, from the point of view of New York City's history, quite high. Just prior to the financial crisis in 2007, GRMs “peak[ed] at more than 15 time gross annual rental income,” with previous peaks at below 10. Accordingly, by adopting a baseline of GRM 11, we are here taking for granted a significant degree of speculation as the “new normal.” In both historical terms and for the lives of low-income tenants, a GRM of 11 should not be treated as normal but as a dangerous aberration.

[4] See Goldberg, “Game of Zones.” Master's thesis. Massachusetts Institute of Technology Department of Urban and Studies and Planning, 2015.
<https://dspace.mit.edu/handle/1721.1/98935>

[5] See <https://council.nyc.gov/land-use/wp-content/uploads/sites/53/2018/01/Jerome-Avenue-POA-Final.pdf>

Part Three: Assessment of the Rezoning Process and Recommendations to Sustain an Independently-Owned Small Business Environment

Susanna. Schaller

Rezoning planning processes should give residents and small business owners a meaningful voice in shaping neighborhood plans

Rezoning frameworks, as we have seen across the city, impact the physical, economic, social and cultural fabric of neighborhoods. Rezonings, by transforming the built environment and the allowable uses in potential new buildings, change who will be able to stay, whose voices will diminish in significance as demographic changes accelerate, and ultimately who will be pushed out.³ Thus, when people, old and young, in Inwood, East Harlem and Jerome Avenue get engaged in the rezoning process and come out to testify in the hundreds, but people indicate through demonstrations and testimony that their voices are not fully considered, the planning process has foreclosed people's ability to have a say in what most intimately impacts not just their daily lives but their existential survival in their neighborhoods. When determining adverse impacts, assessment guidelines, such as the CEQR manual, which guide the environmental review of land use actions in the City, however, do not consider qualitative criteria, such as cultural, social or political displacement *in situ*.⁴ As such, the public review and the environmental review processes make invisible how rezonings affect people's sense of democratic empowerment or disempowerment in New York City.

The "Inwood Planning Initiative" and rezoning proposal from the City's perspective represents a comprehensive plan for Inwood, but the process seems to indicate that this plan is not widely accepted. One positive outcome of the Inwood rezoning process, however, has been that Inwood stakeholders have begun to reach across racial, economic and cultural divides to proactively build bridges and to propose an alternative to the rezoning proposal. Mayor de Blasio in his last State of the City Address issued a call that "we must re-democratize society." To support this process, the City could stop the ULURP clock on this rezoning plan and invest in strengthening these initiatives, which have incorporated business owners and residents, by designing a more participatory and community-building process beyond a rezoning framework. This could serve as a demonstration project to explore how we might democratize and enhance community-based planning in New York City (See introduction to the report by Shawn Rickenbacker).⁵

Inwood residents, business owners and organizations actively engaged in the process and developed an alternative plan (Uptown United platform), including zoning recommendations, which do not seem to foreclose growth but appear to create a framework that might allow for a more sustainable growth trend. The CB12 committee meetings, including the business

³ Derek S. Hyra, "The Back-to-the-City Movement: Neighbourhood Redevelopment and Processes of Political and Cultural Displacement," *Urban Studies* 52, no. 10 (August 1, 2015): 1753–73, <https://doi.org/10.1177/0042098014539403>.

⁴ Mindy Thompson Fullilove, *Root Shock: How Tearing up City Neighborhoods Hurts America, and What We Can Do about It* (New York: One World/Ballantine Books, 2005); Mindy Thompson Fullilove, "Root Shock: The Consequences of African American Dispossession," *Journal of Urban Health: Bulletin of New York Academy of Medicine* 78, no. 1 (2001): 72–80

⁵ Hyra, "The Back-to-the-City Movement"; Gabriella Gahlia Modan, *Turf Wars: Discourse, Diversity, and the Politics of Place*, New Directions in Ethnography 1 (Malden, MA: Blackwell, 2007).

development committee meetings, were conducted in dialogue form and resulted in a comprehensive CB12 resolution, which integrated many of the alternative strategies from the Uptown United platform in its call to modify the Inwood rezoning plan. While the plan was modified through an “A Amendment” apparently first released April 17, 2018, this significant modification was introduced after community board committee meetings and the required public hearings had concluded and CB12 had passed its resolution. Crucial recommendations from the CB12 resolution pertaining to small businesses are not reflected in this Amendment. The changes respond to the call to save the wholesalers east of 10th Avenue, which is significant, however, they do not correspond with requests for a granularly tailored rezoning plan, especially with regard to the Commercial U. Additionally, the ULURP clock was not stopped to give residents, business owners and other stakeholders in the area ample time to fully assess the significance of the rezoning with the proposed modifications.⁶

The rezoning as-is is unlikely to fulfill the intended equity or neighborhood stabilizing outcomes

During the “planning” phase when the agencies conducted their community workshops and at discussions at the various community board committee meetings as well as at the public hearings (ULURP CB12 and Borough President’s hearings), the Inwood rezoning plan was presented to community members as a way to solve the mounting affordability crisis, stabilize Inwood in the face of increasing gentrification pressures and to preserve the neighborhood’s character. John Krinsky has already addressed how the FEIS fails to account fully for the likely residential displacement. In 2013, the outgoing chair of the Department of City Planning acknowledged that “the neighborhood-specific supply-side” approach to solving the housing affordability crisis had failed:

“What we haven’t figured out is the question of gentrification. I have never, since I had this job, come up with a satisfactory answer of how to make sure everyone benefits ... I had believed that if we kept building ... and increasing our housing supply ... that prices would go down. We had every year almost 30,000 permits for housing, and we built a tremendous amount of housing, including affordable housing, either through incentives or through government funds. And the price of housing didn’t go down at all.”⁷

The trend to present an undifferentiated supply-side argument and to continue to rely on market-based mechanisms without sufficient public investments to produce adequate quantities of affordable housing for different market segments, including for very low-income residents, has not abated. To be sure, the Mandatory Inclusionary Housing (MIH) requirement under this administration’s plan responds to CB12’s request in the earlier iteration of this plan for more affordable housing and for a mandatory not voluntary inclusionary housing floor area ratio (FAR) bonus. But, the Furman Center’s 2015 research brief, “Housing for an Inclusive New York: Affordable Housing Strategies for a High Cost City,” in fact implied that Inwood was not a good

⁶ The City of New York Office of the Mayor, “Technical Memorandum 001 Inwood Rezoning Proposal CEQR No. 17DME007M ULURP Nos.: 180073MMM, 180204 [A] ZMM, N180205 [A] ZRM 180206PPM, 180207PQM, and 180208HAM,” April 17, 2018, 3

⁷ Goodyear, Sarah. “What We Haven’t Figured Out is the Question of Gentrification,” *The Atlantic*

candidate for MIH. On the one hand, the report noted, “of the six neighborhoods the city has announced will be subject to a new mandatory inclusionary housing program, at least two (East Harlem and Long Island City) appear to have rents high enough for there to be the potential for additional density to subsidize additional affordable units.”⁸ Only “prime New York City neighborhoods have such rents...;” these, according to the report included “Manhattan (excluding the northernmost neighborhoods),” namely Inwood.⁹ Thus, the expected “cross-subsidization” for “affordable” housing in Inwood presupposes an escalation of rents, which need to be counteracted by additional public subsidies.

