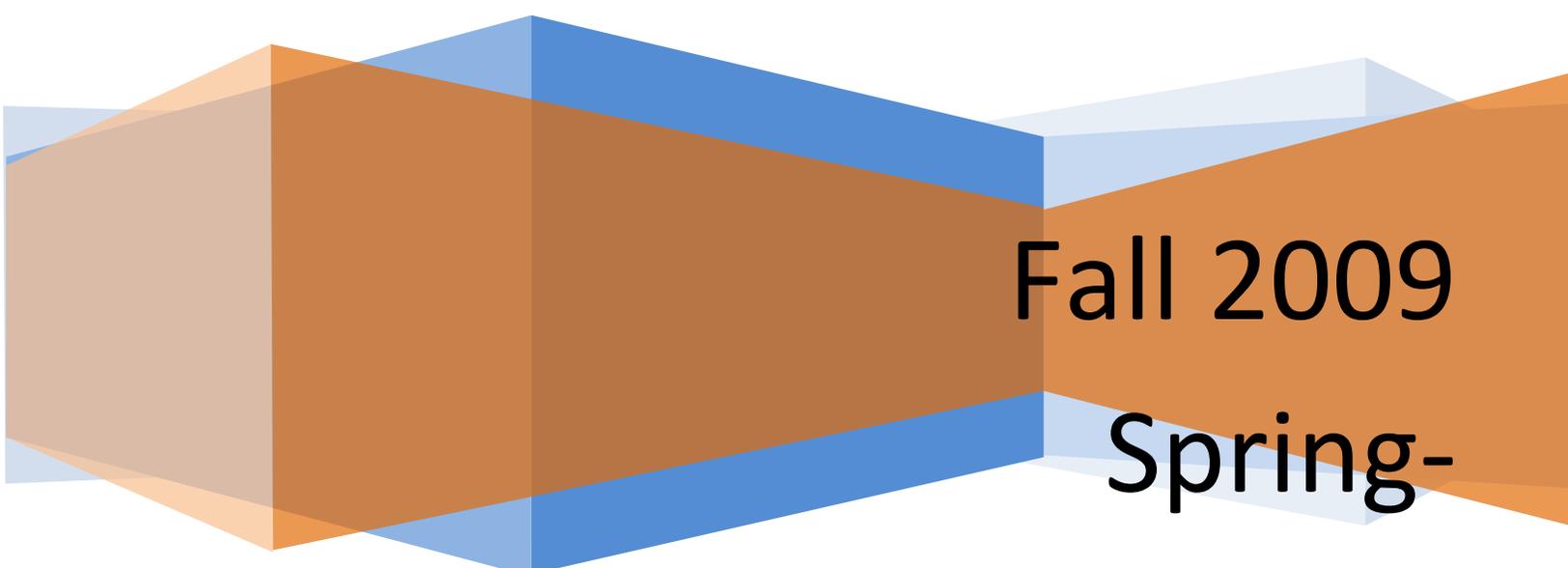


# **Final Project Deliverable**

## **Community Board 1**

### **Manhattan**

**Urban Planning Fellow-Matt D. Viggiano**  
**Director of Land Use and Zoning-Michael Levine**



**Fall 2009**  
**Spring-**  
**Summer**  
**2010**

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## **Introduction**

The Following represents the work of the Manhattan Borough President Office's 2009/2010 Urban Planning Fellow. During the course of the last academic year, I have worked with Community Board Members, Community Board Staff, assisted with work for the Chinatown Working Group and volunteers to complete a work plan set forth at the beginning of the Fall 2009 term. The original work plan (on the following page) evolved into the items completed within this document.

Changes within a community are commonplace, especially in a city such as New York. With that in mind, it is important to stress that this document represents the beginning of an effort for the Community Board and future Urban Planning Fellows to craft an understanding of their role in the Land Use process what are the experience of other cities. In addition, an initial comprehensive guide of community amenities and services is included in this document.

The first presentation on Community Benefits was created at the request of the Community Board Chair and is the first step in the discussion of what role Community Boards have in the Land Use Process in New York City, what other cities are doing and what processes adopted in other states would be useful to the New York City experience. This work was built on information collected and presented by an earlier Urban Planning Fellow, Ms. Kasey LaFlam. The presentation here includes the addition of cities such as Washington, D.C., Seattle and the state of Minnesota.

The second presentation was created as a planning guide for the Financial District Committee. As a portion of Community Board 1 Manhattan that is underserved both by amenities and services, the Committee felt that an inventory of surrounding services and amenities would help the Board to plan for future commercial amenities as well as civic social services to the growing residential population.

The Final section of this document features mapping work that was completed for the Chinatown Working Group. In addition to sitting in on meetings and working with voting members, I worked in a support capacity for Community Board 1 Manhattan. The initial effort was to understand what the larger study should be and what individual planning areas would be incorporated into a community's 197-A plan.

I would like to thank Michael Levine for his help, guidance, assistance and general presence. I learned a great deal from him and appreciate all that he has done to assist me this past year. I would also like to recognize the assistance of Frederick Wolf. Mr. Wolf assisted in field and office work that were necessary to completing this project. Also, I would like to thank Elisa Espiritu for her assistance with creating maps for the Chinatown Working Group.

Lastly, and certainly not least, I would like to thank the Members of Community Board 1 Manhattan for their input throughout my fellowship and their support. Their contribution was invaluable, and without them this guide would not have been so much fun to create.

## **Manhattan Community Board 1- Original Work Plan**

1. Maintain and update “new residential housing unit” database; conduct demographic studies to determine existing population characteristics and to project population growth, by geographic sub-area in community board area. Project School age children through 2013.
2. Inventory existing infrastructure resources to determine where they are located and how well they serve the community board sub-areas: schools, libraries, community centers, health care facilities, parks, transportation facilities, cultural facilities, etc. Locate and identify concentrations of senior populations and their relative location to senior service centers in Community Board 1. Identify senior center locations and compare that to older residential neighborhoods.
3. Maintain and update inventory of the location and types of affordable housing units in the community board area; determine the constraints of each housing program; list and summarize the number of units, by geographic sub-area, that are within each program; assist in the development of a program to preserve them.
4. Conduct zoning and urban design analyses of current and potential development projects within Lower Manhattan to determine the impacts of new development and potential mitigation needed to benefit the community board area as a result of such developments.
5. Work on a joint project with CB’s 2& 3 for the Chinatown Working Group; review, analyze and summarize existing studies and reports; participate in preparation of needs assessment and setting of strategic priority initiatives.

Matt D. Viggiano  
Manhattan Borough President Urban Planning Fellow  
Community Board 1 Manhattan  
Fall 2009/Spring 2010

## Work Tasks Completed

### Community Benefits Agreements and Exactions

- A presentation was given to the Board on research done regarding CBA's in New York City. Various options exist for New York City Community Boards to negotiate with developers. The most common way happens through the Uniform Land Use Review Procedure. Other options to exist, CBA's are becoming more common with larger redevelopment projects. Special permits also offer another window of opportunity to negotiate with developers for community amenities or services. Finally CERQ and SEQRA offer other opportunities to Community Boards. Working with developers to ensure that certain conditions are mitigated can create the potential for give backs for issues or physical impediments that cannot be mitigated. The presentation concluded with a brief look at CBA's and exactions in other cities. These cities included Chicago, San Francisco, Seattle, Minneapolis, and Minnesota. California has written into their state constitution the requirement that developers be responsible for either impact fees because of their projects or exactions that are required because of the size of their projects. The full presentation can be found later in this document. Included is source material from the other municipalities that were included in the report

### Community Facilities Inventory

- The primary work completed for the Community Board was a community facilities inventory. Using information collected from the Department of City Planning and field studies, as well as direct input from Board members, community facilities was defined as dedicated community services and unique amenities. Unique was defined as "mom and pop shops", small businesses, and components of a community that provide a unique character. Chain stores, big-box stores, or similar businesses were not included in the inventory. This work was undertaken with the Financial District Committee as the primary client. Because of the lack of services and amenities in this fastest growing portion of the Community Board, this committee felt it needed a more detailed understanding of what services and amenities were immediately available to the Financial District and in the surrounding neighborhoods. Because of the geographic nature of the committee makeup of Community Board 1 Manhattan, this study also benefits the other committees by providing a picture of what amenities they have in their own neighborhoods and what is available in the other portions of Community Board 1 Manhattan. Again, the full presentation is provided later in this document. I would like to acknowledge the contribution of the Battery Park City Broadsheet and their booklet "The Doorman's Guide to Lower Manhattan-2010" for assisting

with the compiling of a list of amenities that were mapped as part of the final product for Community Board 1 Manhattan. All maps were created using GIS with data sourced from the Department of City planning including PlutoData and Lion Data as well as other sources.

#### Chinatown Working Group

- In addition to the other project deliverables, work was done in support of the Chinatown Working Groups ongoing 197A plan. Specifically, work was done to use GIS to map specific proposals, planning boundaries, and areas designated by the different committees of the Chinatown Working Group as important areas for protection/preservation, development, and zoning change proposals. Maps created in support of the CWG can be found as an appendix to this document. They include proposed study boundaries, historic districts, and specific planning areas. Planning areas are smaller portions of the larger study area.

#### Planning Committee

- In assisting the Board as an Urban Planning Fellow, work was undertaken on behalf of the Planning and Infrastructure Committee. This work included drafting resolutions and helping to facilitate dialog within the Committee regarding planning issues that Community Board 1 Manhattan is facing or will need to undertake in the future. The first of two resolutions drafted dealt with the East River Waterfront Esplanade and the second with New York City Charter Revision Commission recommendations. Both Resolutions can be found in this document.

## 2010/2011 Urban Planning Fellowship

### Potential Study Issues

- (1) Building Efficiency Study and Advocacy plan
  - a. What systems are in place, what new systems can we advocate for?
  - b. What techniques can be employed in place of current efforts to make buildings even more efficient?
- (2) Greenwich South Rezoning, continued
- (3) Community Facility Checklist for Board 1 Neighborhoods
  - a. What is currently the number of each service in each geographic area?
  - b. What should be provided and what do we want to be offered?
- (4) Parking Study
  - a. How many units of parking are available and what is the planning standard advocated by DCP?
- (5) Population Projection
- (6) Amenities Cost Analysis
  - a. Figuring out the cost of different amenities that can be included in non-as-of-right construction. For example, putting together a pricing index for different amenities. If we know that a 30K sq.ft. community center costs 120K and we know that a project cost of a building project is \$20 Million, asking for things that can account for 1-2% of their overall budget, like a community center a dog-run, class room space, etc. is possible. If we know project costs for the amenities that can be requested, more realistic amenities can be requested by the Community Board.

# Community Board Resolutions

## COMMUNITY BOARD #1 – MANHATTAN RESOLUTION

DATE: DECEMBER 16, 2008

COMMITTEE OF ORIGIN: WATERFRONT

COMMITTEE VOTE:	7 In Favor	0 Opposed	0 Abstained	0 Recused
PUBLIC MEMBERS:	2 In Favor	0 Opposed	0 Abstained	0 Recused
BOARD VOTE:	38 In Favor	0 Opposed	0 Abstained	0 Recused

RE: Referral from the New York City Economic Development Corporation of the East River Waterfront Esplanade Phase I Site Plan

WHEREAS: In May 2005, after more than 70 public meetings, The City of New York released “Transforming the East River Waterfront,” a concept plan for the revitalization of the East River between the Battery Maritime Building and Pier 42, and

WHEREAS: The concept plan seeks to improve access to the waterfront, enhance pedestrian connectivity, and create waterfront amenities for public and community use and enjoyment, namely by creating:

- Open space amenities for lower Manhattan communities currently underserved by the City’s parks
- Basic infrastructure improvements to support new waterfront and community activities
- New public uses on Piers 15 and 35,
- Space under the FDR Drive for community, cultural, and limited commercial development
- A continuous bikeway/walkway along the waterfront connecting to the Manhattan Greenway, and

WHEREAS: Implementation of the East River Waterfront Esplanade plan necessitated a change to Waterfront Zoning that was approved by the Community Board on May 27, 2008, and

WHEREAS: The revised Waterfront Zoning stipulated that NYC EDC refer a Site Plan of each project phase to the affected Community Board and Council Member prior to Waterfront Certification, and

WHEREAS: NYC EDC presented the Phase 1 design to the Waterfront Committee and members of the Council Member's staff at the July 21, 2008 meeting, and

WHEREAS: The Site Plan was referred on December 2, 2008 to the Community Board and Council Member for joint review, and

WHEREAS: NYC EDC will prepare a maintenance plan for the Phase One area, and

WHEREAS: NYC EDC will work with the New York City Department of Transportation to repair areas under the FDR Drive that have peeling paint and dust, now

THEREFORE

BE IT

RESOLVED

THAT: CB #1 and Council Member Gerson support the design for Phase One of the East River Waterfront Esplanade.

COMMUNITY BOARD #1 – MANHATTAN  
**DRAFT** RESOLUTION

DATE: July 1, 2010

COMMITTEE OF ORIGIN: PLANNING AND INFRASTRUCTURE

RE: Community Board 1 Manhattan’s Five Governance Principles for the Charter Revision Commission

WHEREAS: Since March, the Charter Revision Commission has held two phases of citywide public hearings which included an initial round in April 2010, and a series of issue forums in June 2010 that focused on five key areas the Commission wanted to further explore: term limits, voter participation, government structure, public integrity, and land use; and

WHEREAS: Recently, the Public Advocate’s Office released a series of recommendations on Charter reforms that focused on a series of changes to City government; and

WHEREAS: Among these changes, a section was devoted to a recommendation to “Ensure a More Comprehensive and Community-Based Approach to City Planning”; and

WHEREAS: This section outlined progressive measures to create a more community-based approach to City Planning by either providing greater resources needed in order to fulfill expanded responsibilities, as well as increased transparency; and

WHEREAS: Community Boards are the most basic form of neighborhood representation, and often are in a position to offer a alternative voice to the Mayor’s Office and the City Council, yet their staff, budget and resources are wholly dependent year-to-year on the New York City budgeting process, which is drawn up by the Mayor and the City Council; now

THEREFORE  
BE IT  
RESOLVED

THAT: Community Board supports certain portions of the Public Advocate’s Proposals on Charter Revisions; of these, the Planning Committee supports specifically:

1. Creation of a Community Board Resource Center to assist with urban planning and real estate development issues as need be and to assist our Director of Land Use when necessary, and

2. Creation of a Community Needs Assessment which would help to augment annual District Needs Statements prepared by Community Boards throughout the City, and
3. Creation of some form of codified Community Benefits Agreements that Community Boards can use when negotiating with real estate development interests to ensure that impacts to local communities can be mitigated in a fair, balanced, transparent and economic fashion, and

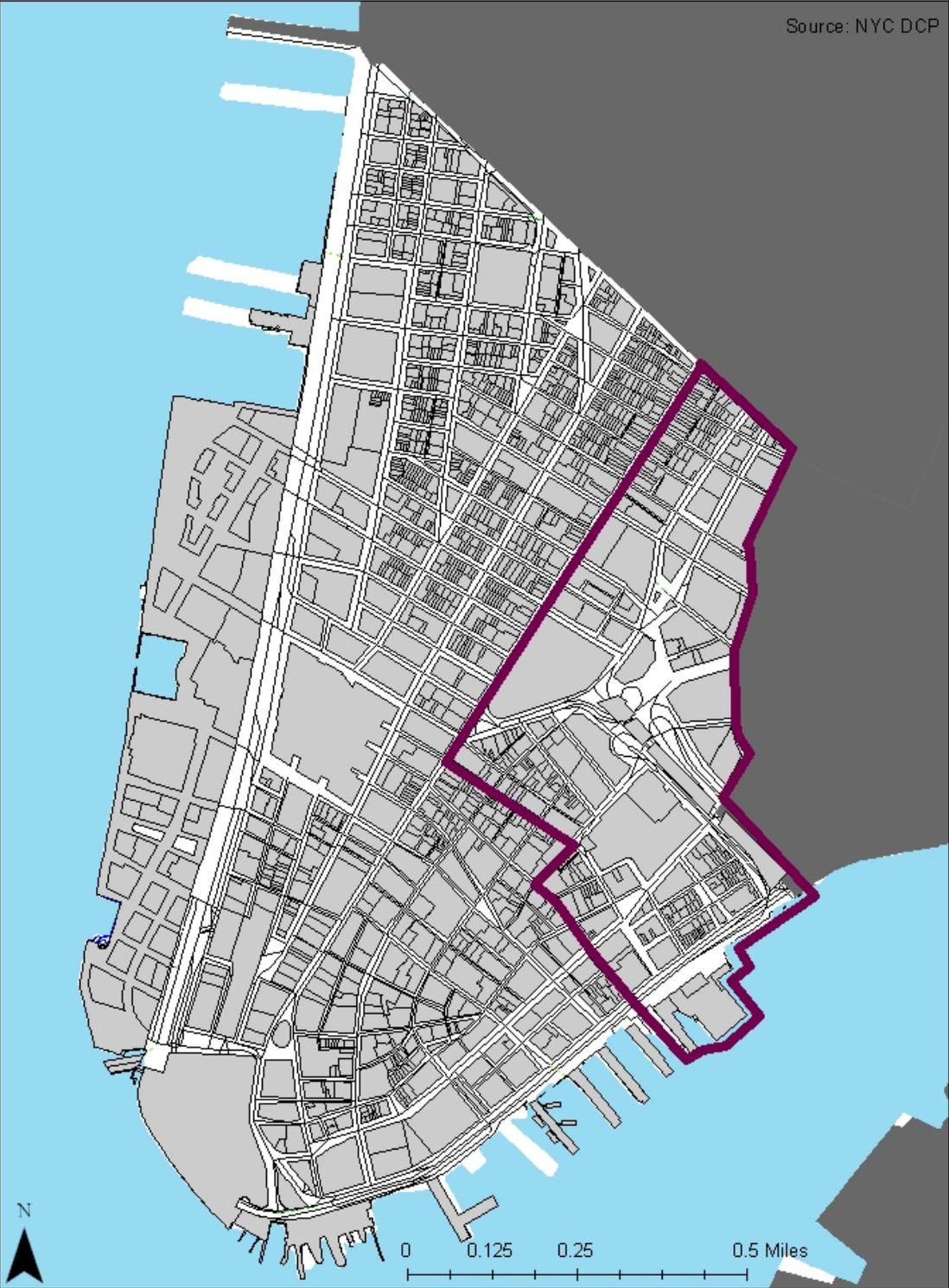
BE IT  
FURTHER  
RESOLVED  
THAT:

Community Board 1 Manhattan feels that there are two other central issues that must be addressed by the Charter Revision Commission and incorporated into any changes to the New York City Charter. These issues are central to the continued successful function of Community Boards, they are:

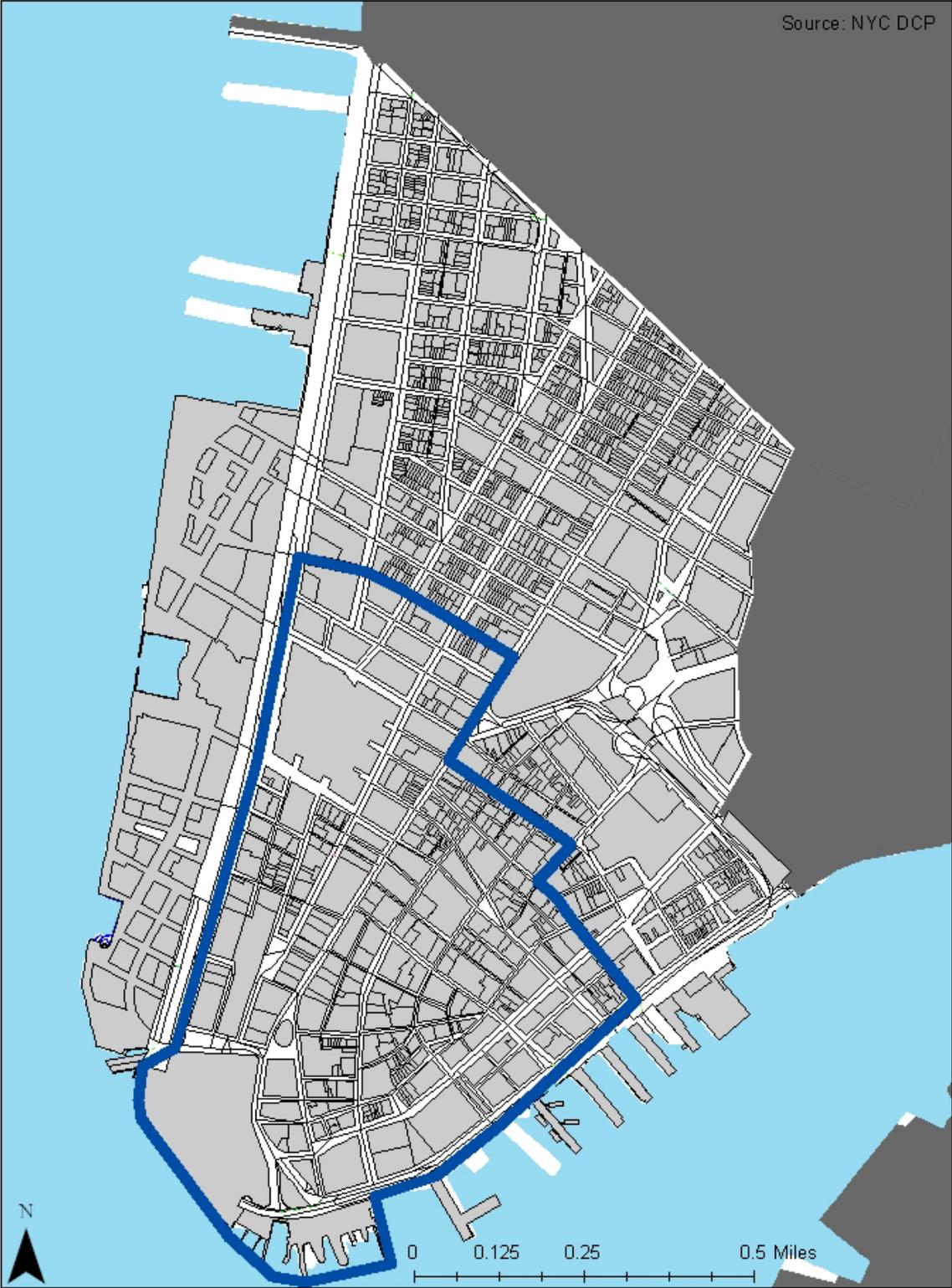
1. Community Boards must have a more substantial role in the Uniformed Land Use Review Procedure. As noted earlier, Community Boards are a neighborhoods first line of representation. Real estate development interests have the potential to impact large portions of a community for better, and maybe, for worse. With a greater role in the Public Land Use process, Community Boards would be afforded the leverage and authority needed to make their concerns and necessity more than simply recommendations, but as positions that need to be incorporated into development plan.
2. Community Boards currently operate under the budget of the Mayor's Office. This situation creates tensions for Community Boards should they come in conflict with either the Mayor's Office or with one of the many Mayoral Agencies on which the Community Board relies on and works with on a continual basis. To that end, Community Board 1 Manhattan feels that an independent budget should be created for all Community Boards, that our status as government agency be maintained as an independent and transparent body composed of community members with professional staff unhindered by Mayoral control.

**Geographic Committee Boundaries- CB 1 Manhattan**

Seaport/Civic Center



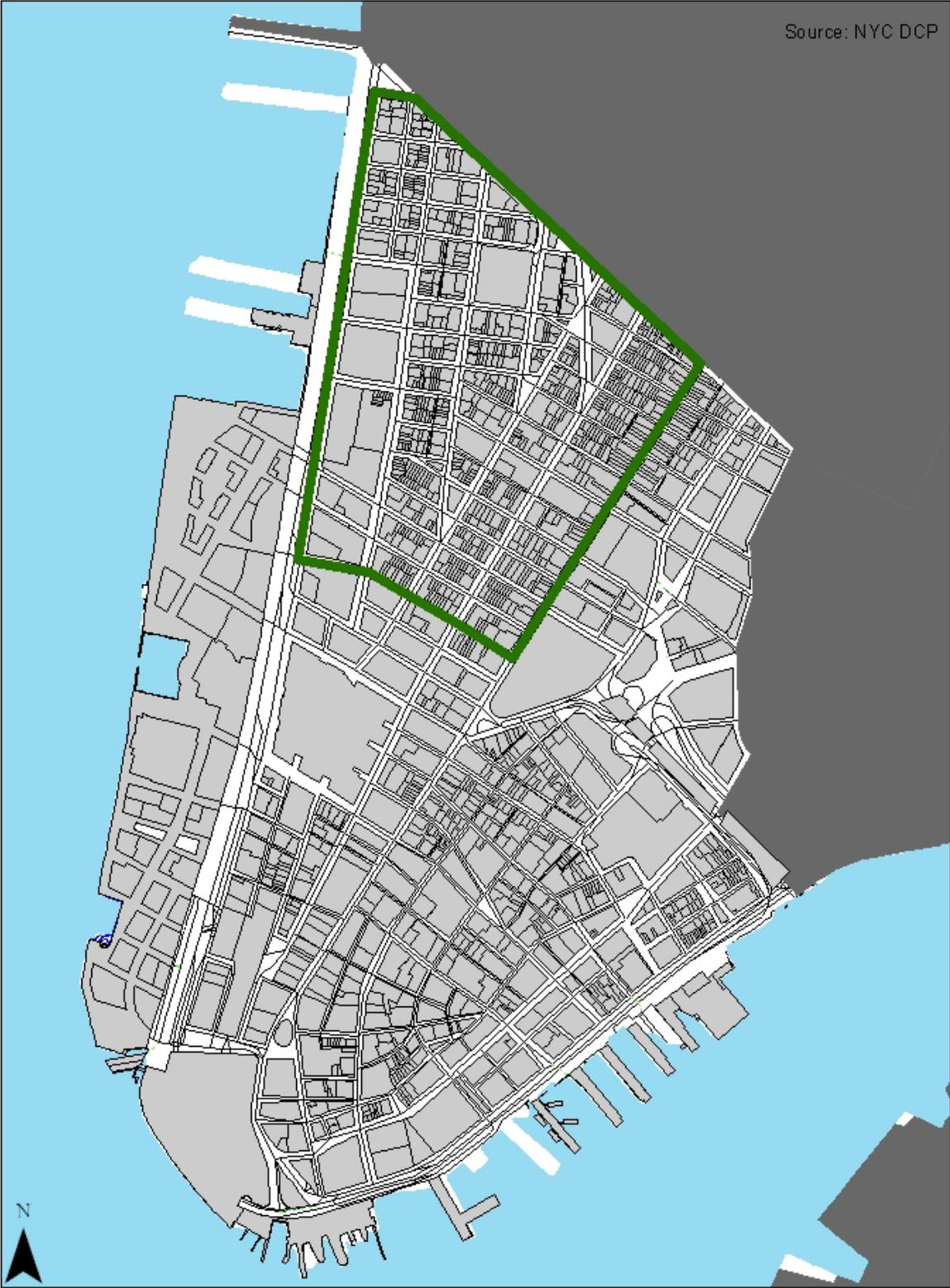
Financial District



Battery Park City



Tribeca



**Reports for Community Board 1 Manhattan**

Community Development Agreements and Exactions: The National Experience

**HOLDING DEVELOPERS  
ACCOUNTABLE: EXACTIONS AND  
COMMUNITY BENEFITS**

Planning Committee Reports

Spring 2010

Presented by Urban Fellow, Matt D. Viggiano

Built on work provided by Kasey La Flam, MUP

# THE NEW YORK EXPERIENCE

ULURP and CEQR

# New York:

## Existing Community Options

---

- Community Benefits Agreement
  - Involves local community groups in the negotiation process
  - No set standards for developers to abide by
  - Existing “CBAs” in NYC
    - Atlantic Yards
    - Yankee Stadium
    - Columbia University expansion

# New York Options cont'd

- Zoning Text
  - **South Richmond Special District:** requires submission of plans to local school to establish if there is capacity for population increase in areas with little existing residential buildings; requires certificate stating that adequate storm and sanitary disposal systems are in place or will be provided; requirements for tree plantings
  - **Natural Resource Area:** stricter control over preservation of and uses for open space; requirements for tree plantings (mapped in the North Bronx and in South Richmond)

# CEQR Requirements

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- The CEQR analysis analyzes an action's potential effect on service provision provided by facilities that are public or publicly funded and available to the community.
  - Effects mean: physical displacement or alteration of a community facility, changes in population that could affect the service delivery of a community facility

# CEQR Requirements-Mitigations

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- Mitigation measures for significant impacts on a community facility in most cases require the commitment from the agency or institution having jurisdiction over the facility. For this reason, early coordination is advised.

