

Land Use Training Speaker Notes
11/19/21

Presenters:

Casey Peterson + Stephanie Chan

1. Title slide (10:30)

- a. **CP:** Good morning and welcome to the land use training. Let us first introduce ourselves. I'm Casey Peterson, Senior Project Manager at Hester Street.

SC: And my name is Stephanie Chan, Project Manager at Hester Street.

CP: Hester Street is an urban planning, design and development nonprofit that works to ensure neighborhoods are shaped by the people who live in them. Our staff of almost 40 is comprised of urban planners, architects, community developers and organizers providing technical assistance to community-based organizations, government, and other agencies, with inclusive and innovative community engagement being a thread through all our work.

We have led several citywide and neighborhood engagement processes including the City's fair housing plan Where We Live, citywide Census outreach efforts, and our first ever comprehensive cultural plan, CreateNYC. We have also supported community-led rezoning plans in all five boroughs. And our staff has expertise in supporting community-based organizations in securing city capital funding to own and acquire their own physical spaces.

We are particularly excited about this opportunity to share our approach and knowledge about land use issues with all of you. We believe that equitable decision making around land use and zoning issues – informed by community voice – is a really powerful tool towards making our city more just.

Today, we want to give you a solid foundation in land use and zoning as it relates to your new role as a City Council Member. Everyone in this room is coming in with different experience with land use and zoning, so some of this may feel basic and other parts may be brand new. The goal of the morning session is to ensure familiarity with basic terms and concepts so that you can enter the afternoon session on common ground. Following this training, we'll be sending out a land use and zoning guide book that you can use as a reference while in office.

2. Agenda (10:33)

CP: Today we're going to cover four major topics: affordable housing, zoning, ULURP, and environmental review. We'll wrap things up by introducing you to some useful online tools you should be aware of. We'll pause for a couple questions at the end of each section and then reserve about 10-15 additional minutes at the end. Valeria will also be keeping track of questions better suited for the afternoon session. So let's begin!

3. Area Median Income (10:35)

CP: The question you often hear related to affordable housing is, "affordable for whom?" The key to unpacking that question is Area Median Income (AMI), which is the median income for a region as defined by the U.S. Department of Housing and Urban Development (HUD). Affordable housing projects in NYC typically provide housing for households ranging from extremely low-income to moderate-income. The City's affordable housing agency HPD generally doesn't target households earning above 120% AMI. Affordable housing is financed so that households spend no more than 30% of their income on housing. Paying more than 30% is considered rent burdened.

4. Area Median Income Chart (10:36)

CP: AMI is broken out by household size, as shown in this chart. The 2021 AMI for a family of three in the NYC region is \$107,400. So if that family moved into an affordable housing unit, they would pay one-third of their annual income on rent, which is over \$2,500/month. We want to stress that AMI takes into account all incomes of a metro region, which is why the number is so high for New York City. In order to reach the City's lowest income households, the City needs to subsidize affordable housing units to these lower-income AMI brackets.

5. Mandatory Inclusionary Housing (MIH) (10:37)

CP: Mandatory Inclusionary Housing (MIH) is a program in which affordable housing is made mandatory and permanent through a condition of residential development when developers build in an area zoned for MIH.

When new housing capacity is approved through land use actions, the City Planning Commission and Council have four different MIH Options containing different mixes of affordability levels: Option 1, Option 2, Deep Affordability, and the Workforce Option. Note that if a developer layers MIH with a city subsidy, there is a requirement for an additional 15% of the units to be permanently affordable.

MIH also applies to private rezoning applications for individual projects over 10 units where a developer plans to build more housing than is allowed by zoning. *That being said, buildings with between 11 and 25 apartments have the option to pay into a fund for affordable housing development and preservation in the community district or within a half-mile instead.*

6. Affordable Housing Lottery + Community Preference (10:39)

CP: So who gets to live in these affordable housing units? Housing lotteries for vacancies in subsidized affordable housing developments are managed through the HPD online portal, Housing Connect.

