

LAND USE AND THE NEW YORK CITY CHARTER

By Tom Angotti¹

Submitted to the New York City Charter Commission

August 10, 2010

¹ Tom Angotti is professor of urban affairs and planning at Hunter College/CUNY and director of the Hunter College Center for Community Planning & Development. Brian Paul, a Fellow at the center, contributed to research for this paper.

Land Use and the New York City Charter

Executive Summary

New York City's Uniform Land Use Review Procedure, established in 1975, has proven to be an efficient mechanism for making land use decisions, but not an effective one. The problem is not strictly one of time spent: it is not likely that the period for land use review can be shortened without sacrificing necessary public debate and deliberation. The problems with ULURP have to do with the *quality* of public discussion and decision-making, especially in the period before ULURP, and not the *quantity* of time it takes.

In the period prior to ULURP certification, discussions between applicants and communities produce formal and informal agreements outside the public arena, and environmental review occurs without significant public involvement. There is substantial aversion to and evasion of the ULURP process by public and private participants. Changes to the City Charter are needed to bring the pre-ULURP process into the sunlight and improve the *quality* of ULURP proceedings so that decisions made during ULURP are open, transparent and no longer considered a *fait accompli*.

The key to any qualitative remedy is to fulfill the promise of community boards and their ability to fully engage in land use review. To fully participate in decision-making, the capacity of boards to plan, assess district needs, and review budgets must be expanded.

The Charter calls for comprehensive, strategic planning at different levels in government, a necessary basis for community planning. However, the Charter's mandate for city-wide planning is weak, and those plans that are developed are not publicly reviewed and approved. Community-based planning is growing but "lacks teeth" and does not receive adequate support. Section 197-a of the Charter should be revised to create a clear, unequivocal framework for both citywide and community-based planning.

Proposals outlined in this paper seek to improve the *quality of ULURP*, the *capacity of community boards*, and *the role of planning*.

LAND USE AND THE NEW YORK CITY CHARTER
TABLE OF CONTENTS

<u>Page</u>	
3	Preface
4	I. THE UNIFORM LAND USE REVIEW PROCEDURE (ULURP)
5	II. AVERSION TO AND EVASION OF ULURP
	Community Benefit Agreements (CBAs) Without Communities?
	Memorandums of Understanding Breed Misunderstanding
	Environmental Review Out of View
	How Public Hearings Are Deafening
	The Role of the Economic Development Corporation in Land Use
15	III. THE UNFULFILLED MANDATES OF COMMUNITY BOARDS
	Community District Needs, Service Delivery, Budget Review
	Conditional Votes
	NIMBY and Accountability
19	IV. CITYWIDE AND COMMUNITY PLANNING
	Zoning Without Planning
	Strategic and Comprehensive Planning
	Community-based 197-a Plans
25	V. RECOMMENDATIONS
	ULURP
	Community Boards
	197-a Plans

Preface

The purpose of this exploratory policy paper is to suggest how the Charter Revision Commission could examine in greater depth New York City's land use review process. I speak from years of direct experience with the city's land use review procedure as a senior planner in city government, a practicing professional working with New York City neighborhoods and community boards, and a professor of urban affairs and planning at Hunter College, The City University of New York.

My purpose here is to examine ULURP critically. I do not want to reiterate that which is commonly thought to "work" but to identify what is not working. I am convinced the proposals set forth here are feasible, practical, and shared by the many community leaders and professionals I have worked with over the years in New York City. The remedies are not simple or quick fixes and they are all related to one another. Many of the conclusions and recommendations benefit from nearly a decade of study and advocacy by the Task Force on Community-based Planning, which represents 50 community organizations, 13 community boards, and 22 professionals, and has been endorsed by 11 elected officials. I am a founding member of the task force and a member of the executive committee. What follows is thus the product of intense engagement in practice and not simply an academic study. However, it does not necessarily represent the conclusions or recommendations of the task force, either as a group or by individual members.

— Tom Angotti

I. THE UNIFORM LAND USE REVIEW PROCEDURE (ULURP)

In 1975, ULURP (Uniform Land Use Review Procedure) was established in the City Charter in an attempt to further democratize land-use decision making and move away from the Robert Moses-era model of mega-projects, which were also becoming increasingly less feasible given the city's fiscal crisis and cuts in federal funding. Community Boards were given an official voice in the land use process as a result of the 1975 reform. The CEQR (City Environmental Quality Review) process was established soon after as another method intended to promote decision-making in the public interest and protect the environment.²

In 1989, the City Charter was again revised to replace the Board of Estimate and expand the powers of the City Council, Community Boards, and Mayor in a variety of ways. The City Planning Commission (CPC) was changed from a body of seven mayoral appointees to a body of 13, with seven commissioners still appointed by the mayor and six new commissioners, one appointed by each borough president and one by the public advocate. Amendments to Section 197-a of the Charter gave Community Boards new rights to prepare and submit "plans for the development, growth, and improvement" of their districts for adoption by the CPC and City Council. The CPC is charged with maintaining standards that community plans must meet in order to be considered for adoption.

The Department of City Planning (DCP), a mayoral agency, provides staff support for the CPC. DCP is responsible for the *certification* that applications are complete. The application then goes to the affected³ Community Board(s) for a period of up to 60 days. The community board may hold a public hearing and submit written recommendations to the CPC. The proposed action then moves on to the affected borough president for a period of up to 30 days; the borough president may hold a public hearing and issue recommendations to the CPC. The proposed action then moves to the CPC for a period of up to 60 days, wherein the CPC must hold a public hearing and subsequently vote to approve, approve with modifications, or disapprove the application. A simple majority of seven votes is required to render the CPC's binding decision on the application. If approved by the CPC, the proposed

² J. Kevin Healy, "The Environmental Review Process in the City of New York: CEQR." *Pace Environmental Law Review*. 1987.

<http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1082&context=envlaw>

³ The Charter defines "affected" Community Boards and Borough Presidents by the Community District/Borough where the proposal is located. A Community Board or Borough President outside of the jurisdiction of the action may also become involved in ULURP if they believe that the action "significantly affects the welfare" of their jurisdiction.

action then moves on to the City Council for a period of up to 50 days, during which time the Council must hold a public hearing and subsequently vote to approve, approve with modifications, or disapprove. If the Council wants to approve with modifications, they must file the modification for review by the CPC first, which will then evaluate whether the proposed modifications need additional environmental review and write an advisory recommendation. Like the CPC's vote, the Council's vote requires only a simple majority and is binding. As a final step, the Mayor can choose to veto a proposed action within five days of the Council's vote, although the Council may override the Mayor's veto with a two-thirds vote in favor.