As John Krinsky has pointed out, when the City indicated the rezoning was back on the drawing board, including on Inwood’s coveted waterfront, it likely created a speculative environment, placing even greater pressure on the adjacent existing rent-stabilized housing stock. Thus, the rezoning, despite the MIH requirement, is likely to prove counterproductive, accelerating displacement rather than “stabilizing the rental housing market” (FEIS, 3-4) in the neighborhood. For MIH to work in Inwood, high-rent conditions would have to be created to support MIH development, especially along the neighborhood’s “Commercial U” because most of the U is already zoned as fairly high-density R7-2 districts.

If MIH works best in high-value property markets, higher rents, especially on the Commercial U where the differential in FAR obtained by the rezoning is less than for the currently M-zoned areas but which surrounds the area where most of Inwood’s current rent stabilized units are located, need to catalyze and sustain MIH development. Thus, for the MIH-driven plan to work, in this area in particular, the projected high-income residents would represent the key ingredient. To achieve its purpose, then, the rezoning would have to reinforce an unbalanced development trend, which is built into the ratio of 75% market rate housing to 25% affordable units. This dynamic in contrast to the plan’s goals is unlikely to stabilize the neighborhood’s diverse residential base.¹⁰ In confronting the affordability crisis, then, preservation efforts instead of rezoning plans, such as the Inwood one, through the Department of Housing Preservation and Development’s protection activities and its Neighborhood Pillars program to support non-profit developers might have been prioritized before ever signaling a rezoning.¹¹

⁸ Josiah Madar and Mark Willis, “Housing for an Inclusive New York: Affordable Housing Strategies for a High Cost City” (New York City: The NYU Furman Center, March 2015), 7.

[ix]Madar and Willis, 6.

⁹ Madar and Willis, 6

¹⁰ Anthony Downs, *Opening up the Suburbs: An Urban Strategy for America*(New Haven, Conn.; London: Yale University Press, 1977). MIH was originally developed to integrate suburban neighborhoods, but, Downs argued that middle-class families would not want to live in integrated neighborhoods unless they maintained “cultural dominance.” for a critique of MIH, see Samuel Stein, “Progress for Whom, toward What? Progressive Politics and New York City’s Mandatory Inclusionary Housing,” *Journal of Urban Affairs* 40, no. 6 (August 18, 2018): 770–81, <https://doi.org/10.1080/07352166.2017.1403854>

¹¹ <http://www1.nyc.gov/assets/hpd/downloads/pdf/about/neighborhood-pillars.pdf>. Additionally, the city might have invested in purchasing land on the east side of 10th Avenue at pre-rezoning values to have the capacity to perhaps invest in community land trusts or to have worked with non-profit

The Furman Center recommended in 2016: “In neighborhoods where market-rate development is currently not profitable, neither mandatory nor voluntary IZ requirements will result in new affordable housing production without government subsidy”.¹² Yet, the city has not as far as I know committed to a subsidy package to ensure that this higher proportion and deeply affordable units are produced in Inwood. Given that Inwood was at the time of the policy’s creation, according to the Furman Center, not a viable MIH market, the specific subsidy packages that would have to be made available with a rezoning plan in markets such as Inwood, would need to accompany a rezoning proposal to clarify the public resources needed and committed to achieve at least a 50 percent threshold of truly affordable units that are pegged to Inwood’s median income.

Where MIH has greater potential to create “affordable housing” through proposed rezoning actions is in the conversion of manufacturing to high-density residential land use changes. Public investments in purchasing land at pre-rezoning values in M-zoned districts, such as east of 10th Avenue in Inwood, might give the City greater capacity to invest in community land trusts or to work with non-profit developers and property owners to capture as many lots as possible for the production of a higher proportion of affordable (and more deeply affordable) units. By creating greater “planning value” that can be extracted through higher FAR and use-changes in M-zoned districts, the requirements for a higher proportion and deeper affordability should also forestall any “takings” argument since there should be no expectations of post-rezoning value creation by private property owners who purchased prior to a rezoning action.

The “Inwood Planning initiative” and rezoning should not be viewed as only a neighborhood-based plan, but a plan that is in line with the kinds of public-private partnership regimes that have privileged property-led development and have actively worked to gentrify neighborhoods in New York City and elsewhere.¹³ Rezoning efforts in New York City have been accompanied by neighborhood marketing and “revitalization” campaigns to create interest in new housing developments and “new” neighborhoods. This has also been the case in Inwood. The real estate section of the New York Times, for example, has spotlighted the Inwood neighborhood’s rental market several times over the past two years. The last article was

developers and property owners to capture as many lots as possible for the production of a higher proportion of affordable (and more deeply affordable) units. At the very least a higher proportion and a requirement for deeper affordability should have been established for areas east of 10th Avenue where the value private property owners capture through the City’s rezoning action (from an M zone to a high-density residential zone) is much higher than in pre-existing residentially zoned areas.

¹² NYU The Furman Center for Real Estate and Urban Policy, “Gentrification Response: A Survey of Strategies to Maintain Neighborhood Economic Diversity” (New York: NYU: The Furman Center for Real Estate and Urban Policy, 2016), 13,

http://furmancenter.org/files/NYUFurmanCenter_GentrificationResponse_26OCT2016.pdf.

