



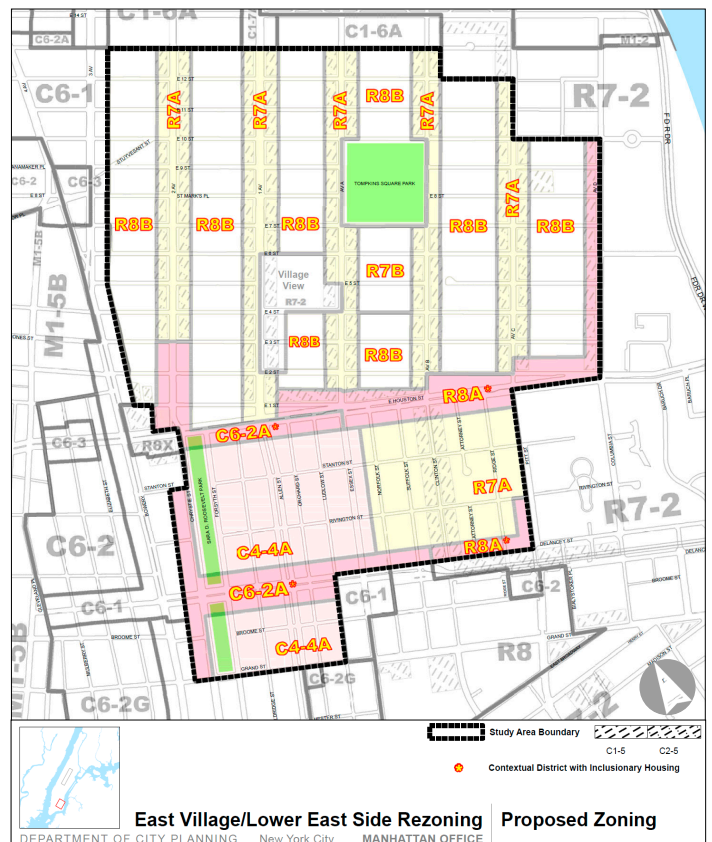
IN CONTEXT OUT OF REACH

THE IMPACT OF THE 2008 EAST VILLAGE/
LOWER EAST SIDE REZONING

EXECUTIVE SUMMARY

Cooper Square Committee • May 2019

It has been just over 10 years since the rezoning of the East Village/Lower East Side by the City of New York, enacted in November, 2008. In brief, the contextual rezoning of 114 city blocks had the goals of stopping out-of-scale development by imposing height caps east of 3rd Avenue and the Bowery up to the west side of Avenue D, and creating Voluntary Inclusionary Zones to incentivize development of affordable housing (for more details on the rezoning action, see the appendix of this Executive Summary). **There is no question that the rezoning has been successful in preventing out of scale development in the 114 block area, but it has been less successful in promoting affordable housing development.** The following is a summary of the residential/mixed use developments for which new construction or gut rehabilitation permits were filed for vacant buildings after November, 2008.



FINDINGS

- 1 The contextual rezoning has prevented the development of wildly out-of-scale buildings in the rezoned area. In the inclusionary zones, new buildings have resulted in increased bulk but none exceed 140 feet in height. Most have a height of less than 120 feet.
- 2 25 new construction or gut rehabilitation permits were filed from January 1, 2009 through December 31st, 2018 (appendix: table 1). A total of 1,004 residential units were created, with 814 market rate units (81%) and 190 (19%) “affordable” housing units¹ (see Fig 1).
- 3 Only 7 of the 25 buildings contained affordable housing, while 18 of the buildings were 100% market rate housing.

Of the 7 buildings with affordable housing, 5 are in the inclusionary zones, comprising 126 affordable units, and 2 buildings were developed outside the inclusionary zones, comprising 64 units.

- 4 Overall, 586 units were developed in the voluntary inclusionary zones, of which 460 were market rate units and 126 were “affordable” units. Five of the nine buildings developed in the inclusionary zones contained low/moderate income housing, and one building was a mix of market rate and middle/low income housing (50/30/20). The latter building, developed by the Girls Club, would have been built regardless although at lower density, since plans were underway before the rezoning was enacted. 103 affordable units were low income (less than 80% of AMI) and 23 were middle income (130% of AMI).