II. AVERSION TO AND EVASION OF ULURP: Side Agreements, CBAs, MOUs, Environmental Review and EDC

The charter provisions on land use were intended to create an orderly, transparent process for reviewing land use changes. The ULURP clock was instituted to guarantee a finite, predictable time limit and avoid endless postponements and delays. The process was organized so that the CPC, borough presidents, community boards and city council would have enough time to receive input from the public at formal hearings, time for internal deliberations, and time for decision making.

The ULURP process from the date of certification until the final vote takes no more than about seven months. It is orderly and predictable. But it is not conducive to genuine public input, serious deliberation, or decision-making in the public interest. The reason is rather simple. *Over the years, input, deliberation and decision-making have shifted more and more to the pre-ULURP period.* They occur before applications are certified as complete; in other words, before the ULURP clock starts ticking.

It is understandable that both public and private ULURP applicants do not want to spend the time and money needed to move through the public ULURP process only to find that they did not have adequate support for their proposals in the first place. They do not want to spend months, and perhaps years, performing a detailed environmental review only to learn that they "missed the forest for the trees" and ignored a strong opposition to the project. It is understandable that they do not want to be surprised by opposition to their project, and find that it is too late to engage that opposition in discussions and too late to seek compromises that allow them to go forward. It is only logical that applicants seek to avoid the charge that they failed to consult from the start the elected officials, community representatives, and other parties who would potentially be affected by the proposed action.

But the rational desire of applicants to avoid the uncertainties of the ULURP process has produced a situation in which the consultations, deliberations and decisions that are supposed to take place during ULURP are mostly occurring *before* the applications are certified as complete by the City Planning Department. This by itself would not be a bad thing except that the consultations, deliberations and decisions made prior to ULURP are not necessarily public and, in fact, usually do not occur in public. They do not have to meet the rules for openness and transparency that apply during the ULURP process. There is no requirement that meetings be convened by a public entity or take place at an open, public location. There are no requirements of public notice. There are no requirements that records be kept of the deliberations. There are no rules for conducting meetings, introducing motions, resolving differences, or voting.

With substantive deliberations and decisions occurring prior to certification, the ULURP process itself has become problematic. *Ironically, the system consciously set up to make the decision-making process public and transparent has encouraged decision making in private and without transparency.*

As community representatives perceive that decisions have already been made, they become frustrated, angry and cynical about the ULURP process. Some turn out at the mandated public hearings to vent their anger, but as we discuss later on in this report, the public hearing process is organized in such a way that it does not encourage, and usually does not permit, any serious dialogue or exchange of views, nor does it anticipate or make possible the resolution of outstanding conflicts or issues.

Daniel Kemmis, in his book *Community and the Politics of Place* (Norman, OK: University of Oklahoma Press, 1990) identifies the problems with the way public hearings are often conducted:

Public hearings are one of the ways that we fulfill the guarantee of due process contained in both the Fifth and the Fourteenth Amendments to the U.S. Constitution. There are two key components to our legal definition of due process: “notice” and “the opportunity to be heard.... out of everything that happens at a public hearing—the one element that is totally lacking is anything that might be characterized as ‘public hearing’...[one] might expect that at a public hearing there would be a public, not only speaking to itself but also hearing itself...but this almost never happens” (p. 53).

The parties in conflict at a hearing are not encumbered by any responsibility for hearing each other, for responding to each other, for coming to an agreement on what should be done. They have given over that responsibility to “the process” (p. 56).

Thus public hearings and deliberations are often more form than substance, more theater than politics. Those who were not in on the private negotiations often believe that they have been presented with a *fait accompli*. This feeling is reinforced during community board hearings and deliberations as people are reminded of the structural condition established in the Charter: the community board vote carries relatively little weight in comparison with the other participating bodies. It is frequently said to be “only advisory.”

One of the important potential benefits of the time-limited ULURP process is that it limits the expenditure of time and money by both public and private parties that have a stake in the outcomes. However, an unintended consequence of applicants’ efforts to save their own time and money has been a wasteful expenditure of public time and money. The apparent efficiency in the use of resources during the ULURP process conceals the extensive use of time and resources that occurs during *both* the pre-ULURP period *and* the ULURP period and the duplication of time and effort in both periods.

In the absence of public sunshine before the certification of applications, major and minor concessions are often negotiated between the applicant and community participants. These concessions often result in the explicit or implicit commitment of public expenditures by government agencies, especially when the applicant is itself an agency of city government or when the executive branch supports a private applicant. The community participants in pre-ULURP discussions are not necessarily representatives of any publicly-accountable body such as a community board. They may represent narrow special interests and may already have close ties to applicants. They may include individual nonprofit entities with close ties to the applicant.

Applicants for large-scale development projects often contract with professional firms and lobbyists to manage the pre-ULURP negotiations. These firms bring to bear skilled legal, urban planning and public relations professionals who seek out and engage in discussions with community institutions, leaders, elected officials and city personnel. They often become the *de facto* agenda-setters in the pre-ULURP process. These discussions may be entirely informal and never lead to any specific, written agreements, but they are often the foundations upon which more formal agreements are built and, most important from the standpoint of ULURP’s objectives, they may preempt the public discussions that should occur during ULURP.

Thus, what we will call “side agreements” frequently emerge as a product of pre-ULURP discussions. They may be finally sealed during the ULURP process but they often originate in the private discussions that occur prior to ULURP. These agreements are often informal but they may also be memorialized in writing. Their use appears to be growing in New York City. One explanation for their emergence is the failure of ULURP to function as it

was intended — as a public space for decision-making. Whatever the problems may be with side agreements, they would hardly be necessary if ULURP were working as intended.

Below we offer two examples of “side agreements”: Community Benefit Agreements and Memoranda of Understanding.

Community Benefit Agreements (CBAs) Without Communities?

Community Benefit Agreements (CBAs) are contractual agreements, normally between developers and/or government and community groups, that purport to guarantee specific public benefits. Recent projects involving CBAs in New York City include the Yankee Stadium redevelopment and the Kingsbridge Armory project in the Bronx, and Atlantic Yards in Brooklyn (the latter, however, did not involve ULURP since it is a state project that overrode the local land use process). Concerned about the growth in CBAs, the City Comptroller has convened a Task Force to examine CBAs in New York City.⁴ Many have questioned whether CBAs are simply a new version of “exactions” negotiated with developers. They have been challenged in the courts and by policy analysts.⁵ CBAs may be initiated by any community organization, with or without public or government involvement, or any private party. In New York City there are no guidelines or standards and there is no public oversight of CBAs. Many have questioned whether they are enforceable. For our purposes here, however, the main question must be, why do the parties resort to CBAs instead of utilizing the ULURP process? Why are decisions about infrastructure and public benefits consigned to private contracts? If ULURP were to function as intended, CBAs would not be necessary and the agreements would be reached as a result of deliberations during ULURP.