¹³ Wolf-Powers, Laura. “Up-Zoning New York City’s Mixed-Use Neighborhoods Property-Led Economic Development and the Anatomy of a Planning Dilemma.” *Journal of Planning Education and Research*, 24(4): 379-393. Sagalyn, Lynn. “Public/Private Development: Lessons from History, Research, and Practice.” *Journal of the American Planning Association*, 73(1): 7-22. 10.1080/01944360708976133

published the day after the July 10th City Council hearing.¹⁴ These articles profile the neighborhood for a higher income demographic to create interest in Inwood’s “quality of life” and fantastic amenities. In Northern Manhattan, as the *New York Daily News* reported in 2013, the city in cooperation with the Washington Heights BID (WHBID) and Community League of the Heights (CLOTH) had apparently also been planning a major expansion of business improvement districts (BIDs), including into Inwood.

BIDs are called “business” improvement districts and are marketed as serving merchants on commercial corridors, but BIDs through their legal structure are created by and for property owners. They are designed to give property owners, not tenant-businesses, an organized and majority voice on their board and, consequently, in the management of an area’s commercial environment. Although SBS has made it policy that additional community stakeholders must also signal support before a BID can actually be established, who these stakeholders are and what the threshold is to actually organize a BID is unclear. Business improvement districts (BIDs) are still organizations led by property owners invested in increasing the profitability of their properties and not necessarily in the welfare of the small businesses who lease from them unless these two aims overlap. A consolidation of its BID area, the *Daily News* noted, could mean that the WHBID “would see its budget mushroom, though the exact figure isn’t yet known.”¹⁵ Whether and how the BID’s budget would increase if it were to expand into the Inwood rezoning area depends on the actual assessment formula and the additional square footage and or assessed value the rezoning would generate.

Since BID-like services were presented as part of the planning initiative in Inwood, crucial information, such as BID governance rules, assessment formulas, the fact that BID assessments can, and usually are passed down to small businesses, should be clearly communicated to enable stakeholders to make informed decisions. Because BIDs are misunderstood institutions, this kind of information should be included as part of planning and

¹⁴ Jacobson, “Inwood: Green Space and Budget-Friendly Apartments”; Coneybeare, “The New York Times Takes a Look at Manhattan’s Inwood Neighborhood in the Latest Block by Block”; C. J. Hughes, “Inwood: Always on the Brink of Coolness,” *The New York Times*, May 20, 2014. Other areas being rezoned received this kind of SBS funding as well:

<https://www1.nyc.gov/site/sbs/about/pr20170313-n3603.page> Through these grants, now we as taxpayers (SBS is tax payer funded) are also footing the bill for this and underwriting commercial gentrification.

¹⁵ Douglas Feiden, “Major Expansion of Business Improvement Districts Is Planned for Northern Manhattan |,” *NY Daily News*, April 25, 2013, <http://www.nydailynews.com/new-york/manhattan/progress-bidness-wash-hts-article-1.1326741>. Since I am unfamiliar with New York City’s BIDs, I have over the past year, emailed staff but to no avail (including an executive staff member) at the Department of Small Business Services to ascertain the exact assessment formula of the WHBID or to ask staff to direct me to the portal where I might find information specific to BID business plans and assessment formulas. In Washington, DC this kind of information is readily available on the City’s websites.

rezoning initiatives where BID-like activities are funded and BIDs are in the organizational phase as has been the case in Inwood.

In Inwood, the website (<https://www.upininwood.nyc>) which outlines the BID-like services in which SBS invested, presents a map that overlaps with the rezoning area, not with Inwood boundaries apparently recognized by longtime residents and business owners. Marketing Inwood as a business improvement district area before a BID has been formally established also draws attention to Inwood's property market and its future potential commercial landscape. As the website's name indicates, it also focuses on and profiles Inwood's position in the city as a destination, not necessarily as a neighborhood for current neighbors who are already "up in Inwood." BIDs can, but don't necessarily have to, end up serving destination retail better than neighborhood-serving retail,¹⁶ yet all businesses are required to pay.

The rezoning should sustain Inwood's position both as a unique destination and neighborhood-serving business district ...

According to the City, one of the guiding documents to analyze the impact of the rezoning proposal is the de Blasio administration's OneNYC plan. The OneNYC plan specifically states: "While New York City is home to 52 Fortune 500 companies, small businesses with fewer than 100 employees are a critical part of the city's economy. These businesses account for more than half of New York's private sector employment" (28). The OneNYC plan also notes that we need to "foster an environment in which small business can succeed" (56). In light of these policy goals, the environmental impact assessment should have studied the displacement of small, independently-owned businesses and their employees as well as the impact that the loss of these businesses will have on Inwood's neighborhood character. The City has at its disposal zoning tools to create a differentiated zoning plan for Inwood's commercial U. Best practices from other cities and policy recommendations are outlined in the recent City Council report and were incorporated in the CB12 Inwood rezoning resolution.¹⁷

As the above section of the report outlines, the environmental impact analysis for the Inwood rezoning plan fails to adequately account for the direct and indirect displacement of Inwood neighbors from their homes and their community. Similarly, the Inwood rezoning will likely have a much greater displacement impact, both in terms of direct and indirect displacement, on small businesses than the FEIS is indicating.

Inwood is still a unique, vibrant neighborhood in which small businesses, especially immigrant-owned businesses, have been able to survive. They form the backbone of the Inwood community. They not only provide the essential products and services residents need and desire, but they also create essential social spaces where residents, particularly Dominicans

¹⁶ My research on BIDs in Washington, DC indicates that this can be the case. The research shows the interests of property owners can align with destination type businesses to the detriment of daytime, neighborhood-serving businesses.

¹⁷ The New York City Council, "Planning for Retail Diversity Supporting NYC's Neighborhood Businesses" (New York: City Council, December 2017).

young and old, meet. A qualitative analysis of one block of 207th Street would yield the kind of “ballet of the street” Jane Jacobs described in her 1961 Greenwich Village neighborhood. On 207th Street people create social networks, build entrepreneurial relationships and sustain cultural connections.

The Manhattan Borough President’s (MBP) office has already warned that the rezoning plan, whether in its original iteration or in the form of the “A Amendment,” will adversely impact a diverse community of immigrant entrepreneurs. While the FEIS only identifies 33 projected development sites, the Manhattan Borough President as well as a quick analysis of the as-built-FAR on the Commercial U indicate that many more businesses are likely at risk of displacement over the next 15 years than the FEIS acknowledges. The Manhattan Borough President’s office corroborates the findings outlined in Table 1, namely that over a third of Inwood businesses on the commercial corridors are at risk of direct displacement. If we consider sites with a built FAR between 0 and 1 as development sites, then it seems 101 businesses are located in sites that would yield considerable FAR differentials and thus soft sites.

