
THE PROMISES AND PERILS OF RACIAL EQUITY PLANNING

Lance Freeman, Ph.D.

OVERVIEW

- The COVID-19 pandemic has sparked a reassessment of land use planning and regulations that could result in major changes to New York City's built environment.
- This article explores the use of racial equity analysis—studies that consider the disparate effects of planning actions by race—as a means of addressing inequalities caused by past and current land use regulations.
- As an illustration, the author details an analysis conducted as part of the redevelopment of Brooklyn's Gowanus area. The analysis concluded that the proposed new development would reduce racial inequities.
- The article describes the benefits of racial equity planning, but cautions that such a tool could also be used to promote NIMBYism and thwart development in general.

The COVID-19 pandemic has prompted a reconsideration of approaches and actions regarding land use regulations and planning. This reassessment could result in big changes to New York City's built environment. Is there a role for racial equity planning in ensuring that any such changes are done equitably? This article considers the use of racial equity analysis as a tool to remedy the racial inequality that has been structured into the built environment through past and ongoing discriminatory and racially insensitive land use regulations and planning.

Racial equity analysis or planning refers to the use of planning studies in a way that explicitly considers whether there are disparate impacts by race resulting from planning actions. The logic behind racial equity analysis is analogous to the logic that underlies regulations requiring environmental impact statements (EIS): Just as other types of large-scale projects that cannot be built as-of-right (in other words, without review and approval by relevant authorities) are required to produce EIS to aid in understanding how the environment will be affected by development, racial equity analysis will help us understand how large-scale planning projects affect racial equity.

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The article begins by briefly describing the exclusionary history of land use planning in the United States, the legacy of these practices, and the ongoing need to explicitly address racial inequality. It then describes the case of the Gowanus Neighborhood Plan, a mixed-income development in Brooklyn, New York, and the racial disparity report that was crafted by myself and others as a way of examining how the project affected racial equity. Lastly, it discusses the promise, perils, and limitations of racial equity planning.

1. LAND USE PLANNING IN THE UNITED STATES

The historical roots of land use regulation and zoning in the United States underscore the need to explicitly consider the racial equity impacts of large-scale planning projects. The desire to exclude and separate “undesirable” populations from those more fortunate and powerful was present at the genesis of planning and zoning in the United States. From the use of explicit racial zoning in southern and border-state cities to the Supreme Court’s sanctioning of Euclidean zoning—which separates land uses by type (residential, commercial, retail, industrial) and was justified as a means of keeping “parasitic” apartment buildings out of single-family districts—zoning has been used as a tool to exclude (Hirt 2014).

Since the successes of the civil rights movement and the passage of fair housing laws, zoning’s exclusionary intentions have become more muted. For example, low-density single-family zoning is presented as a way to keep incompatible uses out of a neighborhood, rather than as a tool for keeping low-income minorities at bay (Einstein, Glick, and Palmer 2022). Putative race-neutral land use policy is the order of the day. Nevertheless, zoning and other land use policies and regulations still have the effect of perpetuating segregation and economic inequality (Einstein 2020; Trounstein 2018).

The paradigm of race neutrality is also present in other urban development activities, especially those related to economic development. Cities have pursued economic growth without consideration of its distributive consequences for race. Instead, the assumption has been that economic growth or housing production would trickle down to people of all races. The failure of a race-neutral approach to address the chasm of racial inequality is evidenced by the persistent racial wealth gap as well as the residential segregation that remains stubbornly high in many cities (Darity and Mullen 2020; Logan and Stults 2021). To overcome both ongoing and historical legacies of discrimination and segregation, the implications for racial equity must be considered during governmental decision-making processes. The scope of such analyses could include how the costs and benefits of any action are distributed across racial/ethnic groups, the risks of displacement disaggregated by race/ethnic group, and how the proposed development would relate to current patterns of residential segregation.

2. GOWANUS NEIGHBORHOOD PROJECT

The Gowanus neighborhood redevelopment project in Brooklyn was the site of a pilot racial equity analysis in 2021. In this section, I briefly describe the redevelopment project and the analysis that was undertaken as a way of illustrating what a racial equity analysis might look like. I am not proposing that this is the ideal type of racial equity analysis or that this approach cannot be improved upon. I have included it here simply for purposes of illustration.