Community Preference is a longstanding NYC policy that reserves 50% of units in most subsidized affordable housing developments for residents of the local Community District. However, Community Preference is the subject of a lawsuit under *Winfield v. the City of New York (2017)* where plaintiffs claim that the policy has racially discriminatory impacts and reinforces the legacy of segregation. The lawsuit is still ongoing, but it's good to be aware of.

7. Types of Affordable Housing (10:41)

CP: So what are the specific types of affordable housing you'll come across? Apart from public housing owned by NYCHA, Mitchell-Lama buildings, and State-subsidized affordable housing, Council Members will engage most with affordable housing financed through HPD. HPD Term Sheets offer information on programs to construct and preserve multifamily housing at a range of affordability levels throughout New York City.

On this slide are some examples of some common New Construction and Preservation Programs, which preserve affordability in existing buildings. Details of all of these programs can be found in their term sheets on the HPD website.

QUESTION BREAK (10:43 - 10:45)

CP: Before we move onto the next section on zoning, we have time for 2-3 questions on housing.

8. What is zoning? (10:45)

SC: Now we're moving onto the second section of our presentation on Zoning.

What is zoning?

Zoning is defined as the classification of land through restrictions placed on its use (or land use) and development. Zoning governs the size and use of buildings and has a huge impact on how the City looks and operates. The effects of zoning can be seen from individual buildings to neighborhood and city scales.

It's of interest to note that New York City's first comprehensive Zoning Resolution was passed in 1916 and was originally heavily focused on access to light and air.

9. Why does zoning matter? (10:47-10:55) On Mentimeter

SC: Zoning impacts all areas of quality of life, from public and environmental health, to education and transportation.

We're now going to do a quick activity using Mentimeter to brainstorm together examples of how zoning relates to the built environment in your council districts. People in the room and those joining virtually can all participate.

Everyone, please take out your phones and go to Menti.com and then enter code 1620 7990.

Our first question is: **How does zoning impact housing in your Council District?** Please take a minute to enter some examples in your phone, and they will populate live on the slide. You may submit multiple answers.

Moving onto the second question, please submit your answers for: **How does zoning impact housing in your Council District?**

10. Redlining and racial equity (10:55)

SC: As we all know, zoning has a close relationship to redlining, where local governments legally enforced housing segregation through racist, exclusionary zoning laws.

Zoning still has a massive impact on poor neighborhoods of color, such as the siting of public facilities, parks versus factories, toxic uses, and more.

11. (Use Groups) (10:57)

SC: Let's talk more about zoning as a tool and what it can do. One action of zoning is the ability to regulate uses in certain areas, or what we call Use Groups in the Zoning Resolution. Chapter II of the Zoning Resolution outlines and defines examples of these 18 groups.

Use groups are permitted in appropriate zoning districts either as-of-right or, if certain conditions are met, by authorizations or special permits.

12. (Regulate Districts) (10:59)

SC: Zoning can also regulate districts and the buildings that can be constructed. There are three primary District types: Residential, Commercial, and Manufacturing.

There are also Special Purpose Districts that have site-specific zoning requirements to protect the districts' distinctive qualities. Some examples include the Bronx's Special Hunts Point District, Downtown Brooklyn, Manhattan's Little

Italy, Flushing Waterfront Queens, & South Richmond on Staten Island.

13. (C2-5) (11:01)

SC: Zoning notations are typically written with a pre-fix and a suffix. The pre-fix would be a R, C, or M for Residential, Commercial, or Manufacturing. The pre-fix would be followed by a number that signifies the intensity of allowable uses. For Commercial or Manufacturing districts, the lower the number, the lower scope of uses permitted in that district.

The suffix indicates variations in uses, bulk or parking requirements. A low suffix number typically means lower scaled development and higher parking requirements.

In this example, a C2-5 is a commercial overlay over a residential district. So typically mixed-use buildings on a commercial corridor, which can be found in primarily Manhattan and Queens.