The FEIS provides no clear rationale for why some lots are projected development sites while others are potential development sites and others are excluded as sites likely to be developed. For example, although it seems single owners hold multiple lots on several blocks along the commercial U, this does not seem to factor into the site selection outlined in the FEIS. Another factor, lease terms, which might influence this development trajectory and also the value that business owners might lose should they have demolition clauses in their leases, is not highlighted in the FEIS.

Table 1: Number of Business Storefronts on the Commercial U by FAR Categories (May 2018)

	207TH ST	BROADWAY	DYCKMAN ST
FAR $0 \leq 1$	30 (30%)	31 (36%)	40 (37%)
FAR $1.01 \leq 2$	16	7	21
FAR > 2	55	47	47
Total Active Storefronts	101	85	108

In preparation for the rezoning, the Department of Small Business Services funded the Washington Heights BID to conduct the “Neighborhood 360: Inwood Manhattan Commercial District Needs Assessment.” The corresponding report was released in 2016.¹⁸ It seems the

¹⁸ New York City Department of Small Business Services, “Neighborhood 360: Inwood Manhattan Commercial District Needs Assessment,” 2016, <https://www1.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/n360-cdna-inwood.pdf>. Anecdotal

survey asked questions about lease terms, tried to ascertain the approximate sizes of current stores and collected the personal data of Inwood business owners. The data show that the vast majority of Inwood's businesses are independently owned (See Table 1) and that 98% of the businesses lease their space. Additionally, as the SBS-funded report indicates, at the time the Environmental Impact Assessment for the rezoning was conducted most small business owners who participated in the survey felt extreme pressure from ever increasing lease burdens.

The data from these CDNA studies could be used to examine a rezoning's potential impact on business owners and the data collection process could be used to engage business owners in a collaborative planning discussion about any potential rezoning plans.¹⁹ Instead, in Inwood the failure to educate and inform business owners of their rights or lack thereof with regard to lease negotiations has placed business owners (many of whom did not know if they had demolition clauses in their contracts) at a disadvantage. A planning approach that does not inform owners of the implications a rezoning process has for their businesses creates an uncertain environment. Yet, business owners stand to lose their life's investment should they be evicted from their spaces or should their leases suddenly lose value. But, the FEIS has presented no analysis of this kind of impact.

The data and canvassing in 2017 by Inwood volunteers as well as CCNY students revealed that the majority of the business owners would probably qualify as minority or women owned businesses (MWBE). Although Unified Inwood asked the City to study the particular impact on MWBEs in Inwood, the City's responded only that the CEQR manual did not prescribe this kind of analysis. This is where the spirit of evaluation is overridden by bureaucratic or legalistic thinking. Yet, together the Jerome Avenue, East Harlem and Inwood rezoning could create a disparate impact since business displacement in these neighborhoods will impact largely minority-owned businesses nor has the FEIS considered the potential intergenerational adverse economic impact displacement may have on minority-owned business owners and their families.

²⁰

Additionally, the notion that displaced businesses will be able to relocate in the City (FEIS) reveals no detailed analysis of business displacement has been conducted. Small business often cannot simply relocate into another market. Nor do most small businesses have the

evidence suggests that the rezoning process may have contributed to the precarity of businesses, some of whom have indicated that they face lease renewal problems and harassment or greater scrutiny from landlords. In September 2017, we canvassed the Commercial U to update the City's 360 data. Again, this is imperfect data given our volunteer efforts.

¹⁹ At least when we canvassed business owners in the Fall of in 2017, business owners, especially on 207th Street, seemed to know nothing about the rezoning or how it might impact their businesses.

²⁰ Alison Decker, "The Racial Wealth Gap Hurts Entrepreneurs of Color – and the Economy" (The Aspen Institute, December 22, 2016),

<https://www.aspeninstitute.org/blog-posts/racial-wealth-gap-hurts-entrepreneurs-color-economy/>;
Laura McFeely and Nancy Lee, "Small Business and the Racial Wealth Gap" (WWW.INTERISE.ORG, November 2017).

financial capacity to simply close down, find a new location, renovate a new location, move in and build up a new customer base.

The FEIS also provides no qualitative analysis of what the loss of these family-owned businesses signifies for the Inwood community more broadly. Given that many small businesses in Inwood function as social and cultural meeting places, the disappearance of local businesses will likely reverberate through the community at large.²¹ In Inwood entire blocks are owned by single property owners, which means the economic, social and cultural ecology, of the commercial corridors could potentially be disrupted. The FEIS pays no attention to these types of interactions. Instead, businesses are analyzed as interchangeable economic units, simply selling products and services that can be substituted by any given incoming business with similar offerings.

The City’s data (and canvassing of the Commercial U) suggest that Inwood still exhibits the kind of retail environment that is under threat in New York City at large, especially in Manhattan.²² As Table 2 indicates, the vast majority of the businesses in Inwood on the Commercial U are still independently owned; moreover, as noted, they are mostly “immigrant” or Latino owned. The FEIS does observe that the proposed actions “could lead to changes in local market conditions that would lead to increases in commercial property values and rents within the study area, making it difficult for some categories of businesses to remain in the area ...[but] they would not introduce new uses or a new type of economic activity to the study area.” (FEIS, 3-4). A closer look at the current rezoning and the proposed zoning districts, however, reveals that they will introduce “new uses” on parts of the commercial U, which may change the character of these commercial sub-districts.

Table 2: Inwood: Business Types in Active Ground Floor Storefronts

BUSINESS TYPE	207TH ST	BROADWAY	DYCKMAN ST	Totals
Independent	83 (82%)	68 (80%)	81 (75%)	232
Formula	15	8	23	46
Corporate Banks	1	2	3	6
Community Bank	0	1	1	2

²¹ Jane Jacobs, *The Death and Life of Great American Cities*, Vintage Books edition (New York: Vintage Books, 1992).

²² Brad Hoylman, New York State Senator, “Bleaker on Bleaker: A Snapshot of High Rent Blight in Greenwich Village and Chelsea” (New York State Senate, May 2017).

Supermarkets	1	2	0	3
Institutional	1	4	0	5
Total Active Storefronts	101	85	108	294
Vacant	10	15	16	41
GRAND TOTAL	111	100	124	335

Two changes, in particular, in the A Amendment relating to the Broadway corridor and 207th Street, a C4 zoning district for the entirety of the Commercial U (not just Dyckman) and the MIH height bonuses, will likely change the development trajectory on these corridors. In this case the FEIS is again likely underestimating the projected development sites because it did not study how allowing larger and non-neighborhood-serving uses in a previously restricted market (see below) for ground floor retail space will change the development dynamics.

