PROPOSAL FOR A
CHINATOWN/LOWER EAST SIDE
SPECIAL ZONING DISTRICT

Coalition to Protect Chinatown and the Lower East Side

Asian American Legal Defense & Education Fund
Action by the Lower East Side
Chatham Green
Chatham Towers
Chinatown Small Business Alliance
Chinese Voters Alliance Corp
Chinese Staff & Workers Association
Guangdong Alumni Association
Lin Ze Xu Foundation
National Mobilization against Sweatshops
Project Reach
Seward Park Shareholders Coalition
with assistance from
Hunter College Center for Community Planning & Development
What is the Chinatown/Lower East Side Special Zoning District? Why Do We Need It?

The Chinatown/Lower East Side Special Zoning District is a community-based rezoning plan designed to protect and enhance the vibrant, diverse communities of Chinatown and the Lower East Side.

In recent years our neighborhoods have come under intense pressure from real estate developers who have displaced low-income tenants, demolished historic buildings, and built super-sized luxury apartments, condos, hotels, and chain stores.

The proposed Special Zoning District plan will help resolve these problems by encouraging development that matches the context and responds to the needs of the existing community through a variety of ways.

- In Chinatown, new buildings larger than 3.0 FAR – about the size of a five story tenement – will only be allowed on a case-by-case basis subject to community review and provision of affordable housing at income levels that match those of the current population. This site-by-site review will ensure that any large-scale new development will match the historical context of Chinatown and provide affordable housing for the existing community.

- Tenants in existing affordable apartments will be protected by a requirement for landlords to obtain a “certification of no harassment” in order to renovate or demolish a building.

- The vibrant small business economy of Chinatown and the Lower East Side will be protected by a “Neighborhood Commercial District” requiring any chain with 11 or more branches to obtain a special permit before locating in the district, as well as requirements for developers to obtain a special permit for conversion of industrial space to residential.

- New York City Housing Authority (NYCHA) tenants will be protected by requiring special permits and a community review process for any new development on these properties. Under existing zoning, NYCHA developments in the Lower East Side have over 7.6 million square feet of unused development rights—room for over 9,000 new apartments.¹ City policy makers are already discussing how to use these rights in partnerships with private developers. The Coalition believes that development on government-owned land should be reserved for 100% affordable housing.

Our proposed plan includes all of Chinatown and the Lower East Side, from the Brooklyn Bridge running north along Centre Street to Houston Street and extending to 13th Street along the East River to include NYCHA housing along the waterfront. The Coalition believes including all of Chinatown and the Lower East Side in the rezoning is important because any area that is left out would likely face increased development pressure — as we have learned from the 2008 East Village rezoning.

Our communities of Chinatown and the Lower East Side are among the last affordable neighborhoods in Manhattan for immigrants and working-class people. We believe zoning, when used appropriately, is an important tool that can help preserve our community by protecting it from destructive over-development. The Department of City Planning agrees with this principle; the majority of recent rezonings in communities such as Riverdale, Bay Ridge, and Carroll Gardens have been designed to protect the existing community character by restricting development through zoning.\(^2\)

However, when looking at working-class, inner city communities of color like Harlem and Williamsburg, the City has preferred rezonings that promote supersized corridors of luxury development that contribute to the displacement of existing affordable housing and small-businesses.\(^3\) To continue this pattern in Chinatown-Lower East Side would be both a major injustice to the local community and a detriment to the overall economy and culture of New York City.

This plan offers a viable, common-sense alternative that preserves Chinatown-Lower East Side as a diverse and dynamic center of small business entrepreneurship and encourages growth that is responsive to the needs of the existing community.

**Existing Conditions in Chinatown and the Lower East Side**

The existing zoning in Chinatown and the Lower East Side already allows for new developments that are significantly larger than most existing buildings. This mismatch is due to the difference between the existing and allowable “floor area ratio” (FAR), the measurement by which Department of City Planning regulates density.

The FAR is the relationship between the size of a building and the lot on which the building is built. An FAR of 1.0 allows a one story building to cover the entire

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\(^3\) id.
lot, a two story building to cover half the lot, or a four story building to cover one fourth of the lot, etc.