The proposed project is a mixed-income development that will produce some 8,495 housing units, of which roughly 3,000 will be affordable (Paul, Freeman, and Kelly 2021). New York City, through legislation sponsored by Jumaane Williams, Public Advocate for New York City, and Rafael Salamanca, chair of the City Council Land Use Committee, adopted a new requirement to consider racial equity in land use policymaking through a racial disparity report. The racial equity analysis conducted for the Gowanus project examined the distribution of the market-rate and affordable units by race/ethnicity, how the development will affect residential segregation locally and citywide, and the risks of displacement. It also considered the economic impact of the project, including anticipated changes in businesses and employment opportunities and how these changes will manifest for different racial/ethnic groups.

The Gowanus area of Brooklyn attracted industry in the nineteenth century due to the ease of accessing the harbor from the waterways in the area. With the completion of the Gowanus Canal in 1869 and the improved access the canal provided, the neighborhood became a locus of manufacturing. The industrial uses and combined water/sewer system that dumped raw sewage into the canal during periods of heavy rainfall created severe pollution in the waterway.

Because of New York City's continued prominence as a center for the arts, finance, media, and information technology, many city neighborhoods have experienced substantial gentrification. With the cleanup of the Gowanus Canal, the Gowanus neighborhood has become part of this trend. The area has witnessed an influx of higher-income households, and housing prices for both owner-occupied and rental units have increased substantially in recent years (Paul, Freeman, and Kelly 2021).

The Gowanus Neighborhood Plan was many years in the making. The local Community District Six in Brooklyn had requested a study to develop a plan to help the community realize its ambitions for the neighborhood's future. The outcome was the Gowanus Neighborhood Plan, which the City of New York adopted in 2021. The plan includes the development of 8,495 housing units, of which 3,000 will be affordable to low- and moderate-income households. The plan also calls for mixed-use development, including commercial, industrial, and artist spaces. Significant investments in infrastructure will accompany the cleanup of the polluted Gowanus Canal (Paul, Freeman, and Kelly 2021). One of the outcomes of the plan was the rezoning of part of the neighborhood and implementation of the city's mandatory inclusionary housing (MIH) program, which requires that a significant component of new residential development be affordable to low- and moderate-income households. The housing affordability criteria are based on the U.S. Department of Housing and Urban Development's (HUD) area median income (AMI) and can range from 40 percent of the AMI to up to 115 percent of the AMI. The ambition is to create a mixed-used development that will provide opportunities for low- and moderate-income households to live in a high-opportunity neighborhood.

The racial equity analysis done for the Gowanus neighborhood consisted of three parts. First was an analysis of existing conditions and trends in the Gowanus area. Second, the racial equity impacts of the proposed housing component of the new project were considered. Last, the analysis considered the racial equity impacts of the proposed economic development component of the Gowanus plan. (See Table 1 for a summary.)

Our analysis of existing trends included examining the extant land uses in the area. We also examined the demographic composition of the neighborhood, focusing on race/ethnicity. Since the City of New York by policy gives preference to residents who reside in the community district of the proposed development, we also considered how the demographics of those receiving preference would vary depending on which community districts were considered as part of the preference catchment area. We did this because the proposed Gowanus project sits near three community districts in Brooklyn—Community District Two, Community District Six, and Community District Seven—though it sits within Community District Six. The analysis of existing trends and conditions also looked at trends in median household income and housing rents and prices in the area. We also considered the extent to which households in the area had access to affordable housing and rent-regulated housing. This information is important for considering the risk of displacement that could occur due to rising housing costs. All of our analyses were disaggregated by race/ethnicity where possible, to ascertain the racial equity implications of the existing conditions and trends in the area. The existing conditions and trends analysis also looked at economic conditions, including educational attainment, employment, and the occupational profile of residents in the area. Finally, as part of the analysis of economic trends and conditions, we examined wage levels for jobs in the area and trends in employment opportunities in various industries located in the area. We relied on data from the American Community Survey, the Department of City Planning, the New York City Housing and Vacancy Survey, and the Longitudinal Employer-Household Dynamics produced by the U.S. Census Bureau.