Dyckman Street, 207th Street and Broadway have very distinct characters. Today, the area in which chain or formula stores seem to be clustering is in the currently C4-4 district on Dyckman. Yet, the “A Amendment” proposes to extend the C4 (as C4-4D and C4-5D) districts up Broadway and down 207th Street. These two corridors are currently residentially zoned with commercial overlays whose “retail uses include neighborhood grocery stores, restaurants, and beauty parlors [for example] ... This typically produces a commercial ground floor in an otherwise residential building” (FEIS). As a representative of the Department of City planning noted in 2012, zoning can shape the market for retail space: “Commercial overlays naturally restrict store sizes by virtue of being limited in depth and only allowing one or two stories of commercial uses. ‘Big Box’ retail simply cannot fit in these districts today. In certain special districts, we’ve limited store sizes based on local land use concerns.”²³ Thus, creating a C4 district where commercial overlays might have kept chains and “big box” retail at bay, the proposed actions are opening up the market to precisely these kinds of tenants.

While the SID would introduce some ground floor regulations ostensibly to safeguard neighborhood-serving retail and to activate the ground floor, these regulations are likely inadequate. The zoning text would restrict banks and loan offices to 25 feet of ground floor

²³ New York City City Planning Commission, “Report of the CPC in the Matter of Application C 120145 ZMM, May 9, 2012/Calendar No. 3,” May 9, 2012, <http://www1.nyc.gov/assets/planning/download/pdf/about/cpc/120145.pdf>. To be sure “big box” are changing their store size requirements, which means a formula store “conditional-use” permitting process is crucial in combination with store size restrictions. San Francisco Planning Department, “San Francisco Formula Retail Economic Analysis” (San Francisco: San Francisco Planning Department, June 2014), http://www.sf-planning.org/ftp/files/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf

frontage, and the project description notes, the “SID would mandate that individual local retail and local service establishments occupy at least 50 percent of ground-floor building frontage” in parts of the SID (6). The stated intent is “to ensure that future ground-floor commercial development in these areas reinforces the existing smaller-scale local retail character that defines these streets” (A Amendment, 6). But, Use Groups 10 and 12 are apparently included in the uses allowed also within this 50 percent set-aside at least according to an Email query answered by EDC.²⁴ The City’s Zoning Resolution, specifically states that Use Groups 10 and 12 are explicitly non-local:

Use Group 10 consists primarily of large retail establishments (such as department stores) that: (1) serve a wide area, ranging from a community to the whole metropolitan area, and are, therefore, appropriate in secondary, major or central shopping areas; and (2) are not appropriate in local shopping or local service areas because of the generation of considerable pedestrian, automobile or truck traffic.

Use Group 12 is also non-local, including entertainment venues, such as large-scale bars and restaurants, expected to bring in outside traffic.

The SID regulations, then, do not seem to differentiate neighborhood-serving businesses, which provide essential products and services conveniently to local residents but often have smaller profit margins, from destination retail and alcohol-serving entertainment venues.

The Dyckman Street trend, which already has more chains and nighttime entertainment venues, may be an indicator of what we might expect on the other two commercial corridors that will now be designated C4-4D and C4-5D. Moreover, the limited restriction on bank frontage the A Amendment proposes seem not to have been effective as a sole measure in other rezonings.²⁵ An examination of the Upper West side comparing Broadway, where these limited restrictions exist, and Columbus Avenue, where more expansive “Enhanced Commercial District” measures were applied, apparently indicate that comprehensive store-size restrictions like on Amsterdam and Columbus Avenues have had a positive impact on vacancies, and lease rates have decreased.²⁶

²⁴ Technical Memorandum 001 for Inwood Rezoning Proposal, Appendix A, Zoning Text 142-14 and Map 2. E-mail of Adam Meagher of EDC to Paul Epstein of May 7, 2018, in reply to Epstein’s May 2, 2018 e-mail. In C4 districts use groups 10-12 are allowed, which are “regional commercial centers/amusement uses (Use Groups 10–12).”

https://www1.nyc.gov/site/planning/zoning/glossary.page#use_group

²⁵ 125th Street is one rezoning to be examined more carefully for its special district intentions versus its outcomes.

²⁶ The New York City Council, “Planning for Retail Diversity Supporting NYC’s Neighborhood Businesses.” REBNY reported in its 2017 Manhattan Retail Report: “On the Upper West Side, our Manhattan Retail Report Advisory Group noted concern for the effect of zoning regulations on ground floor retail spaces,” it pointed out that within the Upper West Side Special Enhanced Commercial District on “Columbus Avenue, between West 66th Street and West 79th Street, the average asking rent fell 16 percent to \$338 psf compared to last fall.”

The Inwood plan, including its bank frontage restrictions, is reminiscent of Bloomberg's rezoning of 125th Street, which was presented as a rezoning to strengthen Harlem's "Main Street." Urbanist Alessandro Busa notes the 125th Street zoning plan, which "did not include provisions to protect small merchants," however, has supported the transition of Harlem's "Main Street" into a commercial district whose "corporate retail's aesthetics is compromising the community's uniqueness and, according to some observers, even jeopardizing its potential as a tourist destination."²⁷

The updated EIS in the Technical Memorandum introducing the "A Amendment" ignores that enabling large-scale, non-local uses in the Commercial U, including big-box chain stores that can pay higher rents, is likely to strain the ability of Inwood's local independent small businesses and neighborhood-serving uses to maintain a foothold in the area. Both the proliferation of chains and the potential preponderance of large ground floor commercial store plates have been associated with increased vacancy rates, including in parts of New York City and the loss of unique retail markets.²⁸ The FEIS, however, does not study these trends.

The City in its analysis of the rezoning treats each business as an abstract discrete entity. But small businesses are built on relationships, and neighborhood local economies as well as neighborhood life are built around these relationships. The interdependencies among businesses and their employees and their families may actually keep more dollars circulating back through Inwood's local economy and for longer than larger non-local businesses might. Studies have begun to corroborate these types of synergies.²⁹ Yet, the FEIS failed to study the specific contribution (or lack thereof) that independently owned businesses make to the local economy.

