NEW DENSITY AND SHRINK-WRAPPED STREETS: CONTEXTUAL ZONING POLICY IN NEW YORK CITY

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ABSTRACT: Contextual zoning emerged in New York City (NYC) during the 1980s, and by the time Mayor Michael Bloomberg left office in 2013, over forty percent of the city’s tax lots were contextually zoned. While contextual zoning was first introduced to promote new development, certain land use experts criticize that contextual zoning converted into a euphemism for “downzoning,” with harmful implications for NYC’s ability to grow in the face of the city’s housing crisis. In this Note, we find that in many instances, contextual zoning did transform into a “shrink-wrapping” tool.

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under the Bloomberg administration, and we argue that in an environment of exploding population density and severe affordability pressures, no community should be entitled to keep its neighborhood completely unchanged or underbuilt.

INTRODUCTION

Contextual zoning first emerged in New York City (NYC) during the 1980s, and by the time Mayor Michael Bloomberg left office in 2013, over forty percent of the city’s tax lots were contextually zoned.¹ As of 2015, 327,391 of NYC’s 819,833 residential lots were regulated by contextual zoning policies.² As explored in greater detail below, contextual zoning is a form-based zoning approach that specifies building design and encourages interaction between buildings and the streetline. In contextual districts, regulations may dictate building shape, parking requirements, street walls, and interior space guidelines, in addition to other urban design factors.

While contextual zoning was first introduced to promote new development, certain land use experts criticize that contextual zoning has converted into a euphemism for “downzoning,” with harmful implications for affordability and NYC’s ability to grow. NYC is facing a serious housing crisis,³ and the city’s set of tools to create affordable housing—including the use of vacant land and in

² We relied on the NYC Zoning Tax Lot Database for these calculations. The Zoning Tax Lot Database is a “comma-separated values (CSV) file format that contains up-to-date zoning by parcel. The Database includes the zoning designations and zoning map associated with a specific tax block and lot. The Database is updated on a monthly basis to reflect rezoning and corrections to the file.” Zoning Related Datasets, Dep’t City Planning, https://www1.nyc.gov/site/planning/data-maps/open-data.page#zoning_related (last visited June 12, 2017).
rem housing stock—is shrinking. The city needs to build upwards in order to expand. Currently, advocates for contextual zoning describe the tool as a way to “preserve neighborhood character.” However, many neighborhoods seem to consider contextual zoning a way to prevent change in their communities. Is “neighborhood character” merely another way of saying, “Not In My Back Yard”? 

In this Note, we evaluate the motivations behind contextual zoning and the ways in which it has been deployed throughout NYC’s residential neighborhoods. We find that in many instances, contextual zoning was transformed into a “shrink-wrapping” tool under the Bloomberg administration, and we discuss some challenges that current Mayor Bill de Blasio may encounter as he attempts to encourage residents and politicians to embrace a zoning amendment that manages sensible growth. Ultimately, in an environment of exploding population density and severe affordability pressures, no community should be entitled to keep its neighborhood completely unchanged or underbuilt. Contextual zoning should be a device used not to “shrink-wrap” neighborhoods but rather to help protect communities as they grow.

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5 “Not In My Back Yard,” also known as NIMBY or NIMBYism, describes the nearly-automatic opposition of an individual or community to any project of any nature “when ownership or local respect are perceived to be threatened, particularly by an outsider or competitor. Invasion of space, regardless of the sometimes poor conditions of that space or the value of the promised improvements, creates the environment for a potentially hostile, often unreasonable, NIMBY response.” NIMBY.COM, http://nimby.com/ (last visited June 14, 2017).
A. OUR FRAMEWORK

This Note is organized as follows. First, we discuss the history of zoning regulation in NYC and the introduction of contextual zoning in 1989. Second, we consider the city’s initial policy objectives for contextual zoning. Third, we compare NYC’s implementation of contextual zoning with the city’s original goals, finding a large gap between the intended and actual use of the zoning tool, particularly under Michael Bloomberg’s tenure as mayor. We examine the economic and political factors surrounding the implementation of contextual zoning in some cases, and we explore how these factors may explain the divergence between policy expectations and reality.

Fourth, we explore the impact of contextual zoning from the ground level, taking a close look into two neighborhoods, Bay Ridge and Prospect Lefferts Gardens (PLG). We conduct this case study to determine local residents’ understandings of the zoning tool and gauge how both residents and city planners attempt to utilize contextual zoning in their own communities. We conclude this section by comparing the neighborhoods’ current land uses and development climates, considering zoning policy in the broader context of NYC’s housing crisis.

Finally, we continue our discussion of contextual zoning as a matter of NYC policy today. During the Bloomberg-era, the Department of City Planning undertook 120 separate rezonings, and nearly each one contained some contextual provisions. In February of 2015, Mayor Bill de Blasio introduced Zoning for Quality and Affordability (ZQA), a zoning resolution text change that aims to overhaul the use of contextual zoning in the city. This resolution faces significant opposition. Thus, we analyze Mayor de Blasio’s approach to addressing the constraints of contextual zoning, and we end the paper with a brief conclusion.
I. LAND USE IDEOLOGY: FROM EUCLIDEAN TO FORM-BASED ZONING

NYC’s Zoning Resolution was first adopted in 1916. The ordinance separated “incompatible uses,” such as factories, from residential neighborhoods. In 1961, in response to residents’ pleas for more light, air, and open space, New York overhauled its zoning resolution and introduced height factor zoning.

Height factor regulations determine residential Floor Area Ratio (FAR) through a set of criteria, including the amount of open space that developments on a lot must provide. For example, according to the Department of City Planning, a typical height factor building in a R6 district, which we discuss later, is around seven stories tall, with about 50 apartments, covering around 32% of a large lot, with