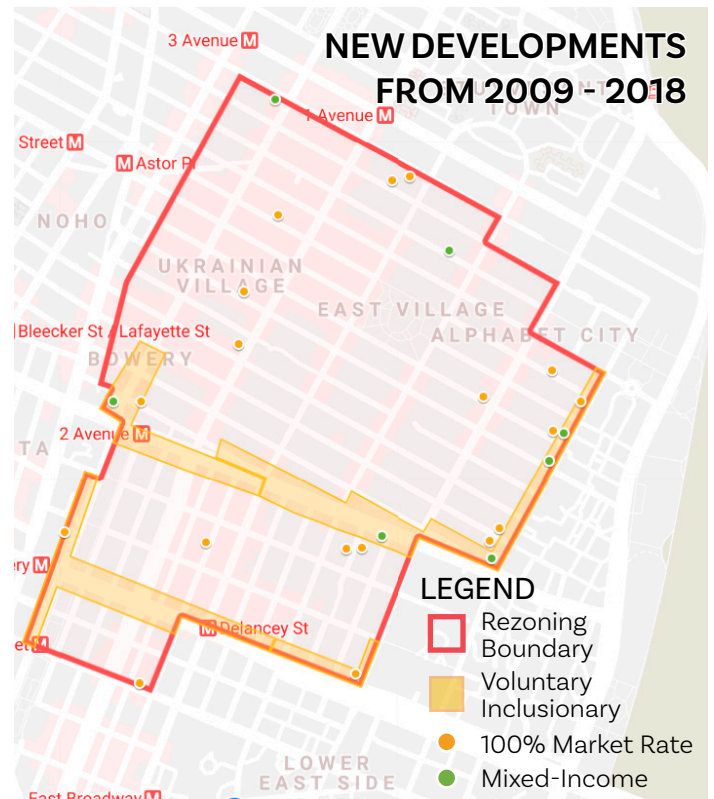
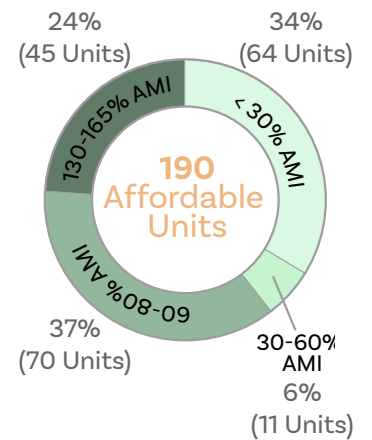


Fig 1: Breakdown of Affordable Housing



*0 Units at the 80-130% AMI Range

¹ 103 (54%) were developed by non-profit organizations. The Lower East Side Girls Club developed 80 units at 101 Avenue D, within the inclusionary zone. They included 39 affordable middle income units and 41 market rate units. Community Access developed 46 units of supportive housing at 535 East 11th Street and Cooper Square Committee and Ali Forney Center co-developed 18 units of transitional housing for homeless LGBT youth at 222 East 13th Street.

CONCLUSIONS

With construction permits filed for just 190 affordable housing units in the decade since the rezoning, the East Village/Lower East Side rezoning has fallen short of the minimum number of new affordable housing units projected by the Dept. of City Planning when it projected the following:

“ *A reasonable worst-case development scenario was developed by the New York City Department of City Planning (DCP) that identifies a net increase of 1,383 dwelling units—including 348 affordable units... through the 2017 analysis year under the proposed actions.*

Source: East Village/
Lower East Side Rezoning
Final Environmental
Impact Statement (2008)

In sum, the 190 total since the rezoning is just 55% of the worst case target number of 348.

The voluntary inclusionary zoning bonus provides insufficient incentive for developers to build 80/20 housing in the East Village/Lower East Side given that the exorbitant return on investment for condominiums exceeds the financial incentive of the zoning bonus. This situation cannot be rectified in the absence of Mandatory Inclusionary Housing (MIH). However, the City's current policy is that MIH rezonings are only done in communities being upzoned, a non-starter for many East Village residents given that our community has already undergone an upzoning.

Non-profit developers are responsible for 54% of all of the affordable housing units developed since the rezoning of the East Village/Lower East Side since they are more likely to develop 50% to 100% affordable housing rather than 80/20 housing. The City of New York needs to provide non-profit housing developers with more opportunities to develop affordable housing in the East Village/Lower East Side.

Finally, in light of the limited amount of affordable housing being developed in the East Village/Lower East Side, **City and State housing policy needs to focus on the urgent need to preserve the existing supply of affordable housing**—rent stabilized, low income HDFCs, project based Section 8, Mitchell Lama housing that has not yet been privatized and of course public housing—in the East Village/Lower East Side. The City of New York should provide sufficient funding for local housing preservation groups and legal services organizations working to minimize the loss of all types of affordable housing, and assisting government-assisted housing developments to remain in good condition and lower their operating costs so that they remain sustainable and affordable for the foreseeable future.

APPENDIX

METHODOLOGY

Cooper Square Committee researched permit applications filed with the NYC Department of Buildings (DOB) for every new residential building and gut renovation of every vacant building for residential use since January, 2009. We read articles about each project, and analyzed the NYC Department of Housing Preservation and Development's (HPD) website regarding unit counts. We also researched the ownership of each development, and looked at whether the developer was a for-profit or non-profit entity. We sorted the data by whether the new construction was in one of the inclusionary zones or outside of them.

REZONING BACKGROUND

The City Council approved a major rezoning of the East Village/Lower East Side in November, 2008 after Community Board 3 engaged in a lengthy planning process in partnership with the NYC Department of City Planning. The contextual zoning (see Map 1) encompassed some 114 city blocks from East 13th Street 100 feet east of 3rd Avenue/the Bowery, down to Grand Street between the Bowery and Ludlow Street, then along Delancey Street from the east side of Ludlow Street to the west side of Pitt Street. It extends from Pitt Street up to East 10th Street along the west side of Avenue D, and along East 10 Street from Avenue C to D, and up to 12th Street along Avenue C, along East 12th Street from Avenues B and C, and up Avenue B from East 12th to East 13th Street, and from the west side of Avenue B along East 13th Street to 3rd Avenue.