²⁷ Alessandro Busà, "After the 125th Street Rezoning: The Gentrification of Harlem's Main Street in the Bloomberg Years," *Urbanities*4, no. 2 (2014): 63

²⁸ Olivia LaVecchia and Stacy Mitchell, "Testimony by Institute for Local Self-Reliance: Oversight Hearing on Zoning and Incentives for Promoting Retail Diversity and Preserving Neighborhood Character," § Council Committee on Small Business and Subcommittee on Zoning and Franchises (2016); Hoylman, New York State Senator, "Bleaker on Bleaker: A Snapshot of High Rent Blight in Greenwich Village and Chelsea"; Mary DeStefano, "Final Report: Preserving Retail Diversity in Community Board 3" (New York City: Manhattan CB3, 2012), <http://www.nyc.gov/html/mancb3/downloads/fellowship/Preserving%20Retail%20Diversity%20in%20Community%20Board%203.pdf> The New York City Council, "Planning for Retail Diversity Supporting NYC's Neighborhood Businesses."

²⁹ Civic Economics, "Independent BC: Small Business And The British Columbia Economy," February 2013. This is only one study. San Francisco, Austin and US cities have contracted with Civic Economics to assess how independently owned business contribute to the economy as compared with formula stores. Small businesses also add to neighborhood resiliency in the face of neighborhood hardships or outright disasters. Stacy Mitchell, "Locally Owned Businesses Can Help Communities Thrive – and Survive Climate Change," June 12, 2013, <http://grist.org/cities/locally-owned-businesses-can-help-communities-thrive-and-survive-climate-change/>

More cities, such as Rome, Paris, London and San Francisco, are recognizing that they need to truly build on the competitive advantages³⁰ that urban retail districts have to offer - their uniqueness, their human scale, their small and varied business characteristics, the sociability they create on the street and their walkable convenience - in order to maintain viable commercial corridors and truly “livable” neighborhoods.³¹ These obviously are not new insights.³² But, the City did not study what kind of retail diversity the proposed actions might create, relying instead on broad supply side metrics (gross commercial square footage), which do not provide - as Commissioner Ortiz in her questioning of the EDC noted - a clear vision of the types of commercial uses the proposed actions might actually produce. Neither the City nor the FEIS has presented a market analysis or consumer demand study to communicate the Inwood Planning Initiatives vision.³³ Thus, it is difficult to assess the City’s plan for Inwood’s commercial corridors beyond gross square footages.

The rezoning instead may undermine what several studies, including the CB12 land use plan, have considered Inwood’s asset, namely its Dominican / Latino business culture and vibrant environment, created by the interaction between the small businesses’ economic function and the street life they sustain. In an increasingly competitive locational environment, a distinguishable, niche retail market, however, represents an economic development asset important also to New York City’s tourism industry.³⁴

“We Need Smart Policy”³⁵

³⁰ Michael E. Porter, “The Competitive Advantage of the Inner City,” *Harvard Business Review*, no. May-June (1995): 55–71. Porter made the argument that urban centers needed to capitalize on their competitive advantage to support economic development. While I do not subscribe to Porter’s market-based rationale, there is an argument to be made that maintaining the diversity of urban centers (economic, social, built environment, retail, etc.) is crucial to sustaining this advantage. The Institute for Self-reliance provides an excellent resource site to find out what other cities are doing. Olivia LaVecchia and Stacy Mitchell, “Affordable Space How Rising Commercial Rents Are Threatening Independent Businesses, and What Cities Are Doing About It” (Institute for Self Reliance, April 2016), <https://ilsr.org/wp-content/uploads/2018/03/ILSR-AffordableSpace-FullReport.pdf>

³¹ V. Mehta, “Lively Streets: Determining Environmental Characteristics to Support Social Behavior,” *Journal of Planning Education and Research* 27, no. 2 (December 1, 2007): 165–87, <https://doi.org/10.1177/0739456X07307947>; V. Mehta and J. K. Bosson, “Third Places and the Social Life of Streets,” *Environment and Behavior* 42, no. 6 (November 1, 2010): 779–805, <https://doi.org/10.1177/0013916509344677>.

³² Jacobs, *The Death and Life of Great American Cities*; Jan Gehl, *Cities for People* (Washington, DC: Island Press, 2010).

³³ See Larisa Ortiz Associates featured projects at <http://www.larisaortizassociates.com>

³⁴ Christian González-Rivera, “Destination New York” (New York City: Center for an Urban Future, 2018).

³⁵ Emily Robbins, “6 Things Cities Can Do When Commercial Space Becomes Unaffordable,” National League of Cities, *CitiesSpeak* (blog), May 24, 2106, <https://citiesspeak.org/2016/05/24/6-things-cities-can-do-when-commercial-space-becomes-unaffordable/>.

A recent report by the City Council clearly highlights the paradox that inheres in our City's economic development trends: while of the "approximately 215,000 businesses in New York City, nearly 90 percent have 20 or fewer employees and over 60 percent have five or fewer employees.... Reports indicate that landlords are evicting small businesses in hopes of attracting deep pocketed banks and chain stores."³⁶ In the perception of many residents, these banks and chain stores have diminished our urban "quality of life."

The most recent modification to the rezoning plan, the "Amendment A," as noted, was introduced after the CB12 public hearings and after its resolution had been passed. Yet, the ULURP process proceeded without pause. The Amendment, however, seems to present a significant departure from the original intention to create more affordable housing in Inwood. It, instead, incentivizes commercial development through MIH height bonuses without requiring the production of affordable commercial space. The rationale behind this amendment, not unlike the one used to justify the administration's housing policy, is rooted in a supply-side argument: "Stabilize the retail market by increasing the supply of available retail space (FEIS, 3-5). Yet, as Amanda Burden observed in 2013, producing more housing does not mean we will produce more affordable housing. Similarly, producing more commercial space does not mean we will produce more space affordable to small neighborhood-serving businesses unless zoning tools are used to regulate uses and sizes and additional policies are in place to create a supportive environment for small businesses."³⁷

Zoning is not planning, and it may be difficult to fine-tune zoning districts to neighborhood specific conditions. But there are ways to tailor zoning regulations more closely to local realities. Several New York City specific studies and research from other cities suggest there are zoning strategies that could be used to create an environment more hospitable to small businesses.³⁸

San Francisco is one city that has taken the loss of independently-owned businesses seriously by introducing tailored store size restrictions, formula store prohibitions or conditional-use authorization processes and, more recently, a legacy businesses program.³⁹ Washington, DC is

³⁶ Matt Gewolb and Raju Mann, "Oversight: Zoning and Incentives for Promoting Retail Diversity and Preserving Neighborhood Character," Briefing Paper of the Human Services and Land Use Divisions (New York City: New York City Council, September 30, 2016), 2, <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2829501&GUID=B0F06CAF-DF21-4193-9F35-F75461CAFAE0&FullText=1>.