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7 Id. Planners call this style of land use regulation “Euclidean zoning,” after the village of Euclid, Ohio, where in 1926, a developer famously challenged the constitutionality of the local zoning code. See Types of Zoning, PLAN RECODE (Jan. 21, 2014), https://recode.la/updates/news/types-zoning-codes; see also Village of Euclid v. Ambler Realty Co., 272 U.S. 365, 387-88 (1926) (holding that zoning codes may be a valid extension of a city’s right to regulate land uses in the name of protecting public health, safety, and welfare). Euclid’s code segregated different land uses, designating housing, retail, and factories to separate areas with their own height, setback, parking, landscaping, and building volume restrictions. See PLAN RECODE, supra note 7. Since the twentieth century, the Euclidean format has been the most commonly used zoning practice in the United States. Id.
9 FAR is the total ratio of building floor area to its zoning lot. Each zoning district has a designated FAR, which, when multiplied by the square footage of the lot, reveals the maximum building floor area permitted. For example, on a 10,000 square foot lot, with a FAR of 2.0, the floor area of the building cannot exceed 20,000 square feet. However, the building can take shape in a number of ways. The same lot can legally hold a ten-story building with a 2,000 square foot footprint or a four-story building with a 5,000 square-foot footprint. Glossary of Planning Terms, Dep’t City Planning, https://www1.nyc.gov/site/planning/zoning/glossary.page (last visited June 14, 2017).
10 Id.
68% of the lot left over for open space, usually used for parking or green space.\footnote{ZONING HANDBOOK, supra note 6, at 120-21.} The 1961 Resolution promoted “towers in the park,” tall buildings surrounded by open spaces, as seen in Co-op City in the Bronx and Starrett City in Brooklyn (see Figure 1, below).

\begin{figure}[h]
\centering
\includegraphics[width=0.5\textwidth]{figure1.png}
\caption{STARRETT CITY, BROOKLYN\footnote{Jason Bergman, Photograph of Landscape Looking Northeast Toward Manhattan from the Roof of 1310 Pennsylvania Avenue, in Oksana Mironova, The Lesson of Starrett City, BKLYNR (Feb. 6, 2014), http://bklynr.com/the-lesson-of-starrett-city/}.
}
\end{figure}

As developers responded to the new regulations, NYC residents began to regret the regulations’ emphasis on open space. New green spaces, parking lots, and public plazas disrupted the streetline, and local residents resented these changes, arguing that the new buildings were out of context and departed from city character.\footnote{See, e.g., JANE JACOBS, THE DEATH AND LIFE OF GREAT AMERICAN CITIES (1961); Norman Marcus, New York City Zoning – 1961-1991: Turning Back the Clock – But With an Up-to-the-Minute Social Agenda, 19 FORDHAM URB. L.J. 707, 715-717 (1992).} The forty-six building complex of Starrett City (above) opened in 1974 in an R5 zone, a low-density zoning designation intended to “provide a transition between lower- and higher-density neighborhoods . . .
The project adheres to the 1961 Zoning Resolution, even though the development cannot be described as a “low-density” or “transition” neighborhood. Starrett City buildings only cover about 16% of the 153-acre lot, and the large development in a R5 zone is representative of what would soon be characterized as “out of context construction.”

The new development climate motivated Jane Jacobs to publish her seminal text, *The Death and Life of Great American Cities*, in which she pilloried urban planners for destroying street life and sidewalk activity. Jacobs was particularly offended by height factor buildings for breaking up the traditional streetscape in ways that she considered dangerous to occupants and bad for society. Jacobs advocated for “mixed use” development. She idealized a New York where apartment building residents were on a first name basis with the deli-owner who rented the building’s commercial space at the street level.

Thus, as early as 1969, many communities in New York sought “Special District” regulations—additional zoning codes that overlay the general resolution and apply to a specific area—to protect their neighborhoods from tower-like projects. By the 1980s, planners and architects were working to codify Jacobs’ ideas through zoning regulations across the country. These planners, known as New

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14 ZONING HANDBOOK, supra note 6, at 23.
15 Mironova, supra note 12.
17 JACOBS, supra note 13.
18 Id. at 30.
19 Id. at 152-177.
20 Id.
Urbanists, demanded an end to Euclidean zoning in favor of “form-based” principles, by which local zoning ordinances would regulate building shape. They argued for an approach that “focused less on use and more on scale, intensity of development, the shape of public spaces, and the interrelationships between buildings.” Figure 2 (below) exhibits a graphic comparison of conventional and form-based zoning.

Figure 2: An Explanation of Three Zoning Types

Contextual zoning, a type of form-based zoning, emerged during this conceptual pivot in urban planning. It is a response both to the special districts that proliferated throughout New York and the planning theory of New Urbanists, which blossomed during this time period.

23 Id. at 9.
II. HISTORY AND MOTIVATIONS OF CONTEXTUAL ZONING IN NYC

The introduction of contextual zoning in NYC was part of the Quality Housing Program of 1989, which attempted to address community dissatisfaction with height factor buildings in order to “maintain the scale and form of the city’s traditional moderate- [R6-R7] and higher-density [R8-R10] neighborhoods.”\textsuperscript{26} Figure 3 (below) illustrates the contrast between height factor and contextual zoning, also known as “Quality Housing.” Beyond simply regulating FAR, usage, and open space, as characteristic of Euclidean zoning, contextual zoning was presented to instruct the design of buildings and encourage more interaction between new developments and NYC streetlines.

\textbf{FIGURE 3: HEIGHT FACTOR VERSUS QUALITY HOUSING BUILDINGS}\textsuperscript{27}

\textsuperscript{26} Id. at 8.
\textsuperscript{27} Dep’t City Planning, Image of Height Factor and Contextual Zoning, in Richard Bearak, Understanding Community District 9 Zoning Designations, CMTY. Bd. 9 BROOKLYN (Feb. 9, 2016), http://www.communitybrd9bklyn.org/docs/CD\%20%20Presentation\%20Bearak\%29\%20Stephan's\%20Edits\%201_2016.2.10update .pdf.
In contextually zoned districts, detailed regulations dictate the “building envelope,” which includes the “height and bulk of new buildings, their setback from the street line, and their width along the street frontage” in order “to produce buildings that are consistent with existing neighborhood character.” 28 Planners generally define “protecting character” as reproducing the style of existing development and promoting architectural continuity by instituting height requirements and regulating the street wall, for example. 29 Therefore, “neighborhood character” carries a different connotation, depending on whether an area is low-density (R2-R5 contextual districts) or medium- to high-density (R5 and up).

Presently, there are 24 types of residential contextual districts in NYC, ten of which are low-density 30 and thirteen of which are medium- to high-density. 31 The zoning map (see Figure 7, in Section III) identifies contextual districts by designating one of four letters (“A,” “B,” “D,” or “X”) to follow a conventional zoning category. 32 Districts with “A” and “X” suffixes are primarily mapped with wide streets in mind, while “B” districts are designed for narrow side streets and midblock developments. Planners generally use “B” districts to protect existing stock, while “A” and “X” districts usually

28 Glossary of Planning Terms, supra note 9.
29 Telephone Interview with Winston Von Engel, Dir., Brooklyn Office, Dep’t City Planning (Nov. 21, 2015).
guide new construction. Finally, “D” districts refer to residential areas mapped along transportation corridors. For example, R5D districts apply to wide, car-reliant arteries in Jamaica and Rockaway Park, Queens; R7D districts apply to Fulton Street, Ocean Parkway and similar high residential, high traffic arteries in Brooklyn; and the R9D designation pertain to residential towers that face elevated rail lines.

