



## Preserving Local, Independent Retail: Recommendations for Formula Retail Zoning in the East Village

*East Village Community Coalition - May 2015*

*EVCC works to preserve and protect the built and cultural character of the East Village*



*Preserving Local, Independent Retail* is the culmination of extensive research, analysis, and interviews with many people who were generous with their time and knowledge. Special thanks to Melanie Truhn for her extensive contributions in researching and writing this report and to Karen Loew of the Greenwich Village Society for Historic Preservation for her keen editor's eye. We extend our gratitude to those who provided additional support and consulting on the topic including Andrew Berman, Greenwich Village Society for Historic Preservation; AnMarie Rodgers, City and County of San Francisco Planning Department; Conor Johnston, Office of Supervisor London Breed; Joseph Getz, JGSC Group; The East Village Independent Merchants Association; our own Retail Diversity Working Group; and the members of the East Village Community Coalition who have remained dedicated to the matter of formula retail zoning for many years.

The East Village Community Coalition works to recognize, support, and sustain the built and cultural character of the East Village. This character includes a diverse population; low-rise, human-scale blocks and affordable buildings with historic and architectural significance; a multitude of community gardens; indigenous stores and businesses; and the neighborhood's history and ongoing tradition as a haven for those seeking freedom to express artistic, creative, and social concerns.

143 Avenue B, Simplex • New York, NY 10009  
 p. 212.979.2344 • f. 212.979.2129  
<http://evccnyc.org/> • [info@evccnyc.org](mailto:info@evccnyc.org)

# Preserving Local, Independent Retail

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The East Village is known for its colorful history of immigration, art, music, community advocacy and grassroots movements. Over the years the community has been home to a variety of artists, writers, and political activists — each group playing a significant role in shaping the neighborhood and creating the unique place that exists today. Today the East Village is one of New York’s most diverse neighborhoods, made up of residents from a variety of backgrounds and economic means.

Retail in the East Village has predominantly been made up of small, independent, local businesses. The small storefronts found throughout the neighborhood have provided affordable, low-risk opportunities for small business owners and local entrepreneurs. Today in the East Village a shift can be seen from independent stores to chains or franchises as well as from small storefronts to those with larger footprints. These stores are changing the landscape of the neighborhood by altering the shopping choices from independent to mass-market retailers. The expansion of these chains creates even more challenges for local, independent retailers.

Like many in other municipalities, the EVCC has determined that the presence of chain businesses can be detrimental to community character and local economies. *Preserving Local, Independent Retail* is presented as part of our Get Local! campaign launched in 2006 to promote a diverse retail mix of independent stores that reflect the neighborhood’s character and serve its population. Three possible methods of formula retail restriction zoning are proposed within the report. These options — aimed at informing decisions by East Village policy makers — have been crafted using case studies, legal suggestions and pre-existing zoning frameworks from other parts of the country.

As trends of gentrification and homogenization continue in New York, with respect to both the built environment and retail landscape, a timely solution is needed to preserve the individuality of the city’s neighborhoods. Placing restrictions on formula retail establishments via zoning amendments provides a path to preserving the rapidly changing East Village. Creating an East Village Special District using our framework will emphasize the importance and uniqueness of the community. Contact us to learn how you can help us create the Special Retail District the East Village needs.



Sara Romanoski  
Managing Director



Rendering of the Expansion of Chain Stores Projected at Avenue B and East 10th Street, Artist: David Leslie

Around the globe, localities are determining that the presence of chain businesses can be detrimental to community character and local economies. In London, San Francisco, Seattle, and numerous smaller towns, residents and local governments are voicing concerns about the effects of chain and “big box” stores in their communities.

*Formula Retail: “[A] retail sales establishment which, along with ten or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.”<sup>1</sup>*

San Francisco was one of the first cities to recognize the impacts of formula retail business and take action. The city enacted the first phase of its Formula Business Policy in 2004, which required that any formula retail store or restaurant must notify the community when attempting to move in. Since then, the city has not only enforced the policy, but strengthened it.<sup>2</sup> The residents of San Francisco value the unique feel of the city's neighborhoods and have striven over time to retain the distinctive sense of place that charms locals and visitors alike.

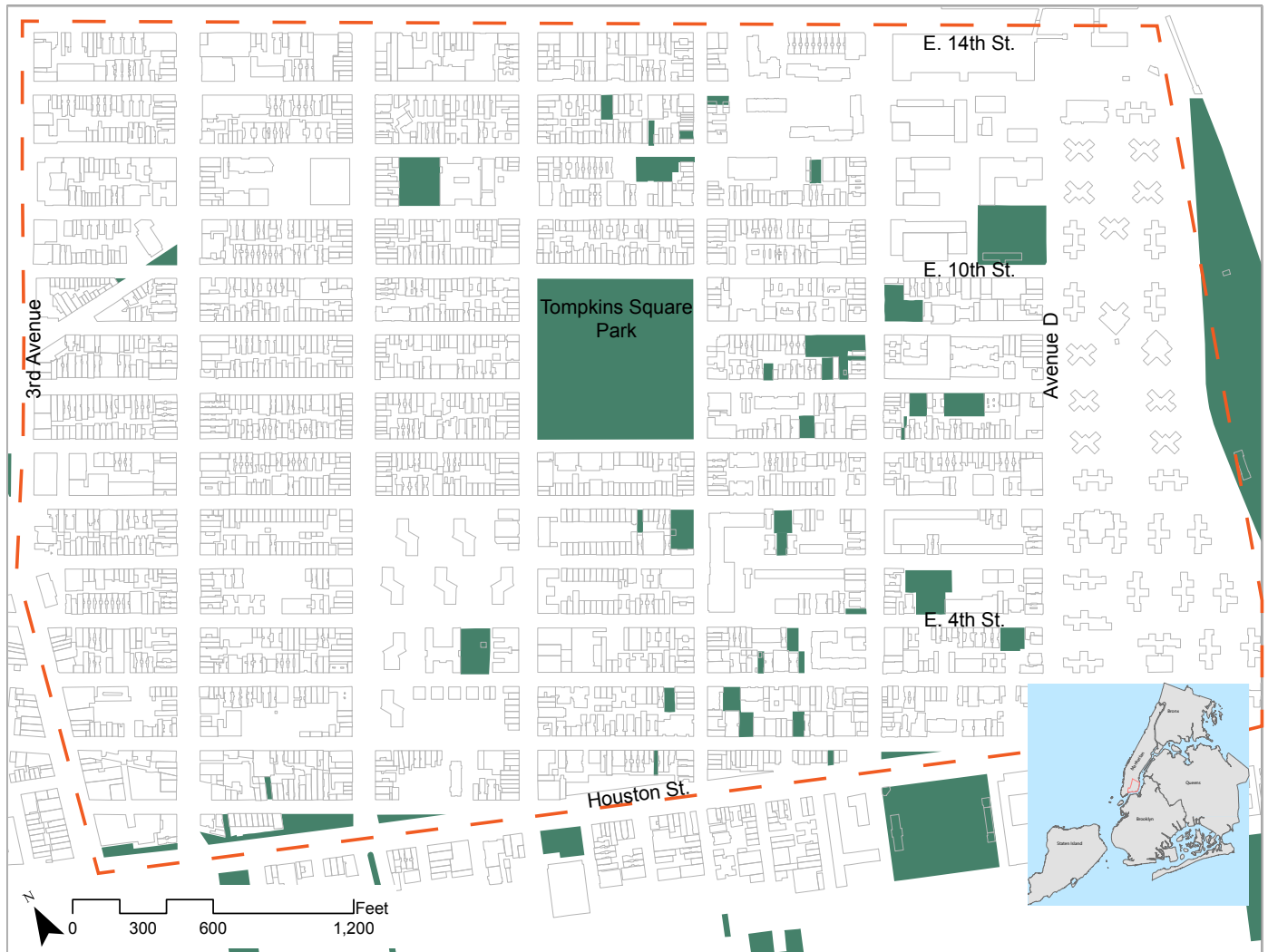
In New York City's eclectic East Village, the number of chain businesses moving into the 10009 and 10003 zip codes has risen markedly in the past decade. These stores are changing the landscape of the East Village by altering the shopping choices from independent to mass-market retailers, putting added strain on local businesses and constructing stores and facades out of character with the rest of the community. At the same time the East Village is experiencing a demographic shift, the neighborhood has become home to a younger crowd, often single and living with roommates. With the millennial population outpacing that of the baby boomers, their purchasing power is just beginning. Research by Boston Consulting, which defines millennials as those currently 18-34 years old, shows the group already accounts for \$1.3 trillion of annual consumer spending.<sup>3</sup> Therefore, their spending preferences and trends may affect the types of establishments moving into the East Village as their purchasing power continues to grow.

