

# Increasing Housing Opportunity in New York City

## The Case for Inclusionary Zoning



A Report by

PolicyLink

and

Pratt Institute Center for Community and Environmental Development

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*PolicyLink is a national nonprofit research, communications, capacity building, and advocacy organization, dedicated to advancing policies to achieve economic and social equity based on the wisdom, voice, and experience of local constituencies.*

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## Executive Summary

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New York City neighborhoods are about to change dramatically.

The administration of Mayor Michael Bloomberg is undertaking substantial redevelopment plans, neighborhood by neighborhood, which will alter the pattern of growth for generations to come. At the same time, New York City's housing costs have marched dramatically upward, making it increasingly difficult for many New Yorkers to afford housing. The proposed planning changes can either deepen the challenges of affordability, or set a new course toward ensuring a diverse, stable housing stock that serves the needs of the spectrum of New Yorkers.

Inclusionary zoning—setting aside affordable units in new housing developments—offers New Yorkers a tool to guarantee that the benefits of changes occurring in their communities will be fairly shared in the years to come.

### **New York City's Affordable Housing Challenge**

**A tight housing market.** New York City's population has grown significantly in the last decade. Despite a recent boom, housing construction has been lagging far behind increasing demand. This has pushed up housing prices everywhere, and particularly in "hot" neighborhoods in Manhattan, Brooklyn, and Queens. The lack of housing is marked by extremely low vacancy rates, particularly for lower-rent units, growing waiting lists for subsidized housing, and record-high homelessness.

**Affordability diminishing.** Incomes of New Yorkers have not kept pace with rising housing costs. The average income for New York renter households grew just 3 percent from 1975 to 1999, but the average rent went up 33 percent. Even with the new financial incentives and subsidy programs introduced by Mayor Bloomberg in late 2002, the demand for affordable units is growing far faster than the supply.

**A segregated city.** Housing that has been built in the last 15 years has amplified race and income segregation. Most market rate housing has been concentrated in the higher-income neighborhoods of Manhattan and Staten Island, while affordable housing was primarily built in the lower-income neighborhoods of Harlem, the Bronx, and Brooklyn.

Housing is a key element in a family's ability to live in the city. Without new affordable housing in mixed-income communities, low- and moderate-income households will be forced into overcrowded and lower quality housing situations or forced to move out of their neighborhoods.

### **The Opportunity: Dramatic Neighborhood Redevelopment Plans**

The city of New York has significant power to shape patterns of development. Mayor Bloomberg has offered an ambitious set of redevelopment initiatives for New York City that include more than two dozen area-specific plans, in all five boroughs. These plans include: rezoning actions, targeted financial incentives, and public investments in infrastructure, transportation,

and parks, as well as sports, convention, and cultural venues. The proposed zoning changes will alter the type and density of developments (residential, commercial, and/or manufacturing) allowed in each neighborhood. The four major types of zoning changes being proposed are:

- Rezoning manufacturing areas to allow residential/office use;
- Upzoning business districts to encourage mixed-use (commercial and residential) development;
- Balanced neighborhood rezonings to preserve community context while allowing growth; and
- Downzonings to prevent larger-scale development.

The rezoning of manufacturing areas will transform formerly industrial warehouse and factory land to residential and commercial centers. Business district upzonings and balanced neighborhood rezonings will create new space for housing units in areas with strong market demand. The downzonings will affect substantial land area throughout New York City and threaten to significantly reduce the potential housing built in these neighborhoods.

These redevelopment plans are likely to result in 40,000 units of housing in the next 10 years and as much as 80,000 total units. However, many communities are deeply concerned about the lack of affordable housing guarantees. This analysis estimates that without further action, fewer than 8 percent of the new housing units created in these areas are likely to be affordable to most New Yorkers.

## Benefits of Inclusionary Zoning

Inclusionary zoning (IZ) requires or encourages developers to make a percentage of units in new housing developments affordable to low- and moderate-income households. IZ policies have been adopted by hundreds of cities around the country and have produced thousands of units of affordable housing in mixed-income communities. Multiple studies have shown that mandatory IZ programs do not dampen development and are economically feasible for developers and property owners.

Benefits of inclusionary zoning include:

- Producing affordable housing for a diverse labor force;
- Fostering mixed-income communities;
- Insuring affordability in tight housing markets; and
- Stretching scarce public dollars by leveraging market-rate construction.

## Recommendations

This report analyzes the housing needs, development opportunities, and market conditions in New York City, as well as the experiences of jurisdictions with IZ programs around the country. The recommendations for New York City are:

### **Apply mandatory inclusionary zoning to all future neighborhood-wide zoning changes.**

Many of the proposed large-scale rezonings create substantial density and land value increases for property owners. The city can and should require that all developers receiving this benefit create some affordable housing units. Evidence from cities coast to coast makes it clear that mandatory IZ programs produce more affordable housing than voluntary ones. For New York City, mandatory IZ should be applied to the rezoning of manufacturing areas, to the upzoning of mixed-use business districts, and to residential areas that are rezoned for more density. Where downzonings limit development, they should be balanced with nearby density increases that contain IZ requirements.

### **Maximize affordable housing production by offering inclusionary zoning incentives in high-density residential neighborhoods.**

In neighborhoods not going through dramatic rezoning, developers should have the opportunity to participate in New York City's voluntary inclusionary program. In particular, the program, which offers developers a modest density increase if they choose to include some affordable housing, should be expanded to wide streets and other appropriate areas within neighborhoods zoned from R6 to R9 (generally three to 17 story buildings).

The program should also be amended to make it a more attractive option, including combining with public affordable housing subsidies. Implementing a voluntary program will increase the viability of building on small sites.

**Design an economically feasible IZ program that allows developers to create affordable housing and make a profit.** Developers benefit from inclusionary zoning through non-monetary cost-offsets—usually density bonuses. By utilizing appropriate cost-offsets, the parameters devised for New York City should take advantage of the significant density that will be granted through major rezonings to deliver units at deeper levels of affordability. A mandatory program can be crafted so that developers can achieve their profit targets. While the IZ requirement will be imputed into land costs, property owners will still benefit from zoning changes.

**Set income levels for affordable housing eligibility to reflect community housing needs; broaden eligibility by connecting IZ to other affordable housing resources.** New York City has a wide array of affordable housing subsidy programs targeted to homeless and low-, moderate-, and middle-income households. An IZ program can be crafted to meet a similar range, and it can be adjusted to meet neighborhood needs. Combining IZ with the Housing Choice Voucher Program (formerly Section 8) and other resources can extend the reach of the program.

**Maintain permanent affordability of inclusionary units.** New York is currently at risk of losing tens of thousands of affordable housing units as the terms of earlier programs expire. This problem need not be repeated with inclusionary zoning. Because the benefit of greater density is permanent, the program can require long-term affordability for inclusionary units.

**Prioritize on-site development of inclusionary units to encourage mixed-income communities.**

In the neighborhoods where new housing opportunities are being created through rezoning, many residents are concerned about the lack of affordable units. Prioritizing the production of affordable units as part of larger market-rate developments, or nearby in the same community—rather than allowing in-lieu payments or distant off-site units—will help to meet this need and lead more affordable housing opportunity throughout the city.

**Draft clear legislation and authorize consistent administrative oversight to manage the IZ program.** New York City has a strong history of progressive public policy to create affordable housing, and of high-quality implementation of these programs. The city can build upon this experience, and upon the capacity of its housing and planning departments to establish a program that will succeed.

By adopting these recommendations, the city of New York can guarantee that its redevelopment plans create thousands of units of affordable housing in mixed-income communities throughout the city. Residents, developers, employers, and the city at large will benefit for decades to come from the combination of growth and affordability made possible through inclusionary zoning.



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## Introduction

New York City stands at a crossroads of opportunity. Like many metropolitan areas of the country, New York City's rental and home ownership costs have marched dramatically upward, making it increasingly difficult for many New Yorkers to afford housing. Changes underway across the city can either deepen the challenges of affordability, or can set a new course toward ensuring a diverse, stable housing stock that serves the needs of the spectrum of New Yorkers. Inclusionary zoning offers New York City an important opportunity to create mixed-income communities.

Housing is key to economic and social opportunity because where one lives significantly determines access to opportunity. It determines the public schools children attend. It determines access to jobs with living wages that are in the neighborhood or can be reached by public transit. And it determines the availability of a wide range of services from the public, nonprofit, and for-profit sectors, from health care to grocery stores to parks. As housing costs escalate, low- and moderate-income families tend to get pushed farther out of the city or into poorer neighborhoods, where access to opportunity is typically diminished.

Many factors contribute to New York City's escalating housing prices. Production of new housing has not kept up with population growth and new demand. Rising land costs are a challenge to the development of affordable housing. An increasing proportion of new housing investment is going to luxury or higher-income housing. And thousands of units of formerly affordable housing—protected through state and federal subsidy—now face expiring terms.

The city of New York has made a remarkable commitment to providing its own funding for affordable housing over the past 20 years. This commitment was recently renewed in December 2002 by Mayor Michael Bloomberg's \$3 billion New Housing Marketplace package of financial incentive and subsidy programs.<sup>1</sup>

But the city can and should do much more. Through its zoning authority, the city holds tremendous power to designate specific land uses and determine the location, size, and basic design of buildings. The city is currently exercising this authority through plans to rezone and redevelop dozens of neighborhoods across the city. Proposed zoning changes would allow different types and scales of development than formerly existed in targeted neighborhoods. The most sweeping changes allow new residential and mixed-use development on formerly industrial land. Smaller but still significant changes that are proceeding in many neighborhoods will increase the density of residential development along major avenues while preserving the historic character of housing within neighborhoods.

Together, the proposed zoning actions will create the potential for more than 80,000 new units of housing in the decades to come. However, evidence suggests that without a clear mandate for housing affordable to low- and moderate-income residents, the vast majority of this housing will be market rate—far beyond the reach of most New Yorkers.

Inclusionary housing—setting aside a percentage of housing units in new residential development at affordable prices—is a critical tool in achieving a better balance. By adopting inclusionary zoning as

widely as possible, New York City could both expand housing production and create an income mix of housing that will offer teachers, firefighters, home health workers, retail workers, and custodians a chance to live in the city and close to services and amenities that support a good quality of life.

Inclusionary zoning can increase the feasibility of affordable housing by allowing developers more building density—that is, more units on the same size lot. Because the city's rezoning plans are based on increasing density, the changes create ideal conditions for using inclusionary zoning to create housing stock that serves a diversity of income levels. Inclusionary zoning is not a panacea; it is one tool among many for meeting the city's housing needs, one that is particularly suited to take advantage of economic growth and private sector development.

This report explores the promise of inclusionary zoning for New York City. Part One considers the relevance of inclusionary zoning for New York City. This section:

- Reviews the city's affordable housing need and proposed zoning changes;
- Provides a brief overview of IZ policy and its use nationally; and
- Describes potential benefits that could accrue to the city if IZ is adopted.

Profiles throughout this report provide snapshots of New York City neighborhoods, revealing the complexity of issues that impact affordable housing needs across the city. Because inclusionary zoning is a flexible program that is adaptable to neighborhood conditions, it could prove especially well-suited to the challenge of creating and distributing affordable housing more broadly throughout the five boroughs.

Part Two analyzes the experiences of other jurisdictions and presents recommendations for New York City to consider as it develops its own inclusionary zoning policy.

The appendices provide a more detailed catalog of the rezoning initiatives proposed by the city, financial and architectural feasibility analyses of the inclusionary zoning models are proposed for three that model sites in New York City, and additional information on inclusionary zoning programs based on a nationwide survey of cities.

# Part One: The Challenge of Affordable Housing in New York City

New York City is in the midst of a pervasive, well-documented affordable housing crisis. One out of four renter households—more than 500,000 families—pay over half of their income for rent. Nurses, firefighters, janitors, teachers, taxi drivers, office and retail workers, and thousands of other New Yorkers cannot afford to live in the city, while increasing numbers of families are becoming homeless.<sup>2</sup>

8 million people.<sup>3</sup> During this time of dramatic growth, only 85,000 new housing units were created. While new housing production has recently risen to an average of 13,500 new units per year,<sup>4</sup> it is estimated that the city needs 250,000 to 500,000 units to meet the current need. With housing supply constrained, significant housing demand from higher income professionals has led to particularly dramatic increases in housing prices and property values in some of the "hot" neighborhoods of Manhattan, Brooklyn, and Queens.

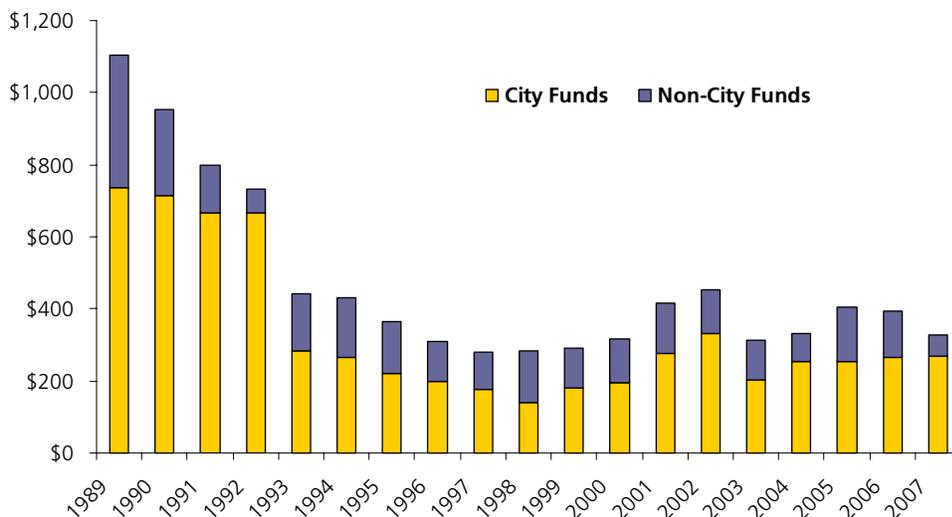
## Elements of the Crisis

Several elements contribute to New York City's housing crisis.

**Growing Population, Lagging Housing Production.** In the 1990's, New York City's population grew by more than 456,000, to over

**Decreased Public Investment.** The city has been a pioneer in spending local funds on affordable housing, but significant decreases mark recent years. Figure 1 shows the decline in public sector investment in affordable housing construction, down 72 percent from its historic high in 1989.

**Figure 1.** Declining Capital Investments in Housing (in millions of 2003 dollars)



Compiled by Housing First! from NYC Independent Budget Office (2004) and NYC Office of Management and Budget (2004)

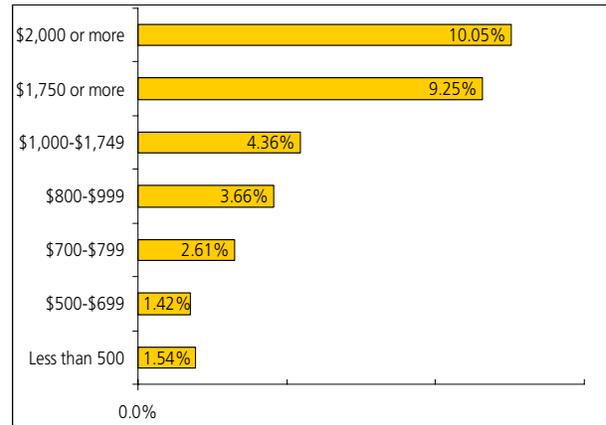
The New Housing Marketplace program launched by the Bloomberg Administration in December 2002, makes an important contribution toward addressing the city's housing need through the creation of 21,000 new units and the preservation of over 44,000 existing units of affordable housing. Yet this plan would meet less than 10 percent of the city's estimated need, while targeting most new local financial resources to middle- rather than low-income families.<sup>5</sup>

Federal and state housing subsidy programs have also cut funding. Besides significant recent cuts in Section 8, affordability restrictions on 40,000 units under the historic New York State Mitchell-Lama program and subsidy programs of the U.S. Department of Housing and Urban Development will expire between now and 2015.