As we explore below, a great majority of NYC’s currently contextually zoned land is designated for low-density districts. However, when NYC first adopted contextual zoning through the Quality Housing Program, the zoning tool was oriented toward motivating growth in moderate and high-density neighborhoods.\(^3\) To understand the disparity between the city’s intended and actual use of contextual zoning, we discuss NYC’s original intentions for contextual zoning in greater detail.

A. THE HIGH-DENSITY FOCUS OF THE QUALITY HOUSING PROGRAM

The Quality Housing Program of 1989 was devised for and applies to exclusively R6 through R10 districts, setting out bulk regulations for medium- and high-density neighborhoods with the intention of “foster[ing] the provision of multifamily housing and certain community facilities that: (a) are compatible with existing neighborhood scale and character; (b) provide on-site amenity spaces to meet the needs of its residents; and (c) are designed to promote the security and safety of its residents.”\(^3^4\) Overall, the goal of Quality Housing is to motivate the construction of buildings that interact

\(^{3}\) See DEPT CITY PLANNING, CEQR NO. 85-241, PROPOSED QUALITY HOUSING PROGRAM ZONING TEXT AMENDMENTS DRAFT ENVIRONMENTAL IMPACT STATEMENT SB-3, 1B-1 (1986).

\(^{3^4}\) N.Y.C., N.Y., ZONING RESOLUTION § 28-00 (amended Mar. 22, 2016).
with existing neighborhood fabric and maintain safe and pleasant environments. Since 1989, Quality Housing regulations have been mandatory in high-density contextual zones.\textsuperscript{35}

Quality Housing’s Environmental Impact Statement reveals that the program had one overarching objective: to increase the construction of new housing. At the time of the program’s inception, the last major wave of multifamily construction had occurred almost thirty years before, in the early 1960s, and a 1986 Citizens Housing and Planning Council study found that since 1978, housing development had been at its lowest level since World War II.\textsuperscript{36} Developers were not producing the amount of housing that the city required. Thus, in the Environmental Impact Statement on the Quality Housing Program, the authors put new construction of multifamily housing front and center:

Goals and objectives of the [Quality Housing Program] reflect a range of concerns:

- Low production rate for multifamily housing outside the Manhattan core and the effect of current zoning on this low rate.
- Failure of the Housing Quality program to produce multifamily housing in any significant quantity.
- Perceived inappropriateness of 1961 Zoning Resolution “tower” prototype from a contextual or urban design point of view on many neighborhoods.\textsuperscript{37}

\begin{footnotes}
\footnotetext[9]{Glossary of Planning Terms, supra note 9.}
\footnotetext[33]{ENVIRONMENTAL IMPACT STATEMENT, supra note 33, at SB-3, 1B-1.}
\footnotetext[33]{Id. at SB-1, SB-2.}
\end{footnotes}
The Environmental Impact Statement identified two problems with the 1961 resolution that dampened development. First, the 1961 resolution mandated that development occur on lot sizes that were much larger than existing building patterns.\textsuperscript{38} Available vacant lots (or, opportunities for new development) were typically between 10,000 and 25,000 square feet, and these lot sizes were too small to build height factor buildings.\textsuperscript{39} Second, height factor buildings required specific construction techniques (including elevators) that made development costly.\textsuperscript{40}

Consequently, the principal goal of Quality Housing was to increase the economic viability of new building construction in New York by reducing the land area needed for new development and allowing project developers to utilize less costly building types. Indeed, planners we interviewed for this project verified that the goals of Quality Housing were to increase density by developing high lot coverage buildings.

B. LOW-DENSITY AT THE PERIPHERY

Although not included in the Quality Housing Program, low-density contextual zones were also introduced in 1989 to encourage neighborhood growth. Planners created six new district types, partly in response to "out-of-scale development that can blur distinctions among residence districts and alter the character of the city’s traditional low-rise neighborhoods."\textsuperscript{41} Nonetheless, low-density contextual zones, such as R3A, R4A, and R5A districts, promote infill development by reducing the requisite lot size for construction. Moreover, in many circumstances, the city offers additional FAR

\textsuperscript{38} Id. at SB-4.
\textsuperscript{39} Id.
\textsuperscript{40} Id.
\textsuperscript{41} ZONING HANDBOOK, supra note 6, at 7.
allowances, and thereby more space for development, when owners employ architectural techniques to match surrounding buildings. Thus, similar to the Quality Housing Program, the low-density contextual zoning amendments reveal the city’s intention to affect overall increases in neighborhood density.

Low-density contextual zones are generally mapped in Staten Island and Queens, in addition to a few areas in the Bronx and Brooklyn. The range of low-density zones spans from R2, typically denoting suburban districts of detached housing, to R5, and throughout these districts, there is great variation between housing types, from detached, single family homes to small apartment buildings and attached or semi-detached row houses. Some of these housing types are depicted below, in Figures 4, 5, and 6.

![Figure 4: R3A District](image1)

![Figure 5: R4A District](image2)

![Figure 6: R5B District](image3)

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42 For example, in R2X zones, developers receive square footage bonuses of up to 20 percent in the maximum FAR for the provision of a pitched roof. *Glossary of Planning Terms, supra note 9; see also Jorge Fontan, NYC Zoning Residential Districts, FONTAN ARCHITECTURE (May 2, 2016), https://jorgefontan.com/residential-zoning-nyc/.

43 See *ZONING HANDBOOK, supra note 6, at 7.


46 Photograph of 77th Street Between Fourth and Fifth Avenues in Bay Ridge, Brooklyn, in *Special Bay Ridge District Rezoning – Approved!, supra note 21.*
III. IMPLEMENTATION AND POLITICAL ANALYSIS OF NYC CONTEXTUAL ZONING

Despite the city’s policy emphasis on high-density residential districts, seventy percent of NYC’s contextual districts have been designated as low-density zones. Of the 327,391 contextually zoned residential lots in NYC, 230,158 lots are low-density districts, while 97,233 lots are high-density areas. Further, NYC’s contextually zoned neighborhoods have experienced slowed growth, while districts without contextual regulations have experienced rapid construction. Land use experts have expressed their fears that contextual zoning has transformed into a euphemism for “downzoning.” The NYC contextual zoning landscape is mapped below, in Figure 7.

