



CRAIN'S

NEW YORK BUSINESS

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A LOOK AT REZONING
The reasons building regulations lead to so many battles
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STILLMAN says Quality Branded is still hoping to open around 10 restaurants in the next few years.

COMMERCIAL REAL ESTATE

BETTING BIG ON RETAIL

Amid the real estate downturn, some stores are aiming to expand

BY EDDIE SMALL

New York's retail landscape may seem bleak right now, but some local businesses are not ready to write it off. In fact, with commercial rents hitting record lows, many national retailers in retreat and an abiding belief that the city will make a comeback, some say it's a good time to expand.

"I believe in the draw of New

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SMALL BUSINESS

Cuomo's virus restrictions chafe biz owners

Curfews imposed on bars, restaurants and gyms as virus spikes

BY BRIAN PASCUS

Gov. Andrew Cuomo's latest Covid-19 restrictions could push small businesses in the city past their breaking point.

"Are we heading toward full shut-down and this is just a precursor, or are we doing a more targeted approach to containment?" asked Randy Peers, president of the Brooklyn Chamber of Commerce. "It's not clear."

The governor on Wednesday announced that all bars, restaurants and gyms must close at 10 p.m., with enforcement beginning last Friday. Private parties of more than 10 people are restricted as New York attempts to slow the rising infection rate.

State health officials reported last week that New York's infection rate had risen to nearly 3%, with 1,628 hospitalizations and 21 Covid-19 deaths.

New York City's seven-day average infection rate as of last Thursday was 2.42%, with 5,830 cases, 363 hospitalizations and 58 deaths in that period.

Although New York's numbers are nowhere near their spring peak,

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7-DAY AVERAGE INFECTION RATE

2.83%

COVID-19 is on the rise across the five boroughs

BUCK ENNIS

NEWSPAPER

GOTHAM GIGS LANDSCAPE DESIGNER HELPS TERRACES, ROOFS BLOSSOM
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THE LIST
The metro area's largest physician groups
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AT 792 FEET, the Woolworth Building was the tallest in the world in 1913.

MUCH ADO ABOUT ZONING

Regulating the size, purpose and location of buildings in New York goes back to the early 20th century, and even then it could be contentious

BY NATALIE SACHMECHI

New York is famous for its rezoning battles in which neighborhood groups square off against well-heeled developers in prolonged and expensive public-relations campaigns.

Now rezoning is coming up more often as the city's real estate industry grapples with an affordable housing crisis and a pandemic that's called into question the need for offices and hotels.

"A significant part of the city's recovery depends on real es-

tate's ability to be adaptable to market trends and evolving public needs," said Michael Keane, an adjunct professor of urban planning at New York University. He gave as an example taking a failing hotel or an abandoned warehouse and turning it into homes for New Yorkers.

Sensible as it seems, it's not as simple as taking a building and repurposing it, lamented Carl Weisbrod, former chairman of the New York City Planning Commission.

Developers are beholden to a set of rules that govern what

can be built and where, which has killed many a profitable project, but the developers weren't always faced with the strict zoning laws they always seem to be battling today.

Early development

Until 1916 the city was a builder's paradise. Commercial developers could build as high as they wanted anywhere they

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REZONING

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pleased with respect to fire and safety codes, and the city's growth as a financial center put more office building projects in the pipeline as companies looked for more space.

By 1913 about 93,000 buildings protruded from Manhattan's bedrock. The tallest reached only 55 stories, and 99% of them were 10 or fewer stories. The Woolworth Building, at 792 feet, had just taken the title as the world's tallest building. The taller the buildings grew, however, the more residents complained about light and air being blocked from their windows.

In a report that year, Edward M. Bassett, chairman of the Heights of Buildings Commission, wrote: "On New Street and Exchange Place where the office buildings range from 10 to 22 stories high, on a bright sunny day at noon in mid-summer it was found that in almost all of the street rooms artificial light was being used next to the windows."

It took one massive shadow two years later to send residents of Lower Manhattan into a frenzy that would ultimately lay down the law on the state of anarchy in commercial real estate.

Equitable Building

When it was completed in 1915, 120 Broadway, also known as the new Equitable Building, became the largest office building in the world at 1.2 million square feet.

The 545-foot structure, now owned by Silverstein Properties, was built on the site of the previous Equitable Building, which was de-

"HISTORICALLY, ZONING HAS BEEN PART OF THE KEYS TO SUCCESS FOR OUR CITY"

stroyed in a fire. The new one was lauded for its advanced elevator system and fireproof construction.

But the Ernest Graham-designed tower was so bulky relative to surrounding buildings that it cast a 7-acre shadow over them.

"It was said that the Equitable blocked ventilation, dumped 13,000 users onto nearby sidewalks, choked the local transit facilities and created potential problems for firemen," recalled Sally A. Kitt Chappell, an architectural historian in a report.



THE ORIGINAL EQUITABLE BUILDING (far left) circa 1870 was replaced in 1915 (middle) and has undergone several renovations. The building (right) as it looked in 2010.

Residents who had been fighting the construction of the building before its inception were outraged and demanded that the city officially control the sizes of new buildings.