Memorandums of Understanding Breed Misunderstanding

Another increasingly common form of “side agreement” is the Memorandum of Understanding (MOU). Executive offices in New York City may prepare formal MOUs that outline specific arrangements related to proposals that are under ULURP review. These MOUs are not subject to review under ULURP

⁴ See <http://communitybenefits.blogspot.com/>. Samia Shafi, “Strong Feelings about Yankee Stadium Deal? Too Bad,” *City Limits* August 4, 2010. <http://www.citylimits.org/news/articles/3962/strong-feelings-about-yankee-stadium-deal-too-bad>

⁵ Association of the Bar of the City of New York, Land Use Committee, “The Role of Community Benefit Agreements in New York City’s Land Use Process,” March 8, 2010; Vicki Been, “Community Benefits Agreements: A New Local Government Tool or Another Variation on the Exactions Theme?” March, 2010. See also Good Jobs New York: <http://www.goodjobsny.org/cba.htm>.

even if they are used to generate support for a particular project proposed through ULURP. Thus they often undermine the public aspect of land use review as provided for in the Charter. It is not clear whether they are legally binding.

We will briefly examine two recent MOUs and the problems they entail with respect to the ULURP process. Our intention is not to question the substance of these particular agreements but to show how they pose a serious challenge to the integrity of the land use review process.

Flushing Commons MOU. On July 11, 2005 Deputy Mayor Daniel Doctoroff and City Council representative John Liu co-signed an MOU that set out specific agreements regarding the proposal for Flushing Commons (Queens) advanced by the city's Economic Development Corporation (EDC). The MOU, among other things, established policy regarding parking availability in the proposed shopping mall.

The Flushing Commons proposal went through ULURP and was approved in July 2010. Throughout ULURP, the parking policy was a major point of contention. EDC and the mayor's office had changed the agreed-upon policy and were proposing higher charges for parking to be made available to local businesses. The two signatories to the MOU had moved on to new positions; Doctoroff left government and Liu became the City Comptroller. While the final plan approved by the City Council resulted in some changes, a central point of contention remains the issue of whether the MOU is legally binding. Only days before the City Council vote, Howard Wolfson, Counsel to the Mayor, sent a letter to the Council outlining "Points of Agreement" regarding the project. If the terms of the previous letter could be retracted unilaterally it remains to be seen whether the terms of the new letter that refers to the approved project are enforceable. It is not clear whether a letter outlining "Points of Agreement" differs from an MOU. It is also questionable whether any executive staff member is legally empowered to make commitments with budget and programmatic implications in an MOU that is not legally part of ULURP and not subject to votes by the bodies empowered under ULURP.⁶

Domino Sugar MOU. On the same day that the City Council approved Flushing Commons, they also approved a rezoning to facilitate redevelopment of the Domino Sugar site in Brooklyn. Again an MOU was at the center of contention. This MOU was between the developer of the property, The Refinery LLC, and the city's Department of Housing Preservation & Development (HPD). The MOU was limited to the terms of the developer's publicly announced promise that 30% of the units would be affordable; the

⁶ Flushing Coalition for Responsible Development. *REDO Position Paper*. May 2010. <http://flushingcoalitionforresponsibledevelopment.org/wp-content/uploads/2010/05/REDO-Position-Paper.pdf>

MOU defined the terms of affordability at different income tiers. The two-page memorandum, however, was not released until just before the project was approved by the City Council and, quite surprisingly, included a clause reading, “this MOU is not a legally binding instrument...” The MOU also left open the possibility that only 20% of the units would be affordable if public subsidies were not to be available, contradicting repeated public promises by the applicant throughout the ULURP process.⁷

This MOU calls into question the integrity of the public approval process since substantial support for the project within Williamsburg stemmed from the publicly announced increase from the usual 20% to 30% affordability level. Williamsburg residents might also recall the MOU signed by the mayor’s office in 2005 to memorialize off-the-record agreements that accompanied passage of a major rezoning in the neighborhood. Numerous community-based organizations that participated in shaping that MOU have expressed frustration at the lack of progress in meeting the commitments the city made originally — for industrial retention and tenant protections, for example. The 2005 MOU was signed by a deputy mayor who no longer holds office.⁸

Environmental Review Out of View

The environmental review process is a major element in the pre-ULURP review process. For applicants it can be the most expensive and time-consuming element. However, since most of the substantive environmental review occurs before the ULURP review and formal decision-making process, it is not, in practice, integrated with that process in any significant way.

⁷ Benjamin Losovsky, “New Domino Plan Goes to a Vote in City Council with No Guarantees for Community,” *Williamsburg Greenpoint News+Arts*. July, 2010. <http://thewgnews.com/2010/07/new-domino-development-goes-for-vote-in-city-council-w-no-guarantees-for-co>. Michael Wilson, “History and Homes May Mix at the Brooklyn Waterfront.” *The New York Times*, July 27, 2007. <http://www.nytimes.com/2007/06/27/nyregion/27domino.html>

⁸ Courtney Gross, “Affordable Housing Not Included.” *Gotham Gazette*. October 2009. <http://www.gothamgazette.com/article/housing/20091005/10/3045>; Talisa Chang, “What Bushwick Inlet Park Will Be,” *Greenpoint Gazette*. May 13, 2010. <http://www.greenpointnews.com/news/what-bushwick-inlet-park-will-be> Khristina Narizhnaya, “Displaced Tenants Protest Cuts to Anti-Displacement Funding.” *Greenpoint Gazette*. December 10, 2008. <http://www.greenpointnews.com/news/displaced-tenants-protest-cuts-to-anti-displacement-funding> Kathe Newman, et al. “Gentrification and Rezoning: Williamsburg-Greenpoint.” Edward J. Bloustein School of Planning and Public Policy. Spring 2007. <http://policy.rutgers.edu/academics/projects/studios/Williamsburg07r.pdf>

The City Environmental Quality Review (CEQR) process is intended to inform decision makers about the potential negative environmental impacts of proposed actions. The city legislation, following comparable state and federal statutes, requires that applicants disclose potential impacts and any mitigations that may be proposed to reduce those impacts. Partly in response to challenges to the narrow way that “environment” had been originally defined, the scope of the environmental impacts has become relatively broad and includes impacts on socio-economic characteristics, land use, public health, and neighborhood character. In order to certify that the ULURP application is complete, DCP must determine that the environmental review is complete. This may entail the completion of an initial environmental assessment, but generally for larger projects a detailed Draft Environmental Impact Statement (DEIS) must be completed. Applicants typically contract out the DEIS to (a limited pool of) private companies.