North of Houston Street, the avenues were rezoned to R7A, and the mid-blocks were rezoned to R8B, with the exception of the mid-blocks from East 4th Street to East 7th Street between Avenues A and B which were rezoned to R7B. While much of the rezoned area had previously been R7-2 districts or C6-1 districts with residential FARs of 3.44, the contextual rezoning raised the residential FAR to 4.0 in the R7A and R8B zones, while lowering it to 3.0 in the R7B zones.

East Houston Street between Chrystie Street and the west side of Avenue A was designated an inclusionary zone with a C62A zone. East Houston Street from the east side of Avenue A to Avenue D was designated a R8A inclusionary zone. Chrystie Street from the south side of East 3rd Street to Delancey Street was designated a C62A inclusionary zone. The north side of Delancey Street from Chrystie Street to the west side of Suffolk Street was designated a C62A inclusionary zone and the north side of Delancey Street from the east side of Suffolk Street to Pitt Street was designated an R8A inclusionary zone. These inclusionary zones have a 5.4 residential FAR and were permitted a 7.2 FAR if the developer included at least 20% affordable housing. The height limits were capped at 120 feet, with a base height maximum of 85 feet.

ONLINE MAP

<https://www.google.com/maps/d/viewer?mid=19-0yGbkj9bsuubHQdCF6I21qnU8f4mZI&usp=sharing>

As of February 26, 2019, Manhattan Community Board 3 sent a recommendation for HPD to deny a development at 167-171 Chrystie Street, undergoing an Inclusionary Housing application, unless certain conditions are met. This development was brought to the attention of the authors after the initial research phase, and thus is not accounted for in the figures presented in this report.

Table 1: Residential Developments (2008-2018)

Address	Total Units	Affordable Units	Extremely Low Income	Very Low Income	Low Income	Moderate Income	Middle Income	Supportive Housing	Year Built	Inclusionary Zone	Condo	Luxury	Dev Notes	Permanently Affordable	Affordability
717 EAST 9 STREET	57				16			No	2009	No	No	No			
401 AVENUE D	78	39					23	No	2010	Yes	Yes	Yes	Girls Club	Yes	Middle Income (100-165%AMI)
331 EAST 6 STREET	1							No	2012	No	No	No	David Schwimmer's home		
316 EAST 3 STREET	33							No	2012	No	No	Yes	BFC Partners	Yes	
111 2 AVENUE	67	13						No	2012	Yes	Yes	Yes			
327 EAST 9 STREET	2							No	2013	No	No	Yes			
277 EAST 7 STREET	6							No	2013	No	Yes	Yes			
227 EAST 7 STREET	6							No	2013	No	Yes	Yes			
324 GRAND STREET	22							No	2013	No	No	No			
535 EAST 11 STREET	46	46	46					Yes	2013	No	No	No	Community Access	Yes	100% Supportive Housing
208 DELANCEY STREET	70							No	2013	Yes	Yes	Yes			
310 EAST 2 STREET	125	30			30			No	2013	Yes	Yes	Yes			40-60% AMI
145 HUDLOW STREET	12							No	2014	No	No	Yes			
164 ATTORNEY STREET	33							No	2014	No	No	No			
321 EAST 3 STREET	30							No	2014	No	No	No			
331 EAST HOUSTON STREET	78	16			16			No	2014	Yes	No	Yes			80/20; 40-60% AMI
127 AVENUE D	11							No	2016	Yes	No	No			
155 ATTORNEY STREET	37							No	2015	No	No	No			
442 EAST 13 STREET	6							No	2017	No	Yes	Yes			
751 AVENUE	27							No	2017	No	Yes	Yes			
24 2 AVENUE	32							No	2017	Yes	Yes	Yes			
438 EAST 12 STREET	82							No	2017	No	Yes	Yes			
79 AVENUE D	110	28			11		6	No	2018	Yes	No	No	L+M	Yes	75/25 Mixed Income (40, 60, 130% AMI)
262 EAST 13 STREET	18	18	18					Yes	2018	No	No	No	CSC + Bea Arthur	Yes	100% LGBT Youth Supportive Housing
173-175 CHRISTIE STREET	13							No	In Progress	Yes	Yes				
Total Units	1002	190	64	11	86	0	29								
Total by non-profits	144	103	64				39								

AMI Levels
 Extremely Low Income 0-30%
 Very Low Income 30-50%
 Low Income 50-80%
 Moderate Income 80-120%
 Middle Income 120-165%

Table 2: Development Summary 2009-2018

	Total Developments		Total Affordable		Total Very Low		Total Low		Total Moderate		Total Middle		Total Supportive	
	Units	%	Units	%	Units	%	Units	%	Units	%	Units	%	Units	%
All Developments	25	1002	190	19%	64	34%	11	6%	86	45%	29	15%	64	34%
Within Inclusionary Zone	9	584	126		0		11		86		29		0	
Outside Inclusionary Zone	16	418	64		64		0		0		0		64	