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Our analysis of the racial equity implications of the proposed housing first examined the likely rent levels of the various units, including the market-rate units and the units at different levels of affordability under the MIH program. We then examined the racial composition of households that could likely afford rents at those various levels. This analysis included units that would be set aside for the homeless. The analysis took into consideration the various community district preference scenarios (Community District Six alone, Community Districts Two and Six, or Community Districts Two, Six, and Seven) that could be implemented.

As part of our analysis of the racial equity implications of the proposed new development, we also considered how the new development might affect existing patterns of residential segregation. We used the likely racial composition of the new development based on the analysis described in the previous paragraph to simulate how residential segregation patterns in Community District Six and New York City as a whole, respectively, might change as a result of the new development.

TABLE 1
Key Elements of the Racial Equity Analysis of the Gowanus Neighborhood Plan

Element	Goal	Aspects Assessed
Current conditions	Analyze existing conditions and trends in the area	Demographics Current land uses Household income, rents, prices Access to affordable and rent-regulated housing Educational attainment, employment, and occupational profile Wage levels in the area Trends in employment opportunities in industries in the area How demographics would vary based on what districts were included in the focus area
Housing impact	Examine racial equity impact of the housing component of the planned development	Likely rent levels Racial composition of those who could afford rents at the likely rent levels Effects on existing racial segregation
Economic impact	Assess racial equity impact of the economic development component of the planned development	How employment in different industries in the area might change Racial composition of employees in those industries

The final component of our racial equity analysis looked at the economic implications of the proposed development. This part of the analysis examined how employment in different industries might change due to changes in the existing land uses. It also took into consideration the racial composition of the employees in these industries.

The overall conclusion of the racial equity analysis for the Gowanus Neighborhood Plan was that the new development would serve to reduce racial inequities (Paul, Freeman, and Kelly 2021). This is primarily because in recent years the Gowanus neighborhood has become relatively affluent and can be considered a high-opportunity neighborhood. The neighborhood is disproportionately white and middle- and upper-income. The MIH component of the proposed development, however, would provide access to this neighborhood for relatively low-income households. Because Blacks and Hispanics are overrepresented among low- and moderate-income households, the proposed development would increase the proportion of Blacks and Hispanics in the Gowanus neighborhood. This means, from a distributional perspective, that a disproportionate share of the benefits of the new development would go to Blacks and Hispanics, relative to their representation in the surrounding neighborhood. Because the Gowanus neighborhood is now disproportionately white relative to the rest of the city, the new development would also reduce patterns of residential segregation by increasing the proportion of Blacks and Hispanics in the neighborhood. Moreover, the Black population in the Gowanus neighborhood is currently concentrated in the public housing developments in the area. The new development would increase the number of Black persons living outside of public housing within the Community District and consequently would also reduce segregation within Community District Six.

This pilot study offers an example of how a racial equity analysis could be conducted. One challenge to undertaking the analysis was the paucity of neighborhood-level data with which to study the impacts of the proposed development on different racial and ethnic groups. A requirement of the new racial equity law adopted by the City of New York is that the Department of City Planning make available additional data at the neighborhood level disaggregated by race and ethnicity. Availability of such data should facilitate more fine-grained analyses of the impact of proposed developments in terms of racial equity.

3. THE PROMISE, PERILS, AND LIMITS OF RACIAL EQUITY PLANNING

3.1 The Promise

Racial equity planning such as that required by New York’s Local Law 78 represents a bold attempt to, at least in the domain of planning, move beyond a race-neutral approach and attempt to explicitly address racial inequities. It stands in direct contradiction to Supreme Court Chief Justice John Roberts’ argument that “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” In that court case, a Seattle school district took the race of students into account when assigning students to schools, a practice that some parents claimed discriminated against white students. Theoretical arguments aside, what can we expect from the law, and what risks does the implementation of such laws pose?