**A tight housing market.** New York is predominantly a city of renters. Rental units make up two-thirds of the total units in the city, with the home ownership rates at just 32.7 percent. At present, an extremely low rental vacancy rate makes the market especially tight for low- and moderate-income households (See Figure 2).<sup>6</sup>

The need is apparent in the growing housing waiting lists and homeless population. Currently, 224,000 households are on the waiting list for Section 8 rental vouchers, the main affordable housing program of the federal government. A typical family now spends eight years on the waiting list for an apartment in one of the city's public housing developments. And the city's homeless population has grown to approximately 38,000 people, the highest recorded level.<sup>7</sup>

**Figure 2.** Monthly Rental Housing Vacancy Rate, 2002

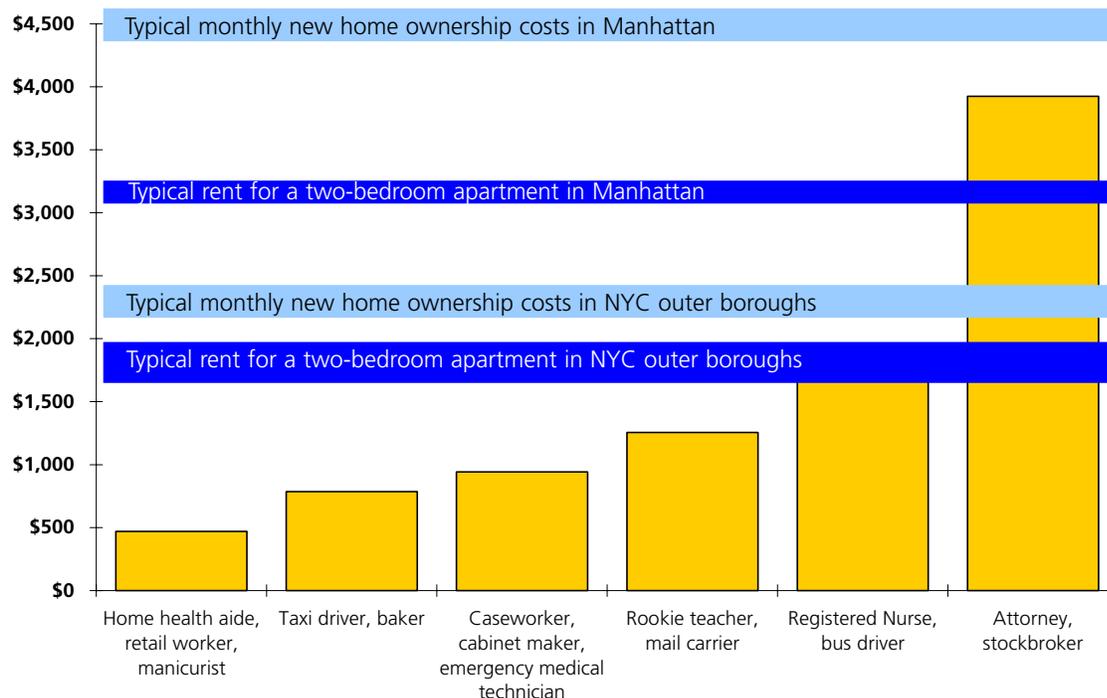


Source: *New York Housing and Vacancy Survey, 2002*

**Affordability diminishing.** Incomes of New Yorkers have not kept pace with rising housing costs.<sup>8</sup> A family earning the city median household income of \$38,293 can afford a rent of \$957 per month, or an owned home valued at \$151,460.<sup>9</sup> Yet the typical rent for a two-bedroom apartment in the city ranges from \$1,600 to \$1,800, or between \$3,000 and \$3,200 in Manhattan (See Figure 3).

Almost two-fifths of renter households pay more than 30 percent of their incomes for housing, and one out of every four households pays more than 50 percent of their incomes for rent. Low and extremely low-income households face the greatest rent burdens, many without governmental support.<sup>10</sup>

**Figure 3.** The Cost of New York City Housing Compared to 30 Percent of Monthly Earnings in 2004



Source: *Housing and Vacancy Survey, 2002*. The federal government defines 30 percent of household income as an affordable expenditure for housing costs.

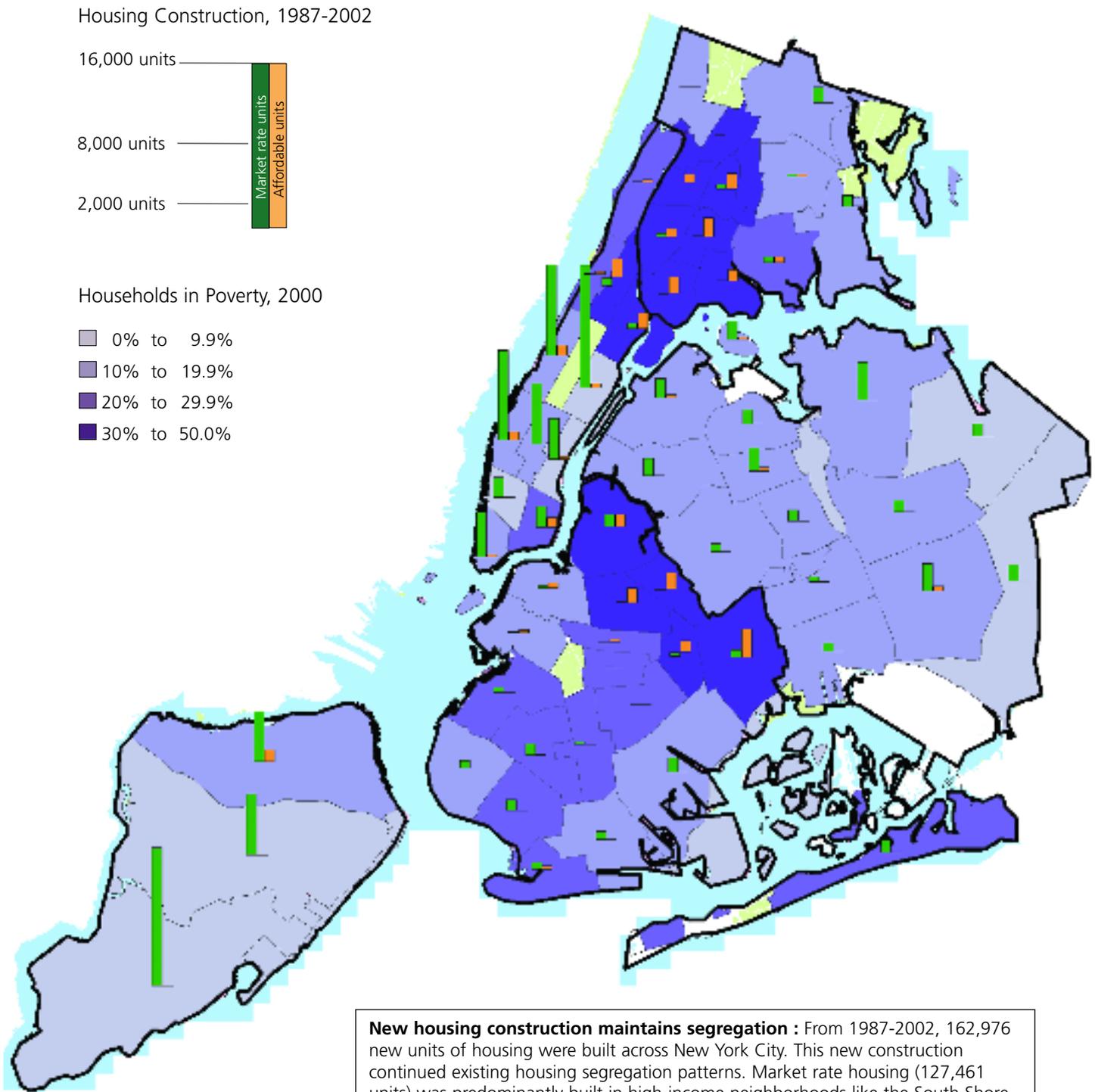
**Housing quality compromised.** Many low-income households occupy poor quality, overcrowded housing. Sixty-three percent of the city's housing stock is more than 50 years old, and many buildings face severe, deteriorating conditions.<sup>11</sup> Between 14 and 20 percent of Bronx, Queens, and Brooklyn households are overcrowded—double the rates of overcrowding elsewhere in the nation.

**A segregated city.** New York City is one of the most diverse and compact cities in the United States, but it is also one of the most segregated cities. Out of 331 metropolitan areas, New York ranks worst on Latino-white and Asian-white segregation, and third worst on African-American-white segregation (behind only Detroit and Milwaukee). Segregation of African-American, Latino, and Asian residents from white residents has not improved since 1960, and appears

to be growing.<sup>12</sup> Residential segregation is strongly correlated with inequalities in employment opportunities, neighborhood quality of life, income,<sup>13</sup> and especially education. New York's school system is the most segregated in the nation for black and Latino students,<sup>14</sup> and the housing market is one of the driving forces behind this segregation. Figure 4 illustrates the distribution of residential construction—both market-rate and affordable from 1987-2002<sup>15</sup>—and indicates the continuation of this pattern of housing segregation.

Taken together, these trends—dramatically increased housing demand and low vacancy rates; high housing burdens; and increasing segregation by race and income—call for meaningful action to create affordable housing in mixed-income communities.

**Figure 4.** Households in Poverty and New Housing Construction, 1987-2002



**New housing construction maintains segregation :** From 1987-2002, 162,976 new units of housing were built across New York City. This new construction continued existing housing segregation patterns. Market rate housing (127,461 units) was predominantly built in high-income neighborhoods like the South Shore of Staten Island (15,644 units) and the Upper East Side of Manhattan (14,251 units). Affordable units (35,515 units) were primarily built in lower-income neighborhoods of Harlem, the Bronx, and Brooklyn.

## Facing the Challenge: Dramatic Redevelopment Plans for New York City

Mayor Bloomberg is proposing an ambitious set of redevelopment initiatives for New York City.<sup>16</sup> The more than two-dozen area-specific plans, in all five

boroughs include rezoning actions, targeted financial incentives, and public investments in infrastructure, transportation, and parks, as well as sports, convention, and cultural venues. Together, the plans will change the face of the city for generations to come. How will this development unfold? Who will benefit from it? The answers to these questions will have enormous consequences for the city's future. New York City redevelopment plans fall into the four broad categories described in Table 1.<sup>17</sup>

**Table 1.** New York City Redevelopment Plans

Type of Action	Administration Rationale	Neighborhoods Affected
<b>Converting manufacturing areas to residential/office use</b>	Demand for market-rate residential and office development has grown, especially in Manhattan and along the East River, where several large manufacturing zones exist. Manufacturing jobs in NYC have declined from over one million in 1950 to just over 250,000.	Long Island City/Hunters Point, West Chelsea, Greenpoint/ Williamsburg, Hudson Yards/Hells Kitchen, Port Morris, Brooklyn Atlantic Yards, Manhattanville, Morrisania, Bridge Plaza
<b>Upzoning business districts for more office and mixed-use development</b>	The administration projects that NYC needs over 60 million square feet of new office space to meet demand in the coming decades. These initiatives also encourage creation of new housing, retail, and parks to encourage more vibrant, 24-hour “downtown” neighborhoods.	Lower Manhattan, Hudson Yards/Hells Kitchen, Downtown Brooklyn, Long Island City, Jamaica, Flushing, The Hub
<b>Balanced neighborhood rezonings</b>	In some neighborhoods facing development pressure, the administration is proposing height limits and contextual requirements (to limit out-of-context development), while simultaneously proposing new areas for increased density at nearby transit hubs and commercial avenues.	Park Slope, East Harlem, Central Harlem, Bedford-Stuyvesant, North Corona
<b>Residential downzonings</b>	In many lower-density neighborhoods, the administration has responded to concerns about “overdevelopment” by imposing lower density and sharper development controls (e.g., increased yard requirements) that would prevent construction of townhouses or other more dense developments.	Most of Staten Island; Bay Ridge and Bensonhurst; City Island, Throgs Neck, and Riverdale; and nearly a dozen neighborhoods in Queens

Figure 5. New York City Proposed Zoning Changes, 2003-2004



Pratt 2003  
Source: NYC Department of City Planning

## Narrow Benefits of Redevelopment Plans

These development plans offer substantial opportunity for the city, potentially creating over 80,000 new units of housing. The administration projects more than 40,000 units in the pipeline for the next 10 years (see Appendix A). However, it is not clear that the housing opportunity will be broadly shared. Unless aggressive action is taken, the proposed redevelopment plans are likely to deepen the trend of income-segregated neighborhoods and offer little benefit for low- and moderate-income New Yorkers.

**Very little will be affordable.** The vast majority of new units are high cost developments (in Greenpoint-Williamsburg, West Chelsea, the Far West Side, Lower Manhattan), with market rents exceeding \$2,000. The Bloomberg administration projects that developers will opt to use existing financial incentive programs to create affordable housing in these areas. However, there is little evidence to bear this out in most recent development patterns in those neighborhoods. Instead, current development trends suggest that most of this housing will be far out of the reach of average New Yorkers.

Analysis conducted for this report indicates that fewer than 8 percent of the units created by these rezoning and redevelopment actions will be affordable. Outside of midtown Manhattan, estimates suggest that fewer than 5 percent of the units will be affordable to low-, moderate-, or even middle-income families. The vast majority will sell for \$500,000 to \$3 million, or rent from \$2,000 to \$3,000 (see Appendix B).

In his *Vision for a 21st Century Lower Manhattan*, Mayor Bloomberg indicated that the city would provide developers with a subsidy to make 20 percent of the new units downtown affordable. However, out of 5,661 new units approved for public financing as of May 2004, 99 percent are luxury, and just 1 percent "affordable"—but only to families earning up to \$93,000 annually.<sup>18, 19</sup>

In Greenpoint-Williamsburg, developers have built or started over 1,000 new units in the past year. None of these developers has chosen to use the city's affordable housing programs and most of the developments are condominiums, selling for \$350,000 to \$4 million.

In Park Slope, where balanced neighborhood rezoning was approved in 2003, no affordable units have been created or initiated, despite the city's commitment of \$6 million. After the rezoning, a project slated to create more than 80 affordable apartments for middle-income families was instead sold to a developer who is producing twice as many units, all at market rate.

Midtown is the one area where some affordable units are likely to be created following rezoning, but there is reason for concern here as well. The city is proposing to extend the Manhattan Exclusion Zone (part of its 421-a Affordable Housing Program), to cover the Hudson Yards and West Chelsea rezoning areas. Developers building rental housing within this zone can receive tax abatements if they include affordable housing. Following an earlier rezoning in Chelsea, the city reported that approximately 13 percent of total new units were affordable. However, as market-rate prices have risen, fewer developers appear to be using the program. Affordable development through the 421-a program last year was down 24 percent from 2002. Developers are increasingly choosing to develop condominiums over rentals—from 4 percent of Manhattan construction in 1998, to 20 percent in 2002, to 33 percent in 2003, and up to 48 percent by mid-year 2004—and condominiums are not covered by the program.

The creation of new market-rate housing in many mixed-use and transitional neighborhoods will also result in increased property values in adjacent areas, as those areas become more attractive and accessible. While secondary displacement is difficult to predict, it is likely that residents living in and near the rezoning areas will face rising rents, and that some will be forced to move out of these communities.



**Dramatic changes will transform the face of the city.**

The Bloomberg administration is rezoning Long Island City/Hunters Point, Queens, to allow for new office and residential construction (such as the Queens West luxury high-rises in the middle of the picture) in areas now restricted to manufacturing uses.

### Profile 1. Greenpoint-Williamsburg, Brooklyn—Dramatic Neighborhood Changes Can Accommodate Current Residents

Greenpoint-Williamsburg is facing dramatic change, even by New York standards. The neighborhood looks across the East River at Manhattan and was historically part of the maritime and industrial base for the city.<sup>20</sup> The community district has long been comprised of a predominantly blue-collar white population in the north and Hispanic and Hasidic communities in the south. In recent years, the area's proximity to Manhattan and lower rents attracted young professionals unable to afford rising Manhattan rents; and new immigrants from Europe, the Dominican Republic, and Latin America, who now make up a third of the community.

**Housing costs on the rise.** Like much of New York, Greenpoint-Williamsburg is primarily a renter community (82 percent of households). Rents rose by 78 percent from 1990 to 2000, and home prices by as much as 132 percent.<sup>21</sup> While the number of households earning over \$100,000 tripled, close to half of all households earned less than \$20,000 in 2000; and 4,000 households faced overcrowding.<sup>22</sup>

#### Recent Rental and Sales Prices in Greenpoint-Williamsburg<sup>23</sup>

Type	Average/Median Rent	Average/Median Sale Price
Studio	\$1,800/\$1,700	\$259,300/\$424,000
1-Bedroom	\$1,381/\$1,400	\$447,800/\$397,500
2-Bedroom	\$1,565/\$1,600	\$619,900/\$617,450
3-Bedroom	\$2,678/\$3,100	\$1,327,000/\$949,000

From the 1970s to the early 1990s, much of the housing created in the community was affordable, developed by two not-for-profit housing groups: St. Nicholas Neighborhood Preservation Corporation and Los Sures. However, over the past several years, new housing has been overwhelmingly market rate. Out of 1,000 units started or completed within the rezoning area in the past two years, none utilized the city's programs for affordable housing.