Longtime residents have noticed the change in their community. At a Retail Diversity Workshop convened by East Village Community Coalition (EVCC) in November 2013, residents unanimously decried chain stores in the neighborhood, while brainstorming about unfilled local retail and service needs, including everything from a shoe store to a cheesemonger to activities for youth and seniors. The group also brainstormed actions that can be taken at the individual, group, legislative and zoning levels to improve the condition of retail — and has demonstrated a commitment to staying involved in this issue.

A variety of initiatives can support local retail diversity, and EVCC annually publishes a “shop local” guide and has formed a merchants association. Due to the fast pace of change, however, the East Village needs to do more, and quickly, in order to retain its character before it is lost.

We call for a Special Purpose District in the East Village, similar to other districts created by the Department of City Planning in neighborhoods from 125th Street to Battery Park, Forest Hills to City Island. Special Purpose Districts employ zoning rules and regulations specific to each neighborhood that help maintain the unique sense of place in that area. Although the East Village was rezoned in 2008, there is more to be done to protect its distinctive history, culture, and population. In particular, regulating formula retail businesses attempting to move into the East Village will help preserve the uniqueness that makes the community so special to New York City, the country and the world.

## THE EAST VILLAGE



EVCC defines the East Village as the area bounded by the north side of Houston Street, the East River, the east side of 3rd Avenue and the south side of 14th Street.

THE EAST VILLAGE COMMUNITY COALITION (EVCC) IS A NEIGHBORHOOD NON-PROFIT ORGANIZATION THAT WORKS TO RECOGNIZE, SUPPORT, AND SUSTAIN THE BUILT AND CULTURAL CHARACTER OF THE EAST VILLAGE. THIS CHARACTER INCLUDES A DIVERSE POPULATION; LOW-RISE, HUMAN-SCALE BLOCKS AND AFFORDABLE BUILDINGS WITH HISTORIC AND ARCHITECTURAL SIGNIFICANCE; A MULTITUDE OF COMMUNITY GARDENS; INDIGENOUS STORES AND BUSINESSES; AND THE NEIGHBORHOOD'S HISTORY AND ONGOING TRADITION AS A HAVEN FOR THOSE SEEKING FREEDOM TO EXPRESS ARTISTIC, CREATIVE, AND SOCIAL CONCERNS.

IN 2006 EVCC PUBLISHED ITS FIRST GET LOCAL! GUIDE OF EAST VILLAGE SHOPS AND BEGAN INVESTIGATING THE EFFECT CHAIN STORES HAVE ON SMALL INDEPENDENT BUSINESSES, AS WELL AS THE REGULATION OF CHAIN BUSINESSES, SPECIFICALLY THROUGH THE USE OF ZONING. EVCC PLACES IMPORTANCE ON PRESERVING THE RETAIL DIVERSITY OF THE COMMUNITY AND ENSURING THAT RESIDENTS' NEEDS ARE MET BY THE RETAIL AND SERVICES PROVIDED WITHIN THE NEIGHBORHOOD. INSPIRED BY THIS MISSION, EVCC RESEARCHED, DEVELOPED AND AUTHORED THIS REPORT AND RECOMMENDATIONS. THE EAST VILLAGE IS LOCATED WITHIN LOWER MANHATTAN'S COMMUNITY DISTRICT 3.

## AN ORIGINAL NEIGHBORHOOD

### Culture

The East Village is known for its colorful history of immigration, art, music, community advocacy and grassroots movements. Starting in the 1800s, the East Village was home to immigrants from all over the world. In the early and mid-1900s it was a crucial spot for arts and advocacy movements.<sup>4</sup>

The community has strong roots in counterculture, especially on St. Mark's Place, where according to New York magazine, "Significant moments in counterculture history happened all along the street: Abbie Hoffman invented the Yippies at No. 30 in 1967; Andy Warhol, the Velvet Underground, and Jimi Hendrix performed at now-gone experimental nightclub Electric Circus, before it closed in 1971; and gallery 51X backed eighties-era graffiti artists like Keith Haring and Basquiat."<sup>5</sup> Today, St. Mark's is one of the most commercialized streets in the neighborhood, home to a Chipotle restaurant and, until it closed in December 2013, a 7-Eleven. Once lined with record stores, the last one on St. Mark's Place has recently shut its doors.<sup>6</sup>

In 2007 the New York Times Arts section published a feature titled "Paths of Resistance in the East Village," chronicling East Village history. Two lines from the article summarize the character of the neighborhood in a way that highlights what formula retail zoning would help protect: "It has often been ravaged by grueling poverty and neglect. But it was also an area of intense cultural activity that changed the world."<sup>7</sup> The feature goes on to highlight the importance of the activism and the tight-knit community in the East Village, discussing riots that took place in the community as early as the 1850s, the squatters of the 1980s and 90s, the rich arts created here, the community garden movement and CBGB's music scene. Documentarian Clayton Patterson is quoted in the article, touching on the fact that the East Village is transforming from a home to artists and activists to a destination for visitors: "[A] lot of artists did important work in the East Village...They were here because they could afford to live and work here. They can't anymore. Now it's the American Montmartre. Tourists come to see where the culture was."<sup>8</sup>

It is not surprising that the neighborhood also has a history of clashing with formula retail businesses. In March 1988, the Gap opened located at St. Marks Place



*The Eastside Bookstore, 34 St. Marks Place, circa 1975. The image shows a weath of small businesses along St. Marks Place. Source: Edmond V. Gillon via the Museum of the City of New York.*

and Second Avenue. Neighborhood small business owners and residents saw this as a signal of a changing population – not one they looked upon favorably.<sup>9</sup> Both residents and local business owners expressed concerns about the store changing the community. According to a Women's Wear Daily article: "The East Village is original. There is nothing like it," said Christine Braun, manager of Trash & Vaudeville, a store known for its funky to contemporary clothes. "But slowly it's changing and the Gap is a sign that there will be more."<sup>10</sup>

More recently a 7-Eleven took up residence at the corner of 11th Street and Avenue A. The announcement of its presence in the neighborhood spurred the creation of a new activist group, "No 7-Eleven." Its blog proclaims the mission: "No 7-Eleven' was created by New Yorkers to determine their own neighborhood land use in the service of their community. We intend to defend local commerce and community character from homogenized, corporate chain stores and franchises through publicity, boycotts, education, electoral pressure, legislative rezoning, direct action and community engagement."<sup>11</sup> The group sponsored weekend rallies in front of the store and posted articles about chain stores and local developments on its blog.

This resistance to chain stores is ingrained in the East Village's entrepreneurial history. The neighborhood's tenement buildings, with their small storefronts, have historically lent themselves to entrepreneurship and small business ventures. The physical condition and

small storefront size of the tenement buildings allowed a myriad of East Village residents to open brick-and-mortar stores at lower cost and lower risk than in other neighborhoods. Small businesses still make up the majority of companies within the East Village and New York City as a whole. According to the city's 2015 "Small Business First" report, "of the more than 200,000 businesses located in New York City, 98 percent are small (fewer than 100 employees) and 89 percent are very small (fewer than 20 employees)".<sup>12</sup> In addition, according to the New York City Small Business Congress small businesses are the largest employer of New York City residents and over 80% of these businesses are immigrant-owned.<sup>13</sup>

As chain stores move into East Village, storefronts and building compositions are altered, and the area runs the risk of losing the immigrant and entrepreneurial spirit that has made it a unique and special place to do business for so long.

