THE NEW YORK
CITY COUNCIL

MELISSA
MARK-VIVERITO
SPEAKER

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Planning for Retail Diversity

Supporting NYC's Neighborhood Businesses

THE COUNCIL OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, NY 10007

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Dear Fellow New Yorkers,

While headlines often go to major multinational corporations whose names adorn Manhattan skyscrapers, much of the economic engine of our city is contained in the countless storefronts that line our blocks. These spaces are home to the retail and food service entrepreneurs that employ more than 600,000 people, provide critical goods and services to the city's residents, and contribute to each neighborhood's unique character.

However, all is not well with our city's retail sector; low-income communities continue to lack essential goods and services and the highest-end retail corridors are pockmarked with vacancies due to ever increasing rents. Additionally, e-commerce now takes almost 10% of retail sales nationwide, posing a growing threat to our neighborhood businesses.

Given these challenges, the Speaker's 2016 State of the City address called for the Council to explore zoning reforms and other tools for protecting and promoting retail businesses. In September of 2016, the Council held a hearing on zoning and incentives for promoting retail diversity and preserving neighborhood character at which we heard concerns and proposals from a wide variety of advocates including chambers of commerce, community-based organizations, trade associations, business improvements districts, elected officials, and small business owners.

The Land Use and Finance staff has examined these proposals and also done extensive background research on the state of the retail economy in New York City. Contained in this report are the results of that research and a set of strategies to address the challenges faced by our storefront retail and restaurant businesses.

It is incumbent upon the administration and the Council to address the issues facing the retail storefront economy. It is our hope that this report will serve as a blueprint for comprehensive policy to foster retail diversity, affordability, and access throughout all New York City neighborhoods.

Sincerely,

Melissa Mark-Viverito
Speaker

Robert Cornegy,
Chair, Committee on Small Business

David Greenfield,
Chair, Committee on Land Use

Donovan Richards
Chair, Subcommittee on Zoning and Franchises

Contents

Executive Summary

Planning For Retail Diversity

As E.B. White so vividly described in his 1949 essay "Here Is New York," New York is comprised of thousands of tiny neighborhood units that make the vast size of the city as livable as a small town. At their most functional, residential neighborhoods each have a sufficient diversity of retail stores and services to support all the needs of daily life. While some of the necessary businesses of 1940s New York are now obsolete, most are still very much a part of the most self-sufficient neighborhoods: groceries, movie theaters, dry cleaners, coffee shops, drug stores, hardware stores, shoe repair shops, and florists. And as White suggests, such independent retailers are known for contributing to each neighborhood's unique character.

More than a mere anecdote, studies have shown that retail diversity - the availability of a wide array of necessary goods and services at a variety of price points – contributes significantly to the health of a neighborhood's economy and its residents.[1]

The rationale to undertake a comprehensive, coordinated policy initiative to support retail diversity in New York City can be summarized in five points:

- City government should seek to ensure that critical neighborhood service retail is available in every neighborhood. The availability of fresh food, health clubs, and pharmacies helps keep residents healthy and fit, and the presence of essential goods and services like tailors and hardware stores improve residents' daily lives by saving travel time.
- Retail and restaurant small businesses are a crucial vehicle for entrepreneurship, especially among recent immigrants.[2]
- Locally-owned businesses are an economic multiplier and recirculate a higher percentage of their revenues within the local economy.[3]
- New York City's over 50,000 retail and restaurant businesses employ nearly 610,000 people, providing more than one in seven private sector jobs.[4]
- Retail diversity and character are unique assets that create value and attract tourism.

> …the curious thing about New York is that each large geographical unit is composed of countless small neighborhoods. Each neighborhood is virtually self-sufficient. Usually it is no more than two or three blocks long and a couple of blocks wide. Each area is a city within a city within a city. Thus, no matter where you live in New York, you will find within a block or two a grocery store, a barbershop, a newsstand and shoeshine shack, an ice coal-and-wood cellar (where you write your order on a pad outside as you walk by), a dry cleaner, a laundry, a delicatessen (beer and sandwiches delivered at any hour to your door), a flower shop, an undertaker's parlor, a movie house, a radio-repair shop, a stationer, a haberdasher, a tailor, a drugstore, a garage, a tearoom, a saloon, a hardware store, a liquor store, a shoe-repair shop. Every block or two, in most residential sections of New York, is a little main street… So complete is each neighborhood, and so strong the sense of neighborhood, that many a New Yorker spends a lifetime within the confines of an area smaller than a country village. Let him walk two blocks from his corner and he is in a strange land and will feel uneasy till he gets back.
>
> -E.B. White "Here Is New York"

As important as it is to urban life, retail diversity is now threatened where it has long contributed to New York City's most prosperous neighborhoods and it remains elusive in some of the city's lower-income areas. This report analyzes data from the Quarterly Census on Employment and Wages, Economic Census, and City land use data to reveal trends affecting neighborhood retail across the city, and proposes interventions to correct market failures.

In general, we have found three fundamental challenges:

1. In the neighborhoods with the highest real estate values, rising rents and competition with chain stores and businesses focused on high-end consumers and tourists are squeezing out longstanding local retailers and restaurants and making it difficult for new small businesses to find space. The tremendous economic success of these parts of the city now threatens to undermine the neighborhood character and provision of goods and services that are essential to livability.
2. Meanwhile, some of New York City's lower-income neighborhoods remain severely under-retailed. Such neighborhoods not only lack retail diversity but also have an unhealthy retail mix with an excess of businesses that sell cigarettes and alcohol but a dearth of businesses like green grocers and health clubs.
3. At the same time, the accelerating growth and consolidation of e-commerce are rapidly transforming the retail sector in New York City and across the nation, in all sectors from green grocers to department stores. As shopping habits change, the retail sector and the market for goods and services appear poised for a radical transformation.

To address these problems, this report calls for innovative uses of the City's zoning, land use, and planning powers as well as new financial assistance and economic development tools to improve retail diversity and preserve neighborhood character.

Given the dramatic changes in our retail landscape it is time to rethink our approach and identify new tools that respond to the current challenges and opportunities New York City faces. Not all of these approaches will work in all neighborhoods, but they nonetheless provide a path forward to address a range of challenges facing New York City's small businesses.

Recommendations

CITYWIDE PLANNING - PAGE 9

1. Designate the Department of Small Business Services (SBS) to manage planning and policy for retail storefronts

The administration should designate SBS to manage policy to advance retail affordability, diversity, and access. Today the responsibility for these issues is spread among multiple agencies.

2. Empower SBS to file land use applications related to retail space and commercial corridors

For storefront retail and commercial corridor issues, SBS should work with local stakeholders to develop land use policy changes and guide them through the review process, a similar role to that played by the Department of Housing Preservation and Development (HPD) for affordable housing or the NYC Economic Development Corporation (EDC) for large-scale redevelopment projects.

DATA COLLECTION & RESEARCH - PAGE 26

3. Collect and analyze storefront retail data in each community district as part of a citywide Commercial District Needs Assessment

SBS should expand its CDNAs citywide and examine retail conditions in each community district periodically. These reports should then be aggregated into a citywide Commercial District Needs Assessment in order to better identify trends, opportunities, and potential policy interventions.

4. Require storefront vacancy reporting

The Council and administration should begin to address the problem of vacant storefronts by requiring landlords to register with SBS after a storefront has been vacant for 90 days and report on the status every 90 days thereafter. Registration could help SBS and others to identify corridors and neighborhoods where storefront vacancies may be creating a barrier to achieving a healthy diverse mix of retailers.

5. Study and mitigate the impact of e-commerce on the brick-and-mortar retail sector

The administration should seek to mitigate the impending disruption of the retail sector by studying the potential impacts of the growth of e-commerce and developing additional policies and programs to help small businesses adapt.

ZONING AND LAND USE - PAGE 40

6. Reform & expand commercial overlays

- **Map overlays on corridors that have a significant amount of non-conforming retail**
  To preserve and expand the supply of retail spaces, SBS should examine corridors with significant non-conforming retail space and assist local stakeholders in expanding commercial overlays where appropriate.
- **Explore a new low-intensity business commercial overlay for side streets**
  To create a new supply of commercial spaces for low-impact neighborhood service businesses like professional offices, SBS should work with the Department of City Planning (DCP) to create a new type of commercial overlay limited to these uses that may be appropriate on predominantly residential blocks.
- **Consider expanding overlays to New York City Housing Authority (NYCHA) superblocks fronting commercial corridors**
  To bring additional retail spaces to under-retailed areas such as NYCHA campuses, the administration should explore what kind of retail is needed and how to support its growth with NYCHA residents.
- **Study the expansion of use groups allowed in commercial overlays**
  The administration and Council should explore a potential amendment to the zoning resolution to allow certain low-impact uses of an appropriate scale in commercial overlays, such as light manufacturing and artist workshops.

7. Expand use of special enhanced commercial districts that require retail space on the ground floor of new development

To ensure that new residential developments on commercial corridors include ground floor retail, SBS and DCP should map new special enhanced commercial districts that mandate the inclusion of commercial space.

8. Expand use of special enhanced commercial districts that restrict the size of storefronts

In neighborhoods where local stakeholders have expressed concerns about the spread of large-scale retailers and bank branches, SBS should work with communities to apply Special Enhanced Commercial Districts that restrict the size of storefronts, as currently exist on Amsterdam and Columbus Avenue in the Upper West Side.

9. Examine formula retail restrictions

Where communities have expressed concerns about preserving neighborhood character and a diversity of local independent businesses, such as in the East Village, SBS and DCP should work with stakeholders to examine potential zoning restrictions on chain stores and restaurants.

10. Study a potential zoning bonus for affordable retail space

SBS and DCP should explore creating a new inclusionary commercial space zoning tool that incentivizes or requires new development to set aside commercial space as “affordable” with a preference for locally owned businesses and/or businesses that could close a retail gap. This set-aside floor area could be discounted from the overall floor area ratio limit as supermarket space is in the Food Retail Expansion to Support Health (FRESH) program. This would be a limited tool for use in certain circumstances.

11. Strengthen & expand the FRESH program

The FRESH program provides zoning and tax benefits to new grocery stores in underserved neighborhoods that are underserved by fresh foods. Since the program was adopted by the City Council, Council Member Richards in coordination with the administration has been leading an effort to expand the applicability to additional neighborhoods that have limited access to fresh foods and high rates of poverty.

12. Prioritize affordable local retail space in certain city-sponsored developments

The administration should prioritize creating affordable commercial space for local businesses in certain city-sponsored developments where appropriate and publicly owned buildings of a certain scale, and in some cases the administration should consider turning these spaces into commercial condominiums for community development organizations to manage as affordable commercial space. This would be a limited tool to provide entrepreneurship opportunities and address a retail gap in certain places.

13. Eliminate special permit requirement for gyms and health clubs

At present the Zoning Resolution requires gyms & health clubs to obtain a special permit from the Board of Standards and Appeals (BSA). This policy originated in the 1970s as part of the effort to combat illicit massage parlors but is no longer required. The administration should propose a zoning text amendment to allow these facilities as-of-right in the commercial districts where they are currently allowed by BSA special permit.

NEIGHBORHOOD PLANNING & ECONOMIC DEVELOPMENT - PAGE 50

14. Help local nonprofits develop affordable commercial spaces in underserved areas

- **Strengthen capacity for CDCs to engage in economic development work**
  SBS should increase the capacity of local community organizations as partners in economic development, including storefront commercial development issues, through expanded technical assistance and training programs.
- **Create a Neighborhood Commercial Development Fund**
  To provide funding for local community developers to redevelop vacant or underutilized commercial spaces, SBS and EDC should establish a Neighborhood Commercial Developer Fund on the model of the Industrial Developer Fund and pursue other innovative funding programs.
- **Create a Retail Diversity Fund**
  SBS should establish a new competitive grant program targeted specifically at neighborhood retail diversity.

15. Strengthen Chamber on the Go

The Chamber on the Go initiative, which began with a partnership between Council Member Robert Cornegy and the Brooklyn Chamber of Commerce, should continue to be strengthened and expanded in order to increase capacity to provide on-the-ground canvassing of neighborhood small businesses and offer direct assistance to businesses instead of relying primarily on requests for consultations.

16. Help incubator & entrepreneurship program graduates find storefront space

SBS and EDC should create a new program to help these entrepreneurs find affordable storefront space by subsidizing a short-term initial lease and/or offering low-interest loans specifically targeted at graduates from the incubator and entrepreneurship programs.

17. Expand support for public markets and increase use of pop-up markets

Public markets can enhance retail options in a neighborhood and provide space for new businesses. The administration should better support public markets via local nonprofit management and increased capital funding, and it should also increase the use of pop-up markets on vacant and underutilized sites.

18. Reform regulation of street food vendors and increase the number of available permits

The administration and the Council should convene a street vending task force to develop reforms to increase the ease of compliance, create pathways from vending to brick-and-mortar restaurants, and create a new street vending enforcement unit. After a dedicated enforcement unit is established, the number of street vending permits should be gradually increased and assigned to individuals rather than to carts/trucks in order to eliminate the illicit market for permits and reduce barriers to entry.

TAX POLICY & FINANCIAL INCENTIVES - PAGE 58

19. Create a new tax abatement and/or direct subsidy program to incentivize property owners to offer affordable long-term leases

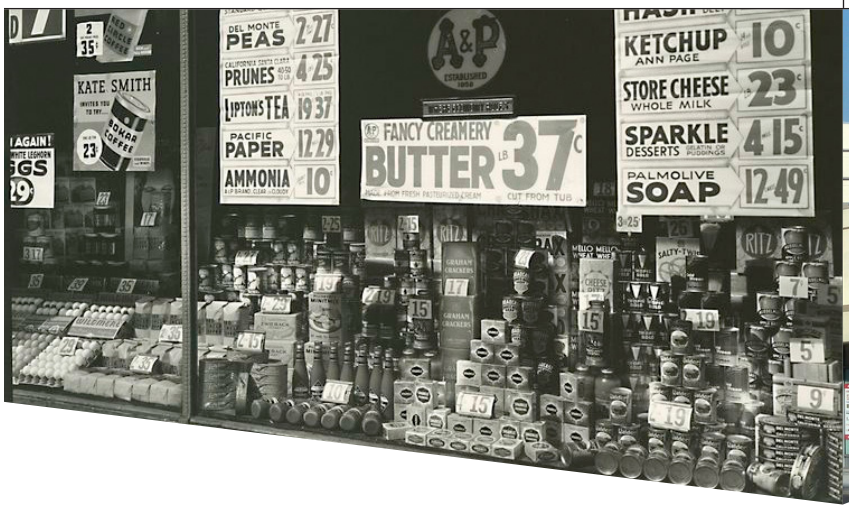
The administration should quickly move to create new tools to incentivize commercial affordability in order to preserve retail diversity and the presence of essential neighborhood goods and services.

- **Property tax abatement to support affordable commercial leases**
  In order to create a new tax abatement, the City would need to obtain State authorization. A commercial affordability tax abatement could be structured as a property tax abatement of a certain dollar amount per square foot in exchange for a property owner providing a commercial storefront tenant with a ten-year lease with an "affordable" renewal rider setting a maximum threshold for increase. The program could potentially be piloted in a specific geographic area and/or limited to a cap on total tax expenditure, and limited to small businesses and/or certain types of retailers.
- **Direct Subsidy – Legacy Business Fund Model**
  SBS should consider a direct subsidy program aimed at retention of longstanding neighborhood businesses on the model of the San Francisco Legacy Business Fund.

20. Reform the Commercial Rent Tax

To help small independent retailers in Manhattan below 96th Street maintain profitability, the Council and administration should develop a long-term solution for CRT reform. As a first step, in November 2017 the Council passed legislation, with Council Member Garodnick as the primary sponsor, to create a tax credit to effectively increase the minimum rent at which business owners become liable for paying the commercial rent tax.

A&P Storefront, 1936



Bronx Terminal Market

A Brief History of Retail Planning Policy in NYC

Government policy to preserve and encourage retail diversity, affordability, and access is marked by a history of fits and starts, in contrast to other policy areas like the housing sector where government has consistently maintained a significant role.

In the 1920s and 1930s, small retailers formed alliances to advocate for regulations to limit competition from stores like A&P, then the nation's largest chain. Legislative efforts at the federal, state, and local levels sought to protect small businesses. Twenty-six states and dozens of cities passed special taxes on chain stores.[5] However, this movement began to lose support as chain stores mobilized politically and more consumers began to benefit from their lower prices. No new chain store taxes were passed after 1941 and existing ones were steadily repealed or allowed to lapse.[6]

In the 1940s, New York State enacted commercial rent control based on findings that the war had brought a total stop to commercial real estate construction, resulting in extreme space shortages that so threatened the commercial sector that they harmed the war effort.[7] Those regulations were repeatedly renewed until allowed to lapse in 1963 and were never reestablished.[8]

Proposals to renew regulation over commercial rents resurfaced in the 1980s as New York City experienced a surge in real estate investment but were never enacted.[9] In the years since, small business advocates have continued to urge the City Council to enact various forms of commercial rent control.[10]

FOCUS ON PUBLIC HEALTH AND CONSUMER PROTECTION REGULATIONS

Rather than addressing issues of affordability or goals of diversity and access, the vast majority of City regulations affecting retail and restaurant businesses address issues of public

Local Law 77 of 2016: Prohibiting Non-Residential Tenant Harassment

In 2016 the City Council passed Local Law 77, which prohibits commercial tenant harassment and provides commercial tenants a "cause of action" against landlords who violate its provisions.

health and consumer protection. These regulations are based in the government's "police power" to protect consumers from fraud and abuse and to safeguard the public.

While these are important government functions, in New York City small businesses may be subject to licensing, approvals, and inspections from as many as fifteen different agencies. Small business owners have long expressed frustration with the City's complex web of regulations and enforcement, with many feeling that the City uses inspections and fines as sources of revenue that help neither the business nor the consumer.[11]

During the last ten years, the City Council has undertaken numerous efforts to review these regulations and determine which ones could be repealed without harming consumers or putting public health at risk. In 2013, the City Council passed legislation to allow inspectors to issue warnings and opportunities to cure before issuing fines for certain violations. The Council hopes to be able to further expand upon opportunities to provide a cure period for low level non-hazardous violations when this would serve a good regulatory and public purpose.

During the 2014-2017 session, the Council has passed further legislation to help address the regulatory burden issues. There are now protocols for inspector interactions with non-English speakers during agency inspections, as well as small business advocates who are dedicated to helping business owners obtain services from the government. The administration, through SBS and the Department of Consumer Affairs (DCA), is now required to provide multiple business education events. Small businesses will also soon have the option of receiving notifications when a 311 complaint mentions the address of their businesses, giving them the opportunity to address any issues as soon as possible.

Opposite page photos:
A&P window - Wikimedia.org
Executive Summary photo:
Wikimedia.org

PLANNING FOR RETAIL IN NEW YORK CITY – BIDS, SBS, EDC, AND DCP

Planning for the retail economy in New York City has received much less attention and analysis than the issues surrounding public health and consumer protection regulations. Historically, planning for neighborhood retail in New York City was often overlooked during the urban renewal era and later outsourced to local organizations through the concept of Business Improvement Districts (BIDs).

Beginning in the 1970s, the City began to examine using property tax revenue to help spur the creation of vibrant retail corridors. In 1981 and 1982, the City and State adopted legislation to authorize the creation of Business Improvement Districts.[12] A BID is an organization of property owners and businesses that agrees to an assessment in addition to their regular property taxes to pay for a set of ongoing services in the district, such as streetlights, security, sanitation, streetscape improvements, marketing and event production. These districts tend to be located in areas that already have significant retail development.

In an era when the public sector was in retreat, BIDs were credited with filling the void and helping to stabilize physical conditions on important retail strips.[13] Since the creation of BIDs in the 1980s they have continued to function as the primary vehicle for city planning and policy-making on commercial corridors. There are now 73 BIDs across the city with 25 in Manhattan, 23 in Brooklyn, 13 in Queens, 9 in the Bronx, and 3 in Staten Island.[14]

The BID model has received certain criticisms, including that that these organizations are heavily weighted towards property owners, that property owners may pass the assessments to fund the BID on to their commercial tenants (in 2016, the 73 BIDs levied almost $102 million from property owners[15]), and that BID services typically go to more affluent neighborhoods.[16] Some have also argued that it should no longer be necessary for property owners to privately organize and offer services that could instead be provided directly by City government.[17] It should be noted, however, that BIDs provide essential public services, these services do not cost the taxpayers any money, and the City's ability to levy additional

taxes is constrained by state law.

As part of the charter revision of 1989, the City created a new agency, the Department of Small Business Services (SBS), to oversee the BIDs and economic and workforce development more broadly. SBS works with local stakeholders to assist in the formation of BIDs and SBS staff sit on the board of every BID to assist in management and serve as the principal contacts between BIDs and City government. SBS also provides grants, sometimes from federal Community Development Block Grant funding, to assist BIDs with business attraction and retention efforts. These funds can help support staff or consultants to coordinate with property owners and existing or potential tenants.[18]

Beyond BIDs, the City Charter holds SBS responsible for economic development in New York City. In practice, SBS contracts out a majority of this function to the city Economic Development Corporation (EDC), a nonprofit organization overseen by the Deputy Mayor for Economic Development.[19] SBS focuses on four main areas: business development and assistance, workforce development, programs to facilitate opportunity for minority-owned, women-owned, and locally-owned businesses, and neighborhood development.

As part of its business assistance portfolio, SBS provides free legal support to commercial tenants through the Commercial Lease Assistance Program in which SBS assists small business owners when they sign a new commercial lease or renew, amend or terminate an existing lease. Through this program SBS also helps businesses resolve issues with their landlords including landlord harassment and bad conditions.

The Neighborhood Development division of SBS has expanded in recent years and has recently increased its role with the "Neighborhood 360" program in which the agency partners with local BIDs or community organizations to study and plan for improvements on commercial corridors.[20]

With SBS and its family of BIDs overseeing local-level commercial economic development initiatives, EDC focuses on facilitating large-scale development projects and citywide policies.[21] Some of these development projects involve retail spaces and under the Bloomberg administration, EDC used its power to grant discretionary tax benefits through the Industrial Development Agency (IDA) to subsidize numerous large-scale shopping mall developments such as the Gateway Center at Bronx Terminal Market and East River Plaza in East Harlem.[22] These retail mega-projects aimed to recapture "leaking" city retail spending from suburban malls and provide access to low-priced chain stores that many communities previously lacked. Yet they have also received criticism as unnecessary giveaways to large corporations at the potential expense of small business retailers on surrounding commercial corridors.[23]

The third agency involved with retail planning is the Department of City Planning (DCP). DCP has an extensive, decades-long record in tailoring zoning tools such as special districts and commercial overlay districts to reflect local community priorities and encourage the preservation and production of certain kinds of retail spaces. These zoning tools can prohibit, require, or incentivize certain categories of commercial space, the size of spaces, and other design characteristics such location within a building or street wall transparency. The Department has also led citywide actions to address certain specifically identified retail zoning problems like the lack of adequate ground floor height.[24]

Overall, in contrast to the highly developed policies that regulate consumer protection and public health relating to the retail sector, New York City does not have a coordinated plan or policy to promote neighborhood retail development, retail diversity, or to promote small retailers and restaurants.

Different aspects of policymaking reside at DCP, SBS, EDC, and at other agencies, and these efforts are not always regarded as high priorities. Many small business owners remain unaware of or intimidated by the complexity of the City's many existing assistance programs and the numerous agencies involved.[25]

Moreover, at all levels of government, federal, state, and city, there is a lack of coordinated policy to address the issue of affordability of commercial space and its relationship to economic and public health. This is in stark contrast to decades of complex policy-making to address affordable housing.

Recommendation 1.

Place SBS in charge of retail planning & policy

RECOMMENDATION

■ SBS should assume responsibility for the coordinated implementation of the recommendations outlined in this report to help storefront businesses adapt, survive, and thrive in our communities.

The de Blasio Administration has already strengthened the role of SBS in planning and setting policy for retail corridors through efforts like Neighborhood 360 and having the agency contribute to neighborhood planning studies. Consolidating responsibility at SBS for overseeing a strengthened comprehensive policy effort for retail storefronts would be a logical next move.

■ SBS should also have an institutionalized role in contributing to the environmental review of discretionary government actions by working with the lead agency during the City Environmental Quality Review (CEQR) process to provide information, analysis, and recommendations relating to small businesses and any required mitigation.

New York's storefront businesses are an integral part of our urban landscape, providing essential goods and services. These businesses often shape the daily experience of city residents, workers, and tourists alike, and have significant implications on neighborhood health and economic vitality.

While many zoning, tax expenditures, and economic development programs and policies relate to storefront retail and restaurant businesses, there is no coordinated citywide effort to plan for retail diversity and responsibility is divided between multiple agencies.

Recommendation 2.