47 We relied on Primary Land Use Tax Lot Output (PLUTO) data, published in 2015, to track development trends and contextual residential districts in NYC since 1985. The dataset, labeled “15v1,” includes “extensive land use and geographic data at the tax lot level on comma-separated values (CSV) file format. The PLUTO files contain more than seventy fields derived from data maintained by city agencies.” PLUTO and PLUTOMap Archive, DEP’S CITY PLANNING, https://www1.nyc.gov/site/planning/data-maps/open-data/pluto-mappluto-archive.page (last visited June 12, 2017).
48 Id.
49 Id.
As the map shows, there are high-density contextual zones, as well as communities that have agreed to upzone their neighborhood because the rezoning came along with contextual provisions; however, the prevalence of low-density contextual zones and the resulting lack of growth in those contextual districts seems antithetical to the goals of the Quality Housing Program. In order to

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51 We prepared this map using PLUTO data. See PLUTO and PLUTOMap Archive, supra note 47.
explain the divergence between the city’s policy expectations and the current contextual zoning landscape, we evaluate the economic and political factors that have shaped the implementation of many contextual districts in NYC. We observe that land availability and the cost-effectiveness of construction affect the ways in which developers build on contextual zones, and we see that political power of local stakeholders and their perceptions of contextual districts impact how NYC rezones its communities.

A. ECONOMIC EXPLANATIONS FOR DIVERGENCE FROM POLICY EXPECTATIONS

Even though contextual zoning was envisioned to spur construction and increase density, the many low-density contextual districts have not motivated substantial growth. One reason for this failure to achieve policy objectives may be that the development context of recent years has been significantly different than that of 1989, as the supply of vacant lots in New York has all but vanished. Neighborhood concerns with public safety have been replaced by local anxieties about new development, change, and displacement. As New York has grown to nearly 8.5 million people, constraints on housing supply have produced a serious and seemingly intractable housing crisis.

In 2014, the Citizens Housing and Planning Council studied building envelope regulations on seventeen projects in high-density contextual districts in efforts to measure how contextual zoning has

53 We relied on PLUTO data to track growth in contextual residential districts. See PLUTO and PLUTOMap Archive, supra note 47.
54 See Chen, supra note 4.
56 See, e.g., Our Current Affordable Housing Crisis, supra note 3.
affected NYC’s ability to grow.\textsuperscript{57} They found that in all but one project, property owners were unable to fully develop their allotted FAR.\textsuperscript{58} In these districts, project areas were left unbuilt for four reasons, directly related to contextual zoning: 1) extra floor area that had been allotted in exchange for affordability could not fit in the envelope guidelines; 2) regulations on floor to floor heights had changed since 1987; 3) construction materials and regulations favored different building shapes; and 4) available lot sizes no longer corresponded to the outdated envelope regulations.\textsuperscript{59}

With regards to construction styles, the Citizens Housing and Planning Council found that contextual zoning regulations were designed for inflexible construction techniques that are now out of date.\textsuperscript{60} Presently, it is most popular and economical to utilize modular construction or block-and-plank methods for mid-rise developments.\textsuperscript{61} Under these methods, significant portions of buildings are developed off-site (the entire unit, in modular construction, or the concrete plank that makes up the wall, in block-and-plank construction). Although these building techniques are cost effective, by some estimates saving up to 25\% on construction,\textsuperscript{62} they are not easily applicable to the building envelope standard of the Quality Housing Program because the predesigned pieces do not fit the size specifications set forth by the regulations. For example, Quality Housing assumes eight-foot ceilings, while modular construction requires ceilings around ten feet high.\textsuperscript{63} Block-and-

\begin{thebibliography}{99}
\footnotesize
\bibitem{57} Ginsberg et al., supra note 1, at 4.
\bibitem{58} Id. at 11.
\bibitem{59} Id. at 11-19.
\bibitem{60} Id. at 12, 19.
\bibitem{61} Id. at 19.
\bibitem{62} Id.
\bibitem{63} Id. at 17-18.
\end{thebibliography}
plank development works best with 30-foot-wide planks, but contextual regulations demand buildings that are 65 or 75 feet deep.64

In addition, building envelope pressures may have negative impacts on urban form and street life. Currently, contextual regulations may force developers to make tradeoffs between constructing projects to accommodate the full permitted FAR and designing high quality buildings that contribute to the neighborhood at the ground level. According to the former Chairperson of the City Planning Commission Carl Weisbrod:

Today, rules intended to produce better architecture and reflect traditional building types are instead forcing new buildings to fit within inflexible limits, resulting in bad design and high costs that hinder housing affordability . . . [U]nder the current contextual rules . . . [w]e see ground-floor apartments right at sidewalk level, so residents draw their blinds day and night. Some buildings opt not to provide ground-floor retail because it means providing less housing. Many are boxy, with flat, undifferentiated facades.65

As a result, it is possible that developers who both want to use all of the FAR and comply with contextual regulations may produce poorly designed, out of character buildings. Undesirable designs were certainly not the city’s intended impact of Quality Housing, indicating that contextual zoning regulations may need to be updated in order to achieve the city’s goals.

64 Id. at 19.
Concerns around the building envelope and FAR are also troubling in terms of affordability and the success of inclusionary housing programs. First, any downward pressure on housing supply can increase costs for all housing. With regards to affordable housing specifically, under inclusionary housing, developers on some sites can receive higher FAR in exchange for some affordable housing set-asides. FAR bonuses that are intended to address the housing crisis are not effective when building envelope regulations are too tight to allow property owners to utilize their supplementary floor area.

B. POLITICAL REASONS FOR DIVERGENCE: REDEFINITION OF CONTEXTUAL ZONING UNDER MAYOR BLOOMBERG

The vast majority of contextual zones in NYC were established under the Bloomberg administration. During Michael Bloomberg’s twelve years as mayor, the Department of City Planning conducted nearly 120 rezonings. Many planning experts with whom we spoke referred to a wide expansion of contextual zoning under Bloomberg’s tenure, claiming both that Bloomberg’s rezonings were mostly contextual and that Bloomberg’s contextual districts now make up the majority of contextually zoned areas in New York. To explore these claims, we mapped the Bloomberg-era rezonings over the existing contextual districts. Our results are displayed below, in Figure 8. Light blue areas are current contextual zones, and shaded areas represent districts that were rezoned during the Bloomberg administration. The overlap of light blue and shaded areas supports the experts’ anecdotal evidence: the rezonings under Bloomberg

66 See Glossary of Planning Terms, supra note 9.
were almost all contextual, and the vast majority of current contextual districts were established under his administration.