The maximum allowable FAR under current zoning is, in many cases, much higher than the FAR of existing buildings in Chinatown and the Lower East Side. Consequently, we have seen many one to five story buildings demolished for construction of 10 to 18 story towers.
According to recent available Census data, 124,165 people live within the boundaries of the study area in 1,711 residential buildings.\textsuperscript{4} NYCHA properties total 119 buildings and house roughly 23% of the population. An additional 935 buildings in the study area contain rent-stabilized or rent-controlled apartments.\textsuperscript{5} Taken together, NYCHA, Mitchell-Lama, and rent-regulated buildings house the majority of the existing population, which is why prioritizing the protection of existing affordable housing is so critical.

In the map below, all lots that are built to less than 60% of allowable FAR are highlighted. This difference between the size of the current buildings and the size allowed through redevelopment is a major incentive driving the demolition of existing historic structures, harassment of working class tenants, and the displacement of affordable housing and commercial space for small businesses.

\textsuperscript{4} Hunter College Department of Urban Planning & Affairs. “Chinatown and the Lower East Side Community Plan: A Plan to Protect the Residents and Small Business Owners.” Fall 2008 Studio.

\textsuperscript{5} Data on rent-stabilized and rent-controlled apartments gathered from the New York State Department of Housing and Community Renewal’s database at https://www1.dhcr.state.ny.us/BuildingSearch/.
The Solution: The Chinatown/LES Special Zoning District

A Special Zoning District is ideal for Chinatown and the Lower East Side because of special districts’ ability to deal with unique circumstances with greater flexibility than regular zoning. It can require special permits for development which have to go through the land use review process, allowing greater community input, and can establish special regulations like anti-harassment programs and unique building height maximums. It can also be divided into different sub-areas to account for differences in conditions. Special Districts already exist in many New York neighborhoods including Little Italy, Clinton, and Atlantic Avenue in Brooklyn.

The Chinatown/Lower East Side Special District proposes the following specific zoning rules and regulations:

- Reduce the maximum as-of-right FAR to a level that reflects the existing built environment (ranging from 3.0 to 4.0 FAR depending on the area).

- Allow FAR up to 6.0 for specific lots on a case-by-case basis through community review and inclusion of affordable housing for a range of working class and middle class incomes (40% to 160% of the current neighborhood AMI of $35,600, which equals a range of $14,240 to $56,690)

- Require special permits for new development on all NYCHA superblocks to ensure a community voice in the process. We advocate for 100% affordable housing on all NYCHA and other government properties.

- Require certification of no-harassment as a condition for demolition, renovation, and conversion of buildings

- Require special permits for new community facilities

- Require special permits for conversion of existing industrial/manufacturing space to residential use by strengthening current –G zoning regulations

- Require special permits for all chain stores/restaurants/banks with 11 or more branches with “Neighborhood Commercial District” zoning overlays

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The Chinatown/LES Special Zoning District will divide the rezoning area into four distinct subareas to address the variety of conditions across the neighborhood.

- **Subarea A** covers the NYCHA and cooperative housing “superblocks” where tall residential towers rise from large lots of open space and parking.

- **Subarea B** covers the core of Chinatown, a vibrant, mixed-use neighborhood of affordable housing and small businesses in buildings of two to six stories in height that is increasingly threatened by speculative development.

- **Subarea C** covers the historic mixed-use area of the Lower East Side between Houston and Delancey that was rezoned in 2008.

- **Subarea D** covers the East River Waterfront where opportunities exist for the development of affordable housing and parks and recreational facilities serving the Chinatown and Lower East residential neighborhood.
Subarea A – East River Superblocks

According to NYCHA’s statistics, 28,899 people live in 13,437 NYCHA apartments in the study area. Thousands more make their homes in the 4,500 apartments in cooperative housing developments clustered south of the Williamsburg Bridge. Since development choices on the superblocks will have a major effect on the entire community, these areas must be included in any comprehensive plan for the neighborhood.

In R7-2 zoning, which covers all of the superblocks, the maximum allowable FAR is 3.44 and a certain percentage of the lot must be open space, typically around 20%. Many of the NYCHA projects and cooperatives in the Lower East Side have FARs that are far lower than the maximum allowed, and far more open space than the minimum amount required.
Smith Houses, for example, have an FAR of only 1.62 and more than 50% of the lot is open space. This difference means that under current zoning, more than 1,600 new apartments could be built at Smith Houses in new buildings. These development rights could also be sold to private developers and transferred to allow huge new market-rate buildings on adjacent blocks.