## WHAT ARE OTHER CITIES DOING?

- Chicago
- San Francisco
- Seattle
- Minneapolis
- Washington, DC
- West Coast methods

# Chicago

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- Zoning Text
  - Encourages, but does not mandate, that large scale developments provide open space, recreational facilities , and cultural amenities
- Open space impact fee
  - Requires developers to pay a certain percentage of a fee to preserve open space for new residential development and the rehabilitation of residential development that results in more units

# San Francisco

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- Impact fee requirements (public art projects, park maintenance, childcare facilities, school facilities, affordable housing)
  - Fees are determined by cost and scale of project

## San Francisco cont'd

---

- Two types of Impact Fees
  - Citywide
  - Neighborhood
- Citywide
  - Funds collected from fees are invested in communities with the most need, typically areas that have experienced disinvestment
  - Sometimes this method of distribution correlates where money is being collected from

## San Francisco cont'd

- Neighborhood
  - Money collected from developments in identified neighborhoods must remain in that location
  - Money is spent according to the agreed upon Improvement Plan for that area
  - Impact Fee ordinance requires City Planning to account for how funding is spent

# San Francisco cont'd

- Mandated Conditions of Approval
  - Most appropriate when you have standard conditions within a neighborhood that you want everyone to provide – neighborhood level set of improvements you want to create
- Developer Agreements
  - Project by project basis
  - Appropriate when the City has a trained negotiating team
  - Not ideal; results will vary from project to project and create inconsistencies across neighborhoods

# Minneapolis

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- Points Based System
  - Developers requesting special permits or building planned unit developments an acre in size or larger are required to meet a minimum threshold of 10 points.
    - Also, for each alternative requested an additional five points are required. This is intended to set clear expectations for the types of amenities that are expected for alternatives

# Washington DC Land Use Review

- Major Actors:
  - Board of Zoning Adjustment
  - Department of Consumer and Regulatory Affairs
    - Land use review done by Zoning Administrator
  - Office of Zoning (essentially administrator for BZA)
    - Mainly smaller projects
    - Advisory Neighborhood Committees
  - Zoning Commission

# Washington, DC Community Benefits

- With PUDs amenities are provided by the developer.
- Informal negotiation by community groups, ANC's and others on a case by case basis.
- Specific Benefits:
  - Money for the creation of a desired amenity
    - These range from community space, reduced membership in health clubs, money for a community garden, donations for local non-profit services
- DCDCP is currently trying to formulate a more transparent process and is looking to cities like Seattle and Minneapolis, among others

# West Coast

---

- In order to control sprawl and unregulated growth West Coast Municipalities employ the use of:
  - Impact Fees
  - Amenity mandates
  - Adequate public facilities ordinances
    - Requires infrastructure to be in place before development can begin in an area
    - In 2003 roughly 20% of largest metropolitan areas used this as a tool
  - Exactions

## West Coast cont'd

---

- Impact Fees
- Adequate Public Facilities Ordinance (AFPO)
  - ▣ Requires infrastructure to be in place before development can begin in an area
  - ▣ In 2003 roughly 20% of largest metropolitan areas used this as a tool

Please See the Appendix for Supporting Documentation such as what components of a project will award a developer points

**Reports for Community Board 1 Manhattan**

Services and Amenities Inventory



**Final Report:  
Community Services and Amenities  
Inventory**

Manhattan Borough President's  
Urban Planning Fellow  
Matt D. Viggiano  
Fall 2009/Spring 2010

# Disclaimer

- This work represents the beginning attempt to catalogue and visually represent community based amenities
- Future Urban Planning Fellows may identify new uses or other services that can be included in future studies and will be in the future as this presentation is built upon
- Research collected for this study originated with the Department of City Planning Pluto Data and on field observations.
- Mapping Amenities are difficult because they are subject to market changes and demand, this also applies to maintaining a database of amenities in any Community Board

# Study Area

## Community Board 1 Manhattan

Seaport/Civic Center



Financial District



Battery Park City



Tribeca





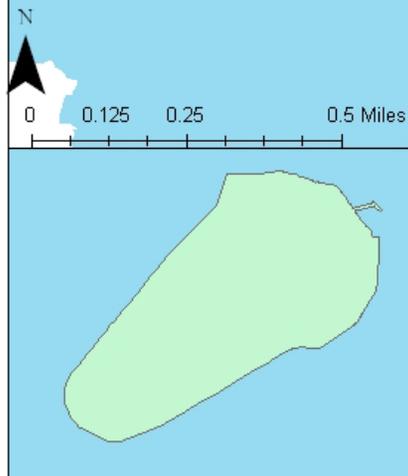
# Definitions

- Community Services Include
  - Parks/Open Space
  - Parking
  - Schools
  - Health Related Services
  - NYPD Precincts
  - FDNY Station Houses
  - Post Offices
  - Community Centers

## Parks and Open Space

Pluto Data also lists cemeteries as parks and Open Space as evidenced by the inclusion of St. Paul's

Also included in this map are vacant lots to give an idea of where new open space or other services or amenities might be added in the future



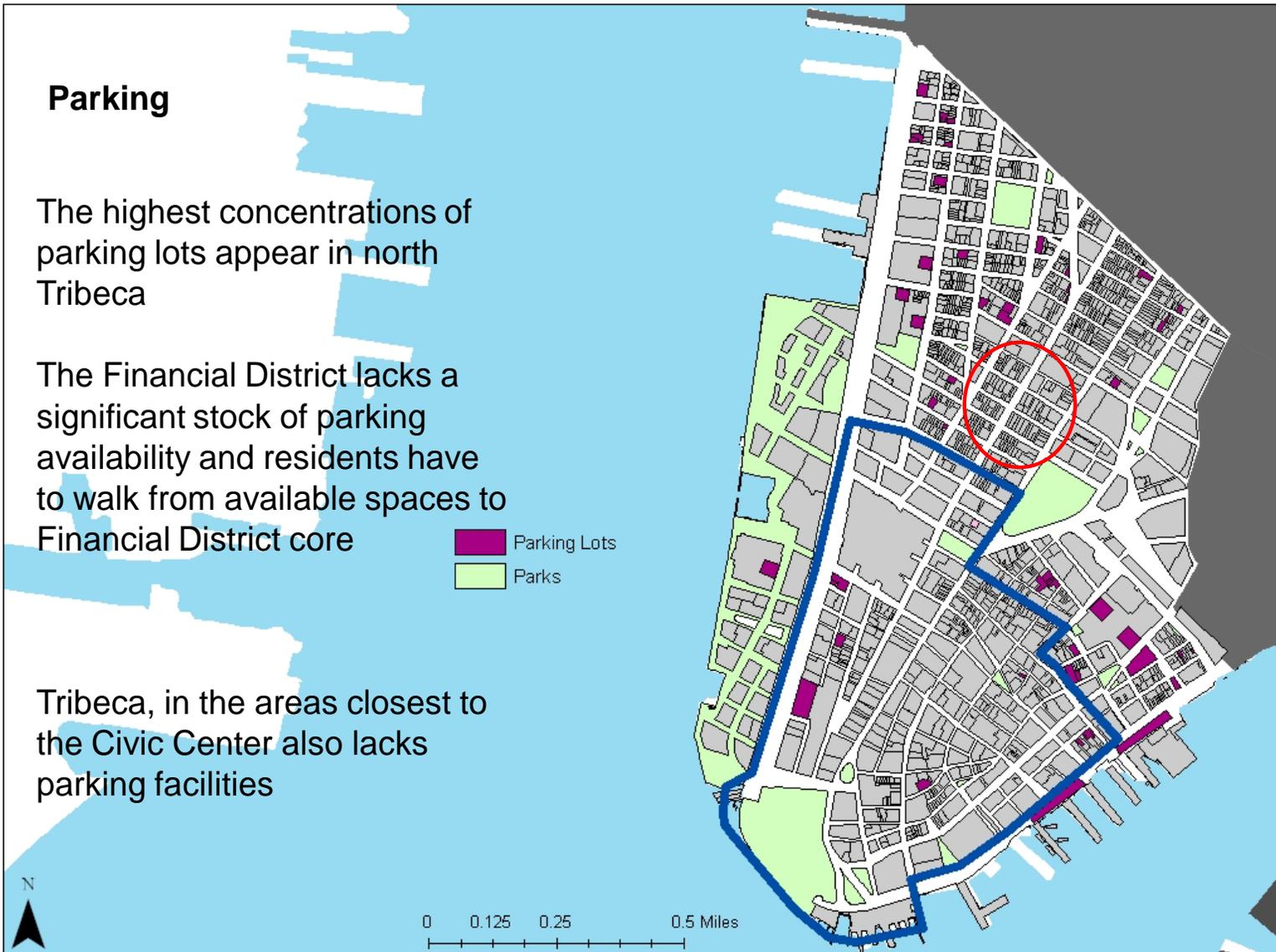
## Parking

The highest concentrations of parking lots appear in north Tribeca

The Financial District lacks a significant stock of parking availability and residents have to walk from available spaces to Financial District core

Tribeca, in the areas closest to the Civic Center also lacks parking facilities

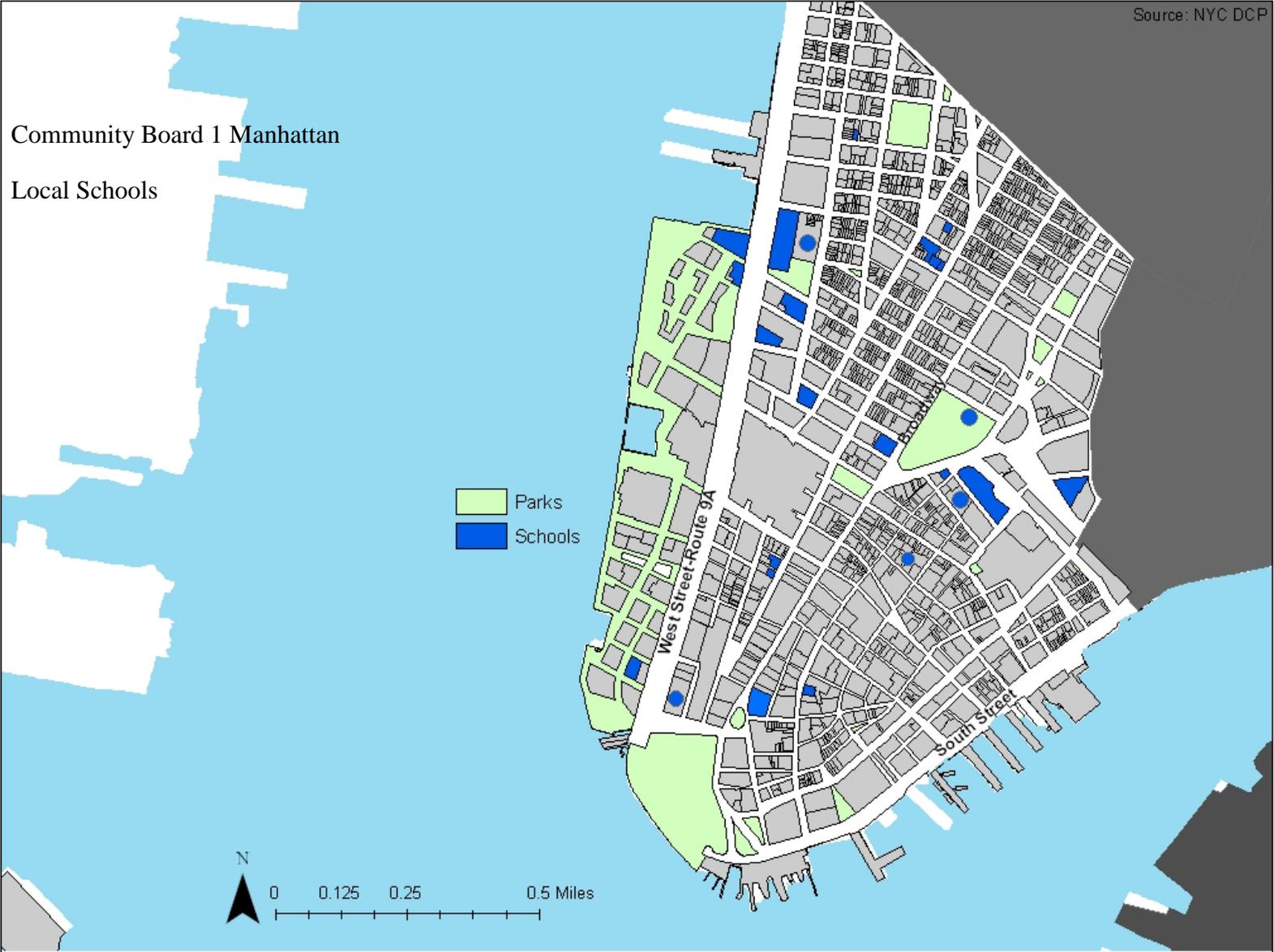
 Parking Lots  
 Parks



Community Board 1 Manhattan

Local Schools

Source: NYC DCP

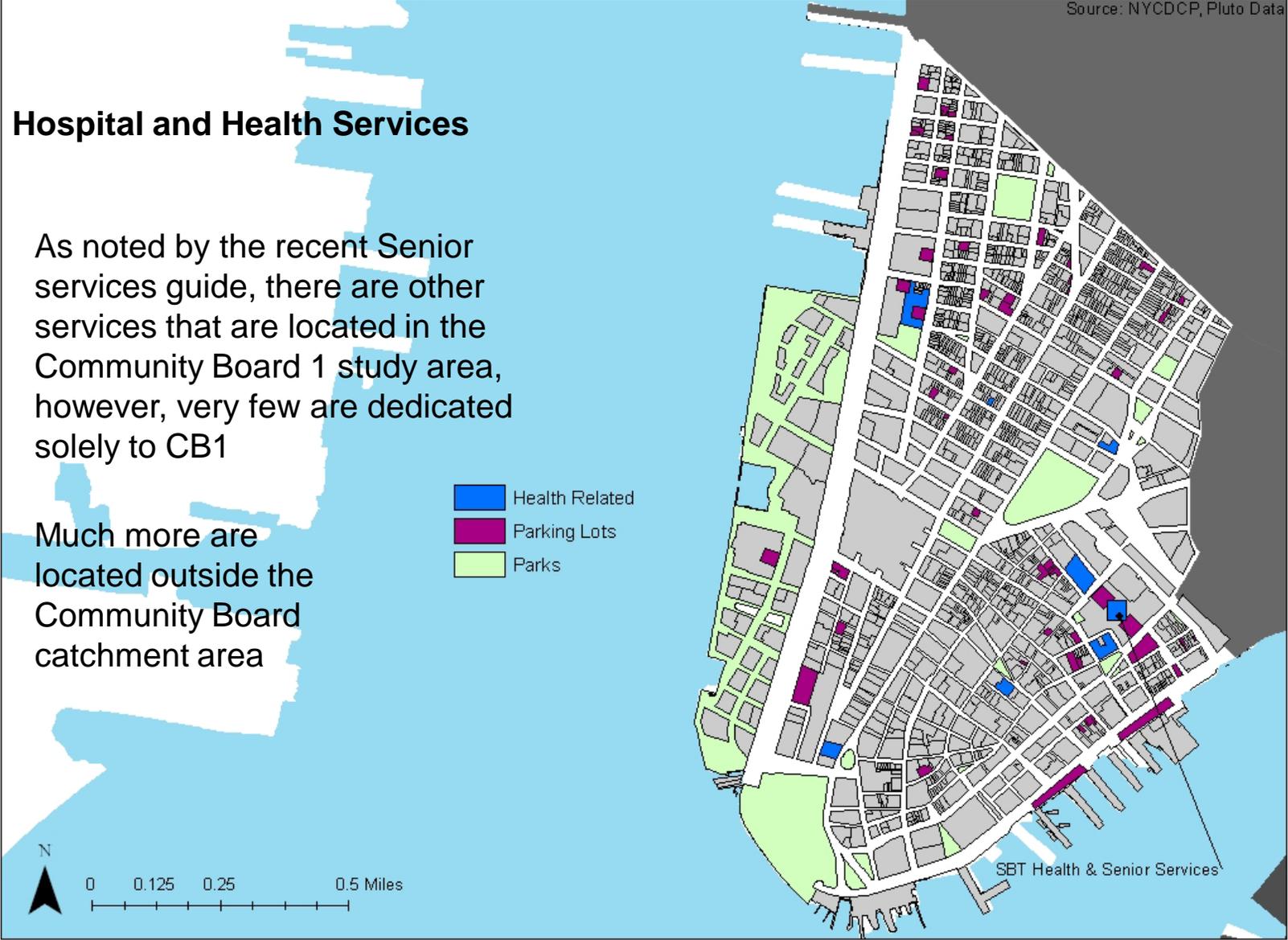


### Hospital and Health Services

As noted by the recent Senior services guide, there are other services that are located in the Community Board 1 study area, however, very few are dedicated solely to CB1

Much more are located outside the Community Board catchment area

- Health Related
- Parking Lots
- Parks





### Fire Department Catchment Areas-CB1

- Ladder 8  
14 N. Moore Street
- Engine 7, Ladder 1  
100 Duane Street
- Engine 10, Ladder 10  
124 Liberty Street
- Engine 6  
49 Beekman Street
- Engine 4, Ladder 15  
42 South Street



## Post Offices and Libraries

For residents of the Financial District you have to leave the area to use a full service post office

-  Libraries
-  Parks
-  Post Offices

There are only Three Libraries in Lower Manhattan:

- 1) 9 Murray Street
- 2) 2 River Terrace
- 3) 31 Chambers Street (the Municipal Library)



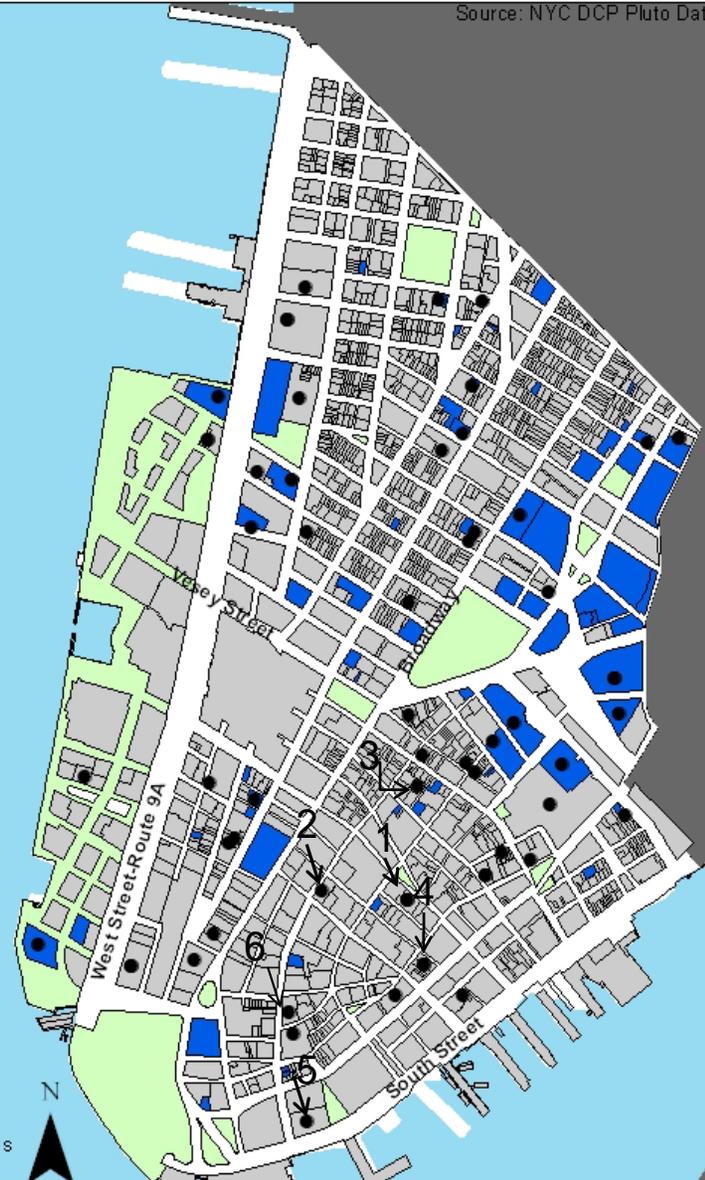
Source: NYC DCP, NYPL

## Community Centers

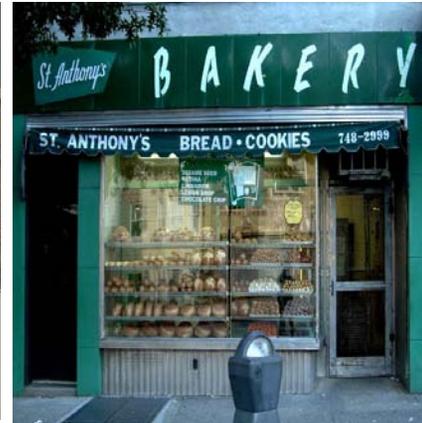
The dots within the Financial District are

- 1) the Met. Council on Jewish Poverty
- 2) the Federal Hall National Memorial
- 3) the Downtown Little School
- 4) AABR
- 5) Children First
- 6) Millennium School

- Community Centers are places where public meetings can be held, not only places where children can participate in after-school programs
- All other community centers are located in the more densely populated areas of CB1



Community Amenities





# Definitions

- Amenities Include
  - Markets
  - Bakeries
  - Butchers
  - Pharmacies
- Specialty Stores—not chains
  - Mom and Pop Stores
  - Florists
  - Clothing Stores
  - Record Stores
  - Pet Stores
  - Instrument Shops
  - Book Stores

## Cultural Amenities

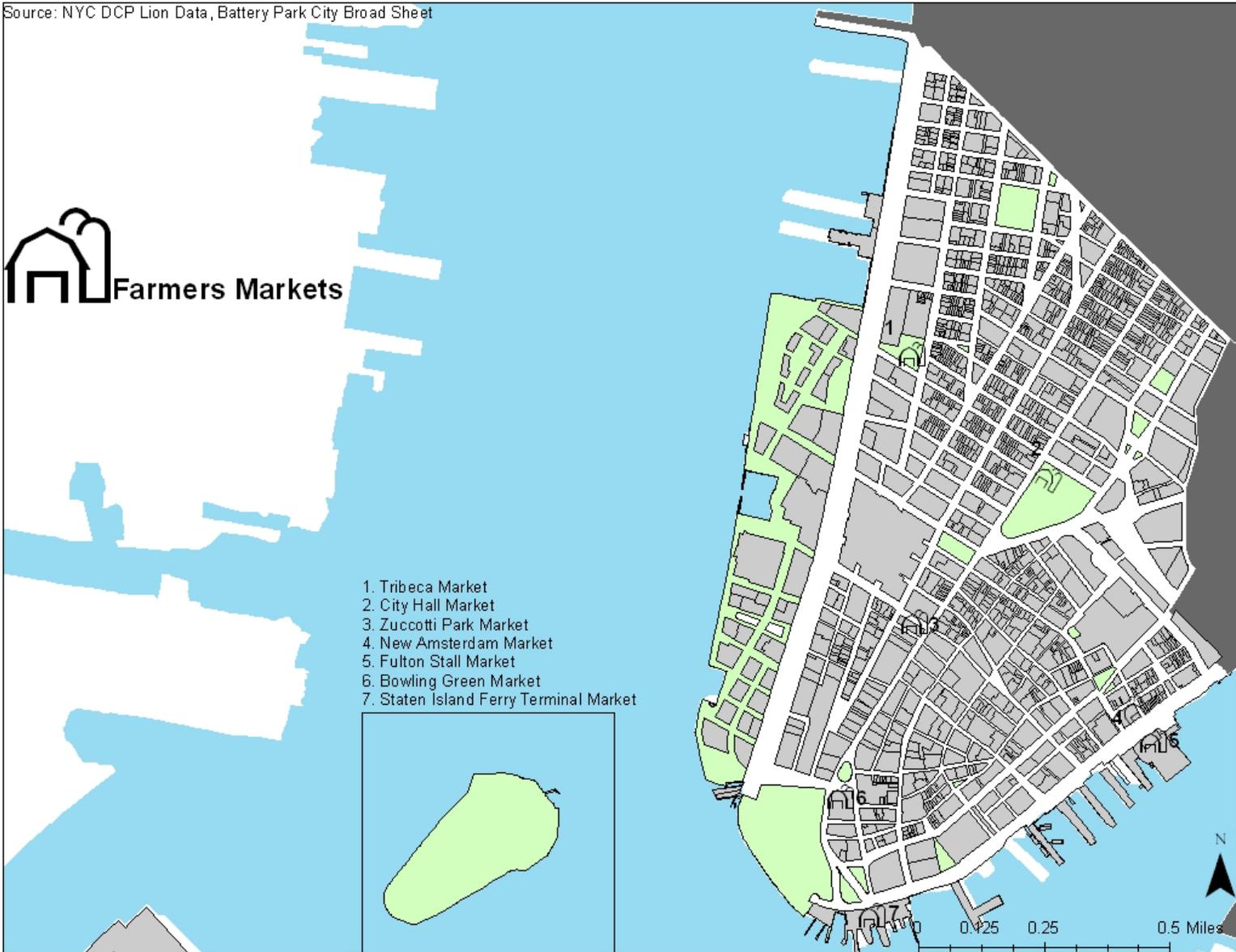
CB1 is well served by cultural amenities; however there are pockets in growing residential areas that are still lacking cultural amenities



Source: NYC DCP Lion Data, Battery Park City Broad Sheet



1. Tribeca Market
2. City Hall Market
3. Zuccotti Park Market
4. New Amsterdam Market
5. Fulton Stall Market
6. Bowling Green Market
7. Staten Island Ferry Terminal Market



# Houses of Worship

Synagogues 

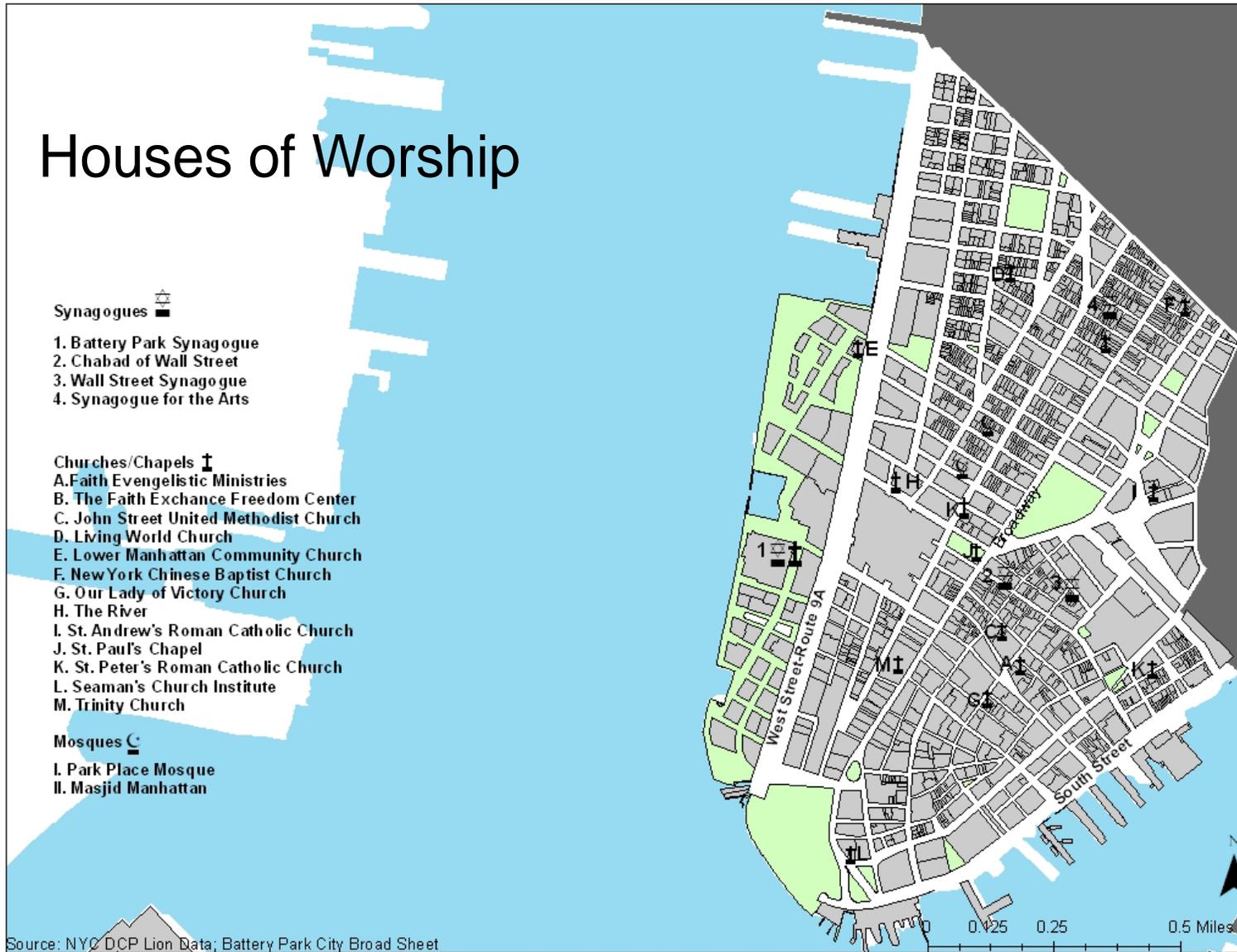
- 1. Battery Park Synagogue
- 2. Chabad of Wall Street
- 3. Wall Street Synagogue
- 4. Synagogue for the Arts