**FIGURE 8: CONTEXTUAL ZONES AND BLOOMBERG-ERA REZONINGS FROM 2002-2013**

The predominance of Bloomberg-era contextual zones makes it easy to see how Bloomberg’s use of contextual districts may dominate the public perception of contextual zoning. In 2005, a *New York Times* analysis of Bloomberg-era changes characterized the

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68 We prepared this map using PLUTO data. See PLUTO and PLUTOMap Archive, supra note 47.
administration’s employment of contextual zoning as a means to “downzon[e].”

In what some housing experts are calling “the downzoning uprising,” communities throughout the city want to see an end to an influx of apartments, additional people, and what they consider McMansions—and to preserve neighborhoods of limestone town houses, 1950’s ranch houses, even humble wood-frame houses wrapped in aluminum siding.

The administration has agreed, with enthusiasm. Since 2002, 42 rezonings “to preserve neighborhood character,” as the administration puts it, have been approved or are under review. About 3,600 blocks have been rezoned, and more proposals are on the way . . . [But] the push for downzoning pits the rights of neighborhoods against the city’s broader need to equitably accommodate its growth.

After 2005, when the excerpt above was published, contextual zonings marched on throughout Bloomberg’s tenure, which ended in 2013. In a study of the overall increase in development density under the Bloomberg administration, Faculty Director of the NYU Furman Center Vicki Been found that, despite a flurry of rezonings, there was only a net increase in residential density of about 2.6%.

The most common zoning change implemented under Mayor Bloomberg was a change from R2 to R2A, affecting 21,000 lots. This type of change in Bayside, Queens, for example, was intended “[t]o

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69 Scott, supra note 50.
70 Id.
72 Id. at 7.
curb recent development trends towards unusually large single-family houses in areas currently zoned R2,” by establishing “a new low-density contextual zoning district, R2A . . . [that] would have limits on floor area and height and other bulk regulations.”

A subsequent policy brief from the NYU Furman Center reveals that while upzoned lots tended to be in poor and minority neighborhoods and down-zoned lots tended to be in whiter, wealthier areas with more homeowners, contextually zoned neighborhoods were even richer and whiter than down-zoned areas and were characterized by “very high rates of homeownership.”

According to Politico, during the Bloomberg-era, “more privileged people were more likely to have the city change the zoning of their neighborhoods to preserve them exactly as they were.”

Using an empirical model designed to understand who drives land use changes, Been, along with NYU Furman Center Research Affiliates Josiah Madar and Simon McDonnell, found that under Bloomberg, homeowners had a much larger impact on land use decisions in NYC. The research suggests that during Bloomberg’s time in office, local zoning decisions were mostly guided by the protectionist inclinations of homeowners.

The Bloomberg-era use of contextual zoning to limit change diverges from the growth-oriented policy objectives of Quality Housing. Theoretically, contextual regulations can be utilized to upzone a neighborhood with form-based provisions, like on Fourth Avenue in Park Slope, Brooklyn. However, as exhibited under

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75 Laskow, supra note 67.
Bloomberg, contextual zoning can also be employed to “shrink-wrap” a community, effectively downzoning the neighborhood to protect its existing form.

This latter manifestation has redefined the zoning tool for NYC communities, fueling a public misconception that contextual zoning regulations are a means to protect city blocks from new building. We take a close look into two Brooklyn neighborhoods to explore how the implementation of contextual zoning has shaped public understanding of contextual districts at the ground level.

IV. CONTEXTUAL ZONING AS EXPERIENCED BY TWO BROOKLYN NEIGHBORHOODS

A. OVERVIEW OF THE NEIGHBORHOODS

Bay Ridge is Brooklyn’s most southwestern neighborhood (Figure 9). It is represented by Community Board 10 (Figure 10, below) and served by the R and D trains, along with numerous bus routes. Despite access to public transportation, the neighborhood is car-centric, home to the Brooklyn terminus of the Verrazano Bridge, I-278 (known as the Brooklyn-Queens Expressway), and the Belt Parkway. Bay Ridge was one of New York’s first special districts that was implemented to preserve the neighborhood after the 1961 Zoning Resolution, becoming “Special Bay Ridge District” (SBRD) in 1978. In 2005, the area was contextually rezoned to further protect the neighborhood and strengthen SBRD regulations. Demographically, the neighborhood is mostly white and has strong political force, exerting significant leverage over the Brooklyn political machine. Experts attribute the 2005 rezoning to the residents’ ability to
organize, reach consensus, and engage with their elected officials and the Department of City Planning.77

77 Telephone Interview with Winston Von Engel, supra note 29.
Figure 9: Bay Ridge

Figure 10: Community Board 10

Figure 11: Prospect Lefferts Gardens

Figure 12: Community Board 9

78 Map of Bay Ridge, Brooklyn, GOOGLE MAPS, https://www.google.com/maps/place/Bay+Ridge,+Brooklyn,+NY/data=!4m2!3m1!1s0x89c2455f3f1cab0d:0xa5a45198e4d73d67a=X&ved=0ahUKEwiSucyyuOPPAhVDMj4KIkHy5DWEQ8gElidzAK (last visited June 12, 2017).


Prospect Lefferts Gardens (PLG) is located just east of Prospect Park in Central Brooklyn (see Figure 11, above). The neighborhood is represented by Brooklyn’s Community Board 9 (Figure 12, above) and served by the 2/3/5 trains to the east and the B/Q/S trains along the park. The community is composed of mostly black and low-income individuals; however, the neighborhood has seen an influx of white residents over the past few years due to the increase of as-of-right luxury developments. In response to the housing demand, luxury developers, such as The Hudson Companies Incorporated and Hello Living, have begun investing more resources in PLG property. Politically, PLG residents struggle to agree on desired land use goals for their community. This discord has inhibited the neighborhood from collaborating with the Department of City Planning to contextually rezone the area.

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82 The Department of City Planning defines “as-of-right” development as building that “complies with all applicable zoning regulations and does not require any discretionary action by the City Planning Commission or Board of Standards and Appeals. Most developments and enlargements in the city are as-of-right.” Glossary of Planning Terms, supra note 9.
The chart below compares the land uses in these two neighborhoods in 2014.

**Figure 13: Land Use in Bay Ridge and Prospect Lefferts Gardens in 2014**

Finally, the photographs below compare a city block in Prospect Lefferts Gardens (Figure 14) with a city block in Bay Ridge (Figure 15).