Empower SBS to file land use applications

RECOMMENDATION

■ Zoning and land use tools hold some of the greatest potential to contribute to the goals of retail diversity, affordability, and access. In order to rapidly and effectively implement these tools, the administration should empower SBS to file land use applications related to retail space and commercial corridors.

The Department of Housing Preservation and Development (HPD) often acts as the applicant for zoning changes and other land use actions relating to affordable housing and EDC serves as the applicant for large-scale development projects. These agencies work with local stakeholders to develop projects, prepare application materials, and shepherd policies through the city's Uniform Land Use Review Process (ULURP).

■ SBS should assume a similar role for policies relating to storefront retail space and planning for commercial corridors, such as the expansion or strengthening of commercial overlays.

Bloomingdale's

Jerome Ave, Bronx

477 Broadway - former home of Pearl River Mart

The State of Retail in NYC

New York City is home to an extraordinary variety of retail spaces. From the luxury boutiques of Madison Avenue to corner bodegas, storefronts play an immense role in our city's economy and daily living experience. The retail landscape varies remarkably across the breadth of the city, ranging from the dense canyons of storefronts in the Manhattan core to the wide retail boulevards of Queens and Staten Island.

Our city's storefronts are also characterized by constant change – one recent study found that over a typical five-year period, 30-40% of storefront businesses turnover.[26] However, over the last 15 years the overall number of retail and restaurant businesses has increased tremendously. There have also been significant changes in the distribution of retail subsectors, both citywide and in individual neighborhoods.

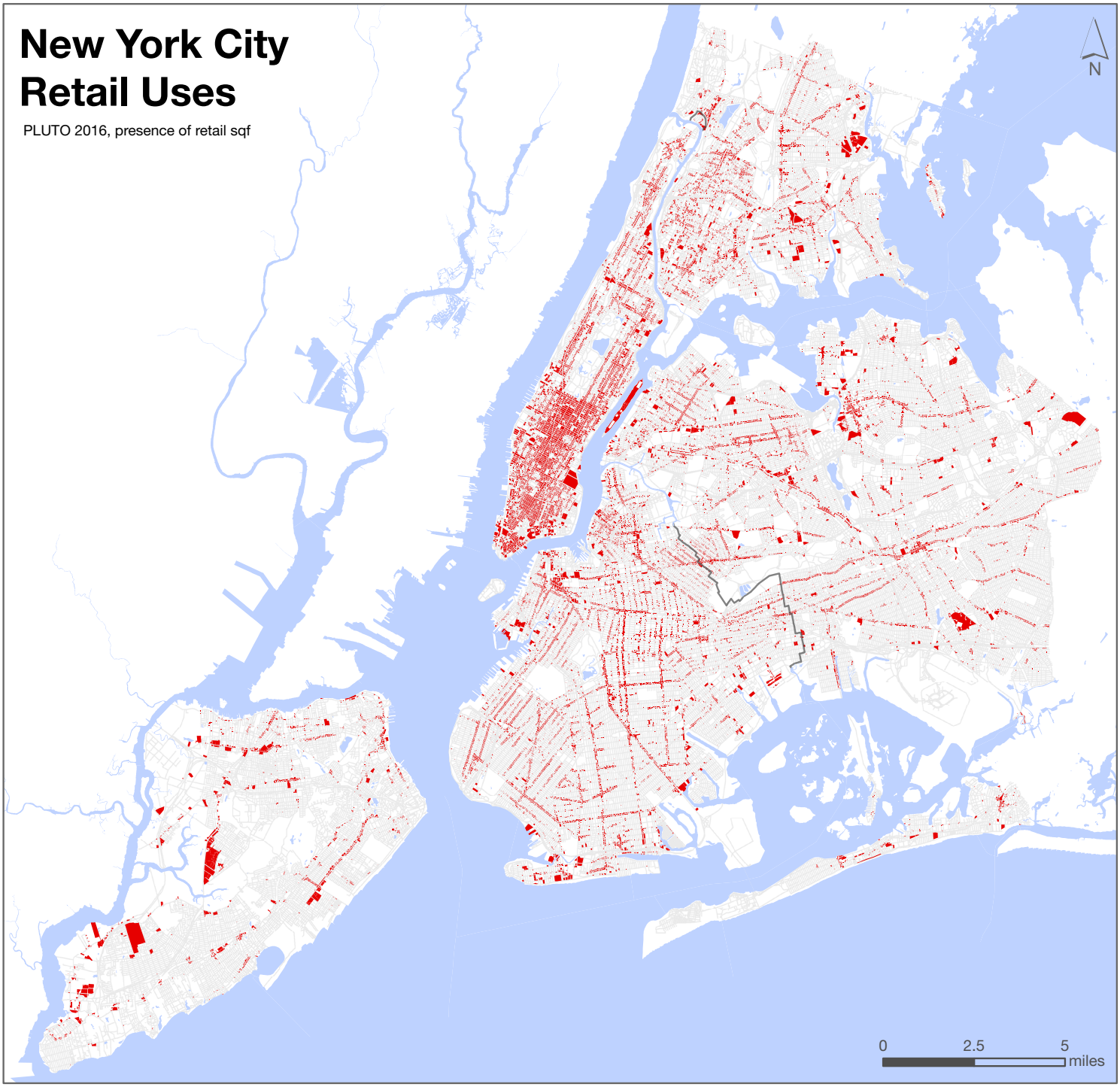
While the retail and restaurant sector grew explosively in numbers of businesses and jobs from 2002-2012, this growth was uneven. Although developing and immigrant neighborhoods experienced a surge of new businesses, small businesses in the hottest real estate markets of Manhattan are under increasing pressure from rising rents, and some neighborhoods remain left out and continue to be underserved.

Moreover, all retailers citywide are under the growing shadow of the threat of e-commerce as citywide retail growth has begun to stall since 2013.

WHERE IS NYC'S RETAIL?

Retail space in New York City is most heavily concentrated in the central business districts of Manhattan. The street level experience of the Manhattan core is one of nearly constant retail storefronts on both avenues and side streets. The majority of properties in Manhattan south of Central Park have retail space.[27] Just outside the core in historic pre-war neighborhoods such as

Retail Space in NYC



the Upper East Side, Washington Heights, much of the Bronx, Brooklyn, and western Queens, the retail landscape is characterized by concentrations of retail space along major corridors or in neighborhood business districts with a smaller scale retail presence on some side streets. In the outer portions of Brooklyn, the Bronx, Queens, and Staten Island where the overall character is predominantly low-density residential, retail space is more strictly confined to major corridors.

According to the latest land use data, New York City has over 273 million square feet of retail space. Not surprisingly, Manhattan leads the way with over 100 million square feet, followed by

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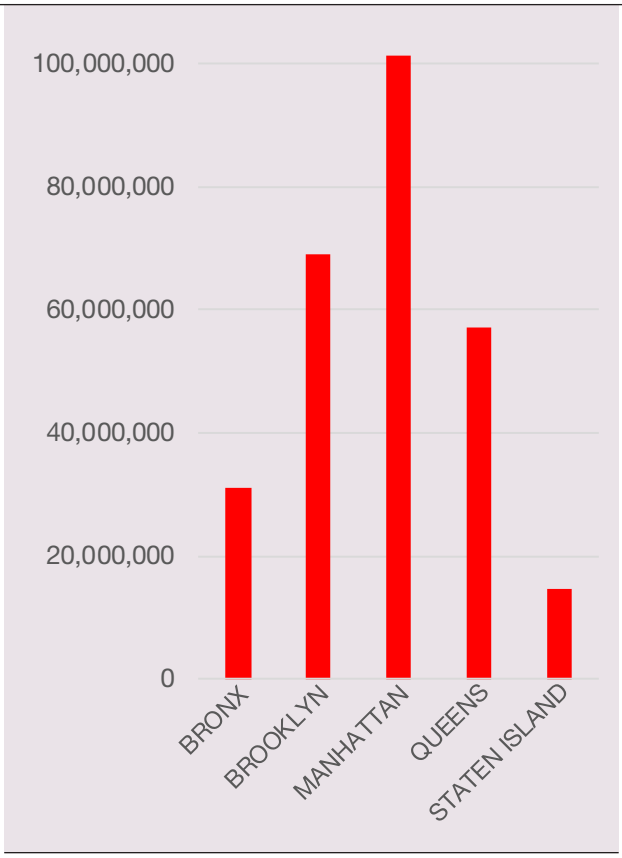
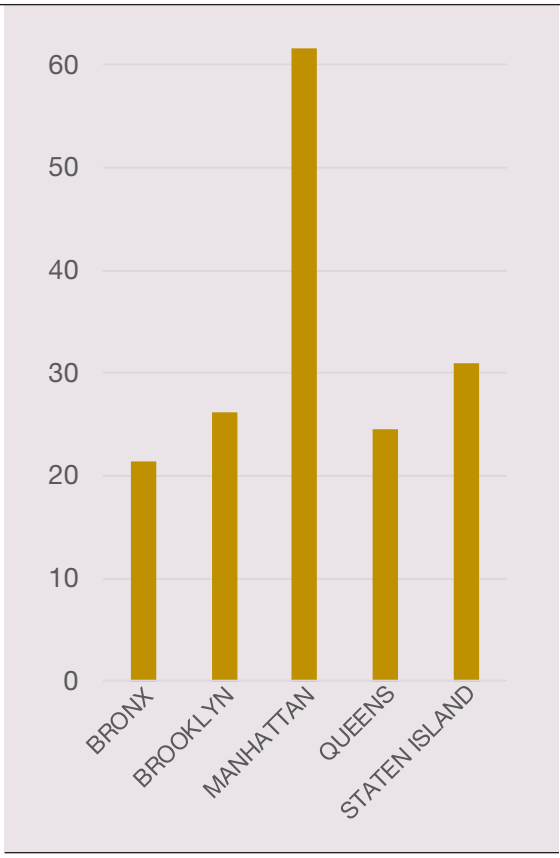
Retail Square Footage by Borough (PLUTO 2016 v2)



Retail Square Footage Per Capita by Borough (PLUTO 2016 v2)



Brooklyn with nearly 70 million, Queens with 57 million, the Bronx with 31 million, and Staten Island with 15 million. On a per capita basis, Manhattan is far ahead of the other boroughs with over 61 sqf per person compared to 31 in Staten Island, 26 in Brooklyn, 24 in Queens, and 21 in the Bronx.[28] However, if Manhattan's surge in daytime commuters and visitors is considered, its retail space per capita is more closely in line with the other boroughs.[29] Overall, with the exception of the Manhattan core, New York City's retail space per capita still lags behind the national average of 47 sqf.[30]

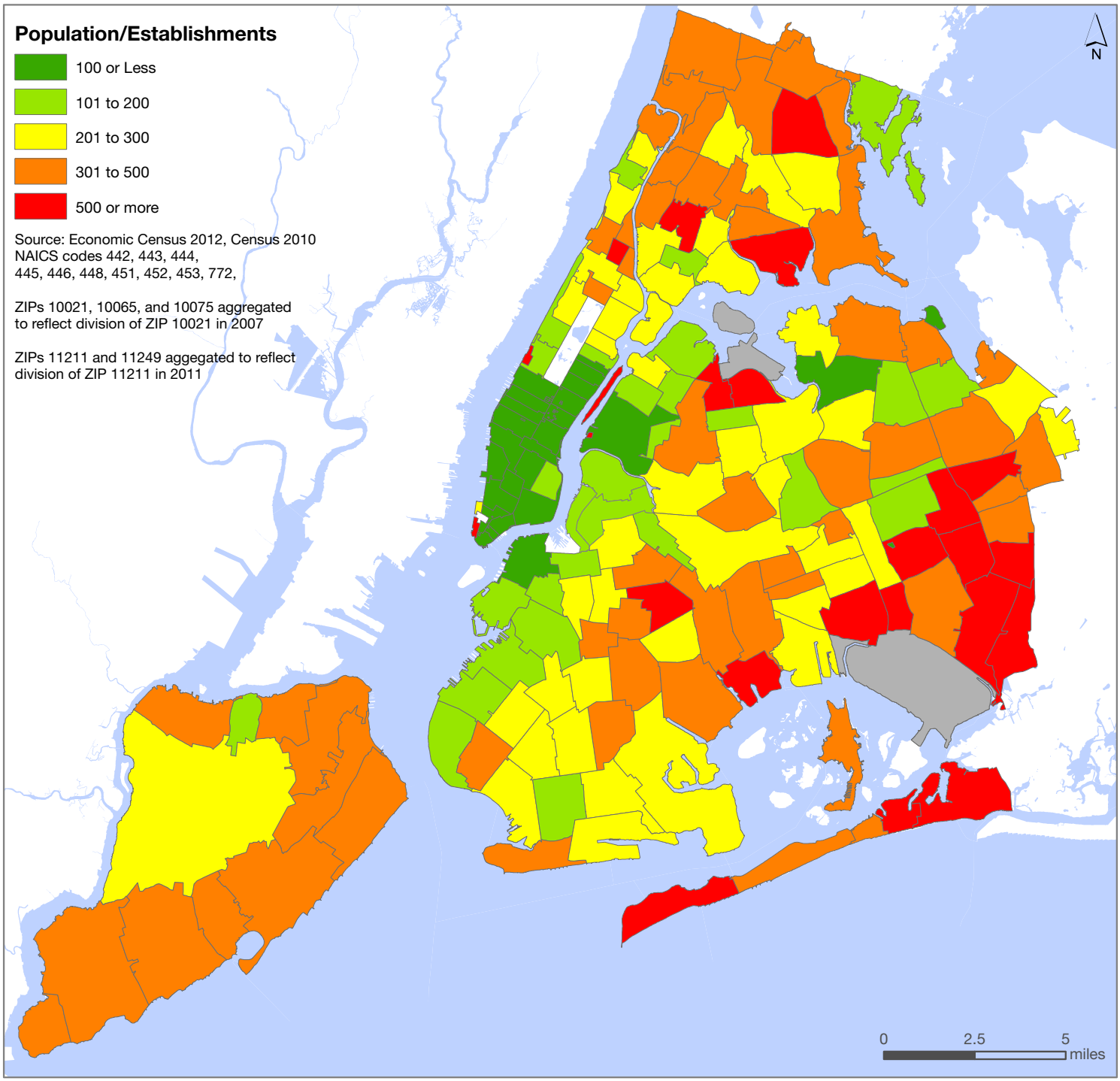
The relative lack of retail space in some parts of the outer boroughs is also reflected in the population per retail and restaurant establishment in each ZIP code.

It is no surprise that access to retail is greatest in the Manhattan core where a large percentage of the city's retail space is located. Other areas with high access to retail and restaurants include the central business districts of Brooklyn and Queens: Downtown Brooklyn, Long Island City, and Downtown Flushing.

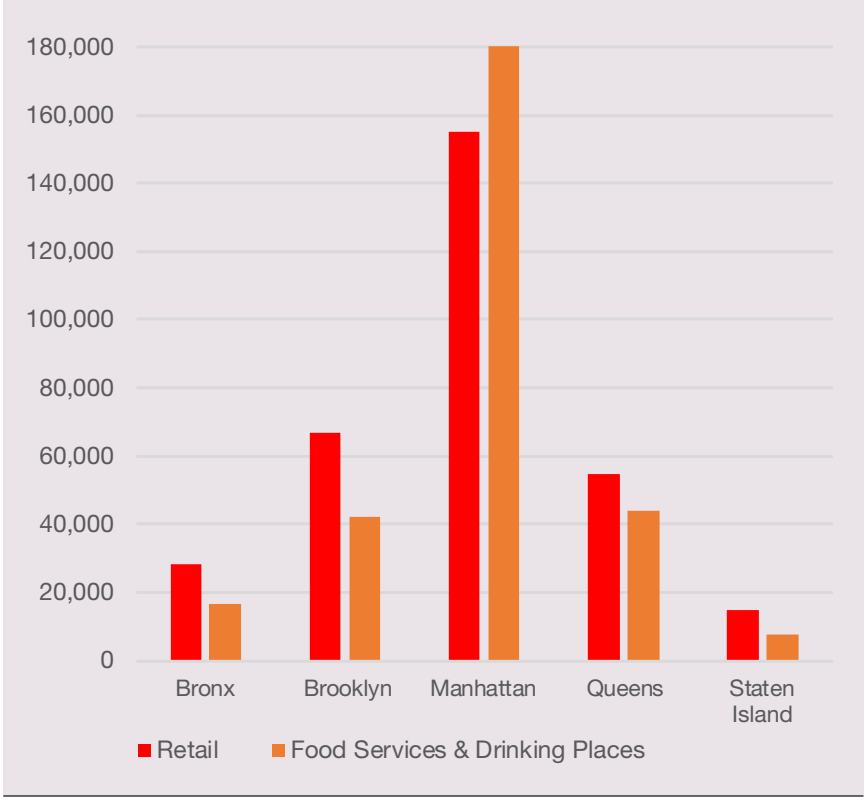
However, some neighborhoods in the outer boroughs and Upper Manhattan remain underserved by retail. While some of this pattern in the further reaches of the boroughs can be explained by suburban land use patterns where consumers are accustomed to driving to retail, there also remains a strong correlation between underserved areas and populations of color.

Furthermore, the presence of diverse local retail in a neighborhood is particularly important for communities with low vehicle ownership. Limited access to essential retail in neighborhoods such as Brownsville and northern Central Harlem is more harmful to the community than low access to retail in a neighborhood like Rosedale where most residents own cars and can drive to the heavy concentration of retail in neighboring Valley Stream, Nassau County.[31]

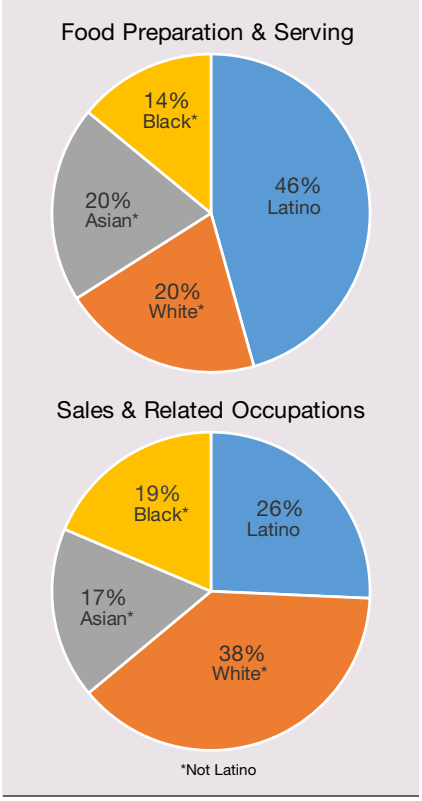
Population Per Retail/Restaurant Establishment By Zip Code (Economic Census 2012)



Retail & Restaurant Jobs by Borough
(2015 QCEW)



Workforce Demographics
(2015 ACS)



WHO WORKS IN RETAIL & RESTAURANT JOBS?

In 2015, New York City businesses in the retail and restaurant sectors[1] employed nearly 610,000 workers, providing over 16% of the city's private sector jobs. Roughly one third of these jobs are part-time[2] and some are also seasonal, with jobs at food and drinking places shrinking by 10% during the winter months and retail jobs swelling by 3-5% during the holiday season.[32]

More than half of these jobs, over 335,000, are located in Manhattan, including over 180,000 jobs at restaurant, food services, and drinking establishments.

Average annual wages paid by employers in the retail and restaurant sector are significantly lower than the citywide average. According to American Community Survey 2015 data, median earnings for retail workers in New York City are $22,937 and median earnings for accommodation and food service workers only $21,503, compared to $38,449 for all jobs. Looking only at full-time jobs, median earnings for retail sector workers are $34,457 and median earnings are $26,580 for accommodation and food service workers, compared to $48,301 for all New York City jobs.

Restaurants and bars in New York are highly dependent on a majority-minority and foreign born workforce. Over 45% of the restaurant workforce is Latino,[3] with Latino men accounting for most of this share. The remainder of the workforce is 20% White, 20% Asian, and 14% Black.[33] More than 75% of cooks and food preparation workers are foreign-born, along with 60% of wait staff.

The city's retail and sales workers are also highly diverse with 38% White, 27% Asian, 25% Latino, and 18% Black. 43% of retail salespersons, 48% of retail

1 2015 QCEW Data. "Retail and restaurant sector" defined as NAICS codes 442 "furniture and home furnishing stores", 443 "electronics and appliance stores," 444 "building material and garden equipment and supplies dealers," 445 "food and beverage stores", 446 "health and personal care stores", 448 "clothing and clothing accessory stores", 451 "sporting goods, hobby, musical instrument, and book stores", 452 "general merchandise stores", and 453 "miscellaneous store retailers." Restaurants and bars are included within NAICS code 722 "food services and drinking places." We do not include personal service businesses such as salons, laundromats and dry cleaners, motor vehicle and parts dealers, gas stations, and non-store retailers within this analysis.

2 2015 American Community Survey – 61.4% of retail jobs in New York City are full time, 64.3% of accommodation and food services jobs are full time.

3 In this report "Latino" is used to refer to the Census ethnicity "Hispanic or Latino" as defined by the US Office of Management and Budget.

supervisors, and 56% of cashiers are foreign born.[34]

HOW HAS NEW YORK CITY'S RETAIL & RESTAURANT SECTOR CHANGED OVER TIME?

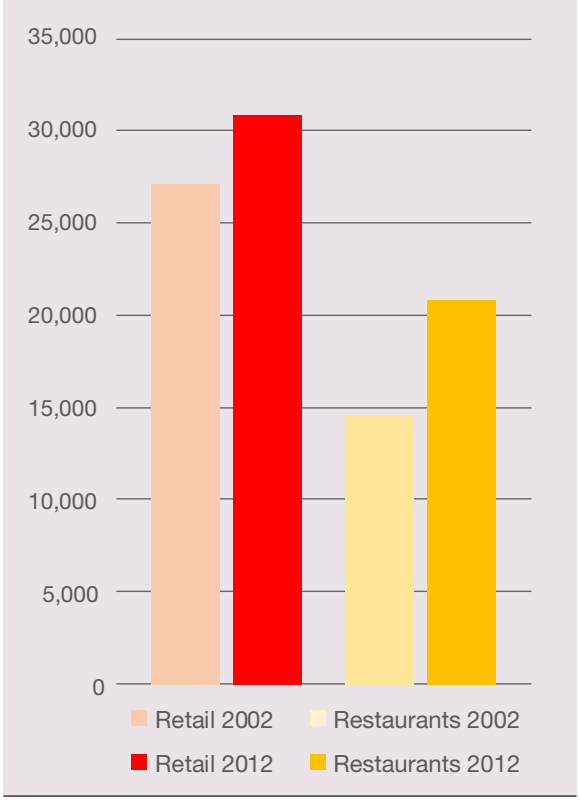
Historically, New York City's central business districts and corridors like Midtown Manhattan, Downtown Brooklyn, Downtown Flushing, and Fordham Road in the Bronx served as retail centers for the entire metropolitan region.[35] However, with the mass suburbanization of the postwar era, huge new shopping centers and malls in New Jersey, Long Island, and Westchester drained significant retail spending out of the city.[36] In 1954-1957 alone, six shopping malls of unprecedented size opened in Westchester, Nassau, and Bergen counties.[37] Some of the major department stores like Macy's and the luxury retailers of Fifth Avenue survived but the overall retail economy in the city declined along with the city's population and overall economic vitality, following a nationwide pattern of commercial activity shifting from "downtown" to the malls of the suburbs.[38] The retail economy of New York City remained stagnant throughout the 1990s as big box stores like Walmart and Target boomed throughout most of the country but largely bypassed the city.[39]

1. Rapid Growth from 2002-2012 — However, in the years after New York's recovery from the 9/11 terrorist attacks, the retail and restaurant sector of the city's economy grew tremendously.

From 2002 to 2012, the overall number of retailers and eating and drinking places in the city grew by nearly 24% — from 41,696 to 51,683. The increase in establishments was fueled by strong growth in eating and drinking places citywide and by rapid retail growth in the Bronx, Queens, and especially Brooklyn.

While Manhattan remains the leader with over 20,000 establishments, the number of Manhattan retailers was actually stagnant during this period, while the number of Manhattan eating and drinking places grew by over 26%. However, while the number of Manhattan retailers remained constant, the average sales per retailer surged by over 60% — more than twice as fast as any other borough.