**Zoning changes loom large.** The Department of City Planning has proposed the "Greenpoint-Williamsburg Land Use and Waterfront Plan"<sup>24</sup> to shift part of the

neighborhood from manufacturing to residential use. As Figure 6 (page 29) shows, the proposed rezoning would create potential for over 23,000 new units (with 7,400 units already in the pipeline) over the next 10 years. About half of the new housing will be waterfront buildings of up to 35 stories—a 300 percent density bonus.

Landowners stand to realize a substantial gain, as developers stand ready to build luxury housing units in the rezoned area. The anticipated rezoning has encouraged land speculation, with land values doubling over the past few years.<sup>25</sup> An inland industrial site (where the anticipated zoning change would allow for a five-story residential building) recently went on the market for \$20.8 million, or \$325 per buildable square foot.

**Community concerns over affordability.** Residents welcome waterfront access, additional open space, and new housing units, but are concerned about the lack of affordability and the continued displacement of low-income households. In November 2003, the Rezoning Task Force of Brooklyn Community Board One testified to the Department of City Planning that, "Without a rigorous, visionary, and mandated affordable housing component, the rezoning may only exacerbate the [severe shortage of affordable housing]."<sup>26</sup> Neighborhood groups and nonprofit affordable housing developers have called for a guarantee that 40 percent of new units will be affordable, through a range of strategies.

**Voluntary programs are insufficient.** The Department of City Planning agreed in June 2004 to study an "Affordable Housing Bonus and Incentives Alternative" as part of the rezoning proposal. Under this alternative, which is limited to waterfront sites, developers could receive an additional 10 percent density bonus (on top of the 300 percent increase they will already receive with rezoning), if 10 percent of housing is affordable. As proposed, the alternative is unlikely to be widely used. It creates a financial disincentive for condominium development,<sup>27</sup> which constitutes the majority of recent development.

The proposal should instead leverage the tremendous value that public action is creating—the value in changing from manufacturing to residential use with a tremendous density increase by mandating IZ with the approval of the neighborhood wide zoning change—to achieve mixed-income housing.

**Manufacturing rezonings jeopardize industrial businesses and jobs.** Housing affordability is not the only way in which the proposed rezonings threaten to reduce options for low- and moderate-income New Yorkers. In many areas (including Hunters Point, Greenpoint-Williamsburg, and Port Morris), the rezoning of industrial land will displace thriving manufacturing businesses that employ tens of thousands of New Yorkers.<sup>28</sup>

There is space to convert land from manufacturing to residential and commercial use, since the current zoning map was written when New York City had more than three times as many manufacturing jobs as it does today. However, rezoning should not drive out viable businesses. Like other cities, such as Chicago, that have moved to a non-industrial base, New York City needs to provide more certainty for industrial businesses seeking to invest and grow in New York City by strengthening zoning rules in areas that remain zoned for manufacturing. Without such steps, more blue collar jobs will be lost, leaving more families struggling to meet the rising cost of housing.

**Housing market further squeezed through downzonings.** While the administration has focused on the need for growth, the largest category of rezoning actions (by land area affected) is downzonings to prevent new construction in areas where residents have complained of out-of-scale development. Thoughtful attention to neighborhood quality-of-life and infrastructure makes sense, and the city can take many steps to require development that blends in with neighborhood character.

However, blanket downzonings pose a serious risk for New York City. Demand is high for the new housing being created in these areas because it offers relatively good value within New York's housing market. Indeed, these units are some of the few being created without subsidy that are affordable to middle-income families. The proposed downzonings—which will affect hundreds of thousands of lots—will substantially reduce

construction in many neighborhoods, and could cost the city tens of thousands of units. By reducing new construction, these actions also increase the likelihood of overcrowding, a significant issue in many of the targeted communities, especially in Queens. Moreover, the downzonings prevent the creation of moderately priced housing in areas that tend to be white and middle class. As a result, they may amplify segregation within the city.

The problem in these areas is not overdevelopment, but inefficient development, sprawl, and poor infrastructure and services. Instead of blanket downzonings, the city should pair action (as it is doing in the balanced neighborhood rezonings) to discourage development along single-family and row-house streets with the creation of new growth centers nearby. Each time the city takes action to reduce allowable construction, it should also find space to encourage high-density, multi-family development near transit hubs and along commercial avenues.

## Profile 2. South Shore, Staten Island—Neighborhood Preservation and New Affordable Housing Can Co-Exist

Like most of Staten Island, South Shore's predominantly white and growing population of immigrants live in single-family homes and low-rise apartments. Over the last decade, South Shore was the largest recipient of new residents in Staten Island and among the fastest growing neighborhoods in New York City. It took in more than 29,000 new residents, mostly from other boroughs in New York City, especially Brooklyn.<sup>29</sup>

With a median household income of \$57,000, Staten Island (Richmond County) is the wealthiest borough in New York. In 2002, 70 percent of the households were homeowners, with a median household income of \$74,200. Between 1990 and 2002, homeownership increased by more than two and a half times the citywide rate. Staten Island was the fastest growing county in New York State throughout the 1990's when almost 23,000 new housing units were built, an increase of 14 percent. The pace of construction continues today, with approximately 2,000 units built annually.<sup>30</sup>

**Development is being hotly debated.** As poorly planned new townhouse developments have replaced older, single-family housing stock, residents have organized to resist the changing nature of their community. They have identified the problem as "overdevelopment," and the solution as lower density. The Bloomberg administration has proposed to downzone wide swaths of Staten Island to prohibit multifamily development (as it has also proposed in parts of Queens, Brooklyn, and the Bronx).

However, as Julia Vitullo-Martin, senior fellow at the Manhattan Institute and the Tri-State Transportation Campaign<sup>31</sup> argues, the problem is not overdevelopment, but inefficient development, sprawl, and poor infrastructure and services. Instead of

blanket downzonings, the city could be rezoning manufacturing areas (as elsewhere in the city), and investing in transportation and infrastructure. Then higher-density development could be encouraged in smart locations, and discouraged in low-scale residential areas.

**Worsening housing affordability gap.** For the lower-income households of South Shore, the rising prosperity of the borough served to increase rent burdens. Between 1999 and 2002, median housing values (\$300,000 in 2002)<sup>32</sup> increased by 39 percent compared to New York City's 22 percent. Housing burdens increased for both owners and renters, but at a much faster pace for owners. In 2002, over 5 percent of owner occupied households experienced severe housing cost burdens.<sup>33</sup>

### Sale Prices in South Shore<sup>34</sup>

Type	Average/Median Sale Price
1-Bedroom	\$196,000/\$189,000
2-Bedroom	\$274,930/\$260,000
3-Bedroom	\$497,390/\$509,000

**Downzoning will further exacerbate the housing shortage.** The new townhouses on Staten Island sell rapidly because buyers can get more value for the cost than in other New York City neighborhoods. Eliminating these housing opportunities will exacerbate the city's housing shortage and further limit moderate- and middle-income housing opportunities.

The proposed downzonings potentially affect 68,000 lots and will reduce the total number of potential new housing units on Staten Island by 25 percent. They would strip away 6,000 acres of land and 40,000 properties—50 percent of the current area—on which townhouses can be built, allowing only detached houses in many neighborhoods.

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# Inclusionary Zoning: A Tool for Easing the Crisis

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Inclusionary zoning can help New York City build on its public sector commitment to affordable housing by leveraging the dynamism of new private development facilitated through public sector zoning changes. IZ requires or encourages that a percentage of housing units in new residential developments be made affordable to low- and moderate-income households in exchange for incentives to developers. Since inclusionary units are usually integrated with market rate units, IZ effectively promotes a more equitable distribution of affordable housing units across neighborhoods.

## Elements of Inclusionary Zoning Programs

While there is tremendous variation in structuring inclusionary zoning programs, almost all IZ policies include:

**Set-aside requirements.** The percentage of units within a proposed project that a developer is required to price as affordable to low- and moderate-income people.

**Income targets.** The income level at which inclusionary units are targeted. Most jurisdictions base income targets on a percentage of the area's median income (AMI).

**Project triggers.** The number of units at which the inclusionary requirement will apply (e.g., 5-, 10-, 20-unit buildings, or all projects).

**Developer compensations/cost-offsets.** The compensation (usually including a density increase) to developers helps to offset the cost of providing affordable units.

**Development alternatives.** Jurisdictions outline narrow or broad ranges of allowable alternatives that can include: on-site construction of affordable units, off-site construction in another location, or contribution of land or in-lieu fees paid in place of development.

**Terms of affordability.** The length of time an inclusionary unit is required to remain affordable.

## National Track Record for Achieving Affordable Housing

With the need growing for housing at various income levels, and a diminishing supply of feasible building sites, cities across America have turned to inclusionary zoning as one tool to leverage market-led development to create mixed-income housing stock. Generally, developers receive density bonuses (i.e., they are allowed to build larger buildings), zoning variances, and/or expedited permitting to offset the costs of affordable housing production.

Inclusionary zoning has been adopted by hundreds of cities around the country including Boston, San Diego, and San Francisco, and has secured thousands of units of affordable housing in mixed-income communities. Studies by the Brookings Institution, the National Housing Conference, the Urban Land Institute, the Fannie Mae Foundation, Chicago-based Business and Professional People in the Public Interest, and the National Association of Realtors have demonstrated that inclusionary housing is an important local housing tool.

Because IZ policies tie affordable housing construction to market-led development, they have been most effective in areas experiencing growth and investment in the housing market. Therefore, a concentration of inclusionary zoning policies can be found in growing metropolitan regions in the Northeast (e.g., Massachusetts, New Jersey, the greater Washington D.C. region), in California, and in cities in other parts of the country with growing or expensive housing markets (e.g., Denver, Colorado, and Santa Fe, New Mexico). In the New York metropolitan area, with the exception of New Jersey, inclusionary housing programs are both scattered and relatively modest in scale.

### **Private Development Still Strong with Inclusionary Zoning**

Communities across the country with IZ policies have found that the requirement to include affordable units has not diminished market rate development. In fact, after an initial period of adjustment, inclusionary zoning policies create certainty for developers by establishing a consistent set of guidelines for development in place of project-by-project parameters established by a city council, zoning board, planning commission, or other public entity.<sup>35</sup>

Developers generally do not lower their expectations for financial return, and they cannot directly pass costs on in the form of higher prices, as price is a function of market demand. Instead, to maintain their profit threshold, developers reduce the amount they will pay for a given land parcel.<sup>36</sup> As a result, the cost of inclusionary zoning is imputed into land prices over time, and developers continue to profit on residential construction that includes affordable housing.

A recent, long-term study of the impact of California's inclusionary housing programs over a thirty-year period (1973-2003) on market rate housing production found that not a single program had a negative effect on housing production. An

economic feasibility analysis conducted by market analyst David Paul Rosen of 28 jurisdictions including San Francisco, Orange County, and San Diego showed that most jurisdictions with inclusionary housing programs actually saw an increase in private development after the IZ requirements were instituted.<sup>37</sup>

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### **Voluntary Inclusionary Zoning Can be Strengthened**

*New York City has a successful yet limited inclusionary zoning program in its Zoning Resolution.<sup>38</sup> The program is voluntary and limited to rental housing in areas zoned with the highest residential density designation (R10<sup>39</sup> or its equivalent in mixed-use zones) found primarily in Manhattan south of 96th street.*

*Since 1987, when the program was modified to better meet market conditions, it has produced 600 affordable housing units in the expensive, high density neighborhoods of Manhattan.<sup>40</sup> However, the program remains complicated to use, and includes significant barriers. One such barrier is the prohibition on combining the IZ density bonus with other tax and financial incentives for affordable housing. A recent report by the Citizens Housing and Planning Council offered a range of suggestions for improving the program.<sup>41</sup> If, when inclusionary zoning was adjusted in 1987, it had been expanded to R6 through R9 zones (generally three to 17 story buildings) and 20 percent of the units were set aside in developments of 10 or more, as many as 11,000 of the 65,000 market-rate units built since then could have been made affordable.<sup>42</sup>*

*Through the formidable use of its zoning powers, City Hall can rectify the missed opportunity of the last decade and strengthen and expand inclusionary zoning in New York City.*

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## How Inclusionary Zoning Can Help New York City

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Within the context of the current dramatic reshaping of the city, inclusionary zoning can help create a housing climate that can both attract new residents and retain existing residents in each neighborhood. It can provide:

- Affordable housing for a diverse labor force;
- Mixed-income communities through balanced housing development;
- Regulatory tools to secure affordability in the market; and
- Preservation of neighborhood character in an equitable manner.

### **Ensuring Housing for a Diverse Labor Force**

Housing affordability is an issue across diverse income levels and occupation types. Essential workers such as paramedics, firefighters, and schoolteachers face affordable housing challenges, finding themselves priced out of the very neighborhoods that they serve. Residents working in service industries—postal workers, mechanics, retail salespersons, and school bus drivers—are the worst off, often unable to afford city housing even with two salaries. Figure 3 (page 13) demonstrates that the cost of housing in the city is out of reach for many occupations. Inclusionary zoning could help meet the housing needs of New York workers and provide them the chance to live where they work.

### **Fostering Mixed-Income Communities by Promoting Balanced Housing Development**

In low-rise neighborhoods where contextual zoning changes are proposed to address resident concerns of overdevelopment—Staten Island, southeastern Queens, and southern Brooklyn—inclusionary zoning can be part of a "smart growth" solution that promotes housing opportunities for more moderate income families, increasing the amount of housing that can be built along major arteries or in commercial districts.

In new and growing neighborhoods where substantial new housing investment is planned for the future—Port Morris, Morrisania—inclusionary zoning can broadly disperse affordable housing as the area is revitalized, thereby ensuring the creation of mixed-income communities.

In gentrifying neighborhoods—Greenpoint-Williamsburg, the Far West Side, and Harlem—affordable units generated by inclusionary zoning can help mitigate the displacement of longtime residents as land values rise.

**Profile 3. Flushing, Queens—Vibrant, Diverse Community Could Benefit from Inclusionary Zoning**

With more than 200,000 residents and close to 19,000 persons per square mile, Flushing is the most populous and one of the densest sub-borough areas of New York City. It is also one of the most ethnically diverse areas in the city with Chinese, Taiwanese, Koreans, and South Asians living side by side with Italians and Greeks. A generation ago, Flushing was mostly an Italian and Greek neighborhood, with Main Street serving essentially as the shopping district of an inner-ring suburb-like community. Like other districts in New York City, the downtown went through an economic downturn during the 1970s, as white residents left and housing prices dropped. In the late 1970s, Korean and Chinese immigrants began to settle in Flushing, and since the 1980s they have become the largest ethnic groups in the area. From 1990 to 2002, this sub-borough area took in more than 40,000 immigrants and grew by 15 percent.

**Growing disparity between wealthy and poor.** Although the median income has risen overall, there is a growing gap between high-income and low-income residents in the community. Between 1990 and 2000, the largest increase in households were those earning more than \$100,000. However, 30 percent of Flushing residents are living in poverty. Over 9,000 households in Flushing qualify for housing assistance programs like public housing and Section 8 vouchers, yet they are served by only 823 units of public housing and 361 Section 8 voucher units.

**Housing costs outpace incomes in the last decade.** Despite buoyant construction activity in Flushing between 1990 and 2002 (2.5 percent of New York City's total construction), which increased housing stock by 7 percent, the number of new households rose by 9 percent. Rents and sale prices increased substantially with median housing values increasing by 25 percent (3 percent higher than city median), and median monthly rent increasing by 40 percent. As a result, a family earning the median household income in Flushing (\$39,459) is not able to afford the median housing prices in the neighborhood.<sup>43</sup> More than 25 percent of households faced severe rent burdens in 2002.

Low-income households—generally immigrant families—were the ones with the greatest housing burden.

**Rental and Sale Prices in Flushing<sup>44</sup>**

Type	Average/ Median Rent	Average/Median Sale Price
Studio	\$907/\$872	N/A
1-Bedroom	\$1,119/\$1,075	\$160,125/\$142,500
2-Bedroom	\$1,261/\$1,210	\$418,200/\$369,500
3-Bedroom	\$1,808/\$1,750	\$555,000/\$542,000

Many households have been squeezed into tighter living situations. Close to 30 percent of Flushing residents live in crowded conditions, and 19 percent—more than 3,000 families—live in severely overcrowded conditions (compared with 10 percent of Queens residents overall).

**Balanced rezoning will concentrate commercial and residential activity around the commercial transit hubs while maintaining character.** The Department of City Planning is proposing to rezone several areas of the community, including downtown Flushing, Willets Point, and East Flushing. The proposal would create space for 1,400 more units, increase residential and commercial density in the downtown area, improve connections to the commercial area and the waterfront, and encourage development in Willets Point. In East Flushing, new height caps and contextual zoning along residential side streets could be advanced to limit out-of-scale development.