Zoning resolution

By that time, the city was long overdue for someone to decide what was getting built and where. Rapid industrial expansion and influxes of immigrants meant factories were pumping out toxic fumes next to overcrowded tenement buildings, and warehouses were getting too close for comfort in retail districts.

The Fifth Avenue Association complained of congestion and declining land values, and it became clear that there needed to be a physical separation between buildings with different uses.

In 1912 Manhattan Borough President George McAneny submitted a report to the Board of Estimate and Apportionment to enact controls on building heights. He was appointed chairman of the new Committee on City Planning, and another committee was created to divide the city into land use districts, led by Bassett. Together, they became the driving forces behind the 1916 Zoning Resolution—the first document of its kind produced in the city that would legally protect land use and control the heights and facades of buildings.

Under the new rules, milk-bot-

tling and horseshoeing facilities were not allowed in business districts, and office buildings were not allowed in residential zones. The manufacturing industry was given pockets of its own, away from homes to protect residents' health, and plans for towers with the floor-area ratios similar to the Equitable Building's didn't stand a chance.

"Historically, zoning has been part of the keys to success for our city," said Mary Ann Tighe, CEO of the New York region of CBRE, the real estate investment firm. But its inflexibility can be a problem for an evolving city with ever-changing needs, she added.

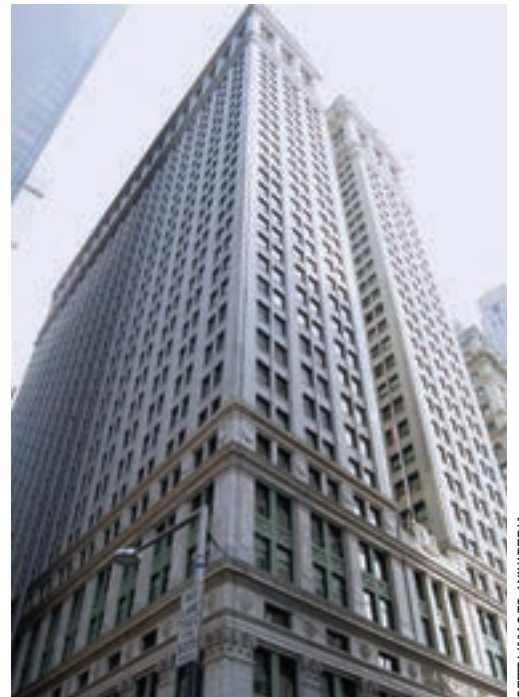
The resolution itself is a living document in that amendments are constantly added to it, but some key laws have been around for decades and changing them is no easy feat.

Time for an update

More than four decades later, the city adopted the 1961 Zoning Resolution as an overhaul of the original zoning bible, which the city found to be outdated.

New provisions included reducing residential densities along the edges of the city in neighborhoods such as Chelsea because of congestion issues, and thanks to the rise of automobiles, addressing land use for parking allowances.

More important, the new version made it clear that zoning laws were a powerful, transactional tool for passing public policy measures, said Keane, the NYU urban planning professor.



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The new resolution contained language that allowed developers to build higher in exchange for incorporating open space, or plazas for public use, into their new projects.

Even today if a developer applies to rezone an area to build residential apartments, a portion of those apartments must be offered as affordable housing, because of Mayor Bill de Blasio's 2016 mandatory inclusionary housing program.

Now that 60 years have gone by, Keane said, the city is due for another update. But like they did more than a century ago, Tighe said, community groups can make new development a difficult process when a project requires changes in zoning laws to accommodate new uses.

Tough road ahead

Today's largest, most complex rezoning proposals have been killed by City Council members whose constituencies opposed the changes.

Almost all large rezoning projects throughout the area are controversial because people are fearful of change, said Weisbrod, the former Planning Commission chairman.

"Many people in opposition kill a project by prolonging that [review] period because they know there's a moment when the developer will throw its hands in the air and give up," Tighe said, as was the case for Industry City in Sunset Park and Amazon HQ2 in Long Island City.

For Weisbrod, the most complex rezoning he's seen in his career was a 1981 law that allowed lofts, or

manufacturing buildings in areas such as SoHo and Chelsea, to be used for housing.

"In part, that was a reaction to the fact that people were already living illegally in lofts where housing was not permitted," he said. "In part, it was proactive because it opened up large parts of Lower Manhattan to housing that hadn't been available before."

Talk of converting distressed hotels into affordable housing has arisen now that the pandemic has shut down tourism in the city, but such a conversion is impossible under current laws for hotels in manufacturing districts. That restriction was implemented to protect the health and safety of residents from toxic factory emissions, Weisbrod said, but manufacturing today is not the kind of unhealthy activity it might have been 100 years ago.

In a building zoned for manufacturing in which the activity, such as 3D printing, isn't toxic or loud, there absolutely could be residential apartments, Keane said.

"We should be more flexible about it, but it brings a lot of different considerations into play," said Weisbrod, including whether the city should allow residential development to outbid manufacturing for land and space.

Even so, given that rezoning can take so long, the market may have changed by the time it is allowed, and at that point rezoning may no longer be needed, Tighe said.

"In the game of rezoning, one key component of it is time," she said, and "time kills all deals. ■"



THE LOWER MANHATTAN skyline as it looked in the mid-1900s from the New Jersey side of the Hudson River

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