Churches/Chapels 

- A. Faith Evangelistic Ministries
- B. The Faith Exchange Freedom Center
- C. John Street United Methodist Church
- D. Living World Church
- E. Lower Manhattan Community Church
- F. New York Chinese Baptist Church
- G. Our Lady of Victory Church
- H. The River
- I. St. Andrew's Roman Catholic Church
- J. St. Paul's Chapel
- K. St. Peter's Roman Catholic Church
- L. Seaman's Church Institute
- M. Trinity Church

Mosques 

- I. Park Place Mosque
- II. Masjid Manhattan



# Neighborhood Repair Shops

## Shoe Repair ★

1. Cobbler Express- 2 World Financial Center
2. Minas-67 Wall Street
3. Stanley's Cobbler Shop- 115 Broadway

## Jewelry and Watch Repair ◆

- A. AJ Jewelry & Watch Repair-168 Church Street
- B. Gold Center Jewelry-193 Church Street
- C. Greenwich Jewelers -64 Trinity Place
- D. Korner Jewelry-165 Church Street
- E. Lane Jewelers-79 Pine Street
- F. Tiffany & Co.-37 Wall Street
- G. William Barthman Jewelers -176 Broadway



0 0.1 0.2 0.4 Miles



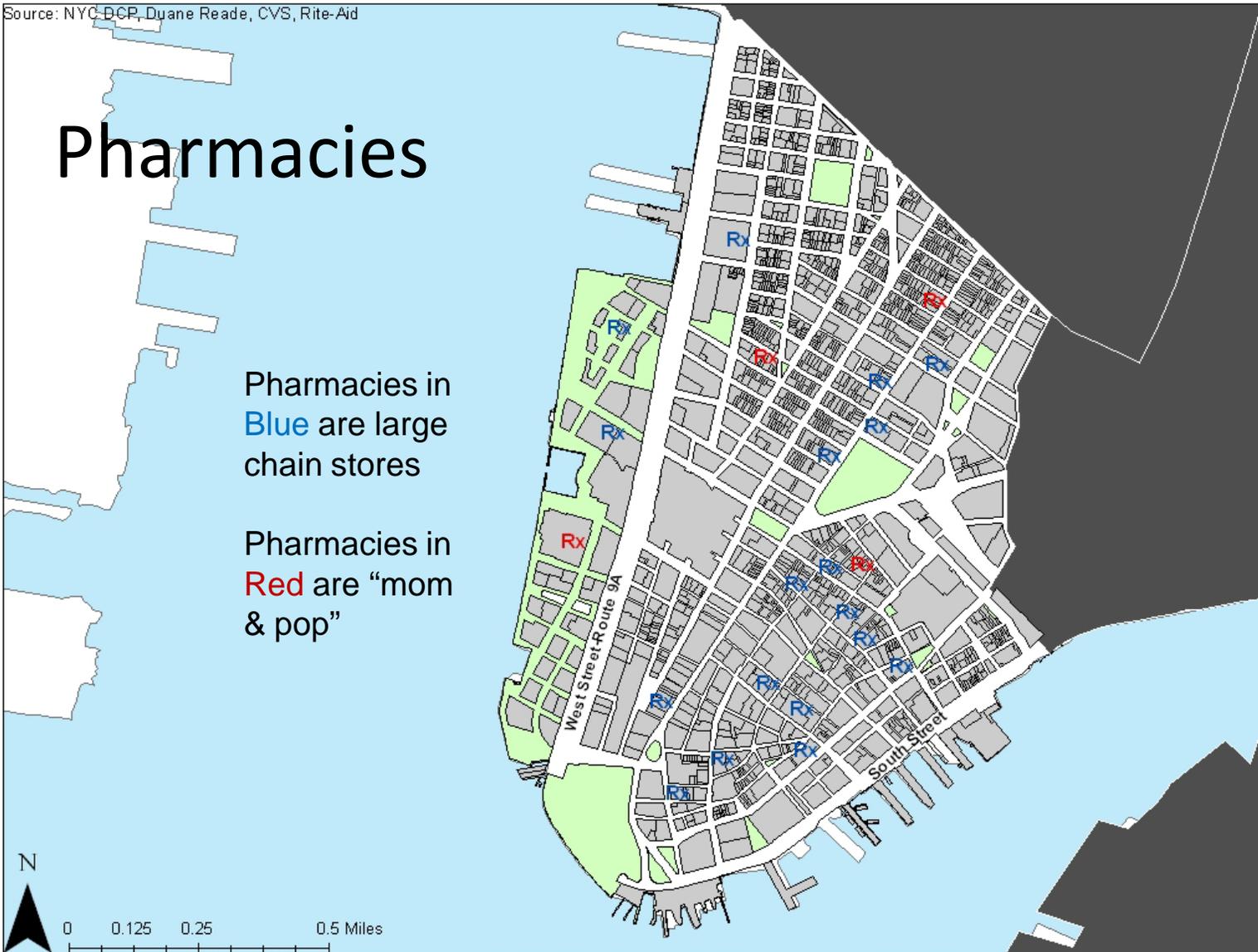
Source: NYC DCP Lion Data, the Broadsheet

Source: NYC-DCP, Duane Reade, CVS, Rite-Aid

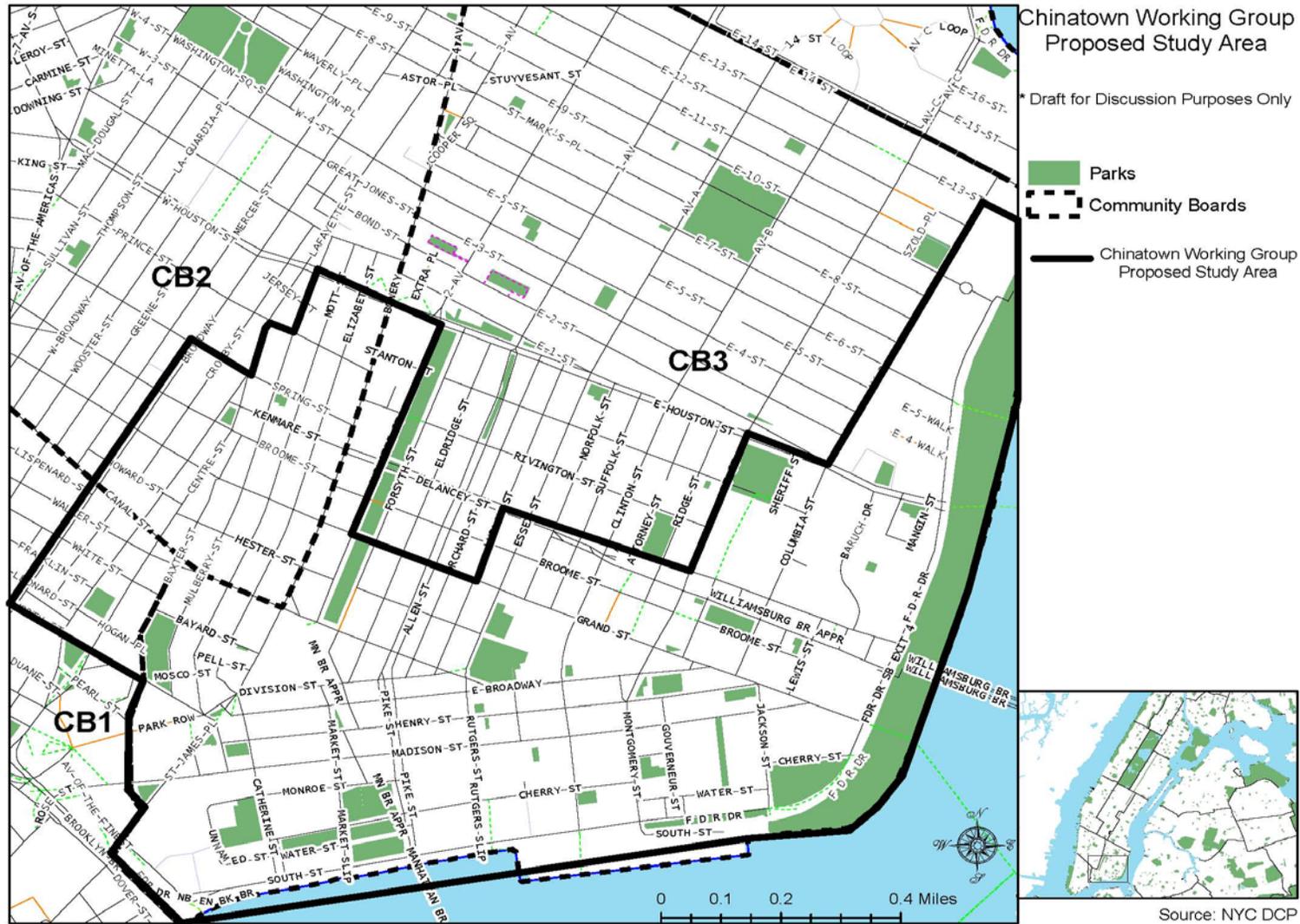
# Pharmacies

Pharmacies in  
**Blue** are large  
chain stores

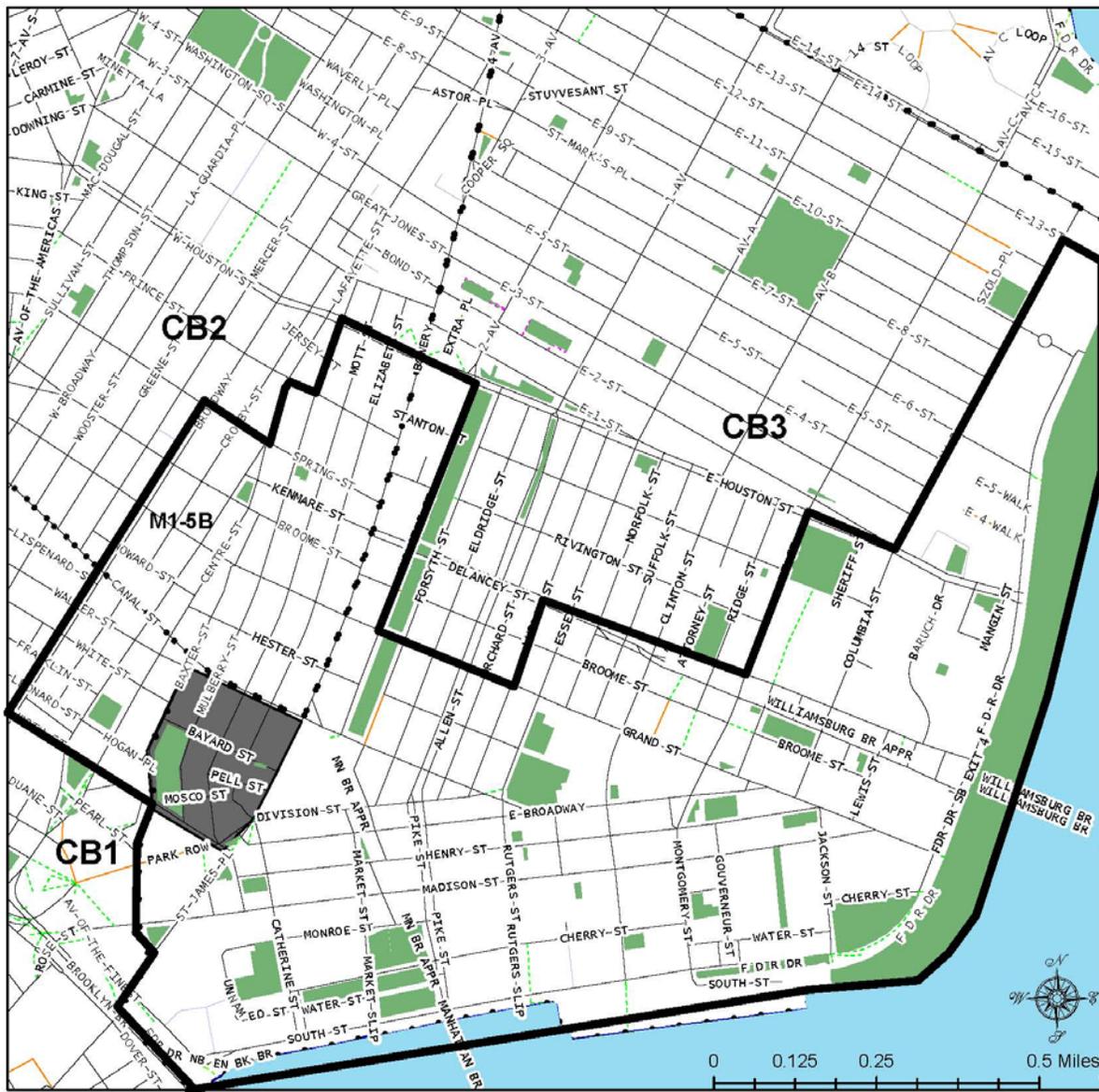
Pharmacies in  
**Red** are “mom  
& pop”



# Maps Created for the Chinatown Working Group



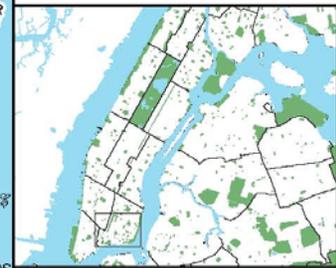




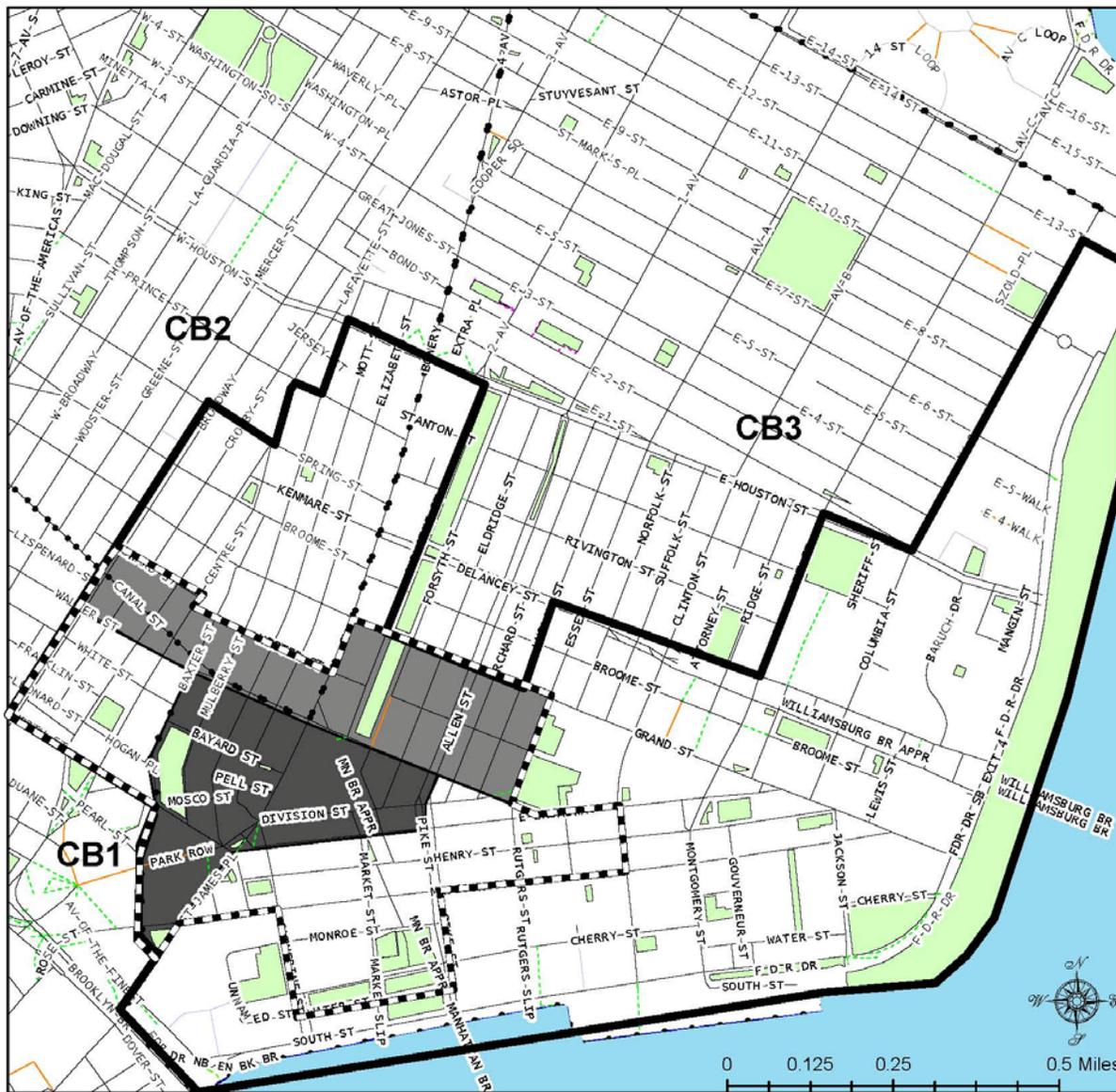
### Chinatown Working Group Proposed Historic District

Draft for Discussion Purposes Only

- Parks
- Community Boards
- Chinatown Working Group Proposed Study Area
- Proposed Historic District



Source: NYC DCP



### Chinatown Working Group Proposed Zoning Areas

\* Draft for Discussion Purposes Only

- Parks
- Community Boards
- Chinatown Working Group Proposed Study Area
- Proposed Planning Area
- Proposed Canal Street Development Corridor
- Proposed Chinatown Core Subdistrict



Source: NYC DCP

## **Recommendations**

### **Community Benefits Agreements**

Community Benefit Agreements (CBA's) are a new occurrence in the public planning process. These agreements are binding and can provide needed amenities and project mitigations. New York City has witnessed the use of this planning tool in a few recent projects. These projects are different in scope, they include: the new Yankee Stadium, Atlantic Yards and the Kingsbridge Armory (this agreement was never adopted because of a host of political reasons). The Yankee Stadium CBA is questionable, there are various reports that weigh its efficacy, and the community organization set up in its wake is plagued by political problems as well as possible legal issues. With regard to the CBA for Atlantic Yards, because of the recent economic problems associated with the project, the benefits negotiated might not be realized. Another consideration is that the phasing of construction for the project at the Atlantic Yards can be done over a twenty year period; not very encouraging for the housing advocates that negotiated the housing ratio that would be used for the fully built project. Finally the Kingsbridge Armory project CBA was never realized because the project was eventually voted down by the New York City Council for a variety of reasons.

Another problem with CBA's is that there is no way to ensure that the people sitting at the negotiation table truly represent the community they claim to. In fact, the New York Bar Association has recently issued a lengthy report on CBA's (please see appendix E for further information). As the report points out early on, because these agreements are a new phenomenon there is "scant evidence, either empirical or anecdotal, to evaluate whether CBAs are a net benefit to the parties who enter into these agreements. Similarly, little is known about the impact CBAs have on those individuals or community groups that are in the neighborhood of the development, but were not parties to the agreements. Nor is it yet clear what effect CBAs will have on the land use process or the City's development climate more generally," (March 8, 2010, New York Bar Association, p.1-2). CBA's can be used as a good mechanism to mitigate issues associated with large scale development projects that are not as-of-right.

As a planning recommendation to Community Board 1 Manhattan, using a CBA in conjunction with development (while certainly not a new experience, Board 1 has negotiated on

several occasions with developers) should be undertaken cautiously. Ensuring a transparent negotiation process is important and requests should be reasonable. Understanding how a project's financing is assembled is also important because then rational requests can be made in light potential budgets for a project. From interviews with developers and institutions it seemed that a reasonable set-aside of 1-2% of total project costs was made available to accommodate reasonable requests from either community-based organizations or community boards. Using the community facilities inventory, done as part of this study, can help to determine what needs must be met sooner than later, what services need to be provided more urgently (please see the following section for a more detailed recommendation).

## **Exactions**

Exactions are much more common in the rest of the United States than in New York State. On the West Coast the authority for exactions and impact fees are built into some state constitutions and have been an authorized use of power for state legislatures for a number of years. The different experiences of California, Washington, and Minnesota are detailed to a larger extent in the presentations provided over the course of the previous academic year. Exactions, impact fees and Adequate Public Facility Ordinances are widely used in other states but might not be a viable option for Community Board 1 Manhattan, indeed New York City, without enabling legislation approved by the State Legislature in Albany, which is not likely to happen. According to research done for the report entitled "Holding Developers Accountable: Community Benefits Agreements and Exactions" Seattle and Minneapolis's systems offer a unique opportunity for New York City Community Boards. These might be used as guidelines for what to negotiate for when working with developers on future non-as-of-right projects.

The Seattle experience provides guidelines for height and bulk bonuses for projects that could be approved as long as they comply with a detailed list of approved locations and amenity provision. Lower Manhattan may not be as easily carved up, in terms of the categories used by Seattle, however priority areas can be adopted. In this instance, areas designated by the Community Board as priority development areas would have in place a set of services and amenities that are expected given what is already available and what future needs will need to be met. These future needs could be new school seats to alleviate school overcrowding, open space provision, service provision through the creation of social service space for providers, or

amenities such as cultural space, playgrounds, or incubator space for local non-profits or small businesses.

A point based system, like the one used in Minneapolis, could be more useful for the needs of community boards in New York City. Based on what amenities, or services, are being provided by a potential project a point system could be established that evaluates a developer's project. For example, the Board could set a low mark that a project would have to meet in order to obtain board approval (please see the list of amenities and their respective points, Appendix A). That low mark could be a total number of points that different amenities added together would satisfy. This way the Board would be able to negotiate with a developer on the number of pieces that could be combined to meet the point system, thus providing needed amenities, and provide the developer with a more attractive project that could be more easily marketed. Impact fees could also be implemented, however because of the political and legal structure of New York State and City, this might be a less realistic solution for dealing with projects that effect the quality of life of local communities.

Adequate Public Facilities Ordinances (APFO's), combined with impact fees, have been a viable and sustainable policy tool for municipalities in California, Oregon and Washington. Impact fees are fees generated by development that go directly to mitigating the impact of new households. This can be in the form of road construction or school construction, for example. APFO's also put the burden of new infrastructure costs on the developer. For instance, new, large-scale projects generate increased demand on public utilities. In municipalities where there is an APFO, the local municipality has designated areas where they will not help with the cost of infrastructure provision and thus the costs for new roads, utility and sewer and storm water management systems fall to the developer that will be creating new demand on those services (please see Appendix F for more on APFO's, impact fees, and exactions).

The most likely tool that can be immediately employed by Community Board 1 Manhattan is a point system. It would be prudent not to give any one amenity or service a high amount points so that developers would have to incorporate at least two or three required amenities. A point system can be implemented internally and could also serve as a basis for positions at CBA negotiations.

## **Community Services and Amenities Inventory**

A priority set by Community Board 1 Manhattan was to provide an inventory of community services. After conducting this study and presenting a preliminary report the inventory was further defined as a community services and amenities inventory. The client, in this case the Financial District Committee, felt that there should be an accounting of not only basic social services such as health care, education, fire department and police department catchment areas, etc. To that end, cultural amenities, houses of worship, greenmarkets, pharmacies and neighborhood repair shops were added to the inventory. This is the first catalogue of these kinds of services and amenities which may be further expanded and updated by later Planning Fellows. Data was obtained from the Department of City Planning Pluto files to identify services. Data on amenities was collected from different sources, through field research and from the Battery Park City Broadsheet's 2010 Doorman's guide.

The first amenity covered in the presentation is cultural spaces. This includes galleries, museums, performance spaces, historic sites, among others. After using the ESRI GIS software provided at the Community Board, it became clear that there are five significant gaps in cultural amenity provision. These specific areas can be seen in the slides above; respectively they are: North Tribeca close to the northern border of the Community Board, the Southbridge Towers section of the Seaport/Civic Center, the northern section of the Financial District as well as the central core of that area, and finally Battery Park City. Further analysis can be conducted to show that walking distance radii of where these cultural amenities are offered in relation to the residential areas where consumers would come from. While these discussed areas may not contain anything themselves, they might be within sufficient walking distance.

The second amenity mapped is greenmarkets. There are seven greenmarkets in Community Board 1 Manhattan. There is at least one greenmarket in each of the geographic committee areas except for Battery Park City. Given the spacing of these markets most are within walking distance of Tribeca, the Seaport/Civic Center area, and the Financial District. For Battery Park City the closest greenmarket is either located at Bowling Green or Zuccotti Park; both locations require that Battery Park City residents cross West Street, a four lane

heavily trafficked vehicular artery. With the development of new open space in the Board catchment area new opportunities for greenmarkets could become available. As the only section of the Community Board without a greenmarket, Battery Park City should be given priority for placement of a new greenmarket; one place for placement that could be possible is the North Cove.

A third amenity that was asked to be included was repair shops. There are seven establishments in lower Manhattan that repair jewelry and watches. There are only three establishments that offer shoe repair services. North Tribeca has neither of these services and may want to encourage development of ground floor retail that provides these amenities. These kinds of ground floor retail can be given points based on utility that can be incorporated into the development amenities and services point system that would be developed to obtain impact mitigations from non-as-of-right development projects.

A fourth requested amenity mapped was houses of worship. Based on the maps created, lower Manhattan is well served by houses of worship. There are eighteen houses of worship that cover the Judeo-Christian religions and others are available located in nearby Chinatown. It seems that these uses can be very controversial. In addition, unless these uses create hazardous physical conditions, they should be left to their own devices.

The final mapped amenity was pharmacies. There are a significant number of these establishments, twenty-one in all. They include Rite-Aid's, CVS', and Duane Reades. There are also three independent pharmacies. Because ground floor retail is in such high demand in lower Manhattan development projects, real estate developers usually will lease to larger chains in order to obtain as high a market lease capture as possible. If the Community Board wants to encourage local businesses such as pharmacies, they could designate small retail businesses as high point generators for future projects. In this way, developers can find a tenant who will be able to support their lease and the local community will obtain a business that they will be sure to utilize.

## **Conclusion**

One common theme throughout the past year was land use. What new uses are best suited for a growing residential community like Community Board 1 Manhattan? How can their role in the land use process be strengthened? The Planning Committee has begun to think

creatively about these questions. The Financial District has begun to take stock of what amenities and services are available to residents. Thinking critically about what needs, services and amenities are necessary for the Community Board's continued growth. New development projects will have to do their fair share for the residents they will be impacting. A point system for amenities and service provision is one possible way to accomplish this. Community Benefit Agreements is another way that the Community Board can work collaboratively with real estate development interests. Moving forward, it will be crucial for the Board to continue to address the large scale redevelopment of the Seaport, and final build out of properties in Battery Park City and possibly what remains of parking lots in the district. These are spaces that can provide a new wealth of amenities and services.