The American Planning Association describes a great neighborhood as a place where the community has a local character that sets itself apart from other neighborhoods.<sup>14</sup> However, with an abundance of formula retail, a neighborhood loses the local character that sets it apart. This can reduce tourism for the neighborhood and lower profits for the independent businesses that remain. The city's official tourism guide, nycgo.com, highlights several must-sees in the East Village ranging from the local Mudspot coffee shop to the now-closed independent music and DVD retailer, St. Marks Sounds.<sup>15</sup> It is these unique, local stores and restaurants that create a neighborhood character that entices people to visit, keeps them coming back and persuades others to move in. As San Francisco Planning Department Director John Rahaim stated, "The feeling is that potentially, if you allow a number of formula retail stores, you lose the neighborhood character and locally owned businesses."<sup>16</sup>

The American Planning Association also cites attributes that benefit a resident's daily life as another must for a great neighborhood. As the retail mix continues to change in the East Village, it is to be determined if current stores are able to meet the daily needs of residents within their budgets. As further explained in the following section, the East Village is home to a variety of residents with a range of incomes and

budgets. It is important that all East Village residents have access to retail and services, not just those within a certain income bracket.

## Changing Demographics

The population of the East Village is changing. Not only is it growing, but also the demographics are different than they were ten years ago. These new additions are creating somewhat of a dichotomy with longstanding East Village residents. The new residents are mostly young, single people with higher incomes. At the same time, the East Village is home to a significant number of public and subsidized housing residents, who are often older individuals or families.

In recent years, the number of residents in the East Village has grown significantly. Several luxury housing developments and dorms have recently been built or are in the works. Additionally, roommate households are now using many of the units that used to house families. The East Village's total population increased 6.6% between 2000 and 2010, going from 67,375 to 71,789 residents.<sup>17</sup> This is 4.5% more than New York City's population growth from 2000-2010, and 2.9% more than Manhattan's growth over the same period.<sup>18</sup>

TABLE 1: EAST VILLAGE POPULATION INCREASE 2000-2010

	East Village	Manhattan	New York City
2000	67,375	1,537,195	8,008,278
2010	71,789	1,585,873	8,175,133
<i>Population Increase</i>	4,414	48,678	166,855
<i>Percent Increase</i>	6.6%	3.2%	2.1%

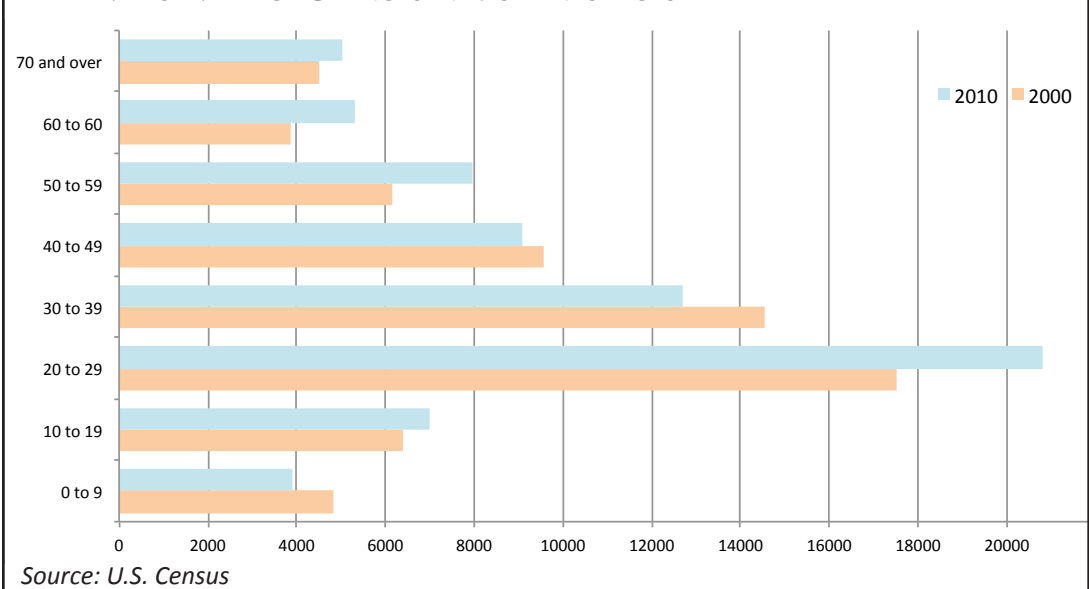
Source: U.S. Census

The community has seen the largest increase in the population aged 20-29, as well as those 50-90+ while the largest decrease was among those aged 30-39.<sup>19</sup> These numbers imply that the structure of the East Village population is changing. Families are leaving and transient populations such as young adults and retirees are increasing.

The population of residents in households and group quarters increased in the East Village from 2000-2010.



**TABLE 2: EAST VILLAGE CHANGES IN RESIDENTS' AGES**



this census tract and the number should not be seen as the norm for East Village.

According to Manhattan Community District 3's District Needs Statement for Fiscal Year 2014, 50% of CB 3's population (80,000 residents) receive income support.<sup>25</sup> The Needs Statement goes on to state that out of the 164,000 citywide NYCHA housing units, 14,000, or 8.5 percent of the total,

The population of householders living with a non-relative increased from 8,670 to 10,066 people.<sup>20</sup> Of those living with a non-relative, the population living with a roommate or housemate increased by 1,014, from 4,823 to 5,837 people.<sup>21</sup>

The largest increase in household type from 2000-2010 was in non-institutionalized group quarters, defined by the U.S. Census as facilities such as college/university housing, adult group homes, adult residential treatment facilities, workers' group housing and religious quarters.<sup>22</sup> The population of East Village residents in non-institutionalized group housing increased by 2,612 people, and the majority of the growth was in census tracts 40 and 42, which encompass the area bounded by 9th and 14th Streets and First and Fourth Avenues.<sup>23</sup> This is the same area in which NYU opened several dorms during the decade 2000-2010.

The East Village saw an increase in median household income in all census tracts over this period. The increases ranged by census tract from \$1,999 to \$33,792.<sup>24</sup> Geographically, the largest increases were predominantly seen north and west of Tompkins Square Park from Avenue B to Fourth Avenue, 9th to 14th Streets. There was one outlier in both median household income increase and location; the census tract area between Houston and 3rd Streets and Avenues B and D saw an increase of \$62,700 in median household incomes. Because the number lies so far beyond other increases in the area it is important to note that a new market-rate housing development was built within

are located in Community District 3. As the East Village constitutes 38% of Community District 3, it is safe to say that the community has a number of residents that fall into the aforementioned groups. In addition, Community District 3 lost 8% of rent-regulated units from 2002-2011.<sup>26</sup> A decrease in affordable housing options can cause excessive rent burdens and forced displacement from the East Village. While several longstanding residents will continue to reside in public and other regulated housing, a future lack of affordable housing choices may further alter the type of resident living in the community. The lapse of affordability programs and new construction is causing a larger portion share of East Village housing to be market rate. These additional market-rate units are attracting new and possibly wealthier people to the neighborhood.

All of these factors imply that the new population of the East Village is young, wealthy and mobile. The majority of the new residents are considered Generation Y or Millennials. This generation's population is outpacing that of the baby boomers and their purchasing power is just beginning to be felt. Research by Boston Consulting, which defines millennials as those currently 18-34 years old, shows the group already accounts for \$1.3 trillion of annual consumer spending.<sup>27</sup> Therefore, their spending preferences and trends may affect the types of establishments moving into the East Village as their purchasing power continues to grow. However, it is important that the preferences and needs of the new residents do not leave the long-standing residents without affordable retail and services.