NYC Retail & Restaurants Change 2002-2012 (Econ. Census)

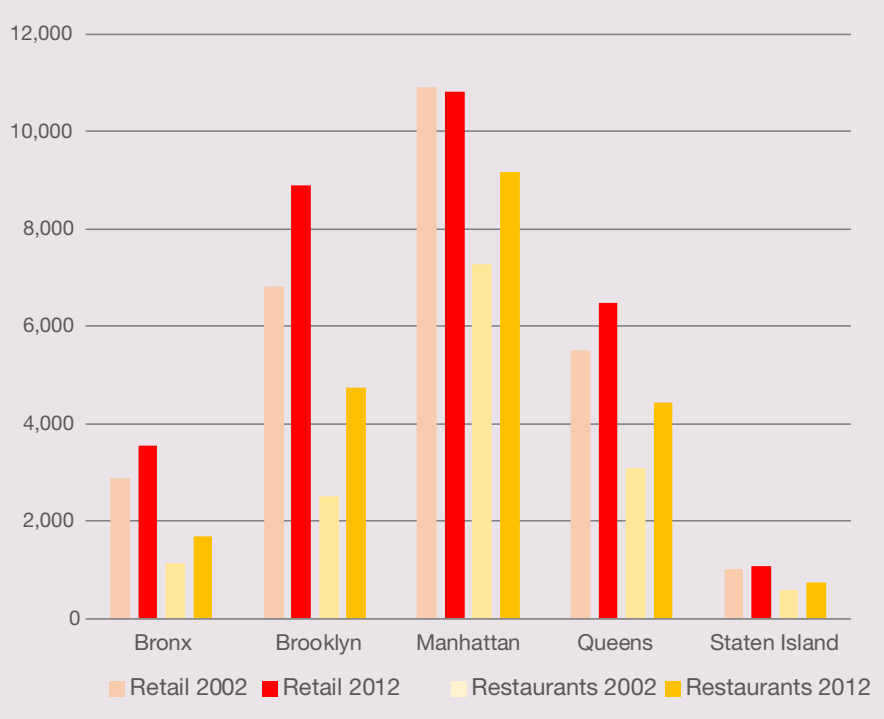


In Brooklyn, the number of retail establishments grew by over 30%, and eating and drinking places grew by nearly 90%. The Bronx was not far behind that pace, at 24% growth in retail and 83% in eating and drinking places, while Queens retail establishments grew by 18% and Queens eating and drinking places by 44%. The number of Staten Island retailers grew by a modest 5%, and eating and drinking places by 30%. Overall from 2002-2012, citywide employment in the retail and restaurant sector grew by nearly 36% from just over 400,000 to over 540,000 and revenues grew from $54 billion annually in 2002 to nearly $89 billion in 2012.

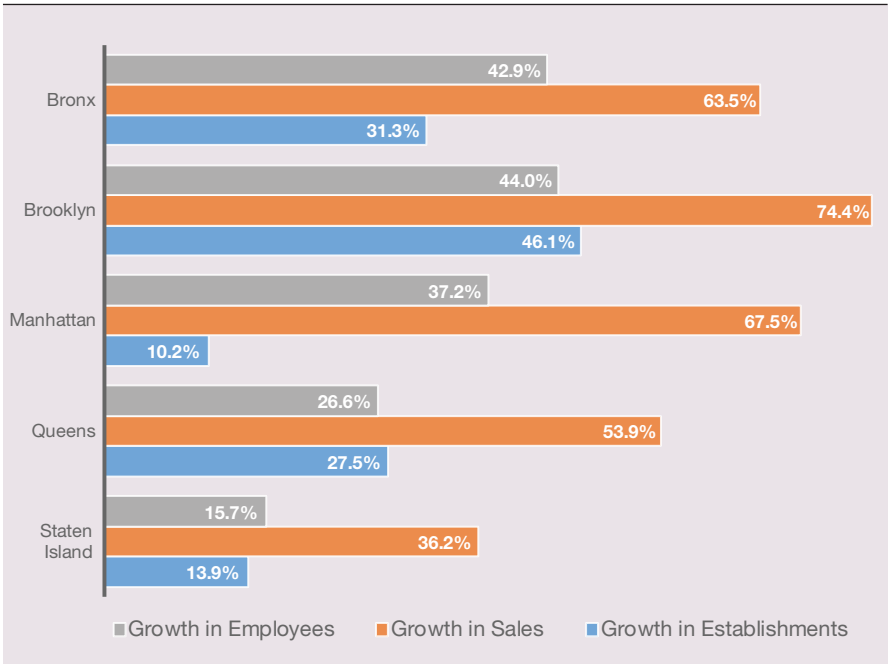
Citywide, growth in food and drinking places led the way with an over 40% increase to nearly 21,000 establishments. Retail grew by roughly 14% during this period but growth varied widely among subsectors. Rapidly growing types of retail include general merchandise stores, led by an increase in discount department stores (also known as "dollar stores") such as Dollar Tree and Family Dollar, food and beverage stores, health care and personal care stores, and electronics stores driven by growth in cell phone retailers.[40]

Overall from 2002-2012, citywide employment in the retail and restaurant sector grew by nearly 36% from just over 400,000 to over 540,000 and revenues grew from $54 billion annually in 2002 to nearly $89 billion in 2012.

NYC Retail & Restaurants Change 2002-2012 by Borough (Econ. Census)



NYC Retail and Eating & Drinking Places: Growth in Employees, Sales, & Number Of Establishments, 2002-2012 (Econ. Census)



Despite the strong overall growth, two categories of retailers actually shrank significantly – sporting goods/hobby/music/book stores, which declined by 34%, and furniture stores, which declined by 9%.

2. Why did NYC's retail and restaurant sector grow so rapidly from 2002-2012?
The rapid overall growth in the city's retail and restaurant sector from 2002-2012 is especially dramatic compared to the performance of the sector nationwide. In the United States as a whole, the number of retail and restaurant establishments grew by only 3.7% from 2002-2012 compared to the city's growth of over 24%.

In recent years, the conversation about the United States' retail sector has centered on stagnation and retrenchment. Analysts assert that the expansion of suburban shopping centers in the 1990s and early 2000s has left the United States with far too much retail space per capita, especially compared to other advanced economies.[41] This excess of space combined with the ongoing shift of retail spending to e-commerce has left the national retail market struggling.

3. Why did NYC's retail sector surge in comparison to the rest of the US?
The growth in the number of retail and restaurant establishments has been strongest in outer borough neighborhoods like Williamsburg and Prospect Heights that have seen a new wealthier demographic arrive along with major real estate reinvestment and development, and in areas like Corona, Flushing, and Sunset Park that have seen tremendous growth in immigrant population and entrepreneurship.

A second driver is the continued expansion of national chain stores into New York City's retail market. During the 1990s, national chain retailers focused largely on suburban and exurban strip malls and the super-sized version known as "power centers." In the 2000s, having largely saturated the suburban market, big-box chains like Target, TJ Maxx, and Bed Bath & Beyond began to aggressively conduct urban expansion.[42] The ubiquitous pharmacy/

New York City – Change in Retail & Restaurant Establishments by Type 2002- 2012 (Econ. Census)

NAICS CODE	Sector Definition	Establishments 2012	Change 2002-2012	Sales 2012	Change 2002-2012	Average Sales 2012	Employees 2012	Average Employees 2012
442	Furniture and home furnishings stores	1,412	-139 (-9.0%)	$2.64 B	+$.43 B (+20.3%)	$1.80 M	9,876	7.0
443	Electronics and appliance stores	1,733	+333 (+23.8%)	$5.06 B	+$2.16 B (+74.3%)	$2.92 M	14,719	8.5
444	Building material and garden equipment and supplies dealers	1,281	+34 (+2.7%)	$3.85 B	+$.84 B (+27.8%)	$3.01 M	13,504	10.5
445	Food and beverage stores	10,298	+2,501 (+32.1%)	$15.72 B	+$6.67 B (+73.7%)	$1.53 M	71,341	6.9
446	Health and personal care stores	4,100	+1,050 (+34.4%)	$12.36 B	+$5.13 B (+70.9%	$3.01 M	39,198	9.6
448	Clothing and clothing accessories stores	6,518	+235 (+3.7%)	$15.34 B	+$5.69 B (+59.0%)	$2.35 M	77,769	11.9
451	Sporting goods, hobby, musical instrument, and book stores	1,078	-555 (-34.0%)	$1.86 B	-$.27B (-12.5%)	$1.73 M	10,828	10.0
452	General merchandise stores	1,208	+330 (+37.6%)	$6.63 B	+$2.29 B (+52.5%)	$5.49 M	32,157	26.6
453	Miscellaneous store retailers	3,217	-50 (-1.5%)	$6.11 B	+$2.53 B (+70.9%)	$1.90 M	18556	5.8
722	Food services and drinking places	20,838	+6,248 (+42.8%)	$19.1 B	+$9.25 B (+93.5%)	$919 K	255,938	12.3
	TOTAL	**51,683**	**+9,987 (+24.0%)**	**$88.6 B**	**+$34.7 B (64.4%)**	**$1.72 M**	**543,886**	**10.5**

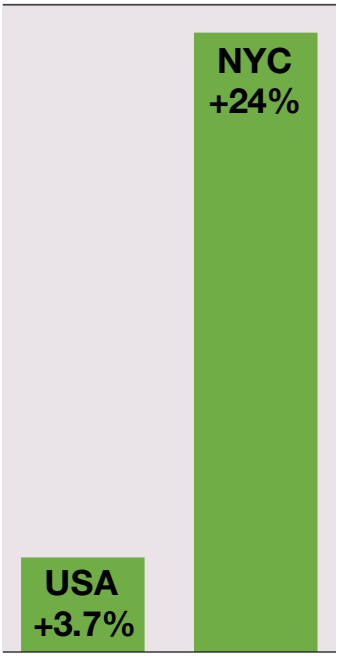
general stores of Walgreens/Duane Reade, CVS, and Rite Aid, which now sell a significant share of the city's groceries, also grew explosively during the 2000s but their growth has since leveled off somewhat at a 2015 total of 555 stores citywide.[43] Small fast food and coffee shops like Dunkin Donuts, Starbucks, and Chipotle have also continued to grow and chain dollar stores like Dollar General and Family Dollar have expanded their New York City footprints.[44]

Manhattan felt the first impacts of chain store expansion but more recent growth has occurred in the outer boroughs.[45]

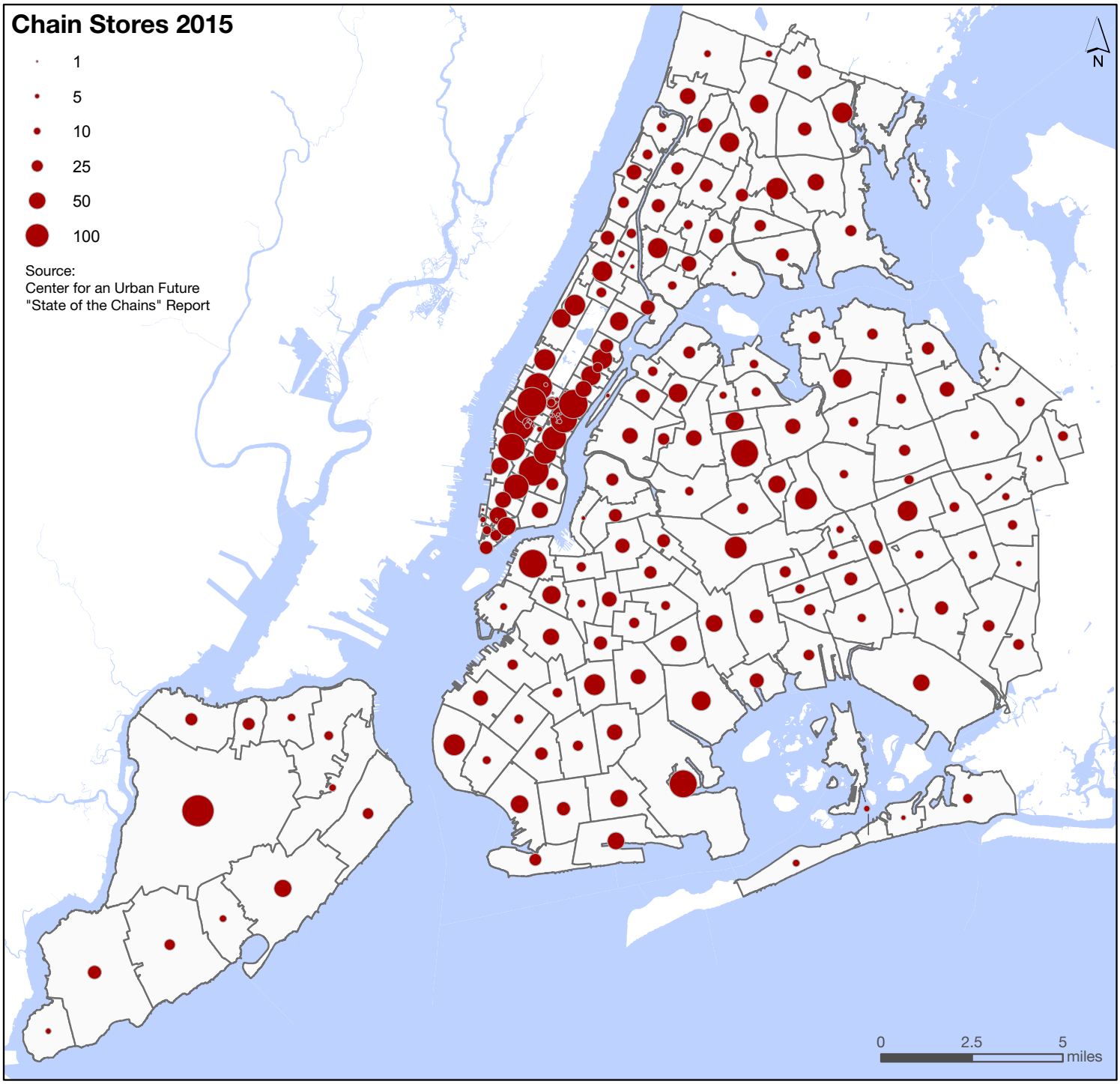
According to the Center for an Urban Future's 2015 annual report on chain stores, there are now over 7,500 chain stores throughout the city. This tally grew by 7% since 2011 but growth slowed down in the most recent year to only 1%. Chain stores are most heavily concentrated in the central business district of Midtown and Midtown South as well as in SoHo, Downtown Brooklyn, and the outer borough locations of the three major regional malls – Queens Center, Kings Plaza, and the Staten Island Mall. Chains are least prevalent in parts of Brownstone Brooklyn, Flatbush, Brownsville, Upper Manhattan, North Shore Staten Island, parts of the South Bronx, and the parts of the further outer boroughs that are predominantly residential.

The growth of chain stores in New York City and in urban areas across the country has also been encouraged by lending practices. When considering financing for new development, the acquisition of existing buildings with retail space, or refinancing, banks tend to offer more favorable terms if "credit tenants" – national chain retailers or restaurants considered a safer credit risk than independent businesses – are part of the package.[46] The impact of credit tenants on a project's valuation by lenders can be so significant that landlords and developers sometimes offer chain stores below-market rents in order to secure their presence.

Change in Retail & Restaurant Establishments 2002-2012, NYC v. USA



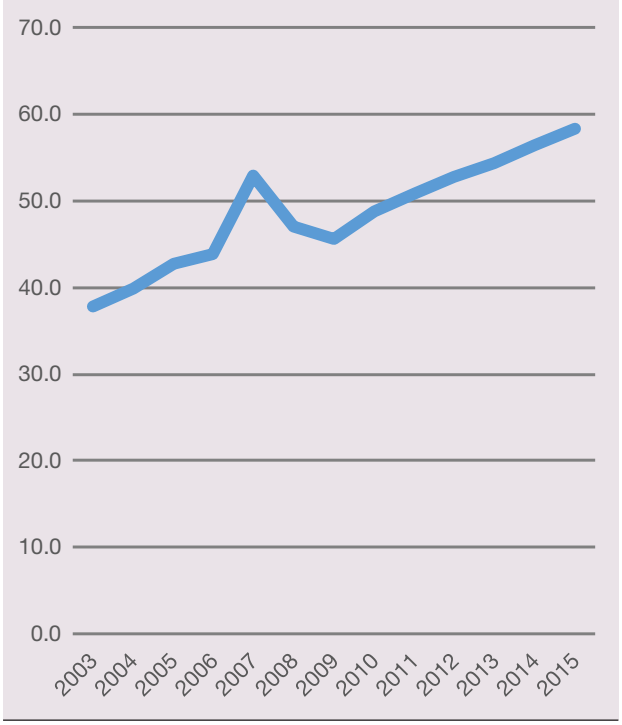
New York City – Chain Stores 2015 by Zip Code



A third major factor in the rapid growth of New York City's retail and restaurant sector since 2002 has been the ongoing surge of the tourist industry. From 2003-2015, the number of tourists to New York City grew by over 50% from 37.8 million to 56.8 million and the amount of money spent by tourists grew by 124%, from $18.3 billion to $42.2 billion.[47]

According to New York State's statistics, tourists to New York typically allot over 40% of their spending to food and retail.[48] Food and drinking places alone receive over 20%, making tourism especially significant to that sector. Overall, the enormous growth in tourism since 2003 has likely contributed over $10 billion in additional spending to the New York City retail and restaurant sectors, highly concentrated in the popular tourist districts of Midtown and lower Manhattan. The rapid influx of tourist dollars during this period was a strong contributor to the growth of eating and drinking places in Manhattan and the 60% surge in average sales per retailer from 2002-2012.

NYC Tourism 2003-2015
Millions of Overnight Visitors (NYC & Company)



RISING RENTS AND "HIGH RENT BLIGHT"

The tremendous growth in New York City's retail and restaurant sector has brought an even more explosive increase in commercial rents.

In Manhattan, average retail asking rents rose from $108 per square foot annually to $156 (44%) from 2006-2016. This overall figure masks significant differences at the neighborhood level. While the Upper East and West sides remained relatively stable, other neighborhoods have experienced dramatic increases. In Upper Manhattan, average asking rents rose from $47 to $70 (49%), in Downtown Manhattan rents rose from $90 to $143 (59%) and in Midtown South rents rose from $85 to $143 (86%).[49]

For many neighborhood retailers and restaurants coming off ten-year leases, this is a shocking increase that is in some cases impossible to absorb.[50] And of those businesses that choose to close, the vast majority shut down entirely rather than move to another location. A recent study of retail in New York City from 1990-2011 found that 85-90% of businesses that shut down never reopen in a new location.[51]

Rents in parts of Brooklyn are also surging to Manhattan-like levels. On Bedford Avenue in Williamsburg, the recent openings of an Apple Store and Whole Foods have seen storefront rents surpass $400/sqf for the first time.[52]

Rents have risen most steeply on the "prime" shopping corridors of Manhattan. As the increase in retail rents in prime corridors has accelerated, so has the vacancy rate of many of these corridors. According to the most recent

NYC Tourism 2003-2015
Billions in Tourist Spending (NYC & Company)

Manhattan - Average Asking Retail Rents by Area (REBNY Spring Retail Reports)

Manhattan Area	Average Asking Rent Spring 2016 ($/sqf)	Change 2006-2016
East Side	$191	+ $13 (+7%)
West Side	$127	+ $4 (+3%)
Midtown	$185	+ $47 (+34%)
Midtown South	$158	+ $73 (+86%)
Downtown	$143	+ $53 (+59%)
Upper Manhattan	$70	+ $23 (+49%)

Manhattan - Vacancy Rates in Prime Retail Areas (Cushman & Wakefield)

Manhattan Area	Q3 2016 Availability Rate
Fifth Ave 42-29	29.3%
Fifth Ave 49-60	15.9%
Madison Avenue	21.2%
Upper West Side	11.3%
Third Avenue	13.1%
Times Square	22.2%
Flatiron	9.6%
Meatpacking	23.4%
SoHo	21.6%
Herald Square	22.4%
Lower Manhattan	10.2%

available data, more than 20% of retail space is currently sitting vacant in prime Madison Avenue, Fifth Avenue, Times Square, Herald Square, SoHo, and the Meatpacking district.[53] A reporter for *The Epoch Times* recently surveyed the West Village between 14th St, Houston Street, Eighth Avenue, and Sixth Avenue and found 70 vacant storefronts, with Bleecker Street alone pockmarked with over 20 empty stores.[54] State Senator Brad Holyman's report, "Bleaker on Bleecker," found a nearly 20% vacancy rate on the once bustling retail corridor.[55]

There are numerous potential explanations for a vacant storefront, including ownership disputes or absentee ownership. Finding the right tenant and getting the right price also takes time and effort. This is a normal part of the market that keeps some properties vacant for periods of time. Generally, there is no reason to be concerned about this. More widespread vacancy problems come when there are changes in the economic environment. Commercial property owners and potential tenants can sometimes take a long time to come to terms with a new economic environment.

There is a tendency for landlords to keep properties vacant while waiting for an expected higher price to sell or rent their property.[56] Commercial brokers believe that a main driver of vacancy in high rent areas is speculation to hold out for "the big number."[57] Consequently, the "warehousing" of space offered at an unrealistically high rent makes it difficult for small business owners to find affordable commercial space.

Warehousing empty retail spaces is also an issue in rapidly gentrifying neighborhoods, as vacant storefronts in these neighborhoods tend to remain empty for longer on average than in other neighborhoods.[58] Representatives for the North Flatbush Avenue BID describe this pattern in their rapidly growing area of Brooklyn where some "owners find it more advantageous to hold-out on leasing spaces as they warehouse available property for future opportunity rather than leasing to local entrepreneurs."[59]

Property owners are further incentivized to hold spaces vacant by tax policy. The City's two business taxes, the general corporation tax and the unincorporated business tax, allow a firm to offset its net operating losses against net income from other sources in that year's tax filing. If a landlord keeps a storefront vacant, the net operating losses from zero revenues and ongoing maintenance costs are effectively reduced by the tax code. This is despite the fact that the delay in renting may effectively be an investment rather than a legitimate loss.

With New York City commercial real estate sales nearing $70 billion in 2015, surpassing the pre-financial crisis peak of 2007, there is immense pressure for

investors and landlords to maximize the value of retail spaces.[60] Many recent investors paid extremely high prices based on a limited number of high-profile leases and are looking to achieve comparable rents. In some cases, property owners have received financing that only "pencils out" if a very high ground floor commercial rent is secured.[61] But the number of retail tenants that can pay upwards of $1,000 per square foot are limited. Some of these rents are so high that it may be nearly impossible for the individual store to generate enough sales to be profitable.

Large chain stores can sometimes justify and absorb a loss at an individual store as a sacrifice for a marquee location that serves as a vehicle for international marketing and brand development.[62] With vacancy rates in the hottest markets continuing to climb, such tenants may now be in short supply. Indeed, rents on the highest value corridors have begun to decline from 2015 peaks and some real estate industry observers are now warning of a "retail bubble" at the highest end of the market.[63]

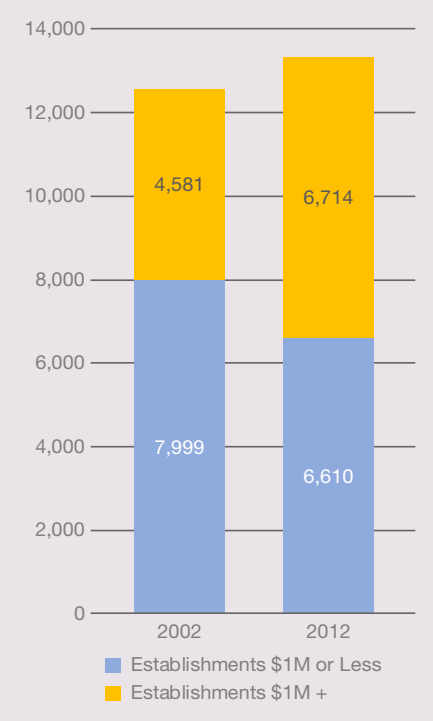
Despite the recent slowdown on the highest value corridors, the fundamentals of demographic growth, chain store expansion, tourism, capital investment inflows, and speculation continue to push retail rents in the hot markets of Manhattan and parts of Brooklyn to impractical levels for many kinds of businesses.

RETAIL DIVERSITY AND ACCESS AT THE NEIGHBORHOOD LEVEL — AN ANALYSIS OF SMALL BUSINESSES

Analysis of the 2002-2012 data at the ZIP code level reveals that while small businesses are under siege in the Manhattan core, they are rapidly growing in parts of the outer boroughs yet some communities remain underserved.