Environmental review must comply with detailed guidelines established by the city. The Mayor’s Office of Environmental Coordination (OEC), established under Section 192(2) of the Charter, is responsible for coordinating and supporting reviews by city agencies, serving as liaison with state and federal agencies, and maintaining the official archive of environmental reviews.

However, neither the OEC nor any other city agency is charged with the task of promoting the use and understanding of the legally mandated review process for the purpose of improving environmental quality. Instead, reviews tend to be limited to narrow disclosure objectives, more geared towards protecting applicants against future lawsuits than stimulating awareness of potential impacts. We are not suggesting that city officials are in any position to change the legislative intent and limits of environmental review. *We are suggesting that the city can change its land use review procedures to better link disclosure and long-term planning for environmental quality.* Community boards, city agencies and elected representatives can and will embrace the environmental review process if and when they see the connection with the issues affecting the daily lives of residents and the health and safety of future generations.

The main problem with the environmental review process, however, is that most decision-makers never get to decide whether the disclosure and analysis presented to them is adequate. The DEIS is rarely understood except by a small handful of experienced technical people. It is too complicated, technical and distant to be meaningful for the various decision-makers in the ULURP process.⁹ Surely the very process of undertaking an environmental

⁹ See Hope Cohen, “Rethinking Environmental Review: A Handbook on What Can Be Done,” Manhattan Institute, May 2007. http://www.manhattan-institute.org/html/rethinking_environmental_review.htm; Tom Angotti, “Rethinking

review in which public agencies raise potentially difficult questions has at times led applicants to change their proposals, and surely this has at times produced a better outcome for the environment. However, for the most part the public is not part of this process.

From the vantage point of most community board members, the DEIS, often running into thousands of pages and dozens of chapters, is an unapproachable monster written in a foreign language. Community boards have access to the written document, both in draft and final form, but they do not have the personnel or resources to adequately review them. Since community board members are volunteers and community boards have no paid staff responsible for reviewing them, the content of the documents often remains a mystery. They may rely on interpretations by DCP or executive agencies even though these bodies may be proponents of the ULURP action, have a stake in its passage, and may not be forthcoming in providing assistance.

Community board representatives are permitted limited opportunities to comment on the Draft Scope of Work — the work plan that sets out what impacts will be studied. However, the environmental review resulting in the DEIS is conducted during the pre-ULURP period before any formal community board role begins — that is, before deliberation by community board committees or the full community board. As a practical matter, the major participants in DEIS preparation are the applicants themselves and relevant city agencies. This usually means that the local groups and individuals that have most at stake and that may be directly affected by the land use change do not have the opportunity to correct errors of omission or commission or suggest changes to the project that might reduce negative impacts.

The obscurity of the environmental review process is perhaps not as significant when it comes to the borough presidents and city council, because each of these bodies has professional staff that, though limited, can review, comment and make recommendations. Community boards do not have their own in-house experts.

The role of the DCP and CPC in environmental review is unique and fraught with serious contradictions and potential conflicts. When DCP is the applicant on land use and zoning matters, they are effectively the “lead agency” responsible both for disclosing potential negative environmental impacts and insuring that the environmental review is complete and the application can proceed through ULURP. This has created a clear conflict of

Environmental Impact Statements,” *Gotham Gazette*, July 2004.
<http://www.gothamgazette.com/article/landuse/20040720/12/1042>.

interest. While DCP is an executive agency that acts in accordance with mayoral priorities such as encouraging new housing and commercial development, it is also the agency identified in the charter as the effective custodian of the land use review process. In practice, it is virtually impossible to separate these two functions when they are lodged within the same agency. Thus it should come as no surprise that all of the 101 executive proposals for zoning changes since 2002 were approved.

DCP has used its own environmental reviews in a narrow way, as they are minimally required by law, even though they have a broader mandate as the city's planning agency to plan in an integrated and comprehensive way. Therefore it is not surprising that DCP-promoted zoning changes in some neighborhoods such as Williamsburg (Brooklyn), for example, have resulted in new housing and commercial development without the transportation and school infrastructure to meet rising needs; the detailed environmental reviews that were undertaken in accordance with CEQR understated infrastructure impacts and there was apparently no effective oversight.

In sum, there is a conflict between the roles of DCP as the neutral arbiter and organizer of ULURP and as applicant for zoning and other land use changes. It is in DCP's interest to overestimate the positive environmental impacts of downzoning (reducing potential development) and to underestimate the negative environmental impacts of upzoning (increasing potential development). We have challenged on several occasions DCP's self-interested interpretation of the rules, including its failure to take a hard look at socio-economic impacts, especially as they affect different economic and racial groups, tenants and small businesses.¹⁰

How Public Hearings Are Deafening

The more that negotiations, discussions and agreements occur prior to certification and out of sight, the more the formal ULURP process becomes empty of substance. However, even if sunshine were to be brought to what is now pre-ULURP engagement, the public hearing format used by the city is woefully inadequate as an instrument of citizen engagement. If public hearings are to become meaningful and productive, the format must be changed.

The commonly-used public hearing format is a major source of frustration and does not improve the quality of ULURP. This is true for community board, borough president, CPC and City Council hearings. The format for public hearings has become, in practice, a drroll routine only loosely related to the goal of gathering public opinion on specific matters. Many hearings are held

¹⁰ See <http://www.hunter.cuny.edu/ccpd/community-projects>.

during normal work hours and not accessible to many. Rules governing the hearings limit testimony by the public to three minutes, though elected officials are often allowed more time. City officials and project proponents are usually placed at the top of the agenda and their presentations and testimony may take hours, leaving individual members of the public frustrated. Many leave before having a chance to testify. Too often citizens who testify feel that nobody is listening to them because commission or council members come and go at will, or send staff to listen. Most critically, there is rarely any two-way discussion with the public, even when there may be extensive exchanges allowed with applicants, developers and privileged professionals.

All of this leads us to question the process on two counts: 1) *Efficiency*. This is not a format that makes for the most productive use of time. 2) *Effectiveness*. If citizens have a right to have their voices heard, isn't it also true that they have a right to have their voices shape decisions that are made? Otherwise the voices are falling on deaf ears. Effective citizen involvement is that which can shape decisions, not that which is simply a venting of emotions. And shaping decisions is not simply a matter of voting. According to two observant scholars, "Participatory democracy takes the citizen role past that of merely exercising a vote which determines who will govern, to be viewed "as a way of life, a civic culture in which people creatively participate in public life"¹¹ (65).

Thus, efficiency and effectiveness are linked; the problem is not the amount of time spent in public hearings but the *quality* of time spent. In some cases testimony and discussion should go well beyond the three-minute limit. Criteria must be fair, equitable, and related to the goals of opening up multiple dialogues with diverse sectors of the public, and improving the quality of decision-making.