**Inclusionary housing guarantees that balanced rezoning also promotes mixed-income communities.** Flushing's strong housing market for middle to higher income families suggests that without affordability provisions, it is unlikely lower income families will have a share in the increased housing opportunities from the rezoning. They will be pushed out of the bottom of the market to other neighborhoods or into more overcrowded conditions. One tool to sustain the existing income diversity and ease income disparity is to use the housing boom from rezoning to require that housing for lower-income families be included in market rate developments.

## **Providing a Regulatory Tool to Secure Affordability in the Market**

Inclusionary zoning has been used by many cities with tight housing markets. New York City is known for its range of affordable, innovative, and successful housing programs, many of which assist in the financing of affordable housing. A remaining challenge is to meet affordable housing demands in hot housing markets when rising prices make it hard for residents to find affordable housing, and developers find it hard to acquire property on which to build affordable housing. The city needs a regulatory framework that leverages housing market strength to secure housing for lower income and working class families.

Inclusionary zoning can provide an ongoing mechanism for tying affordable housing to market rate construction. Without this, the city's ability to engage market rate developers in affordable housing creation is limited. The Department of City Planning estimates that rezoning and housing projects will result in over 40,000 new housing units over the next 10 years and could reach over 80,000 new units if fully built out.<sup>45</sup> However, most developments will provide market rate units with no affordability provisions.

## **Preserving Neighborhood Character in an Equitable Manner**

One of the key community concerns over proposed rezoning is the preservation of neighborhood character. Many of New York's neighborhoods have strong identities, rooted in the history, architectural stock, businesses, and ethnic or racial makeup of the area. In some places, community groups are seeking to ensure that current residents can afford to remain in the area as it develops. In other areas, residents are seeking to limit new construction to preserve architectural character, or to prevent higher density development that they believe will overtax the existing infrastructure.

Unfortunately, this can have the effect of reducing affordable housing options, and of excluding diversity within a community. A thoughtful inclusionary zoning program can help New York City balance neighborhood preservation while encouraging economic integration. By shifting demand towards high-density transportation hubs and commercial avenues while introducing contextual building requirements, out-of-scale construction can be prevented and still allow for growth.

At the same time, an IZ program can be an effective tool for fostering racial and economic integration. Many programs establish priority for some portion of the new affordable units to go to neighborhood residents at risk of losing current housing. At the same time, inclusionary zoning can ensure that fair housing goals are met, by enabling low- and moderate-income residents to live in neighborhoods they could not otherwise afford, and thus helping to integrate some of the most exclusive areas of the city.

### Profile 4. Central Harlem, Manhattan—Revitalizing Historic Hub Needs Affordable Housing

"Harlem, particularly Central Harlem," noted Alan Feuer of the New York Times, "has changed almost as fast as Clark Kent changed into Superman."<sup>46</sup> After a period of population loss in the 1980s, the neighborhood has attracted new residents again, and in the last census, showed a neighborhood growth of 7 percent. Since the late 1990s, Central Harlem has been undergoing residential and commercial redevelopment, with for-sale signs proliferating throughout the neighborhood.

**Rapid gentrifying change.** The face and makeup of the population changed significantly with the growth in population. The African American share of the population has declined as white and Asian and Pacific Islander shares rose. Like the rest of Manhattan, Central Harlem is mostly a renting community with a growing share of homeowners. Lower-income households have moved out as a result of rising rents and have been replaced by higher-income households. Average rents in the area have increased by 45 percent in the last two years. In 2003, one-bedroom apartments in brownstones were listed at \$1,200 and higher.<sup>47</sup> The remaining low-income households face the greatest housing burden. From 1990 to 2000, households with severe housing burdens increased to nearly 20 percent of all households and nearly 90 percent of rent-burdened households are low-income households (incomes less than \$20,000). More than 3,000 households are living in severely crowded units.<sup>48</sup>

#### Recent Rental and Sale Prices in Central Harlem<sup>49</sup>

Type	Average/ Median Rent	Average Sale Price
Studio	\$1,110/\$1,150	\$180,000
1-Bedroom	\$1,036/\$1,048	\$217,000
2-Bedroom	\$2,127/\$2,150	\$419,000
3-Bedroom	\$2,146/\$1,940	\$795,000

#### Balanced rezonings offer new opportunities.

In 2003, the city approved a 44-block rezoning of Central Harlem—along Frederick Douglass Boulevard from Central Park up to West 124th Street, between Morningside Avenue and Adam Clayton Powell Boulevard. The changes encourage more housing along the avenues (where more density is now allowed), while establishing stricter height and contextual limits along the side streets to preserve the existing row house character of the neighborhood.

Central Harlem also holds more opportunity for rezoning and redevelopment. Two faith-based, nonprofit community development corporations that develop affordable housing in the area—Harlem Congregations for Community Improvement and the Abyssinian Development Corporation—have been planning for appropriate development north of 125th Street. One possibility could apply a balanced neighborhood rezoning to the area, coupling height limits on the side streets with an upzoning of Frederick Douglass Boulevard or other commercial avenues from 125th Street up to 155th Street. Such rezoning would offer dozens of sites for new residential development.

#### Without affordability provisions, new opportunities may come at the cost of existing residents.

Central Harlem has an active and rapidly changing housing market and, as in other neighborhoods, there is increasing cause for concern that little of the new construction will be affordable for neighborhood residents. The tax incentives that encourage developers to include affordable units for new development in Manhattan stop at 96th Street, just short of the recently rezoned area. Mandating affordable units through inclusionary zoning along the rezoned avenues would take advantage of the private development and ensure that current residents do not get squeezed out in a hot housing market.

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## Part Two: Recommendations for Crafting an Effective Inclusionary Zoning Policy in New York City

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New York City's five boroughs, fifty-nine community districts, and hundreds of neighborhoods contain an extraordinary diversity of people, land uses, property values, and building types. A zoning tool to produce affordable housing linked to development in New York City's neighborhoods should reflect the character of different communities, encourage continued housing production, and have long-lasting affordability guarantees.

The mix of inclusionary zoning program elements used in any jurisdiction is determined by development patterns in the community, the affordable housing needs of residents, and political feasibility. There are tradeoffs among different components of an IZ policy; tailoring it to meet local needs is the hallmark of its effectiveness. A jurisdiction needs to be clear about its affordable housing goals, understand which goals

can be realized via inclusionary zoning, and structure the IZ policy accordingly. For example, some jurisdictions choose to set aside fewer units but make them more affordable. Other jurisdictions choose to set aside more units, but set the affordability level higher. (See Appendix C for key components.)

The experience of other cities with inclusionary zoning programs can be useful to New York City as it develops a more expansive IZ policy. Some of these experiences are described in the discussion of the recommendations that follow. That experience, and the analysis of an extensive literature review and interviews with 31 program administrators and national experts conducted by PolicyLink, informed the development of the following recommendations and considerations for New York City.

### **Recommendations for An Inclusionary Zoning Policy in New York City**

- #1.** Apply mandatory inclusionary zoning to all future neighborhood-wide zoning changes.
- #2.** Maximize affordable housing production by offering inclusionary zoning incentives in high-density residential neighborhoods.
- #3.** Design an economically feasible IZ program that allows developers to create affordable housing and make a profit.
- #4.** Set income levels for affordable housing eligibility to reflect community housing needs; broaden eligibility by connecting IZ to other affordable housing resources.
- #5.** Maintain permanent affordability of inclusionary units.
- #6.** Prioritize on-site development of inclusionary units to encourage mixed-income communities.
- #7.** Draft clear legislation and authorize consistent administrative oversight to manage the IZ program.

## Recommendation #1. Apply mandatory inclusionary zoning to all future neighborhood-wide zoning changes.

Inclusionary zoning policies can be mandatory—requiring developers to build affordable units in exchange for development rights—or voluntary—relying on incentives to encourage developers to “opt-in.” Because the proposed large-scale rezonings build in substantial density increases automatically, the city should mandate affordable housing units as part of every future neighborhood-wide zoning change.

An analysis of existing IZ programs nationally reveals the superior delivery power of mandatory inclusionary zoning. Of the 107 jurisdictions in high-cost California housing markets with inclusionary zoning programs, 101 are mandatory and have produced over 34,000 units of affordable housing. In contrast, 105 mostly voluntary programs in Massachusetts municipalities only generated approximately 1,000 affordable units between 1990 and 1997.<sup>50</sup> The differing outcomes of voluntary and mandatory IZ have steered many jurisdictions away from voluntary programs. Those that have recently adopted inclusionary zoning (e.g., Boston, Massachusetts; Denver, Colorado; and

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### **Successful Neighborhood Set-Aside Triggers Citywide Adoption**

*Urban San Diego, California, is particularly relevant to New York City's plans for industrial rezoning. In 1992, voters imposed an inclusionary housing requirement on San Diego's North City Future Urbanizing Area (FUA), a developing section of the city with no housing (similar to New York City industrial zones slated for residential zoning changes). It reserved 20 percent of all new rental and for-sale units for households earning 65 percent of the area median income (see “Setting Income Targets” text box on page 32). The successful program, projected to produce 2,400 affordable units, led the city to adopt a citywide inclusionary zoning ordinance in 2003.<sup>51</sup>*

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Sacramento, California) have made their requirements mandatory. Jurisdictions with once voluntary programs (e.g., Cambridge, Massachusetts; Boulder, Colorado; and Irvine, California) have chosen to amend their ordinances to mandatory requirements in response to low production. Jurisdictions that apply mandatory inclusionary zoning requirements to all residential development produce significantly more affordable units.

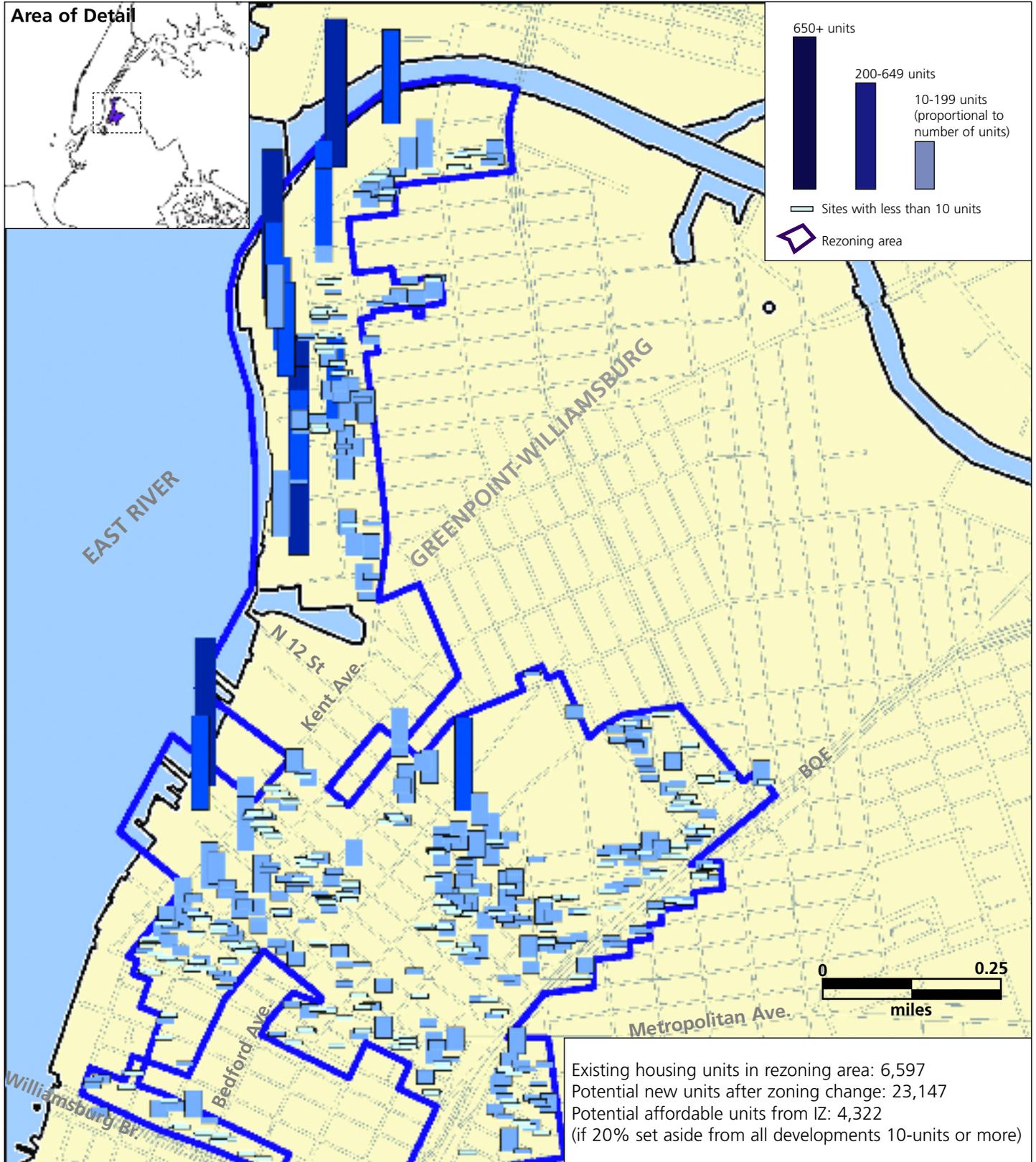
### **Considerations for New York City:**

**Large-scale rezonings are opportunities for expanding affordable housing.** The large-scale rezonings proposed by the Department of City Planning offer the density and land value increases that can allow an effective mandatory IZ program. Some spokespeople for real estate interests in New York City have claimed that a mandatory requirement will stall development. Evidence from other jurisdictions (see page 22) reveals that development has not decreased as a result of mandatory IZ programs, even where far lower density increases were provided, and where the value of newly-created market units was far less. Any reduction in land value will be more than offset by the density increases provided.

If a mandatory IZ program was instituted in Greenpoint-Williamsburg, up to 4,322 units out of the potential 23,147 would be affordable (see Figure 6).

**Apply mandatory inclusionary zoning to land converting from manufacturing to residential use.** In the areas where manufacturing land will be rezoned to residential uses, the land values increase tremendously as a result of both higher density and the change in allowable uses. For this report, Pratt Center examined the financial potential of including 20 percent of a large scale condominium development as affordable in the rezoned Greenpoint-Williamsburg neighborhood. Developers could achieve their profit target while ensuring units for low- and moderate-income households.<sup>52</sup> An IZ requirement would lead developers to offer lower acquisition prices for the land than they would otherwise. However, even with inclusionary zoning requirements, existing landowners will still receive an average land value increase of approximately 800 percent as a result of the rezoning. (See Appendix B for full analysis.)

Figure 6. Greenpoint-Williamsburg Total Potential New Development After Rezoning



**Apply mandatory inclusionary zoning to balanced neighborhood rezonings.** In some residential neighborhoods, zoning changes are aimed at balancing the preservation of residential character while allowing denser residential and commercial mixes on artery streets. In these cases, referred to as "balanced neighborhood rezoning," IZ can be applied to areas where density is being increased along commercial avenues and wide streets, and near transit hubs (e.g., in East Harlem, Bedford-Stuyvesant, and North Corona). Pratt's financial analysis of a potential inclusionary requirement along Frederick Douglass Boulevard above 125th Street in Central Harlem demonstrates that both developers and existing landowners would profit from a rezoning that increased allowable density while requiring 20 percent of the units to be affordable (see Appendix B).

## Recommendation #2. Maximize affordable housing production by offering inclusionary zoning incentives in high-density residential neighborhoods.

Inclusionary zoning policies that cover the majority of residential construction and reflect development trends in the community are most effective in generating affordable housing units. The use by developers of New York City's voluntary inclusionary zoning in the densest residential zones of Manhattan (R10), and the success of programs that reserve a portion of the development for affordable units (as in the 80/20 programs), suggest that the voluntary program can be extended outside of Central Manhattan to neighborhoods where no significant zoning changes are planned.

## Considerations for New York City:

**Expand voluntary inclusionary zoning program.** Currently voluntary inclusionary zoning for New York City is limited to the highest density, R10 zones, which allow a maximum density of 551 to 700 units per acre. The policy, while creating 600 units since 1987, could be more far reaching if neighborhoods with lower density zones could offer IZ incentives to developers. If the program were expanded to include densities as low as in R6 zones, housing that is typically between 3 and 12 stories and is more than 80 units per acre would be included.<sup>53</sup> As much as 20 percent<sup>54</sup> of the city's land area could potentially have affordable housing from voluntary inclusionary zoning.