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83 Chart of Land Uses in Bay Ridge in 2014, in Community Portal: Brooklyn Community District 10, supra note 79.
84 Chart of Land Uses in Prospect Lefferts Gardens in 2014, in Community Portal: Brooklyn Community District 9, supra note 81.
B. DEMOGRAPHIC AND SOCIOECONOMIC CLIMATE

We looked at multiple U.S. Census Bureau surveys for Bay Ridge in order to understand the social makeup of the community, both before the 2005 rezoning and afterward. In 2010, Bay Ridge was recorded as 77.1% White, 11.6% Asian, and 2.2% Black or African American. The demographic as of 2015 is similar. The neighborhood is reported to be 76.2% White, 12.4% Asian, and 2% Black or African American.

85 Photograph of 257 Midwood Street, Prospect Lefferts Gardens, GOOGLE MAPS, https://www.google.com/maps/place/256+Midwood+St,+Brooklyn,+NY+11225/@40.6600251,73.9521866,3a,90y,142.7h,86.52t/data=!3m7!1e1!3m5!1s5t71e115m511sgNgj0L1OKUD2HLlncvLW7g!2e0!6s%2F%2Fgeo0.ggpht.com%2Fcbk%3Fpanoid%3DgN9j0L1OKUD2HLlncvLW7g%2Foutput%3Dthumbnail%2Fcb_client%3Dsearch.TACTILE.gifs%26thumb%3D2%26w%26h%26pitch%3D0%26thumbfov%3D1007133128i66564m53m41s0x89c25b6e678e9ee7:0x6277c9f0bb7b6718m23d40.659784d73.952189%6m11e1 (last visited June 11, 2017).
86 Photograph of 1082 71st Street, Bay Ridge, GOOGLE MAPS, https://www.google.com/maps/@40.625469,74.009816,3a,75y,1.28h,89.9t/data=!3m6!1e1!3m4!1sS5ZC8fMrA9R-f1y9-LbEw6e%2F%2Fgeo3.ggpht.com%2Fmaps%2Fphoto%3Fbd%3Fdv%3Fdpb%3DChAKdnIYXjaC5UQUNUSxUeiAKEm3FddgQXGHRXq50ikvOioKDQAAAAAARAAABoFCGQfAM%26gl%3Dus%3Dust%7i33128i665666m11e1 (last visited June 11, 2017).
87 U.S. Census Bureau, 2010 Census.
Black. In contrast, in 2015 PLG was reported to be 70.1% Black, 20.8% White, 9.4%, and 2.4% Asian.

With respect to socioeconomics, in 1999, the median income in Bay Ridge was $44,518, with 12.7% of individuals living below the poverty level. As of 2015, the median income in Bay Ridge was $62,761, with 14.3% of individuals living below the poverty level, and the median income in PLG was $44,911, with 19.6% of individuals living below the poverty line. Additionally, in 2014, 1,782 individuals received Cash Assistance Income Support (TANF) in Bay Ridge, compared to 4,238 in PLG.

C. CONTEXTUAL ZONING IN BAY RIDGE

1. Establishment of Special Bay Ridge District

SBRD was established specifically to “preserve, protect and maintain the existing scale and character of the residential and commercial community.” Adopted in 1978, SBRD was the precursor to the contextual zoning regulations later promulgated throughout the city. It was prompted by the development of two large residential complexes: Bay Ridge Towers, made up of two buildings, 27 and 30 stories; and Shore Hill Apartments, two 13-story buildings. The special district imposed customized building height and size regulations on new development, in addition to restrictions

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89 Id.
92 Id.
93 Community Portal: Brooklyn Community District 10, supra note 79.
94 Community Portal: Brooklyn Community District 9, supra note 81.
95 N.Y.C., N.Y., ZONING RESOLUTION § 114-00 (amended Mar. 23, 2005).
96 Special Bay Ridge District Rezoning – Approved!, supra note 21.
pertaining to yards, lot coverage, open space, curb cuts, parking and landscaping. A height limit of 32 feet was established on most midblocks, and five preservation subareas were created with further regulations to modify the underlying zoning.

Before the 2005 contextual rezoning, the building landscape in Bay Ridge was generally low, six stories or less, with few exceptions. According to the Department of City Planning, “about 40 percent of the 249 blocks in the special district [were] characterized by one- and two-family detached and semi-detached homes.”

2. 2005 Contextual Rezoning

Despite SBRD regulations, multifamily and attached housing continued to develop in place of single-family, detached homes in parts of the district (see Figure 16, below). According to the Department of City Planning and PLUTO data, with increasing frequency, single-family homes on large lots were being replaced with multifamily residences, leading to “a growing community concern about the potential for eroding the character of some blocks within the special district.” On many blocks, the underlying zoning permitted for much larger buildings than those already built on the property. Experts found that the disparity between the built context and the underlying zoning incentivized developers to demolish sound, existing single-family houses and replace them with larger as-of-right apartments.

97 Id.
98 Id. We also observed this development trend through our analysis of PLUTO data. See PLUTO and PLUTOMap Archive, supra note 47.
100 Id. For a definition of “as-of-right” apartments, see supra note 8.
Brooklyn Community Board 10 and local residents lobbied the city to contextually rezone the neighborhood in order to add an extra layer of protection for low-density areas and stop the spread of “Fedders houses,” named after the air-conditioning units protruding from the outside walls of new, larger scale developments. With active political support from New York State Senator Martin Golden, Community Board 10 and the Department of City Planning proposed map and text amendments before the City Council to replace the existing zoning with lower density and contextual districts. The amendments called for a total increase of 69 blocks to be rezoned for single-family or two-family homes.

101 Photographs of Multifamily Development Built on a Single Family Lot on 80th Street Between Fourth and Fifth Avenue in Bay Ridge, in Special Bay Ridge District Rezoning – Approved!, supra note 21. The photograph on the right is the type of new multifamily development on single family lots that the 2005 rezoning sought to prevent. Id.

