



## CAPITAL

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### ON MISSING A CHANCE TO SHAPE NEW YORK

By Katharine Jose



*Downtown. A.C. Natta, via flickr*

An all-day conference called "Land Use and Local Voices" began with an address from Vin Cipolla, president of The Municipal Art Society of New York, the last line of which was, "Today's program is likely to produce more questions than answers, and that's OK!"

His modest hopes for the day's discussions stemmed partly from the fact that their big ideas for reforming the city's land-use policies—ideas that, if put into practice, could change the way the city would grow over the next 30 years, and how it would look and operate for generations—had already been rendered moot.

The problem—cited by speaker after speaker at the event at Pace University—is the that upcoming reform of the city's charter by a

commission appointed by Michael Bloomberg in March, will not address land-use issues at all. Meaning that a set of widely criticized—and widely ignored—land-use directives from a 1989 charter reform commission will remain in place for years to come.

Most everyone—planners, developers, and government officials—agree that the current rules are a mess.

"There is no agency that deals with something called long-term planning," said Manhattan Borough President Scott Stringer, who arrived to speak before the first panel—with his iPad.

("Mayor Bloomberg has an iPad and so I had to have one too," said Stringer, who may or may not run for mayor in 2013. "Read into that what you want.")

He suggested that the city form a "planning office" to coordinate between all the agencies that deal with land use; a member of the first panel later said there were at least 30.

The main issue around land use in the city is ULURP, a process by which developments have to be considered by the Department of City Planning (pre-certification by the D.C.P. can take up to three years), the appropriate community board, the borough president, the City Planning Commission, and the City Council. There may also be an environmental impact study.

What this means in practical terms is that it takes a really long time to build anything in New York, using a process that is fairly opaque and that requires numerous separate entities to approve. Some of these steps are toothless anyway. The community board makes a recommendation, but it's nonbinding; the City Council almost always, without question, votes with the member whose district the project is in.

And because the existing rules don't constitute a master plan of any sort, projects get scratched because of agreements with neighborhoods that make building impossible, or else they get built, but the promised community benefits, like public park space, are never realized. Whole neighborhoods change into wastelands where nobody lives or shops, or other neighborhoods get so crammed with people there aren't enough shops or services to serve them. There are traffic nightmares.

The first panel was "Big Apples to Oranges: What's Distinctive About NYC's Land Use Process?" The participants all agreed that there are many things that are distinctive, and not necessarily in a good way.

"Everyone is frustrated with the system," said Sandy Hornick, a deputy director of strategic planning in the city Department of Planning. The mayor's 30-year plan, PlaNYC, is a start, he said, but it's not "comprehensive," in large part because it's a mayoral directive and doesn't in itself address land use.

"The city's ULURP process is not only distinctive," said David Kinsey, a planner who works mainly in New Jersey, "it is unique among major American cities." Part of what makes it unique, Kinsey said, is that the focus on individual building sites is in essence, a "repudiation of a long-term planner."

"Thank you and good luck with land-use reform," Kinsey said in closing.

Another panel ("Time for a Change? Perspectives on Planning in the Five Boroughs") began with Josiah Madar from the Furman Center for Real Estate and Urban Policy at N.Y.U. A study of 188,000 lots by the Furman Center showed that 63 percent of rezonings were "contextual only," 23 percent were downzoning and 14 percent were upzoning. Upzones and downzones were therefore less than 37 percent\* of rezonings, which leads to the question of how much capacity is really being created by the rezonings. According to the study, contextual rezonings were more likely to be in neighborhoods with higher rates of home ownership, higher income levels, and more "non-Hispanic whites." That means, essentially, that poorer areas are absorbing most of the change in the city, while richer areas are working to keep things the same.

"You never know when ULURP is going to strike," said Adam Friedman, director of the Pratt Center for Community Development. "Going through ULURP is like having a conversation with your mother. She always wants to know why you didn't rezone the other block."

The process doesn't work for anyone, Friedman said, and he's not even looking for a comprehensive plan, he would, to begin, just like to see everyone "know how things are being rezoned."

Michael Slattery, the senior vice president for research at the Real Estate Board of New York, was vastly outnumbered. (REBNY is a real estate trade organization; it represents developers, who usually wind up on the other side of debates with M.A.S., Pratt and for that matter, community boards.)

"Land-use matters have a vital role in our community," he said, citing taxes paid by real estate interests. "Development is influenced by demographic changes," he went on, questioning the definition of "out-of-scale development" and suggesting "we need in part a different kind of community board" that would have "more business representatives" and "more real estate representatives."

The 1989 Charter Commission devised a plan for "fair share," which Eddie Bautista, executive director of the NYC Environmental Justice Alliance, said has become "meaningless." Fair share requires, in the city charter, that every year the city makes an assessment of proposed developments to assess whether certain neighborhoods are overburdened or underdeveloped. But it's not enforced, Bautista said (a number of speakers brought up the same issue). As a result, he said, waste transfer stations and other undesirable but necessary urban fixtures are clustered in poor, non-white neighborhoods. Asked later what his vision of the 21st century city would be, Bautista said, "It's a city that doesn't use 1962 zoning resolutions."

His preferences don't matter, for now, since Bloomberg's Charter Revision Commission is not even looking at land use.

The final event of the conference was an on-stage interview with Eric Lane by Julie Menin, chair of Manhattan Community Board 1. Lane is now a distinguished professor of law and public service at Hofstra's law school, and a senior fellow and the Brennan Center. Formerly, he was the executive director and counsel for the New York City Charter Review Commission and the chair of the New York City Task Force on Charter Implementation. But that was the 1989 commission.

Asked why the 2010 commission wasn't looking at land use Lane said, "Well, I think they should." ULURP has no standards, Menin said. What can we do?

Lane laughed.

"One answer would be—and I know you know this—erase poverty."

On why the commission will not consider land use, Lane said, "The mayor did this—the mayor has no interest in this, is my theory—did this because he got his butt handed to him in this term-limits thing." "I think there was no thought put into this, no outcome, no plan," he said.

A woman from the Regional Plan Association took the microphone and asked what he would do if he were a commissioner. "If I was asked to have been a member of the commission—which I certainly wouldn't have been, I've had a few tangles with the mayor—I would ask, 'Is this for real?'"

Did he think they might take up the issue of land use this summer?

"They aren't going to do that," he said. "That would be ridiculous."

He said "fair share" was an "innovative idea" at the time (he was not alone in thinking this) and that he is disappointed it has become "meaningless."

"It probably didn't work because the city—they had enthusiasms, but there's no incentive," he said.

"If you could get the notion of fairness into the discussion," he said, "maybe things would get to be fair. I've been in politics my whole life and I'm telling you this with a straight face."

The issue of land use should be looked at every 10 years, Lane said. He said that maybe the City Council could do it, "though they have a stake in it...." He trailed off without finishing the thought. "Even the greatest expertise has politics associated with it."

"On that note, democracy is messy—let's open it up," Menin said.

*\*The total percentage of downzonings and upzonings in this version of the piece has been corrected from the original.*