## Built Character

In the late 1990s and early 2000s the demand for housing in the East Village increased and several out-of-scale developments were proposed or built in the neighborhood. In 2005 The East Village Community Coalition hired BFJ Planning consultancy to prepare “Rezoning the East Village: A Discussion Paper” in an attempt to curb the out-of-scale building. After three years of dialogue between the residents, Manhattan Community Board 3, community organizations, and the Department of City Planning, in 2008 the East Village was rezoned and the final plan reflected much of the proposal presented in the discussion paper. According to the Department of City Planning’s East Village/Lower East Side Rezoning overview website, the proposal aimed to 1) preserve the established neighborhood scale and character by establishing contextual zoning and districts with height limits, and 2) provide modest opportunities for residential growth and incentives for affordable housing along the area’s widest streets well-served by bus or subway lines.<sup>28</sup>

Additional mechanisms for the continued protection of the community’s built character are the designation of historic districts and landmarks. Currently there are three historic districts designated within the East Village: the East 10th Street Historic District (2012), the East Village/Lower East Side Historic District (2012) and the St. Mark’s Historic District and Extension (1969/1984). The New York City Landmarks Preservation Commission landmarks historic buildings or districts because they have a “special historical, cultural, or aesthetic value to the City of New York, state or nation, [and are] an important part of the City’s heritage.”<sup>29</sup> Each historic district represents styles of architecture typical of one or more eras in the city’s history. The three districts within the East Village help to preserve the aesthetic character of the neighborhood by placing oversight on building renovations, facades and upkeep. While these districts will help keep the East Village aesthetic alive, they do not influence what types of establishments may occupy the commercial spaces.

The East Village streets are made up predominantly of tenement buildings with lot sizes ranging from 18 to 25 feet wide. In the past, these small spaces were attractive to local proprietors looking to start a business for the first time. Today, larger retailers are adapting to these



*211 E. 5th Street is a prime example of the historic built fabric of the East Village. The tenement-style building features a 25-foot lot frontage with a residential entrance and two storefronts. Source: East Village/Lower East Side Historic District Designation Report, 2012.*

smaller, cheaper spaces, sometimes displacing local stores. As of August 15, 2014, there were 76 properties listed on LoopNet.com for lease in the East Village.<sup>30</sup> Twenty-five of the listed properties were located on a side street where commercial use is zoned for local-serving retail. Of that subset, 11 advertised spaces with more than 1,000 square feet, and the side-street spaces had a mean of 943 square feet. Among the remaining 51 properties located on the commercial overlay avenues, the floor areas ranged from 246 square feet to 11,700 square feet, with a mean of 2,306 square feet. The overall average-sized space available in the East Village was 1,857 square feet. (As a point of reference, the 7-Eleven on St. Marks Place that closed in December 2013 was 3,600 square feet.)

The East Village is rife with new developments and construction. Luxury mixed-use developments have been moving into the neighborhood since the mid-aughts

and will continue in 2015. Through new construction, the East Village will gain at least 170,993\* square feet of new retail space from 2013-2016<sup>31</sup> from mixed-use developments alone. This number does not include any new commercial-only developments, or existing space renovations. The layout of the retail spaces within these developments is largely unknown until construction is finished or a commercial tenant has signed a lease. As the developers make the majority of their profit from the residential units, the retail space is usually left as an afterthought and in some cases is unusable without renovations.<sup>32</sup> The retail spaces in these buildings are often expensive to rent as they are larger than existing storefronts and have new amenities.<sup>33</sup> Therefore it can be much harder for local, independent merchants to utilize these new spaces in the neighborhood.

Not only do chain stores have an easier time affording the newly constructed retail spaces, but they are now adapting to smaller spaces as well. Formula retail is usually thought of as big-box stores like Target, Walmart, Walgreens, and Old Navy. The square footage required for these chain stores can range from 15,000-30,000 square feet (Old Navy and other clothiers)<sup>34</sup>

to 135,000-180,000 square feet (superstores like Walmart)<sup>35</sup>. However, some chain stores are resizing and redesigning their stores to better suit urban areas. Target is now creating CityTarget stores as small as 70,000 square feet, half the size of an average suburban store.<sup>36</sup> While such a store is still too big to find space within the East Village very soon, it may be a sign of the future. Currently Walmart has a 3,500-square-foot store in Fayetteville, Arkansas to test small-store formats.<sup>37</sup> Given that the sample of vacant spaces in the East Village ranged from 246 to 11,700 square feet, with 33 of the properties being 1,500 square feet or larger, it is important to encourage leasing to local businesses in the neighborhood before formula retail businesses begin to compete, using their small-store prototypes that could move into the available East Village real estate.

Chain stores have a history — indeed, a goal — of uniformity, especially when it comes to their signage and facades. Until recently a Target in Ithaca looked just like a Target in Brooklyn, with its bold red typeface decorating store exteriors. These days, as mentioned above, chains are becoming more flexible with their stores’ appearances. However, uniform facades still

**TABLE 3: EAST VILLAGE NEW MIXED-USE DEVELOPMENTS 2013-2016**

Address	Cross Streets	Type	Retail Square Feet
7 Avenue D	Corner of 2nd Street	Rental	9,640
98-100 Avenue A	6th + 7th Streets	Rental	7,161
500 E. 14th Street	Corner of Avenue A	Unknown	39,310
524 E. 14th Street	Avenues A + B	Rental	14,219
438 E. 12th Street	1st Avenue + Avenue A	Rental	18,000
152-154 2nd Avenue	9th + 10th Streets	Rental	7,962
542 E. 5th Street	Avenues A + B	Rental	4,530
21 E. 1st Street	2nd + 3rd Avenues	Rental	10,832
24 2nd Avenue	Corner of 1st Street	Condo	7,000
432-438 E. 14th Street	1st Avenue + Avenue A	Rental	15,400
644 E. 14th Street	Corner of Avenue C	Rental + Community Facility	8,578
79-89 Avenue D	6th + 7th Streets	Rental	7,868
347 Bowery	Corner of 3rd Street	Unknown	10,800
67 Avenue C	4th + 5th Streets	Rental	1,843
11 Avenue C	Houston Street + Avenue C	Rental	7,850
<i>Total</i>			<i>170,993</i>

Source: EV Grieve, Curbed NY, and The Real Deal blogs

\*New construction square footage was calculated using periodical sources including: EV Grieve, Curbed New York, and The Real Deal. These sources depend on the New York City Department of Buildings, various real estate agencies, developer plans and other sources for their information.

exist and can often be out of place within an urban or even suburban environment. The avenues of the East Village are zoned with C1-5 and C2-5 overlays. With this commercial overlay zoning come regulations on storefront signage and lighting.<sup>38</sup> These regulations are meant to keep signage in the neighborhood at the same scale as the buildings and storefronts. However, there are no mechanisms in place to curb colors, patterns or out-of-character images from being placed on a storefront.

An example of chain store facades versus a contextual facades can be seen along First Avenue between 6th and 7th Streets. The west side of the avenue is composed of a variety of small-scale local shops and restaurants. Their facades have predominantly large windows, black or muted colored awnings, and almost no lighted signage. Across the street, however, is a different story. At the intersection of 6th Street and First Avenue the east

side of the street is home to a Dunkin Donuts/Baskin Robbins, McDonald's, Subway and Ricky's, lining the block almost all the way to 7th Street. These chains have brightly colored and sometimes lighted lettering, plus patterned flags hanging over the sidewalk. The chains scream for attention from passersby, using the same methods of attraction they would anywhere in the United States, or maybe the world. The west side, though, remains uniquely representative of East Village streetscape style. It is also important to note that some chain businesses do add unique elements to individual locations, such as the Rite Aid on First Avenue, which covered its facade with a nature-themed mural.<sup>39</sup> However, if left to chance, chain stores may not take an interest in matching storefronts to a neighborhood. It is when chain stores do not attempt to blend into the community's built context, and instead construct their predictably uniform facades and signage, that the unique aesthetic of the East Village will be dulled.



*The images showcase the differences between chain store facades and contextual East Village facades. The top photo shows the west side of First Avenue between 6th and 7th Streets. The west-side streetscape includes similar awnings and signage in more muted colors. The east side of the street, shown in the lower photo, is a stark contrast with large signage, massive banners and bright colors.*

## Presence of Formula Retail

Since the Gap on St. Mark's Place closed in 2001, other chain stores have been moving into the neighborhood. The Center for an Urban Future's (CUF) annual State of the Chains study counts chains in New York City by store brand and zip code. Since the study began in 2009, the East Village zip code 10003 has ranked among the three neighborhoods in New York City with the most chains, and has the second-highest number in Manhattan. Meanwhile, the number of chain stores in the East Village/Alphabet City zip code 10009 has remained limited.