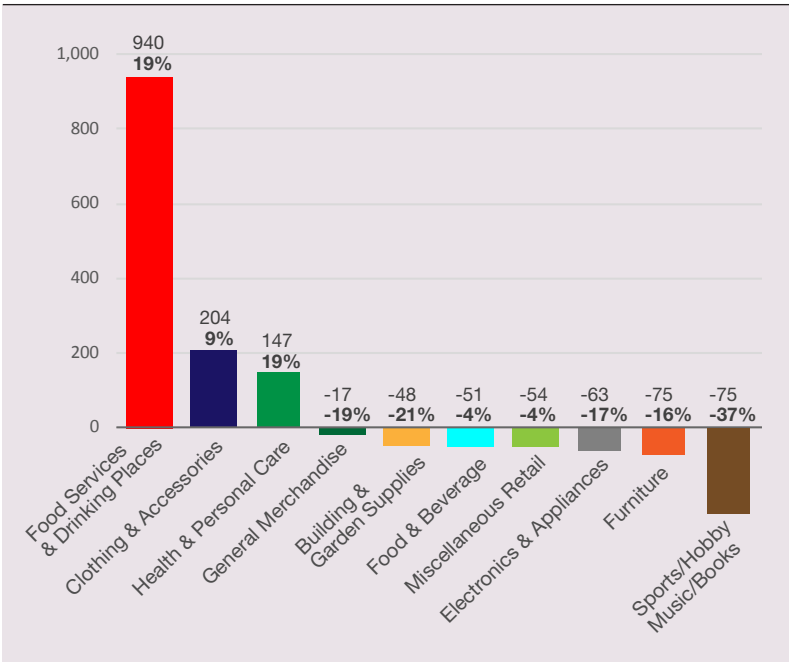
1. Explosive Growth in Developing and Immigrant Neighborhoods — Small retailers and restaurants boomed in neighborhoods with significant investment and gentrification such as the Lower East Side, Williamsburg, and Prospect Heights as well as in neighborhoods with significant immigrant community growth such as Sunset Park, Flushing, and Corona. From 2002 to 2012, these neighborhoods added thousands of new shops and restaurants as formerly vacant storefronts were reactivated and development added new spaces.[64] This increase includes major gains in categories impactful to neighborhood health like grocery stores and health/personal care stores.

Total Businesses Lost in Zip Codes With Loss of 10+ Small Businesses (Econ. Census)

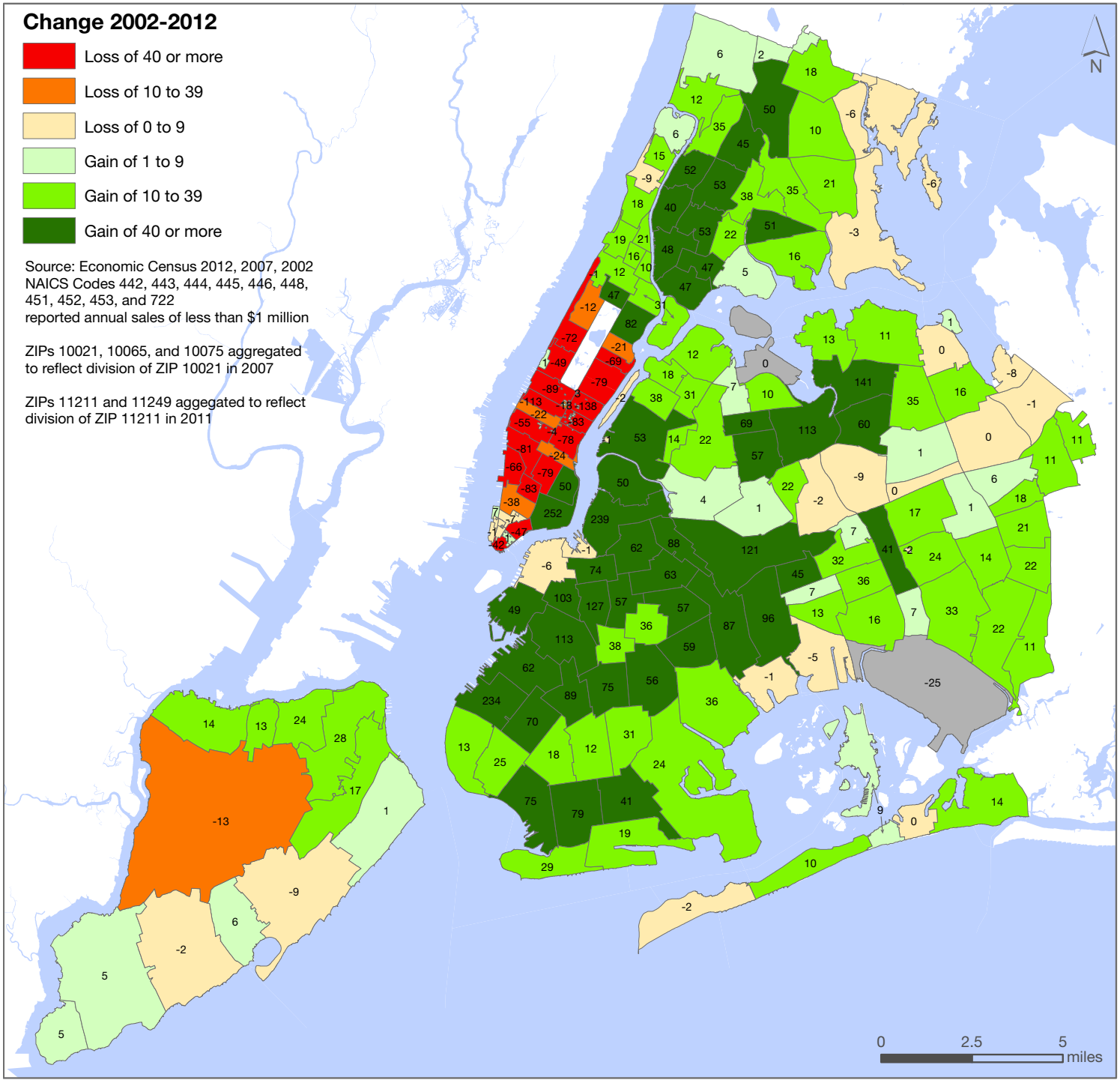


Representatives for the North Flatbush Avenue BID describe a pattern in their rapidly growing area of Brooklyn where some "owners find it more advantageous to hold-out on leasing spaces as they warehouse available property for future opportunity rather than leasing to local entrepreneurs."[59]

Change in Businesses by Category 2002-2012 in Zip Codes That Lost 10 or More Small Businesses (Econ. Census)



Change in Retailers & Restaurants with Revenues Less than $1 Million by Zip Code



2. Decline in Manhattan Core — In the most centrally located neighborhoods of Manhattan, the number of small retailers and restaurants fell precipitously with many zip codes losing 15% to 30% of businesses with annual revenues less than $1M. In these areas where the number of small businesses fell sharply, there was an overall decline in retail diversity as the number of restaurants, clothing stores, and health/personal care stores increased, but all other categories decreased.

The loss of stores serving local communities in Manhattan has received recent attention specifically relating to supermarkets.[65] Numerous neighborhood supermarkets such as Gristedes on the Upper East

Top Ten Zip Codes — Loss of Small (revenue under $1 million) Retailers/Restaurants (Econ. Census)

Top 10 Small Retailer/Restaurant Loss ZIP Code – Neighborhood	Small Retailers & Restaurants 2012	Change 2002-2012
10022 – Midtown East	315	- 138 (-30%)
10036 – Times Square, Hells Kitchen	403	- 113 (-22%)
10019 – Hells Kitchen	344	- 89 (-21%)
10012 – SoHo, NoHo	373	- 83 (-18%)
10017 – Midtown East	225	-83 (-27%)
10011 – Chelsea, Central Village	340	- 81 (-19%)
10003 – Union Square, East Village	441	- 79 (-15%)
10021/10065/10075 – Upper East Side	468	- 79 (-14%)
10016 – Kips Bay, Murray Hill	295	-78 (-21%)
10024 – Upper West Side	160	-72 (-31%)

Top Ten Zip Codes — Gain of Small (revenue under $1 million) Retailers/Restaurants (Econ. Census)

Top 10 Small Retailer/Restaurant Gain ZIP Code – Neighborhood	Small Retailers & Restaurants 2012	Change 2002-2012
10002 – Chinatown, Lower East Side	709	+ 252 (+55%)
11211/11249 – Williamsburg	539	+ 239 (+80%)
11220 – Sunset Park	519	+ 234 (+82%)
11354 – Flushing North	467	+ 141 (+43%)
11238 – Prospect Heights, Clinton Hill	175	+127 (+265%)
11385 – Ridgewood, Glendale	344	+ 121 (+54%)
11368 – Flushing South	299	+ 113 (+61%)
11215 – Park Slope, Gowanus	351	+113 (+47%)
11217 – Downtown Brooklyn, Boerum Hill, Fort Greene	237	+103 (+77%)
11208 – Cypress Hills, East New York	209	+96 (+85%)

Side, Pathmark and Food Emporium (whose parent company A & P filed for bankruptcy), and the Associated on 14th Street have closed in recent years due to financial difficulties.[66]

A recent report by the CUNY Urban Food Policy Institute found stagnation in the number of full service supermarkets in Manhattan from 2013-2015 while other boroughs added stores.[67] Supermarkets are particularly sensitive to market fluctuations as their profit margins are often as low as 1-2%.[68] Rising commercial rents and competition from chain drug stores like Walgreens and online grocery sellers are cited as the top challenges to supermarkets in New York City.

Looking more broadly at the change in the number of grocery stores (NAICS Code 4451) from 2002-2012, a category which broadly includes all sizes of stores from the corner store to Whole Foods, shows a pattern similar to the change in the number of small businesses.

Overall, the number of grocery stores in New York City

Zip Codes with Lowest Access to Retail (Econ. Census)

ZIP Codes with Lowest Access to Retail (population 15,000+)	Retail & Restaurant Establishments 2012	Population per Retail & Restaurant Establishment
11692 (Arverne)	15	1,236
11369 (East Elmhurst)	45	858
11370 (East Elmhurst, Jackson Heights)	50	794
11436 (South Jamaica)	25	718
11427 (Queens Village, Hollis Hills)	35	674
11420 (South Ozone Park)	68	652
11412 (St. Albans)	54	646
10473 (Soundview)	92	636
11413 (Laurelton)	64	608
11233 (Brownsville)	111	604
11423 (Jamaica Estates – Hollis)	51	588
10030 (North Central Harlem)	46	587
11422 (Rosedale)	56	543
10456 (Morrisania)	163	531
11433 (Jamaica)	62	527
10469 (Williamsbridge, Laconia, Pelham Gardens)	128	521
11691 (Far Rockaway)	117	513
11411 (Cambria Heights)	37	501

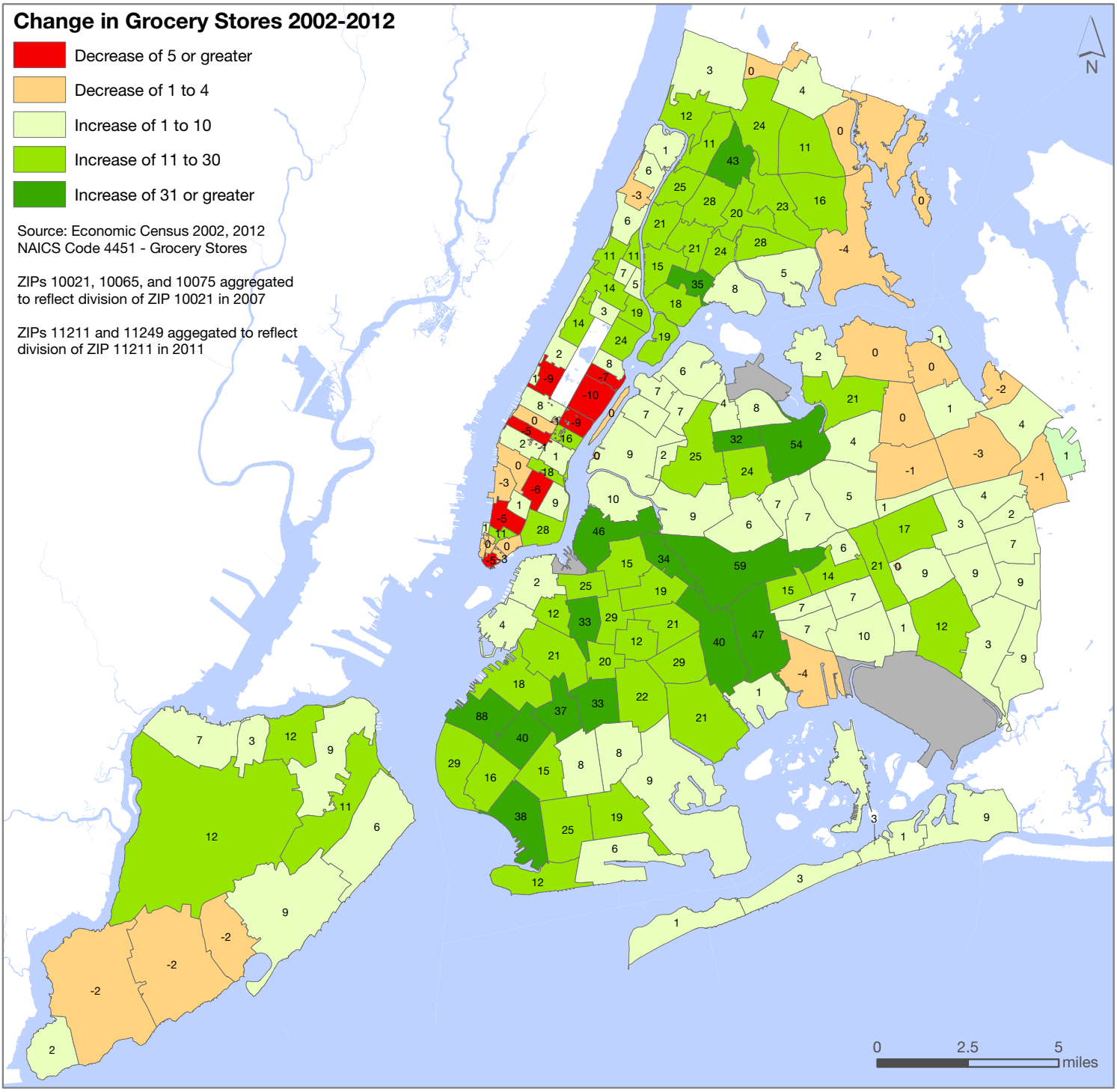
increased by over 50% from 2002-2012, with nearly 2,000 stores added. This gain was concentrated in historically underserved areas of the Bronx and Brooklyn. However, within the context of this overall growth, some neighborhoods actually lost grocery stores. The ZIP codes that lost five or more grocery stores are all in the high-value real estate markets of Manhattan, suggesting competition for real estate is indeed playing a role.

3. Some Neighborhoods Remain Underserved Despite Growth — In contrast to the neighborhoods in the core of Manhattan, both small businesses and businesses in total grew rapidly in Brooklyn, Queens, and the Bronx. Small retailers and restaurants increased markedly in some historically disinvested areas like the South and Central Bronx and East New York.

While access to retail citywide has improved significantly compared to 10-15 years ago, many neighborhoods remain underserved. From a market perspective, many real estate analysts agree that large areas of the outer boroughs suffer from "limited retail, few restaurant options, and lack of other essential services needed within an expanding urban community."[69]

Per capita retail and restaurant densities are low in the city's outermost fringe but this is largely due to suburban

Change in Number of Grocery Stores by Zip Code



land use patterns. Most households in these neighborhoods own vehicles and can drive to nearby retail centers in Westchester or Nassau County.

In neighborhoods like northern Harlem, the central Bronx, Brownsville, and East New York, continued lack of access to retail may pose a public health concern. In addition to a relative lack of stores and restaurants, those that do exist tend to be smaller in both size and employment and less diverse in variety than stores in higher income neighborhoods.[70]

In underserved neighborhoods with poor retail diversity, residents may have no option but to pay higher prices for the same or even an inferior quality of product. If residents are forced to leave the

neighborhood for certain goods and services, this is an added cost as the true price of goods also includes the time and effort the consumer spends to reach the product. Since package delivery can sometimes be challenging in New York City buildings without door attendants, and far too many low-income New Yorkers continue to lack home internet access, online shopping does not necessarily provide an easy solution.[71]

The lack of retail diversity has potential economic and health impacts that go beyond neighborhood character. Access to essential goods and services provided by businesses like supermarkets, pharmacies, clothing stores, hardware stores, laundromats, and health clubs/gyms is one of the chief aspects of a healthy neighborhood.[72] Lack of access to healthful food, pharmacies, and health clubs can lead to obesity and life altering illnesses such as diabetes while lack of local access to essentials like affordable clothing stores, hardware stores, and laundromats can add yet another economic cost to already burdened communities.[73]

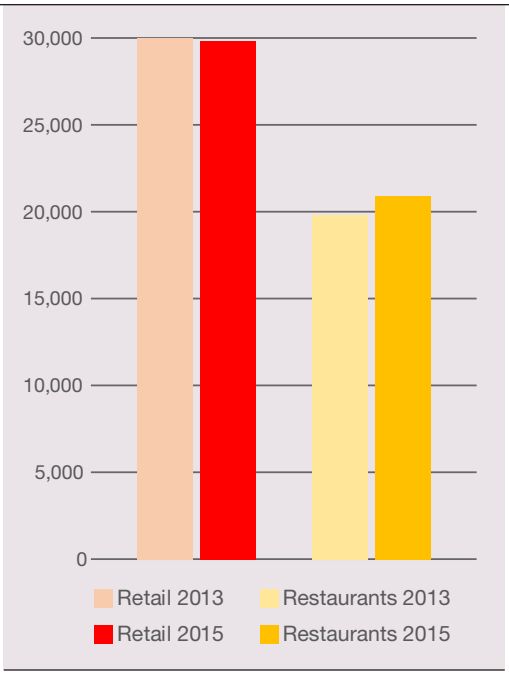
2013 - 2015 — RETAIL GROWTH STALLING – HIGH RENTS AND E-COMMERCE TO BLAME?

More recent data[4] for New York's retail and restaurant sector from 2013-2015 indicate that growth in the city's retail sector has stalled since 2013 while food and drinking places have continued to show strong growth of over 3% per year.

The potential stalling of retail growth in New York has major implications for the city's job market. During both of the economic recoveries from the 9/11 terrorist attacks and from the Great Recession of 2008-2009, retail and food services were among the city's top growth industries. In the recent recovery from 2010-2015, food and drinking places added over 81,000 jobs while retail added over 41,000 jobs.

Explanations for the stalling growth of New York retail since 2013 include a combination of changing consumer habits, the rapid rise of e-commerce, the

NYC Retail & Restaurants, Change 2013-2015 (QCEW)



Nationally, from 2006 to 2016 e-commerce grew from less than 3% of all retail spending to over 8%

growing burden of increasing rents, and the weakened purchasing power of European tourists due to political instability and the declining value of the Euro.[74]

The accelerating growth of internet shopping is threatening to disrupt the United States' retail industry from coast to coast. According to US Department of Commerce data from 2006 to 2016, e-commerce in the United States grew from taking less than 3% of all retail spending to over 8%. The growth rate of e-commerce has increased since 2013 and sales grew nearly 16% year-over-year from Q3 2015 to Q3 2016 while brick-and-mortar retail was almost completely stagnant.[75]

Rising rents and increasing competition from e-commerce are an increasingly toxic combination for New York City retailers. As the owner of the closing Grand Metro hardware store on Broadway explained to Crain's recently, "You cannot pay Broadway rent and be the cheapest."[76]

As e-commerce firms gain market share, there may also be a negative overall impact on the New York City job market. A recent study found that as e-commerce takes market share from brick-and-mortar retailers, it displaces two jobs for every one job created.[77]

In New York City, the number of jobs in e-commerce has doubled since 2010 to nearly 10,000 but the continued growth of the sector could easily be outweighed if losses start to pile up among the city's nearly 320,000 brick-and-mortar retail jobs.[78]

4 The Economic Census offers the most complete data set on businesses by county and ZIP Code but is only released every five years. Complete data for the 2012 Economic Census only became fully available in 2016. The federal Bureau of Labor Statistics Quarterly Census of Employment and Wages (QCEW) data offers more recent numbers up to the year 2015 but is less complete because it only covers unemployment insurance eligible employers and suppresses some local level data for confidentiality concerns.

Recommendation 3.

Collect & analyze storefront retail data in each community district as part of a citywide Commercial District Needs Assessment

RECOMMENDATION

■ SBS should collect and analyze comprehensive data about storefront retail in each community district throughout the city and publish a citywide analysis periodically in order to identify and analyze trends, opportunities, and potential interventions.

– Under the de Blasio administration, SBS has begun to undertake data gathering and analysis of retail corridors under the "Neighborhood 360" program and its "Commercial District Needs Assessments" (CDNAs). CDNAs are detailed reports on specific neighborhood commercial districts that include information such as the number of storefronts, storefront vacancy rates, types of stores, physical conditions of storefronts, local retail consumer spending by category, and qualitative information from surveys of business owners (see page 47 of this report for more details on Neighborhood 360 and CDNAs).

– Rather than undertaking CDNAs on only the handful of neighborhoods under consideration for rezoning studies, SBS should expand this data gathering citywide and examine retail conditions in each community district periodically.

– Data from the community district level reports should then be aggregated into a citywide Commercial District Needs Assessment.

In contrast to the wealth of data available on New York City's housing stock from reports like the Census Bureau's Housing and Vacancy Survey sponsored by HPD and the NYU Furman Center's State of New York City Housing and Neighborhoods, there is no comprehensive source for information on the city's storefront businesses.

A citywide Commercial District Needs Assessment would help to establish an objective basis for policymaking related to small businesses that is currently lacking. This citywide report could allow the Council and administration to measure and monitor retail diversity in each neighborhood and tailor local incentives and zoning programs in response.

A citywide Commercial District Needs Assessment could also potentially be integrated with the in-progress SBS Online Business Portal, where businesses will be able to manage regulatory interactions with City agencies with a one-stop comprehensive website. The Center for an Urban Future has called for this online portal to be expanded to include information on the many available City business assistance and subsidy programs, many of which have been reviewed in this report. A more comprehensive Online Business Portal could also include information on the local real estate market and storefront retail economy from the citywide CDNA that could help businesses make informed decisions.[79]

Opposite page photo credit:
Christopher Lee for
The New York Times

Recommendation 4.

Require storefront vacancy reporting

RECOMMENDATION

■ The Council and administration should begin to address the problem of vacant storefronts by requiring landlords to register with SBS after a storefront has been vacant for 90 days and report on the status every 90 days thereafter.

– Registration could help SBS and others to identify corridors and neighborhoods where storefront vacancies may be creating a barrier to achieving a healthy diverse mix of retailers.

Some small business advocates and State legislators have suggested creating some kind of disincentive for long-term vacant storefronts, such as a fine for warehousing a storefront more than six months, or reforms to the state tax laws to limit property owners' ability to take tax deductions based on vacant commercial storefront space.[80] Property owners are currently able to deduct losses from vacant storefront space from net income for city business taxes, which may help cushion the loss of holding out for an ideal tenant.

Although a significant vacant storefront disincentive along these lines would require legislative action by the State, the Council and administration should begin with the registration requirement and gather the data that may support additional action to establish a disincentive or other policies to address the vacancy issue.

■ If the data reveal that long-term vacancies are indeed a significant problem and barrier to retail diversity, the Council and administration could also explore providing incentives for property owners who maintain occupied storefronts and limit or keep a low turnover time between tenants, as suggested by the Brooklyn Chamber of Commerce at the Council's September 2016 public hearing on retail diversity.[81]

Empty storefront at 901 Madison Avenue

From Tim Wu bemoaning the West Village's "high rent blight" in *The New Yorker* to Steve Cuozzo lamenting the "Manhattan retail wasteland" in *The New York Post*, vacant storefronts are the rare issue that New Yorkers of all political stripes agree is a problem that needs to be addressed.[82] But as Cuozzo notes, "How much retail space sits empty? Nobody knows, because nobody's counting. We don't have even reasonable estimates of the most basic retail facts."

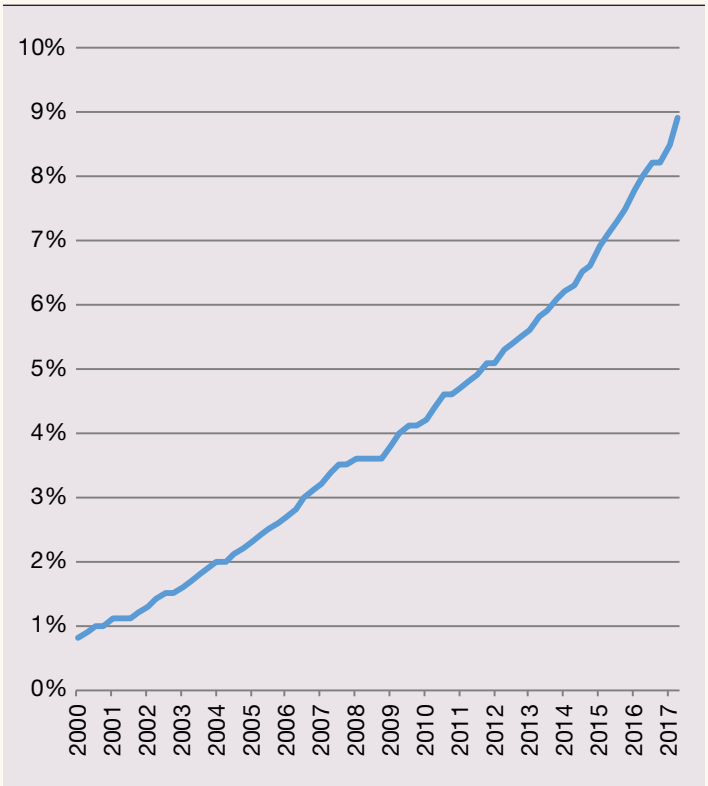
The only solid numbers on vacancies that are readily publicly available are aggregated statistics reported by real estate firms like Cushman & Wakefield for Manhattan's prime corridors. At the Council's public hearing on retail diversity, representatives of DCP admitted that no good data on vacant storefronts exist. East Village resident Justin Levinson recently took it upon himself to create "Vacant NY," an interactive online map showing vacancies scraped from commercial broker's websites, but the data are admittedly not fully complete and accurate.[83]

Other cities have started exploring vacancy registries to correct this problem of lack of information and adding penalties and taxes to try to minimize the number of vacant storefronts. In 2014, San Francisco approved "The Vacant or Abandoned Commercial Storefront Registration Ordinance," which requires vacant or abandoned commercial storefronts to register annually with the City of San Francisco within 30 days of becoming vacant or abandoned.[84]

Recommendation 5.