**Use voluntary program to increase viability of small sites.** In many low- and moderate-income neighborhoods in New York City, market demand is still not sufficient to encourage significant new development, especially on small sites. Yet, many locations within these neighborhoods are appropriate for additional density. In these locations, a density bonus could enable a developer to assemble and develop sites not previously viable. In other neighborhoods, where market rate housing prices are affordable to families earning 80 percent to 100 percent of the area median income, a voluntary bonus could enable a developer creating affordable, moderate-income housing to create additional units. Architectural analysis conducted for this report indicates that a developer would be able to create affordable multifamily housing under the New York City Housing Development Corporation's Low-Income Affordable Market Place (LAMP) program on a significantly smaller site using a voluntary IZ program (see Appendix B).

### **Profile 5. West Farms/East Tremont, The Bronx—A Community Welcoming Affordable Housing Can Use Some Help**

West Farms/East Tremont has gone through a cycle of change similar to the rest of the South Bronx. After World War II, the neighborhood filled with a mostly working-class Jewish population, followed by Puerto Ricans. From 1970 to 1980, as whites fled many urban neighborhoods for the suburbs, the population declined by 30 percent, apartment buildings were vacated, and the main commercial strip of 180th Street was all but abandoned. A 1993 land survey revealed 20 percent of the district to be comprised of vacant lots.<sup>55</sup>

**Many families struggle with heavier rent burdens.** While abandonment has been replaced with growth (neighborhood population grew more than 11 percent from 1990 to 2000, due primarily to new Latino and African-American families), the community remains mostly renters and one of the poorest in the city. Median household income for renters<sup>56</sup>—who comprise over 90 percent of the population—was just \$13,416 in 2002. More than a quarter of the households in the district pay more than a third of their income in rent,<sup>57</sup> with many living in overcrowded and substandard conditions.

**From housing abandonment to housing crunch.** By 1998, the number of vacant lots dropped to 7 percent of the district's land.<sup>58</sup> Between 1987 and 2002, a total of 8,341 housing units were built or rehabilitated with city subsidy programs.<sup>59</sup> The remaining vacant lots are mostly Parks Department properties, oddly shaped lots near the Bronx River, or privately owned properties.

**Inclusionary housing encourages urban infill and can provide more housing choice.** Granting developers a density bonus for including affordable units would increase the financial feasibility of building on the remaining small sites (see Appendix B) and increase the number of buildable lots available. Inclusionary housing would stimulate urban infill and integrate households of different incomes.

**Recommendation #3.** Design an economically feasible IZ program that allows developers to create affordable housing and make a profit.

Municipalities want to balance the goals of achieving new affordable housing and encouraging developers to create as much new housing as possible. Achieving this balance requires carefully targeted, economically feasible programs. Inclusionary housing is not a cookie cutter response to housing needs; it can be customized to local land markets. The participation of private developers in the development of affordable housing is engaged through non-monetary cost-offsets that reduce construction costs and allow developers to meet their profit targets.

Jurisdictions typically conduct an economic feasibility analysis to determine how to best structure an IZ policy that will reach both goals: the production of affordable housing and developer profit. The analysis looks at various aspects of development—e.g., cost of land, profit margin, construction costs, and fees—and the jurisdiction's housing needs and goals. The analysis can be applied to different scenarios assessing the balance between offsets and IZ requirements with the goal of ensuring a normal overall profit margin for the developer and a reasonable impact on land costs. Jurisdictions that have structured their programs based on such analyses include: Sacramento; Boulder; San Francisco; South San Francisco; Fairfax County, Virginia; Santa Fe; and New Jersey.

Some jurisdictions provide no cost offset, assuming the developer, the development itself, or an adjustment of the land values will absorb the costs. Suburban jurisdictions typically reduce costs to developers on inclusionary projects through adjustments to zoning and building requirements; streamlining administrative procedures; or deferring or waiving development fees. While inclusionary zoning policies have relied heavily on density bonuses, many other cost offset tools also encourage efficient land use or improved development processes (see Appendix B).

The adoption of IZ policies in large cities began in the mid 1990s, and three of the nation's largest cities—San Francisco, San Diego, and Boston—chose to provide little or nothing in the way of cost offsets. In interviews, city staff indicated that cost offsets were not necessary because the strength of the local housing market and the ongoing demand to live and build housing in those cities allowed developers to build the inclusionary units and still make their projects work economically.<sup>60</sup>

### Considerations for New York City:

**Be specific about IZ policy for different kinds of developments before rezoning is approved.** By utilizing appropriate cost-offsets from the range illustrated in Appendix D, New York should take advantage of the significant density that will be granted through major rezonings to deliver units at deeper levels of affordability. As recommended by Citizens Housing and Planning Council,<sup>61</sup> developers could also be allowed to combine increased density from IZ with financial incentives or subsidies to create affordable housing. Where these two benefits are applied to the same development, however, there should be a modest increase in the requirement (i.e., either a higher percentage of units, or a deeper target for affordability). Additionally, the city can extend these incentives (e.g., increased density, lower parking requirements, fee waivers) under a voluntary program to appropriate locations not slated for larger neighborhood zoning changes.

For this report, Pratt Center conducted architectural and financial analyses to assess the economic feasibility of inclusionary zoning in for-sale and for-rent developments: condominiums in Greenpoint-Williamsburg, and apartments in Central Harlem and West Farms (see Appendix D). In each case, developers would be able to achieve profit targets under an inclusionary zoning program.

Recommendation #4. Set income levels for affordable housing eligibility to reflect community housing needs; broaden eligibility by connecting IZ to other affordable housing resources.

### Establish Income Targets

Where the income target is set determines who benefits from the inclusionary zoning policy. For example, a jurisdiction that wants to provide housing for moderate income residents, such as public sector employees, might set an income target at 80 percent or even 100 percent of the area median income. Jurisdictions seeking to create affordable units for lower-income

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#### Setting Income Targets

*The majority of IZ jurisdictions set their income target in accordance with the US Department of Housing and Urban Development. On a yearly basis, HUD releases standard area median income (AMI) levels for different regions throughout the country.*

*The AMI for the NY Metro region is \$62,800. If the city established an IZ program with an income target of 50 percent of the AMI in all upzoning neighborhoods, the policy would serve families earning \$31,400. A policy targeting 80 percent of AMI would serve families earning \$50,240.*

*Urban jurisdictions typically find that AMI levels do not accurately reflect the income levels of their residents. While the area median for New York, including its wealthier suburbs is \$62,800, the city's median household income is only \$37,800. This dynamic causes many urban jurisdictions to set lower AMI requirements than suburban jurisdictions for their income targets.*

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wage earners might choose an income target of 50 percent of the area median income. Jurisdictions with affordability challenges across income categories often tier their income target to serve diverse needs (e.g., one-third of the units at 50 percent of the area median income, one-third at 80 percent of the area median income, one-third at 100 percent of the area median income). (See Appendix E.)

**Use housing needs and goals as guides for setting income target levels.** Inclusionary zoning income targets reflect the context and political priorities of local, organized constituencies.<sup>62</sup> Since IZ policies began in suburban contexts, where low-income residents are a small and poorly organized segment of the population, it is not surprising that programs there were more targeted to moderate income levels. The deeper levels of affordability that are necessary to serve lower income levels are more common in inclusionary requirements increasingly adopted by urban jurisdictions in high cost markets.

**Once established, income targets become ceilings.** In reality, the income target functions as the ceiling at which affordable units are produced. Developers will rarely—if ever—produce units at a lower income level than that outlined by a jurisdiction. Therefore, jurisdictions should set their income level as low as possible. Many communities have asked developers to meet an income target at 50 percent of area median income. In New Jersey, most programs have a 20 percent set-aside and require that half of all inclusionary units be for households below 50 percent area median income.<sup>63</sup> In California, 48 percent of the state's inclusionary programs (46 jurisdictions) require that some portion of inclusionary units be affordable to households at or below the 50 percent area median income threshold.<sup>64</sup>

### **Connect IZ to Other Affordable Housing Resources to Reach Extremely Low-income Families**

Few jurisdictions with IZ policies ask developers to target incomes below 50 percent of area median income, but many achieve deeper levels of affordability by packaging IZ units with other public sector resources. This effectively bridges the gap between the most acute affordable housing need and affordability levels at which a developer is asked to build.

### **Package with other affordable housing subsidies.**

The Housing Choice Voucher Program (HCVP, formerly known as Section 8) is the federal rental assistance program that allows very low and extremely low-income households to contribute 30 percent of their monthly income toward private rental housing costs, with the housing choice voucher program making up the difference—up to a locally defined "payment standard." Requiring that a portion of inclusionary units go to housing choice voucher holders is one effective mechanism for serving lower-income families. Cambridge, Massachusetts, requires that 50 percent of all IZ-produced rental units go to voucher holders.<sup>65</sup> This is an effective policy in jurisdictions where voucher-holders are unable to locate housing within the payment standard before vouchers expire.

**Offer homebuyer assistance for purchasers of inclusionary units.** Many jurisdictions offer homebuyer assistance to households earning less than the area median income target to be eligible for IZ units. For instance, Fairfax County, Virginia, works with the state housing authority to provide low-interest mortgages to first time homebuyers of inclusionary units. Thirty percent of its inclusionary homeownership units now go to those earning less than 40 percent of the area median income and five percent to those earning less than 30 percent of the area median income.<sup>66</sup> South San Francisco, California, extends below-market-rate loans to all its inclusionary homebuyers using a shared-appreciation, revolving-loan fund. The profit made on the sale of inclusionary units is shared with the city to generate revenue the city uses to continue loans to new homebuyers. This revolving loan fund allows households with lower than AMI-linked incomes to qualify for IZ units.<sup>67</sup>

**Enable public agencies or nonprofits to purchase and further subsidize inclusionary units.** Allowing public agencies or nonprofits to purchase and manage inclusionary units is one way to achieve deeper affordability. Local housing authorities in Montgomery County, Maryland, and Fairfax County, Virginia, acquire inclusionary housing units and in turn rent or sell them to households that otherwise could not afford them. This direct purchase method is an important way for local housing authorities to build their affordable housing stock over the long term. In Montgomery County, nonprofit purchasers of the units provide clients with disabilities and those escaping domestic violence with safe, affordable housing options.

## Considerations for New York City:

New York City could structure its policy to be flexible to address different demographic and market conditions of neighborhoods. This report examined local trends in neighborhoods in each of the five boroughs to understand how those trends impact affordable housing and the possible income targets that could be established.

**Establish a multi-tiered program allocating units for different income levels** (for example, 10 percent for households at 60 percent median income levels and 10 percent for 100 percent median income levels). The development finance analysis conducted for this report revealed that developers could profitably be mandated to include several tiers of affordable units, ranging from 50 to 100 percent of the area median income, without additional public subsidy. In other neighborhoods, the levels could be adjusted to reflect both market conditions and affordable housing need (see Appendix B).

**Combine inclusionary zoning production with New Housing Marketplace programs.** Mayor Bloomberg's New Housing Marketplace includes a wide array of programs that could be integrated with inclusionary zoning. The city's existing 80/20 program, New Housing Opportunities Program (NewHOP), NewHOP Moderate Income Program, Mixed Income Rental Program, and New Venture Incentives Program (NewVIP) all enable developers to create mixed-income housing and could be enhanced with inclusionary zoning to provide deeper affordability or more affordable units. The development finance analysis for Central Harlem showed how the NewHOP Mod program could enable a developer to provide half of the units at below-market rents. In areas where a voluntary program applied, it could also extend the reach of existing programs that subsidize affordable housing solely for low-income households, such as the Low-Income Affordable Market Place (LAMP) and the Supportive Housing Loan Program (see Appendix B).

**Deepen affordability by coordinating with other subsidy programs.** For rental units, Section 8 Housing Choice Vouchers could be utilized. Current voucher use in New York City is much lower than the national average,<sup>68</sup> largely because market rents are high above what Section 8 will pay. Providing access

for voucher-holders to the affordable units produced through inclusionary zoning would enable lower-income families to live in these units, and improve the success of the voucher program. For homeownership units, New York City could assist lower-income households through downpayment assistance from HOME funds allocated by the American Dream Downpayment Act.

## Recommendation #5. Maintain permanent affordability of inclusionary units.

While the length of time jurisdictions designate for an inclusionary unit to stay affordable ranges from five years to perpetuity, the trend is toward longer affordability periods that preserve the community benefits generated by inclusionary zoning. For ownership units, 30 years is becoming the standard, reflecting the length of most conventional mortgages; for rentals the affordability term can be even longer.

Long-term affordability provisions are important because the development of inclusionary units requires substantial commitment from the private and public sectors. Private developers offer units at rates lower than those available on the open market, and the public sector grants cost offsets—most notably, increased allowable density through zoning changes. Long-term affordability provisions guarantee that these investments will provide maximum community benefit, and do not bestow windfall profits on a buyer at the expense of public and private investment, or future potential low-income occupants.

Long-term affordability requirements allow jurisdictions to build up their affordable housing stock over time. A review of jurisdictions with shorter affordability terms shows that units fall out of affordability as quickly as they are added. In escalating housing markets, where rapid neighborhood change is occurring, short-term affordability provisions can fuel displacement since lower-income families could be priced out of inclusionary units as affordability requirements expire.

Long-term affordability measures are particularly important in places with little land available for development. These communities need to be strategic about land use to ensure future affordability and stability in the housing markets.

**Balance the goals of affordability and equity.**

Inclusionary homeownership policies strive to balance the preservation of affordability for the community with wealth-building opportunities for lower-income families. Typically, households are allowed to gain equity even while under long control periods. Nearly all inclusionary programs allow households to sell their properties at a price that is upwardly adjusted from the price at which they bought it.

Several jurisdictions have shared appreciation formulas that allow the locality and inclusionary homeowner to share resale profits. Montgomery County's profit sharing formula has captured half of the profit made from its sales of Moderately-Priced Dwelling Units (MPDUs) into its Housing Initiative Fund.<sup>69</sup>

**Establish the means for preserving affordability.**

Jurisdictions that preserve the affordability of inclusionary units do so through deed restrictions, contractual agreements, covenants that run with the land, and land trust agreements. Price control guidelines are written into the resale restrictions. For example, a jurisdiction can write into the deed of affordable units the income limits, how they are calculated, price formulas, and how affordability terms will be enforced. Some jurisdictions also include a "right of first refusal" on resale units, allowing a public entity or an organization that it designates to purchase an affordable unit before the owner places the unit on the market.<sup>70</sup>

**Considerations for New York City:**

Expiring restrictions on previous affordable housing programs are adding to New York City's housing crisis. Recent studies have found that nearly 9,000 units of affordable housing have already been lost, and that tens of thousands more are at risk.<sup>71</sup> Current affordable housing programs (e.g., low-income housing tax credits, New Housing Opportunities Program) may recreate the same problem, since those restrictions are likely to expire at a time when land supply is more limited in New York City, and housing prices even higher.

Inclusionary zoning provides an opportunity to break this cycle. Because the benefits to developers (i.e., increased density) will exist in perpetuity, the affordable units created through this program should as well. New York City's existing limited voluntary program stipulates that affordable rental housing needs to be in place for as long as the density bonus is in place. This requirement should be maintained when the program is extended to other areas.

**Recommendation #6. Prioritize on-site development of inclusionary units to encourage mixed-income communities.**

Most jurisdictions allow developers some alternatives to constructing the inclusionary units within the larger market rate project. Alternatives generally include: constructing units in an off-site location; dedicating land on which affordable units could be built; or paying a fee in lieu of building affordable units. The most effective way to ensure that housing affordability follows the geographic distribution of market rate development is to avoid, or minimize the use of, these alternatives. An inclusionary zoning policy that requires on-site construction within the larger development promotes greater distribution of affordable housing, and more consistently fosters mixed-income community development.

**Align use of alternatives to on-site development with broader affordable housing goals.**

The use of off-site construction options and in-lieu fees should be aligned with a community's broader affordable housing goals. When a jurisdiction establishes a policy, it should assess the trade-offs between affordable housing production and distribution. Allowing off-site construction could result in a greater number of affordable units produced in a different neighborhood; or in-lieu fees that are collected could be used to produce housing for deeper income levels than would be possible through an inclusionary zoning policy. On the other hand, off-site construction can further concentrate affordable housing in high-poverty neighborhoods.

The bottom line principle for allowing alternatives should be that off-site options result in more affordable housing than on-site construction. In Boston, payment of in-lieu fees and off-site construction are allowed downtown, but set at levels that produce more affordable housing than if the units were built on-site. In Sacramento, land dedication is a valued alternative in a high land-cost market. Land dedication within a mile of the market development allows a vibrant nonprofit development community to produce more units and utilize Low Income Housing Tax Credits more effectively than they could in land competition with for-profit developers.