Prompted by CUF's zip code analysis of the city, The Local - East Village blog wanted to see specifically how many chain stores were located within the East Village, which includes both the 10003 and 10009 zip codes. In 2012, reporters for the blog walked and mapped the East Village, bounded by 14th Street to the north, Avenue D to the east, East Houston Street to the south and Broadway to the west. Their counts found roughly 115 chain stores within the boundaries. When applying the East Village's common boundaries, of 14th Street to the north, Avenue D to the east, East Houston Street to the south and Bowery/Third Avenue to the west, roughly 63 chain stores were found.<sup>40</sup> The EVCC conducted a similar study in August 2014, a ground-floor use survey. The survey found that there are 63 chain stores located within the community, 47 along the avenues and 16 on the streets.<sup>41</sup> The study found that these 63 chain stores make up 3.60% of the total number of storefront spaces within the East Village.

EVCC is continuing analysis of the retail changes within the neighborhood. Through publication of the annual Get Local! Guide to Local Shops, a seven-year history of local, independent retailers and service providers has been generated. These records are organized by retail or service type, address, opening date and, if applicable, closing date. Data review will help identify trends that have reduced the diversity of retail and services available in the community.

The effect chain stores have on independent retail is not unique to the East Village. In fact, the New York State Senate Committee on Cities' 2010 Report "New York Retail...Serving the Public!" listed competition from national formula retailers as the second-biggest

TABLE 4: CHAIN GROWTH 2009-2014

Zip Code 10003		
Year	Number of Chains	Percent Change since 2009
2009	151	-
2010	166	10%
2011	169	12%
2012	179	19%
2013	171	13%
2014	164	9%
Zip Code 10009		
2009	20	-
2010	20	0%
2011	21	5%
2012	23	15%
2013	26	30%
2014	25	25%

Source: Center for Urban Future, State of the Chains reports 2009-2014

challenge to urban retailers in the state of New York, behind escalation of rent.<sup>42</sup> The report went on to suggest ways to address the problem. Several of their ideas align with what EVCC has found and suggests later in this report.

## EAST VILLAGE CHAIN STORES



Chain stores are not the norm in the retail landscape of the East Village. The EVCC's ground-floor use survey in August 2014 showed the neighborhood is home to 1750 storefronts, with 196 vacancies. Chain stores make up 3.60% percent of East Village businesses, yet they are stiff competition for the small independent businesses that are the majority in the area. The map shows the chain stores tend to occur in clusters throughout the East Village with the highest concentrations to the south and west of Tompkins Square Park.



## LOCAL BUSINESS SUPPORT

### Locally Based Businesses are Better for the Economy

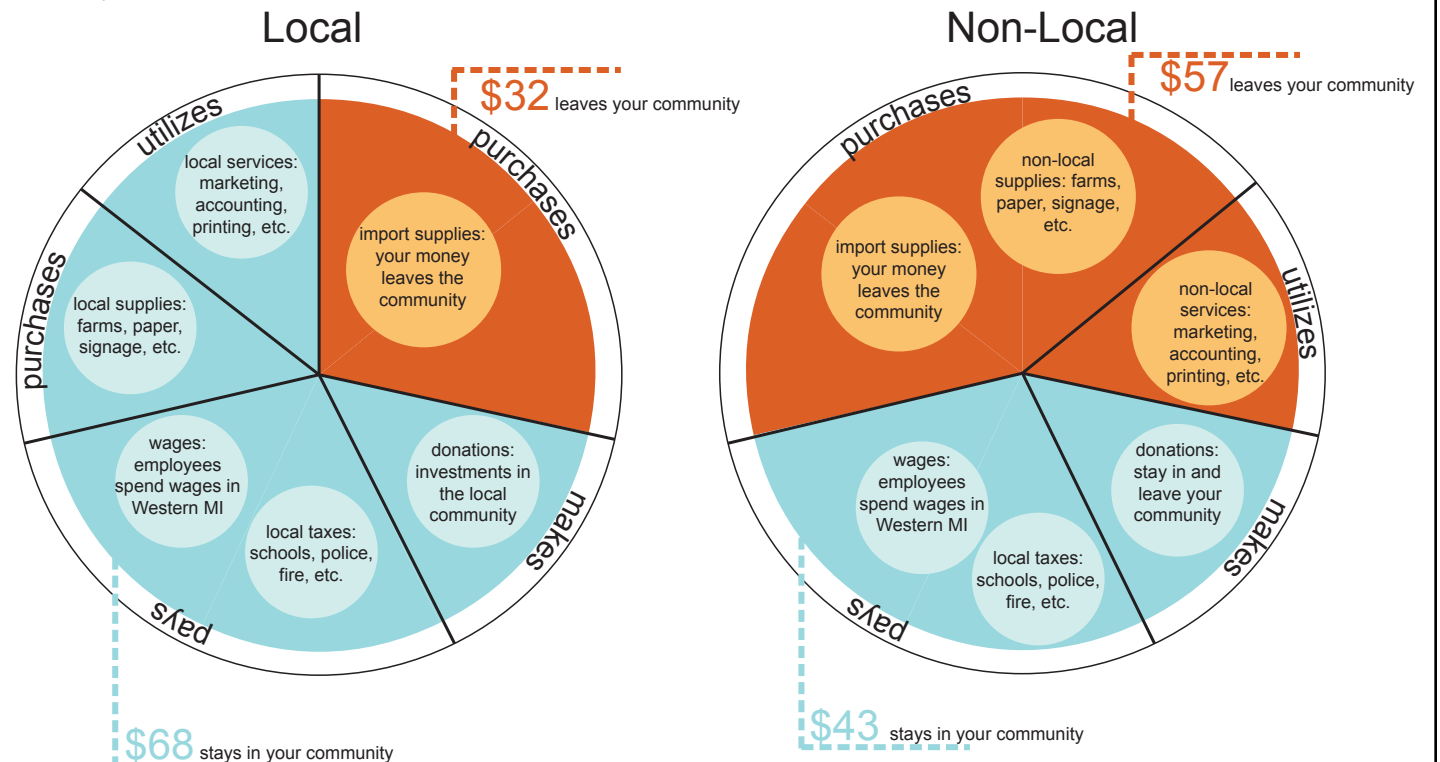
Local stores not only shape the character of a neighborhood, they also benefit the local economy. In contrast, formula retail businesses significantly divert resources from the local economy. A number of studies have compared the portion of sales returns to the local community from formula retail stores to those of local businesses. A 2004 Chicago study by the firm Civic Economics found that every \$100 spent locally created \$68 of local economic activity, but from \$100 spent at a chain store, only \$43 of local activity was created.<sup>43</sup> Another Civic Economics study, done in 2008 in Grand Rapids, Michigan, put the amount of money that stays local via local businesses even higher, at \$73 per \$100.<sup>44</sup>

According to elocal.com, a website designed to connect consumers with local businesses, similar returns have been seen throughout the United States, where typically “only about 33.6% of the revenue from national chains is reinvested into the community which is very low compared to the 64.8% return from local businesses.”<sup>45</sup> By spending money locally, consumers are investing not only in the store they are buying from, but into the

entire neighborhood through the amount of economic activity created by their spending.