## Appendix

### Appendix A: Supporting Documentation for “Holding Developers Accountable: Exactions and Community Benefits Agreements”

#### Seattle Planned Community Development

##### Approach: Specific Guidance on range of bonuses for specific amenities/benefits

- Areas Permitted:
  - all Downtown zones except the Pike Market Mixed zone and the Downtown Harbor front 1zone
  - Other areas that regulate by FAR, but not more than 20% above total area of the PCD
  - Lot sizes and locations eligible vary by zone (see chart at the end of the document)
  - **Must sign a declaration explaining the amenities have to continue as long as bonus density continues.**
- Provisions:
  - Minimum size: 100,000 sf
- Evaluation of PCDs: on the basis of public benefits provided, possible impacts of the project, and consistency with the standards
  - Public Benefits: 3 of the following
    - low-income housing,
    - townhouse development,
    - historic preservation,
    - public open space,
      - **open to general public without charge**
      - **within ¼ of a mile of lot using the bonus**
      - **minimum contiguous area of 5,000 sf**
      - **must be newly constructed**
    - implementation of adopted neighborhood plans,
    - improvements in pedestrian circulation,
    - improvements in urban form, improvements in transit facilities, and/or
    - other elements that further an adopted City policy and provide a demonstrable public benefit.
  - **Amenities have to be located on the site, or if green street improvements must be on streets adjacent to the site**
    - **Director may accept a cash payment for green street improvements**
      - **Amt. sufficient to improve fully 1 sf of green street space for each 5 sf of bonus FAR allowed**
- Potential Impacts for Evaluation (including, but not necessarily limited to)

- impacts on housing, particularly low-income housing, transportation systems, parking, energy, and public services, as well as environmental factors such as noise, air, light, glare, public views and water quality
- Exceptions not permitted through PCD
  - Applicable height limits,
  - Light and glare standards,
  - Noise standards,
  - Odor standards,
  - Minimum sidewalk widths,
  - View corridor requirements,
  - Nonconforming uses,
  - Nonconforming structures, when the nonconformity is to one (1) of the standards listed in this subsection;
    - Use provisions except for provisions for principal and accessory parking;
    - Transfer of development rights regulations;
    - Bonus ratios and amounts assigned to public benefit features
- **Other exceptions permitted by the Director**

*List of Amenities in Downtown Areas*

- This list of amenities applies to increases above the base FAR allowed as bonus development or for TDR in the Downtown zones
- Informational sheets (but not regulations) provide extensive further explanation of the terms and conditions these amenities must meet. For example, hours of public access/days per year; timing of installation of required components; maintenance; safety. Additional conditions only apply to some amenities such as public parks and streetscape/circulation amenities
- There is also extensive application of Design Review in these Downtown areas

**Interior Amenities**

- Hillclimb Assist
- Museum
- Public Atrium
- Public Restrooms

**Open Space Amenities**

- Commercial parcel park
- Green street parcel park
- Residential parcel park

**Retail-related Amenities**

- Major retail store

- Shopping atrium
- Shopping corridor

#### **Streetscape and Circulation-related Amenities**

- Green Street Improvement
- Green Street Setback
- Hillside Terrace
- Urban Plaza

#### **Transit-related Amenities**

- Transit Station Access Easement
- Transit Station Access: Grade Level
- Transit Station Access: Mechanical

#### **Other Amenities**

- Human Services
- Restoration and Preservation of Landmark Performing Arts Theatre

## Seattle Municipal Code

### Chart 23.49.013 A

#### Chart 23.49.013A Downtown Amenities

Amenity	Zone Location of Lots Eligible to Use Bonus						Bonus Ratio	Maximum square feet (ft) of floor area eligible for a bonus
	DOC1	DOC2	DMC 340/290-400	DMC 125, DMC 160, and DMC 240/290-400	DRC	DMR		
Hillside Terrace	Only eligible for bonus at locations specified on Map 1J if Chapter 23.49						5:1	6,000 SF
Urban Plaza	X	X	X				5:1	15,000 SF
Commercial Parcel Park	X	X	X	X			5:1	7,000 SF
Residential Parcel Park			X	X	X		5:1	12,000 SF
Green Street Parcel Park	Eligible for bonus only on lots abutting a designated green street						5:1	7,000 SF
Public Atrium	X	X	X				5:1	5,500 SF
Green Street Improvement	Eligible for bonus only on lots abutting a designated green street						5:1	No limit
Green Street Improvement	Lots abutting designated green street not subject to property line street wall requirement						1:1	10 times the length of lot's green frontage
Hillclimb Assist	Only eligible for bonus at locations specified on Map 1J if Chapter 23.49						Not applicable	Maximum gain of 0.5 FAR
Shopping Corridor	Only eligible for bonus at locations specified on Map 1J if Chapter 23.49						5:1	7,200 SF
Transit Station Access	X	X	X	X	X	X	Not applicable	Maximum gain of 1.0 FAR
Public Restroom	X	X	X	X	X	X	7:1	No limit
Human Services	X	X	X	X	X	X	7:1	10,000 SF
Preservation of Landmark Theater	X	X	X				Variable maximum of 12:1	Maximum gain of 1.0 FAR

## **Minneapolis Planned Unit Development (2009)**

### **Approach: Points-Based**

It creates a point system that requires a certain minimum amount of points for every planned unit development (Minimum Size: One Acre) and for each alternative to a zoning code requirement requested. All planned unit developments are required to meet a minimum threshold of 10 points. Also, for each alternative requested an additional five points are required. This is intended to set clear expectations for the types of amenities that are expected for alternatives. There is a category that allows the applicant to propose an amenity or amenities that are not on the list to anticipate significant amenities that cannot be envisioned at this point, or that would be different than the standard on the list. Also, the Commission will have the ability to award additional points for amenities that significantly exceed the standards in the table.

While points are awarded if an amenity meets a standard, the entire planned unit development is still a conditional use permit where the City Planning Commission is required to make findings (the standard five conditional use permit findings plus additional planned unit development findings) to approve or deny a planned unit development. The approval is not automatic or administrative just because one provides amenities that meet the standards in the table for the required amount of points. However, the overarching goal of the amendment is to bring more predictability to the planned unit development regulations.

#### *CHAPTER 527. PLANNED UNIT DEVELOPMENT\**

#### *ARTICLE II. AUTHORIZED ALTERNATIVES*

*527.120. Alternatives to zoning ordinance standards. The city planning commission may approve alternatives to the zoning regulations applicable to the zoning district in which the planned unit development is located, as authorized in this chapter and as listed in Table 527-2, Authorized Alternatives, where the planned unit development includes site amenities. Site amenities are listed in Table 527-1, Amenities, and are subject to the following standards:*

- (1) All planned unit developments shall provide at least one (1) amenity or a combination of amenities that total at least ten (10) points, beyond those required for any alternative(s), and even if no alternative(s) is requested.*
- (2) For each alternative requested, an amenity or a combination of amenities totaling at least five (5) points, in addition to the amenity(ies) required in section 527.120(1), shall be provided. For multiple requests of the same alternative only one (1) amenity shall be required for those alternatives.*
- (3) Unless otherwise determined by the city planning commission, each phase of the planned unit development shall include the amenities provided for any alternatives in that phase, as a part of the construction of that phase.*
- (4) In no case shall any item be counted as an amenity for an alternative if it is utilized to qualify for a density bonus in any zoning district, a floor area ratio premium in the Downtown Districts, or any other amenity in Table 527-1, Amenities.*

(5) Where an amenity is provided that meets the standards required in Table 527-1, Amenities, the full point value assigned to said amenity shall be obtained. Where the amenity does not meet all of the standards required in Table 527-1, Amenities, no points shall be awarded. Partial points for alternatives shall not be awarded, except as otherwise allowed in Table 527-1, Amenities.

Nothing in this chapter shall be construed to provide a property owner with any property right or other legal right to compel the city to grant alternatives to this zoning ordinance.

<i>Points</i>	<i>Amenity</i>	<i>Standards</i>
10	<i>Active liner uses as part of a parking garage</i>	<i>Inclusion of housing, office, or other active uses around the perimeter of all floors of a parking garage that face a public street, sidewalk, or pathway. In any district where liner uses are already required on the first floor, points shall only be awarded for liner uses on all other floors above the first where parking is located. False or display windows shall not qualify.</i>
10	<i>Green roof</i>	<i>Installation of an extensive, intensive, semi-intensive, modular or integrated green roof system that covers a minimum of fifty (50) percent of the total roof area proposed for the development.</i>
10	<i>Historic preservation</i>	<i>Preservation, rehabilitation or restoration of designated historic landmarks as a part of the development, subject to the approval of the Minneapolis Heritage Preservation Commission.</i>
10	<i>Leadership in Energy and Environmental Design (LEED)</i>	<i>The proposed development shall meet the minimum standards for LEED Silver certification. The project does not have to achieve actual LEED certification; however, the developer must submit the LEED checklist and documentation to the city, approved by a LEED Accredited Professional (LEED-AP), that shows that the project will comply with LEED Silver requirements.</i>

10	<i>Minnesota Sustainable Building Guidelines (B3-MSBG)</i>	<i>The proposed development shall meet the minimum required and recommended MSBG standards that would equal a LEED silver certification. The developer must submit documentation to the city including the MSBG checklist and a letter, signed by the owner or a licensed design professional, that shows that the project will comply with MSBG required and recommended standards equivalent to a LEED Silver certification. The recommended standards utilized should be those that most closely align with city sustainability goals.</i>
10	<i>Public right-of-way dedication</i>	<i>Dedication of land and construction of a public road, alley, pathway, or greenway that is part of an approved city plan or that restores the city's traditional grid subject to the approval of the applicable agencies or departments. Right-of-way improvements should be designed in accordance with Chapter 598, Land Subdivision Regulations. Points shall not be awarded for the reconstruction or relocation of an alley to facilitate an alley vacation.</i>
10	<i>Underground parking</i>	<i>All parking shall be located underground. Where the grade of the site slopes significantly, all parking shall be enclosed in a floor level of the building that does not meet the definition of a story. Further, exterior parking garage walls adjacent to the public street shall not extend more than three (3) feet above the adjacent grade measured from the finished floor of the first level.</i>
5	<i>Conservation of the built environment</i>	<i>Significant renovation, rehabilitation and adaptive reuse of an existing building(s), rather than demolition.</i>

5	<i>Garden(s) or on-site food production</i>	<i>Permanent and viable growing space and/or facilities such as a greenhouse or a garden conservatory at a minimum of sixty (60) square feet per dwelling unit to a maximum required area of five thousand (5,000) square feet, which provide fencing, watering systems, soil, secured storage space for tools, solar access, and pedestrian access as applicable. The facility shall be designed to be architecturally compatible with the development and to minimize the visibility of mechanical equipment.</i>
5	<i>On-site renewable energy</i>	<i>Use of a photovoltaic or wind electrical system, solar thermal system and/or a geothermal heating and cooling system for at least seven (7) percent of the annual energy costs in new and existing buildings. Geothermal systems shall not use vapor compression systems. The applicant must demonstrate that the quantity of energy generated by the renewable energy system(s) meets the required percentage through a whole building energy simulation.</i>

5	Outdoor open space	<p><i>Contiguous ground level outdoor open space that is related to and proportional with the bulk of the building and landscaped with trees and shrubs. Rain gardens, where appropriate, are encouraged. Walkways and pathways shall be surfaced with pervious pavers, pervious concrete, decorative pavers, stamped concrete, colored concrete, brick or other decorative and durable materials. A minimum of thirty (30) percent of the site not occupied by buildings shall be landscaped outdoor open space. A minimum of fifty (50) percent of the provided open space shall be contiguous. The open space must be immediately accessible from the principal structure. Areas should be designed for winter use and relate to the built form with consideration given to elements such as providing shelter from wind, utilizing seasonally appropriate materials, maximizing access to sunlight and providing for snow and ice removal.</i></p>
5	Outdoor children's play area	<p><i>An active, outdoor children's play area with a minimum of fifty (50) square feet for each unit containing three (3) or more bedrooms but not less than five hundred (500) square feet of play area to a maximum required area of five thousand (5,000) square feet. The play area shall be secure, shall be separated from parking and maneuvering areas, and shall be designed to facilitate adult supervision. The play area shall include play equipment, installed to the manufacturer's specifications, or natural features suitable for children in both preschool and elementary school. Play equipment shall not be located in a required yard and not more than twenty-five (25) percent of the required</i></p>

		<i>square footage of the play area may be located in a required yard. Play areas should be designed for winter use and relate to the built form with consideration given to elements such as providing shelter from wind, utilizing seasonally appropriate materials, maximizing access to sunlight and providing for snow and ice removal.</i>
5	<i>Plaza</i>	<i>Plazas shall have a minimum area equivalent to ten (10) percent of the site not occupied by buildings, but not less than two thousand (2,000) square feet and shall comply with all provisions in Chapter 535, Regulations of General Applicability. Plazas for commercial or mixed-use development shall be open to the public during daylight hours.</i>
3	<i>Art feature</i>	<i>Provision of art that shall strive to promote quality design, enhance a sense of place, contribute to a sense of vitality, show value for artist and artistic processes, and use resources wisely. The art shall be maintained in good order for the life of the principal structure. The art shall be located where it is highly visible to the public. If located indoors, such space shall be clearly visible and easily accessible from adjacent sidewalks or streets. The art shall be valued at not less than one-fourth (.25) of one (1) percent of the capital cost of the principal structure.</i>
3	<i>Decorative or pervious surface for on-site parking and loading areas,</i>	<i>Provide decorative pavers, pervious pavers, stamped concrete, colored concrete, pervious concrete, brick or other decorative or durable materials</i>

	<i>drives, driveways and walkways.</i>	<i>for a minimum of seventy-five (75) percent of surface parking and/or loading areas, drives aisles, driveways and walkways that comply with the Americans with Disabilities Act accessibility requirements.</i>
3	<i>Energy efficiency</i>	<i>Utilization of energy design assistance programs or commissioning to ensure that building systems are designed to operate efficiently and exceed the Minnesota State Energy Code by at least thirty (30) percent of the annual energy costs. The developer must submit documentation to the city including a letter signed by the owner or a licensed design professional, that shows the project will comply with this standard.</i>
3	<i>Living wall system</i>	<i>Provide a living wall system on at least one (1) building elevation. The living wall shall be composed of panels that total a minimum of sixty (60) percent of the wall area on the building elevation, or five hundred (500) square feet, whichever is greater. Window area is included in the calculation of the wall area, but in no case shall the living wall cover windows. A portion of the plantings shall provide greenery year round.</i>
3	<i>Natural features</i>	<i>Site planning that preserves significant natural features or restores ecological functions of a previously damaged natural environment.</i>
3	<i>Pedestrian improvements</i>	<i>A site and building design that allows for exceptional and accessible pedestrian and/or bicycle access through and/or around a site that exceeds the requirements of Chapter 530, Site Plan Review. The improvements shall use a combination of landscaping, decorative materials, access control and lighting to create a</i>

		<i>safe, clear and aesthetically pleasing access through and/or around the site that complies with the Americans with Disabilities Act accessibility requirements.</i>
3	<i>Reflective roof</i>	<i>Utilize roofing materials for seventy-five (75) percent or more of the total roof surface having a Solar Reflectance Index (SRI) equal to or greater than the values as required by the US Green Building Council (USGBC) for low-sloped and steep-sloped roofs.</i>
3	<i>Shared bicycles</i>	<i>Public access to shared bicycles available for short-term use as defined in section 541.180. Applies to mixed-use and non-residential uses only. A minimum of ten (10) shared bicycles per one (1) commercial use must be provided to qualify as an amenity. Bicycle parking spaces and racks shall be located in an area that is convenient and visible from the principal entrance of the building.</i>
3	<i>Shared vehicles</i>	<i>Access to a shared passenger automobile available for short-term use. For residential uses, a minimum of one (1) car per one hundred (100) dwelling units is required.</i>
1	<i>Decorative fencing</i>	<i>Install high-quality decorative metal fencing where visible from the public street, public sidewalk or public pathway. The point for decorative fencing may be obtained when it is included as part of another amenity if it is also provided in other areas on the site. In no case shall chain-link fencing be considered decorative fencing.</i>
1	<i>Enhanced exterior lighting</i>	<i>Lighting plan that highlights significant areas of the site or architectural features of the building(s), subject to the standards of Chapter 535, Regulations of General Applicability.</i>

1	<i>Enhanced landscaping</i>	<i>A landscaping plan of exceptional design that has a variety of native tree, shrub, and plant types that provide seasonal interest and that exceed the requirements of Chapter 530, Site Plan Review. The landscaped areas shall have a resource efficient irrigation system. The landscaping plan shall be prepared by a licensed landscape architect.</i>
1	<i>Enhanced stormwater management</i>	<i>Provide capacity for infiltrating stormwater generated onsite with artful rain garden design that serves as a visible amenity. Rain garden designs shall be visually compatible with the form and function of the space and shall include for long-term maintenance of the design. The design shall conform to requirements of the stormwater management plan approved by public works.</i>
1	<i>Heated drives or sidewalks</i>	<i>Heated drives or sidewalks that are designed to provide snow and ice free surfaces.</i>
1	<i>Pet exercise area</i>	<i>A pet exercise area shall have a minimum dimension of twelve (12) feet by sixty (60) feet. It shall be enclosed with decorative fencing, include lighting in compliance with Chapter 535, Regulations of General Applicability and provide accommodations for proper disposal of animal waste. The pet exercise area shall not be located in a required yard.</i>
1	<i>Recycling storage area</i>	<i>Provide an easily accessible area that serves the entire building and is dedicated to the collection and storage of non-hazardous materials for recycling, including but not limited to paper, corrugated cardboard, glass, plastics and metals. The recycling storage area shall be located entirely</i>

*Table 527-1  
Amenities*

		<i>below grade or entirely enclosed within the building.</i>
<i>1</i>	<i>Tree islands</i>	<i>The inclusion of additional or larger tree islands in the interior of parking lots that exceed the requirements of Chapter 530, Site Plan Review. Larger tree islands shall have a minimum width of ten (10) feet in any direction and shall provide shrubs, plant materials, and/or rain garden plantings in addition to the trees.</i>
<i>1</i>	<i>Water feature</i>	<i>A water feature, including but not limited to a reflecting pond, a children's play feature or a drinking fountain shall be located where it is highly visible to and useable by the public.</i>
<i>As determined by CUP.</i>	<i>Amenities proposed by the applicant or others</i>	<i>The city planning commission may consider other amenities not listed in Table 527-1, Amenities, that are proportionally related to the alternative requested. The commission may assign one (1), five (5), or ten (10) points based on the proportionality.</i>
<i>As determined by CUP.</i>	<i>Amenities that significantly exceed standards</i>	<i>The commission may consider an additional five (5) points to the point value listed for any amenity in Table 527-1, Amenities, where the commission finds the proposed amenity substantially exceeds the standards required in Table 527-1, Amenities, for the amenity.</i>

## Appendix B: Community Facilities and Amenities Database Files

### Community Board 1Manhattan- Pharmacies

#### Duane Reade

250 BROADWAY	212-571-4511
304 BROADWAY	212-227-6168
111 WORTH ST	212-571-4621
17 John Street	212-619-7181
130 WILLIAM ST	212-385-1131
352 Greenwich St	212-406-3700
99 JOHN ST	212-791-3801
325 NORTH END AVE	212-945-4450
80 MAIDEN LANE	212-509-8890
200 Water Street	212-385-9353
45 PINE ST	212-742-8454
95 WALL ST	212-363-5830
37 BROADWAY	212-425-8460
67 BROAD ST	212-943-3690
1 WHITEHALL	212-509-9020

#### Rite-Aid

250 Vesey Street 212-608-8416

#### CVS

129 FULTON STREET 212-233-5023

#### Independents

Broadway Downtown Pharmacy Inc	373 Broadway	212-925-4888†
Kings Pharmacy	5 Hudson Street	212-791-3100
Downtown Pharmacy	165 William Street	212-344-2222

## Community Board 1 Manhattan- Houses of Worship

Houses of Worship	Address	Phone Number	Committee
Battery Park Synagogue	385 South End Avenue	212-421-7023	BPC
Chabad of Wall Street	139 Fulton Street	212-786-0068	Seaport/Civic Ctr.
Wall Street Synagogue	47 Beekman Street	212-227-7800*	Seaport/Civic Ctr.
Synagogue for the Arts	49 White Street	212-966-7141	Tribeca
Church of Our Lady of the Rosery	7 State Street	212-269-6856	Fin. Dist.
Faith Evangelistic Ministries	90 William Street	212-571-1019	Fin. Dist.
The Faith Exchange Freedom Center	95 Leonard Street	212-334-3399	Tribeca
John Street United Methodist Church	44 John Street	212-269-0014	Fin. Dist.
Living World Church	179 Franklin Street, 5th Floor	212-571-2644	Tribeca
Lower Manhattan Community Church	201 Warren Street	423-366-2238	BPC
New York Chinese Baptist Church	84 Walker Street	212-431-0377	Tribeca
Our Lady of Victory	60 William Street	212-422-5535	Fin. Dist.
The River	7 World Trade Center	646-467-8694	Tribeca/WTC
St. Andrew's Roman Catholic Church	20 Cardinal Hayes Place	212-962-3972	Fin. Dist.
St. Joseph's Chapel	385 South End Avenue	212-466-0131	BPC
St. Paul's Chapel	209 Broadway	212-233-4164	Fin. Dist.
St. Peter's Roman Catholic Church	22 Barclay Street	212-233-8355	Fin. Dist.
Seaman's Church Institute	241 Water Street	212-349-9090	Seaport/Civic Ctr.
The Shrine of St. Elizabeth Ann Seton at Our Lady of the Rosary Parish	7 State Street Office: 295 Greenwich Street 455 North End Avenue Service	212-269-6865	Fin. Dist.
Tribeca Spiritual Center	Location: the Hallmark	917-887-4816	BPC
Trinity Church Parish	74 Trinity Place	212-602-0800	Fin. Dist.
Masjid Manhattan	20 Warren Street, Basement	212-766-1867	Tribeca

# Community Board 1 Manhattan Community Facilities

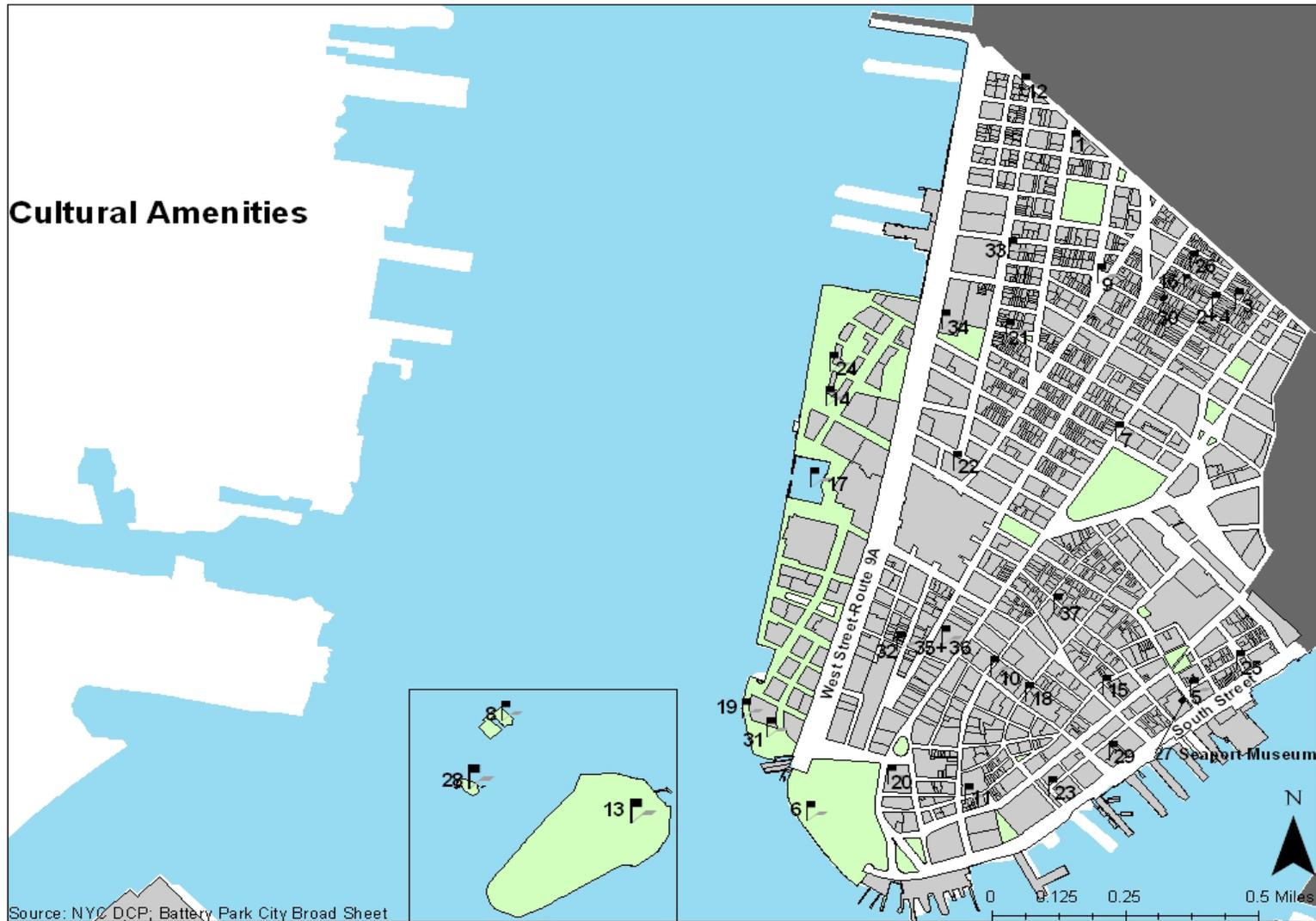
BLOCK	LOT	FACILITY_NAME	FACILITY_ADDRESS	ZIP	FACILITY_T	GROUP_TYPE	SUBGROUP_T	CAPACITY	CAPACITY_T	PREK_8_ENR	9_12_ENROL	AGENCY_OPE	AGENCY_OVE	SD	INSTRUCT_R	POLICE_PRE
1	91	13 COALITION FOR THE HOMELESS	129 Fulton St	10038	4901	10	102	102	99	99		91	99	2	9	1
2	150	31 NEW YORK CITY RESCUE MISSION	299 Broadway	10007	4903	10	102	102	99	91		91	99	2	9	1
3	155	1 SAFE HORIZONS, INC.	2 Lafayette St	10007	4903	10	102	102	99	91		91	99	2	9	5
4	20	4 COMMUNITY FOOD RESOURCE CENTER	39 Broadway	10006	4903	10	102	102	99	91		91	99	2	9	1
5	42	31 MET COUNCIL ON JEWISH POVERTY	80 Maiden Lane	10005	4902	10	102	102	99	91		91	99	2	9	1
6	16	220 P.S. 89	201 Warren St	10282	1001	1	11 419	12 419	0	1		1	1	2	9	1
7	142	25 P.S. 150	334 Greenwich St	10013	1001	1	11 190	12 190	0	1		1	1	2	9	1
8	142	1 P.S. 234 INDEPENDENCE SCHOOL	292 Greenwich St	10007	1001	1	11 699	12 699	0	1		1	1	2	9	1
9	16	220 I.S. 289	201 Warren St	10282	1002	1	11 307	12 297	10	1		1	1	2	9	1
10	29	70 MILLENNIUM HIGH SCHOOL	75 Broad St	10004	1005	1	11 206	12 0	206	1		1	1	2	9	1
11	16	215 STUYVESANT HIGH SCHOOL	345 Chambers St	10282	1004	1	11 3056	12 1	3055	1		1	1	2	9	1
12	52	1 ECONOMICS & FINANCE HIGH SCHOOL	100 Trinity Place	10006	1005	1	11 703	12 0	703	1		1	1	2	9	1
13	113	100 MURRY BERGTRAUM HIGH SCHOOL	411 Pearl St	10038	1005	1	11 2901	12 0	2901	1		1	1	2	9	5
14	15	7501 JOHN V. LINDSAY WILDCAT ACADEMY CHARTER SCHOOL	17 Battery Place	10004	1014	1	11 420	12 25	395	99		50	2	9	1	1
15	42	31 UNITED CEREBRAL PALSY OF NEW YORK CITY	80 Maiden Lane	10005	1107	1	12 293	12 277	16	91		50	2	9	1	1
16	142	50 BOROUGH OF MANHATTAN COMM COLLEGE (CUNY)	199 Chambers St	10013	1202	1	13 18465	11	2	2		2	2	9	1	1
17	142	100 COLLEGE OF INSURANCE (PART OF NEW SCHOOL U)	101 Murray St	10007	1203	1	13	96	91			50	2	9	1	1
18	176	1 NEW YORK LAW SCHOOL	57 Worth St	10013	1203	1	13 1563	11	91			50	2	9	1	1
19	150	38 GLOBE INSTITUTE OF TECHNOLOGY	291 Broadway	10007	1204	1	13 898	11	90			50	2	9	1	1
20	177	24 NEW YORK ACADEMY OF ART	111 Franklin St	10013	1203	1	13 135	11	91			50	2	9	1	1
21	102	1 PACE UNIVERSITY	1 Pace Plaza	10038	1203	1	13 13962	11	91			50	2	9	1	1
22	90	7501 NEW YORK CAREER INSTITUTE	15 Park Row	10038	1204	1	13 615	11	91			50	2	9	1	1
23	134	7503 NEW AMSTERDAM LIBRARY	9 Murray St	10007	1401	2	21 291776	3	6			6	2	9	1	1
24	43	6 FEDERAL HALL NATIONAL MEMORIAL	26 Wall St.	10005	1561	2	22 0.45	8	70			70	2	0	1	1
25	190	53 BEACH STREET PARK	W Broadway & Beach St	0	1521	2	22 0.04	8	3			3	0	0	0	0
26	16	999 PUBLIC PLACE(BATTERY PK CITY)	Hudson River S/O Liberty St	0	1501	2	22 1.55	8	3			3	0	0	0	0
27	106	22 FISHBRIDGE GARDEN	Dover St Bet. Pearl and Water Sts.	0	1531	2	22 0.08	8	3			3	0	0	0	0
28	16	10 MUSEUM OF JEWISH HERITAGE	18 First Place	10280	1601	2	21 108067	13	91			4	2	0	1	1
29	190	33 1ST PRECINCT	16 Ericsson Place	10013	2001	3	3	99	8			8	2	9	1	1
30	119	1 HEADQUARTERS	1 Police Plaza	10038	2002	3	3	99	8			8	2	9	5	1
31	197	17 YOUTH SERVICE DIVISION	137 Center St	10013	2002	3	3	99	8			8	2	9	5	1
32	13	27 POLICE MUSEUM	25 Broadway	10004	2002	3	3	99	8			8	2	9	1	1
33	100	1 NYU DOWNTOWN HOSPITAL	170 William St	10038	3101	4	41 254	2	91			54	2	9	1	1
34	198	126 CHARLES B WANG COMMUNITY HEALTH CENTER	125 Walker St	10013	3201	4	42	99	99			12	2	9	5	1
35	95	27 THE MEDICAL PRACTICE AT ST MARGARET'S HOUSE	49 Fulton St	10038	3202	4	42	99	99			54	2	9	1	1
36	37	13 ODYSSEY-FAMILY REENTRY-DRUG FREE RESID	95 Pine St	10005	3313	5	51 15	2	55			55	2	9	1	1
37	75	30 CIS COUNSELING CENTER-OUPT DRUG CLINIC	111 John St	10038	3401	5	52 200	6	55			55	2	9	1	1
38	92	5 NEW YORK SOCIETY/DEAF - MED SUP OP-SA	161 William St	10038	3401	5	52 25	6	55			55	2	9	1	1
39	15	7501 NY ASSOC/NEW AMERICANS - MED SUP OP-SA	17 Battery Place	10004	3401	5	52 135	6	55			55	2	9	1	1
40	75	30 CIS COUNSELING CENTER, INC.	111 John St	10038	3602	6	62	98	91			56	2	9	1	1
41	93	20 COMMUNITY ACCESS, INC.	156 William St	10038	3622	6	62	99	91			14	2	9	1	1
42	75	46 METRO NEW YORK DDOO	32 Cliff St	10038	3704	7	71 14	2	57			57	2	9	1	1
43	39	7501 AABR	130 Water St	10005	3704	7	71 4	2	91			57	2	9	1	1
44	39	7501 AABR	130 Water St	10005	3701	7	71 9	2	91			57	2	9	1	1
45	93	20 CONTEMPORARY GUIDANCE SERVICES, INC.	156 William St	10038	3812	7	72	99	91			14	2	9	1	1
46	119	1 FINEST CARE CCC	1 Police Plaza	10038	4101	8	82 40	1	99			14	2	9	5	1
47	31	11 LIPTON CORPORATE CCC	75 Wall St	10005	4103	8	82 18	1	99			14	2	9	1	1
48	51	7 TRINITY PARISH PRE SCH NURS	68 Trinity Pl	10006	4102	8	82 34	1	99			14	2	9	1	1
49	156	50 FED KIDS CHILD CARE CENTER	26 Federal Plaza	10007	4102	8	82 166	1	99			14	2	9	5	1
50	78	7504 THE DOWNTOWN LITTLE SCHOOL	15 Dutch St	10038	4102	8	82 65	1	99			14	2	9	1	1
51	142	50 BMCC EARLY CHILDHOOD CENTER	199 Chambers St	10013	4102	8	82 40	1	99			14	2	9	1	1
52	16	80 BATTERY PARK CITY DAY NURSERY	215 South End Ave	10280	4102	8	82 24	1	99			14	2	9	1	1
53	51	17 TRINITY PARISH PRE-SCH	74 Trinity Pl	10006	4102	8	82 77	1	99			14	2	9	1	1
54	29	59 THE CHILDREN CENTER AT GOLDMAN SACHS	85 Broad St	10004	4103	8	82 21	1	99			14	2	9	1	1
55	148	15 BUCKLE MY SHOE NURSERY SCHOOL	40 Worth St	10013	4102	8	82 41	1	99			14	2	9	1	1
56	198	126 CHUNG PAK DAY CARE CTR	125 Walker St	10013	4101	8	82 75	1	99			14	2	9	5	1
57	132	7501 THE PARK PRE-SCH	275 Greenwich St	10007	4102	8	82 44	1	99			14	2	9	1	1
58	54	1 CHILDREN FIRST @130 LIBERTY ST PRE-SCH	130 Liberty St	10006	4103	8	82 31	1	99			14	2	9	1	1
59	5	7501 CHILDREN FIRST @125TH BROAD STREET PRE-SCHOOL	125 Broad St	10004	4103	8	82 30	1	99			14	2	9	1	1
60	94	1 HAMILTON MADISON HS	80 Beekman St	10038	4104	8	82 29	1	99			14	2	9	1	1
61	186	1 CHILDREN FIRST AT SALOMON SMITH BARNEY	388 Greenwich St	10013	4103	8	82 26	1	99			14	2	9	1	1
62	94	25 CITY HALL SENIOR CENTER	100 Gold St	10038	4501	9	9 7080	7	91			21	2	9	1	1
63	142	7502 Downtown Youth Center	120 Warren St	10007										2		