**Be clear about the frameworks for accepting alternatives to on-site construction.** Alternatives to on-site construction should be within clearly established guidelines. Allowing alternatives to be used in an ad hoc manner by program administrators and developers seriously compromises the effectiveness of inclusionary zoning. Some locales only allow in-lieu fees for developments that fall below the established project trigger. For example, Boulder requires on-site construction for projects of five or more units, and allows an in-lieu fee on projects of four units or smaller.

### Considerations for New York City:

New York City, inclusionary zoning policy should make the creation of affordable units in market-rate developments a priority to encourage development of mixed-income communities. This is especially true in neighborhood-wide rezonings, where the zoning changes are often likely to lead to displacement pressures on low- and moderate-income residents.

As the existing voluntary program stands, alternatives to on-site development generally require developers to build more units off-site, in close proximity. Community boards could determine appropriate circumstances to allow the option of creating a larger number of affordable units off-site within the same neighborhood, or dedicating land within the same neighborhood.

## Recommendation #7. Draft clear legislation and authorize consistent administrative oversight to manage the IZ program.

Siting affordable units, certifying eligible occupancy, and enforcing long-term affordability provisions require consistent administrative oversight. Jurisdictions typically designate staff from their housing authority, housing finance agency, housing and community development department, or the office of planning to deliver these services. Some contract with a local nonprofit agency to monitor and enforce affordability provisions over time. For jurisdictions to realize the benefits of IZ, serve the intended beneficiaries, and generate long-term results, a commitment to implementation and administration is needed.

**Use clear and specific language to establish the policy.** Inclusionary zoning policies are implemented by the public entity that has land use and zoning authority—in most cities, the city council or zoning commission. The enabling legislation should be clear and concrete about the various aspects of the policy, the obligations of developers, and the responsibilities of the public agency that will administer the program. Well-articulated regulatory guidelines diminish the possibility of loopholes that can undermine the effectiveness of the policy. Clear policies help developers plan for their projects with knowledge of what is expected, and provide guidance to the administrative agency on how they should manage an IZ policy. Once codified in zoning law, however, IZ requirements should allow the administrative agency some discretion for determining when circumstances warrant an adjustment of inclusionary requirements.

In addition to the enabling legislation, jurisdictions may adopt supporting regulations or administrative guidelines for certain aspects of the policy. For

example, if a jurisdiction wants to package inclusionary units with housing choice vouchers, an added resolution by the city council or mayor may be necessary to mandate the developers and the housing authority to participate.

**Commit to strong administration.** When an IZ policy is established, a public agency is designated to administer the program, usually the city's department of housing and/or community development. Having a good policy on the books is meaningless unless a jurisdiction has a deep commitment to administering the policy in a clear and consistent manner.

The administrative agency manages the day-to-day operations of the policy, working with developers through the process of building inclusionary units, interfacing with landlords who rent inclusionary units, collaborating with public agencies such as the housing authority or housing finance agencies, and other related activities. Some of the roles that administrative agencies play include:

**Verifying income eligibility.** When IZ units are first rented or sold either the administrative agency or the developer verifies the income eligibility of applicants. When the jurisdiction manages this process, it usually verifies income eligibility and then creates a waiting list of approved renters or homebuyers from which developers can find prospective tenants or buyers.

**Managing tenant selection process.** In addition to verifying income eligibility, some jurisdictions manage the tenant selection process. This can enable a program to package other forms of housing assistance with IZ units to reach extremely low-income families.

**Overseeing/monitoring the resale process.** A jurisdiction must monitor the initial sale and every resale of IZ units to ensure units are sold or rented at the required prices and occupied by income-eligible households.

**Providing ongoing support and technical assistance and guidance to developers.** Another important function of the administrative agency is to provide guidance and support to developers who are constructing inclusionary units. Through technical assistance, jurisdictions can help developers meet their requirements.

**Determining alternatives when developers face economic hardship.** Jurisdictions should provide clear standards by which a developer can request a full or partial waiver from the inclusionary requirement. Waivers should only be given if the developer can prove economic hardship. Relief can take the form of a reduction in the requirement, alternatives to the requirement, or a waiver of the requirement. The administrative agency—not the developer—should determine what the alternative would be.

**Committing resources to administration.** The agency administering an IZ policy should have the resources necessary to manage the operations of the policy. Some locales utilize in-lieu fees to administer the program, while others allocate administrative resources. The resources required to effectively administer an IZ program vary with the size and age of the program. A 2002 case study of IZ programs in small-to-mid-sized San Francisco Bay Area cities found that annual administrative costs varied from \$40,000 to \$110,000.<sup>72</sup> Monitoring and verifying incomes for Cambridge's IZ program requires the attention of one full-time staff person.<sup>73</sup> Montgomery County's program, with roughly 4,000 units subject to IZ requirements, is administered by three staff people.<sup>74</sup>

Some cities have found they can save administrative costs by subcontracting monitoring and enforcement responsibilities to a nonprofit organization. Palo Alto subcontracts with the nonprofit Palo Alto Housing Corporation to monitor units and qualify household income. The California cities of Livermore, Pleasanton, San Ramon, Dublin, and Danville are jointly developing a nonprofit that would serve as a one-stop clearinghouse for information on IZ rental and sale opportunities, as well as homeowner assistance programs, for each city's inclusionary zoning program.<sup>75</sup>

## Considerations for New York City:

The Bloomberg administration, the City Council, and the City Planning Commission should work together to negotiate clear and consistent policy. Because part of the impetus for a new IZ policy comes from specific neighborhood rezoning plans, there will be pressure to create IZ on an ad hoc basis. While there is room to adjust specific requirements to allow for neighborhood markets and demographics, the larger IZ policy should be transparent and comprehensive, so that landowners, developers, and residents know what to expect.

The New York City Department of City Planning, the Department of Buildings, and the Department of Housing Preservation and Development will need to collaborate to establish unambiguous and consistent guidelines and oversight responsibilities. The New York City Department of Housing Preservation and Development (HPD) is in an ideal position to administer an inclusionary zoning program. HPD already monitors the existing inclusionary housing program, the tax incentive programs (J-51, 421-a) through which for-profit developers agree to provide affordable housing in exchange for tax benefits, and the city's direct affordable housing subsidy programs. Having a mandatory inclusionary zoning policy will modestly increase the administrative oversight required by HPD. Additional resources necessary for this oversight should be calculated and funded as part of the program.

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## Conclusion

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New York City is facing an opportunity to address its affordable housing crisis.

The severe lack of affordable housing threatens the economy, health, education, and safety of New Yorkers. Even with the financial incentives of Mayor Bloomberg's New Housing Marketplace, the demand for affordable units will continue to grow far faster than the supply. More families will face spiraling housing costs and limited options.

At the same time, the city is proposing an ambitious rezoning and neighborhood development agenda, which could result in the creation of over 80,000 new units of housing. If that housing is predominately market rate, this growth will benefit primarily upper-income people. It will not address the housing crisis for low- and moderate-income people, and may even make it worse, as some residents face rising rents and the pressures of displacement.

Inclusionary zoning—especially mandatory inclusionary zoning in areas being significantly rezoned to allow for more housing—can help guarantee that affordable housing is created in mixed-income communities. This report demonstrates how it can work in New York. The success of inclusionary zoning has been demonstrated in hundreds of jurisdictions across the country. It leverages market rate production to create affordable housing. New York City has a long history of balancing the interests of developers and businesses with the needs of its diverse citizenry through smart, progressive public policy. The city and its residents can achieve that balance today through a strong inclusionary zoning policy.

## Notes

<sup>1</sup> New York City provides a remarkable array of financial subsidy and incentive programs for affordable housing development and rehabilitation. Through these programs, more than 200,000 units have been built or renovated over the past 15 years. The subsidies fall into several categories, which are often used in tandem. Mayor Bloomberg's New Housing Marketplace proposal includes all of these categories.

- City Capital Programs: The city uses its own tax levy funds for the renovation of distressed buildings, homeless housing, homeownership assistance, and some new construction. These are projected at \$3.2 billion over the next 10 years.
- NYC Housing Development Corporation: The quasi-public New York City Housing Development Corporation utilizes tax exempt bonds and its own reserve funds for new construction of middle-income (NewHOP), low-income (LAMP), and mixed-income housing (80/20), and for the renovation of distressed buildings. Funding is projected to be \$500 million over the next 10 years.
- Federal subsidies: The city also makes extensive use of federal HOME funds, housing cost vouchers, public housing, community development block grants, and low-income housing tax credits. These funds are projected to be slightly over \$1 billion over the next 10 years.
- Tax abatements: Housing development (both affordable and market rate) is eligible for a wide range of tax abatements. The largest two programs are the J-51 program (for rehabs) and the 421-a program (for new construction). With the Manhattan Exclusion Zone (in areas between 14th and 96th Streets), developers must include affordable units to receive a 421-a tax abatement. It is difficult to estimate the total value of these abatements.

<sup>2</sup> Furman Center for Real Estate and Urban Policy, *State of New York City's Housing and Neighborhoods*, New York University, retrieved from [http://www.law.nyu.edu/realestatecenter/SOC\\_intro.htm](http://www.law.nyu.edu/realestatecenter/SOC_intro.htm).

<sup>3</sup> U.S. Census Bureau, *Census 2000*, retrieved from <http://www.census.gov/>. There is some question whether this includes unreported growth that took place in the 1980s.

<sup>4</sup> Dr. Moon Wha Lee, Selected findings of the 2002 New York City Housing and Vacancy Survey, New York City's Department of Housing Preservation and Development, 2003, retrieved from <http://www.housingnyc.com/research/hvs02/summary.pdf>.

<sup>5</sup> Independent Budget Office, *Mayor Bloomberg's Housing Plan: Downpayment on the Future*, 2003; Housing First!, *Affordable Housing for All New Yorkers: A Review of Mayor Bloomberg's New Housing Marketplace Plan*, 2003.

<sup>6</sup> The vacancy rate for apartments renting at under \$700 was 1.42 percent, down by almost 14 percent in the last three years.

<sup>7</sup> The average daily census for homeless people in the city shelters was over 38,000 for 2003. New York City Department of Homeless Services.

<sup>8</sup> U.S. Census Bureau, *Housing and Vacancy Survey, 2002*, retrieved from <http://www.census.gov/hhes/www/housing/nychvs/2002/>. While monthly rents in NYC increased by 36 percent between 1990 and 2002, median household incomes increased by only 23 percent.

<sup>9</sup> Using the standard calculation of the U.S. Department of Housing and Urban Development that a family can afford to spend 30 percent of household income for rent, and assuming a loan with an interest rate of 6 percent over 30 years.

<sup>10</sup> U.S. Census Bureau, *Housing and Vacancy Survey, 2002*, retrieved from <http://www.census.gov/hhes/www/housing/nychvs/2002/>. 65 percent of the households earning below \$20,000 pay more than 30 percent of their income on rent. 286,000 households with incomes less than \$17,700 pay over 50 percent of their income in rent and do not receive housing subsidy.

<sup>11</sup> A unit with a severely low housing quality is one that has five or more major maintenance deficiencies or is in a dilapidated condition.

<sup>12</sup> John Logan and John Mollenkopf, *People & Politics in America's Big Cities*. Drum Major Institute, 2003.

<sup>13</sup> Alice O'Connor, Chris Tilly, Lawrence D Bobo, *Urban Inequality: Evidence from Four Cities*, Russell Sage Foundation, 2003.

<sup>14</sup> Gary Orfield, *Schools More Separate: Consequences of a Decade of Resegregation*, Harvard University, 2001.

<sup>15</sup> Based on certificates of occupancy. New York City Housing and Neighborhood Information Services, [www.nychanis.com](http://www.nychanis.com).

<sup>16</sup> See note 1.

<sup>17</sup> This typology was suggested by Josh Barbanell, "Remaking, or Preserving, the City's Face," *The New York Times*, January 18, 2004. A more detailed chart is provided in Appendix A.

<sup>18</sup> New York City's median income is \$37,800. \$90,000 is approximately 120 percent of the area median income.

<sup>19</sup> Figures tabulated from Liberty-bond financed development transactions, retrieved from "Reconstruction Watch," *Good Jobs NY*, [http://www.goodjobsny.org/rec\\_news.htm](http://www.goodjobsny.org/rec_news.htm). Only one-fifth of the units approved have any public financing by the New York State Housing Finance Agency (NYS-HFA). They only require 5 percent "affordable" housing to families earning up to \$93,000 per year, therefore only 1 percent of the units are affordable.

<sup>20</sup> New York City Planning Department, "Brooklyn Community District 1," Community District Profiles, retrieved from <http://www.nyc.gov/html/dcp/pdf/lucds/bk1profile.pdf>.

<sup>21</sup> The Corcoran Group, *The Corcoran Report: A Comprehensive Analysis of Residential Real Estate Value in New York City, the East End, and Palm Beach, Mid Year 2004*, New York: NY.

<sup>22</sup> 14,507 renter households represent 69 percent of all renter households earning below \$20,000. See U.S. Census Bureau, *Census 2000*, retrieved from <http://www.census.gov/>.

<sup>23</sup> Collected from a survey of real estate websites, [www.rent-direct.com](http://www.rent-direct.com), [www.elliman.com](http://www.elliman.com) and [www.thedevelopersgroup.com](http://www.thedevelopersgroup.com), May-June 2004.

<sup>24</sup> The realtors associations in New York City only release real estate information for the entire MSA. The real estate prices were gathered from a survey of real estate websites:

[www.rent-direct.com](http://www.rent-direct.com), [www.elliman.com](http://www.elliman.com), [www.thedevelopersgroup.com](http://www.thedevelopersgroup.com) and the New York Times Real Estate section May-June 2004. In Greenpoint-Williamsburg, studios include live-work studios, which can rent for more than one-bedrooms.

<sup>25</sup> Alex Ulam, "The Growth Dividend," *City Limits Monthly*, September/October 2003. New York, NY.

<sup>26</sup> Rezoning Task Force of Brooklyn Community Board 1, "Response to Draft Scope of Work for an Environmental Impact Statement," *Greenpoint-Williamsburg Rezoning*, November 23, 2003.

<sup>27</sup> By offering a 10 percent density bonus, and requiring a 10 percent set-aside, the total number of market units is reduced (e.g., 200 unit building receives 10 percent density = 220 units - 22 units set-aside = 198 market units).

<sup>28</sup> Jonathan Bowles, "City Zoning Decisions Further Harm NYC Manufacturers," Testimony before City Council Select Committee on Waterfronts and the Committee on Economic Development, Center for an Urban Future, November 21, 2003.

<sup>29</sup> Julia Vitullo-Martin, *Rethinking Staten Island*, The Manhattan Institute's Center for Rethinking Development, October 2003.

<sup>30</sup> Staten Island Growth Management Taskforce, *Final Report: Recommendations to Mayor Michael R. Bloomberg*, 2003.

<sup>31</sup> Julia Vitullo-Martin, "The Overdevelopment Debate," *Gotham Gazette*, February 9, 2004; Tri-State Transportation Campaign, "SI Growth Panel Needs to Look at Big Picture," *Mobilizing the Region*, September 15, 2003.

<sup>32</sup> U.S. Census Bureau, *Housing and Vacancy Survey*, 2002.

<sup>33</sup> Rent burdens are rents of more than 30 percent of income. Severe housing burdens are more than 50 percent of income for renter households and more than 60 percent for owner occupied households.

<sup>34</sup> Collected from a survey of real estate listings, [www.realtor.com](http://www.realtor.com), May-June 2004.

<sup>35</sup> Innovative Housing Institute, *The House Next Door*, 1999, retrieved from [www.inhousing.org/housenex.htm](http://www.inhousing.org/housenex.htm).

<sup>36</sup> David Rosen, "Inclusionary Housing and its Impact on Housing and Land Markets," *Inclusionary Zoning: The California Experience*, National Housing Conference, 2004.

<sup>37</sup> Ibid.

<sup>38</sup> City of New York, *Zoning Resolution*. (New York, NY: Department of City Planning), Available from [www.ci.nyc.ny.us/nhtml/dcp/pdf/zone/art02.pdf](http://www.ci.nyc.ny.us/nhtml/dcp/pdf/zone/art02.pdf), 2002.

<sup>39</sup> An R10 zone is the highest density residential district in New York and allows for a maximum of 551 to 700 units per acre with additional density granted under the Inclusionary Housing Program. Department of City Planning, *Consolidated Plan*, Volume 2, New York, NY, 2004.