In addition to economics, there are other reasons to support local business that may hit closer to home for some New Yorkers. Stacy Mitchell, senior researcher at the Institute for Local Self-Reliance, recently wrote about research that shows neighborhoods where “locally owned businesses make up a relatively large share of the economy have stronger social networks, more engaged citizens, and better success at solving problems.”<sup>46</sup> Mitchell also wrote that “research suggests you are roughly seven times as likely to end up in a conversation with another customer at a farmers market or neighborhood bookstore than you are at a big-box store.”<sup>47</sup> In the aftermath of Superstorm Sandy, which hit the area hard, we have learned that the ties existing in a community with local retailers, service providers and neighbors will be the most beneficial in times of crisis. According to the popular East Village blog EV Grieve, during Sandy’s impact and aftermath in October and November 2012, a number of businesses stayed open in the East Village, both chain and independent.<sup>48</sup> However, community commenters who thanked businesses that offered help during the storm predominantly identified independent, local stores and storeowners as those

TABLE 5: WHEN YOU SPEND \$100



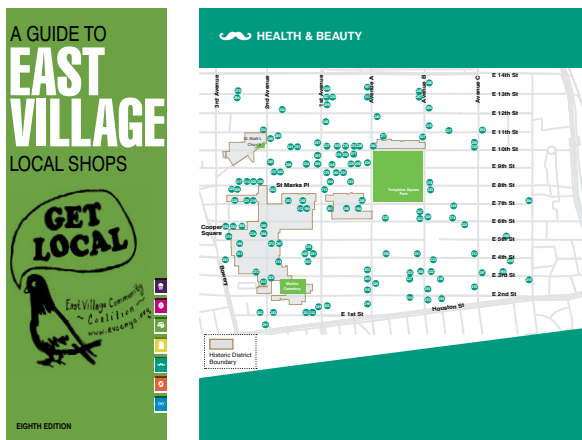
The chart illustrates how spending a hundred dollars locally and non-locally effects the economy. Source: LOCAL WORKS! Examining the Impact of Local Business on the West Michigan Economy, Civic Economics, 2008

who lent a helping hand to residents.<sup>49</sup> Commenters thanked local businesses for providing food, warmth, and services to residents when the neighborhood was dark and flooded.

Local, independent, small business owners are often live in the community, or nearby. Therefore these individuals are invested in the neighborhood both at a business level and also at a personal level. They take interest in community issues, appearances and events, and exhibit greater social responsibility.

## Tools for Local Business Support

Across the country, municipalities are taking charge of their neighborhoods and commercial zones through “shop local” campaigns, independent business alliances, and zoning ordinances designed to prevent the growth of formula retail. While individually these are all strong programs, when combined they have the ability to shape the economy of a neighborhood or a municipality.



### Shop Local Campaigns

In recent years, “shop local” campaigns have gained popularity across the nation, including EVCC’s own Get Local! Campaign and its annual printed guide to East Village local shops. The shop local movement has even garnered national attention from American Express’s Shop Small and Small Business Saturday initiatives.<sup>50</sup> According to the 2013 Independent Businesses Survey, “buy local” campaigns have a large effect on independent businesses’ revenue. The survey found that “independent businesses in communities with an active ‘buy local first’ initiative run by a local business organization reported average revenue growth of 8.6% in 2012, compared to 3.4% for those in areas without such an initiative.”<sup>51</sup>



### Merchant Organizing

Another strategy communities can use to strengthen their local character and retain a variety of independent businesses is to form a local business alliance. Differing from other types of business alliances in which groups are formed by industry category and not always focused on independent owners, the independent business alliance pulls together all small business owners in a geographic area. Independent business alliances typically have three main priorities: 1) educating the community about the value of independent businesses, 2) working together and sharing promotions, advertising, and resources, and 3) creating a strong voice for independent business owners in the community.<sup>52</sup> By aligning themselves, these businesses can create a strong network and address challenges facing the community.

In 2013 EVCC began working with small businesses owners to promote and advocate for the small and independent businesses in the East Village. Dubbed the East Village Independent Merchants Association (EVIMA) by the steering committee, the organization held its formal kickoff meeting in February 2014. Operating with the mission to connect, support and promote small and independent businesses in the East Village, EVIMA continues to hold regular meetings and serve as a resource for area small businesses.

### Zoning Solutions

Zoning regulations are the most effective way to manage formula retail. While zoning regulations will take time and effort to get adopted, they are also the clearest path to neighborhood preservation. There are several different ways to design and implement zoning changes. The best and possibly most complex example of a Formula Business Ordinance is in San Francisco, whose strict rules govern which neighborhoods may allow formula retail, how much formula retail is allowed within them, and where formula retail is banned altogether. Several of the neighborhoods that allow



formula retail do so conditionally and require public review before a permit is approved. “Conditional use” is a use that is not principally permitted in a particular zoning district, and when a conditional use is proposed, a public hearing must be held to determine if the use meets certain criteria.<sup>53</sup> At the hearing, the Planning Commission must take into account several things:

- Is there already a concentration of formula retail businesses in the neighborhood?
- Are similar goods or services already provided within the neighborhood?
- Is the formula business compatible with the character of the neighborhood?

Conditional use zoning is not the only preventive measure that can be taken to regulate formula businesses. Some cities have implemented restrictions on the square footage of formula businesses. Proving that not just large urban centers feel the effects of formula retail, in 2004 Bristol, Rhode Island — population 23,000 — passed an ordinance prohibiting any “formula businesses larger than 2,500 square feet or that take up more than 65 feet of street frontage from locating in the downtown.”<sup>54</sup>

In 2008, EVCC was the client of a Pratt Institute Graduate Center for Planning and the Environment studio project. The study focused on preserving the character of the neighborhood through a variety of methods ranging from creating more affordable housing to increasing transportation resources. The study included recommendations of formula retail zoning, the creation of a merchants association and a shop local campaign as tools to preserve the local and independent retail within the East Village.<sup>55</sup> In 2010, the Pratt Center for Community Development released a presentation entitled “Preserving & Strengthening Local Retail: Issues & Strategies.” The recommendations again included formula retail zoning, but also recognized neighborhood-serving zones as a useful tool for preserving local retail.<sup>56</sup> Those two reports, plus this one, aim to advance the goal of preserving the East Village’s unique character and maintaining independent, local-serving retail as the main type of business in the neighborhood.

New York State Assemblyman Fred Thiele (I–Assembly District 1) and New York State Senator Kenneth P. LaValle (R–Senate District 1) noticed the impact formula retail is having on the unique identities of many New York communities, such as their own on the East End of Long Island. Together in January 2013 they introduced legislation in the State Senate (S1771-2013) and State Assembly (A1216-2013) that would allow “local governments (to) have the authority under New York State law to enact regulations to address the issue of formula retail uses.”<sup>57</sup>

In the New York State Assembly, the bill is co-sponsored by Andrew P. Raia (R–Assembly District 12) and Michelle Schimel (D–Assembly District 16), and has additional support from James F. Brennan (D–Assembly District 44), Deborah Glick (D–Assembly District 66), and Claudia Tenny (R–Assembly District 101).<sup>58</sup> Recently, at the request of constituents, New York State Senator Brad Hoylman (D–Senate District 27, including most of the East Village) signed on as co-sponsor of the bill. The bill has been referred to the local governments committee since 2013.

The rationale for the bill, considered “enabling legislation” for the formal enactment of local rules, speaks to the very core reason and purpose of the proposed East Village Formula Retail Regulation zoning. The justification section in the legislation states,

*“Formula retail businesses, previously relegated to shopping malls, have invaded village and hamlet downtowns eroding historic character, aesthetics, and unique community character and identity, replacing it with the sameness of Anywhere USA. Many communities across the nation have acted to protect community identity by enacting restrictions and prohibitions on formula retail stores. However, in New York, the lack of express statutory authority has a chilling effect on local government action. There is a lack of certainty in New York over whether such regulations would be legal zoning regulations or an impermissible regulation of economic competition. This legislation would make it clear that such legislation is permissible so long as it is enacted pursuant to a comprehensive plan and for a legitimate purpose such as protecting historic character or community identity.”*

The bill's justification references the chilling effect, which when used in a legal context refers to an action that has a discouraging or deterring effect.<sup>59</sup> The language implies that municipalities may have taken action against formula retail businesses, except they felt they had no authority on the matter. If explicitly legal, local governments may have already taken action. If passed, the bill will give municipalities the legal right to take action in regulating formula retail businesses within their jurisdictions.

In addition to the supportive state legislation, the recommended East Village zoning changes would work congruently with two of New York City's regional plans. Both PlaNYC 2030 and the New York Regional Economic Council's 2011 Strategic Plan cite diverse neighborhoods and local small businesses as important factors in New York's future.