Planners and policy makers are already exploring the options for development in the NYCHA projects of the Lower East Side without consulting the existing community of residents. For example, the University of Michigan School of Urban Design published a proposal in Fall 2009 that vividly illustrates how current zoning could allow massive new developments in the NYCHA superblocks.?

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7 Plan available at http://www.tcaup.umich.edu/urbandesign/students/student_work/project_galleries/manhattan_w09/.
Moreover, government officials, including Department of Housing and Urban Development Secretary Shaun Donovan and Manhattan Borough President Scott Stringer, have advocated selling public housing assets to private investors. In fact, NYCHA has already sold some apartment buildings and open spaces, including parking lots, lawns, and basketball courts, to private developers.

The Coalition to Protect Chinatown and the Lower East Side believes that the local community should be actively involved in any plans for the NYCHA superblocks and that any new development on NYCHA land should consist of 100% affordable housing.

Subarea A of the Special District will ensure community participation by requiring that any new development on NYCHA property or disposition of air rights be subject to a meaningful and accountable public review process.

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8 See Stringer, id, and HUD Secretary Shaun Donovan’s testimony before the Senate Committee on Banking, Housing, and Urban Affairs from April 15th 2010 at http://portal.hud.gov/portal/page/portal/HUD/press/speeches_remarks_statements/2010/speech_04152010. At the hearing, Mr. Donovan testified that “bringing market investment to all of our rental programs will also bring market discipline that drives fundamental reforms...HUD will prioritize for conversion public housing and assisted multifamily properties owned by Public Housing Authorities.”

Subarea B – Mixed-Use Chinatown Core

Subarea B is the historic mixed-use neighborhood core of Chinatown. Most of the buildings in Subarea B are 2 to 6 story structures built from 1900 to 1920\textsuperscript{10} with ground floor retail and a mixture of residential, commercial, industrial, community facility uses above. These buildings house many residents in rent regulated apartments and local small business businesses that serve the needs of our working class immigrant communities.

In recent years, Chinatown and surrounding communities have experienced intense development pressure that is in large part due to inappropriate zoning that allows the construction of super-sized new buildings three to four times the size of the neighborhood context.

\textsuperscript{10} According to the Department of City Planning’s 2003 data, accessed at www.infoshare.org, more than 84% of buildings in Community District 3 date to 1920 or earlier.
As shown by the map above, many lots in this area are built to less than 60% of the current allowable density. This disparity means that private developers are greatly incentivized to demolish historic structures to build much taller luxury buildings, making low-income tenants in Chinatown and the Lower East Side among the most vulnerable to involuntary displacement. In their zeal to demolish and rebuild, developers often illegally harass and force residents out of their homes.\(^1\)

While many blocks are built to FARs of 2.0 to 3.5, the C6-1 zoning that currently covers most of this area allows for FARs up to 6.0.

The case of 91-93 Bowery offers a striking example of the danger C6-1 zoning poses to the historic structures and existing affordable housing of Chinatown. A two-story Chinese movie theater, “The Music Palace,” was demolished in 2006 to be replaced by the 18-story “Wyndham Garden Hotel.” In 2009, the construction process undermined the stability of 128 Hester Street and 89 Bowery, two neighboring six story apartment buildings, displacing sixty residents from their homes.\(^2\)

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Almost 70% of residential buildings in Community District 3 are small buildings of 20 units or less like 128 Hester Street. The small business economy of Chinatown\(^\text{13}\) is also highly dependent on existing affordable commercial and industrial spaces that are housed in the historic buildings of the neighborhood. In addition to contextual rezoning, applying a “Neighborhood Commercial District” overlay requiring any chain store/restaurant/bank with more than 11 nationwide branches to obtain a special permit before locating in the district would also provide a valuable protection for the local economy. San Francisco uses a similar protection for mom and pop stores.\(^\text{14}\)

Contextual rezoning to an FAR that matches the existing neighborhood context would establish the same protections for the Chinatown community that the City has given to the East Village and dozens of other neighborhoods throughout the five boroughs. Establishing special district provisions requiring permits for the conversion of industrial space to residential (protections that already exist in part of the area under C6-1G zoning) and for chain stores will ensure protection for the unique economy of Chinatown that provides thousands of jobs for the local community and attracts millions of tourists and tax dollars to the City each year.