<sup>40</sup> Richard Barth, executive director, Department of City Planning, web forum response to Tom Angotti, "Residential Segregation," *Gotham Gazette*, May 5, 2004, New York City, N.Y., June 3, 2004, retrieved from [www.gothamgazette.com/forums/read.php?f=20&i=63&t=63](http://www.gothamgazette.com/forums/read.php?f=20&i=63&t=63).

<sup>41</sup> New York City Housing Finance Committee Zoning Committee, *A Proposal to Enhance Tax and Zoning Incentives for Housing Production*, (New York, NY: Citizens Housing and Planning Council), November 2002.

<sup>42</sup> The number of potential affordable units that could be produced through an inclusionary zoning program in Manhattan is based on a 20 percent set-aside of market rate units in developments of 10 or more built from 1987 to 2002. The number of market rate units was determined by subtracting the number of units assisted through New York City Capital Programs (as reported by the Department of Housing Preservation and Development) from the number of new housing units issued certificates of occupancy (as reported by the Department of City Planning). See U.S. Census Bureau, *Housing and Vacancy Survey*, 2002, retrieved from <http://www.census.gov/hhes/www/housing/nyc/hvs/2002/>.

<sup>43</sup> A family income of \$39,459 can afford \$1,096 monthly, which is lower than typical rent for a two-bedroom apartment.

<sup>44</sup> Collected from a PolicyLink/Pratt survey of real estate websites, [www.rent-direct.com](http://www.rent-direct.com), [www.realtor.com](http://www.realtor.com); Asian Americans for Equality survey.

<sup>45</sup> Sum of all reported rezoning and project plans. See Appendix A, Table 1.

<sup>46</sup> Alan Feuer, "Stress of Harlem's Rebirth Shows in School Move to a New Building," *New York Times*, February 2, 2004.

<sup>47</sup> Alan J. Wax and Tania Padgett, "Things are looking Uptown," *Newsday*, August 2002.

<sup>48</sup> Ibid.

<sup>49</sup> The realtors associations in New York City only release real estate information for the entire MSA. The real estate prices were gathered from a survey of real estate websites:

[www.rent-direct.com](http://www.rent-direct.com), [www.elliman.com](http://www.elliman.com),

[www.thedevelopersgroup.com](http://www.thedevelopersgroup.com), The Cocoran Report Year End 2003, and the New York Times Real Estate section May-June 2004. In Central Harlem, studios include live-work studios, which can rent for more than one-bedrooms.

<sup>50</sup> Phillip B. Herr, "Zoning for Affordability in Massachusetts: An Overview," *Inclusionary Zoning: Lessons Learned in Massachusetts*, National Housing Conference Affordable Housing Policy Review, Jan. 2002, p.4.

<sup>51</sup> Nick Brunick, Laureng Goldberg, and Susannah Levine, "Large Cities and Inclusionary Zoning," *Business and Professional People for the Public Interest*, November 2003, Chicago, IL, page 4.

<sup>52</sup> Two possible provisions for Greenpoint-Williamsburg inclusionary units include either 1) a single tier of affordability at 80 percent of the area median income; or 2) a two tiered approach with 80 percent of the units at 80 percent area median income, 10 percent of the units at 50 percent, and 10 percent of the units at 100 percent.

<sup>53</sup> Department of City Planning, *Consolidated Plan*, Volume 2, New York, NY: 2004.

<sup>54</sup> The share of the lot area that falls into R6-R9 zones as of 2003 is roughly 60 percent in Manhattan, 40 percent in Brooklyn, 25 percent in the Bronx, 8 percent in Queens, and 0.1 percent in Staten Island. Tabulated from Spacetrack, Inc., LotInfo 2003.

<sup>55</sup> Matthew Strozier, "How West Farms was Won," *City Limits*, Sept/Oct 2000.

<sup>56</sup> Population Division-New York City Planning Department, "Bronx Community District 6," *Community District Profiles*, Dec 2001, retrieved from <http://www.ci.nyc.ny.us/html/dcp/pdf/lucds/bx6profile.pdf>.

<sup>57</sup> U.S. Census Bureau, *Housing and Vacancy Survey*, 2002, retrieved from <http://www.census.gov/hhes/www/housing/nycvs/2002/>. Data on housing burdens include an area larger than the community district.

<sup>58</sup> Ibid.

<sup>59</sup> 1,797 units were new construction (rental and owner).

<sup>60</sup> Nick Brunick, Lareng Goldberg, and Susannah Levine, "Large Cities and Inclusionary Zoning," *Business and Professional People for the Public Interest*, November, 2003, Chicago, IL, page 4.

<sup>61</sup> New York City Housing Finance Committee Zoning Committee, *A Proposal to Enhance Tax and Zoning Incentives for Housing Production*, New York, NY: Citizens Housing and Planning Council, November 2002.

<sup>62</sup> Calavita, Grimes, and Mallach, "Inclusionary Housing in California and New Jersey," *Housing Policy Debate*, Vol. 8, No. 1, 1997.

<sup>63</sup> Ibid.

<sup>64</sup> Non-Profit Housing Association of Northern California and California Coalition for Rural Housing, *Inclusionary Housing in California: 30 Years of Innovation*, 2003, p.10.

<sup>65</sup> Interview with Chris Cotter, housing project planner, Cambridge, Ma., June 2003.

<sup>66</sup> For households that meet minimum credit criteria and make less than 70 percent of the area median income, the authority offers 3.5 percent interest rate mortgages covering 100 percent of housing costs (i.e., no down payment is required). Interview with Bonnie Conrad, homeownership manager, Fairfax County, July 2003.

<sup>67</sup> Interview with Armando Sanchez, program consultant, South San Francisco, Ca., June 2003.

<sup>68</sup> A 2000 report by the Center on Budget and Policy Priorities, *Section 8 Utilization and the Proposed Housing Voucher Success Fund*, found that while the national success rate for voucher uses was 87 percent, the New York City rate was just 62 percent.

<sup>69</sup> Karen D. Brown, *Expanding Affordable Housing Through Inclusionary Zoning: Lessons from the Washington Metropolitan Area 2001*, p.30.

<sup>70</sup> Business and Professional People for the Public Interest, *Opening the Door to Inclusionary Housing*, 2003.

<sup>71</sup> James DeFillipis, *Keeping the Doors Open: HUD-subsidized Housing in New York City*, Community Service Society 2003); and NYC Comptroller William C. Thompson, *Affordable No More: New York City's Looming Crisis in Mitchell-Lama and Limited Dividend Housing*, 2004.

<sup>72</sup> Bay Area Economics, *San Jose Inclusionary Housing Study*, February 2002, p.13.

<sup>73</sup> Interview with Chris Cotter, housing project planner, Cambridge, Ma., June 2003.

<sup>74</sup> Interview with Eric Larsen, MPDU program coordinator, Montgomery County, Md., June 2003.

<sup>75</sup> Interview with Milly Siebel, Housing and Human Services Division, Livermore, Ca., August 2003.



## Appendix A. New Housing Potential from New York City Rezoning Initiatives

As described in Part One of the report, the New York City Department of City Planning has proposed an extensive set of rezoning and redevelopment initiatives. The following chart compiles information on

the number of new housing units that the NYC Department of City Planning estimates could be created as a result of the rezoning and redevelopment initiatives described in Part One of this report.\* The rationale for our estimates of how many of these units are likely to be affordable is contained in the footnotes.

*\*Data on units in pipeline and potential new units was taken from the Scopes of Work for the Environmental Impact Statements prepared by The Department of City Planning.*

**Appendix A. Table 1.** New Housing Potential from Rezoning/Redevelopment Initiatives Proposed by the New York City Department of City Planning, 2003-2005

	Rezoning Type	New Units in Pipeline by 2013	Potential New Units	Estimated Affordable Units	Estimated Affordable as % of New Units
<b>Manhattan</b>					
East Harlem <sup>a</sup>	Balanced neighborhood	383	1,319	419	32%
Frederick Douglass Blvd <sup>a</sup>	Balanced neighborhood	690	1,050	263	25%
Hudson Square <sup>b</sup>	Manufacturing to residential/commercial	646	835	84	10%
Lower Manhattan <sup>b</sup>	Business district upzoning	10,000	15,000	450	3%
Hudson Yards <sup>c</sup>	Manufacturing to residential/commercial	12,000	20,000	2,000	10%
Ladies Mile <sup>c</sup>	Manufacturing to residential/commercial	1,000	1,000	100	10%
West Chelsea <sup>c</sup>	Manufacturing to residential	4,200	7,800	780	10%
Manhattanville	Manufacturing to residential/commercial.	TBD	TBD	TBD	TBD
<b>The Bronx</b>					
Morrisania <sup>a</sup>	Manufacturing to residential	320	320	80	25%
The Hub	Business district upzoning	TBD	TBD	TBD	TBD
Port Morris	Manufacturing to residential/commercial	TBD	TBD	TBD	TBD
<b>Brooklyn</b>					
Park Slope <sup>d</sup>	Balanced neighborhood	600	1,200	36	3%
Bridge Plaza <sup>d</sup>	Manufacturing to residential/commercial	295	1,811	54	3%
Downtown Brooklyn <sup>e</sup>	Business district upzoning	1,000	1,000	150	15%
Greenpoint-Williamsburg <sup>d</sup>	Manufacturing to residential	7,400	21,200	636	3%
Brooklyn Atlantic Yards <sup>f</sup>	Manufacturing to residential/commercial	4,500	4,500	900	20%
Bedford-Stuyvesant	Balanced neighborhood	TBD	TBD	TBD	TBD
DUMBO	Manufacturing to residential/commercial	TBD	TBD	TBD	TBD
<b>Queens</b>					
North Corona <sup>d</sup>	Balanced neighborhood	231	659	20	3%
Hunters Pt-Long Island City <sup>d</sup>	Manufacturing to residential/commercial	600	1,000	30	3%
Flushing <sup>d</sup>	Business district upzoning	350	1,400	42	3%
Jamaica	Business district upzoning	TBD	TBD	TBD	TBD
<b>Citywide</b>		<b>44,215</b>	<b>80,094</b>	<b>6,044</b>	<b>7.5%</b>

## Appendix A. Notes

<sup>a</sup> Harlem and the Bronx (East Harlem, Frederick Douglass Boulevard, Morrisania): Housing Preservation and Development (HPD)/City Planning project 185 new affordable units in the next 10 years as a result of the East Harlem Rezoning. PolicyLink/Pratt estimate 25 percent affordability on the remaining potential units in these rezonings, assuming that a substantial number of developers will choose New York City Housing Development Corporation (HDC)/HPD or other programs.

<sup>b</sup> Below Houston Street (Hudson Square, Lower Manhattan): Lower Manhattan redevelopment is not driven by rezoning, but by the availability of Liberty Bond financing. Out of 5,661 units approved for Liberty Bond Financing (as of 3/15/04), 99 percent are luxury (5,585), and 1 percent (76) are "affordable"—with affordability defined as families earning over \$90,000. We estimated 1 percent of total units, plus 300 additional units at Site 5B, to be developed with a subsidy from the Lower Manhattan Development Corporation.

<sup>c</sup> Midtown (Hudson Yards, Ladies Mile, West Chelsea): We assumed that the Manhattan Exclusion Zone of the 421-a program\* would be extended to include these areas. Following an earlier rezoning of Chelsea, the city has indicated that 13 percent of new units built were affordable, utilizing the 421-a or voluntary inclusionary housing program. However, use of the 421-a program declined 24 percent in 2003, and Manhattan developers are increasingly building condominiums, which are not under the program (see section on Midtown, page 17). We therefore estimated that 10 percent of new units would be affordable.

*\*The 421-a program provides a tax abatement for new construction of housing. In Manhattan, roughly between 14th and 96th Streets (though not currently including the West Side), developers seeking a 20-year abatement must include 20 percent affordable housing.*

<sup>d</sup> Strong market outer-borough neighborhoods (Park Slope, Bridge Plaza, Greenpoint-Williamsburg, North Corona, Hunters Point, Flushing): In Greenpoint-Williamsburg, PolicyLink/Pratt analyzed development over the past two years and, out of 1,000 new units, no developers have chosen to use the city's affordable housing programs. Approximately 3 percent of the units are moderate-income, based on location. On 4th Avenue in Park Slope, despite the city's commitment of \$6 million, the rezoning has thus far resulted in the loss of affordable housing opportunities. A site slated for affordable housing development (80 units) was pulled from the program just prior to closing, and sold to a developer who plans to produce only market rate units. We estimated 3 percent of the units would be affordable in these neighborhoods.

<sup>e</sup> Downtown Brooklyn: HPD is reportedly working on a deal for one of the new residential sites on Myrtle Avenue, under the NewHOP Mod (50/30/20) program. We estimate this would include 150 affordable units.

<sup>f</sup> Brooklyn Atlantic Yards: Forest City Ratner has proposed developing a mix of market-rate, middle-income, and affordable housing (retrieved from [www.bball.net](http://www.bball.net)). The community organization ACORN believes FC Ratner has committed 50 percent of the housing at below market. Without concrete figures, it is estimated that 20 percent of the units would be affordable (assuming an 80/20 development). Additional units would likely require additional subsidy from HPD.



## Appendix B. Development Finance and Architectural Analysis of Inclusionary Zoning Models on New York City Sites

Pratt evaluated the financial and architectural impact on three model sites to assess the viability of inclusionary zoning for New York City. The goal of the analysis was to evaluate the potential impact of a requirement in upzoned areas and an incentive in other areas that new developments include affordable units, by using a representative development scenario for rental and for-sale developments. The goal was not a comprehensive analysis to set precise income targeting and set-aside requirements in all neighborhoods, but instead to assess basic feasibility. The analysis revealed the following:

- A mandatory requirement of 20 percent affordable units is feasible on both large condominium and apartment sites.
- A voluntary incentive of 20 percent affordable units would increase the viability of small apartment sites.
- Developers would still be able to achieve their targeted rate of return.
- Land prices would be moderated by the mandatory program, as developers negotiated lower acquisition prices due to factoring in the affordability requirement. However, current owners would still receive a substantial windfall. The value of their land would be greater after the rezoning than it was before.

The full financial pro-formas for these development scenarios are available at [www.picced.org](http://www.picced.org).

### Site 1. Waterfront Condominium Site in Greenpoint-Williamsburg, Brooklyn

Pratt considered a waterfront site in Greenpoint-Williamsburg, Brooklyn, which is being rezoned from manufacturing to residential use, and utilized site-specific zoning and financial data provided by the New York City Departments of City Planning and Housing Preservation and Development (HPD). However, Pratt assumed that the developer would build condos (as nearly all developers in Greenpoint-Williamsburg have over the past several years), rather than rental apartments, as assumed by HPD. Conclusions of the analysis reveal:

- 20 percent of the total new units created could be made affordable (to a mix of families earning from \$25,000 to \$55,000), with no public subsidy, through mandatory inclusionary zoning.
- The developer would still be able to receive the targeted financial return—18 percent annual return on equity—that market-rate condo developers are currently seeking by leveraging the higher cost of development with the IZ density bonus and other cost offsets.
- The requirement would lead developers to offer lower acquisition prices for the land than they would without a requirement. However, average existing landowners would still receive a windfall of approximately 800 percent as a result of the rezoning, based on the average prices those owners have paid for their land.
- Deeper affordability, or additional affordable units, would be possible through the use of public subsidies, including Section 8 housing cost vouchers, tax incentives, or city capital programs.

**Appendix B. Table 1.** Summary Comparison Financials for Waterfront Condominium Site, Greenpoint-Williamsburg

	Without IZ Requirement	With IZ Requirements	Assumptions
<b>Market rate units</b>	530	428	
<b>Affordable units</b>	0	102	
<b>Total units</b>	530	530	
<b>Construction costs</b>	\$120,129,565	\$120,129,565	\$18 per s.f. (HPD)
<b>Soft costs</b>	\$42,542,656	\$37,471,190	30% of hard costs, plus infrastructure and parking (HPD)
<b>Site acquisition offer</b>	\$71,352,832	\$41,529,578	Maximum offer given profit target
<b>Total development cost</b>	\$234,542,053	\$199,130,333	
<b>Gross sales</b>	\$261,340,564	\$221,780,554	Avg. of \$550/s.f. for market units
<b>Net profit (pre-tax, upon sale)</b>	\$27,315,511	\$22,650,221	
<b>Developer equity</b>	\$47,925,05	\$39,730,333	
<b>Annualized return</b>	<b>19%</b>	<b>19%</b>	
<b>Acquisition cost</b>	<b>\$601.60/s.f.</b>	<b>\$350.20/s.f.</b>	Per s.f. of land
	<b>\$128.00/b.s.f.</b>	<b>\$74.50/b.s.f.</b>	Per buildable s.f.