Preserving the city's neighborhoods is a main goal of PlaNYC 2030. According to the Housing and Neighborhoods section of the report, "Each neighborhood has its own distinctive character, history, and culture; maintaining this diversity plays a vital role in the continuing health of the city."<sup>60</sup> In addition, the city wants to work on broader neighborhood retail strategies to enhance the local shopping experience. The report specifically cites wanting to support the needs of small business as a goal in PlaNYC 2030: "The City will create a local retail zoning 'toolkit' that will expand the use of zoning tools to address specific retail issues facing different types of commercial corridors throughout the city."<sup>61</sup>

Additionally, the New York Regional Economic Council's 2011 Strategic Plan lists seven quality of life improvements needed for New York City's economic future founded upon the assertion that "diverse and thriving neighborhoods are the building blocks for a livable city."<sup>62</sup> According to the NYREC's Strategic Plan, New York City's traditional reputation as a concrete jungle is false, because in reality, the city is a collection of unique, dynamic neighborhoods that make it special. The report asserts "ensuring the distinctive flavor of each neighborhood in the city is critical to attracting and retaining the diverse population that is one of New York's most important competitive advantages."<sup>63</sup> The report goes on to state: "The regional council will establish a system to monitor critical baseline indicators

for these seven categories and, where appropriate, will look to integrate quality-of-life objectives with economic development projects and programs. The regional council will also seek to identify how state regulatory actions, legislation and policies can more effectively support these quality-of-life objectives."<sup>64</sup>

These movements to scale back formula retail business within citywide plans help validate and give momentum to local ordinances or zoning changes that could regulate chain retail within the East Village.

## *Proposed Regulatory Framework*

The most common change to an already existing zoning law in New York City is through the creation of a Special Purpose District. According to the New York City Department of City Planning's glossary, "The regulations for special purpose districts are designed to supplement and modify the underlying zoning in order to respond to distinctive neighborhoods with particular issues and goals. Special purpose districts are shown as overlays on the zoning maps..."<sup>65</sup> More than 20 special purpose districts can be found in Manhattan alone, with several more in the other boroughs.

According to New York land-use attorney Patricia Salkin, evoking protectionism of local retail could violate the U.S. dormant Commerce Clause and cause the zoning to be overturned in the long run. Instead, it is recommended that the ordinance or zoning change be written to clearly state that the "purposes are not protectionist in nature, but that they are reasonably related to preserving the unique community character that supports tourism, contributes to a higher quality of life for residents, and that would be threatened by the intrusion of inherently non-unique formula businesses."<sup>66</sup> Knowing that the goals of the East Village formula retail regulations are, in fact, preservation of the community's unique historical, built and cultural character legitimizes the legality of the zoning recommendations presented below.

Based on legal considerations and current New York City Department of Planning zoning mechanisms, three recommendations for curbing formula retail and strengthening local, independent neighborhood-serving retail in the East Village are laid out below. Some general information encompasses all three recommendations.

First, we have adopted the definition for formula retail currently proposed in the New York State Assembly legislation: "[a] retail sales establishment which, along with ten or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark."<sup>67</sup>

Second, as the streets in the East Village are already zoned for local-serving retail, that zoning language should be updated and enforced so businesses on the streets specifically meet needs of neighborhood residents. As defined by the NYC Department of Planning, Use Group 6 (local-serving retail) "consists primarily of retail stores and personal service establishments which:

1. provide for a wide variety of local consumer needs; and
2. have a small service area and are, therefore, distributed widely throughout the City.<sup>68</sup>

A more detailed and East Village-specific definition for local-serving retail could be created. The definition could address affordability, resident needs and saturation issues for the streets. The definition could be used by the New York City Departments of City Planning and Buildings to then enforce which types of businesses locate on the neighborhood streets.

Last, the New York City Department of City Planning should create an East Village Special District. The purpose of the East Village Special District will be to preserve and protect the unique retail and residential character of the East Village from Houston Street north to East 14th Street and from Avenue D west to Third Avenue. Within the Special District, formula retail can be regulated through the recommendations presented below.

If a Special District is established in the community the surrounding areas could see more pressures based on zoning changes made within the East Village. This may result in the need for the Special District to have slightly different boundaries than those presented for the East Village in this report or it may call for related guidelines in neighboring communities.

# Recommendation 1

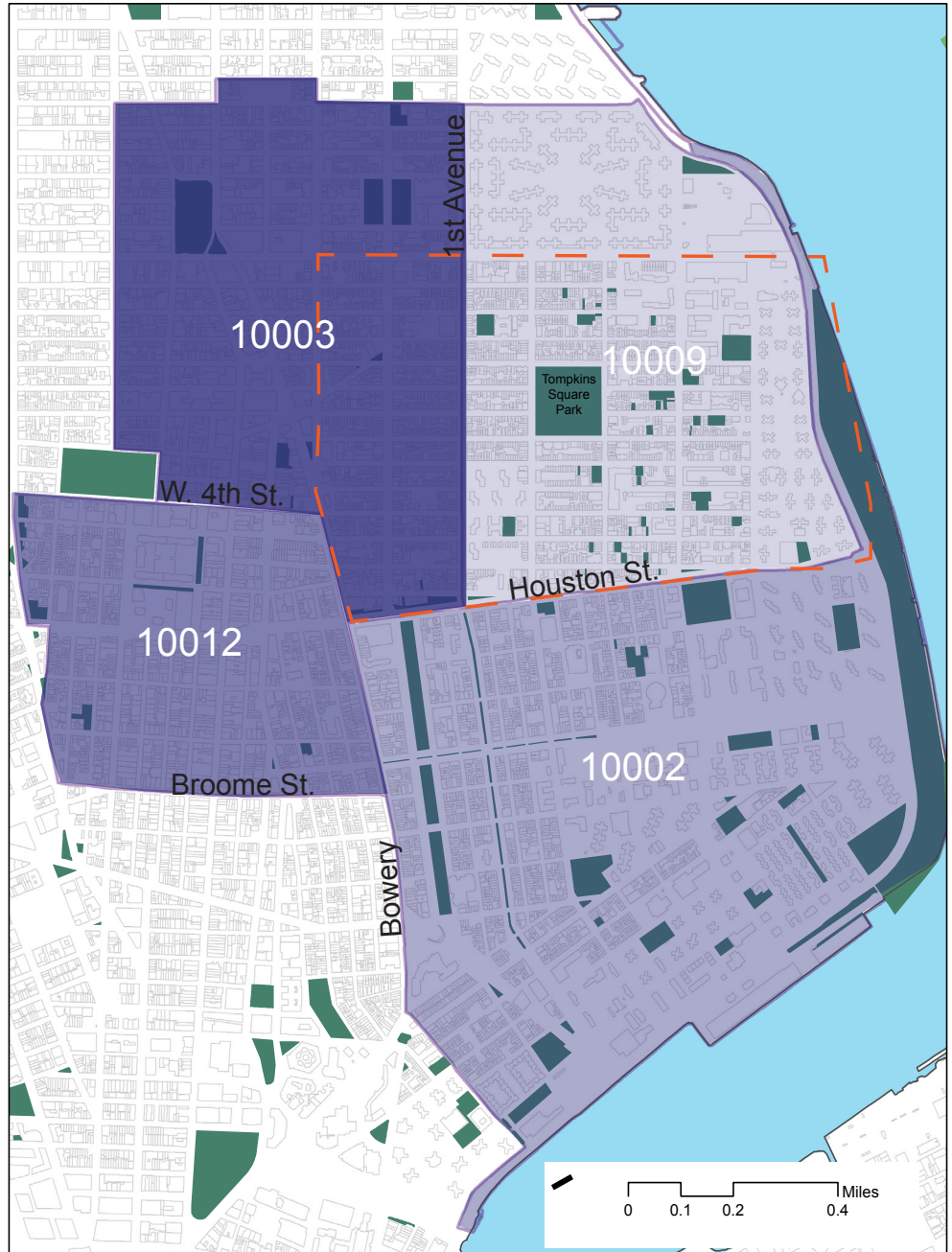
## FORUMLA RETAIL SURROUNDING THE EAST VILLAGE

### Formula Retail Ban

The most effective and simplest way to preserve the character of the East Village would be to ban all Formula Retail within the East Village Special District. By doing this, the historic, cultural and built character of the neighborhood would remain intact without being threatened by chain store competition.