³⁷ San Francisco Planning Department, "San Francisco Formula Retail Economic Analysis."

³⁸ Gewolb and Mann, "Oversight: Zoning and Incentives for Promoting Retail Diversity and Preserving Neighborhood Character"; The New York City Council, "Planning for Retail Diversity Supporting NYC's Neighborhood Businesses"; San Francisco Planning Department, "San Francisco Formula Retail Economic Analysis."

³⁹ Gewolb and Mann, "Oversight: Zoning and Incentives for Promoting Retail Diversity and Preserving Neighborhood Character"; The New York City Council, "Planning for Retail Diversity Supporting NYC's Neighborhood Businesses"; San Francisco Planning Department, "San Francisco Formula Retail Economic Analysis."

also looking into these types of policies. The City Council recently released several documents relating to the existential threat that small businesses face in NYC, and there are many excellent recommendations and strategies the Council gleaned from other jurisdictions to protect New York City's small businesses. For Inwood two (limited) strategies in particular might create a zoning plan more tailored to the neighborhood's sub-districts.⁴⁰

- Store size restrictions, particularly on Broadway and 207th Street, and especially the latter.
- Formula store conditional use authorization requirements.

The FEIS presents no analysis of the average store sizes by type of businesses in Inwood, but this type of examination for each one of the corridors, looking at size differentials of independently owned businesses versus chains as well as bars and clubs versus daytime neighborhood-serving businesses, for example, might have yielded a more nuanced understanding of the corridors and formed a basis for tailoring the special district to help sustain Inwood's unique neighborhood character.

A 2014 study by the San Francisco's Department of City Planning suggests that by "making neighborhood commercial districts less attractive for formula retailers, the formula retail controls likely help create lower-cost opportunities for independent retailers who cannot compete for space in San Francisco's premium retail locations. Most independent retailers are best suited for smaller storefronts. Thus, small store sizes and formula store regulations may reinforce each other (given retail trends, store size restrictions alone are unlikely to keep out formula stores). The San Francisco Formula Retail Economic Analysis found that "the median establishment size for formula retailers [is] 6,500 square feet, compared to 2,200 square feet for independent retailers."⁴¹ Given Inwood's particularity and multiple small store sizes, it probably would be advisable to study the current store sizes on the corridors in the Commercial U to adapt the restrictions to local conditions.

The NYC City Council in fact identified the above tools in its 2017 "Planning for Retail Diversity: Supporting NYC's Neighborhood Businesses" study: Recommendation 8 is to "Expand use of special enhanced commercial districts that limit storefront size" and Recommendation 9 is to

⁴⁰ These zoning tools could have been merely a starting point. Other non-zoning strategies, as outlined in the above cited studies, should complement the zoning tools.

⁴¹ San Francisco Planning Department, "San Francisco Formula Retail Economic Analysis." Some countries, like Germany, even restrict supermarket sizes in urban neighborhoods. Inwood currently has several independently owned supermarkets of around 15,000 square feet. The City has indicated that two of Inwood's supermarkets will be displaced and a new large supermarket is poised to open in one of the development sites, but the FEIS does not indicate which category of supermarket this will likely be. Yet, Inwood's supermarkets respond to multiple residential markets (consumer segments) in the neighborhood. Thus, the City should have analyzed both the differential impact of independently owned supermarkets versus national chains, such as Whole Foods (now owned by amazon) and the product offerings and price points these different supermarket categories will likely offer. The FEIS does not disclose what kind of supermarket will enter Inwood and what subsidies it will receive.

“Examine the potential for zoning restrictions on chain stores and restaurants” in communities that “expressed concern about preserving neighborhood character and a diversity of local independent businesses.” Because recommendation 9 may need legislative action at the state level, the City should actively support a bill recently reintroduced to allow “New York City to Authorize the Enactment of Zoning to Regulate Formula Retail Uses.” Residents, business owners and CB12 have asked for these tools to be piloted in Inwood. Before moving forward with any Inwood rezoning process, the City should actively review and support the formula store bill and carefully consider strategies delineated in the New York City Council’s “Planning for Retail Diversity” report to create a closely tailored plan for Inwood.⁴²

Emily Robinson of the National League of Cities noted in 2016: “As rents are skyrocketing in cities around the country, smart city policy has an important role to play in keeping commercial space affordable and appropriate for local entrepreneurs.”⁴³ The City Council recognized this need when it released its report, “Planning for Retail Diversity,” in December 2017. Further, Community Board 12 in its resolution and Borough President Gale Brewer in her recommendations called for the kinds of smart policies detailed in the City Council’s report to be implemented in Inwood.

If the City’s stated goal is to create a vibrant urban environment, the current plan, as far as I can assess, goes counter to prevailing theories about what kind of built environments might achieve this. Instead, the proposed zoning restrictions articulated by CB12 and Uptown United might advance the City’s goal. Linear storefront restrictions, formula store permitting processes and store size restrictions have the potential to create a more human scale urban design in keeping with EDC’s goal to create pedestrian friendly, vibrant and unique streetscapes. They would also be in keeping with contemporary urban design and even place-making theories.[liv]If we are to rebuild Inwood (which is what this plan proposes) that supports both the quotidian life of neighbors and the consumer needs of visitors, then we need a differentiated zoning plan through a fine-grained approach that creates specific sub-districts that fosters the development of diversity.⁴⁴

⁴² NY Senate Open Legislation, “S1771-2013: Authorizes the Enactment of Zoning Laws and Ordinances to Regulate Formula Retail Use,” 2013; NY Senate Open Legislation, “Senate Bill S8577-2017-2018 Legislative Session: Authorizes the Enactment of Zoning to Regulate Formula Retail Uses: Law Section: New York City Charter Laws Affected: Add §200-A, NYC Chart,” May 10, 2018, <https://www.nysenate.gov/legislation/bills/2017/s8577>.

⁴³ Emily Robbins, “6 Things Cities Can Do When Commercial Space Becomes Unaffordable,” National League of Cities, *CitiesSpeak*(blog), May 24, 2106, <https://cityspeak.org/2016/05/24/6-things-cities-can-do-when-commercial-space-becomes-unaffordable/>.