Study & mitigate the impact of e-commerce on on the brick-and-mortar retail sector

E-Commerce Retail Sales as a Percent of Total Sales
(US Census, Quarterly Retail E-Commerce Sales)



RECOMMENDATION

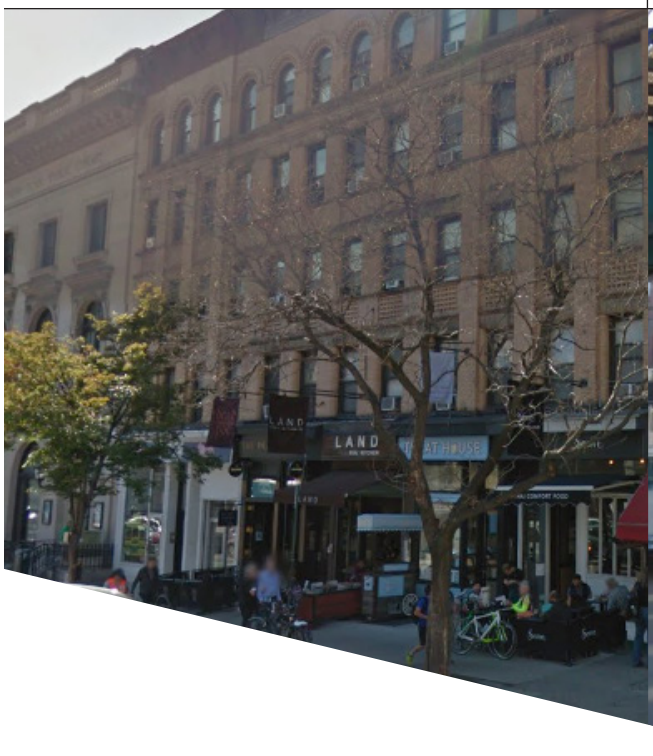
- The administration should seek to mitigate the impending disruption of the retail sector by studying the potential impact of the growth of e-commerce and developing additional policies and programs to help retail businesses adapt.
  - Such directives might include a more robust role for SBS, the local Chambers of Commerce, and the BIDs to assist local businesses to establish websites with e-commerce capability and to acquire the necessary logistical expertise.

The accelerating growth of e-commerce is threatening to disrupt the retail sector across the country.[85] While New York City may be less severely affected in the near future than suburban malls and shopping centers, there are signs that e-commerce is starting to have a negative impact on our brick-and-mortar retailers. With tens of thousands of businesses and hundreds of thousands of jobs potentially impacted, the administration should be proactive in seeking to prepare for the profound impact of e-commerce growth.

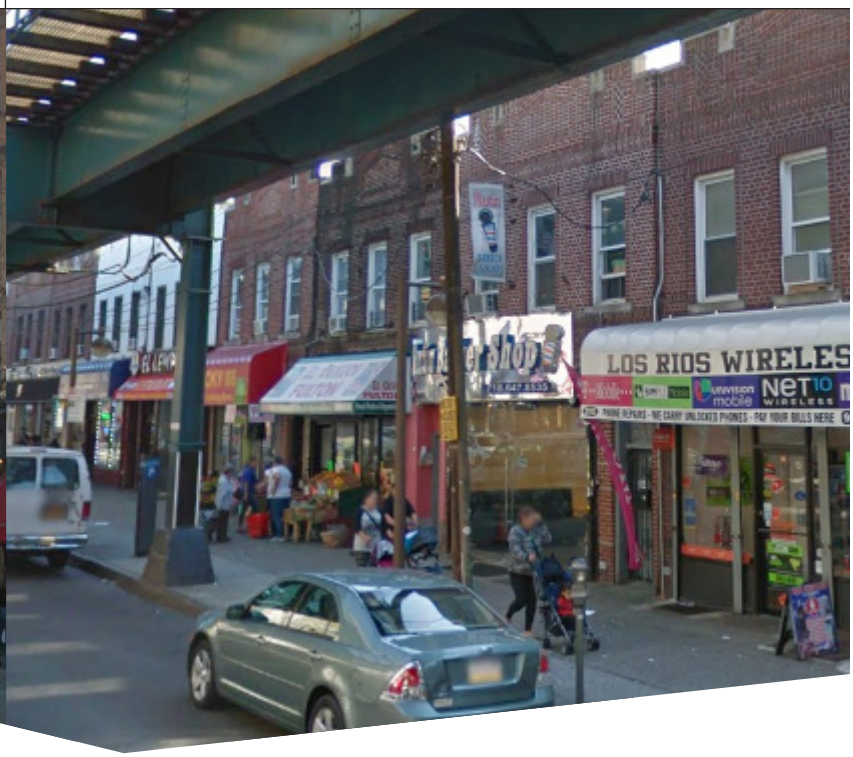
Grand Street BID banner, Williamsburg

Photo credit: Brian Paul
Opposite page photo credit:
Google Streetview

Amsterdam Ave, Manhattan



Fulton St, East New York



Current Zoning & Land Use Policies

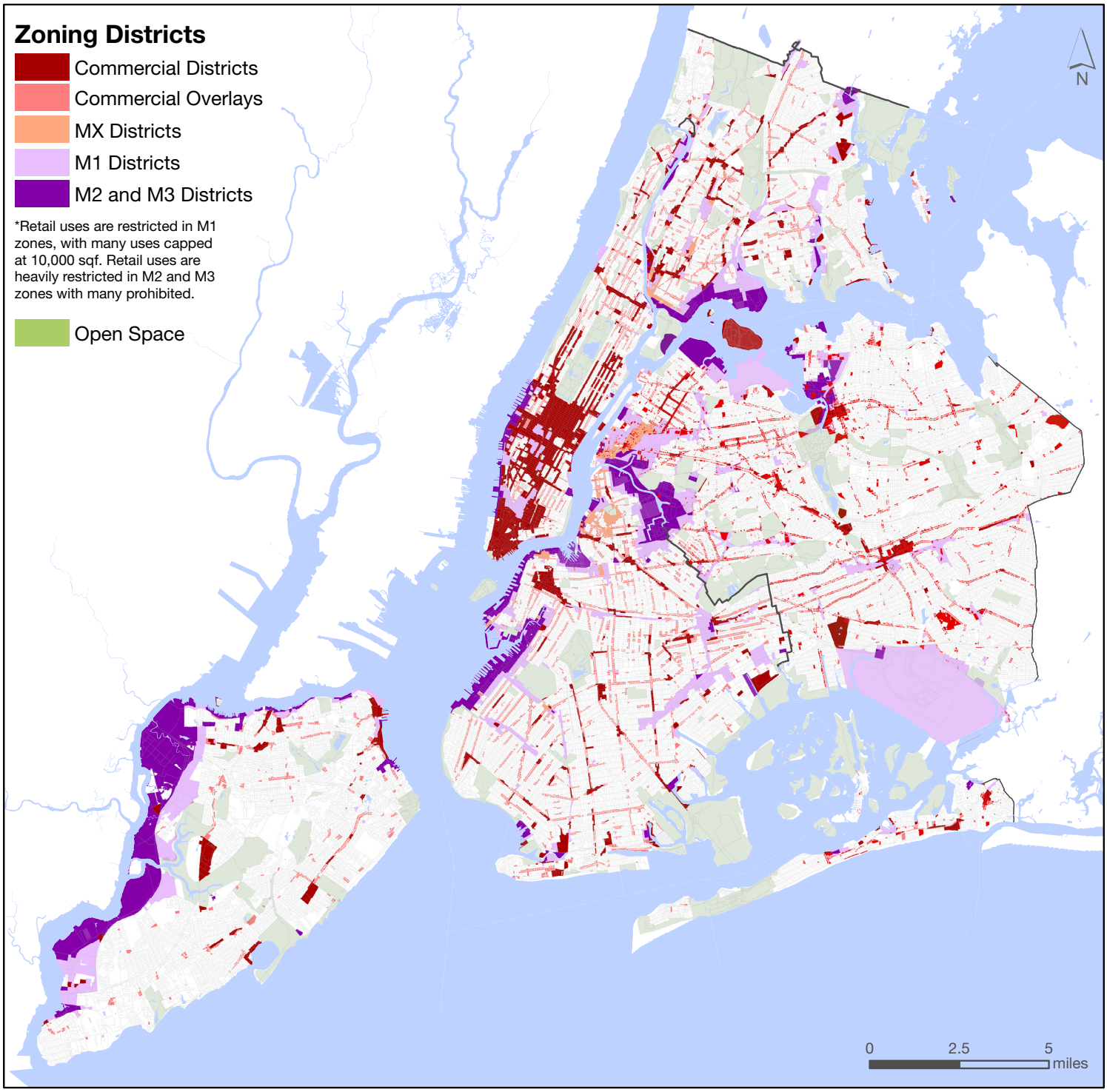
Although New York City lacks an overarching retail planning policy, a wide array of zoning regulations and neighborhood planning programs influence the sector. Zoning provides the ground rules for where commercial uses are permitted and how much space is allowed to be developed, but is far more detailed and complex than this alone. New York City's Zoning Resolution has been revised thousands of times since its last full rewrite in 1961, with many different intricate regulations that pertain only to particular neighborhoods or locations. These customized zoning tools are usually developed as part of individual neighborhood planning or rezoning efforts or in response to demands from a local constituency but DCP has at times also undertaken limited citywide actions.

An additional planning lever is in the management of existing public assets and design of city-sponsored development projects, where retail spaces are often lower priority and given relatively little attention.

COMMERCIAL ZONING IN NYC – HOW DOES IT WORK?

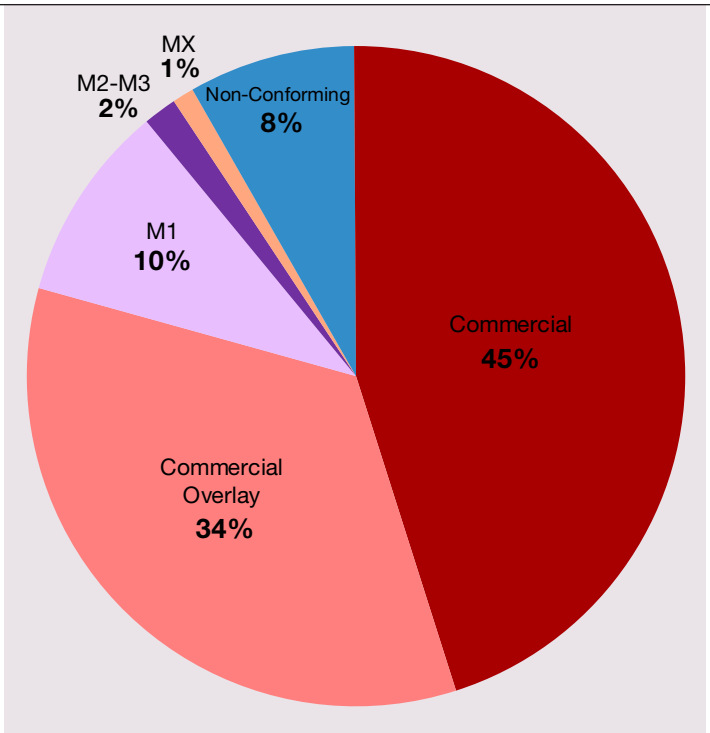
New York's 1961 Zoning Resolution established a hierarchy of separated uses designed primarily to protect residential uses from nuisances such as pollution, congestion, and noise.[86]

Zoning Districts Where Retail Is Permitted



Only 8% of New York City is covered by commercial zoning. An additional 14% is covered by manufacturing zoning.

NYC Retail Space – Location by Zoning Type
(PLUTO 2016 v2)



NYC Land by Zoning Type

Zoning Type	Citywide Area (Square Miles)
Commercial Districts	12.4
Commercial Overlays	10.9
MX Districts	1.4
M1 Districts	26.0
M2 & M3 Districts	14.8

Commercial uses are only allowed in designated commercial or manufacturing districts or within commercial overlays mapped on the major commercial streets of predominantly residential areas.[87] Commercial districts, which allow significant commercial density to allow development of fully commercial buildings, are mapped in the city's central business districts and major neighborhood corridors and centers of business activity. Commercial overlays are mapped as enhancements to residential districts and only allow limited commercial density for retail and service uses on the lower floors. Certain types of commercial districts and overlays require commercial space on the ground floor and sometimes also the second floor depending on the particular zoning district and location. Non-residential requirements apply to higher density districts that are mostly in Manhattan, commercial overlays in Staten Island, and C2 overlays on R7D districts.

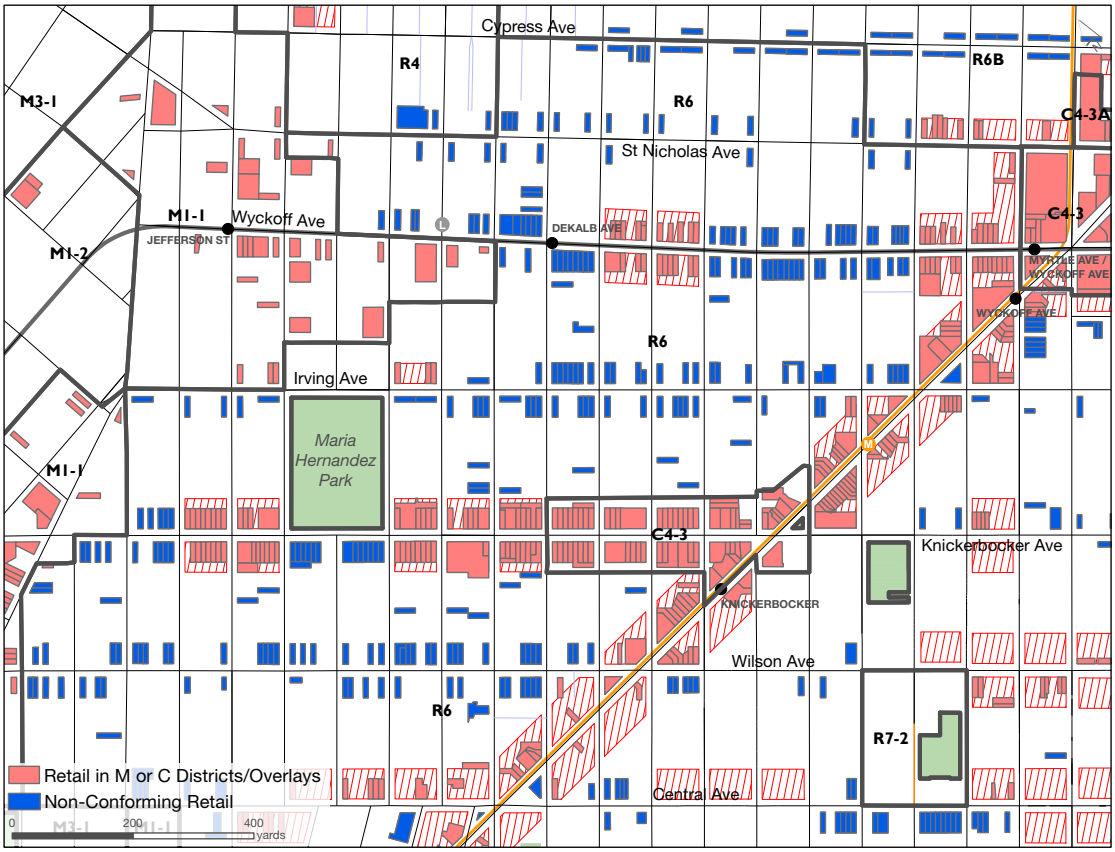
Commercial districts and overlays cover a relatively small amount of the city's area. Manufacturing districts, where retail is permitted but limited, cover a larger area but much of this area is heavily industrial or infrastructural and not always appropriate or desirable for retail uses.

Since the majority of the land in the city is zoned for residential, commercial uses including ground floor retail and even low-impact uses like small professional offices are barred from the majority of New York City streets. In addition, most commercial overlays, such as the C1-3, C1-4, C2-3, and C2-4 overlays mapped throughout many Brooklyn and Queens neighborhoods, allow but do not require the provision of ground floor commercial space, leaving developers the option to devote the ground floor to residential use or even surface parking.[88]

Nearly 80% of the city's commercial uses are located in commercial districts or overlays. An additional 12% are located within M districts. And since most New York City development predates the regulations of the 1961 Zoning Resolution, there is a tremendous amount of non-conforming commercial uses in areas that are mapped as residential districts without commercial overlays.

These commercial uses remain legal as long as they are continuously occupied but this

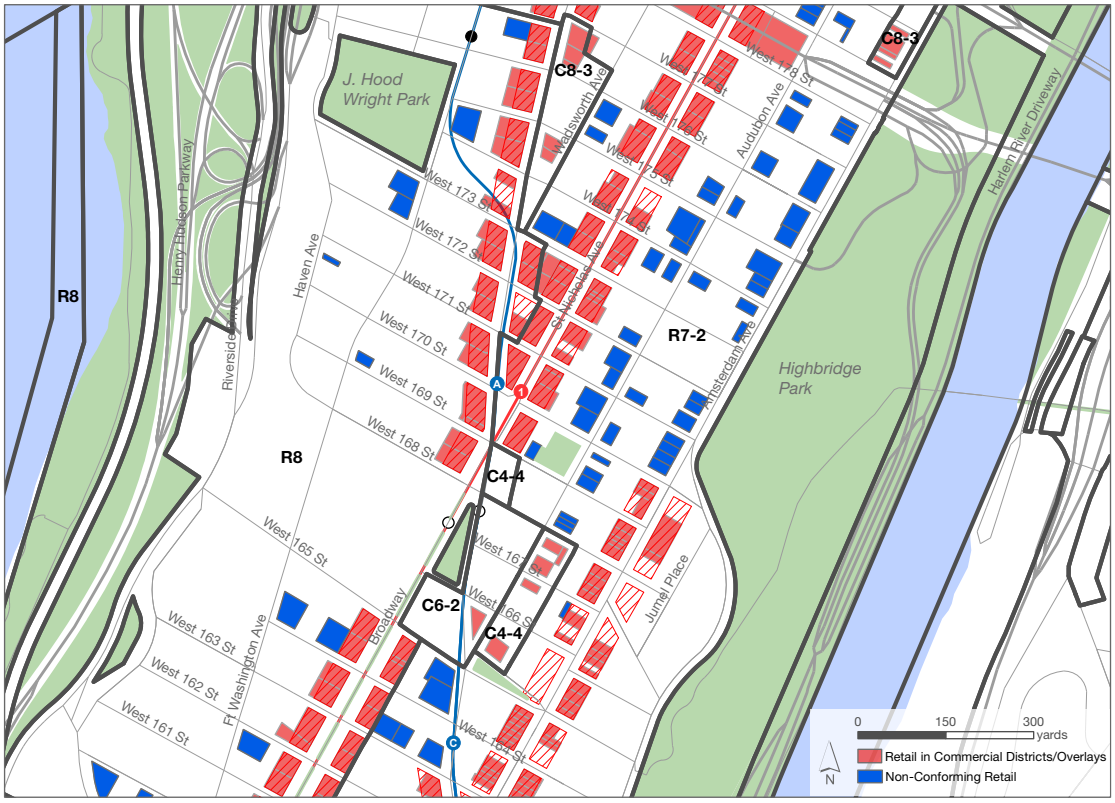
Non-Conforming Retail - Bushwick



Over 8% of NYC retail spaces are located in residential districts and are "non-conforming" to zoning.

Most of these uses date to before 1961 and are "grandfathered" – allowed to continue to exist but not allowed to expand.

Non-Conforming Retail - Washington Heights



Audubon Avenue in Washington Heights is lined with retailers but without a commercial overlay; all are non-conforming with zoning. These retail spaces cannot be expanded and would become illegal for commercial use if left vacant for two years, and restaurants are not permitted to have sidewalk cafes.

Photo credit: Google Street View

"grandfathered" legality expires if the space remains vacant for two years or longer.[89] Non-conforming restaurant uses on streets without commercial overlays are not permitted to apply for sidewalk cafes, a significant competitive disadvantage compared to locations within commercial districts or commercial overlays. Over 8% of NYC retail space is located in residential districts without commercial overlays and are therefore non-conforming. Most of these grandfathered uses date to before 1961.

These non-conforming commercial uses are often located on streets with a mix of commercial and residential ground floors such as Irving Avenue in Bushwick, Brooklyn or East 181st Street in the Bronx. In Manhattan, many streets with significant commercial character such as St. Marks Place in the East Village or Audubon Avenue in Washington Heights surprisingly lack commercial overlays.

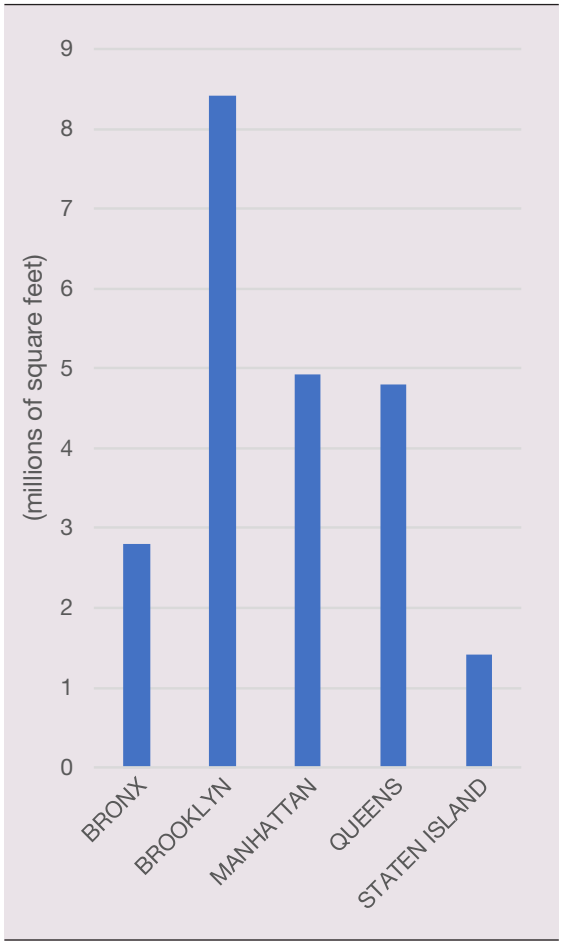
BEYOND COMMERCIAL ZONING — SPECIAL DISTRICTS AND OTHER TARGETED ZONING INTERVENTIONS

In many neighborhoods, the zoning regulations governing ground floor commercial uses have been given very little thought or study since 1961. However, in other parts of the city, government has strongly intervened to manage the preservation and production of retail storefront spaces. Various restrictions on the size of retail spaces, retail frontage, and combining storefronts all have precedents in the Zoning Resolution.

Since 1961, dozens of incremental, localized zoning changes have tailored commercial zoning to the conditions of chosen local neighborhoods through the establishment of Special Zoning Districts or Special Enhanced Commercial Districts.