The Role of the Economic Development Corporation in Land Use

As the Flushing Commons example mentioned above demonstrates, the city's Economic Development Corporation (EDC) has come to play a significant role in major land use decisions. It is often the lead agency in major development projects and coordinates planning with other city agencies. However, EDC is not mentioned at all in the Charter. It often performs planning functions that the Charter assigns to DCP and CPC. EDC is considered the "lead agency" even though it is not an agency. It often is responsible for long-range planning, preempting the planning bodies outlined in the Charter. As with PlaNYC2030,

¹¹ Michael Cuthill and John Fien. "Capacity Building: Facilitating citizen participation in local governance." *Australian Journal of Public Administration* 64:4 (December 2005), p. 65.

EDC frequently issues RFPs and selects consultants to make plans that may have significant long-term impacts on the city, yet they are not required to operate or deliberate openly and in public. They often represent the mayor's office in negotiations related to ULURP actions, but have no formal role in ULURP.

While EDC may not be a formal applicant, it cannot also evade ULURP when it comes to acquisition and disposition of city property, urban renewal, zoning, etc. EDC frequently utilizes other agencies to undertake land use changes. For example, planning for urban renewal areas, which are under the jurisdiction of HPD, is sometimes done by EDC, while HPD is a simple conduit.

EDC's function within city government is to promote economic development. This is a legitimate function, but in practice it has merged with the long-term planning function. By establishing a clear mandate for long-term planning and encouraging a strong planning function in government, the Charter can promote greater efficiency in decision-making and effectiveness in addressing critical concerns about the future of the city. EDC's role should be clearly defined.

III. THE UNFULFILLED MANDATES OF COMMUNITY BOARDS

New York City's 59 community boards, established under the 1975 Charter reform, are the one institution involved in ULURP that is by its very nature physically closest to the spaces where land use decisions have their greatest direct impact. People who live and work in the hundreds of city neighborhoods are acutely concerned about major and minor land use decisions because they affect their daily lives. A zoning change may increase or decrease the value of their property. A major new development might create new jobs or threaten existing ones, create new affordable housing or threaten existing affordability. New development may increase local traffic or overburden schools, parks and other services.

Community boards are the place where these concerns are raised and discussed, but they are not empowered as independent bodies to effectively resolve the concerns. Community board votes are never decisive, and their votes carry relatively little weight. Members are appointed by the borough president and city council persons and their autonomy is limited. On the face of it, this is greatly unfair.

Community boards have staff and funding levels far below those of the other participants in ULURP. The entire budget of all community boards combined amounts to a mere .02% of the total city budget. Most boards have no more than two full-time staff persons, and much of their time is taken up managing urgent issues and providing minimal staff functions for the board and its committees. The average community board represents a population larger

than most New York State municipalities and its budget a mere fraction of comparable jurisdictions.¹²

Community boards have Charter-mandated responsibilities that they do not have the resources to adequately perform. In this section, we will briefly point out some major issues with the following community board functions: community district needs, coordination of service delivery, and budget review. Then we briefly consider the role of conditional votes and public hearings and the problems of NIMBY and accountability. The problems we identify are major contributors to the widespread feeling that community boards are powerless even while they require a great deal of volunteer time for participation in meetings. Another major area of frustration is planning by community boards; this is covered in the Section Four of this report.

Community District Needs. The Charter requires that each board complete a Community District Needs Statement and update it regularly. While most boards formally complete the statements, many fail to regularly update them. Some boards are extremely diligent in preparing these documents, which are essential for outlining budget and service priorities, but most boards lack the staff to follow up with city and private agencies and diligently seek implementation.

Coordination of Service Delivery. Under the Charter, community boards convene the District Service Cabinet, which is responsible for coordinating many of the city services that are coterminus within the district. In a city of more than 8 million people in five boroughs, the District Service Cabinets were to address some of the consequences of having highly centralized mayoral agencies, many of them with borough and district offices that report directly to the central agency and do not necessarily interact with other service providers or service recipients in any systematic way. In practice, there are many problems with the District Service Cabinets that stem from the relatively weak authority and lack of resources of community boards. Participation by agency representatives is uneven and may be infrequent. District managers often have to rely on their own persuasive powers to insure full participation at regular monthly meetings or through alternative formats. The lone district manager does not have the time to plan and coordinate services with multiple city agencies on a regular basis and often must give priority to the resolution of immediate problems—“putting out fires.”

¹² Tom Angotti, “Charting a Better Way for Planning and Community Boards, *Gotham Gazette*, July 2010
<http://www.gothamgazette.com/article/landuse/20100706/12/3306>.

Budget Review. New York City's budget review process does not allow for significant input from community boards. Budget review is led by the Office of Management and Budget which has a staff of over 300 (more than all the community boards combined). The \$63 billion city budget is mostly shaped at the executive level and there are two major opportunities each year for community boards to weigh in on the budget. The first is during the spring when community boards present their budget requests. The second is during the borough consultations in the fall, when community board representatives may respond to the mayor's preliminary budget. Through these venues, community boards are able to present their budget priorities, often using the District Needs Statements to support their requests. Agencies normally respond individually and in writing to the community board comments at the budget consultations. Community boards also have an opportunity to comment at the formal public hearings on the budget.

For a city with the largest municipal budget in the country and 59 community districts, these limited consultations are grossly inadequate. They do not allow time for in-depth discussion of impacts across functional and agency lines. They generally do not incorporate discussions regarding Fair Share, which is mandated in Charter Section 203. They do not allow sufficient time to consider the significant land use effects of budget decisions. They do not entail any in-depth, long-term planning.

For the executive branch, budget consultations could be much more than "touching base" with community boards. They are the only opportunity to analyze budget expenditures in spatial terms, that is, as they affect each of the city's neighborhoods, and to do it with the participation of neighborhood representatives. Similarly, budget consultations can be much more than a chance for community boards to simply "touch base" with city agencies and their budgets. It is an opportunity to discuss priorities jointly, and to jointly establish the relative importance and timing of expenditures over time.

Community boards have other procedural straight-jackets. They are encouraged by the Mayor's Community Affairs Unit to follow standard parliamentary procedure using Robert's Rules as a basic model. In a modern world where formats for communications are flexible and varied, this seems to be both limiting and exclusionary. If city agencies are finding new ways to communicate and interact with constituencies using the internet, other media, and flexible techniques for public meetings, community boards should be encouraged to do the same.