14. (R7A) (11:03)

SC: In residential notations, the suffix can represent Quality Housing Regulations in contextual districts. In this example of an R7A, R signifies a residential district, 7 represents the building density or intensity of the district, and the suffix A represents Quality Housing Regulations, like different inclusionary housing programs. There are four different kinds of suffixes in residential notations, A, B, D, and X.

15. Regulate Building Density and Form (11:05)

SC: Zoning can also regulate building density and form. Building density is related to Floor Area Ratio (or FAR), which is the total square footage of a building divided by the square footage of the lot that it is on. The higher the FAR, the more you can build on it.

Here we have included some examples of the bulk and density differences of a .5 FAR building versus a 4 FAR building and its lot coverage (which is the percentage of a lot area covered by a structure).

16. Regulate the Amount of Open Space and Parking (11:07)

SC: Zoning can also regulate the amount of open space and parking in a neighborhood. Examples of open space regulations include building setbacks (the distance that a building is setback from a street, road, or property line - such as the tiered setbacks we see in this photo), and rear yards (the open space of the full width of a lot in between the nearest wall of any structure on the lot and the rear lot line).

17. Generate Air Rights (11:09)

SC: Lastly, zoning can also generate air rights. Air Rights are the unused potential development rights on any given property, in other words, the difference between the actual built floor area and the maximum permitted floor area.

Air rights can be sold and transferred through a number of ways, such as zoning lot mergers, development right transfers, landmark transfers through the Landmark Preservation Commission (LPC), and Special Purpose District Transfers. We have included details of these programs in our Zoning Guide Book.

18. Types of Zoning Changes (11:11)

SC: Lastly we want to clarify the vocabulary around increasing and decreasing zoning density in a neighborhood.

Upzoning is when zoning density is increased in a particular neighborhood, which could mean upzoning single residential lots to allow for multi-family housing.

Downzoning is when zoning density is decreased, which has been argued to preserve neighborhood character and enhance environmental benefits, at the cost of decreasing the amount of allowable residential units in a neighborhood.

QUESTION BREAK (11:11 - 11:15)

SC: Before we move onto the next section we have time for a few questions on zoning.

19. What is ULURP? (11:15)

CP: The Uniform Land Use Review Procedure (ULURP) is a standardized process whereby applications affecting the land use of the city are publicly reviewed. The New York City charter requires that certain land use actions undergo ULURP.

20. The City Charter requires ULURP for: (11:17)

CP: As dictated by the City Charter, the land use actions requiring ULURP include:

- Zoning map changes and zoning special permits
- Acquisitions and dispositions of City-Owned Property
- Site selection for Capital Projects
- Housing and urban renewal plans and projects pursuant to city, state and federal laws; and
- Revocable Consents, Request for Proposals, and other solicitations

21. ULURP Timeline (11:20)

CP: The ULURP timeline begins at the Department of City Planning, where DCP receives the application, certifies it as complete, and forwards it within 5 days to all related agencies that include the Community Board, Borough President and Borough Board, and the City Planning Commission.

Upon certification, the affected Community Boards have 60 days to hold a public hearing and submit a recommendation to the Borough President's Office.

The Borough President may choose to hold a public hearing or not and has 30 days to submit a recommendation to the City Planning Commission. In the event that an application covers multiple Community Boards, the Borough Board may also choose to hold a hearing and submit a recommendation.

The City Planning Commission then has 60 days to hold a public hearing and vote to approve, modify, or reject the application. If the application is rejected, the ULURP ends at this stage.

If approved, the application continues to the City Council, which has 50 days to hold a public hearing and vote on the application. A majority approval is needed to advance the application. If the City Council does not act on items before the 50 day deadline, the City Planning Commission decision is final.

Finally, the application is forwarded to the Mayor, who has 5 days to review the application after the City Council vote. While the Mayor may veto the City Council action, the City Council can override the Mayor's veto with a 2/3 majority vote.