Already the areas surrounding the East Village to the northwest, west and south are pressured by chain store expansion. Union Square, once only home to a grocer and a Walgreens, now hosts numerous chain retailers. The same can be said for West Broadway and its ever-increasing number of formula retail establishments. To the south, Delancey Street is lined with chain stores, including The Children's Place, Payless, Starbucks and Duane Reade. Many newer developments along Third Avenue are home to chain stores as well.

According to the Center for Urban Future's most recent chain store data, the zip codes immediately surrounding the East Village – 10002 (Lower East Side/Chinatown) and 10012 (Greenwich Village/SoHo) – were home to 161 national retailers in 2014. If you include the zip code of 10003 that overlaps with the East Village there were 325 chains total, of which only about 24 are located in the 10003 zip code area within the East Village boundaries defined by this report. The remainder, about 300 chains, are in the immediate areas around the East Village. As chains continue to fill the areas around the East Village, it becomes of greater importance to preserve the uniqueness of the neighborhood.



According to the Center for Urban Future's data, the zip codes immediately surrounding the East Village are home to many chain stores, 10003 having the most, followed by 10012, then 10002. The East Village zip code of 10009 has the fewest chains.

## Recommendation 2

### District-Wide Physical Regulations + Special Permitting

#### Part I: Grandfathered Non-Conforming Use

Within the East Village there are grandfathered non-conforming uses along the streets. These are the small-scale local-serving retail and services that cater to the immediate population surrounding the establishment, located on East Village streets with zoning categories R8B and R7B. However, if these commercial spaces remain vacant for two years they should be returned to their conforming residential use.

Formula retail establishments should be barred from locating along East Village streets within the areas of R7B and R8B. To date, most chain stores within the East Village have already found homes on the avenues, but in order to maintain the vibrant streets within the East Village, formula retail will be allowed only on East Village avenues in line with existing commercial overlays and only in compliance with conditional use requirements. Formula retail would be entirely banned from East

Village streets or anywhere without an existing C1-5 or C2-5 commercial overlay or full commercial zoning (Second Avenue, Third Avenue, etc.), leaving space in the community for true Use Group 6 uses: local-serving retail, provided by independent store owners.

#### Part II: Square Footage + Combining Storefronts

Tenements are the typical building style of the East Village and a tenement retail space is roughly 25 feet by 100 feet. Therefore, throughout the East Village commercial uses will be regulated to 2,500 square feet, to remain contextual with the built environment of the community. Some specific uses, such as grocery stores, could possibly be exempt from this square footage limit. Exemptions, if any, would be determined through the community planning process. In addition, combining storefronts between buildings will be prohibited throughout the district. If a proposed project does not meet the size requirements and the applicant is unwilling to modify the plans, the project will not be within the district.

Recently the combining of storefronts has resulted in the loss of two well-known East Village independent businesses. In January 2015, it was discovered that Duane Reade on Third Avenue and East 10th Street would expand and take over the storefronts of East Village Cheese and Excel Art and Framing Store.<sup>69</sup> The proposed regulation would prohibit situations like this, allowing for a

EAST VILLAGE EXISTING ZONING MAP



*The East Village Zoning Map showing the C1-5 and C2-5 commercial overlays along the East Village avenues. Source: New York City Department of City Planning, East Village Proposed Zoning Map, 2008*

combination of stores like Duane Reade, East Village Cheese, and Excel Art and Framing Store to co-exist as long as their stores were less than 2,500 square feet each.

### *Part III: Special Permit*

Formula retail will be regulated within the entirety of the East Village. Stores meeting the definition of Formula Retail will not be permitted within the East Village Special District without a special use permit granted by the City Planning Commission (CPC). Anyone seeking a Formula Retail Special Use Permit will be required to apply to the CPC and go through the Uniform Land Use Review Procedure (ULURP) process. On average the ULURP process takes 150-200 days, requiring reviews by the Community Board, Borough President, CPC and City Council. If interested, the Mayor is able to weigh in on the decision.

In order for a Formula Retail Special Use Permit to be approved it must meet the special use and neighborhood-serving criteria. The special use and neighborhood-serving criteria will be metric and methods-based, using numbers and statistics as the basis for permitting decisions rather than loosely translated discretionary decisions. These criteria may be created with the help of a planning consultant through various studies and research. The EVCC has conducted several studies that may be applicable to the criteria including: a retail market analysis, ground floor use survey, and vacancy rate calculation. EVCC's research could be combined with other already existing resources such the Center for Urban Future's State of the Chains as a way to expedite the process. Additional studies and research should include, but not be limited to: existing East Village commercial facades and designs, and an inventory of affordable goods located within the East Village and immediate surrounding areas.

The findings of these studies and surveys may be presented to the public at a workshop where community members can give input on the findings and help shape the criteria. The criteria could include, but not be limited to:

- Number of formula retail establishments per block
- Density/availability of like goods and services within predetermined radius

- Number of total formula retail establishments within East Village Special District
- Percent of total formula retail establishments within East Village Special District.

Metrics and statistics will help create consistency within the permitting process not always achieved by agencies using subjective discretionary criteria. If a Formula Retail Special Use Permit meets all of the criteria it will be granted. If it does not meet the criteria, the proposed project will have to be altered for approval.

The existing special use permit application and attachments would remain the same and, in addition, a retail market analysis and proof of lease or ownership would be required for a Formula Retail Special Use Permit. When applying for a Formula Retail Special Use Permit the standard ULURP process, public notifications, reviews and meetings would apply.

## *Recommendation 3*

### **District-Wide Physical Regulations**

Formula retail would only be regulated by the implementation of the previously described Formula Retail ban on East Village streets, the enforcement of the 2,500 square-foot limit, and the prohibition of combining storefronts from separate buildings. There would be no special permitting process, leaving the East Village commercial overlays open to formula retail.

While these physical regulations would most likely deter large-scale formula retail from developing in the East Village, they would not protect against smaller establishments such as Subway, GNC, Starbucks, etc.

## *Additional Regulation*

In addition to the three above outlined recommendations, EVCC believes that outreach should be done with the residents of the neighborhood before any Formula Retail store is approved. San Francisco currently has a neighborhood notification program that is composed of three steps. First, surrounding property owners, residents, and businesses are mailed a notification of the formula retail business attempting to

## TIME TO ACT

move into the neighborhood. Second, a large, window-sized poster is placed at the location of the proposed project, and third, an ad is placed in the San Francisco Chronicle to alert the entire city of the proposal.<sup>70</sup> While the East Village may choose not to follow these exact steps, it is a good model for guidance.

While Formula Retail poses a threat to the East Village's historic, cultural and built character, there are other types of uses that hurt the quality of life in a community. These can range from a limited number of daytime-serving businesses to a saturation of utility facilities. In short, any unbalanced community is not a healthy community. These metrics and recommendations could possibly be applied to other saturation issues within the East Village district. In addition, one regulation that may benefit the community could be the generalized closing time of 2:00 a.m. for all businesses that do not operate 24-hours-a-day. This type of ordinance could help improve the quality of life for residents within the East Village.

As New York City continues to experience homogenizing trends, with respect to both its built environment and retail landscape, a timely solution to preserving the city's individual neighborhoods is a must. The East Village has importance for the city both culturally and historically. It has long been the home of immigrants, artists and a diverse mix of residents. As demographics change and buildings go up and come down, longtime residents must know that their quality of life is not at risk. Protection and preservation of affordable goods and services as well as the built character within their community will help residents' sense of stability and allow them to stay in a neighborhood they have called home for some time. The history of retail in the East Village is that of local, independent merchants and it is important to ensure that these types of entrepreneurs are able to continue working in the community.

New York City agencies, the state legislature and even other neighborhoods all have communicated that they value protecting the unique places that make up our city. Through utilization of one or a combination of the proposed recommendations, the East Village can be preserved for generations to come.



Photo Credit: Steven Garcia

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