Conditional Votes

One particular problem with community board procedures is the practice of voting "for" items with conditions, or "against" with conditions. This practice is sometimes encouraged by applicants facing many issues at community boards that they do not want to address (sometimes because they would

have to start the ULURP process all over again if they did). If a board is leaning in their favor, they encourage the board to vote “yes” with conditions, holding out the possibility that the CPC and City Council might accept those conditions as the proposal moves through ULURP. Often project proponents within community boards support this option even when they do not agree with the conditions.

On the other hand, if a board is leaning against the project, proponents within the community board may seek to tack on conditions to a “no” vote that could then be applied when the expected approval by CPC and the CC occurs. Applicants may encourage conditional votes but very often DCP and land use advisors on all sides encourage these votes, perhaps to assuage the disappointment of community board participants.

However, conditional votes are little more than exercises in wishful thinking. Their growing use highlights the already severe limitations of community boards in the process of decision-making. The Charter recognizes only two votes — yes and no. Experience shows that in practice the conditions are rarely incorporated in the final decisions. A “no” vote with conditions is particularly problematic in cases where the CPC and/or City Council vote “yes,” since neither have an obligation to recognize any of the conditions and can easily ignore them. Also, conditions may also be ruled by DCP to fall outside the scope of the environmental review, thereby requiring that in order to meet these conditions a new ULURP application would have to be made, a scenario that is unrealistic and practically never occurs.

The lesson here is that conditional votes are a symptom of powerlessness among community boards. The remedy should be not simply to prohibit conditional votes but to restructure ULURP so that the community board vote has greater weight and can no longer be dismissed as “simply advisory.”

The problems cited above show that community boards are the one institution in ULURP that is most unable to meet its charter mandates. Lack of resources is part of the problem, but it is fundamentally one of relative power. To resolve the wide imbalance in power, government must be restructured and changes are needed in the Charter. Resources that are now used inefficiently for “public theater” and private negotiations should be reallocated in order to strengthen the weakest link in the ULURP chain.

Community Boards and NIMBY? Accountability?

Would not strengthening community boards only add weight to narrow, parochial decision-making? Are not community boards inevitably exclusionary, the custodians of Not-in-My-Backyard thinking? First of all, a careful reading of the public record shows us that parochialism is present at all levels and in all institutions of government. Professionals in city agencies and city-wide officials bring their own ideas, experiences and prejudices to

the table just as community board members do. Many community board members as well as city-wide officials have deeply engrained city-wide, regional and even global perspectives, and many do not. The real challenge for us is to create an environment of greater openness and public responsibility so that the public interest prevails over narrow interests. Ironically, the more community boards remain unequal partners the less likely they are to act in the broader public interest; they will always be forced into defensive ULURP battles.

Finally, there is the question of accountability. Surely, many community boards do not reflect the diversity of their residents. Each of the five boroughs has a different set of rules and procedures for appointing and reappointing members. As communities change over time, very often new residents are underrepresented, especially when experienced members continue to get reappointed. Too often community boards do not reflect the district's ethnic, age, and gender diversity and there is an imbalance of representations of tenants and homeowners. Thus, changes to the Charter and city law are required to promote balance and accountability among community board members.

Yet another lost opportunity for community boards is their ability to do long-range planning as a basis for decision-making on land use. In the following section we will discuss the problems with community planning as enabled in the 1989 Charter revision.

IV. CITYWIDE AND COMMUNITY PLANNING

Behind the many problems of ULURP lies a deeper, long-term problem — the deficit of long-term comprehensive and strategic planning in New York City government at multiple levels. The City Charter requires strategic planning as an executive function and calls for procedures for the development and approval of plans. However, the Charter nowhere *requires* comprehensive long-range planning, at city-wide, borough or community board levels. While Section 197-a of the Charter *enables* planning and authorizes DCP to set up rules for planning, nowhere does it require that government take a conscious look at the city's long-term needs and prospects, except through capital budget planning and the filing of a strategic planning report by the mayor's office.

Unlike nearly every other city in the United States, including Los Angeles and Chicago, New York City lacks a true comprehensive plan to guide the growth and improvement of the city. The 1975 and 1989 Charter revisions failed to

require city government to conduct long-range planning for land use, infrastructure, development and environmental quality.¹³

New York City has never had a strong tradition of comprehensive planning. In 1916, New York was one of the very first cities to institute municipal zoning and turn away from planning. Under the leadership of Robert Moses, city agencies and local authorities increasingly coordinated infrastructure planning, new housing and commercial development. The City Planning Commission, established in 1936, was intended to be an independent body to oversee land use, but the Mayor has always appointed the majority of commissioners. A draft master plan completed in 1969 was never adopted.

As large-scale infrastructure and urban renewal projects declined in the 1970s, interest in large-scale planning also declined. New institutions such as the Landmarks Preservation Commission and community boards reflected the growing priority placed on balancing preservation and new development.¹⁴ Yet the city's planning agency and the CPC continued to equate planning with new development, both in theory and practice. Having struck out with the master plan and lost its role in the capital budget process, DCP has singularly focused on zoning over the last three decades. However, zoning is not planning and the enormously complex Zoning Resolution is not a plan. This much is recognized in the Charter, where Sections 200 and 201 establish zoning powers as distinct from planning, which is set out in Section 197-a.

Zoning Without Planning

The Charter defines zoning as “any resolution or regulation to regulate and limit the height and bulk of buildings...the area of yards, courts, and other open spaces...the density of population...the location of trades and industries and the location of buildings designed for specific uses or creating districts for any such purpose” (Sec 200). The regulation of building sizes and uses is a far narrower scope than the broad social, economic, and environmental mission of comprehensive planning, enabled in Section 197-a, to “guide the future of the development of the city.”

In Section 192d on the CPC, the Charter broadly defines “planning” as the guidance of governmental decisions “related to orderly growth, improvement and future development of the city, including adequate and appropriate resources for the housing, business, industry, transportation, distribution,

¹³ Pratt Center for Community Development. “Testimony at the City Charter Revision Commission, July 19th, 2010.” <http://prattcenter.net/2010/07/20/city-charter-revision-commission-july-19-2010>

¹⁴ <http://www.nyc.gov/html/dcp/html/luproc/ulpro.shtml#evolution>

recreation, culture, comfort, convenience, health, and welfare of its population” (192d). The Charter identifies DCP as the agency and CPC the decision-making body responsible for planning.

Since 2002 DCP proposed and ushered through ULURP over 100 rezonings. But do they add up to planning? According to reports by the Furman Center at NYU and Pratt Center for Community Development, DCP’s ad hoc, neighborhood-by-neighborhood rezonings failed to adequately coordinate with infrastructure planning and the city’s broader planning objectives. The areas rezoned do not fit the agency’s stated goal of concentrating new development around transit hubs. Nor have they produced the affordable housing promised in DCP’s inclusionary zoning policies and most likely have contributed to the net loss of affordable housing in the city, almost 200,000 units in six years.¹⁵ DCP’s charter-mandated strategic plan is little more than a glossy summary of the agency’s rezonings grouped into generic, after-the-fact categories like “facilitate housing production” and “strengthen neighborhood character.” Zoning, in short, is not planning, either in theory or practice.