# Community Board 1 Parking Facilities

Block	Lot	ZipCode	Address	ZoneDist1	SPDist1	AllZoning1	OwnerType	OwnerName	LotArea	GarageArea	NumFloors	LotFront	LotDepth	BldgFront	BldgDepth	AssessLand	AssesTot	YearBuilt	HistDist	BuiltFAR	MaxAllwFAR	ZoneMap
1	29	86	10004 14 SOUTH WILLIAM STREET	C5-5	LM	C5-5/LM		MARK, MOSES	11398	84775	8	142.50	86.25	134.00	99	1264500	6525000	1962		7.7	15.00	12B
2	56	15	10006 148 WASHINGTON STREET	C6-9	LM	C6-9/LM	P	LOWER MANHATTAN DEVEL	16032	0	0	114.25	181.92	0.00	0	513	513	0	0.0	10.00	12B	
3	179	1	10013 170 WEST BROADWAY	C6-2A	TMU	C6-2A/TMU		15 WORTH STREET PROPE	13712	0	1	74.00	150.00	5.00	5	940500	945000	1910	0.0	6.02	12A	
4	224	32	10013 454 GREENWICH STREET	M1-5	TMU	M1-5/TMU	P	PONTE EQUITIES INC	3962	4000	1	49.92	80.00	49.92	80	180000	253800	1920	Tribeca North	1.0	5.00	12A
4	595	1	10013 281 WEST STREET	M1-5	TMU	M1-5/TMU		POINTE EQUITIES INC	13321	0	0	125.08	106.50	0.00	0	472500	472500	0	0.0	5.00	12A	
5	56	21	10006 97 WEST STREET	C6-9	LM	C6-9/LM		LOWER MANHATTAN DEVEL	2747	0	0	47.50	55.58	0.00	0	513	513	0	0.0	10.00	12B	
6	92	1	10038 169 WILLIAM STREET	C6-4	LM	C6-4/LM		BRISAM BEEKMAN LLC	5282	0	0	49.17	75.17	0.00	0	621000	625500	0	0.0	10.00	12B	
7	76	6	10038 56 FULTON STREET	C6-4	LM	C6-4/LM	P	TERM-FULTON REALTY CO	8537	45468	10	128.92	71.00	93.00	64	945000	3046500	1963		5.5	10.00	12B
8	187	21	10013 56 NORTH MOORE STREET	C6-2A	TMU	C6-2A/TMU		56 NORTH MOORE STREET	8771	41067	5	100.50	87.58	100.50	80	967500	2952000	1940	Tribeca West	4.7	6.02	12A
9	224	36	10013 DESBROSSES STREET	M1-5	TMU	M1-5/TMU		POINTE EQUITIES INC	1000	0	0	20.00	50.00	0.00	0	56250	56250	0	0.0	5.00	12A	
10	137	10	10007 86 WARREN STREET	C6-3A	TMU	C6-3A/TMU		86-90 WARREN ST. L.L.	7283	0	0	72.33	100.00	0.00	0	679500	688500	0	0.0	7.52	12A	
11	223	3	10013 264 WEST STREET	C6-3A	TMU	C6-3A/TMU	P	PONTE EQUITIES INC	3854	2880	2	45.08	85.67	45.00	85	165600	256500	1910		1.2	7.52	12A
12	132	30	10007 69 WARREN STREET	C6-2A	TMU	C6-2A/TMU		WARREN CO	3156	0	0	50.83	75.00	0.00	0	291150	297900	0	0.0	6.02	12B	
13	195	12	10013 83 WALKER STREET	C6-2A		C6-2A		83 WALKER LLC	2400	0	0	24.00	100.00	0.00	0	157500	157500	0	Tribeca East	0.0	6.02	12A
14	194	36	10013 413 BROADWAY	M1-5	TMU	M1-5/TMU		411-413 BROADWAY, LLC	8468	0	0	49.83	140.42	0.00	0	1071000	1075500	0	Tribeca East	0.0	5.00	12A
15	107	60	10038 PECK SLIP	PARK		PARK	C	PARKS AND RECREATION	8165	0	0	142.67	66.00	0.00	0	931500	936000	0	South Street Seaport	0.0	0.00	
16	98	1	10038 246 WATER STREET	C6-2A	LM	C6-2A/LM	P	PM PARTNERS	47880	0	1	333.00	190.42	0.00	0	5440500	5440500	1993	South Street Seaport	0.0	6.02	12B
17	191	8	10013 14 WHITE STREET	C6-2A	TMU	C6-2A/TMU	P	HENRY HAMID	3845	0	0	118.75	70.17	0.00	0	389250	393750	0	Tribeca East	0.0	6.02	12A
18	178	29	10013 FRANKLIN STREET	C6-2A		C6-2A	P	MATERA FAMILY LIMITED	4611	0	0	32.83	218.50	0.00	0	313650	318150	0	Tribeca East	0.0	6.02	12A
19	195	27	10013 84 WHITE STREET	C6-2A		C6-2A		84 WHITE STREET LLC	6073	0	0	49.83	122.50	0.00	0	643500	648000	0	0.0	6.02	12A	
20	92	38	10038 31 BEEKMAN STREET	C6-4	LM	C6-4/LM		BRISAM BEEKMAN LLC	2238	0	0	22.83	100.50	0.00	0	262800	267300	0	0.0	10.00	12B	
21	189	29	10013 26 NORTH MOORE STREET	C6-2A	TMU	C6-2A/TMU		ERVOLINO, RONALD J	1648	1606	1	18.83	87.50	19.00	86	73800	91800	1920	Tribeca West	1.0	6.02	12A
22	107	46	10038 269 WATER STREET	C6-2A	LM	C6-2A/LM	P	VJHC DEVELOPMENT CORP	1991	0	1	24.00	82.17	24.00	82	66150	106650	1950	South Street Seaport	1.0	6.02	12B
23	179	28	10013 24 LEONARD STREET	C6-2A	TMU	C6-2A/TMU		R SQUARED EDGE WB LLC	9983	37936	4	99.83	100.00	99.00	100	999000	1953000	1940		3.8	6.02	12A
24	224	33	10013 24 DESBROSSES STREET	M1-5	TMU	M1-5/TMU		POINTE EQUITIES INC	1000	1000	1	20.00	50.00	20.00	50	45000	63450	1900		1.0	5.00	12A
25	72	19	10038 175 FRONT STREET	C5-3	LM	C5-3/LM		167 FRONT PROPERTIES,	6143	0	0	84.33	103.00	0.00	0	697500	702000	0	South Street Seaport	0.0	15.00	12B
26	75	28	10038 251 PEARL STREET	C6-4	LM	C6-4/LM		251 PEARL STREET LLC	4716	0	0	44.58	110.00	0.00	0	531000	535500	0	0.0	10.00	12B	
27	75	35	10038 248 PEARL STREET	C6-4	LM	C6-4/LM		PEARL STREET PARKING	15951	0	0	82.40	196.64	0.00	0	1827000	1831500	0	0.0	10.00	12B	
28	92	37	10038 29 BEEKMAN STREET	C6-4	LM	C6-4/LM		BRISAM BEEKMAN LLC	2301	0	0	22.50	100.67	0.00	0	270000	274500	0	0.0	10.00	12B	
29	68	29	10038 13 GOLD STREET	C5-5	LM	C5-5/LM	P	FATB,	2241	0	0	26.83	79.58	0.00	0	250200	254700	0	0.0	15.00	12B	
30	196	24	10013 88 WALKER STREET	M1-5		M1-5	P	218 HOLDING INC	4207	0	0	49.25	88.25	0.00	0	421200	430200	0	0.0	5.00	12A	
31	179	13	10013 74 HUDSON STREET	C6-2A	TMU	C6-2A/TMU	P	HUDSON PARKING,	9800	0	0	102.25	96.00	0.00	0	936000	940500	0	Tribeca West	0.0	6.02	12A
32	224	21	10013 445 WASHINGTON STREET	M1-5	TMU	M1-5/TMU		POINTE EQUITIES INC	6000	6000	2	50.00	80.00	0.00	0	270000	495000	1957		1.3	5.00	12A
33	107	53	10038 18 DOVER STREET	C6-2A	LM	C6-2A/LM		254 FRONT STREET LLC	1300	0	0	50.92	26.83	0.00	0	164250	164250	0	South Street Seaport	0.0	6.02	12B
34	223	5	10013 266 WEST STREET	C6-3A	TMU	C6-3A/TMU		POINTE EQUITIES INC	7836	4055	2	43.08	131.25	43.00	132	337500	594000	1920		1.4	7.52	12A
35	92	34	10038 25 BEEKMAN STREET	C6-4	LM	C6-4/LM		B & 33RD LLC	7038	36246	6	68.67	102.67	68.67	86	661500	1939500	1963		5.2	10.00	12B
36	72	12	10038 FRONT STREET	C5-3	LM	C5-3/LM		SEAPORT HEIGHTS LLC	3020	0	0	32.42	93.17	0.00	0	339750	344250	0	0.0	15.00	12B	
37	223	35	10013 438 GREENWICH STREET	M1-5	TMU	M1-5/TMU	P	POINTE EQUITIES INC	3276	3250	1	41.83	77.75	42.00	78	146250	247950	1920	Tribeca North	1.0	5.00	12A
38	72	20	10038 164 JOHN STREET	C5-3	LM	C5-3/LM		167 FRONT PROPERTIES,	1688	0	0	68.00	23.50	0.00	0	190350	192600	0	South Street Seaport	0.0	15.00	12B
39	53	12	10006 111 WASHINGTON STREET	C6-9	LM	C6-9/LM	P	TERM WASHINGTON STREE	11255	0	0	136.92	98.25	0.00	0	1282500	1282500	0	0.0	10.00	12B	
40	190	37	10013 24 VARICK STREET	M1-5	TMU	M1-5/TMU		LHRE COMPANY, L.L.C.	11206	0	0	175.33	65.33	0.00	0	1138500	1138500	0	0.0	5.00	12A	
41	107	34	10038 246 FRONT STREET	C6-2A	LM	C6-2A/LM	P	MICRO REALTY,	2455	0	0	19.83	138.67	0.00	0	249750	249750	0	South Street Seaport	0.0	6.02	12B
42	72	115	10038 167 FRONT STREET	C5-3	LM	C5-3/LM		167 FRONT PROPERTIES,	1413	0	0	18.83	76.92	0.00	0	158850	161100	0	South Street Seaport	0.0	15.00	12B
43	92	10	10038 57 ANN STREET	C6-4	LM	C6-4/LM		57 ANN ST RLTY ASSOCS	10925	32475	3	53.42	115.50	53.00	135	747000	1737000	1925		3.0	10.00	12B
44	17	45	10006 25 West Street	C6-9	LM	C6-9/LM		West Street Equities	67342									1983				12B
45	16	100	10280 345 South End Avenue	BPC				City of New York														12B
46	142	25	10013 310 Greenwich Street	C6-4				WB/STELLAR IP OWNER,		230000								1975				12A
47	170	20	10013 95 Wroth Street	C6-4A				FC Foley Square Associates, Icon Parking										2001				12A
48	94	1	10038 80 Gold Street	C6-4	LM			Southbridge Towers Incorporated		111084	3							1971		5.8	6.02	12B
49	94	1	10038 80 Gold Street	C6-4	LM			Southbridge Towers Incorporated		111084	3							1971		5.8	6.02	12B



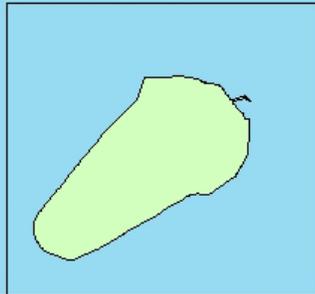
## Appendix C: Maps for Community Board 1 Manhattan Community Facilities and Amenities Inventory

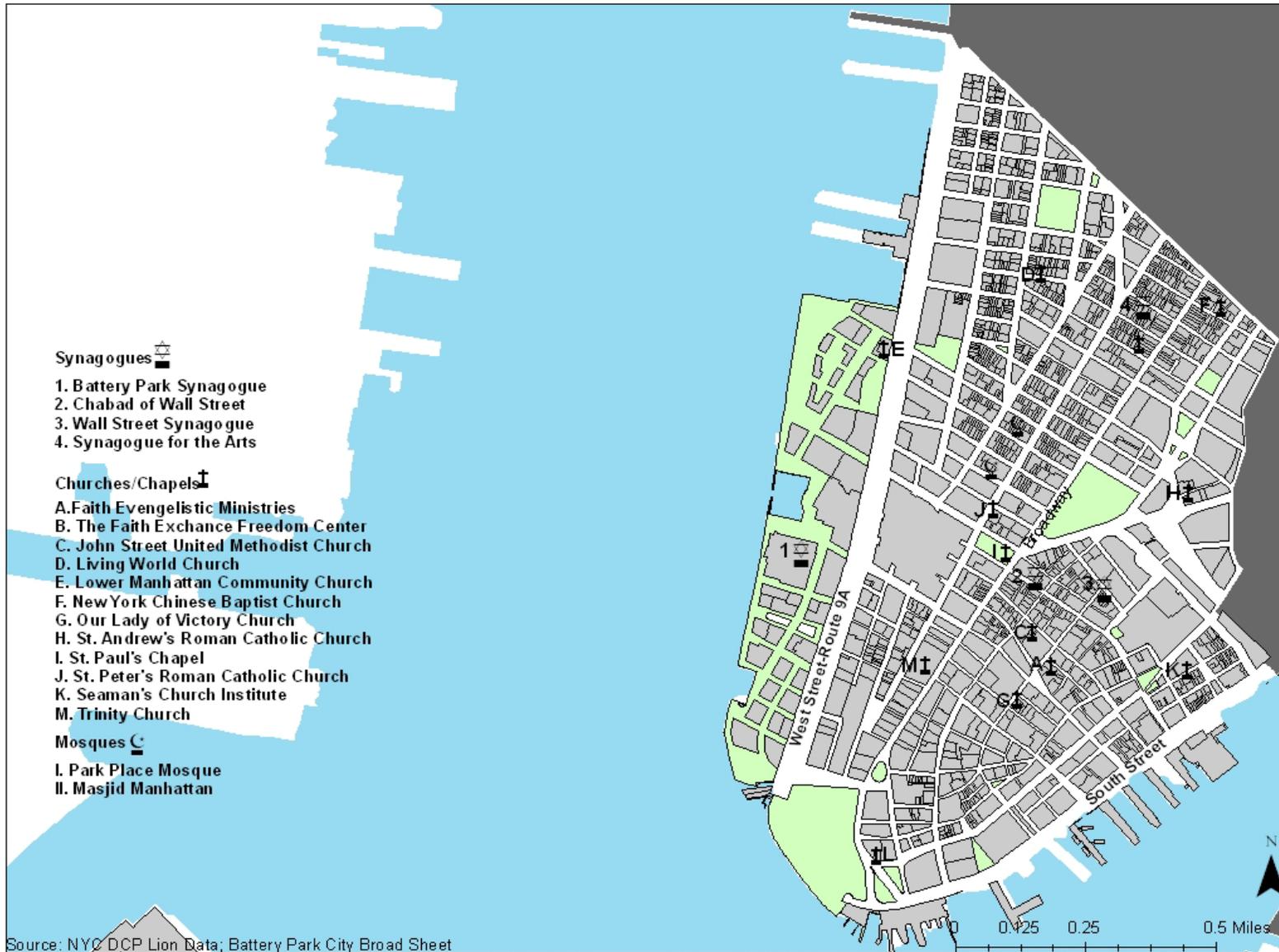


Source: NYC DCP Lion Data, Battery Park City Broad Sheet

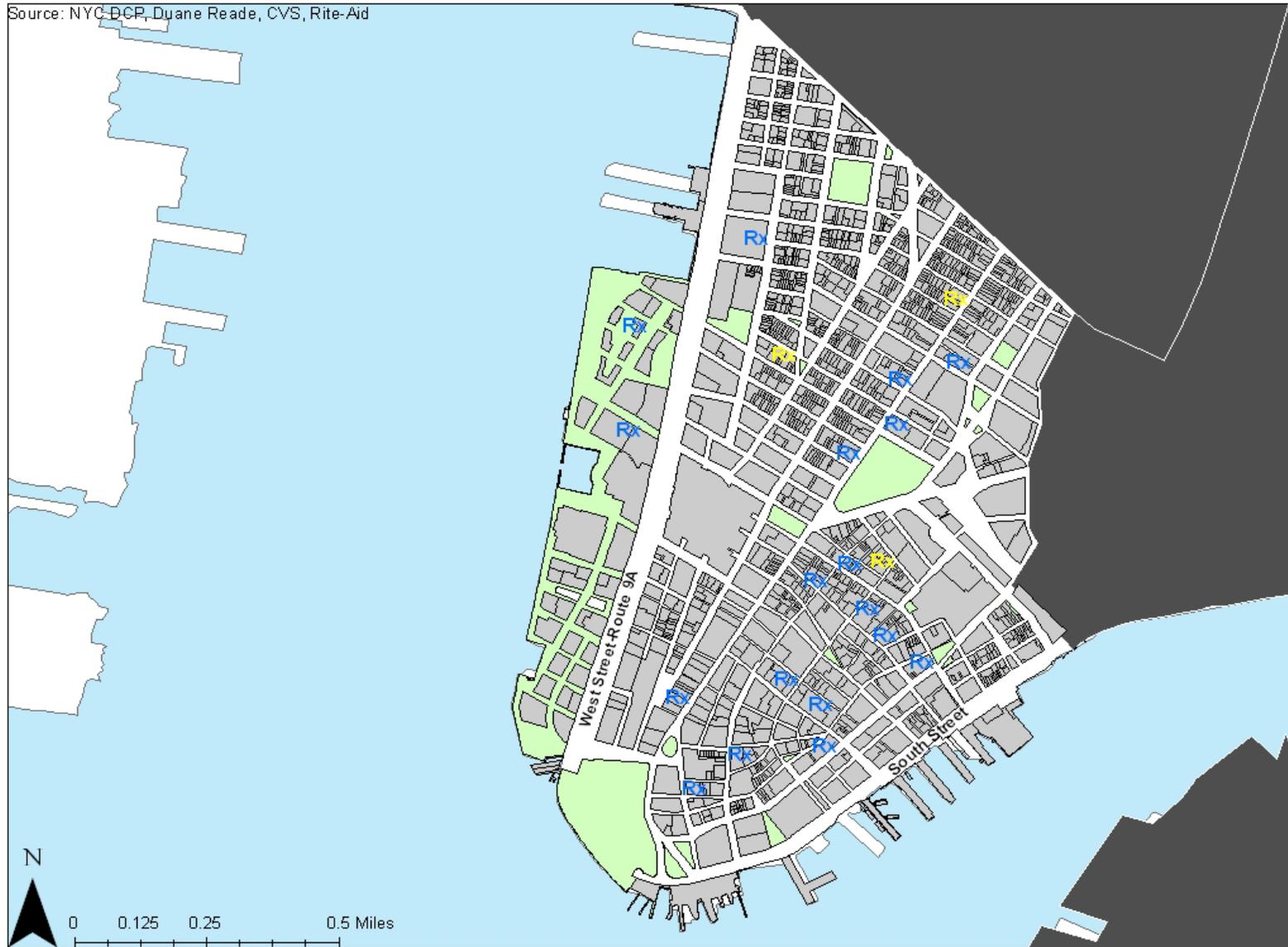


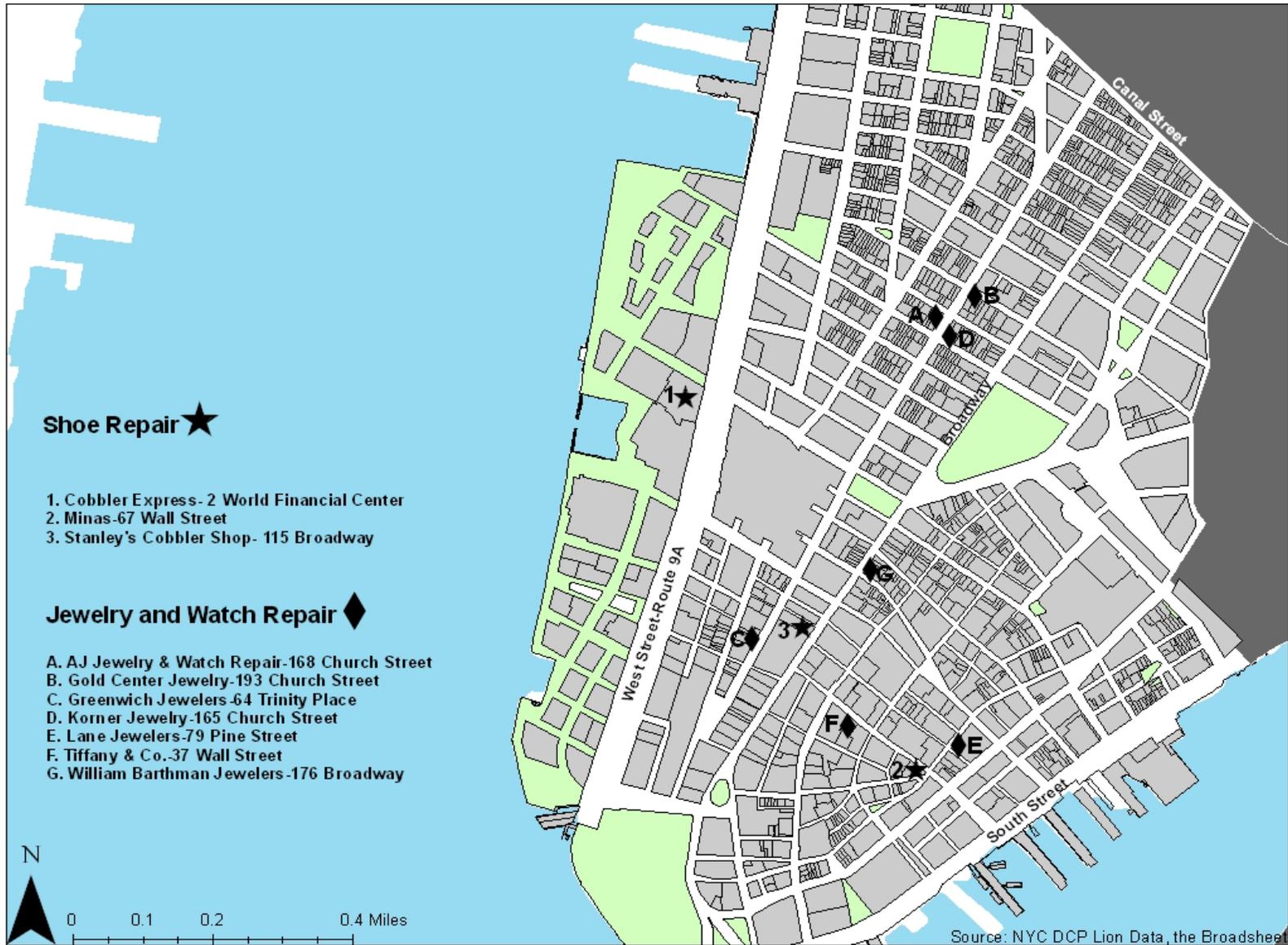
1. Tribeca Market
2. City Hall Market
3. Zuccotti Park Market
4. New Amsterdam Market
5. Fulton Stall Market
6. Bowling Green Market
7. Staten Island Ferry Terminal Market





Source: NYC DCP, Duane Reade, CVS, Rite-Aid







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This map only contains those services located within the Community Board 1 Manhattan catchment area



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This map only contains those services located within the Community Board 1 Manhattan catchment area

This map only contains those services located within the Community Board 1 Manhattan catchment area



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This map only contains those services located within the Community Board 1 Manhattan catchment area



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This map only contains those services located within the Community Board 1 Manhattan catchment area

**Appendix E: New York Bar Association “THE ROLE OF COMMUNITY BENEFIT AGREEMENTS IN NEW YORK CITY’S LAND USE PROCESS”**

<http://www.nycbar.org/pdf/report/uploads/20071844-TheRoleofCommunityBenefitAgreementsinNYCLandUseProcess.pdf>

Please note that hard copies of this report are also available at Community Board 1 Manhattan, 49-51 Chambers Street, Suite 712

Appendix F:

# Land Use Regulation and Sustainable Zoning: A Resource Guide Book

Matt D. Viggiano  
Master's Candidate

Columbia University Graduate School of  
Architecture, Planning, and Preservation

**Professor Jonathan Martin**

School: Graduate School of Architecture, Planning and Preservation  
Department: Urban Planning  
Program: City and Regional Planning

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## Section One: Overview—Land Use Controls in the United States

Week 1

*The Planning Arena*

### Introduction, History and Overview

Meck, Stuart, FAICP. 2002. *Growing SmartSM Legislative Guidebook: Model Statutes for Planning and the Management of Change*. Chicago: American Planning Association, 2002.