⁴⁴ Andreas Feldtkeller, *Zur Alltagstauglichkeit unserer Städte: Wechselwirkungen zwischen Städtebau und täglichem Handeln*, Dt. Erstaussg., 1. Aufl, Architekt (Berlin: Schiller, 2012). The word Feldtkeller used for diversity, building on Jane Jacob’s insights, is *vielfaeltigkeit*, meaning economic and demographic diversity, multiplicity in uses, built structures, ownership patterns. Key in his work is the focus on creating mechanisms that remove property speculation from the equation.

August 2, 2018

Council of the City of New York
City Hall
New York NY 10038

Speaker Corey Johnson
Honorable Francisco Moya
Esteemed Members of the Council Land Use Committee

Re: Inwood Rezoning Proposal – 17DME007M

I would like to submit the following report *Inwood Rezoning Proposal Review and Report* dated July 25, 2018 into the public record concerning the Inwood Rezoning Proposal. This report was prepared by planning and policy experts from City College-CUNY (Professors Shawn Rickenbacker, John Krinsky, and Susanna Schaller), at the request of Councilman Ydanis Rodriguez and others. The work in this report is substantive and should be considered in detail by the Council before any vote on the proposed Inwood rezoning. Furthermore, this report calls into question the validity of the analysis conducted by the City of New York in the Final Environmental Impact Statement in support of the rezoning. Therefore, the City of New York should issue a supplemental Environmental Impact Statement that considers the analysis, findings, and recommendations in *Inwood Rezoning Proposal Review and Report* before any vote on the proposed Inwood rezoning.

Thank you for your attention to this critical matter.

Cheryl Pahaham
585 West 214th Street, #4C
New York NY 10034
cpahaham@gmail.com

Paul David Epstein
60 Cooper Street #4G
Inwood, New York, NY 10034

August 7, 2018

Council of the City of New York
City Hall
New York, NY 10007

Speaker Corey Johnson
Honorable Ydanis Rodriguez
Honorable Francisco Moya
Honorable Rafael Salamanca
Esteemed Members of the City Council

Re: Inwood Rezoning Proposal – CEQR No. 17DME007M

I am writing to put in the City Council’s public record before the vote on the proposed Inwood rezoning that I am calling attention to the fact that the modifications to the proposal by the Council’s Zoning and Franchise Subcommittee and Land Use Committee requires a Supplemental Environmental Impact Statement (SEIS) before the Council can vote on the proposal. That is because Technical Memorandum 003 of the Office of the Mayor and the NYC Economic Development Corporation (EDC) is seriously flawed, and therefore the City Planning Commission’s determination of no change in scope is improper as it is based on information that underestimates the extent of development, thus an SEIS is required. In addition, several of the commitments in Deputy Mayor Glen’s August 2, 2018 “Points of Agreement” letter to Speaker Johnson and Council Member Rodriguez also constitute an increase in scope that must be considered in an SEIS to avoid illegal segmentation of actions.

In Technical Memorandum 003, EDC assumed that because most of the “Commercial U” upzoning was removed in the Council’s proposed modifications, all the “projected development sites” in those portions of Dyckman Street, Broadway, and W. 207 St. would be removed from the plan and the development scenario (RWCDs). This may have been a reasonable assumption had those portions of the “U” been changed to contextually zoned R7A with eight-story height limits as most of the surrounding area is zoned in the plan. But instead, in the Council’s proposed modifications these portions of the “U” revert back to their existing R7-2 zoning with no height limits. There are many one- and two-story lots with “as built” FAR well below what is allowed under R7-2 zoning. Under current conditions, with no rezoning, there is no significant market to develop these sites further and any new market would likely develop slowly over decades. However, with the proposed rezoning introducing thousands of new market rate tenants on other parts of Inwood (e.g., the “Sherman Creek,” “Upland Wedge,” and “Tip of Manhattan” subdistricts) who are wealthier than most current residents, a market will be created to redevelop most of those R7-2 “soft sites.” This is especially likely because many of the one- and two-story lots are contiguous. So developers can easily buy out existing owners to assemble large-footprint sites and transfer air rights to build all market rate tall towers with high-priced luxury condos and rentals on high floors. That’s because unlike R7A, R7-2 zoning has no height limit. A reasonable case can be made that reverting most of the “U” to R7-2 will produce even more development in the “U” than projected in the Final Environmental Impact Statement (FEIS), not less, in the 15-year development period.

Another reason why an SEIS is needed is that in Deputy Mayor Glen's "Points of Agreement" letter includes commitments to housing development in at least three sites *not* considered in the FEIS or Technical Memorandum 003. These are the sites at 4095 Ninth Ave., Dyckman Houses, and the DOT Bridge Repair Facility. Unlike two other sites "to be studied" for possible development, these three sites include commitments for the City to issue RFPs for development. Surely, the City would intend for these sites to be developed within the 15-year development period in the FEIS. I am not, in principle, against these projects. They may, indeed, benefit the community as intended. But I am pointing out that these projects must be considered in the environmental review, and thus an SEIS is required. Using estimates for the projects from page 9 of the Points of Agreement letter (for 4095 Ninth Ave. and Dyckman Houses sites) and from Borough President Brewer's ULURP recommendation (for the Bridge Repair site) it is reasonable to project an additional 1,320 housing units would be developed on these sites adding 3,670 more people than projected in the environmental review. That means the population increase due to rezoning will be 34% more than projected for the "Potential City Council Modifications Increment" in Technical Memorandum 003 (Table 1 on page 6). Thus the Realistic Worst Case Development Scenario (RWCDs) is understated by at least 34% so virtually all environmental, socio-economic, infrastructure, and other impacts are understated. To not consider these projects in the environmental review, when the City has committed to developing them, would be an illegal segmentation of development to avoid having full impacts assessed. Indeed, adding these projects to the likely added development in the "Commercial U" in the R7-2 areas, and the RWCDs is likely understated by much more than 34%.

I realize the scheduled vote is imminent, but there is still time, even if just a few hours, to consider my arguments, realize that an SEIS is required, and take the necessary actions to have an SEIS completed and made public for comment before the final City Council vote.

Thank you for your attention to this critical matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Epstein", with a long horizontal flourish extending to the right.

Paul Epstein
Inwood Resident
60 Cooper Street #4G
New York, NY 10034