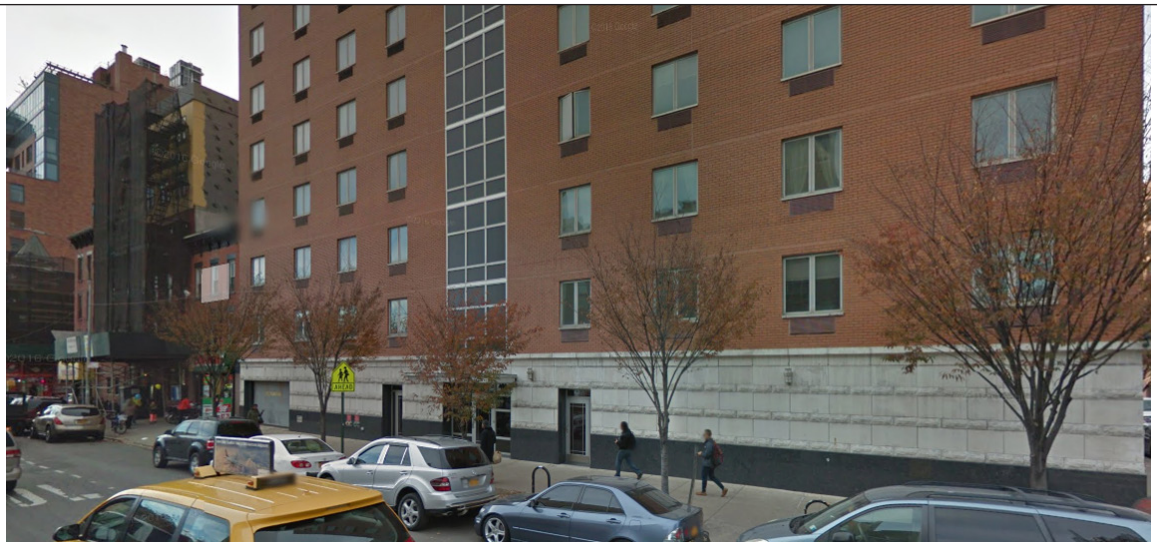
1. Special Districts — Special Districts customize zoning requirements and/or incentives to fit the "distinctive qualities" of a specific neighborhood, creating special rules and bonuses "that may not lend themselves to generalized zoning and standard development."[90] Special Districts are often broadly aimed at preserving and enhancing neighborhood character.

Non-Conforming Retail Space by Borough
(PLUTO 2016 v2)



Brooklyn has the largest amount of non-conforming retail space, with many uses located on streets with mixed commercial-residential character but no additional commercial spaces allowed.

The rezoning of Park Slope's 4th Avenue in 2003 led to development with "dead" ground floors of windowless residential amenity space or parking. In 2011 the Special Enhanced Commercial District was created to require ground floor commercial space in new development.



One example of a special district that includes a focus on the local retail environment is the Special Tribeca Mixed Use District. The Special Tribeca Mixed Use District establishes limits on the maximum as-of-right retail square footage per zoning lot ranging from 5,000 sqf to 20,000 sqf depending on the particular block. The District also prohibits the combination of ground floor storefronts in certain parts of the neighborhood. The rationale for establishing these rules for the district is not only preservation of neighborhood character but also to retain "adequate wage, job-producing, stable industries."[91]

Other special districts such as the Special Sheepshead Bay District narrowly restrict retail uses to those seen as supporting the essential unique character of the community. In the case of Sheepshead Bay, these uses are "waterfront-related commercial and recreation development… [and] a useful cluster of shops, restaurants, and related activities which all complement and enhance the area as presently existing."[92]

2. Special Enhanced Commercial Districts

Another type of Special District is the "Special Enhanced Commercial District" that focuses exclusively on ground floor commercial space. Special Enhanced Commercial Districts are a relatively new zoning tool. In contrast to most types of commercial overlay districts that allow but do not require commercial uses, Special Enhanced Commercial Districts require commercial and/or community facility uses on the ground floor along with additional restrictions that vary among the specific districts.

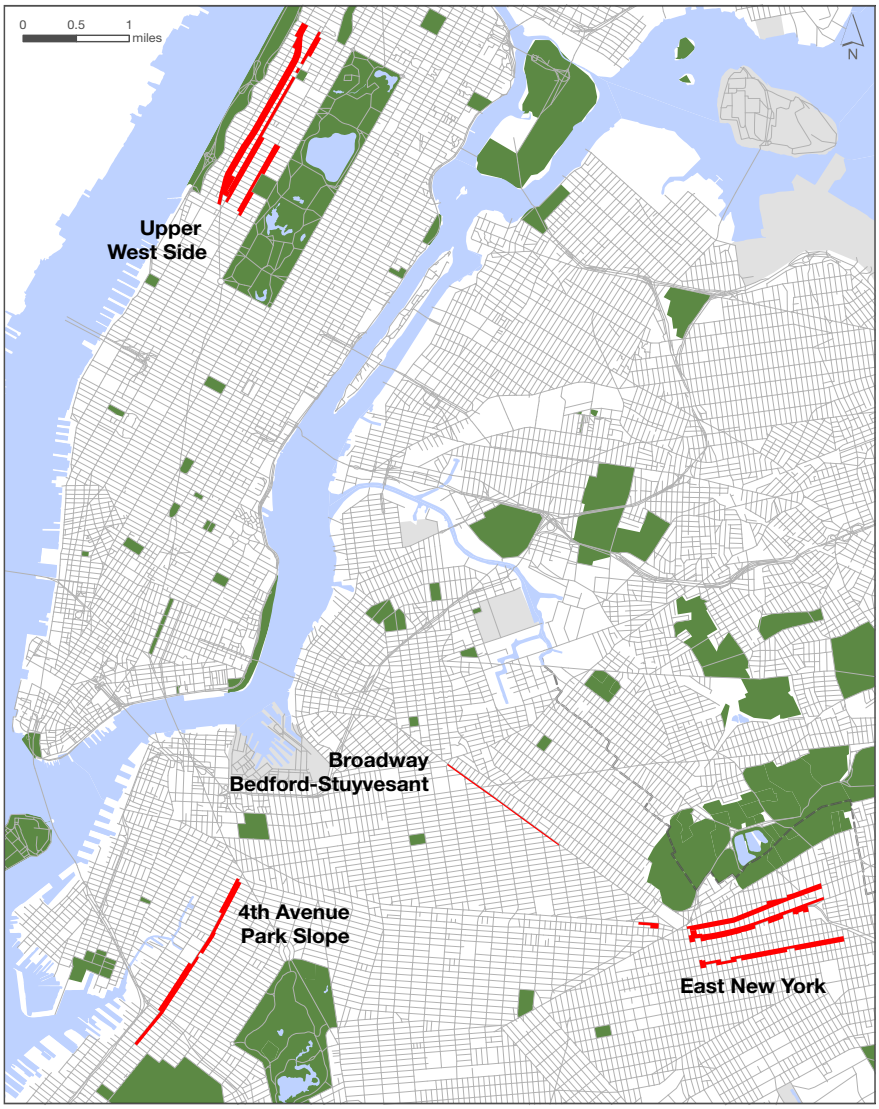
The City enacted the first Special Enhanced Commercial District in 2011 on 4th Avenue in Park Slope, Brooklyn in response to community concerns that new development was creating lifeless street frontages of residential and parking uses.[93]

New, more restrictive Special Enhanced Commercial Districts were enacted in 2012 on the Upper West Side. For the Upper West Side districts, the City established storefront length restrictions in order to stop the proliferation of banks and large storefronts in a neighborhood that prizes its small independent retailers.[94] According to the report of the City Planning Commission (CPC), the goals are "to encourage diverse retail and service opportunities, preserve and enhance the multi-store character of Amsterdam and Columbus Avenues, promote a vibrant and active retail environment on Broadway, promote an active streetscape and attractive environment for pedestrians, and allow existing businesses flexibility to operate and expand considerably."[95]

The more restrictive districts are mapped on Amsterdam Avenue between West 77th and West 110th Streets and Columbus Avenue between West 72nd and West 87th Streets. Ground floor commercial uses are limited to 40 feet of frontage per storefront and properties with 50 feet of frontage or more must have at least two separate

Photo credit:
Google Street View

Special Enhanced Commercial Districts



storefronts for every 50 feet of frontage.[96] Banks and residential lobbies are limited to 25 feet of ground floor frontage. This restriction on banks and lobbies, but not the 40 foot restriction on all storefronts, also applies on Broadway between West 72nd and West 110th streets, an avenue that was seen as a more appropriate location for large retailers than Amsterdam and Columbus.[97]

On Amsterdam and Columbus Avenues, a retail establishment other than a bank may exceed the frontage limits up to 60 feet pursuant to a certification by the Chair of the CPC that: (1) the proposed use cannot be reasonably configured within the permitted frontage; and (2) a high ground floor vacancy rate, resulting from adverse market conditions, exists within a reasonable distance of the proposed use.[98] Grocery stores of at least 6,000 sqf are exempt from the restrictions and pre-existing storefronts are grandfathered, even if the retail tenant changes.[99]

At the City Council's public hearing on retail diversity in September 2016, Manhattan Borough President Gale Brewer, the former Council Member representing the Upper West Side, stated that the districts are "the closest the city has come to enshrining the classic New York commercial street environment into zoning text."[100]

The City previously experimented with storefront length restrictions on the Upper East Side in the 1970s and '80s when a 25-foot frontage limitation for retail establishments on East 86th Street was enacted as part of the Special Yorkville District. The frontage limitation was created in response to the 1972 opening of a Gimbels department store.[101] Until then, most of East 86th Street was a stable retail corridor of small shops and family-style restaurants, many owned by and catering to residents of German, Hungarian and Czech descent. Intended to protect these small independent neighborhood shops from competition with large retailers, the frontage restriction on East 86th Street was ultimately found to be ineffective in achieving the goal of business retention. In 1990, the City and Community Board 8 agreed to remove the restriction.

Since the storefront size restrictions were applied in the Upper West Side in 2012, neither DCP nor any other researchers have re-examined the retail corridors to evaluate the effectiveness of the Special Enhanced Commercial Districts. In that time, the City has created additional Special Enhanced Commercial Districts that require ground floor commercial/community facility uses and restrict the length of residential lobbies on Broadway in Brooklyn and in East New York. But the Upper West Side restrictions on the length of storefronts and requirement to have multiple establishments on large lots have not been replicated in any other neighborhood.

The problem of storefront mergers – Five storefronts at Amsterdam & 78th St were combined into a single storefront just before the Special Enhanced Commercial District regulations went into effect.

2011

2016

Image Source: Google Streetview 2011 & 2016

Case Study - Upper West Side Special Enhanced Commercial Districts

In order to examine the impact of the Special Enhanced Commercial District regulations, the City Council Land Use Division surveyed the Upper West Side retail corridors of Columbus Avenue, Amsterdam Avenue, and Broadway in December 2016 and used Google Streetview archived images from October 2011 to document the changes in the retail mixture over the five-year period.

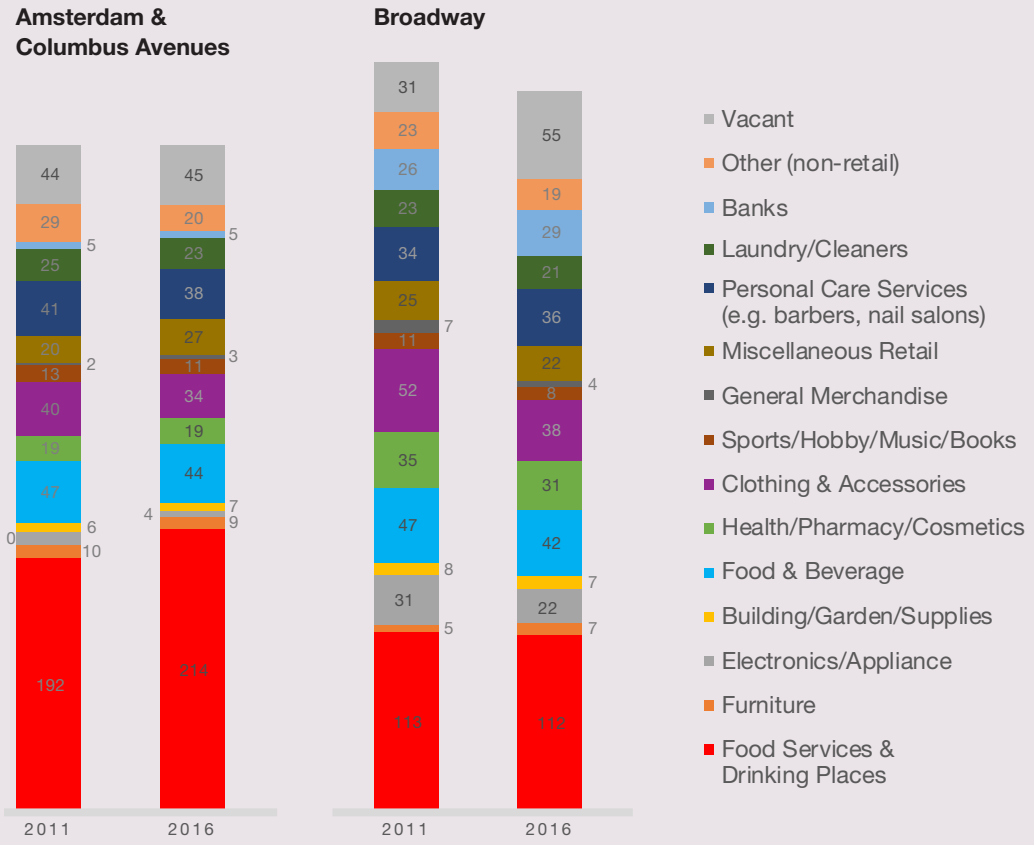
We found that the Upper West Side restrictions on storefront sizes have been successful in stabilizing the number of storefronts on Amsterdam and Columbus Avenue and preventing the displacement of existing businesses for storefront mergers. It is also possible that the restrictions have helped contribute to a low vacancy rate and a higher rate of business retention. The impact on chain stores and retail diversity is less clear.

The overall number of storefronts on Amsterdam and Columbus remained constant from October 2011 to December 2016 at 503. The merging of five storefronts (formerly a diner, shoe repair store, locksmith, optometrist, and independent children's clothing store) on Amsterdam Avenue and 78th Street for the "Sugar and Plumm" bakery-restaurant that occurred just before the regulations took effect illustrates what could have happened in other buildings if not for the regulations.

In contrast, on Broadway where the City only applied restrictions on banks and residential lobbies, the number of storefronts declined from 471 to 453 as new development replaced small storefronts with large chain stores such as the CVS and Marshalls at 2180-2188 Broadway, which displaced over a dozen small stores. The Amsterdam and Columbus corridors also maintained a relatively healthy 9% vacancy rate during this period, while Broadway vacancies increased from 7% to 12%.

The effect of the regulations on business retention is less clear. On Amsterdam and Columbus, 67% of the businesses present in 2011 remained in 2016, while on Broadway 64% remained. Five-year retention rates in the range of 65% are consistent with the range of findings of a recent citywide analysis of retail change from 1990 to 2011[102] but are higher than the 57% citywide retention rate measured in the most recent analyzed five year period of 2006-11. More comparative data and study is needed to definitively conclude whether or

Upper West Side Retail Corridors –
Number and Type of of Storefronts 2011 vs. 2016



Overall, the Upper West Side Special Enhanced Commercial Districts appear to be a highly effective tool in preserving the number of small storefronts and a lively streetscape.

not the Special Enhanced Commercial Districts significantly aided in business retention.

While the regulations appear to help stabilize overall conditions, the effect on chain stores versus independent ownership is also an open question. The percentage of chain stores on Amsterdam and Columbus Avenues actually increased from 13% to 15% during this period despite the prohibition on creating large storefronts. In the southern, most affluent part of the area, small boutique luxury chain stores such as Couture Kids, Liana, and Farrow & Ball replaced less glamorous neighborhood businesses. On Broadway, the number of chains remained constant at 36%. The number of banks on Amsterdam and Columbus held at five while the number of banks on Broadway increased from 26 to 29. However, the new banks such as the Wells Fargo at Broadway and 90th Street fit the small storefront rules as opposed to those like the TD Bank at Broadway and 88th Street that replaced three stores to take over an entire building's frontage in early 2012, just before the regulations were put into place.

For retail diversity, the effects of the storefront size regulations are also unclear. The number of restaurants and bars increased significantly on Amsterdam and Columbus (from 192 to 214), following a pattern that occurred across Manhattan in recent years, while nearly all retail categories declined slightly with significant decrease in clothing stores (from 40 to 34). On Broadway, nearly all categories declined slightly as the vacancy rate rose, with a noticeable decline in clothing stores from 52 to 38 businesses.

Overall, the Upper West Side Special Enhanced Commercial Districts appear to be a highly effective tool in preserving the number of small storefronts and a lively streetscape. The regulations may also help stabilize retail conditions by contributing to a low vacancy rate and a higher business retention rate, although additional study is needed to determine this more clearly. Additional study is also needed on the impact of the regulations on retail diversity and the affordability of commercial space.

While this urban design tool should not be regarded as a panacea, other neighborhoods concerned with stabilizing and preserving a retail landscape of small storefronts should consider the model of Amsterdam and Columbus Avenues' Special Enhanced Commercial Districts.

3. Citywide restrictions on size of retail and restrictions on uses in manufacturing districts
To protect industrial uses from the perceived threat of large retailers, in 1974 the City enacted zoning text amendments to require special permits for most types of retail over 10,000 sqf in M1 districts and further restrict retail in M2 and M3 districts to a limited set of uses "which benefit the [industrial] firms or their employees." Part of the justification for the restrictions was that "Commercial users inflate potential land values, since they often can pay more than industry. If manufacturing land is to be protected in the long term the Zoning Resolution must clearly establish that certain areas should be set aside for manufacturing."[103]

In 1996, the Giuliani administration proposed expansion of big-box retail as an economic development strategy and attempted to remove these restrictions.[104] The application was defeated at the City Council.[105] The 1974 retail restrictions in manufacturing districts remain in place to this day.[106]

4. Citywide restrictions on gyms and health clubs — An important aspect of neighborhood health is the availability of gyms and health clubs. The importance of regular exercise to health has been exhaustively established.[107] At present the Board of Standards and Appeals (BSA) may allow physical culture or health establishments, which includes gyms and health clubs, via special permit in the following districts: C1-8X, C1-9, C2, C4, C5, C6, C8, M1, M2 or M3 Districts.[108] The City, however, has a fraught relationship with gyms and health clubs and dramatically restricted them in the 1970s in an effort to combat prostitution in Midtown.[109] After a moratorium on their development, the City settled on a special permit system in order to allow legitimate gyms and health clubs while prohibiting massage parlors that offered illicit adult services.[110] In 2013, the Department of Buildings issued a bulletin exempting certain yoga studio from the special permit requirement, as they could be classified as a different use provided certain conditions were met.[111]

While not as involved as a CPC special permit, a BSA special permit is still a considerable obstacle to overcome and has impeded the expansion of gyms across the city.[112] The administration estimates that the permit can add six months to a project timeline and up to $50,000 in costs.[113]

Zoning Resolution Section 12-10
Physical Culture Establishments

A "physical culture or health establishment" is any establishment or facility, including #commercial# and non-#commercial# clubs, which is equipped and arranged to provide instruction, services, or activities which improve or affect a person's physical condition by physical exercise or by massage. Physical exercise programs include aerobics, martial arts or the use of exercise equipment. Therapeutic or relaxation services, such as sun tanning, baths, showers, tubs, jacuzzis, whirlpools, saunas, steam rooms, isolation floatation tanks and meditation facilities may be provided only as #accessory# to the physical exercise program or massage facility. Except as specifically provided in Special Purpose Districts, #physical culture or health establishments# are only permitted pursuant to the provisions of Section 73-36. No license or permit shall be issued by the New York City Department of Health in conjunction with any health-related facility/services pursuant to this Section until a certificate of occupancy has been issued by the Department of Buildings establishing the #use# of the premises as a #physical culture or health establishment#.

5. FRESH Program — The Food Retail Expansion to Support Health (FRESH) program is a zoning and financial bonus applicable in areas determined to be lacking in supermarket access.

Enacted in response to an extensive study by the Mayor's Food Policy Task Force that identified neighborhoods underserved by grocery stores,[114] the FRESH program provides financial and zoning incentives for the creation of new supermarkets in these underserved areas.[115]

Stores must be at least 6,000 square feet in size to qualify. The financial incentives include a 25 year building tax abatement, 25-year land tax abatement of $500 per employee, sales tax exemption on construction materials and equipment, and mortgage recording tax deferral. The zoning incentives include one bonus square foot of residential FAR per square foot of grocery store (up to 20,000 sqf), reduction in parking requirements, and an increase of the maximum size of 10,000 sqf in M1 districts to 30,000 sqf.[116] According to data provided by EDC, 24 FRESH projects have been approved since the program's creation. Together these supermarkets are expected to provide approximately 660,000 square feet of critically needed grocery store space in underserved neighborhoods.

The FRESH program's concept of packaging zoning and financial incentives together to strongly incentivize the creation of a certain kind of commercial space serves as a potential precedent that could be replicated for other categories of commercial space.

6. Zoning for Quality and Affordability — Most recently, the package of zoning text amendments passed by the City Council in 2016 under the "Zoning for Quality and Affordability" (ZQA) proposal corrected longstanding issues with zoning requirements that inhibited best practices in ground floor retail design. In response to criticisms that the height limits for some zoning districts did not account for quality ground-floor retail spaces, a new five-foot height bonus was created in exchange for providing a "qualifying ground floor" of thirteen feet or higher. Uniform "transparency standards" – design rules requiring transparent, typically plate glass storefronts – were also enacted.[117]

In certain specific neighborhoods through Special Districts, for certain specific issues like the shortage of supermarkets, and for certain specifically identified zoning problems like the lack of adequate height or the threat posed by department stores to industrial uses, DCP has intervened with targeted interventions to encourage the preservation and production of certain kinds of retail spaces.

But overall, New York City has not undertaken a comprehensive look at commercial zoning citywide and its relationship to retail diversity.

RETAIL SPACE IN PUBLIC ASSETS AND CITY-SPONSORED DEVELOPMENT

While regulations and financial incentives are the primary tools for influencing private development, government has additional levers for development of public land or management of public assets. When sponsoring a development project on public land or subsidizing development on private land, the City can choose to consider factors such as affordability, retail diversity, and local entrepreneurship in the design and governance of retail spaces.

However, retail spaces in HPD-sponsored affordable housing developments have often been overlooked or regarded primarily as revenue generators rather than potential contributors to equitable economic development or retail diversity. Many past EDC-led developments have also focused on retail spaces as revenue generators or ways to recapture "leaking" city retail spending from suburban malls. One such smaller-scale example is EDC's 2011 sale of a 49,000 sqf retail condominium in the Brooklyn Municipal Building to United American Land for $10 million.[118] The space now hosts a Sephora, Neiman Marcus Last Call, and It's Sugar among other chain outlets.

In recent years, EDC and HPD have begun to move towards further consideration of retail diversity and local community needs. HPD and the Design Trust recently published "Laying the Groundwork," a design guide for including important neighborhood service retail such as supermarkets, pharmacies, restaurants, laundromats, and banks, as well as community facility spaces, within affordable housing developments.[119] HPD also recently released an RFP for three development sites in Brownsville that includes a prominent role for commercial spaces.[120]

For a specific development project, the forthcoming redevelopment of City-owned properties on 125th Street in East Harlem offers new precedents for considering affordable commercial space. In December 2015, the New York City Economic Development Corporation (NYC EDC) released a Request for Proposals (RFP) in connection with the East 125th Street mixed use development in East Harlem, with 50,000 sqf of retail space reserved at "below market" rent for local businesses.[121] In the Points of Agreement for the site, "below market" is defined as two tiers of 30% below market and 50% below market. The development, which will provide 700,000 sqf of commercial space alongside 1,000 units of housing, explicitly calls for the inclusion of a variety of store sizes ranging from 300 to 5,000 square feet. Additionally, the developer will be contributing $10 million to a local investment fund to assist the small businesses and entrepreneurs located in the new development with marketing, seed capital, and job training programs.

More recently, as part of the East New York neighborhood rezoning, HPD and SBS have committed to piloting a neighborhood retail program requiring subsidized new development to include discounted space for local businesses.[122]

Recommendation 6.

Reform & expand commercial overlays

RECOMMENDATION

■ SBS should examine corridors with significant non-conforming, grandfathered retail and assist local stakeholders in expanding commercial overlays where appropriate.

According to City land use data, over 20 million square feet of non-conforming retail space is spread throughout the city with the greatest concentration in Brooklyn. Right now, outside of neighborhood rezoning studies that might incidentally expand commercial spaces, neither DCP nor SBS is proactively examining these areas. It is incumbent on local property owners or businesses to seek expansion of commercial overlays.

■ SBS should take a comprehensive look at where these non-conforming commercial uses cluster and work with local stakeholders to map commercial overlays on such areas. Not only would this fully legalize the existing commercial uses and permit restaurants to apply for sidewalk cafes, it could also allow further development of the commercial ground floor character of these areas, increasing the available supply of commercial spaces.

RECOMMENDATION

■ Explore new low-intensity overlay to allow low-impact businesses in mostly residential areas.

– As proposed in the Manhattan Borough President's "Small Business; Big Impact" report, a new, more restricted commercial overlay for low-impact uses like professional offices (lawyers, therapists, etc.) would allow these uses to locate on predominantly residential blocks where appropriate.

– This new low-intensity commercial overlay would open up new pool of real estate outside of the increasingly expensive major commercial avenues[123] and could also potentially open up space on the second floor of retail corridors where appropriate.