The Special District proposes that Subarea B be rezoned to R7B and C4-3A, depending on the residential or commercial character of a given block. Both of these zoning designations have a maximum as-of-right FAR of 3.0 and typically result in 4 to 6 story buildings similar in size to the existing tenements.

\(^{13}\) According to 2003 US Census data accessed at \url{www.infoshare.org}, over 80% of the 6,401 businesses in Community District 3 employ 9 people or fewer.

\(^{14}\) See \url{http://www.sfplanning.org/index.aspx?page=1580}. 

More than 60 residents lose their homes when 128 Hester Street and 89 Bowery are demolished due to construction of the 18-story Wyndham Garden Hotel at 91 Bowery (seen in rendering on right).
A Community Proposal for New Affordable Housing

The Coalition recognizes that some sites may be suitable for buildings larger than 3.0 FAR. In order to ensure that any large-scale new development is respectful of the historical context and responsive to community needs, we propose a new type of Inclusionary Zoning for Subarea B.

Instead of designating an entire street as suitable for large new buildings as the Department of City Planning has done in the past, we propose a site-by-site community review process. Developers can receive density bonuses up to 6.0 FAR for the inclusion of at least 60% affordable housing at a range of community incomes—but only if the community determines that the site is appropriate for such large construction.

Site-by-site review will ensure that large new buildings are only allowed where they will not damage existing historic, rent-stabilized buildings, preventing another Wyndham Garden Hotel disaster. It will also prevent the frenzy of real estate speculation and displacement that can occur when an entire street is upzoned.15

We must also ensure that any new affordable housing is targeted to a range of community incomes – from 40% to 160% of the neighborhood AMI of $35,600. This range would produce housing affordable to households making $14,240 to $56,690 and would include everyone from fixed-income seniors to middle-class families. This site-by-site Inclusionary Housing system would allow opportunities for growth and development without leaving the existing community behind or destroying our priceless historical buildings.

We also propose that government-owned land such as NYCHA and the Department of Environmental Protection’s site on Pike St be developed for 100% affordable housing at the community incomes listed above.

In addition, opportunities exist for City government to pursue affordable housing development at stalled construction sites and vacant lots. Many other cities such as Boston, St. Louis, and San Francisco, have innovative programs for converting unproductive vacant properties to affordable housing.

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15 See the example of 125th Street in Harlem, where many longtime local businesses were displaced by speculators after the 2008 upzoning. Some Chinatown-Lower East side real estate interests such as Edison Properties have already discussed using the 125th St Rezoning as a model for Canal Street (see http://www.archpaper.com/e-board_rev.asp?News_ID=4715)
The current state of real estate development in Subarea B is displayed in the map below. Dozens of new buildings have been built in the last five years and there are dozens of additional sites that are prime targets for more new development. If we do not act, these sites could soon become luxury condo towers and hotels with zero affordable housing for the community.

This map shows the current state of development in the Chinatown Core.

- “Developable Sites” are the lots most likely to be developed in the near future because of the small size of existing buildings or their run-down condition.

- “Vacant or Stalled Lots” are completely vacant lots being “warehoused” for future development or construction sites where work has stopped before the building has been completed (e.g. the incomplete glass building at Chatham Square).

- Detailed spreadsheets on all of these identified sites are available at http://aaldef.org/docs/SUBAREAB_DEVELOPABLESITES2Nov10.pdf; http://aaldef.org/docs/SUBAREAB_VacantStalledLotsNov10.pdf.
Subarea C – Lower East Side Rezoned in 2008

In 2008, the Department of City Planning rezoned the area shown here as Subarea C as part of the East Village/Lower East Side rezoning. This rezoning unfairly burdened the Houston and Delancey Street corridors with denser zoning than the wealthier areas of the East Village to the north. Consequently the area south of Houston Street where low-income communities of color live and work has become targeted for luxury development. The rezoning of Subarea C, which reflects a small part of the 2008 East Village rezoning, should be amended to a uniform FAR of 4.0 so that this area of the Lower East Side has the same protections as the East Village.  