102 City Increases Zoning Protection for Bay Ridge, supra note 99, at 33.


104 Special Bay Ridge District Rezoning – Approved!, supra note 21.
Broadly, the rezoning proposal sought to accomplish four goals. First, the city aimed to “preserve neighborhood scale and character”\(^{105}\) by implementing lower density and contextual districts to reflect the existing built context of midblocks. Second, the city wanted to reinforce several avenues as corridors for mid-rise mixed retail and residential buildings by mapping appropriate medium-density contextual zones. Third, the city planned to both preserve the central commercial district through contextual rezoning and increase permitted density in the auto district to permit the expansion of commercial and community facilities. Finally, the city hoped to retain a limited number of SBRD protective regulations to work in concert with the contextual districts.\(^{106}\)

To expedite the rezoning, the Subcommittee on Zoning and Franchises held a special meeting on March 22, 2005. At the hearing, representatives of Community Board 10, Council Member Vincent Gentile’s Preservation Task Force and the Alliance of Bay Ridge Block Associations testified in favor of the proposed rezoning. Regina Myer, Director of the Planning Department’s Brooklyn office, noted that the rezoning fulfilled Mayor Bloomberg’s commitment to protect low-density neighborhoods. On March 23, 2005, City Council’s Land Use Committee and the full Council approved the rezoning, which is now in effect.\(^{107}\)

\(^{105}\) Id. \\
^{106}\) Id. \\
^{107}\) Summary of the ULURP Process: The City Planning Commission, as lead agency, issued a negative declaration on October 18, 2004 and a revised negative declaration on March 2, 2005. Brooklyn’s Community Board 10 unanimously approved the application on December 20, 2004 by a vote of 41 to 0 with recommended changes. On January 21, 2005, Borough President Marty Markowitz approved. On January 6, 2005, the Planning Commission, in adopting the Community Board’s recommendations, modified the rezoning to add additional protection for four areas: a portion of Third Avenue, 76th Street and 77th Street, and two sections of Ridge Parkway. At the Planning Commission’s February 2, 2005 public hearing, four individual property
3. Impact of Contextual Zoning on Subsequent Development in Bay Ridge

The Department of City Planning land use data demonstrates that since 2005, multifamily construction in Bay Ridge has trickled to a near halt. Many experts cite the 2005 rezoning as responsible for slowing the high-rise luxury condo market in the neighborhood, and this result seems to have been the community’s goal. According to Winston Von Engel, Director of the Brooklyn Office of the Department of City Planning, Bay Ridge community members requested that the 2005 contextual zones fit the exact building envelope already in existence at the time. The Department of City Planning’s proposed rezoning reflected their request, and as a result, development in Bay Ridge has been constrained. Nevertheless, residents of Bay Ridge remain concerned about new development, particularly considering Mayor de Blasio’s rezoning program, which looks to reform contextual zoning in order to allow developers to maximize available FAR.

D. CONTEXTUAL ZONING DEBATE IN PLG

PLG’s current built context is similar to that of Bay Ridge in 2005, and just like a decade ago in Bay Ridge, single-family, detached


We observed this development trend through our analysis of PLUTO data. See PLUTO and PLUTOMap Archive, supra note 47.


Telephone Interview with Winston Von Engel, supra note 29.

homes are being replaced by multi-family and attached housing developments at a growing rate. Buildings with over four residential units have been developing with increasing frequency since 1990, with development steeply rising in 2008 and maintaining pace through the present day. Also like SBRD in 2005, the underlying zoning of PLG allows for much larger buildings than the existing built context (see Figure 17, below). Many community members feel as though these so-called “soft sites” make their neighborhood vulnerable to out of scale development, and experts confirmed that those PLG residents lobbying for contextual zoning have a similar goal as those in Bay Ridge years prior: they want protection from new development in their neighborhood.

112 See, e.g., Reid Wilson, Revealed: Eight-Story 250-Unit Mixed-Use Building Planned At 350 Clarkson Avenue, Prospect Lefferts Gardens, NEW YORK YIMBY (Feb. 1, 2017, 8:00 AM), http://newyorkyimby.com/2017/02/revealed-eight-story-250-unit-mixed-use-building-planned-at-350-clarkson-avenue-prospect-lefferts-gardens.html; Reid Wilson, Two Five-Story, Nine-Unit Residential Buildings Planned At 239 Hawthorne Street, Prospect Lefferts Gardens, NEW YORK YIMBY (Jan. 20, 2017, 10:00 AM), http://newyorkyimby.com/2017/01/two-five-story-nine-unit-residential-buildings-planned-at-239-hawthorne-street-prospect-lefferts-gardens.html; Reid Wilson, 13 Residential Units Across Two Buildings Planned At 287 Maple Street, Prospect Lefferts Gardens, NEW YORK YIMBY (Jan. 18, 2017, 11:30 AM). We also observed this development trend through our analysis of PLUTO data. See PLUTO and PLUTOMap Archive, supra note 47.

113 We observed this development trend through our analysis of PLUTO data. See PLUTO and PLUTOMap Archive, supra note 47.
In 2013, Prospect Park East Network, Prospect Lefferts Garden Neighborhood Association, and Community Board 9 came together to proactively address the neighborhood’s escalating vulnerability to out of context development and bring contextual zoning to PLG. From 2013 to 2014, Community Board 9 held meetings and forums to determine how to respond to “aggressive development,” particularly in response to the “giant tower at 626 Flatbush [Avenue].” In Spring 2014, the Community Board voted to formally request that the

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114 We prepared this map using PLUTO data. See PLUTO and PLUTOMap Archive, supra note 47.
Department of City Planning study the neighborhood for a broad rezoning.\footnote{Id.}

However, divisiveness among PLG residents impeded the city’s rezoning efforts. Despite the goals of Prospect Park East Network and Prospect Lefferts Garden Neighborhood Association, local activist Alicia Boyd formed a resistance group, Movement to Protect the People, in order to prevent Community Board 9 from working with the Department of City Planning.\footnote{Id.} In Fall 2014, as a result of Boyd’s work, the Community Board rescinded its request for a rezoning study,\footnote{Id.} and since then, Community Board rezoning meetings have escalated from contentious to fiercely chaotic.\footnote{See Jeremiah Budin, Rezoning Fight Gets Ugly at Crown Heights Community Board, CURBED (Sep. 26, 2014), http://ny.curbed.com/archives/2014/09/26/rezoning_fight_gets_ugly_at_crown_heights_community_board.php; Rachel Holliday Smith, Racially Charged Shouting Match Heats Up Crown Heights Rezoning Debate, DNA INFO (Feb. 5, 2015), https://www.dnainfo.com/new-york/20150205/crown-heights/racially-charged-shouting-match-heats-up-crown-heights-rezoning-debate.}

Meanwhile, pro-development real estate blog YIMBY (“Yes In My Backyard”) notes that at the moment in PLG, at least twenty multifamily developments are planned for development.\footnote{Id.} Many small (10-15 unit) multifamily buildings are designed to replace classic, wood-frame, single family homes.\footnote{For examples of these multifamily developments, see supra note 112.} An October 7, 2015, YIMBY entry provides a good example of the kind of development occurring throughout PLG:

Earl Roberts, operating as an anonymous LLC, has filed applications for a nine-story, 16-unit residential building at 235 Hawthorne Street, in Prospect Lefferts Gardens . . . . The building will total 17,797 square feet, which means units will