Chapter 7: Why should local governments plan? pages 7-6 to 7-18

In these pages the basic rationale for the formation of planning bodies is laid out. We are given the premise of how a plan is formulated and to why plans take shape from the perspective of the elected official. The reader is shown basically what interests are at play and how the public and private sector is able to communicate their own interests. We next are shown the Standard City Planning Enabling Act, the authorizing legislation that created the opportunity for municipalities to form planning bodies. There are several different ways to look at the composition and authority granted to a planning body. Different positions are taken on how much authority should be given to the planning body, who it should be accountable to and what the composition of that body should be. In the latter portion of the article varying critiques of SCPEA provisions are provided. One such critique is that the SCPEA excludes elected officials from plan making; another suggests that it leads to elitism where certain interests are not well represented on the planning commission (such as low- to moderate income households, blue collar workers, minorities, women, etc.) and various authors are referenced who agree with those critiques. Finally, different models are discussed and presented (Alfred Bettman with Model Acts and the ALI Code).

Chapter 7: Commentary- Local Planning Commission, pages 7-30 to 7-53

In this section of the chapter Local planning commissions are discussed. The chapter lays out in what capacities they may serve under, ie buffer for electeds; advisory roles to area planning councils or commissions. Section 7-105 lays out alternatives for who serves on a local planning commission, how representation will be set up, who will appoint members and what elected or appointed members may serve on said council. A model proposed by Basset and Williams delineates: who can serve, who will serve when there is an elected mayor; orientation, training, and continuing education of members; purposes of training and continuing education; vacancies; removal of officers; compensation, or no compensation (it is the opinion of the guide book that compensation should not happen); election of the chair and secretary; mandates for meetings; rules on quorum; proxies and conflicts of interest; and record keeping. The model also lays out the provision of the powers and duties of the local planning commission, when the commission could be the final authority on certain matters, subcontracting, rules for receiving and dispersing funds provided by a municipality and reporting. The section then goes on to talk about the rise of neighborhood planning council and the importance and potential draw backs to neighborhood and community organization participation. Examples are also given of how different states and cities allow the participation of these groups. The remaining portion of the chapter outlines the rules or determining neighborhoods or communities, criteria for the creation of NPC's, their authority and purview, their rules and criteria for recognition of these groups.

NY Dept. of State. Guide to Planning and Zoning Laws of New York State: §20 Grant of Specific Powers (p. 3)

Section 20 of the zoning laws of the State of New York lay out what cities within the state are empowered to control with regard to land uses. That such uses shall be differentiated with regard to bulk , location, density, building class and any other rules that “ensure the protection from fire, flood, and other dangers, and to promote public health, welfare...adequate light and air, access...” and other features. It also empowers cities to restrict location of trades and industries; to parse out cities into districts and to regulate land uses for various reasons such as the protection of property values, direction of development and other related reasons “in accord with a well considered plan.”

## Week 2

### *The Comprehensive Plan*

Reading: Kaiser, Edward J. and David R. Godschalk. 1995. "Twentieth Century Land Use Planning: A

Stalwart Family Tree." JAPA 61, Issue 3, pp. 365-385

The development of the comprehensive plan over the last century has evolved from an elitist, professional oriented document into one that emphasizes different types of plans that are incorporated into hybrid documents that are more mid-range in timing and include environmental concerns. The article "A Stalwart Family Tree" shows the evolution of the more inspirationally minded plan of Olmsted and Bettman designed specifically for independent planning bodies, into a more civic-minded, government sponsored document that engages the public and encourages more input from those affected by those plans. Kaiser and Godschalk speak to the reasons for this shift beginning in the post-WW2 era and the shift of plans and planning commissions being put under the purview of government entities. The contribution of planners like Kent with his general plan and Chapin, Jr.'s land use plan was very influential to this shift in the 1950's and 60's. By the late 60's and 70's land use design, land classification plan, verbal policy plan, and the development management plan take a bigger role and become more detailed in the analysis of land use, design and development management. Kaiser and Godschalk explain the evolution of each type of plan, their function, and examples of specific plans that embody each purpose. With the rise of environmental and sustainability in the 1970's plans become hybrids that incorporated many of these different plans depending on the needs concerned. Plans today are no longer just long-term inspirational documents or short-term action plans, they incorporate both long- and short-term visions, times tables, specific policies, land use designs, development controls and have come to include other aspects like infrastructure expansion, transportation projects and growth boundaries to name a few. Hybridization will surely continue according to the article's authors with greater public participation and use of information technologies, mapping and other data sources and media.

Reading: Meck, Stuart, FAICP. Growing Smart Legislative Guidebook: Model Statutes for Planning and

the Management of Change. Chapter 7: The Local Comprehensive Plan (pp.7-54 to 7-68)

This section of Chapter 7 deals with both the SCPEA and the SZEPA. The problem here is one of definition. There is little to no differentiation between comprehensive planning and zoning changes. Here Meck looks at the various critiques of the SCPEA and SZEPA. These critiques include the ambiguity of plan descriptions, under the SCPEA made planning permissible rather than mandatory. It also avoided express definition of the comprehensive plan. Second, the SCPEA excluded elected officials from the planning process because of the trend of distrusting politics and its role in planning. Third, there was confusion of the role of zoning in the

comprehensive plan, it seemed to be part of the plan but did not go into detail, some believed zoning to be a prerequisite to comprehensive planning others as a part of the comprehensive plan. The authors of the SCPEA (Bassett, Williams, and Bettman) believed that the comprehensive plan should be adopted by the planning commission and cut out government in their definition. It wasn't until the post-WW2 era and section 701 of the 1954 Housing Act that comprehensive planning became more defined. Chapin and Kent Jr.'s ideas on planning would later further define comprehensive planning that would become the bench mark for defining such a plan. Looking at the existing condition and proposed future uses became part of the comprehensive plan as well as annual and long-term reviews (10-year review). Meck goes on to point out several themes in the legislation, including: the need for greater detail in comprehensive planning, looking at the regional context of plans, integrating local and regional planning elements, establishing greater citizen participation (something that was lacking from previous definitions), the need for defining periodic review, understanding the market functions, the need to make planning mandatory rather than permissible, among others. Finally Meck points out that not all elements of a plan are required, and the each region and municipality has different needs that can be met by a tailored comprehensive plan.

NY Dept. of State. Guide to Planning and Zoning Laws of New York State:

#### **§ 27. Planning board, creation and appointment.**

Establishes the creation of a planning board for cities not larger than one million people. The board shall consist of 5 or 7 members appointed by the mayor of that city.

This section also establishes the appropriation of funds for use by said board, compensation of members of that board, and grants the authority of said board to employ staff, experts, clerks and a secretary, to pay for their services and provide expenses as necessary. It also states who is ineligible for appointment, defines the terms of members, how to increase or decrease membership, and sets for the training and attendance requirements, what happens in the event of a vacancy and how to remove members. This section also outlines the duties of the chairperson, service on other planning boards, rules and regulations of the board, and on what matters that board will report.

#### **§ 28-a. City comprehensive plan**

This section defines the application process for cities smaller than one million people. It also outlines legislative findings and intent which includes powers of the board in determining the long-term protection, enhancement and development of communities by their local governments, lays out the responsibility to undertake comprehensive planning and to regulate land uses to protect public health, safety and welfare and is in the best interests of the public, to allow for open participation by citizens, to encourage cooperation among governmental agencies, to encourage (but not mandate) preparation and adoption of a comprehensive plan. This section also defines key terms, contents of the comprehensive plan, preparation of that plan, outline

public hearings and notice of those hearings, adoption, environmental review, agricultural review, and periodic review.

§ 20-g. Inter-municipal cooperation in comprehensive planning and land use regulation

This section outlines legislative intent, authorization and effect, definitions, and special considerations regarding inter-municipal cooperation in comprehensive planning and land use regulation within municipalities different municipalities that intent to create comprehensive plans in concert with one another.

## *Sub-Division and Site Plan Review Regulations*

### Week 3 Annotations

#### Fulton, Chapter 4, “The Structure of Planning Decision Making 1: Local Governments”

In this chapter, Fulton explains the structure of planning decisions in California. I thought it was interesting how California governing entities are structured. Like New York, California rests land use controls on the local level. What is different between the two states is that California gives much more authority to cities which leaves the larger bodies of counties at the mercy of smaller localities. What really impressed me was the sheer number of how many local governing entities there are in California, according to Fulton more than 7000 entities in all (Fulton, p.66). The power given to local governments comes from authorizing language in the state constitution. These regulations are very similar to the sort discussed by Meck in earlier readings. Given the large number of government organizations, and cities, I am impressed to see how important the planning and land use controls given to localities are, in fact planning seems to be among one of the most important agenda items in California. The importances of planning staffs are also emphasized in the Fulton reading. Since many of the political positions held in smaller localities are primarily part-time, the staff members in planning boards and the information they gather and interpret become weighed much more heavily. I think the most striking difference between New York and California is the establishment of LAFCO’s and the power afforded to them by the state. Like any other body composed of competing interests there are inherent problems with LAFCO’s but measures taken by progressive politicians seem to have helped in combating conflicts of interest and made the system more transparent.

#### Fulton, Chapter 5, “The Structure of Planning Decision Making 2: Other Players in the Planning Process”

Chapter 5 further develops which processes and actors are involved in land use planning in California, which began in Chapter 4. Fulton outlines these actors in terms of categories that include policy-makers, government agencies, private real estate industries, and active citizen groups. In California the state legislature is particularly active in land use planning and has been active in this way for over a hundred years. New York State legislature is primarily concerned with enabling cities to plan land uses for themselves, whereas California retains much control of planning both in counties and cities. In addition, in California, unlike in New York, voters are able to put land use issues to a referendum vote. Fulton highlights the importance and participation of state and federal agencies in land use planning. New York State lacks the myriad of governmental actors that California possesses. The conditions in our country necessitate the use of the agencies specialized in dealing with certain environmental conditions. Agencies like the Department of Water Resources, the Department of Fish and Game, and the Department of Forestry and Fire Protection are examples of these specialized agencies that all weigh in on land use planning in California. In New York State, environmental conservation and wildlife protection agencies fall under the jurisdiction of the EPA or the DEC, which operate within a smaller area yet retain a higher bureaucratic process. Finally Fulton looks at the private sector’s involvement in land use planning. In New York and in other cities, land use planning is

controlled primarily by private developers, land holders, home buyer associations and lending institutions.

What I thought was most interesting about California are the myriad governmental agencies that participate in the land use planning process. New York State and the major population centers in the state have similar private and public/resident actors, but the sheer number of government entities that participate and decide many land use issues in California was surprising to say the least. One thing that stood with regard to these agencies is something Fulton says on p. 87, “Landowning and infrastructure agencies do not have to comply with local land use authority and therefore are unaccustomed to dealing with local concerns.” In New York public projects necessitate public participation and environmental review unless the project meets an emergent need.

Fulton, Chapter 6, “The Basic Tools, Part I: The General Plan”

Chapter 6 focuses on the basic element in land use planning in California, the general plan. This document created by localities is the primary document concerning land use planning and its implications for a county or city. Starting with the Standard City Planning Enabling Act in the 1920’s, the general plan evolved over the course of the century to become the primary document, the “constitution” of planning all over the state where it is undertaken. In fact, unlike New York where planning is simply permissible to be undertaken by counties and cities, California mandates that it be done and sets for certain requirements for a general plan. The state’s Environmental Quality Act mandates that certain elements be incorporated into a general plan, these elements are: land use, circulation, housing, conservation open space, noise and safety (Fulton, p. 108-109). What is important to note about general plans in California is that the state has recognized the importance of context, no two general plans must be the same, the realities and complexities of each county or city undertaking the general plan process decides the importance of elements specific to each location. Fulton speaks to the importance of public participation through his discussion of court challenges. Because anyone can sue the planning board over perceived problems with the general plan, the incentive to get it right the first time is very attractive. Citizen enforcement means that residents and organizations become very involved in the process and this is recognized when a county planning board, or city planning board (even in charter cities) begins creation of the general plan. Public participation is a must and backdoor planning by elites is virtually done away with.

Without being mandated, the public has made itself very much a part of the process of general plans and land use planning. The level of participation by the citizenry will vary from location to location, but it seems that is true anywhere. The more involved citizens are in the planning process the better a plan will be, hopefully. In fact, Fulton points out in the latter portion of the chapter that because of this participation and the use of courts, these groups can shut down the general plan process completely. The mandatory nature of planning in California shows that the state recognizes the importance of planning and citizen participation in that process.

Fulton, Chapter 8, “The Basic Tools, Part III: The Subdivision Map Act,” pp 143-51

Initially created to protect communities and its residents from illegal actions on the part of landholders, the Subdivision Map Act (SMA) has evolved considerably since its inception in 1907. As Fulton points out, “The [SMA] is equal parts consumer protection, real property law, and land use regulation,” (Fulton, p.146). Interestingly enough, actions undertaken by the SMA

are quasi-judicial in nature and are thus do not trigger referendum and can be approved by a city planning or county planning body, in some municipalities this might not be the case. What I liked particularly were the exaction requirements set out in the law. Essentially, this mandates that developers make certain concessions to the community where they want to build, this protection is almost non-existent in New York State, some places have them and they might be illegal in New York City if done in a certain manner. California state law also mandates that subdivisions be consistent with general plans. Fulton goes on to lay out on pages 150-151 ways in which a subdivision can be denied or appealed and shows that the California Attorney General gave legal authority to planning directors to fight both approvals and denial appeals.

What is interesting about the SMA is its evolution over time. This was the first land use statute approved in California over 100 years ago. This act has become a law that both protects communities and their residents as well as private interests (the Permit Streamlining Act is one such example of private interest protections).

Nolon, John and Patricia E. Salkin. "Subdivision Control and Other Methods of Community Building." Chapter IV in *Land Use*. St. Paul, MN: Thompson/West, 2006. (pp 107-129)

Subdivisions are not unique to any particular location and thus municipalities have, over time, developed regulations on the improvement of property within their jurisdictions. Nolon, et al, look at these regulations across the country looking at different techniques and policing powers afforded across the states as well as relevant case law that dictates what is possible on the both the public and private side of subdivision development. Key to subdivision development is the approval process which follows strict timelines. One interesting pointed noted by the authors is that subdivisions need not always be for residential development, which is the most common but by no means the norm. Traditionally I would have thought that subdivisions are only for residential purposes, but it was shown that this can also be for commercial uses (office parks) or industrial purposes as well (industrial parks). Process and timelines are paramount. Developers must undertake numerous studies when applying for subdivision development rights and over time the zoning to their particular property may change. Thus, it is important for both the developer and the municipality to ensure that these studies are done in a timely fashion so that improvements can be made and a return realized on a particular project. In the process section, the authors noted several aspects of subdivision development that are related to design in New York State, something that is very different from the practice in California. Subdivision regulations follow strict timelines that may either be a boon to a plat/project or may spell their doom. Several protections against default by an applicant are noted and explained.

Clustering and Conservation measures also play a role in subdivision applications. In the interests of containing density and restricting sprawl or leap frog development so jurisdictions might require clustering in a project. These contain the overall size of a project and in some cases ensure protection of certain environmental features. This can also create the opportunity for a mix of uses within a project area that would promote the creation of local business opportunities as well as lower the need for future uses to use their cars to get to services and amenities. The final pages of the article cover exactions, both traditional and non-traditional, as well as impact fees and developer agreements that can be leveled on the applicant. I think it these sections are important because they represent the protection put in place for municipalities

to ensure that adequate public facilities are created or provide for the dedication of revenue to be used by a county or city for other vital uses.

NY Dept. of State. Guide to Planning and Zoning Laws of New York State:

- §32 City Subdivision Review; Approval of Plats; Development of Filed Plats (pp. 14-19)

This statute is particularly detailed with regard to subdivision approval in New York State. Here key terms are defined and approval of both preliminary plats and final plats are laid out. This section also outlines that the planning board shall comply with the New York State Environmental Quality Review Act. Compliance with SEQRA or need for environmental review will be determined by the local planning board or lead agency. In New York State, the lead agency may be the local planning board, however depending on the scope of the application, the state may be designated as the lead agency and act in conjunction with the local planning board. Time periods are clearly laid out with regard to notification of public hearing and time tables for review and approval of plats. I thought it was interesting that if an EIS is not completed before or during the public review phase, the local planning board can issue its findings on the EIS without public input. In all sections of the preliminary submission, public review, final submission and review transparency is paramount as everything must be entered into the public record. Periods for modification are also discussed, I assume this is the time when negotiations between the applicant and the local planning board take place where these parties would agree upon certain exactions or impact fees.

Through this piece of legislation, almost nothing is done without being in compliance with SEQRA. All public hearings and proceedings regarding an application must be entered into the public record. I was pleased to see that transparency in the process is important and is consistently discussed in the statute. The strict adherence to timelines also means that an applicant's subdivision, if it does not comply with the schedule or fails to meet environmental review muster will not be approved. The language differences between New York and California seem different but the process seems to follow the same path. The history behind each states subdivision regulation may be different but the reason for each process is the same, responsible environmentally compliant development of property.

## Environmental Quality Review

### Week 4 Annotations

#### *State Environmental Quality Review Act (California and New York)*

Schiff, David B. "The Expanding Scope of Environmental Analyses under SEQRA" New York Zoning Law and Practice Report, April 2006

The evolution of the application of the New York State Environmental Quality Review Act (SEQRA) has produced a process that is at same time useful from an environmental planning perspective, educational from a comprehensive planning perspective, and time consuming often bordering on a gross misinterpretation of the scope and intent of SEQRA and draft environmental impact statements (DEIS). Impact studies traditionally focused on key issues common to municipalities. These included traffic impact studies, land use compatibility, noise, air quality and even visual studies. DEIS documents have now seen expansion to areas that are mostly the concerns of comprehensive plans and should be the work of a planner. Schiff points out that DEIS can now include gentrification issues, demographic changes, "community character", even impact on property values. A DEIS can now seemingly include an impact they feel is appropriate if presented in the proper manner.

The processes and information compiling required by SEQRA has had a positive affect by involving public participation and shedding light on the environmental impact of development in communities. Schiff's article gives both sides of the argument, so to speak. This report given by a consultant in the "trenches at the SEQRA front lines" gives a realistic perspective on what to expect from a DEIS process. He points out the legitimate planning and land use concerns, questions that should be asked by the planner during comprehensive planning processes as well as what should be studied in an environmental impact statement. The list of things that has now been included in the DEIS process are all legitimate planning concerns. These include socio-economic concerns, outlining secondary growth and future impacts, examining biodiversity and archeological or cultural resources. To include some of these in a DEIS is appropriate in some instances but in other purposefully cumbersome to an applicant large in order to delay to kill a project. I appreciated the tone with which Schiff presented his report, speaking to the realities of planning and environmental analysis in a straight forward way.

New York Department of Environmental Conservation. "Local Official's Guide to SEQR."

• [http://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/cookbook1.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/cookbook1.pdf)

The SEQR cookbook is an informative and interesting guide to help navigate the complex process involved in Type I and Unlisted Actions. This document states to both private applicants as well as city or state agencies. Presented as a sort of board game, the Cookbook leads one through the process in an easily understood way. Keeping in line with some of the implied problems in the Schiff article regarding the inclusion of out-of-scope items in a DEIS, the state legislation clearly lays out what should and shouldn't be included in a DEIS, Step 6 in particular. An interesting point comes up in Step 7. Here it is explained that it is always the right of the applicant to request a DEIS, but it is not mandated to unless so ordered by the lead agency. If the applicant decides not to prepare one the lead agency can have one completed by a consultant and

the applicant must pay that cost to the city or county. I also thought that the stipulations in subsection b of Step 7 included that if the proposed action occurs in or involves the resources of Nassau or Suffolk County the DEIS must state that implicitly and show how the project might impact the “comprehensive management plan for the special groundwater protection area program” (Cookbook, p.13).

Fulton, Chapter 9, “The California Environmental Quality Act,” pp. 155-79

In Chapter 9, Fulton straight away gives a picture of land use planning life without the California Environmental Quality Act (CEQA). Without this important law there would be no environmental review, there would be no way to protect the environment and mitigate potential hazardous impacts prior to project initiation, there would be no public comment allowed, there would be no exactions or impact fees, developers would have a virtual carte blanche within which to operate. That’s a pretty grim picture; luckily in 1970 the California State Legislature enacted CEQA. Fulton is also quick to point out that CEQA is a law concerned with only one aspect of policy, environmental protection. Any overlap with urban planning and land use planning is just icing on the cake, so to speak. CEQA is concerned with performing only 4 roles: to inform decision makers, to identify ways to prevent environmental damage, to prevent avoidable damage, and to disclose to the public why something is approved even if it will damage the environment in some way.

CEQA is one the most litigated laws in the country. This constant reinterpretation and clarification through the courts has hastened the evolution of CEQA since the first challenge in 1972. The same 12-step process that New York state later adopted is only 3 steps in California. The process here is simple. Does the project conform? Yes, move to step 2. Will the project have significant environmental impacts? No, build; Yes, conduct EIR. This step in the process is where the deceiving 3-step process becomes lengthy and expensive, depending on the project under consideration. The time in which an EIR can be prepared varies of course, but the more lengthy, the more a project will cost the harder it will be for a smaller developer to build because of holding costs on the land and other expenses. EIR’s generally fall into 3 categories: Development-specific, General plan, and Master EIR’s and tiering. Tiering is used for longer term projects that are much larger than normal projects. Fulton goes on to describe the contents of EIR’s. Because of the nature of the interests of CEQA EIR’s, these documents are mainly concerned with significant, unavoidable, and significant irreversible environmental impacts. The issues that planners would be more expert in (alternatives, cumulative impacts, growth-inducing impacts, and mitigation measures) are considered in the appendices of these documents. While CEQA has been legislated constantly over the years, it seems that planning issues discussed in the latter portions of EIS’s has come under scrutiny in the courts.

Through the years, the courts have enhanced the role that environmental review takes. Starting at expanding what projects should undergo an Environmental Impact Report (EIR) from just public projects to private ones as well to now including detailed analyses of alternatives, cumulative impacts, and growth inducement impact strategies. The role of citizen groups in policing development is an important one, over the years citizen groups have taken advantage of this role and because of the people in California are generally more informed about projects, if not certainly the process that these projects must adhere to. Government has choices when it comes to projects that under take EIR’s: deny a project, pick the alternative, approve the project with mitigation measure in place, or approve in spite of environmental affects. It appears that the

last two choices are the most commonly made. The question for mitigation measures is if they are agreed to, who makes sure they happen. In the case of approving even if there is significant impact, I feel that politics plays more of a role in this and there might not be much a citizen group could do.

## **Zoning: Principles and Practice**

Week 5 annotations

### **History and Overview (US Incidence, 2003)**

Reading: Fulton, Chapter 7, “The Basic Tools, Part II: Zoning,” pp. 127-44

**Main purpose and scope:** Fulton describes and details the tools used by planner and planning bodies in California with regard to Zoning Ordinances and Development Codes. This is meant to inform planners on what tools are available to them and how those tools are used in a real world setting. Some information on how these tools are related to either legislative and quasi-judicial/administrative in authority.

**Format and content:** Content includes discussion of what zoning ordinances contain. Regulations on bulk requirements are discussed, Floor to Area Ratios, and impact and performance requirements as well. Fulton then goes on to talk about zoning tools available. These tools include zoning changes, variances, non-conforming uses, conditional use permits (CUPs), discretionary review and code enforcement.

**Intended Audience:** This is clearly geared towards people in the planning profession or those studying to be a planner. However, Fulton’s style of writing is easily understood by a layman and his descriptions are clearly thought out.

**Contribution to the subject under consideration:** I thought Fulton’s discussion of the zoning tools elaborated before is very helpful for planning purposes. It provides a good understanding the tools used by planner in California and the legal authority behind those tools. Understanding the use of zoning changes, variances, CUPs, and particularly discretionary review were very helpful.

**Shortcomings:** I did not really find significant short comings to this reading, I thought that there could have been some theoretical discussion of how planners could better enforce exactions obtained under discretionary review.

**Significant Features:** Discretionary Review is possibly one of the most important policing powers that planners and the public have at their disposal with regard to private development. There was one part in particular in that I did not understand. This was under the non-conforming use section and was a discussion of the authority involved in Sacramento’s Business and Professions Code versus the Government Code, where it seemed that the Business Code superseded the Government Code. Perhaps I misread that but it seemed an interesting conflict.

## **Institutional and Legal Framework**

Nolon, John and Patricia E. Salkin. "Zoning Districts and the Separation of Uses." Chapter III in *Land Use*. St. Paul, MN: Thompson/West, 2006. (pp 67-109)

**Main purpose and scope:** Nolan's article focused on zoning districts and how they are regulated in certain municipalities. Nolan goes on to discuss the authority behind zoning controls given to municipalities through state enabling legislation. Case law is described examining different controls in zoning regarding regulations administration and flexibility. Discussion of relevant case law throughout planning history and how it has shaped different provisions within planning is the most significant portion of this reading.

**Format and content:** Content is based around a brief overview and then discussion of the authority behind the separation of land uses. The difference between legislative, administrative functions and quasi-judicial functions are discussed. Nolan then describes early case law, the administration and flexibility associated with different tools in the planner's tool kit. Similar to the Fulton reading, Nolan discusses variance, CUPs, zoning changes, spot zoning, non-conforming uses, and various other types of uses.

**Intended Audience:** The intended audience is most certainly planning professionals. Nolan at the outset informs the reader of the importance of understanding the terms that will be introduced.

**Contribution to the subject under consideration:** There are many subjects that were unfamiliar to me so I would say that this reading greatly contributed to my understanding of different functions of planning law and how the courts have played a role over the last century.

**Shortcomings:** I did not think that enough was devoted to understanding exactions under the section dealing with subdivisions and their review.

**Significant Features:** I thought the part of the article that dealt with explaining the legal precedents established by the courts were particularly interesting. I had never considered their how planning boards have known how and when to apply their tools and how they know when those tools are inappropriate. It gave me a better understanding of the role that courts play.

NY Dept. of State. Guide to Planning and Zoning Laws of New York State:

- §81 City Zoning Board of Appeals, Procedure and Actions (pp. 25-28)

This section of the state law sets up how Boards of Appeals will be appointed, who can and cannot be a member of said Board, establishes rules for the size and membership of such a Board. In addition, vacancies, removals and alternates are discussed in cases of conflicts of interest. The most interesting section is 7-a which stipulates training. This section is wholly inadequate. Members of the Board of Appeals are only required 4 hours of training per year and even that can be waved. There is no way that that is sufficient for members. In cities of more than a million people have qualified professionals at hand, smaller municipalities may not have

access to such professionals. The upside is that this places a great deal of authority in the opinion of the planning professional hired by the Board of Appeals.

§264 & §266 Town Adoption of Zoning Regulations (pp. 41-42; p. 43)

These section determine how and in what manner zoning regulations shall be established in a town of less than 1 million people. This section also determines how notices shall be posted and how public hearings will take place. Included are requirements that the finished products be published in some public fashion. Service of written notice to people who must participate in and public process are enumerated as well. Section 266 sets up the establishment of planning commissions within certain jurisdictions and their adoption of zoning ordinances in those jurisdictions.