22. Types of land use applications (11:23)

CP: There are two types of land use applications:

Private Applications: Applications by a private developer, usually to request special permits and minor modifications for building bulk, lot subdivisions, parking requirements, curb cuts, or transit easements. Some private applications may include amendments to the zoning text or zoning map.

City-Initiated Applications: Applications by city agencies are typically to make amendments to the zoning text or map, including to map Mandatory Inclusionary Housing (MIH), for capital projects like new parks, or to acquire and dispose of City-owned property.

QUESTION BREAK (11:25-11:30)

CP: Before we move onto the final section on environmental review, we have time for 2-3 questions on ULURP.

23. Environmental Review (11:30)

SC: Now we want to take a while to speak on Environmental Review, which takes different forms depending on whether a project is a Federal, State, or City project.

Federal projects must comply with NEPA, the National Environmental Policy Act. State projects must comply with SEQRA, which is the State Environmental Quality Review Act.

What we'll get into today is CEQR, or the City Environmental Quality Review, which most discretionary land use actions are subject to in New York City.

Projects that need to be reviewed under CEQR are

- Projects that need discretionary approvals or permits from a City Agency
- Projects that request City funding
- Or Projects that are being directly undertaken by a City Agency

24. CEQR Timeline (11:34)

SC:

Note that the lead agency for most discretionary land use actions is the City Planning Commission with the Department of City Planning as staff, and that the timeline for CEQR runs in tandem with the timeline for ULURP.

CEQR begins with an Environmental Assessment Statement (or EAS), that reviews a project and determines whether the project includes a Type I Action (an action that is more likely to have an adverse impact on the environment) or a Type II Action (one that doesn't). **A project will only go through the entirety of CEQR if it is a large scale project. Most smaller projects will have a negative declaration at this point.**

If the application has a positive declaration, the lead agency must issue a Draft Scope of Work (or DSOW) within 15 days. The DSOW would include environmental topics that would be covered in the Environmental Impact Statement (EIS). Some examples of topics include Natural Resources, Shadows, Neighborhood Character, and more. **During the DSOW stage, there is a public meeting in which the best opportunity for Council Members to provide input on what appears in the EIS.**

After this, the Final Scope of Work and a Notice of Completion is issued, followed by the Draft Environmental Impact Statement (or DEIS), the Final EIS, and then a second Notice of Completion. The last document to be filed in the CEQR process is a **Statement of Findings**, which demonstrates that the lead agency has taken a 'hard look' at a project's impacts, mitigations and alternatives.

25. Zoning districts guide: (11:37)

SC: Lastly we included in our presentation a list of online tools that would be helpful in land use research and getting to know your districts.

The first is the Zoning Districts Guide on DCP's website which breaks down different zoning districts and their uses.

26. ZAP (11:40)

SC: The second is the Zoning Application Portal (or ZAP). This is where you could review and download current and historical land use applications and find links to all related environmental review filings issued recommendations by Community Boards or Borough Presidents, the ULURP timeline for projects, and the dates of public hearings.

27. ZoLa (11:43)

SC: The third tool is the Zoning & Land Use Map (also known as ZoLa). This is a particularly useful tool for research a building's built year and floor area, zoning regulations, community board boundaries, and information for a district's elected officials, school and sanitation districts, and more.

28. BISWEB (11:45)

SC: Finally, ZoLa connects to BISWEB, which is the Department of Building's portal for researching on specific properties and lots, including building complaints, violations, and actions such as demolitions or new building permits.

29. Key agencies (11:47)

CP: Lastly, we've included definitions of some key agencies that would be relevant to land use and the applications that you would see go through the ULURP pipeline.

30.Q&A (11:47 - 12:00)

CP: We've reserved our last 10 minutes for questions on the content you just heard. Keep in mind that we have the afternoon session to go into more depth on the negotiation process and specific projects you may come across as a Council Member, and we've already "bike racked" some of those. So I'll open the floor to questions.

Thank you for your questions. In closing, congratulations on being elected to office! We're excited about what you'll accomplish in City Council and will always be here as a resource.