**Appendix B. Table 2.** Estimated Compared Effects on Land Prices of Waterfront Condominium Site, Greenpoint-Williamsburg

	Price Per S.F. of Land	Price Per Buildable S.F.
<b>Average actual price paid by existing owners<sup>1</sup></b>	\$33.66	\$7.83
<b>Price theoretical developer could offer with no IZ requirement</b>	\$601.60	\$128.00
<b>Price theoretical developer could offer with IZ requirement</b>	\$350.20	\$74.50
<b>Average profit per square foot on sale of land, with IZ requirement</b>	\$322.73 (950%)	\$82.33 (950%)

<sup>1</sup> Tabulation of available sales information for all of the waterfront sites in the rezoning area. Sales prices ranged from \$2.44 to \$46.73 per square-foot, from 1987 through 2002. The full list of sites is available at [www.picced.org](http://www.picced.org).

## Site 2. Wide Avenue Apartment Site in Central Harlem, Manhattan

This is a typical site along Frederick Douglass Boulevard in Central Harlem, above 125th Street. City Planning recently rezoned this avenue from Central Park North to 125th Street to allow for more density. An additional upzoning may take place at a later date in the area from 125th to 155th Street (e.g. from R6 to R7X or R8A). Pratt analyzed the implications of including a 20 percent mandate in such a rezoning. Conclusions of the analysis reveal:

- The site would be infeasible to develop as a market-rate project under the current zoning, assuming market-rate developer profit expectations.
- The site could be profitably developed after a rezoning, with a mandatory inclusionary requirement, using New York City's 50/30/20, or NewHOP Mod program, to meet the requirements.
- Under this program, half of the units would be at market rate rents (\$1,800 to \$2,300/month), 30 percent would be rented to middle-income families (\$1,300-\$2,000/month), and 20 percent would be rented to low-income families (\$600-\$800/month).
- The site owner would receive a 34 percent increase in the value of their property.

## Site 3. Small Infill Sites in East Tremont, Bronx

Pratt analyzed the architectural feasibility of building on small sites with a voluntary density bonus. A developer in West Farms, the Bronx, could achieve a 30-unit development on a site of approximately 9,000 square feet if granted a 20 percent density bonus, versus the current developer's need to assemble a larger site of 11,000 square feet.

Developers generally estimate that a project needs to include at least 30 units to be viable under New York City Housing Development Corporation's Low-Income Affordable Market Place (LAMP) program. In an R6A zone with a 3.00 floor-area ratio (FAR), a 30-unit building would require at least 10,000 square feet (100' by 100') and reach six stories. With an inclusionary bonus of 20 percent density, the building could have a 3.60 FAR, be built on a smaller lot of 8,500 square feet (85' by 100') and reach seven stories.

As a result, sites now vacant and considered too small to develop would become viable for multi-family affordable housing.

**Appendix B. Table 3.** Summary Comparison Financials for Wide Avenue Apartment Site, Central Harlem

	Prior to Rezoning	Post-Rezoning With IZ Requirements	Assumptions
<b>Market rate units</b>	24	21	
<b>Middle income units (100% AMI)</b>	0	12	
<b>Low income units (60% AMI)</b>	0	8	
<b>Total Units</b>	24	41	
<b>Construction costs</b>	\$3,900,677	\$7,038,360	\$140 per s.f.
<b>Soft costs</b>	767,747	\$1,667,081	Project-specific
<b>Site acquisition offer</b>	\$1,375,900	\$1,915,200	Maximum offer given profit target
<b>Total development cost</b>	\$6,044,324	\$11,498,205	
<b>Annual net cash flow</b>	\$65,187	\$75,048	
<b>Developer fee</b>	unable to support	\$877,564	
<b>Long-term developer equity required</b>	\$1,961,812	\$811,900	
<b>Annualized return</b>	<b>3.3%</b>	<b>9.3%</b>	
<b>Acquisition cost</b>	<b>\$172/s.f.</b>	<b>\$230/s.f.</b>	Per s.f. of land

## Appendix C. Key Components of an Inclusionary Zoning Policy

Component	Description/Best Practices
<b>Voluntary vs. mandatory</b>	<ul style="list-style-type: none"> <li>• Inclusionary zoning can be mandatory, requiring developers to build affordable units in exchange for building permits, or incentive-based, allowing developers to voluntarily “opt-in.”</li> <li>• Mandatory policies have produced far more affordable units than voluntary programs.</li> </ul>
<b>Set-aside</b>	<ul style="list-style-type: none"> <li>• The percentage of units within a proposed development that must be earmarked as affordable. Cities have set-aside requirements that range from as low as 5 percent to as high as 35 percent. The higher the set-aside, the more affordable units will be generated.</li> <li>• Set-asides are rarely less than 10 percent.</li> </ul>
<b>Income target</b>	<ul style="list-style-type: none"> <li>• The income level to which inclusionary units are targeted. Most jurisdictions set the income target of their programs based upon a percentage of the area’s median income (AMI).</li> <li>• Some jurisdictions choose to tier their income targets, for example, building half of the units at 50 percent of AMI, and the other half of units at 80 percent of AMI. This allows jurisdictions to meet affordable housing needs at several income levels.</li> <li>• IZ policies are most effective when income targets are set at levels where housing need is most acute.</li> </ul>
<b>Size of development (“project trigger”)</b>	<ul style="list-style-type: none"> <li>• The project threshold to which the inclusionary zoning policy will apply. (e.g., projects of 5, 10, 20 units).</li> <li>• Some jurisdictions apply inclusionary zoning policies to all development that is happening in the community, with larger projects required to construct units and smaller projects paying an in-lieu fee.</li> <li>• The rule of thumb is to ensure that the inclusionary zoning policy is applicable to the majority of the residential market and reflective of housing development patterns.</li> </ul>
<b>For sale/rental</b>	<ul style="list-style-type: none"> <li>• The inclusionary requirement can apply to owner-occupied and/or rental units.</li> <li>• The vast majority of policies apply to both.</li> </ul>
<b>Developer compensation</b>	<ul style="list-style-type: none"> <li>• Jurisdictions typically offer developers compensation—or cost offsets—to decrease the developer’s cost of construction in exchange for production of affordable units.</li> <li>• One of the most popular forms of cost-offsets or developer compensation is the density bonus, where the developer is allowed to construct additional market rate units beyond what is allowed under zoning law. Other cost offsets utilized by jurisdictions include: expedited permitting, reduced parking requirements, and waivers or deferrals of certain municipal fees.</li> </ul>

Component	Description/Best Practices
<b>Off-site construction and in-lieu fees</b>	<ul style="list-style-type: none"> <li>Some programs allow alternatives to constructing affordable units on-site, within the larger market rate development. The two most common alternatives are allowing affordable units to be constructed in an off-site location, or the payment of a fee in-lieu of building the units.</li> <li>If in-lieu fees are part of an IZ policy, they should be set at a level comparable to the costs associated with producing affordable housing units. Otherwise, the IZ policy is seriously weakened.</li> <li>On-site construction leads to greater economic and racial integration.</li> </ul>
<b>Apply to rehab units, condo conversions, and adaptive re-use</b>	<ul style="list-style-type: none"> <li>Some programs apply an inclusionary requirement to rehab, condo conversions, and adaptive re-use. However, the practice is not widespread.</li> </ul>
<b>Similarity/compatibility of inclusionary and market rate units</b>	<ul style="list-style-type: none"> <li>Many IZ policies require developers to construct affordable units that are similar or compatible in outward appearance to market rate units. This requirement contributes to cohesiveness in the physical appearance of a neighborhood to overcome negative perceptions of what constitutes “low income” housing.</li> <li>Developers have a vested interest in adhering to this requirement since units that are disparate in outward appearance can lower the market value of the development.</li> </ul>
<b>Production of inclusionary and market rate units</b>	<ul style="list-style-type: none"> <li>Jurisdictions can require that inclusionary units should be constructed prior to, simultaneous with, or after market rate units.</li> <li>Nearly all jurisdictions with IZ policies now require prior or simultaneous construction of affordable units to ensure they are produced.</li> </ul>
<b>Dispersal of affordable units</b>	<ul style="list-style-type: none"> <li>Nearly all IZ policies today require inclusionary units to be dispersed throughout a development. This helps affordable units blend in so that they can be truly integrated with market-rate units, and escape the usual stigma attached to affordable housing.</li> <li>Dispersal is particularly important for projects with multiple, detached units.</li> </ul>
<b>Terms of affordability</b>	<ul style="list-style-type: none"> <li>The length of time an inclusionary unit stays affordable ranges from five years to perpetuity; these requirements are included as deed restrictions.</li> <li>Longer affordability terms (30 years or longer) ensure that inclusionary units stay affordable for future generations.</li> <li>Programs often have a limited equity component that allow homebuyers to sell their properties at a price that is upwardly adjusted from the price at which they bought it; but the resale price is capped to preserve affordability.</li> </ul>
<b>Administration and enforcement</b>	<ul style="list-style-type: none"> <li>Departments of community development and/or housing typically administer IZ programs. The administrative agency manages the day-to-day operations of the program, monitors compliances, and tracks effectiveness.</li> <li>The designated public agency should be appropriately resourced to carry out these tasks.</li> </ul>
<b>Getting to deeper affordability</b>	<ul style="list-style-type: none"> <li>Once inclusionary units are constructed, jurisdictions can utilize other affordable housing resources (e.g., housing choice voucher dollars) or purchase IZ units to reach very low-income families.</li> </ul>

# Acknowledgments

# Acknowledgments

## Appendix D. Select Examples of Cost-Offsets Utilized By Jurisdictions With Inclusionary Zoning Policies

Type of Cost-offsets	What It Does and Why It Helps Developers	Example
<b>Density bonus</b>	Allows developers to build at a greater density than residential zones typically permit. This allows developers to build additional market-rate units without having to acquire more land.	Most jurisdictions offer density bonuses. Typically they are equivalent to the required set-aside percentage. For example, Santa Fe, New Mexico, varies its set-aside from 11 to 16 percent depending on the type of development and matches its density bonus accordingly.
<b>Unit size reduction</b>	Allows developers to build smaller, or differently configured, inclusionary units, relative to market rate units, reducing construction and land costs.	Many programs allow unit size reduction while establishing minimum sizes. Burlington, Vermont, requires that inclusionary units be no smaller than 750 sq ft. (1-bedroom), 1,000 sq ft. (2-bedroom), 1,100 (3-bedroom) or 1,250 sq ft. (4-bedroom). <sup>1</sup>
<b>Design flexibility</b>	Grants flexibility in design guidelines—such as reduced setbacks from the street or property line, or waived minimum lot size requirement—utilizing land more efficiently.	Boston, Massachusetts, grants inclusionary housing projects greater floor-to-area ratio allowances. <sup>2</sup> Sacramento, California, permits modifications of road width, lot coverage, and minimum lot size in relation to design and infrastructure needs. <sup>3</sup>
<b>Fee waivers or reductions</b>	Reduces costs by waiving the impact and/or permit fees that support infrastructure development and municipal services. A jurisdiction must budget for this, since it will mean a loss of revenue.	Longmont, California, waives up to 14 fees if more affordable units (or units at deeper levels of affordability) are provided. Average fees waived are \$3,250 per single family home, \$2,283 per apartment unit. <sup>4</sup>
<b>Fee deferrals</b>	Allows delayed payment of impact and/or permit fees. One approach allows developers to pay fees upon receipt of certificate of occupancy, rather than upon application for a building permit, reducing carrying costs.	San Diego, California, allows deferral of Development Impact Fees and Facility Benefit Assessments. <sup>5</sup>
<b>Fast track permitting</b>	Streamlines the permitting process for development projects, reducing developers' carrying costs (e.g., interest payments on predevelopment loans and other land and property taxes).	Sacramento, California, expedites the permitting of inclusionary zoning projects to 90 days from the usual time frame of 9-12 months. The City estimates an average savings of \$250,000 per project. <sup>6</sup>
<b>Relaxed parking requirements</b>	Allows parking space efficiency in higher density developments with underground or structured parking: reducing the number or size of spaces, or allowing tandem parking.	Denver, Colorado, waives 10 required parking spaces for each additional affordable unit, up to a total of 20 percent of the original parking requirement. <sup>7</sup>

<sup>1</sup> City of Burlington, "Article 14," Burlington Zoning Ordinance: Inclusionary Zoning/Density Bonus.

<sup>2</sup> Business and Professional People in the Public Interest, *Opening the Door to Inclusionary Housing*, 2003, p.62.

<sup>3</sup> City of Sacramento, Title 17, Chapter 17.190 of the Sacramento City Code.

<sup>4</sup> Interview with Cindy Fedler, CDBG and affordable housing programs coordinator, City of Longmont, July 2003.

<sup>5</sup> San Diego Housing Commission, Report CCR 02002–Attachment 3: Menu of Potential Incentives, June 2002; retrieved from <http://www.housingsandiego.org/Attach3.pdf>.

<sup>6</sup> Interview with Beverly Fretz-Brown, director of policy and planning, Sacramento Housing and Redevelopment Agency, City of Sacramento, July 2003.

<sup>7</sup> Business and Professional People in the Public Interest, *Opening the Door to Inclusionary Housing*, 2003, p.78.

## Appendix E. Examples of Mandatory Inclusionary Zoning Programs

Jurisdiction	Set Aside	Trigger	Income Targets	Compensation
Boston, MA	10%	10 units	< 80% AMI (1/2) 80-120% AMI (1/2)	<ul style="list-style-type: none"> <li>Tax break</li> <li>Increased height/FAR allowance</li> </ul>
Boulder, CO	20%	1 unit	< 80% AMI	<ul style="list-style-type: none"> <li>NONE</li> </ul>
Cambridge, MA	15%	10 units	Avg. of 65% AMI 10-30% AMI <sup>1</sup> (reached by packaging with other affordable housing resources)	<ul style="list-style-type: none"> <li>30% density bonus (15% for market units, 15% for affordable units)</li> </ul>
Davis, CA	25-35%	5 units	<50% AMI (2/7) 50-80% AMI (5/7)	<ul style="list-style-type: none"> <li>25% density bonus</li> </ul>
Denver, CO <sup>2</sup>	10%	30 for-sale units	< 80% AMI (<3 stories) < 95% AMI (4+ stories) < 65% AMI (rental)	<ul style="list-style-type: none"> <li>10% density bonus</li> <li>\$5,000/unit cash subsidy</li> <li>Reduced parking requirements</li> <li>Expedited review</li> </ul>
Fairfax County, VA	6.25-12.5%	50 units	< 70% AMI 25-40% AMI <sup>3</sup> (reached by packaging with other affordable housing resources)	<ul style="list-style-type: none"> <li>10-20% density bonus</li> </ul>
Montgomery County, MD	12.5-15%	35 units	< 65% AMI < 30% AMI <sup>4</sup> (reached by packaging with other affordable housing resources)	<ul style="list-style-type: none"> <li>Up to 22% density bonus</li> <li>Fee waivers</li> <li>Lower min. lot area requirements</li> <li>Reduced property taxes in high-rises</li> </ul>
Sacramento, CA	15%	10 units (greenfield areas)	< 50% AMI (2/3) 50-80% AMI (1/3)	<ul style="list-style-type: none"> <li>25% density bonus</li> <li>Fee waivers or deferrals</li> <li>Expedited review</li> <li>Reduced land use limits</li> <li>Less expensive finishes allowed</li> <li>Gap financing</li> </ul>
San Diego, CA	10%	2 units	65% AMI (rental) 100% AMI (for-sale)	<ul style="list-style-type: none"> <li>Expedited review</li> <li>Reduced water and sewer fees</li> </ul>
San Francisco, CA	12%	10 units	60% AMI (rental units) 100% AMI (for-sale)	<ul style="list-style-type: none"> <li>Fee waivers</li> </ul>
Santa Fe, NM	11-16%	1 unit	Avg. of 65% AMI	<ul style="list-style-type: none"> <li>11-16% density bonus</li> </ul>
South San Francisco, CA	20%	5 units	80-120% AMI (3/5) 50-80% AMI (2/5)	<ul style="list-style-type: none"> <li>NONE</li> </ul>

### Acknowledgments

<sup>1</sup> Interview with Mike Johnston, director of leasing and occupancy, Cambridge Housing Authority, August 2003.

<sup>2</sup> Denver's program is mandatory for ownership units but voluntary for rentals.

<sup>3</sup> Interview with Bonnie Conrad, homeownership program manager, Fairfax County, July 2003.

<sup>4</sup> Interview with Bobbie Costa, scattered sites manager, Rental Assistance Division, Housing Opportunities Commission, September 2003.

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