**Techniques (General Applications)**

Arendt, Randall. "Basing Cluster Techniques on Development Densities Appropriate to the Area." *Journal of American Planning Association*. Chicago: American Planning Association, 1997 (63: pp. 137-45)

**Main purpose and scope:** This article discusses cluster zoning, or conservation subdivisions, as a means of protecting open space or agricultural land in rural areas. Arendt talks about the importance of making sure that the pattern and distribution of these zones makes sense from the perspective of conservation of resources. There are several purposes to using cluster zoning, some of these include buffers for parklands, in connection with the transfer of development rights (elaborated on later in the Nolon reading), protecting farmland in areas zoned for suburban expansion or densities, or even as a means of avoiding water pollution from sewage and farmland contaminants. His chief point is that in areas with vibrant farming economies, instituting suburban densities are not compatible.

**Format and content:** Arendt talks about how clustering is used and then presents reasonable criticisms and finally how he suggests the use of three interrelated tools that should be used with cluster zoning.

**Intended Audience:** Those unfamiliar with clustering (conservation subdivision) and those who are to speak more to it as a tool available to planners.

**Contribution to the subject under consideration:** Arendt's discussion of clustering is interesting and informative, it gives the reader a better understanding of what the tool is and what protection it gives to conservation areas.

**Shortcomings:** I thought that the main message was understood early on in the article, suburban zoning is inappropriate in areas that are more rural and thus won't support higher densities or should be preserved as farmland or ecological areas, nature preserves, etc.

**Significant Features:** I appreciated his comment that this type of zoning is more akin to the types of land uses championed by McHarg. As a zoning practice it is much more effective at preserving rural character and preserving land that should be set aside for passive recreational use as well as agricultural uses. I read this article and I agree with the preservation of open space and agricultural land certainly. However, in areas like this, I am curious if we need to protect commercial agricultural land if it won't be used for that purpose. Farmers hold land and never use it for the purposes of selling later to make money in times when their crops are not worth much in the market. Wouldn't it be better to protect the land outright as natural habitat with techniques such as transfer of development rights or floating zones?

Nolon, John and Patricia E. Salkin. "Smart Growth Techniques." in Chapter IV in *Land Use*. St. Paul, MN: Thompson/West, 2006. (pp 214-233)

**Main purpose and scope:** The main focus is continuing a discussion of smart growth techniques. Here Nolon focuses on zoning tools like cluster zoning, performance zoning, overlay zoning, floating zones, Traditional Neighborhood Districting, and planned unit developments. The purpose is to discuss alternative tools to handle growth that move away from suburban subdivisions and leap frog development. These types of tools create more flexible and versatile areas in growing communities as well as leave room for future growth because of the inherent flexibility of these kinds of tools.

**Format and content:** Nolon's format is to introduce a topic and define it. He then gives examples of how these tools could be used by different municipalities. He concludes with giving a case law history of the zoning tool.

**Intended Audience:** Because he defines the terms that he discusses, Nolon's intended audience could be anyone; however it is clear that he is speaking to readers who have a background in planning.

**Contribution to the subject under consideration:** Nolon's details on his subject matter always inform the reader on the material he describes. He really gets into the depth of his topics and gives a precise and intelligent description of the policy tool he is discussing. Case law additions give a good idea of how long the tool has been in use and how it has evolved over time. This sense of timing also gives the reader a better sense of its frequency of use as well.

**Shortcomings:** One short coming, if you can call it that, is that Nolon might not be able to go into enough case law. Some of the cases he discusses are quite old which may be an indication that a tool is no longer contested and is a common part of land use planning and has been for quite some time.

**Significant Features:** I thought the sections on floating zoning, TND and PUDs was particularly interesting. These techniques allow a maximum flexibility that should be put into practice more. By giving municipalities this kind of discretion when planning for their communities it is a wonder why more places do not use them. TND provides for walkable places where one can walk to the corner store or grocery store. In areas where PUDs are more common, where larger subdivisions will be undertaken it is comforting to know that there are things that planning boards can do to ensure that diverse uses are incorporated and that residents will not be forced to live in places where they live in cookie-cutter subdivisions. I think that these tools should be the norm, that each community should be able to determine the uses that will be available around them, it is not right that developers can choose for future residents what they can access and how they can access those uses. While I am not necessarily in agreement with all of new urbanism's designs, for they can themselves become generic, it is important to promote walkable communities with diverse uses and smaller, more human scale.

### **§37 City Approval of Cluster Development (pp. 23-24)**

To provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands.

The planning board as a condition of plat approval may establish such conditions on the ownership, use, and maintenance of such open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands. The legislative body of the city may require that such conditions shall be approved by the legislative body of the city before the plat may be approved for filing.

#### **§81d City Incentive Zoning; Definitions, Purposes, Conditions, Procedures (p. 29-30)**

Defines these terms:

(a) "Incentives or bonuses" shall mean adjustments to the permissible population density, area, height, open space, use, or other provisions of a zoning ordinance, local law, or regulation for a specific purpose authorized by the legislative body of a city.

(b) "Community benefits or amenities" shall mean open space, housing for persons of low or moderate income, parks, elder care, day care, or other specific physical, social, or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the legislative body of a city.

(c) "Incentive zoning" shall mean the system by which specific incentives or bonuses are granted, pursuant to this section, on condition that specific physical, social, or cultural benefits or amenities would inure to the community.

This section also lays out the authority and purpose of these terms as well as the process of implementation and invalidation.

#### **§81f City Planned Unit Development Zoning Districts (p. 30)**

Planned unit development district regulations are intended to provide for residential, commercial, industrial or other land uses, or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in furtherance of the city comprehensive plan and zoning local law or ordinance.

### **Techniques (Sustainable Zoning)**

Heller, Erica. *Wind and Solar Production and the Sustainable Development Code*. Denver, CO: Rocky Mountain Land Use Institute, 2008

**Main purpose and scope:** The purpose of this article was to discuss the growing importance of the need for adopting flexibility into local ordinances to prepare for the use of wind and solar technology. The scope of the article dealt with improvements in technology and efficiency to both wind and solar power plants and how local municipalities can adopt ordinances that allow for and even encourage construction of these kinds of power plants.

**Format and content:** Heller's article is clearly laid out and content descriptions in the introduction give the reader an accurate picture of the topics that the author covers in her article. The sections regarding wind power and solar energy focus solely on what the author intends to cover in their article. It is brief and to the point.

**Intended Audience:** This is an academic article intended for use by planners interested in implementing code changes that encourage alternative energy production technologies. These codes are general enough to give the planner an idea of how codes can be implemented in different parts of their jurisdiction.

**Contribution to the subject under consideration:** I would say that this article contributed to the subject of alternative energy production significantly. As someone not very familiar with the technology, the information provided was very enlightening. It would seem to me that the growing efficiency of these systems is something that goes unnoticed generally. The greater efficiency in wind power almost necessitates that areas with greater wind capacities should undertake projects that identify these areas and then adopt ordinances that encourage their use. One of the more significant contributions of this article stems from its discussion of perceived versus actual impacts of the installation of wind powers at different scales. In addition, citing potential impacts to both solar and wind energy technology adoption provides a planner with a good idea on some of the aspects that will need to be taken into account when adopting the use of these efficient technologies.

**Shortcomings:** One significant shortcoming of this article was the relatively short section covering solar energy production. The examples were helpful, but perhaps there is just more information and case studies on wind energy generation, however solar technology has been in use for over forty years so that is hard to believe. I would also that another shortcoming was the general language of suggestions for ordinances, but like defining sustainability these are something that should be tailored to individual places.

**Significant Features:** I thought the technical data was one of the most significant features. The amount of carbon dioxide that would not be dumped into the atmosphere through greater use of these alternative energy sources was staggering. When more and more countries are thinking of new ways to be energy efficient through design and use patterns based on concepts learned in week six (bio-climatic design) it seems strange that it would be so hard to implement the use of

these technologies to a greater degree. However, pointing out conflicts that both technologies run into because of similar structures and the restrictions placed on those structures makes sense why applications for installation are so cost heavy on the approval side of the process. It behooves planning boards in areas where use of either wind or solar technologies or both are accessible to implement ordinances that encourage their use. These ordinances, like any other, of course must be tailored to meet the needs of the community that will use these technologies. Placement is an issue with regard to proximity. Because of the necessity of having to transmit the energy generated it is more efficient to site these plants closer to consumers, but siting has to be sensitive to ensure that these plants don't negatively impact residential communities or commercial parks. Another impact that should be avoided, at least for wind turbines, are placements in historic districts as well as close to schools. Heller's article does a good job of making suggestions that would mitigate impacts on those areas. I thought the point about perceived impacts to property values was also a significant feature. It seems that there are no studies that would support the inaccurate view.

Reading: Rocky Mountain Land Use Institute. Sustainable Community Development Code. Denver CO:RMLUI, 2008

**Main purpose and scope:** The main purpose of this article was to make planners more aware of the environmental concerns that are increasingly becoming important to local municipalities and how to prepare mitigate conditions through the removal of obstacles, creating incentives and enacting standards that are uniquely tailored to everything from climate change and greenhouse gas emissions to creating more affordable housing.

**Format and content:** Each topic was introduced, problems facing implementation are discussed, and the role that land use regulations can play. Tables are then presented which outline policies which could remove possible obstacles to adoption, creating incentives to adopt a program and finally enacting standards; working in concert, it is suggested that taking these steps can achieve important community based goals towards sustainability.

**Intended Audience:** I thought that this article was clearly geared towards professional planners and towards policy experts interested in learning more about the methods that can be employed in to make one's community more sustainable (whatever your definition) in the 21<sup>st</sup> Century.

**Contribution to the subject under consideration:** I think the contribution to the subject of sustainable ordinances was very clear. By outlining problems and then showing steps that can be taken to address these problems and even proposing ordinances that can be adopted that encourage and mandate certain practices is a proactive way of protecting local communities and their resources. The many subjects that were discussed are important planning issues that must be addressed by planners everywhere in coming years. Like Heller's article, *Sustainable Community Development Code*, touches upon a variety of issues related to alternative energy production, equity issues related to house, health issues related to obesity and VMI and even protection from natural hazards like wildfires.

**Shortcomings:** None

**Significant Features:** I really appreciated the sort of mantra that repeated itself throughout the reading. Remove obstacles, Create Incentives, and Enact Standards should be the planners objective. When new techniques are developed that can address emerging needs, concerns and conditions, it is the planner's responsibility to approach these problems systematically and come up with way that their community can either mitigate the impacts of these emerging causes or prepare their community with the administrative tools to successfully adopt important ordinances that encourage flexibility.

## Week 8 Annotations

### **Criticisms, Challenges and the Limits of Zoning**

**Reading:** Trevarthen, Susan, L. “Best Practices in First Amendment Land Use Regulations.” *Planning and Environmental Law*. Chicago: American Planning Association. V. 61. June 2009.

**Main purpose and scope:** The main purpose of this article is to establish best practices with concern to land uses with implications for First Amendment challenges to local land use ordinances. Because of the Religious Land Use and Institutionalized Persona Act (RLUIPA) there are risks and challenges with regard to drafting and implementing local zoning regulations.

**Format and content:** The author discusses important principles that must be considered when drafting these ordinances and warns that planners and attorney’s undertaking these projects must be aware of the implications associated with these regulations and that they restrict harmful uses reasonably and not arbitrarily.

**Intended Audience:** “Best Practices in First Amendment Land Use Regulations” appears in the American Planning Association website. It is clearly tailored to professionals in this field. However, because who might be involved in writing these kinds of regulations, it can be argued that the audience could extend to public members of planning boards as well as to elected officials who might be responsible for legislating the new ordinance or regulation.

**Contribution to the subject under consideration:** Because of Trevarthen’s expertise on this subject due to her professional experience, she is able to communicate many perspectives that are important when regulating land uses that have First Amendment protections. Considerations for planners and planning boards with regard to religious uses, adult uses, and signage regulation are much more complicated than I previously believed. The author does an excellent job of highlighting some of the implications restrictions on these types of uses can have.

**Shortcomings:** One short coming I found was a lack of citing relevant case law that has determined what regulations are constitutionally protected or not. Nolon devotes considerable space to his articles in order to cite case law.

**Significant Features:** The sections regarding adult uses and religious uses were very informative. The types of options available to municipalities in regulating these uses must be very narrowly tailored and carefully constructed because of the sensitive nature of these uses and their connection to the First Amendment. My experience with first amendment issues with regard to land uses only extended to vending and what types of vendor’s are permitted on streets, what types necessitate licensing and what types are exempt from licensing. With regard to Trevarthen’s article, mistakes made in the drafting of ordinances that inadvertently restrict religious or adult uses can have serious implications and can result in litigation that a local municipality might not want to undertake.

**Reading:** Pendall, Rolf J. “Local Land Use Regulation and the Chain of Exclusion.” In *Journal of American Planning Association*. Chicago: American Planning Association, Vol. 66, Issue 2, p 125, 2000.

**Main purpose and scope:** Pendall's article in JAPA focused on land use regulation and its potential for excluding certain at-risk populations and classes, specifically the provision of affordable- or rental-housing to minority populations (blacks and Hispanics). His study identified four specific land use controls and surveyed planning boards across the country according to specific criteria as to how those land use regulations might affect minority concentration in certain areas.

**Format and content:** Pendall begins with an introductory section which outlines the purpose for his study and then describes his hypotheses. He then discusses previous studies that link land use controls and exclusion. From there, Pendall analyses the data he collected and presents his findings. He concludes his study by saying that further studies need to be done in order to truly identify if there is a link between certain land use policies and exclusion of minorities.

**Intended Audience:** Pendall's article intended to be read by urban planners and others in related fields. This article could also be informative for housing organizations, housing authorities and public officials.

**Contribution to the subject under consideration:** I am not sure that there is much contribution. While it is important to think of the consequences of land use policies and their impact on all communities, he admits that his results lend some conclusions but that they are "provisional and exploratory" (p. 130, top of 2<sup>nd</sup> column).

**Shortcomings:** The author speaks of many other factors that could have an effect on minority populations but fails to specify what those externalities are or how they would impact his study and the question of whether land uses would exclude populations specifically. These other factors could include inflation, rising prices in goods and services, the availability of better employment opportunities elsewhere, a desire to move because of access to better services, schools, or many other factors. I thought it troublesome that Pendall did not discuss these factors.

**Significant Features:** What I thought was significant were the types of housing that blacks and Hispanics desired. That blacks tend, at least going by what Pendall states, simply to be attracted to areas where there is more rental housing. According to this article Hispanics are more attracted to areas with more affordable housing and vacancies than just the availability of rental housing. I appreciate his work because it makes the planner think of the repercussions of land use controls for minority populations. I really felt though, that this study is missing the point when it tries to explain this phenomenon. Communities need to flexible and planning boards must include meeting the housing needs of different income brackets as well as different minority populations. When quoting the planner's ethical responsibility, Pendall makes a good point. Planner's must build this kind of flexibility into all codes for regarding land uses and must always strive to include attention to this issues in all that he or she does. Communities will always find ways to exclude people that "are different", that is where the planner's ethical responsibility should kick in and ensure that they protect the interests of those who can represent themselves.

**Reading:** Nolon, John and Patricia E. Salkin. "Exclusionary Zoning." in Chapter VIII in Land Use. St. Paul, MN: Thompson/West, 2006. (pp 253-266)

**Main purpose and scope:** The main purpose of Nolon's article regarding exclusionary zoning is to show that zoning is inherently exclusionary and must be by definition. Separating different land uses will lead to exclusion. The scope for Nolon is how broadly to apply exclusions.

**Format and content:** Nolon discusses different points regarding exclusionary zoning and relevant case law where courts have taken up the issue in different jurisdictions. Different topics include defining family and how certain definitions have been actively excluded by ordinances, how zoning has excluded affordable housing and mobile home houses, the final section discusses inclusionary zoning and its uses as a planning tool.

**Intended Audience:** Nolon's intended audience are planning professionals and land use attorneys.

**Contribution to the subject under consideration:** I thought the section that talked about the definition of family as exclusionary to be very interesting. I thought the way different courts view the definition of family in different states were interesting. Some places used the definition of family in an ordinance to limit the size of households, other courts felt that you cannot who should live in permitted housing types. New York State in particular seemed to rule that defining family in a particular way (this is in *McMinn v. Town of Oyster Bay* (NY 1985)) because it does not meet the criteria of things that municipalities can police through zoning ordinance definitions.

**Shortcomings:** There were some confusing sections of this reading, however, that is primarily due to the confusing way that courts write out their majority opinions on things.

**Significant Features:** There was discussion regarding the authority behind municipalities to adopt measure that encourage different kinds housing in new developments. I thought that that is something that should be built into planned unit developments, especially in light of the kind of problems arising from the gap between the growing number of minorities in the US and the amount of housing options available to them. I think that suburbs should begin to court these populations to capture the potential for the tax revenue and to increase the cultural and ethnic diversity of their community. I grew up in a place that was very diverse both economically and ethnically, and while I understand that the rest of the US can be and sometimes is very insular, it boggles my mind that as urban centers grow to greater densities and those who can't be housed in the city center spill in to nearby suburban communities that planning boards and the planners hired by those boards are not doing a better job at finding ways to hold on to these types of residents. These are hard working people who are very loyal to their communities, not just their specific ethnic identity, but the physical community they live in. Given Pendall's quoting of a planner's ethically responsibility, it makes me feel like I have now found yet another way that planners don't seem to police themselves or in some cases, and in others completely ignore their responsibility to their fellow man and growing communities across the US.

## **Paying for Development (Impact Fees and Linkage Strategies)**

Week 9 Annotations

### **History and Overview (US Incidence, 2003)**

Reading: Cullingworth, J. Barry and Roger Caves. *Planning in the USA: Policies, Issues and Processes*. London: Routledge, 1997. Chapter 7, “Development Charges,” pp. 109-123

**Main purpose and scope:** The main purpose of the Cullingworth reading is to educate the reader on impact fees and exactions. These are used as a means for municipalities to cover the costs of capital construction or expansion of public facilities meant to handle the extra carrying capacity of new development. The article defines impact fees and the various forms these fees can take. In addition, relevant case law is discussed as a way of showing the evolution of this practice in development across the country.

**Format and content:** The first two sections introduce the concept of impact fees and then define what impact fees are. The next section discusses the “rational nexus” of impact fees. This concept introduced by the Supreme Court mandates that there be a connection between the exaction and the project being built. The two main cases that setup the precedent are *Nollan v. California Coastal Commission*, and *Dolan v. City of Tigard*. A third relevant case is discussed, *City of Monterey v. Del Monte Dunes at Monterey, Ltd.* Sections devoted to how charges to developers are handled, the debate between “intertemporal fairness” and “intergenerational equity” are discussed as well. Other types of impact fees are also illustrated, specifically linkages and incentive zoning. Both can have major visual impacts on the built environment, at least with regard to urban environments. Examples in Seattle and New York City are presented and the effects that linkages and incentive zoning have had in those cities. The final sections are focused on the dangers and purpose of bonuses and finally development agreements.

**Intended Audience:** The intended audience for this article are planners, legislators, members of planning boards, and attorney’s learning about the relevant case law involved.

**Contribution to the subject under consideration:** I think this article contributed immensely to an understanding of exactions and impact fees. The discussion of the relevant court cases give the reader a better understanding of how these methods of controlling and getting development to pay for impacts that some communities must shoulder.

**Shortcomings:** I thought the terms spoken about in the paragraph immediately before ‘Incentive Zoning in New York’ might have been an exercise in semantics. It seems to me that one could use them interchangeably depending on the circumstances and legality or applying each term.

**Significant Features:** I thought the discussion of the different court cases was one of the most significant features of the article. In addition, the portions that discussed the changes in the New York City Zoning Resolution were particularly interesting. In an attempt the guarantee public benefits the DCP actually made some external situations worse when trying to get amenities for the city, they actually provided the opportunity for overbuilding that would create market problems later with the building of an overabundance of commercial office space.

Reading: Fulton, Chapter 10, "Exactions and Linkage," pp. 183-96

**Main purpose and scope:** The main purpose of this chapter of Fulton's book is to describe Exactions and their evolution in California. Before going into relevant case law, Fulton describes the political climate that led to the rise of exactions as a method to obtain funding for public facilities or related capital projects that would offset the impact of developments on municipalities. With the loss of federal funds that had formally paid for capital construction in local governments, and the passage of Proposition 13 which significantly lowered the dollars that municipalities received from property taxes, local government had to find new ways to pay for capital construction costs. One way to do this was to have developers pay for part of the costs that their building projects would impose on local communities. The scope of this chapter covers case law and the after affects of those cases.

**Format and content:** Sections are devoted to describing the chronology of exactions in California. Starting with the *Associated Home Builders, Inc. v. City of Walnut Creek* (1971), leading up to *Nollon V. California Coastal Commission* (1987), then *Dolan V. City of Tigard* (1994), and then *Ehrlich v. City of Culver City* (1996). The chapter ends with talking about accountability in exactions. This stemmed from a movement in the real estate development sector to ensure that imposed exactions went to pay for the mitigations they were supposed to pay for.

**Intended Audience:** This book is intended to be an educational text for urban planners.

**Contribution to the subject under consideration:** I felt that Fulton contributed to my understanding of exactions and their use in California. This is especially so regarding certain legislative components that I had not previously been aware of, specifically Proposition 13, which in the past has been referred to but not defined outright.

**Shortcomings:**

**Significant Features:** Fulton's work gave me a better understanding of the factors that led up to exactions and their use to offset funding shortages in local municipalities in California. I had some knowledge that the loss of federal urban renewal money put greater pressure on local governments to find funding for capital construction, I was not aware of the impact that Proposition 13 had on local governments. With the loss of much of the property tax revenue that local governments could obtain within their jurisdiction it is no wonder why they would make developers cover those losses. What I thought most interesting, however, were the types of exactions that became allowable through cases argued in the Supreme Court. The different tests that were created had significant impacts on what city's/towns could ask for from builders. It is no wonder that towns starving for financing were forced to ask for exactions that were above and beyond what was later determined to be allowable. The reasonable relationship test created in the *Nollon* case would be cornerstone for allowable exactions in later years.

Reading: Meck, Stuart, FAICP. Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change. Chapter 8: Development Impact Fees (pp. 8-140 to 8-144; skim 8-145 to 8-158)

**Main purpose and scope:** In this reading Meck is primarily concerned with the relevant case law regarding impact fees. He begins with brief discussion of the pros and cons of impact fees and then focuses on the constitutionality and US Supreme Court interpretations of impact fees and their relationship to the 5<sup>th</sup> and 14<sup>th</sup> Amendments and illegal takings and due process respectively.

**Format and content:** Most of the reading is concerned with state case law and specifically the Dolan case referred to earlier in this annotation. The portions that we were asked to skim are state case laws and their impact fee legislation.

**Intended Audience:** This is intended for use by urban planners, attorney's and other fields related to this subject.

**Contribution to the subject under consideration:** To be honest, Meck did not really go into too much detail regarding the relevant cases. The readings written about earlier provided much more insight into exactions, how they came about, and how they are implemented.

**Shortcomings:** See above.

**Significant Features:** Perhaps the most significant feature are the different state laws regarding exactions. Of the 50 States in the US, only 18 states seem to have legislation enabling municipalities to require exactions.

### **Incentive Zoning (NYC Zoning Resolution)**

Reading: New York City Zoning Handbook, pp. 46-49 (OPT.) NY Dept. of State. Guide to Planning and Zoning Laws of New York State: §81d City Incentive Zoning: Definitions, Purposes, Conditions, Procedures (pp. 29-30)

**For This Section Please Read Section 81D of the New York City Zoning Resolution**

### **Public Private Partnerships**

Reading: Sagalyn, Lynne B. "Public-Private Development: Lessons from History, Research and Practice." Journal of the American Planning Association. Chicago: APA, Winter 2007. Vol. 73, Iss. 1; pp 7-22.

**Main purpose and scope:** The main purpose of Sagalyn's article is to 1) define PPD's, 2) consider the rise of this type of partnership as a new paradigm in urban planning, and 3) what

this means for planning in the future, what lessons can be learned for planners: lessons from abroad, lessons on negotiating and looking forward.

**Format and content:** Format in this article is pretty straight forward and follows the secondary title of the article. A definition is given, followed by a history of PPD arising from Public-Private-Partnerships, what research has been done on this subject of PPD's (very little in fact, please see forthcoming thesis by Matt D. Viggiano), what lessons can be learned from abroad and practice.

**Intended Audience:** Planners, Economic Planners, developers, and academics.

**Contribution to the subject under consideration:** This article actually inspired my thesis topic. By opening the discussion about this new paradigm, Sagalyn shows that more research must be done regarding the role that planners take in the negotiation process and in Public Private Development. Because of the entrepreneurial nature of cities in 21<sup>st</sup> century, planners must ensure that they play some role in these partnerships so that development is undertaken in a moral and ethical way. In addition, the rise of these partnerships has created the need for new types of exactions that may not be demanded by the municipality, but by the affected community. Community Benefit Agreements, Development Agreements, and even exactions negotiated by groups consisting of elected officials and community groups are more important than ever. I think that Sagalyn is taking the time to point this out because this is how development gets done in major cities these days. Cities can no longer rely on federal funding and must work hand in hand with developers to ensure the largest return possible, not just for the developer but also the city. The city's role in these partnerships grows every time, they now share a significant portion of the risk because they want to be able to share in the profits that come from these types of development.

**Shortcomings:** The amount of research on the subject, this is not a failing of the article but of the planning profession.

**Significant Features:** please see section above "Contribution to the subject under consideration".

## Quality of Built Environment (Regulating Aesthetics)

Week 10 Annotations

### Aesthetics and Design Standards

Reading: Blaesser, Brian W. "Design Review" in *Local Planning: Contemporary Principles and Practice*. Hack, Gary and Eugenie L. Birch, Paul Sedway and Mitchell J. Silver, eds.

Washington DC: International City/County Management Association, 2009. pp 319-25.

**Main purpose and scope:** The main purpose to this article is to show the difficulties that can arise with the implementation of form based codes. There are inherent problems that can arise from an incomplete knowledge of urban design practices, terminology, and simply expressing the design standards that a community wants to promote. Blaesser focusing on highlighting those problems and pointing to mechanisms that can be put in place for the review process to go more smoothly and still encompass the urban design standards that a community wants to see.

**Format and content:** He begins by discussing some of the things that urban design is meant to address and then focusing on the vagueness that can be problematic in form-based codes.

**Intended Audience:** Urban Planners, legislators, lay people.

**Contribution to the subject under consideration:** It is important to point out the problems associated with vague language in statutes, and consequences of that vagueness.

**Shortcomings:** What was frustrating was that in his discussion of vague language in design standards, and legislation; he did not offer alternative language or examples that would remedy particular problems and gave no specific examples of places where proper language has been beneficial.

**Significant Features:** I thought Blaesser's discussion of the various controls that can be put in place were interesting. It seems that some municipalities aren't quite sure themselves on how to use their authority. This might be more of a problem with people's relative unfamiliarity with urban design and the goals that can be realized through good design.

Reading: Cullingworth, J. Barry and Roger Caves. *Planning in the USA: Policies, Issues and Processes*. London: Routledge, 1997. Chapter 8, "Aesthetics," pp. 126-38

**Main purpose and scope:** The main purpose here was to highlight the importance of the effect on aesthetics through different types of signs in certain locations, and how states and local governments have gone about controlling those impacts over the years. This article also highlights the importance of design guidelines and review in public processes.

**Format and content:** After a brief history of how signage regulation emerged in the United States, a discussion of billboards and how different states have tried to control their visual impact on urban design is discussed. Next, rural signs and their impact on a places scenic beauty is covered followed by examples of different policies that have been used to control this issue.

Finally Cullingworth describes how design and the basic aesthetics of a community have been growing in importance in communities in major cities and suburban centers.

**Intended Audience:** This is a text written primarily for planners. There is a lot of discussion of case law and specific measures taken in different municipalities.

**Contribution to the subject under consideration:** This article was incredibly informative regarding the problems that different types of signage can create for communities. Their impact on the built environment is hard to ignore. In my professional life I was able to see firsthand how illegal signage can impact a community. The intense lobbying efforts of the corporations who lease the space in incredible, almost to the point where because of their profits paying fines for illegal signage becomes a part of the cost of business.

**Shortcomings:** I think that perhaps too much of the chapter is dedicated solely to signage. Personally, I would like to see more coverage on urban design and how it could play a larger role in urban and regional planning.