"Existing zoning constraints that could cost tens of thousands of dollars to resolve mean that landlords and small business owners alike are not positioned to spur healthy economic development in the area...[a] commercial overlay would pave the way for new and diverse retail establishments and allow businesses like ours to provide more services to the community."

- Sabrina Brockman, owner of Grandchamps, a Haitian restaurant on Patchen Avenue in Bedford-Stuyvesant, testified at the City Council in support of expanding commercial overlays on Patchen and Ralph Avenues.

RECOMMENDATION

■ Expand commercial overlays to New York City Housing Authority (NYCHA) superblocks fronting commercial corridors with community input.

– The administration should carefully explore possibilities to create new commercial development on NYCHA campuses in close consultation with NYCHA residents. Most NYCHA campuses are currently zoned only for residential use, precluding the development of new on-site commercial spaces that could improve access to quality retail for NYCHA residents.

Potential retail development at NYCHA campuses could take many forms, such as on the ground floors of underused buildings or within small-scale retail "liner buildings" along commercial streets.[124] Retail liner buildings already exist at certain NYCHA campuses such as at the Whitman Houses along Myrtle Avenue in Brooklyn where a full service supermarket is among the tenants as well as at the Williamsburg Houses.

RECOMMENDATION

■ Study the expansion of use groups allowed in commercial overlays.

– The administration and Council should explore a potential amendment to the zoning resolution to allow certain additional low-impact uses of an appropriate scale in commercial overlays, such as light manufacturing and artist workshops.

The uses allowed in C1 and C2 commercial overlay districts are appropriately limited to those seen as low-impact and compatible with adjacent residential use. However, these uses have not been updated in many decades and should be re-examined to consider allowing additional uses.

Recommendation 7.

Expand use of special enhanced commercial districts that require ground floor commercial space

RECOMMENDATION

■ To ensure that new residential developments on commercial corridors include ground floor retail, SBS and DCP should expand the mapping of Special Enhanced Commercial Districts (SECDs) that require ground floor commercial space.

While DCP now often incorporates such districts in new neighborhood rezonings, there is no plan to establish SECDs on commercial corridors that may be experiencing significant new development as a result of past rezonings.

According to Brooklyn Borough President Eric Adams' testimony at the City Council in September 2016, existing retail spaces in mid-density R6 and R7 districts are especially vulnerable to displacement when 1-3 story buildings are demolished for denser new development that often has additional residential floor area or parking spaces on the ground floor instead of retail space. To address this issue, the Myrtle Avenue Brooklyn Partnership is pursuing a rezoning of Myrtle Avenue's commercial overlays to Special Enhanced Commercial Districts with the assistance of SBS.[125] This initiative arose after several new developments on the avenue failed to include ground floor commercial spaces.

■ Rather than wait for BIDs or other local stakeholders to act, SBS should protect the character of commercial character and maintain the supply of commercial spaces by proactively reexamining conditions throughout the five boroughs and applying Special Enhanced Commercial Districts where appropriate.

Recommendation 8.

Expand use of special enhanced commercial districts that limit storefront size

RECOMMENDATION

■ In neighborhoods like the East Village and Park Slope where local stakeholders have expressed concern about the spread of large format retailers and bank branches, SBS should work with communities to apply the Special Enhanced Commercial Districts of Amsterdam and Columbus Avenue in order to preserve the supply of small storefronts appropriate for small neighborhood businesses.

The Council's survey of the Upper West Side shows that the districts are indeed effective in achieving this goal and may also contribute to a lower vacancy rate (9%) than currently present on many other retail corridors in Manhattan.

Small storefronts on Amsterdam Avenue in the Upper West Side

Pgs 40-41 photo credit: Brian Paul

Recommendation 9.

Examine potential for formula retail restrictions in appropriate areas

RECOMMENDATION

■ Where communities have expressed concern about preserving neighborhood character and a diversity of local independent businesses, such as in the East Village, SBS and DCP should work with stakeholders to examine the potential for zoning restrictions on chain stores and restaurants.

"Formula retail" zoning restrictions already exist in many municipalities and define chain stores by the common branding, signage, and product lines used across multiple establishments, thereby defining it as a use rather than on the basis of corporate ownership.[126] Different municipalities have implemented varying levels of restrictions, from a ban on all chain food stores in historic districts, to a requirement that in order to open certain types of chain businesses owners must apply for special permits subject to administrative and/or public review.

Several urban planning advocates have expressed strong support for implementing some form of formula retail use restrictions in New York City. At a joint hearing of the Committees on Small Business and Zoning and Franchises, the East Village Community Coalition presented its report "Preserving Local, Independent Retail: Recommendations for Formula Retail Zoning," which calls for creation of a special permit for opening formula retail within an East Village Special Purpose District.[127] The report has the support of the Center for an Urban Future and the Greenwich Village Historical Society.[128]

However, the rationale for widespread application of formula retail zoning in New York City may be fading. National chain retailers are under increasing pressure from the rise of e-commerce and the oversupply of retail space in much of the country and many are shifting from expansion to retrenchment.

San Francisco's Formula Retail Policy

San Francisco, which first adopted formula retail use restrictions in 2004, now has the most comprehensive formula retail use restrictions in the nation, covering almost the entire city. Since 2006, the regulations have required new formula retail businesses in all neighborhood commercial districts to obtain conditional use authorization from the San Francisco City Planning Commission (similar to a special permit under the New York City Zoning Resolution) in order to open.[129]

In evaluating an application for a formula retail business, the San Francisco City Planning Commission must consider factors such as the existing local retail landscape (the variety of stores and existing formula retail), local retail vacancy rates, the compatibility of the formula retail use with local neighborhood character, and an economic impact study for proposed uses 20,000 sqf or larger.[130]

In practice, these regulations are a check rather than a ban on formula retail. Of the 31 applications made between 2006 and 2011, 22 were approved, six were withdrawn, and only three were rejected.[131] San Francisco Supervisor Scott Weiner explained, "It makes chains more selective about which locations they approach. Many will do outreach to the neighborhood before they apply. If they don't find support, they don't apply."[132]

Though San Francisco's policy has been effective in limiting the proliferation of chain retail in regulated districts, questions remain about its economic impact and whether it has a significant impact on small business retention. According to a 2014 report by the San Francisco Comptroller, formula retailers offer prices that are 17% lower on average than non-formula retailers but circulate significantly less revenue within the local community, producing a mixed overall economic impact.[133]

Recommendation 10.

Study a zoning bonus for affordable retail space

RECOMMENDATION

■ Another creative zoning idea that received significant support at the Council's September 2016 public hearing from organizations including the Pratt Center and the Brooklyn Chamber of Commerce is a zoning density bonus in exchange for a set-aside of affordable commercial space.[134]

New York City's FRESH program – a combination of financial incentives and a zoning density bonus allowing supermarket square footage as "free" density not counting against overall FAR limits incentives – offers a precedent for such a new tool. The City's inclusionary housing policy, allowing a 20% bonus in density in exchange for the inclusion of affordable housing, offers another analogy.

■ The administration should study the creation of a new inclusionary commercial space zoning tool.

– This could take the form of allowing development with at least 10,000 square feet of ground floor commercial space to set aside 20% as "affordable" with a preference for locally owned businesses that close a retail gap. This 20% could then be discounted from the overall FAR limit as in the FRESH program.

– This administration should develop various options for such a tool and study their financial feasibility.

– The administration should also develop criteria for what would constitute "affordable" rent and what types businesses would be eligible or prioritized. Commercial District Needs Assessments could be used to determine what types of businesses may be needed to close a neighborhood retail gap.

An inclusionary affordable commercial space program in zoning would require additional study but could be useful as a limited tool in certain circumstances to close a retail gap and promote equitable economic development.

In a 2009 report, the Pratt Center proposed that any commercial development over 50,000 sqf, be required to include businesses at a range of sizes, going down to 250 sqf, with targets for independently owned small businesses.[135] The Center for an Urban Future also recently proposed the general concept of inclusionary commercial space, calling on the city to "consider a linkage policy for commercial real estate, similar to that used in affordable housing development. In exchange for providing 20 percent of their floor space to below-market rents for small business, developers could enjoy certain tax, regulatory, and land benefits from the city."[136]

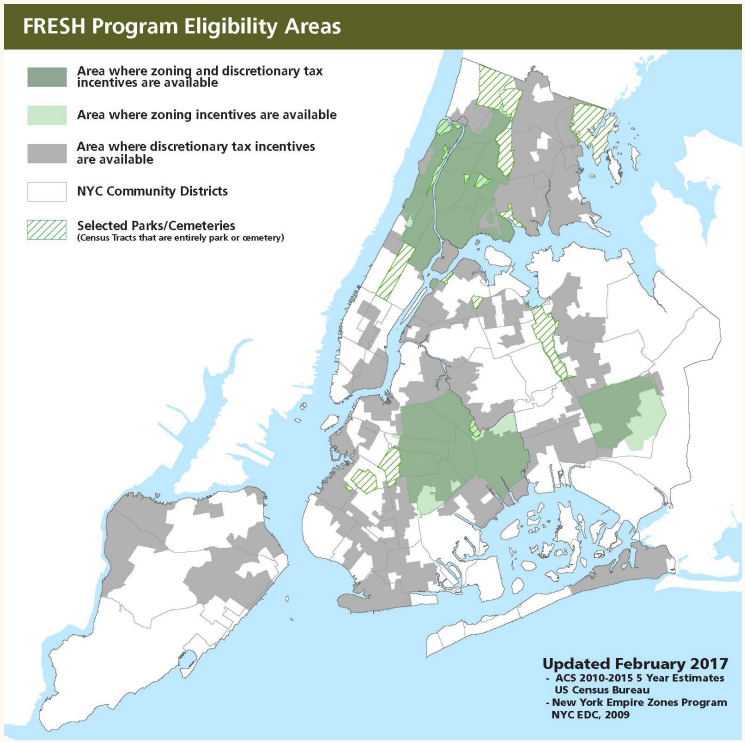
The lack of an established definition of "affordable" for commercial space is often the first obstacle raised by policymakers when considering any such potential programs. Determining affordable rents can be difficult for commercial space due to a lack of clear and well-documented definitions of affordability. One method would be to base it on an established standard for portion of revenue allotted to rent for specific sectors.[137]

An alternative method would be to use data from commercial brokers to determine the current market rate and then define affordable as a discount from that. EDC used a similar methodology with its East 125th Street project, which set aside a portion of the commercial space for locally owned businesses at rents 30% below market and 50% below market.[138] This however would require to the development of market rate indices for various neighborhoods throughout the city. The lack of any tie to the income of the establishment means that this method runs the risk of providing lowered rents to small businesses who could afford to pay more.

Recommendation 11.

FRESH Program Eligibility Areas (NYC EDC)

Strengthen & expand the FRESH program



RECOMMENDATION

- The FRESH program should be expanded to additional underserved neighborhoods.
  - The criteria should include limited access to and consumption of fresh foods, higher than average poverty rates, and lower than average square footage of grocery store space, among others.
  - The program could also include more flexibility for siting grocery stores in residential neighborhoods and relaxing zoning requirements that constrain supermarket siting.

The FRESH program provides zoning and tax benefits to new grocery stores in neighborhoods that are underserved by fresh foods. According to data provided by EDC, 24 FRESH projects have been approved since the program's creation. Together these supermarkets are expected to provide approximately 660,000 square feet of critically needed grocery store space in underserved neighborhoods.

Since the program was adopted by the City Council, Council Member Richards has been leading an effort in coordination with the DCP, EDC, and the Mayor's Office of Food Policy to expand the applicability to additional neighborhoods that have limited access to fresh foods and higher rates of poverty.

Moisha's Kosher Discount Supermarket, FRESH recipient, Midwood

Photo credit: Google Streetview

Recommendation 12.

Prioritize affordable local retail space in certain City-sponsored developments

RECOMMENDATION

■ The administration should prioritize creating affordable commercial space for local businesses in certain city-sponsored developments and should consider condo-ing out these spaces to community development organizations to manage as affordable commercial space for local businesses. This would be a limited tool to be used to close a retail gap and provided entrepreneurship opportunies in select developments.

In recent years, HPD and New York State have begun to increase consideration for including commercial space in affordable housing developments, providing guidelines for including neighborhood service retail and establishing the Rural and Urban Community Investment Fund to help subsidize projects. HPD recently released an RFP for three development sites in Brownsville that includes a prominent role for commercial and community facility spaces based on goals such as "arts and culture," "innovation and entrepreneurship," and "healthy living and food systems" identified in a community planning process.[139]

In certain projects, such as the East 125th Street rezoning, local communities have negotiated with EDC for specific set asides for affordable space for local entrepreneurs. The de Blasio administration committed to exploring this idea at a larger scale as part of the East New York rezoning. And the One Flushing affordable housing development in Flushing, Queens is incorporating small, affordable retails spaces for local entrepreneurs in addition to credit tenants.

But in most cases, especially for projects on privately owned land, commercial spaces in city-sponsored developments are an afterthought.[140] There is unrealized potential for these spaces to contribute to neighborhood economic development and retail diversity.

The One Flushing affordable housing develoment in Flushing, Queens, which is incorporating small, affordable retail spaces for local entrepreneurs in addition to credit tenants that will ensure the building stays in the black.

Other cities are also increasingly seeking to integrate opportunities for economic development into affordable housing projects and other city-owned or city-sponsored projects. Boston recently adopted a policy to "transform underutilized city properties into small business real estate with leasing priorities awarded to businesses in priority segments and/or with minority, women, or immigrant owners and allocate space for small businesses in new publicly-owned developments"[141] Seattle's small business task force report proposed "integrating commercial affordability priorities within the affordable housing funding process and exploring ways to expand the use of affordable housing funding for retail space in affordable housing projects without minimizing unit development goals."[142]

Graphic credit: Manodnock

Recommendation 13.

Absolute Power: a neighborhood fitness center in Williamsburg, Brooklyn

Eliminate special permit for gyms and health clubs

Photo credit: Brian Paul
Opposite page photo credits:
Chamber on the Go: *Brooklyn Daily Eagle*
Neighborhood 360: NYC SBS

RECOMMENDATION

■ The administration should propose a zoning text amendment to eliminate the BSA special permit for "physical culture or health establishments" and instead allow this use as-of-right in the commercial districts where it currently may be permitted.

– Such restriction on gyms and health clubs is outdated and should be eliminated. The requirement to procure a special permit does not benefit the public, which suffers due to a lack of fitness facilities and costlier gym memberships.

In February of 2015 the administration proposed modifying or eliminating the special permit requirement in the Mayor's "Small Business First" report. The Administration has not proposed a zoning text amendment to correct this problem in the two and a half years that have elapsed since the report was released.

The exception to the special permit that allows yoga studios to operate explicitly forbids the inclusion of showers, which is less than ideal.[143]

The Zoning Resolution forbids "adult physical culture establishments," and this prohibition would remain, as adult physical cultural establishments are defined separately from "physical culture and health establishments" and are explicitly forbidden.[144]

Neighborhood 360

Chamber On The Go

Neighborhood Retail Planning Policies

SBS has recently assumed growing responsibility for planning for retail store fronts. Beyond its responsibility for assisting and liaising with BIDs, SBS administers the following programs relevant to storefront retail diversity:

1. Neighborhood 360 - In October 2016, SBS announced a new program called Neighborhood 360 to fund local community based organizations or BIDs to undertake commercial revitalization projects. The program provides $3 million in annual funding specifically for local partners to conduct "Commercial District Needs Assessments" (CDNAs), detailed neighborhood reports that incorporate interviews, surveys, and statistical data about the neighborhood and the commercial environment.[145]

So far the program has produced CDNAs for six neighborhoods: Downtown Flushing, Downtown Staten Island, East Harlem, East New York, Inwood, and Jerome Avenue.[146] Neighborhood selection appears to be coordinated with DCP and EDC to add an additional layer of research to areas that are already the subject of neighborhood planning studies.

These reports provide valuable information on neighborhood retail markets such as the number of storefronts, storefront vacancy rates, types of stores, physical conditions of storefronts, and survey information from businesses and shoppers describing the strengths and weaknesses of the area. In Flushing, East Harlem, and Inwood, small businesses all identified rising rents and lack of affordable spaces as key challenges. In Staten Island, East New York, and the Bronx's Jerome Avenue, where the real estate market is less

of a challenge right now, the assessments revealed greater concerns for streetscape, infrastructure, and safety. In March 2017, SBS announced $9 million in grant funding for commercial corridor planning projects to be distributed to eleven community based organizations in the six neighborhoods that received CDNAs.[147]

The Neighborhood 360 program also funds the placement of ten Neighborhood 360 Fellows to work at local community organizations for a ten-month period and contribute to commercial revitalization projects.[148]

Overall, the new Neighborhood 360 program is a significant shift for SBS into the realm of neighborhood planning. It remains to be seen to what extent the development and implementation of recommendations will be coordinated with other city agencies.

2. Competitive Grant Programs — SBS also administers multiple competitive grant programs in which local community organizations or small businesses apply for assistance and are selected based on certain program objectives and criteria.

Avenue NYC is a competitive grant program that administers grants of up to $100,000 in low-income neighborhoods for projects focused on organizing local businesses, business attraction and retention programs, storefront façade improvements, or general "placemaking" initiatives.[149] Funded by federal Community Development Block Grants, the Avenue NYC program has existed in some form since 1974.[150] In Fiscal Year 2016, the program provided $1.3 million in funding for organizations in low- to moderate-income areas to implement commercial revitalization initiatives.

While Avenue NYC is the primary vehicle for storefront improvement assistance in underserved communities, SBS has also worked with nonprofit funders to create place-based funding pools. The Downtown Far Rockaway Storefront Improvement Program is an initiative of SBS, the nonprofit New York City Business Assistance Corporation (which provides funding assistance to numerous SBS programs), and the Mayor's Fund to Advance New York City.[151] The grants provide a 75% match of funds (up to $10,000 per storefront) to help local businesses and property owners complete storefront renovation projects.[152]

Launched in 2012 and administered by SBS, EDC, and the New York City Business Assistance Corporation, **Neighborhood Challenge** is another annual competition for grants of up to $100,000.[153] The program seeks to pair nonprofit community organizations with technology, arts, or other capacity-building partners to support "innovative and catalytic projects that will support small businesses, generate economic and community impacts, and attract more jobs and investment to local commercial corridors."[154] The City has awarded twenty-six projects a total of $1.7 million in funding since the program began. Projects range from $30,000 for the Lower East Side Partnership to fund professional street art installation on storefront gates, to $100,000 for the Youth Ministries for Peace and Justice to activate a public space under a highway overpass.[155]

Love Your Local is a newly announced competitive grant program for small, locally-owned businesses to compete for a pool of $1.8 million to be distributed in grants of up to $90,000 that can be used broadly to support the retention or expansion of the business through capital improvements, operational needs, or other uses.[156] Winners will also receive a free consultation from industry experts on how to "better meet competitive pressure." Longstanding businesses will be given preference for awards. The city has created an interactive website where the public can submit suggested nominees, although the businesses must individually apply in order to enter into the pool of potential grantees.[157]

The criteria for determining the winners of Love Your Local grants are unclear and it is uncertain whether the program will continue beyond the initial first year. Nevertheless, this new program sets a precedent for providing City subsidy to independent shops and restaurants for broad purposes of retention and expansion.

The New York City Council's Neighborhood Development Grant Initiative

The City Council's Neighborhood Development Grant Initiative is a $1,275,000 program in which each Council Member designates $22,000 to support neighborhood-level initiatives that promote economic development, job creation and retention, and community investment, with SBS receiving a fee for managing the initiative. Funds are allocated for any one of five qualifying purposes:
1) Business Attraction and Retention,
2) Merchant Organizing/BID Formation,
3) District Marketing/Local Tourism Initiatives,
4) Placemaking/Plaza/Public Space Activation/Public Art, and
5) Organizational Development/Project Management Support.

3. Chamber on the Go — Through Chamber on the Go, a NYC Council-sponsored initiative that began as a partnership between Council Member Robert Cornegy and the Brooklyn Chamber of Commerce, SBS and five local groups (four of which are Chambers of Commerce) bring City services to the storefronts of business owners across the five boroughs.[158] Trained personnel from the five CDCs visit business owners in neighborhoods to provide the following services:

- Conduct snapshot of a businesses' strengths and weaknesses;
- Recommend and connect business owners in need of assistance with free City resources from the SBS, Chambers of Commerce, and various local organizations;
- Provide immediate business support and make appointment for future services; and
- Answer questions and collect feedback on the challenges and opportunities facing a business owner's specific business community, commercial corridor, hub, etc.

Chamber on the Go targets neighborhoods that are not in BID zones and also has any one of these three characteristics – low to moderate income area (LMI), commercial corridor, or hub zone. In Fiscal Year 2016, SBS and the five organizations connected with over 2,500 small businesses in the city, with over 650 of them receiving services at their places of business or at an SBS office.[159] In Fiscal Years 2017 and 2018, the Council merged Chamber on the Go with other small business assistance programs and increased funding to $1.3 million in 2017 and to $1.9 million in 2018. The Council is currently considering broadening the program to new groups to provide the Chamber on the Go services.[160]

STREET VENDING

Retail diversity is also affected by the distribution and variety of street food vendors. Vending on New York City streets is a tradition as old as the City itself.[161] Vending has historically provided a ladder to the middle class, often for new immigrants, in a line of business that requires little v capital. Food carts and trucks are the smallest of small businesses and are natural incubators for concepts that can eventually become brick-and-mortar restaurants, allowing for experimentation and diversifying the food options available to New Yorkers.

Street vendor selling grilled meat in Chinatown

Since the 1980s there have been strict limits on the number of carts and trucks allowed to vend on New York City streets.[162] This supply-side limitation has resulted in an illicit market in which permit holders can illegally rent their permits for tens of thousands of dollars. People who wish to vend cannot get their own permit legally, so instead they must either work in someone else's cart, typically for low wages, or pay into the illicit market system.[163] This system is inconsistent with New York City's traditionally open attitude towards hard working vendors who provide inexpensive, delicious food as a means of supporting their families and who may one day open a brick-and-mortar location that adds further vibrancy to a New York City neighborhood.

Meanwhile, enforcement of street vending rules has been inconsistent and ineffective. Vending placement and health rules are complex, and police often would rather focus resources on more serious illegal activities than a misplaced vendor. Still, vending laws exist for a reason, and lax enforcement can result in conditions the laws are designed to prevent: sidewalk congestion, unsanitary food preparation, and nuisances such as overly smoky carts.

Photo credit: James Lloyd

Recommendation 14.

Help local nonprofits develop affordable commercial space in underserved areas

SBS and EDC should strengthen and expand policies to support local community development organizations in developing affordable commercial space in underserved areas of the city. The "United for Small Business NYC" coalition recently launched by the Association for Neighborhood and Housing Development (ANHD) is calling for the creation of "new financial tools to facilitate development of affordable commercial space by nonprofit entities."[164]

RECOMMENDATION

■ SBS should strengthen capacity for community development organizations to engage in economic development work.

– SBS should work to increase the capacity of local community development organizations as partners in economic development, including storefront commercial development issues, through expanded technical assistance and training programs. Every neighborhood should have a local community organization with the capacity to engage in these issues.

In recent years, ANHD has led a push for community development organizations to become more involved in economic development. Most local community development organizations in New York City and across the nation have historically focused on housing development and have limited expertise and capacity to engage in local economic development work.[165]

RECOMMENDATION

■ SBS and EDC should create a "Neighborhood Commercial Developer Fund" on the model of the recently created Industrial Developer Fund.[166]

– The Industrial Developer Fund program is an open rolling Request for Proposals for partial gap-financing assistance in the form of grants, low-interest loans, and loan guarantees, leveraging public funds to help projects receive private financing. Such a program applied to commercial development could help local community development organizations acquire and reactivate vacant commercial properties.

– A Neighborhood Commercial Developer program could also potentially provide support to community development organizations to lease and renovate vacant storefronts and sublease to local small businesses. Small businesses often lack the resources to renovate a storefront space and landlords are often unwilling to contribute to these costs. After the initial sublease is complete, the tenant could potentially be in a position to take over the lease directly.

RECOMMENDATION

■ SBS should create a "Retail Diversity Fund" — a new competitive grant program targeted specifically at the objective of neighborhood retail diversity.

– Such a program could be structured as an annual grant designated within each community district or council district to fund a local community organization to administer a participatory community process to determine a specific type of retail use that is needed or lacking in the neighborhood.

– The community organization could then use the rest of the grant to help identify and subsidize the location of such a business in the community.

SBS already administers numerous competitive grant programs designed to provide funding to neighborhood organizations or directly to small businesses to help fulfill specific economic development goals. These include Avenue NYC, Neighborhood Challenge, and Love Your Local.

Recommendation 15.