\footnote{Id.}
average 1,112 square feet apiece, possibly indicative of condos. . . and a 2.5-story house must first be demolished.\textsuperscript{123}

PLG has also seen a dramatic increase in high-rise towers. For example, Hello Living is developing a 23 foot tower at 1580 Nostrand Avenue (Figure 18, below),\textsuperscript{124} and The Hudson Companies is planning a 400-unit multifamily development on four adjacent detached-housing lots at 318-350 Clarkson Avenue.\textsuperscript{125}

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The practice of encasing a neighborhood’s existing form is unreasonable in the face of NYC’s housing crisis. The inflexible regulations in Bay Ridge inhibit the city from expanding upwards in that area, forcing developers to unevenly distribute the pressures of rising population density onto more vulnerable communities with less rigid zoning protections, such as PLG. While the case study seems to suggest that if PLG were politically unified, for instance, the neighborhood could be shrink-wrapped like Bay Ridge—and that such an “achievement” would be a step forward for the community—NYC is losing affordability because developers cannot build reasonable towers on shrink-wrapped streets. The city needs to find a compromise between preserving neighborhood character and supporting neighborhood growth. We discuss Mayor de Blasio’s rezoning program to consider his approach to address this tension.

126 Loadingdock5, Image of Rendering of 1580 Nostrand Avenue, Brooklyn, in Baird-Remba, supra note 124.
V. Mayor de Blasio’s Contextual Zoning Revisions: Zoning for Quality and Affordability

As discussed in Section III(A), Quality Housing regulations in 2015 often had the effect of forcing developers to make tradeoffs between good urban design and complete use of allotted FAR, which impacted the overall housing supply and incentive structures intended to promote low income housing. To address these challenges, in February 2015, Mayor de Blasio proposed a zoning amendment to the city’s zoning resolution, called Zoning for Quality and Affordability (ZQA). The text amendment was approved in a modified form by the City Council on March 22, 2016.127

ZQA attempts to modernize certain contextual zoning regulations to promote affordable housing and high quality buildings with active ground floors.128 The amendment relaxes various contextual regulations that apply to ground floors and street walls, with the hope of encouraging active commercial spaces and visual variety, and increases height limits by five to fifteen feet in order to release too-tight building envelopes.129 Finally, the amendment reduces minimum apartment sizes to allow affordable housing providers to build smaller units.130 Figure 20 (below) displays changes to the building envelope under ZQA.

ZQA’s application appears to be carefully targeted. According to the Department of City Planning, ZQA does not: 1) allow any additional market-rate floor area, or encourage teardowns; 2)
eliminate or re-map any contextual zoning district; 3) reduce or alter landmark designations; 4) change as-of-right residential rules in one- and two-family districts; or 5) reduce the amount of green or open space. Additionally, ZQA is designed to work in concert with Mayor de Blasio’s Mandatory Inclusionary Housing program to help neighborhoods reach further depths of affordability.

Figure 21 (below) depicts the approved zoning changes to East New York, the first of Mayor de Blasio’s major rezonings, where the administration is implementing ZQA, Mandatory Inclusionary Housing, and a widespread, contextually-based rezoning. The project makes significant use of medium- and high-density contextual districts, including R5A and B, and R6A and B zones. In addition to reducing the costs of affordable housing, the ground floor, street wall, and setback requirements of ZQA aim to minimize the impact of increased density on neighborhood character and the built environment.

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131 Id.
133 Id.
134 Id.
Images of Building Envelope Changes Under ZQA in Residential Districts With and Without a Commercial Overlay, in *Zoning for Quality and Affordability*, supra note 127.
Neighborhood responses to Mayor de Blasio’s ZQA proposal were overwhelmingly negative. Manhattan Borough President Gale Brewer coordinated a sign-on letter of 27 different Manhattan elected officials opposing the proposal’s application to contextually zoned districts.

In Manhattan, contextual districts make up almost half of our neighborhoods. These contextual zones were mapped due to the hard work of community advocates, and were often the result of hard compromises: neighborhoods trading increased density for height limits, or neighborhoods agreeing to large upzonings in one area in exchange for

contextual protections in another. . . . The administration should consider more targeted actions that could keep contextual height limits in place in neighborhoods where they are working, especially in historic districts.\textsuperscript{137}

The Community Boards of Bay Ridge and PLG also rejected the proposal, fearing that ZQA would encourage development and increase density in their neighborhoods.\textsuperscript{138}

Though ZQA was ultimately approved, the fervor of community members’ opposition to the proposal may reflect the public misperception of contextual zoning. According to the Association for Neighborhood and Housing Development, an organization that advocates for non-profit housing developers:

\begin{quote}
In many neighborhoods, the public conversation about ZQA has become enmeshed in concerns about the intrusion of overdevelopment and big real estate interests on residential neighborhoods. This is unfortunate, because . . . [t]he ZQA proposal reflects thoughtful and modest changes to encourage affordable and senior developments, while
\end{quote}

\textsuperscript{137} Letter from Gale A. Brewer et al., Manhattan Borough President, to Carl Weisbrod, Chair, City Planning Comm’n (Mar. 25, 2015), http://www.nylandmarks.org/pdfs/preservation_issues/2015-09-25_Chair_Weisbrod_re_DEIS_Zoning_for_Quality_and_Affordability.pdf.

preserving the types of livable, mixed-use communities New Yorkers value.\textsuperscript{139}

Urban planners and community-based, non-profit housing developers interviewed for this project characterized the community resistance to the proposal as misplaced, rooted in residents’ reliance on misunderstandings of both contextual zoning and ZQA, as well as successful lobbying efforts from preservationist groups.

**CONCLUSION**

In NYC, rezoning fights tend to be intense public battles between community groups that are often opposed to change and real estate actors who see rezonings as profitable opportunities to increase development capacity. Under former Mayor Bloomberg, homeowners exercised an outsized influence on land use changes in the city.\textsuperscript{140} With stated goals of reinforcing neighborhood character, contextual zoning was deployed in many cases to limit construction and codify the status quo. As NYC’s population continues to grow, however, this application of contextual districts appears impractical and unreasonable. “Shrink-wrapped” streets constrain affordability and the housing supply, more generally, and in the face of a severe housing crisis, no community should be entirely protected from new development. Current Mayor de Blasio has implemented zoning amendments to tweak contextual regulations and ease restraints on the housing supply. Although he has struggled to motivate residents and politicians to embrace zoning revisions that encourage sensible growth, the Mayor’s housing programs seem to offer workable


\textsuperscript{140} See Been et al., \textit{supra} note 76, at 259.
solutions to create more livable and affordable neighborhoods in New York.