The substitution of zoning for planning and the failure of the Charter to mandate planning have had a particularly negative affect on community boards. Paradoxically, community boards are among the most vocal advocates of planning because their members experience the consequences when planning fails — for example, overcrowded schools, traffic congestion, air pollution, increased asthma rates, etc. It is telling that most of the plans approved under Section 197-a since the 1989 Charter revision were initiated by community boards; indeed, the term “197-a plan” has in practice become synonymous with “community plan.” However, *197-a plans may be initiated at all levels of city government*. Community boards are clearly ahead of the game and it is worth learning from their experiences (see the section below on community planning). There are also many examples of long-term planning going on in city government and these should be understood and valued; we will mention some of these in the following section.

Strategic and Comprehensive Planning

The Charter requirements of a strategic planning report and strategic policy statement appear to have no practical use outside the executive branch and little connection with land use decision-making. However, several city

¹⁵ Kazis, Noah. “Planners Tackle Big Questions about How to Shape New York City Development.” Streetsblog. 7/22/2010. <http://www.streetsblog.org/2010/07/22/planners-tackle-big-questions-about-how-to-shape-nyc-development/>

agencies have independently undertaken long-term strategic planning and initiated public discussion about their plans. This includes, for example, the Department of Environmental Protection's plans in the watershed and the Department of Transportation's Sustainable Streets Plan and Bicycle Master Plan. There are other examples but we will look in greater detail at another plan, the most ambitious citywide planning effort of the last decade — PlaNYC2030.

In 2007, the Mayor's Office of Operations issued what it termed a long-term sustainability plan, *PlaNYC2030: A Greener, Greater New York*. I have written in greater detail about this plan, which is arguably short-term, not truly a plan, and not sustainable over the long term. There are many excellent and innovative proposals in the plan, and it represents a first-time effort to link future growth with improvements in environmental quality. However, it is based on unproven assumptions about population growth and emphasizes new development over preservation. It is structured more as a giant matrix of individual projects, a budgetary spreadsheet rather than a comprehensive and multi-faceted strategy for addressing the needs of present and future residents and workers, and improving the overall quality of life.¹⁶

Whatever its merits or flaws, a more significant problem with PlaNYC2030 is the process followed to develop, discuss and approve it. As with many other strategic long-term planning initiatives, it did not follow the procedures outlined in the Charter nor did it follow the rules issued by DCP for approving plans.¹⁷ The 2030 plan was prepared by McKinsey & Co., a global management consulting firm, under contract with the Economic Development Corporation and without significant public participation in shaping the proposals. After less than six months, the plan was rolled out and presented to the public, in a series of highly controlled meetings that were mostly to show a packaged slide show. Three years after the 2030 plan, there is still no mechanism for public discussion and debate of the plan among the hundreds of city neighborhoods and 59 community boards. While the Mayor's Office of Long-term Sustainability is now written in the Charter, there is no guarantee that the next mayor will sustain it. A lively, open and even controversial process of discussion and debate about long-term sustainability and the future of the city in every neighborhood might be "messy" and difficult, but if it engages New Yorkers in the process of charting

¹⁶ Tom Angotti, "PlaNYC at Three: Time to Include the Neighborhoods." April 2010. <http://www.gothamgazette.com/article/landuse/20100412/12/3239>; Donovan Finn, "New York City's PlaNYC Initiative: Does Greener Really Mean Greater?" Hunter College CCPD Sustainability Watch Working Paper, 2008. <http://maxweber.hunter.cuny.edu/urban/resources/ccpd/Working6.pdf>

¹⁷ City Planning Commission, *Rules for the Processing of Plans Pursuant to Charter Section 197-a*. July 1991.

a better future they will certainly be more committed to insuring the plan's approval and implementation.

The agency strategic plans and PlaNYC2030 are important long-term planning efforts and need to be better understood and discussed among all city agencies and at citywide, borough and community board levels. When they are part of an open, public process of discussion and debate, they will have greater strategic value beyond the individual agencies and separate branches of government. They are certain to undergo changes in the process, but that is normal and desirable with all planning. Static, unchanging plans are straightjackets and not conducive to change. For this reason, the Charter should not simply mandate the production of plans but *especially mandate planning processes*.

The Charter already has a beginning framework for planning. It is in Section 197-a. As called for in the 1989 Charter revision, DCP has established rules for the development and approval of "197-a plans." Yet most of the long-range planning that does occur does not follow procedures outlined in the rules. The 197-a procedure includes discussion and votes by affected community boards, borough presidents, the CPC and City Council. The procedure is similar to ULURP but differs in several ways. For example, DCP rules allow CPC to deliberate without any restrictions on time.

Community-based 197-a Plans

Since the 1989 Charter revision explicitly enabled community boards to prepare plans and present them for approval, only some 10 community plans have been adopted. In two decades, only a handful of plans were approved, yet there are 59 community boards. At this rate, it will take a century for every community board to have a plan. The small number, however, is not due to the lack of interest in communities. Some 100 community-initiated plans have been completed, according to the Planning Center at the Municipal Art Society.¹⁸

From my own experience as technical advisor and participant in the development of community plans over the past two decades, it is clear that the major obstacle to community planning is lack of support from city government. Community boards do not have adequate resources — principally professional staff — to do planning, even though the Charter explicitly promises this.

But lack of resources is not the only problem. Many communities have raised their own funds or taken advantage of pro bono assistance. The major

¹⁸ For general information on community-based planning, see the website of the Campaign for Community Based Planning at <http://communitybasedplanning.wordpress.com/>

problem is that the city does not respect or help implement the very plans they approve. Community plans often take years to put together, with countless meetings and volunteer hours. It may take one to two years to get through DCP's "threshold review" and CPC's deliberations. Unlike ULURP, CPC can withhold making a decision on a plan for an indefinite period of time. Those communities fortunate enough to have their plans approved by the CPC and City Council then face the likelihood that city government, including the planning agency that reviewed the plan, will ignore it. This is why today very few community boards chose to prepare "197-a plans." This is why only a handful have been approved.

Community boards are now loathe to submit plans for approval under Section 197-a because there have been too many examples of approved plans that were disregarded and, worse, contravened by CPC actions. A few examples follow:

Red Hook (Brooklyn) 197-a Plan. Community Board 6 completed "A Plan for Community Regeneration" in 1994. CPC took almost two years to approve it and in the process made substantial changes opposed by the community board. Subsequent rezonings in Red Hook were not informed by the plan, which called for retaining the mixed-use character of the neighborhood.