Continue to strengthen and expand Chamber on the Go

RECOMMENDATION

■ The Chamber on the Go initiative should continue to be strengthened and expanded in order to increase capacity to provide on-the-ground canvassing of neighborhood small businesses and offer direct assistance instead of relying primarily on requests for consultations from individual businesses.

The City Council funded Chamber on the Go for $688,855 in Fiscal Year 2017,[167] representing an enhancement of $100,000 from the Fiscal Year 2016 funding amount.[168] In Fiscal Year 2018, the Council merged Chamber on the Go with other small business assistance programs and increased funding for the combined programs by $600,000 to $1.9 million. The Council is currently considering broadening the program to allow additional groups to provide the "Chamber on the Go" services.[169] In addition to new groups, greater funding may allow the Chamber on the Go-funded groups to increase their ability to provide on-the-ground canvassing of neighborhood small businesses and increase their capacity to offer direct assistance to businesses.[170]

Recommendation 16.

Help graduates of incubators and entrepreneurship programs find storefront space

RECOMMENDATION

■ SBS and EDC should create a new program to help entrepreneurs find affordable storefront space by subsidizing a short-term initial lease and/or offering low-interest loans specifically targeted at graduates of incubators and entrepreneurship programs.

Administrators of business incubators and entrepreneurship programs often report that it is very difficult for their graduates to find affordable "step-out" space for their new businesses. For the retail and restaurant sectors, such programs include EDC's Brooklyn pop-up retail and food markets and the numerous food industry incubators locate around the city such as HBK Incubates in East Harlem.[171] Tenants of private co-working spaces and incubators such as the Foodworks incubator in the Pfizer building in Brooklyn could also be considered.[172]

A recent report by NYC Comptroller Scott Stringer supports targeting retail corridors with high vacancy for this kind of program and having local BIDs or community organizations administer with support from SBS.[173]

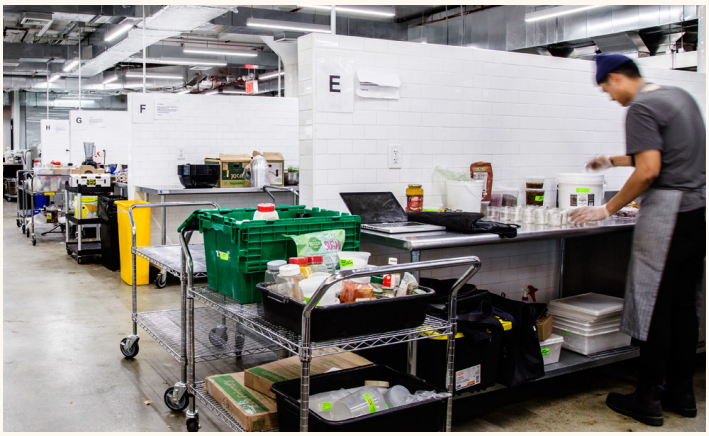


Photo credit: Brooklyn FoodWorks

Recommendation 17.

DeKalb Market

Create additional support for public markets and expand use of pop-up markets

RECOMMENDATION

■ The administration should improve its support of public markets by reforming their management structure to include a local nonprofit management organization and allocating more capital funds to their upkeep.

Public markets can both enhance the range of retail options to a neighborhood in addition to providing space for new businesses that cannot yet afford storefront space. Yet New York City seems to lag far behind other major cities in the nation. Philadelphia, San Francisco, and Seattle have the grand indoor urban public food markets of Reading Terminal Market, Ferry Building, and Pike Place Market, but New York lacks any comparable space.[175] Only four small indoor public markets remain throughout the city: the Essex Street Market and La Marqueta in Manhattan, the Arthur Avenue Market in the Bronx, and the Moore Street Market in East Williamsburg Brooklyn. These markets administered by EDC are islands unto themselves, not connected to a larger organization or policy effort. New York also has the GrowNYC and DownToEarth networks of outdoor farmers markets but most only operate from May to November.

Other cities such as Boston and Detroit have been much more proactive in cultivating both large central public markets and a network of smaller markets dedicated to providing space for local businesses and policy goals such as increasing the availability of healthy, affordable food.[176] Citywide networks of public markets have a long history of success in European cities like Barcelona.[177]

Photo Credit:
Michael Berman via Instagram

■ Rather than continue to administer the public markets from EDC offices downtown, the administration should delegate their management to local nonprofits. EDC would retain a presence on their boards to exercise oversight and would retain ownership, but day-to-day operation of the markets, to include leasing decisions, would be delegated. A local nonprofit organization would be better able to find local tenants to occupy the space and would be able to organize events to promote the markets. Additionally, a nonprofit organization would be able to accept funding from private organizations.

A very successful example of this type of organization, though in a different type of space, is the Brooklyn Navy Yard Development Corporation, which has been highly effective in finding tenants and using City capital monies to improve the Yard.

RECOMMENDATION

■ The administration should also expand support for temporary "pop-up" markets on vacant or underutilized sites, such as a the very successful DeKalb Market in Downtown Brooklyn or EDC's Brownsville and East New York markets.[174]

– Pop-up markets have been highly successful particularly as an interim use for vacant or underutilized spaces, and they allow entrepreneurs to gain experience and exposure in a low-risk setting. The administration should organize more of these markets in future.

Recommendation 18.

Reform regulation of street food vendors & increase number of permits

RECOMMENDATION

■ To increase enforcement and the ease of compliance, create pathways from vending to brick-and-mortar restaurants, and reduce barriers for entry, the administration and Council should work together to improve the regulatory framework for street vendors.

■ First, a designated enforcement unit should be created to exclusively enforce vending laws. The unit should focus first on those areas of the city with known vending enforcement challenges, and move to all areas of the city as compliance improves. Unit members should have specialized knowledge in vendor regulation and new tools to allow for more focused, consistent and effective enforcement.

■ The next step is to improve the ease of enforcement and compliance with changes such as street signs on blocks with no vending allowed, an app that gives a satellite view of legal vending locations, mandatory training in vending laws for all vendors, and a vending task force.

– The task force should include street vendors, brick-and-mortar small businesses, representatives from community boards and other community groups and city agencies including DCA, the Health Department and the NYPD, and it would examine the existing regulatory framework to look for duplicative, unclear, or unnecessary rules.

– The task force would also provide an opportunity for better communication and coordination between mobile and brick-and-mortar small businesses. Importantly, this taskforce should also examine how to smooth the pathway from vending to becoming a full-fledged brick-and-mortar restaurant, expanding opportunity for new vendors and growing the middle class.

Vendors and patrons at Vendy Plaza

■ Finally, after the dedicated enforcement unit has been in place for some time, the number of food vendor permits should be gradually increased each year. Priority for permits should go to those who have been working as vendors on others' carts, but who do not have a permit for a cart of their own, as well as for veterans.

– These new permits should fix the illicit market system by assigning permits to individuals rather than carts. This change would make it impossible to sell access to a permit, helping workers make a decent wage and freeing up permits from permit holders who have been cashing in on illegal permit transfers.

Photo credit: Zeina M. for Yelp

1000 Dean Street, Brooklyn - New Market Tax Credit recipient

Food Bazaar - 34-20 Junction Blvd, Queens - FRESH recipient

Tax Policy and Financial Incentives

Beyond zoning and land use development tools, the City also influences the retail and restaurant sector through financial incentive programs and tax policies.

IMPACT OF PROPERTY TAXES ON RETAIL TENANTS

Retailers are subject to several different taxes in New York City. Some, such as the sales and business income taxes, are closely tied to the income of a retailer, while others such as the commercial rent and property tax may not be. Indeed, some argue that recent increases in property values and property taxes are outpacing the income growth of some tenants, thereby eating into their profitability.[178]

As noted earlier, the past decade and half have seen strong growth in New York City's economy and retail landscape. While this has helped the growth of retailers, the downside is that it has also driven up market rents in many parts of the city. For commercial tenants including retailers and restaurants, the higher rents are often compounded by higher property-related taxes caused by higher property values that are driven by rising rents in a positive feedback loop.

The average commercial property tax bill jumped nearly 30 percent from Fiscal Year 2013 to Fiscal Year 2017, with the increases driven by valuation.[179] And while the property tax is legally the responsibility of the property owner, retail tenants often end up paying property taxes either directly through triple net leases, or indirectly through higher rents. "Triple-net" leases, which require the tenant to pay for building insurance and common area maintenance, all in addition to the rent amount, can

be especially burdensome for retailers as they are more directly and immediately subject to changes in tax liabilities, creating a more unpredictable operating environment.[180]

Landlords may be able to pass along some or all of property tax changes by adjusting the rents charged to tenants. But the extent to which this happens has long been the subject of economic study and is far from known.[181] Indeed, it is likely that the degree to which landlords can pass costs along through increases (or decreases) in rent will vary based on local market conditions, types of property, and a number of other variables. In fact, one could take the incidence argument one-step further, in that retailers might pass along their higher rents through higher prices charged to shoppers, in which case it may be consumers who pay for part of any property tax increase. But the feasibility of passing the cost onto consumers is limited by consumer expectations and competition.

While the degree to which higher taxes are passed through varies case-by-case, the mismatch between rising property valuations and tax bills in the city's hot real estate markets and the revenues of a neighborhood retailer or restaurant is a major factor straining the viability of many small businesses.

NEW YORK CITY CORPORATE TAXES

Small retailers and restaurants across the city pay either the General Corporation Tax ("GCT") or Unincorporated Business Tax (UBT) on their profits. Like other small businesses, small retailers that are registered as S-Corporations (S-Corps) or unincorporated businesses do not pay business taxes at the federal or state levels. S-Corporations are corporations that elect to have their corporate profits taxed like partnerships. This allows the corporation to avoid double-taxation by pass corporate income, losses, deductions, and credits through to their shareholders for federal tax purposes.[182] However, they are taxed by the City resulting in "double taxation" of the same profit. On the other hand, the City follows the lead of the federal government and New York State by taxing profits made by C-Corporations (C-Corps).

In 2015, the City instituted significant reforms to business taxes in order to reduce the burden on small businesses and conform the City's system with New York State's.[183] The City lowered the GCT rate for small non-manufacturing businesses (which includes retailers) organized as C-Corps, with net incomes up to $1 million, from 8.85% to 6.5%. Small S-Corps were not included in the reforms. To help reduce the impact of double taxation on small S-Corps and unincorporated businesses, the City has enacted some tax credits – including S-Corp against Personal Income Tax (PIT) credit, and UBT against PIT credit.[184]

As described earlier in this report, the city's two business taxes may also potentially influence a property owner's decision to warehouse a vacant storefront. Operating losses from a vacant storefront (zero revenues and ongoing maintenance costs) can be deducted from net income when calculating both GCT and UBT obligations.

COMMERCIAL RENT TAX IN MANHATTAN BELOW 96TH STREET

In addition to property tax pass-throughs, retailers in Manhattan are also subject to the Commercial Rent Tax (CRT). Currently, the CRT is imposed on commercial tenants located in Manhattan south of 96th Street with base rents of $250,000 or more per year, with a partial credit for rents between $250,000 and $300,000.

Currently, the tax applies in Manhattan below 96th Street with the following categories exempt.[185]

- Tenants with annual rents below $250,000,
- Tenants that are governmental or nonprofit organizations,
- Tenants located in the "World Trade Center Area,"
- Tenants occupying retail space in Lower Manhattan, and
- Tenants with rental periods of 14 days or less during the tax year.

The CRT was first imposed on June 1, 1963.[186] Beginning in 1977, the Council enacted several tax reductions that eliminated the tax for certain taxpayers and reduced the effective tax rate from six percent to the current rate of 3.9 percent.[187] In 1995, the CRT was eliminated on businesses located in the outer boroughs and north of 96th Street in Manhattan.[188] The rent exemption threshold was raised to its current level in Fiscal Year 2002.[189] Exemptions were also extended to Lower Manhattan under the Commercial Revitalization Program authorized in 1995.[190] In 2005, the State passed

Previous page photos: Google Streetview

legislation that exempted retail premises in Lower Manhattan and all tenants in the World Trade Center area from paying the tax.[191]

On November 30, 2017, the Council approved a bill that establishes a CRT credit, which effectively raises the rent threshold for small businesses. Beginning in Fiscal 2019, CRT taxpayers who report incomes of $5 million or less and who pay less than $500,000 per year in rent will receive a full credit for their CRT liability. Taxpayers who report incomes of $5 million or less and who pay between $500,000 and $550,000 per year in rent, and those taxpayers who report incomes between $5 million and $10 million and who pay less than $550,000 per year in rent will receive a partial, sliding scale credit. The credit is expected to benefit over 2,700 taxpayers once it is in place.

In Fiscal Year 2016, 10,999 premises were liable for the tax for a total estimated liability of $754 million.[192]

EXISTING TAX INCENTIVES & SUBSIDIES FOR RETAIL

New York offers a variety of tax programs to support and expand small business throughout the boroughs. While these tax programs do not directly target the retail and restaurant sector, many of them are applicable. The following list highlights the main programs that are suitable for retailers.

1. The Industrial and Commercial Abatement Program (ICAP) — The Industrial and Commercial Abatement Program (ICAP) provides property tax abatements for renovation or new construction of commercial and industrial real estate. ICAP is New York's largest commercial tax incentive program and was created in 2008 as a replacement for the expiring Industrial and Commercial Incentive Program (ICIP).[193] It is an as-of-right program, meaning that any development can qualify provided it meets the criteria, and the abatement can last up to 25 years.

In response to criticism that the old ICIP subsidy was an unnecessary and wasteful use of public resources, the 2008 reforms significantly reduced the level of benefits, especially for retail development.[194] In FY 2016, there were 442 abatements under ICAP with a tax expenditure totaling $28.4 million.195 An internal analysis of ICAP data by the City Council revealed that of the 442 properties that were receiving ICAP's multi-year tax breaks in Fiscal Year 2016, 113 were retail properties.

2. NYC Industrial Development Agency (IDA)
The City has the ability to provide discretionary tax benefits through a State agency called the New York City Industrial Development Agency (NYCIDA), administered by the NYC EDC. However, as these benefits must be applied for and negotiated, the beneficiaries tend to be larger companies and development projects than those supported in as-of-right programs.

Analysis of NYCIDA activity revealed that only 32 retail projects received any financial assistance through NYCIDA, and of those 15 were for grocery stores as part of the FRESH program. The process to accessing IDA benefits tends to be too complex and costly for small firms. NYCIDA funding is discretionary and negotiated, requiring professional and legal assistance, which takes an extended period-of-time to complete. The application process includes a preliminary assessment of eligibility, core application, application package, public notice, public hearing, Board of Directors review and vote, Tax Equity and Fiscal Responsibility Act (TEFRA) and Mayoral Confirmation. NYCIDA also requires a $5,000 non-refundable application fee in addition to closing fees if applicants are accepted to the program.

3. Local Economic Development Corporations
The city is also home to numerous local development corporations – subsidiaries of the Empire State Development Corporation that are empowered by New York State to issue bonds, grant subsidized loans and tax exemptions, exercise eminent domain, and exempt projects from local land use laws.[196] These local entities include the Atlantic Yards Community Development Corporation, Brooklyn Bridge Park Development Corporation, Harlem Community Development Corporation, Lower Manhattan Development Corporation, Moynihan Station Development Corporation, and Queens West Development Corporation. These local development corporations are associated with particular development projects or neighborhoods and can offer geographically restricted tax benefits or other subsidies.

4. Special Incentives for Lower Manhattan
The Downtown Alliance, the large BID that has responsibility for lower Manhattan, oversees a set of financial incentives created to spur recovery from the 9/11 terrorist attacks. These programs are geographically restricted and include the Commercial Revitalization Program, a property tax abatement of $2.50 per square foot that is passed onto tenants, and exemption from the Commercial Rent Tax.[197] Tenants must relocate

from within Manhattan to be eligible, minimum capital improvements of $5 per square foot of leasable space are required, and only buildings built before 1975 are eligible.

As the World Trade Center rebuilding nears completion, there is active debate about whether or not these incentives remain necessary.[198] Nevertheless, the program provides an intriguing precedent for a property tax exemption designed to be passed on to commercial tenants.

5. NYC Capital Access Loan Guaranty Program and SBA Loan Programs — Access to credit is a major concern for small businesses. According to the Federal Reserve's most recent Small Business Credit Survey, 22% of employer firms say managing cash flow is their top business challenge, above business costs and government regulations and taxes. 47% of firms surveyed had applied for credit in the past 12 months, and only half of those applicants received the full amount requested. 16% of firms that did not apply for credit were discouraged, meaning they did not apply for financing because they believed they would be turned down.[199]

The NYC Capital Access Loan Guaranty Program seeks to address this issue by providing up to a 40 percent guarantee on loans of up to $250,000 for qualified small businesses.[200] The program is open to retailers, manufacturers, wholesalers, nonprofit organizations, contractors, and distributors. Applicants must be located in the city and use the loan proceeds for working capital, leasehold improvements, or equipment purchases. The program provides easier access to competitively priced loans, access to a network of business lenders, and referrals to small business counseling and training programs administered by SBS. According to NYC EDC, the guarantees normally range between 20 – 40 percent and the average loan size is only $27,000. Over the last five years, the program has guaranteed 228 loans or lines of credit, leveraging approximately $1.5 million to secure $6.3 million in credit.[201]

The program is structurally similar to the 7(a) loan program offered at the federal level through the U.S. Small Business Administration (SBA), which typically serves larger businesses. The average SBA 7(a) loan is $371,628 and the program guarantees loans up to $5 million. SBA also has a microloan program which provides loans through intermediary nonprofit community based organizations of up to $50,000 to help small businesses start up and expand. The average microloan is about $13,000.[202]

6. State and Federal Tools to Subsidize Commercial Space — An existing federal policy tool that helps facilitate affordable commercial development in low-income areas is the New Markets Tax Credits program that provides a significant federal tax credit in exchange for investments in certified Community Development Entities.[203] In order to be eligible for New Market Tax Credits, a development must be in a census tract with a poverty rate of at least 20 percent or with median family incomes that do not exceed 80 percent of the Department of Housing and Urban Development's Area Median Income. Within the city, EDC helps facilitate the use of New Market Tax Credits, which are sometimes used to help finance the commercial or community facility parts of mixed-use affordable housing developments.[204]

At the State level, New York State's Rural and Urban Community Investment Fund (CIF) is another tool that subsidizes retail, commercial, and community facility spaces that are a part of mixed-use affordable housing developments statewide.[205] While this fund does not directly involve preferences for local ownership or affordability of the space, it attempts to make commercial space in these developments much more accessible to local businesses and community-based organizations by decreasing the level of debt carried on the retail component of a project. This may help addresses a common concern that affordable housing developers seek high rent retail tenants to subsidize the below-market residential units.

For Fiscal Year 2017, New York State Homes and Community Renewal (HCR) anticipates $31.3 million in available funding. The maximum amount a project can receive is $1.5 million for non-residential uses and $2 million for residential rural affordable housing preservation. 60% of funds are allocated for urban areas. Although a State program, CIF funding is intended to help support retail space in city-sponsored affordable housing projects.

Another State tool to incentivize commercial development is the State Metropolitan Economic Revitalization Fund, which offers low-interest financing to commercial development projects, including retail, in "economically distressed" areas of the city. The program provides loans up to $5 million or 10% of project cost and is typically used in concert with City and Federal programs together with private lending.[206]

Recommendation 19.

Incentivize property owners to offer affordable long-term leases

While the City and State have many tools to subsidize the development of new commercial space, the retention of specific individual businesses, support growth in a particular geographic area, and facilitate access to credit, New York lacks tools designed to support neighborhood retail diversity and the retention of small business providers of local service retail.

RECOMMENDATION

■ To encourage landlords to enter into long-term affordable leases with retailers who provide essential neighborhood goods and services, the administration should explore creating a new tax abatement and/or direct subsidy program.

– The administration should quickly move to create new stronger tools to incentivize commercial affordability in order to preserve retail diversity and the presence of essential neighborhood goods and services.

Small business providers of local service retail are increasingly under pressure as commercial rents climb. Businesses in some neighborhoods are facing rent increases of upwards of 50% on average. As the analysis of Economic Census ZIP code level data earlier in this report shows, the rapid rise in rent in Manhattan has a direct relationship with the loss of small businesses and retail diversity.

■ **Create a tax abatement to support affordable commercial leases**

– A commercial affordability tax abatement could be structured as a property tax abatement of a certain dollar amount per square foot in exchange for a property owner providing a commercial storefront tenant with a ten-year lease with an "affordable" renewal rider setting a maximum threshold for increase.

– The program could potentially be piloted in a specific geographic area and/or limited to a cap on total tax expenditure.

– It could also potentially be limited to small businesses and/or certain types of retailers.

In order to create a new tax abatement, the City would need to obtain State authorization. In addition, the administrative cost of tax breaks often makes it difficult to develop effective tax breaks for small businesses. Large firms may have or can hire tax specialists while small businesses may not even use a CPA. For example, the Council's Finance Division has found that users of ICAP, an as of right benefit, either used a specialized law firm or were aided by a local development corporation in accessing that benefit.[207] Implementation of the abatement as a part of a sound overall retail strategy by a City agency such as SBS vital to its success.

Note: tax expenditures are no different from any other part of the City budget. In order to give tax breaks, other taxpayers have to pay higher taxes and or city residents receive fewer services. The policy goal of any tax expenditure program should conceptually be at least as valuable to the residents of the city as senior services, homeless services, pre-kindergarten or the other services paid for by local tax dollars.

■ **Create a direct subsidy using a Legacy Business Fund Model**

– SBS should consider a direct subsidy program following the model of the San Francisco Legacy Business Fund, a program that incentivizes long-term leases for longstanding neighborhood businesses by providing ongoing annual support for both the business and landlord.

One direct subsidy program for small locally owned businesses—Love Your Local—was already launched in New York earlier this year. In Love Your Local, businesses compete for grants of up to $90,000 that can be used broadly to support the retention or expansion of the business through capital improvements, operational needs, or other uses, with longstanding businesses given preference.[208]

By requiring a rigorous qualification process, bringing the landlord into the program, and providing ongoing annual funding rather than a one-time grant, the San Francisco Legacy Business Registry and Fund may be a more effective way to structure a program intended to help retain longtime neighborhood businesses.

Recommendation 20.

Reform the Commercial Rent Tax

RECOMMENDATION

■ To help small independent retailers in Manhattan below 96th Street maintain profitability, the Council and administration should develop a long-term solution for CRT reform. As a first step, in November 2017 the Council passed legislation, with Dan Garodnick as the primary sponsor, to establish a credit that effectively increases the minimum rent at which business owners become liable for paying the commercial rent tax. Businesses with less than $5 million in income that pay less than $500,000 in rent will receive a full CRT exemption, and businesses making less than $10 million in income and paying less than $550,000 in rent will receive a partial exemption.

Prior to 2017, the CRT was last reformed in Fiscal Year 2002, when the exemption threshold was raised to $250,000 in annual rent from $150,000. Since 2002, commercial rents in Manhattan have skyrocketed, potentially causing smaller businesses to be liable for the tax. While it has never been easy to launch a business in New York City, recent high rents, corporate competition, and real estate development deals have heightened the struggles of small businesses, adding to the displacement of neighborhood retailers from hot markets. This report's analysis of Economic Census data shows that the number of small retailers and restaurants fell by 15-30% in most of the areas below 96th Street where the CRT applies.

Increasing the exemption threshold will ensure that more small businesses will be exempt while the market stabilizes. According to an estimate from the Department of Finance, the Council's recent legislation will benefit over 2,700 taxpayers at a cost to the City of $36.8 million, a relatively modest figure representing less than 5% of 2016 annual CRT revenue.[211]

San Francisco Legacy Business Fund

An alternative model for direct subsidy aimed at retention of longtime businesses, the San Francisco Legacy Business Registry and Fund is a new program approved by voter proposition in 2015.[209] Eligible businesses receive an annual grant of $500 per full-time employee per year, with a cap of 100 employees, and the landlord receives an annual grant of $4.50 per square foot in exchange for agreeing to a ten-year or longer lease. Grants are capped at $50,000 annually for the business and $22,500 annually for the landlord.

In order to be eligible, businesses must first be officially listed on the San Francisco Legacy Business Registry. The Mayor or a member of the Board of Supervisors may nominate any business or nonprofit organization that is at least 20 years old for inclusion in the registry. At a public hearing, the business owner(s) must meet three findings:

1. the business must either have operated in San Francisco for at least 30 years, or for at least 20 years if facing significant risk of displacement;
2. the business has contributed to the neighborhood's history and/or identity; and
3. the business is committed to maintaining the physical features or traditions that define the business.

A maximum of 300 businesses may be nominated annually. The city's Historic Preservation Commission is required to issue an advisory recommendation relating to finding (2).

Once on the Legacy Business Registry, the annual subsidy program then becomes available only if the property owner agrees to an affordable ten-year lease. In the program's first year of operation, 72 businesses or nonprofits qualified for listing on the Registry.[210]

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