Reading: Fulton, Chapter 18, "Urban and Environmental Design," pp. 307-315

**Main purpose and scope:** I think the main purpose here was to highlight the growing importance for planners to begin thinking about urban design as well as environmental design. By understanding the roots of urban planning from the growth of architects who arranged cities to be more in conformity with their environment, planners can begin to integrate the principles that planners such as Ian McHarg have written about

**Format and content:** The main subjects are introduced and a discussion of environmental design, urban design and new urbanism follows.

**Intended Audience:** Urban Planners

**Contribution to the subject under consideration:** I think it is important for planners to practice large scale thinking, the region and it's specific environment, with small scale living, thinking about the urban fabric in which people live and play.

**Shortcomings:** There is not much discussion regarding the forms that urban and environmental design planning can take, nor about the kinds of design standards (other than naming specific practices) that can be implemented to achieve the kind of planning that Fulton is talking about.

**Significant Features:** I thought the discussion on Ian McHarg was a significant feature. I really admire the kind of planning that McHarg talks about. From the articles I have read of his, it seems that the kind of planning he speaks about what be common sense today. Unfortunately, the rise of the automobile and the sprawling of American populations might have prevented that. It is important that Fulton noted how California is leading the way in many respects with regard to this kind of think in urban planning.

Reading: Sitkowski, Robert & Brian Ohm. "Form-Based Land Development Regulations" The Urban

Lawyer, Volume 28, No.1, Winter 2006.

**Main purpose and scope:** The main purpose of this article is to give a legal understanding of form based codes and how enabling legislation allows for the use of form-based codes in urban design and planning.

**Format and content:** The authors begin with an introduction, then define form-based codes and regulations, and then deal with the varying legal issues including how authority is given, how matters are delegated and the discretion exercised with respect to form-based codes.

**Intended Audience:** Planners and lawyers

**Contribution to the subject under consideration:** I thought this was a good article. It is important to understand the legal authority that is given to implement certain tools in the urban planners toolbox. Having a different legal interpretation of the Standard Zoning Enabling Act was helpful to understand how form-based codes can be implemented without the need for new legislation to address the need.

**Shortcomings:**

**Significant Features:** With the right interpretation, form-based codes need not be legislated, just examined and used in local planning. In fact, because of the importance that local municipalities place on the character of their community they probably already unconsciously practice a form-based code through their preferences with development designs. Every time something is built in a town developers change designs to better meet the perceived community character. I also thought it was interesting that if too narrowly tailored, form-based codes can actually infringe on people's 1<sup>st</sup> amendment rights in development, that is an interpretation I was unaware existed.

Reading: Local Government Commission. "Form-Based Codes: Implementing Smart Growth."  
Sacramento, CA: LCG, 2007

**Main purpose and scope:** This was a how to guide that helps people understand form-based codes and the details behind this planning tool. It explains why these codes can be effective and how they help people implement them.

**Format and content:** The article begins by defining form-based codes and some of the ways in which form-based codes effect the built environment. Steps for a charrette process are outlined and later examples are given of codes that have been implemented in other places.

**Intended Audience:** I would say that this is targeted for both planners and the public; the layout of the article is intended to give a clear picture of form-based codes and how they can be implemented.

**Contribution to the subject under consideration:** I thought this article was a little kitschy at first, but decided it was very effective in describing form-based codes and how it is more easily put into use because of the visual nature of the process and the eventual building projects.

**Shortcomings:** Perhaps presented a little too simplistically, I felt like I was reading a pamphlet.

**Significant Features:** The description of the transect was very useful. Understanding how new urbanists use the transect to order space was interesting and helped me to better visualize the

different spatial relationships involved with land use planning and planning for better sustainability.

## **Growth Management (Sustainable Regional Planning)**

Week 11 Annotations

### **History and Overview (US Incidence, 2003)**

Reading: Fulton, Chapter 11, “Traditional Growth Management” pp 197-210

**Purpose/Scope:** This chapter explains the birth of growth management techniques in California and the impact of the court system in determining what is constitutionally allowable. This is the development of the legal frame work for growth management policies in California. This chapter also discusses the six general categories that growth management policies can take.

**Format and content:** After outlining the history of growth management policies in California, Fulton goes on to describe in slightly more detail the categories that policies can fall into. Fulton then goes on to describe the evolution of the case law that helped to form growth management policies since their inception and implementation nearly forty years ago. Finally, asking readers to think about the question of whether growth management “works”.

**Intended Audience:** The intended audience for this book is urban planners, learning about planning and its history in California.

**Contribution to the subject under consideration:** I think there is a tremendous contribution to the subject at hand. Fulton’s review of case law and the legal tests that have developed over the years to protect municipalities and the public from infringement of their Constitutional rights is important for planners to understand. In order to craft legislation that can pass legal muster planners must have some knowledge of more than just geography and the different policy tools available to them.

**Shortcomings:** I think that the only shortcoming comes with trying to lump growth management techniques into categories.

**Significant Features:** The evolution of the tiered system that was introduced on the East Coast and adopted by California on the west, was very significant. By establishing a legal test, the courts have narrowly tailored what local governments can do restrict growth, and how planners can assist in obtaining public benefits for their client communities. While still a new paradigm in urban planning, smart growth and growth management is growing in popularity. Fulton points out in the final section of this chapter, that there are impacts that must be considered. Will a policy drive up the cost of housing? Will growth management techniques negatively affect the character of the built environment? Will restrictions on housing unit construction create an imbalance of other land use types? These are all questions that must be kept in the back of one’s mind. Planner must be sure that the policies they advocate have been considered in light of these impacts, in addition, planning boards who carry out these policies must watch for and mitigate these potential impacts.

Reading: Rolf Pendall, Jonathan Martin, and William Fulton. August 2002. “Holding The Line: Urban

Containment In The United States”

[http://www.brookings.edu/reports/2002/08metropolitanpolicy\\_pendall.aspx](http://www.brookings.edu/reports/2002/08metropolitanpolicy_pendall.aspx) pp. 2-17 and pp. 29-39

**Purpose/Scope:** In this article the authors focus on the rise of urban containment policies and the different tools that can be used. In addition, this article shows how more metropolitan areas are actively using these tools than they have before.

**Format and content:** Tools are introduced and briefly discussed in the introduction. The third section is dedicated to showing the statistical analysis that shows a rise in the use of the tools described in the article and notes regional trends from data interpretation.

**Intended Audience:** This article's intended audience is urban planners.

**Contribution to the subject under consideration:** I think it is important to understand that urban containment policies are increasingly being used to shape the built environment and control the rampant spread of urban growth. Despite the nation's preference for living in sprawl, residents in metropolitan areas do not want to watch their communities expanding exponentially. To combat this municipalities have employed the use of greenbelts, urban growth boundaries, urban service boundaries, adequate public facilities ordinances, and other financially based policies. The rise in the number state and local governments using these kinds of policies shows that the political climate for these measures is improving considerably.

**Shortcomings:**

**Significant Features:** In the section defining urban containment, I thought it was significant that the authors spoke to other policies that have already been implemented for other reasons but also serve the purpose of containing rapid urban growth. Rethinking older established policies and retooling them for other purposes only serve to increase the number of tools that urban planners can use to accomplish responsible development.

Reading: Landis, John D. and Rolf Pendall. "From Zoning to Smart Growth" in *Local Planning: Contemporary Principles and Practice*. Hack, Gary and Eugenie L. Birch, Paul Sedway and Mitchell J. Silver, eds. Washington DC: International City/County Management Association, 2009. pp 298-307

**Purpose/Scope:** One purpose of this article was to show the incorporation of growth management and smart growth policies into the lexicon of urban planning. Another purpose was to highlight the trends in urban planning from controlling uses in the earliest part, controlling growth in the second era of planning, and finally growing smartly in the third planning age.

**Format and content:** This article describes the three different purposes that growth management can serve. There is a lengthy discussion of the different ways that municipal governments can both discourage some kinds of growth while using different policies to ensure of the financing of desired types of growth. The article concludes with a discussion smart growth initiatives and talks about what works for urban planning and communities that try these policies.

**Intended Audience:** The intended audience of this article is urban planning professionals; people who have to be familiar with the different types of policy tools that are available to curb urban growth and suburban sprawl.

**Contribution to the subject under consideration:** I think that this article made an interesting contribution by putting all policies in place for readers and giving examples of how they can be implemented, the process that should be involved and highlighting the difficulties and complications that can arise. I thought it was important to note the coverage of development agreements and their impact not only control certain types of growth but also to generate revenue through negotiated agreements.

**Shortcomings:** I thought there could have been a deeper discussion regarding the different policy tools associated with smart growth techniques. To discuss phases in urban planning and to get to the current era only to ask if it works seemed counterproductive. These techniques have not been in use long enough to evaluate the long-term effects of these policies. The rise of these policies suggests that states, local governments and voters want growth to be controlled in this way and to ensure that services and amenities are expanded to meet the need of growing communities.

### **State and Regional Growth Management Programs**

Reading: Frielich, Robert H. *From Sprawl to Smart Growth: Successful Legal, Planning and Environmental Systems*. Chicago: American Bar Association, 1999. Chapter 6 “Smart Growth and the States.”

**Purpose/Scope:** The purpose of this article was to highlight specific smart growth policies for local governments, specifically the tiered system developed for Ramapo, New York. This article also shows that recent movements are not the birth of policies designed to improve the manner in which cities grow. The purpose is also to highlight the different state policies that have been put into place.

**Format and content:** This article is broken down into sections by state and talks about the different policies that have been implemented.

**Intended Audience:** Anyone who will read this guy.

**Contribution to the subject under consideration:** I think it is important to understand the evolution of smart growth policies, I also think that incorporating a system, as created by Frielich, is a sensible way of controlling growth and making sure that it continues in an intelligently designed way. Knowing how different places have enacted these measures also give the urban planner of the different concerns that will be brought to the table in different regions.

**Shortcomings:** I honestly was tired of him talking about how he invented the tiered system of growth boundaries for Ramapo.

**Significant Features:** Establishing clear boundaries and incentive areas and protection areas, makes smart growth a more orderly tool for municipal governments and residents to guide their

growth process. There is no reason that communities should not allow growth. Undertaking these kinds of policies can make sure that that growth is done in a way that preserves a community's unique environmental character.

### **Local Growth Management Strategies**

Reading: Cullingworth, J. Barry and Roger Caves. *Planning in the USA: Policies, Issues and Processes*. London: Routledge, 1997. Chapter 10, "Growth Management and Local Government" pp. 154-67

**Purpose/Scope:** The purpose of this article is to give readers an idea of what traditional attitudes toward growth have been and how that attitude has been changing since the 1960's.

**Format and content:** Cullingworth discusses the history of the American attitude towards growth as evolving from "growth at any expense" to more purposeful, smart growth. Besides Petaluma and Ramapo; Boca Raton, FL, Napa County California and Santa Rosa, California are examples of other places that have initiated growth control policies.

**Intended Audience:** Planning Professionals and Students

**Contribution to the subject under consideration:** I thought the sections covering the Ramapo and Petaluma cases were helpful in detailing different ways that municipalities have attempted to control growth in their communities. The phased tiered system in Boulder, Co, and Ramapo, NY are innovative ways of phasing and directing growth to areas that can retain and integrate the increased populations. The quota system set up by Petaluma for development of housing units specifically identified what that community considered appropriate levels of growth.

I also thought it was important to point out the need to protect agricultural land, and to highlight the different policy tools that are available for local governments to protect those land resources. Smart growth techniques can further enhance the protection available against rampant growth and sensitive agricultural land or needed open space.

**Shortcomings:** I thought there could have been more information regarding direct democracy and planning initiatives. There is tremendous potential in making use of voter opinion to either get items on the ballot, and then passed or defeated. I was interested to learn of the interpretation that the initiative is considered more top down and originates from the state, and vice versa for the referendum.

**Significant Features:** Despite empirical evidence that can say one way or another if smart growth is good or bad, it is still widely used by local governments. I think it is more important for planners and local communities to have as many tools at their disposal as possible to deal with the realities of population growth. Zoning isn't the only tool available. "The real purpose is to secure leverage in the planning process to obtain benefits for the locality." The opinion of the courts regarding Petaluma's growth management system is clear, the onus for creating lasting policies that address the problems of growth and the need to protect certain environmental assets lies in the hand of legislators and, I would say, urban planners to promote creative strategies.



## Techniques (Growth Management Applications)

Week 12

### Development Management and Open Space Protection

Reading: **Development Management and Open Space Protection**

Nelson, Arthur C. and James B. Duncan. *Growth Management Principles and Practices*.

Chicago: American Planning Association, 1995. Chapter 3, "Resource Land Preservation," pp. 37-55

**Main purpose and scope:** The main focus of this article is to present first an overview of the issues behind the preservation of resource land; then to describe different mechanisms and policies to protect resource land; and finally presents a summary discussion on economic benefits and techniques.

**Intended Audience:** I would say that this article is directed toward planners, land owners, and local governments that have decided to actively protect resource land in their jurisdiction.

**Contribution to the subject under consideration:** I would say the contribution is considerable. This article lays out a variety of protections that can be put in place to protect farm land. From right-to-farm laws, to acquiring, purchasing or transferring development rights to agricultural and forest zoning, there are many techniques available to protecting these resources. In addition, this article also lays out some of the experiences in different locations that give the reader an idea of the different situations in which local governments might want to provide this protection or these measures might be implemented.

**Shortcomings:** I would say a major shortcoming of this article is that there is no conclusion that brings the large amount of information provided in the article in a cohesive lesson or suggestion on how to apply these techniques. There was a feeling that this article was intended more to give an overview rather than to offer a policy suggestion.

**Significant Features:**

Reading: Daniels, Thomas L. "Where Does Cluster Zoning Fit in Farmland Protection?" JAPA 63, 1997, pp. 129-137

**Main purpose and scope:** The main purpose of this article was to highlight the three main scenarios facing counties with large dedication of land to farming at different levels. Another purpose is to give people living in areas that might be facing the issues described in the different scenarios an idea of a plan of action that will suit their needs as they move forward with whatever course of action they choose.

**Format and content:** The issue is presented and three scenarios are laid out. They are: 1. A Strong Farming Area, 2. A Weak Farming Area, and 3. Moderate Strength Farming Areas. The advantages and disadvantages of each situation are laid out and potential problems arising from careless planning are discussed, finally concluding that brings everything together for the reader to come to their own conclusion.

**Intended Audience:** The intended audience would be planning professionals who live in the kinds of areas described. In addition, because of the range of circumstances, this article would be a good resource for planners in metropolitan areas that are considering what to do with their urban greenbelts or concentrations of farm land on the fringe.

**Contribution to the subject under consideration:** I think this provides an important contribution. By laying out scenarios, Daniels gives readers and practitioner's ideas of the kinds of choices they will have to make regarding their community. People will have to decide if they want to actively protect their farm land as a resource land and thus protect a source income or if they want to transition away from farming and protect open space for various other reasons, which could be for alternative resource collection or for scenic reasons that would be attractive for development.

**Shortcomings:** The shortcoming might be that there are many different communities in the United States that have large farming industries, or a large dedication of land that might not fit conveniently into the scenarios the author offers.

**Significant Features:** I think the most significant features are the choices that Daniel's makes available to communities that might undergo this process. There are ways to protect certain qualities of life, be it farming or something else. Planners and residents and elected officials must make an informed decision about what options are open to them in terms of policies that are available and the possible results of implementing those policies. In areas where there is a large supply of agricultural "an effective protection program requires an integrated package of techniques along with the commitment of the agricultural community," (Daniels, 1997, p.135). In these areas where agricultural land owners will wield the most influence, having them be part of the discussion will determine to a large degree which options a community will decide to undertake.

Reading: Hollis, Linda and William Fulton (2002) "Open Space Protection: Conservation Meets Growth Management." Brookings Institution Center of Urban and Metropolitan Policy

**Main purpose and scope:** The main purpose of this article is to highlight the growing trend of federal, state, regional, local and private initiatives that are being implemented across the country to conserve open space and farm land. "American land use policy [is] functioning in concert with efforts to manage urban growth more than ever before" and preservation of farm land and open space is the beneficiary. This paper gives an overview of open space protection as a form of growth management and describes how this might effect metropolitan growth.

**Format and content:** After defining the issue at hand the authors present the role of open space in shaping metropolitan areas. This includes an historical perspective and includes recent research and scholarly work on the subject. The next section presents the role of the federal government in open space protection, policies that are used by the Feds use to acquire open space and conserve privately owned land. Trends in State government protections are presented and a discussion of the various tools and policies that can be implemented to achieve this goal. The next section details local and regional trends in open space protection, followed by the role of non-profits and philanthropic organizations, and finally offers conclusions and remaining policy questions.

**Intended Audience:** I would say that this article is for planning professionals and those who track public and private land acquisitions. This papers offers an abundance of information regarding current practices on the part of government to preserve and conserve open space in the United States.

**Contribution to the subject under consideration:** This article clearly contributes to the subject of open space conservation and how growth management techniques can assist in this as a community goal. By outlining the role that government has taken in open space preservation and discussing the techniques employed by various actors, readers begin to understand the variety of measures available to communities when trying to accomplish this goal. Also of importance, is understand the growing numbers of communities that are undertaking this as a project and the amount of funding that can be made available to assist efforts by local and regional governments. Further, this article shows the different types of open

space protection that local governments take and the kinds of land that are protected. Clearly there is no one way to implement an open space conservation program, however, there are leading states that like Oregon, Maryland, New Jersey and Florida that states an look to, it is the detail in which this article discusses those programs which further contributes to the subject of open space preservation and growth management techniques.

**Shortcomings:** One shortcoming is the tremendous amount of information that is compiled by the authors. Their paper's impact on the understanding of the different techniques that are available to planners is clearly seen in the amount of information that other paper's have used originating in this article.

**Significant Features:**

Reading: NY Dept. of State. Guide to Planning and Zoning Laws of New York State: §20f City Transfer of Development Rights: Definitions, Conditions, Procedures (pp. 3-4)

**§ 20-f. Transfer of development rights; definitions; conditions; procedures.**

1. As used in this section:

- a. "Development rights" shall mean the rights permitted to a lot, parcel, or area of land under a zoning ordinance or local law respecting permissible use, area, density, bulk or height of improvements executed thereon. Development rights may be calculated and allocated in accordance with such factors as area, floor area, floor area ratios, density, height limitations, or any other criteria that will effectively quantify a value for the development right in a reasonable and uniform manner that will carry out the objectives of this section.
- b. "Receiving district" shall mean one or more designated districts or areas of land to which development rights generated from one or more sending districts may be transferred and in which increased development is permitted to occur by reason of such transfer.
- c. "Sending district" shall mean one or more designated districts or areas of land in which development rights may be designated for use in one or more receiving districts.
- d. "Transfer of development rights" shall mean the process by which development rights are transferred from one lot, parcel, or area of land in any sending district to another lot, parcel or area of land in one or more receiving districts.

2. In addition to existing powers and authorities to regulate by planning or zoning including authorization to provide for transfer of development rights pursuant to other enabling law, the legislative body of any city is hereby empowered to provide for transfer of development rights subject to the conditions hereinafter set forth and such other conditions as the city legislative body deems necessary and appropriate that are consistent with the purposes of this section, except that in cities of over one million any transfer of development rights shall be provided in the zoning ordinance after adoption by the city planning commission and board of estimate. The purpose of providing for transfer of development rights shall be to protect the natural, scenic or agricultural qualities of open lands, to enhance sites and areas of special character or special historical, cultural, aesthetic or economic interest or value and to enable and encourage flexibility of design and careful management of land in recognition of land as a basic and valuable natural resource. The conditions hereinabove referred to are as follows:

- a. That transfer of development rights, and the sending and receiving districts, shall be established in accordance with a well-considered plan within the meaning of subdivision twenty-five of section twenty of this article. The sending district from which transfer of development rights may be authorized shall consist of natural, scenic, recreational, agricultural or open land or sites of special historical, cultural, aesthetic or economic values sought to be protected. Every receiving district, to which transfer of development rights may be authorized, shall have been found by the legislative body of the city, after evaluating the effects of potential increased development which is possible under the transfer of development rights provisions, to contain adequate resources, environmental quality and public facilities including adequate transportation, water supply, waste disposal and fire protection, and that there will be no significant environmentally damaging consequences and such increased development is compatible with the development otherwise permitted by the city and by the federal, state, and county agencies having jurisdiction to approve permissible development within the district. A generic environmental impact statement pursuant to the provisions of article eight of the environmental conservation law shall be prepared by the city for the receiving district before any such district, or any sending district, is designated, and such statement shall be amended from time to time by the city if there are material changes in circumstances. Where a transfer of development rights affects districts in two or more school, special assessment or tax districts, it may not unreasonably transfer the tax burden between the taxpayers of such districts. The receiving and sending districts need not be coterminous with zoning districts.
- b. That sending and receiving districts be designated and mapped with specificity and the procedure for transfer of development rights be specified. Notwithstanding any other provision of law to the contrary, environmental quality review pursuant to article eight of the environmental conservation law for any action in a receiving district that utilizes development rights shall only require information specific to the project and site where the action will occur and shall be limited to review of the environmental impacts of the action, if any, not adequately reviewed in the generic environmental impact statement.
- c. That the burden upon land within a sending district from which development rights have been transferred shall be documented by an instrument duly executed by the grantor in the form of a conservation easement, as defined in title three of article forty-nine of the environmental conservation law, which burden upon such land shall be enforceable by the appropriate city in addition to any other person or entity granted enforcement rights by the terms of the instrument. All provisions of law applicable to such conservation easements pursuant to such title shall apply with respect to conservation easements hereunder, except that the city may adopt standards pertaining to the duration of such easements that are more stringent than such standards promulgated by the department of environmental conservation pursuant to such title. Upon the designation of any sending district, the city shall adopt regulations establishing uniform minimum standards for instruments creating such easements within the district. No such modification or extinguishment of an easement shall diminish or impair development rights within any receiving district. Any development right which has been transferred by a conservation easement shall be evidenced by a certificate of development right which shall be issued by the city to the transferee in a form suitable for recording in the registry of deeds for the county where the receiving district is situated in the manner of other conveyances of interests in land affecting its title.
- d. That within one year after a development right is transferred, the assessed valuation placed on the affected properties for real property tax purposes shall be adjusted to reflect the transfer. A development right which is transferred shall be deemed to be an interest in real property and the rights evidenced thereby shall inure to the benefit of the transferee, and his heirs, successors and assigns.

- e. That development rights shall be transferred reflecting the normal market in land, including sales between owners of property in sending and receiving districts, a city may establish a development rights bank or such other account in which development rights may be retained and sold in the best interest of the city. Cities shall be authorized to accept for deposit within the bank gifts, donations, bequests or other development rights. All receipts and proceeds from sales of development rights sold by the city shall be deposited in a special municipal account to be applied against expenditures necessitated by the municipal development rights program.
- f. That prior to designation of sending or receiving districts, the legislative body of the city shall evaluate the impact of transfer of development rights upon the potential development of low or moderate income housing lost in sending districts and gained in receiving districts and shall find either there is approximate equivalence between potential low and moderate housing units lost in the sending district and gained in the receiving districts or that the city has or will take reasonable action to compensate for any negative impact upon the availability or potential development of low or moderate income housing caused by the transfer of development rights.

3. A legislative body of a city modifying its zoning ordinance or enacting a local law pursuant to this section shall follow the procedure for adopting and amending its zoning ordinance or local laws, as the case may be, including all provisions for notice applicable for changes or amendments to a zoning ordinance, local law or regulation.

4. Nothing in this section shall be construed to invalidate any provision for transfer of development rights heretofore or hereafter adopted by any local legislative body, or, in the case of cities over one million, by the board of estimate.

### **Urban Growth Boundaries and Greenbelts (US Incidence, 2003)**

Reading: Stacey, Robert “The Aftermath of Oregon’s Measure 37” in *Local Planning: Contemporary Principles and Practice*. Hack, Gary and Eugenie L. Birch, Paul Sedway and Mitchell J. Silver, eds. Washington DC: International City/County Management Association, 2009. pp 329-332.

**Main purpose and scope:** Was to show the changing winds of urban growth policies in Oregon and lessons that can be learned from understanding this process.

**Format and content:** The originating legislation is presented and the different ballot measures that succeeded Measure 37. Impacts of the different changes in the legislation are examined and a discussion of the possible lessons learned are presented.

**Intended Audience:** Oregonians, Urban planners, anyone interested in urban planning that employs urban growth boundaries or has been following the evolution of planning in Oregon.

**Contribution/Significant Features:** I almost fell out of my chair at this article. I know that sounds dramatic, however Measure 37 effectively curbs the policing power that has traditionally been enjoyed by local governments since land use regulation by cities came into effect in 1916. The Court’s decision regarding Measure 37 influenced other states to limit local regulatory power over land use. I completely agree with just compensation if it is determined that government regulations will prevent one from realizing a reasonable return on the development or sale of their property. However, Measure 37 and then 49 created a situation where 7,500 claims were filed for compensation. Proponents of these measures were playing on people’s greed and the inherent attitude of the public that government should pay out for negatively impacting private property. Examples throughout the course back up this idea. What was one significant factor was the legislative compromise that was patched together with the passage of Measure 49.

**Shortcomings:** I think there should have been a section that talks to what can be done to avoid situations like the one that occurred with the passage of Measure 37.

Reading: DeGrove, John M. *Planning Policy and Politics: Smart Growth and the States*. Cambridge, MA: Lincoln Institute of Land Policy, 2005. Chapter 2 “Oregon.” 2

**Main purpose and scope:** Degrove’s focus is to show the history involved with the urban growth policies and urban planning movement in Oregon. In addition, this article illustrates the evolution of the nation’s first regionally elected government, the political trials and tribulations that supporters and opponents alike undergo, the challenges that can be presented to local or regional control over land use.

**Format and content:** The early history of Oregon’s land use planning program are delineated, the preservation of forest- and farmland as more recent issues are also discussed. The rise of Metro as a regional planning body is detailed as well as developments in transportation and land uses. Finally recent legal challenges are discussed and positive developments as well.

**Intended Audience:** The intended audience are planning professionals who are interested in learning the detail history and process that brought about the current land use regime in what is, arguably, the most progressive urban planning program in the United States.

**Significance/Contribution to the subject under consideration:** I think there was certainly a contribution in this article. This contribution lies in the section that discusses the rise of the planning body Metro and how it acquired it’s authority over the years. The early sections of the article that detail the legislative wrangling that were undertaken by then State Senator Hector MacPherson and Governor

McCall are certainly interesting. The coalition building that was necessary to make passage of SB100 was incredible and resulted in an urban growth management plan that is seen as one of the most innovative, if not the most, in the country.

**Shortcomings:** Too much detail, it is really hard to keep track of everything that goes on in creating a program like this.

Reading: Meck, Stuart, FAICP. Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change. Chapter 7: Concurrency and Adequate Public Facility Controls (pp. 8-166 to 8-170)

**Main purpose and scope:** The main purpose is to discuss and present the legal evolution of adequate public facilities ordinances and consistency and the forms the measures take in different states.

**Format and content:** Terms are defined, case law history is presented, and the experiences of different states are presented.

**Intended Audience:** This article is intended for use by planning professionals or land use attorney's.

**Contribution to the subject under consideration:** I like any article that proposes common sense policies to mitigate growth pressures. I especially enjoy APFO's and tying development to consistency. Urban sprawl, despite its popularity with the American public, is harmful. Making developers pay their way for developing in areas where there is no adequate access to public facilities. Hopefully these ordinances will remain and curtail inappropriate development. Coupled with other growth management techniques APFO's and consistency can be a very successful too for urban planning and communities that hope to control future growth.

Reading: DeGrove, John M. Planning Policy and Politics: Smart Growth and the States. Cambridge, MA: Lincoln Institute of Land Policy, 2005. Chapter 3 "Florida."

**Main purpose and scope:** The main purpose of this article was to discuss Phases One, Two and Three of Florida's growth management plan and to highlight key challenges to bring this program to fruition. This article also shows how political climates can change and thus alter the probably success of program initiatives.

**Format and content:** A historical lead up to the Florida's growth management plan is given. In each section describing the different phases, the author details actions and different steps taken by local and state governments.

**Intended Audience:** Planners

**Contribution to the subject under consideration:** I think consistency is Florida's most effective mandated requirement for plans. This incorporates a degree of regionalism into the planning process that makes local municipalities conform their individual plans to larger regional goals. This makes these plans more sustainable and probably more successful because of collaboration between local and state agencies.

**Shortcomings:** I think the short coming of this article, as in the Oregon case, is that there is too much detail. While it is very helpful to understand the evolution of the process and to see how a growth plan like this was implemented on the East Coast, having so much detail doesn't help the reader maintain focus on the major milestones.