Williamsburg (Brooklyn) 197-a Plan. After more than 12 years of community discussions and deliberations, and two years of engagement with DCP over details, the Williamsburg plan was approved in 2002. The most significant element of consensus in the plan was that the industrial waterfront be redeveloped for low- to mid-rise mixed-use development in context with the existing neighborhood. This reflected widespread aversion to luxury high-rise development that would literally tower over the neighborhood and limit public access to the waterfront. Less than two years after approving the community plan, DCP presented a rezoning plan that would result in a long row of luxury high-rise housing on the waterfront. Over substantial community opposition, the DCP rezoning passed in 2005.¹⁹

Manhattanville 197-a Plan. Concerned about the potential impacts of the proposed expansion of Columbia University in West Harlem, Manhattan's Community Board 9 prepared a comprehensive plan that addressed long-

¹⁹ As I have previously stated, "The city's abrogation of the 197-a plan "sent a message to communities that even after more than a decade of community meetings and a couple of years of negotiating changes to the plan with DCP, the principles of the community plan could be abridged. DCP would be free to use its zoning powers as it saw fit and disregard community plans." *New York for Sale: Community Planning Confronts Global Real Estate*. Cambridge, MA: MIT Press, 2008, p. 168.

term land use and environmental issues. CPC approved the plan at the same time that it approved a much-disputed rezoning to encourage new development in the area. The rezoning took effect immediately; nobody in government is responsible for the overall implementation of the community plan.

The basic problem is that DCP has decided to interpret 197a plans as merely “advisory” and has repeatedly undermined them through official rezonings—for example, in West Harlem and Williamsburg-Greenpoint.²⁰ This makes community planning an example of faux-participation that can have a highly negative effect on a community’s social capital. It can lead to disenchantment and cynicism, reducing the community’s future capacity for political engagement.²¹

In sum, there need to be “teeth” in 197-a plans. They should not be endless exercises in participation without having a real role in shaping decisions that affect communities and the city. For effective community planning, there must be effective city-wide planning as a framework. And for effective city-wide planning, communities must also be engaged in planning for their own futures. Planning must be intimately connected to budget-making and land use decision-making. All strategic, long-term plans are 197-a plans and should be subject to the same Charter-mandated procedures as community plans.

V. RECOMMENDATIONS

Comprehensive Charter reform should cover the three interrelated areas covered in this report: ULURP, community boards and citywide and community planning. It will be difficult if not impossible to bring about significant change in only one area without also making changes in the other areas.

ULURP

²⁰ See Community Board 1. *Williamsburg Waterfront 197-a Plan*. New York Department of City Planning, Spring 2002; and Community Board 9, Pratt Institute Center for Community Development. “Community Board 9 Manhattan 197a Plan.” 9/24/07. http://prattcenter.net/pubs/CB9/CB9M_Final_24-Sep-07.pdf.

²¹ De Souza Briggs, Xavier. “Social Capital: Easy Beauty or Meaningful Resource?” *Journal of the American Planning Association* 70.2 (2004): 145-151.

- Make environmental review, from the initial Environmental Assessment to the Scope of Analysis and the Draft Environmental Impact Statement, part of a single ULURP process.
- Open up environmental review to community boards. Community boards should have a professional planner on staff to help interpret reviews, and applicants should be required to simplify and focus reviews on key issues.
- Require public notice, public meetings and recording of all pre-ULURP discussions.
- Require CPC to establish guidelines for the acknowledgment, rejection, or incorporation of relevant Memoranda of Understanding, Community Benefit Agreements, and any other “side agreements” into the ULURP process.
- Establish a separate role for the Public Advocate as an independent arbiter responsible for providing maximum information and transparency to all participants in ULURP. The role of DCP in the ULURP process should be limited when it is an applicant or partisan to an application.
- The format for public hearings and public input should be revised to promote maximum discussion, dialogue and involvement in decision-making.
- Establish a clear role in the Charter for the Economic Development Corporation as a city agency responsible for economic development, leaving land use decision-making clearly in the hands of those entities enumerated in the Charter.

Community Boards

- Guarantee that the 59 community boards have an annual budget allocation equivalent to at least one percent of the city budget.
- Guarantee that every community board that so chooses have sufficient resources to hire a professional planner.
- Establish strict citywide criteria for the recruitment and selection of community board members that encourage geographic, age, gender, race, and ethnic diversity and appropriate representation of both tenants and homeowners. Rules should also limit the number of consecutive terms community board members may serve.
- The Community Affairs Unit should regularly provide training for all community board members in the five boroughs, including specialized training in critical areas of concern such as zoning, transportation, housing and open space.
- The Public Advocate’s office should regularly monitor and oversee the representativeness of community boards and perform regular audits.
- The Community Affairs Unit should revise the rules for public meetings and public hearings to allow and encourage more flexible

and inclusive methods for engaging civic participation and encouraging local problem-solving, conflict resolution and decision-making.

- Increase the relative weight of the community board vote in ULURP.
- Expand the role of community boards in the formulation and review of the city budget. Require many more budget consultations so that there is a continuing dialogue between community boards and the executive branch about district needs and service problems. Expand the role of Fair Share reviews in both ULURP and budget decisions.
- End the use of conditional votes.

197-a Plans

- The Charter should require and not simply enable long-term comprehensive planning and prescribe a process for developing, discussing and approving plans. It should be clear that plans are not simply written documents but are also defined by continuing processes of public discussion and debate.
- The Mayor's office and all city agencies should be required to submit their long-term strategic plans to CPC for discussion and approval under Section 197-a of the Charter. Citywide plans are a necessary framework within which community planning can and should occur. Citywide plans can establish overall growth targets and benchmarks for the boroughs and community districts.
- By providing a planner for every community board, community-based plans will be more feasible.
- The rules for 197-a plans should be changed to guarantee that the plans have "teeth" as city policy. All subsequent ULURP actions and major agency decisions should be subject to a rigorous review for consistency with the plan, leaving open the possibility for revision of the plan where appropriate.
- The Charter should establish an office of Planning Oversight to monitor and promote implementation of citywide and community plans.
- All community plans should have budgets that are reflected in changes to the city capital and expense budgets.
- The Public Advocate should monitor community-based plans and compliance by city agencies with review requirements.

ADDITIONAL REFERENCES

Community-based Planning Task Force, *Planning for All New Yorkers: A 21st Century Upgrade for New York's Planning Process*. Municipal Art Society Planning Center. January, 2010.

Campaign for Community-based Planning. *Draft Legislation*. Municipal Art Society Planning Center. May 11, 2009.