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16 There are precedents for DCP zoning revisions in areas it recently rezoned. For example, DCP just rezoned an area in Greenpoint/Williamsburg that it had rezoned in 2005. When residents realized that more luxury development had resulted from the rezoning change than residents wanted, DCP rezoned several blocks to reflect the size of existing buildings and protect against super-sized, luxury development.
Subarea D – East River Waterfront

For the park on the East River Waterfront, the City should follow the plan developed by the OUR Waterfront Alliance for mixed use recreation and community spaces. While the EDC’s development plan will cost the city over $130 million, the community plan could be built for only $52 million and reflects the community’s priorities.17

Subarea D also contains two lots with unique opportunities for developing affordable housing—the Manhattan Mini Storage site at 220 South Street and the Pathmark site just north of the Manhattan Bridge.

Conclusion

The Coalition to Protect Chinatown and the Lower East Side has created this rezoning plan as an alternative to the developer-driven rezoning that the Department of City Planning is likely to propose if the community does not come together to express our vision and values. Developers are already crafting rezoning proposals that call for increasing the allowable density along major streets like Canal Street. They will claim that this increase is necessary to create more affordable housing for the community, as huge new developments will provide “20% affordable housing” through the Inclusionary Housing Program.

However, past experience clearly shows that this type of rezoning actually decreases the amount of affordable housing. The 80% new luxury towers raise real estate values in surrounding areas and create a powerful incentive for landlords to harass and displace rent-regulated tenants so they can renovate and convert their apartments to market rate, or demolish their buildings to build new luxury units. From 2002 to 2008, New York City lost more than 16% of its total affordable housing stock under the Bloomberg Administration’s policies. This type of development does not help the local economy and usually forces out small businesses as they can no longer afford the rising rents.

We must prioritize the protection of existing affordable housing and explore alternatives to the Inclusionary Housing Program for the creation of new affordable housing. Our alternative proposal for Inclusionary Housing bonuses with site-by-site community review and larger percentage of affordable housing targeted at community incomes offers a real solution.

Another alternative is to build 100% affordable housing on government owned land. Many 100% affordable housing developments have been created in recent years through partnerships between government and non-profit developers but they tend to be located in areas of the city like the South Bronx and East New York that are less desirable to private real estate investors. As a

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18 ABS Partners Real Estate LLC, a developer that owns several properties along Canal Street, has already called for “the highest possible density” along Canal Street. See Troianovski, Anton, “Groups Push Competing Plans for Chinatown." The Wall Street Journal. 6/14/10. Available at http://online.wsj.com/article/NA_WSJ_PUB:SB10001424052748703389004575304960079231580.html


20 Williamsburg-Greenpoint was rezoned in 2005 through Inclusionary Zoning. Only 40% of the promised affordable housing units have been built, while over 5,000 new luxury units have entered the market (http://www.gothamgazette.com/article/housing/20091005/10/3045). Since 2000, the Latino population in Williamsburg has declined by almost 40% (US Census, American Community Survey) and more than half the neighborhood’s industrial jobs have been lost (New York State Department of Labor, Quarterly Census of Employment and Wages).
largely working class community of color, Chinatown-LES is also an ideal location for development of 100% affordable housing on government-owned land such as the Department of Environment Protection site on Pike Street and NYCHA properties.

The shape that the rezoning takes will determine the future of this community. Rezoning is not the only tool, but zoning that does not protect the neighborhood can undo other efforts to develop affordable housing. Zoning by itself will not preserve or build affordable housing but the wrong zoning will guarantee that luxury development overwhelms our best efforts.

We must recognize that the City Planning Department’s model of Inclusionary Zoning will allow real estate developers to rapidly transform our community into an extension of SoHo and the East Village, as has happened across the river in Williamsburg.

The unique diversity and creativity of the Chinatown and Lower East Side communities is dependent on affordable housing and space for local businesses to operate. We have the unique opportunity through the Chinatown Working Group to demand that the City establish zoning and policy that protects and facilitates the growth of the existing Chinatown-Lower East Side community. If we allow real estate lobbyists and non-profit developers to set our agenda then we are betraying the very purpose of the Chinatown Working Group—to formulate a true community-based vision for the future.