Ideally, racial equity would be used as a tool to ensure that historically marginalized groups are not unduly harmed by planning actions and, to the extent possible, that opportunities for these groups are enhanced. Thinking through the mechanics of what planning does, we can begin to envision the implications of this action. The power to plan typically derives from a state’s police power; states are called upon to use this power to protect the health, welfare, and well-being of residents, or what is sometimes referred to as the public good. The comprehensive plan, or some otherwise similar action or document, is where localities set out what the public good is and how the city aims to ensure it. Clearly, this would be an instance where racial equity analyses are warranted and would hopefully head off important racial inequities. For example, zoning ordinances that effectively exclude Black people and people of color from large swaths of a city due to large economic disparities between white, Black, and Latinx households would easily be identified for what they are, racially exclusionary policies. Policy-makers could more easily be taken to task for adopting such policies if these inequities were documented in a racial equity report. The siting of parks and other open spaces disproportionately in white neighborhoods would also be evident if racial equity analyses accompanied comprehensive planning. Racial equity reports would provide those advocating for racial justice with the evidence necessary to push for more inclusive communities.

Another opportune time for racial equity analyses is when planners engage in discretionary acts—proposing measures that deviate substantially from the existing plan/zoning ordinance or represent a major change to the built environment. In New York City, these include changes to the city map, the mapping of subdivisions, the designation of or a change in zoning districts, special permitting within the zoning ordinance, landfills, urban renewal projects, the site selection of

capital projects, and the acquisition or sale of city-owned land. These types of projects are subject to Uniform Land Use Review Procedures (ULURP) and would also require a racial equity analysis. In Boston, which has also adopted racial equity planning, these include residential projects or mixed-use projects that include housing that are undergoing “large project review” (in other words, projects that add at least 50,000 square feet of gross floor area, projects of varying size near Boston Harbor, and large projects that involve a significant change of use without new construction) and/or are part of a Planned Development Area. In Boston and New York, projects that trigger those cities’ respective planning review processes must undergo racial equity analyses. Other cities have similar criteria for triggering planning review. Such projects generally were not anticipated when extant plans or zoning were adopted. Because projects that trigger review were not previously evaluated under the extant zoning or plans, conducting racial equity analyses at this juncture provides the opportunity to review these plans for racial equity.

Thus, the review process often represents a critical component of the overall planning process. But comprehensive plans are undertaken infrequently; New York City has not redone its zoning code since 1961. These reviews thus represent a point at which the community can consider the type of built environment that is desired.

As Einstein, Glick, and Palmer (2020) show, it is during these review processes that opponents of new development, whom they call neighborhood defenders, engage in a plethora of actions to delay and sometimes kill projects. Moreover, the neighborhood defenders are disproportionately white homeowners who understandably seek to advance and preserve their own interests. Consequently, the interests of historically marginalized groups are often disadvantaged during these review processes. As Einstein, Glick, and Palmer write: “Lacking the time, sense of efficacy, and knowledge to participate, renters and other unrepresented voices stay home. Moreover, even those that do show up may find themselves intimidated by neighborhood defenders’ high levels of expertise. Most importantly, potential supporters have little incentive to show up at neighborhood meetings” (p. 144).

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This is a tragic irony. The large project review in Boston, ULURP in New York, and other planning review processes that allow for citizens’ input were developed and implemented, in part, as a means of giving communities some say against powerful planning “czars” like Robert Moses and rapacious developers (Rohe 2009), and a way to redistribute power from the powerful to the powerless. But too often that is no longer the case. Einstein, Glick, and Palmer conclude: “Instead of providing voice to underrepresented residents, planning and zoning board meetings amplify the voices of older, white homeowners” (p. 146). Although the authors are unable to document conclusively that race is a motivating factor, they do provide circumstantial evidence that suggests race is indeed implicated in many of the instances where review processes are used to halt development.

Racial equity analyses, if invoked in these scenarios, could perhaps serve to advance the interests of disadvantaged communities if it were shown that these communities would receive a disproportionate share of the benefits or if the project served to lessen racial inequities in some way. This might provide additional political momentum to support a proposed development. If the political objective is to reduce racial inequities, more information illustrating how proposed planning actions are related to these inequities should provide a first step toward this end.

The adoption of racial equity analyses in planning would also complement the affirmatively furthering fair housing (AFFH) requirements of the Fair Housing Act of 1968. There is considerable debate and difference of opinion between Democratic and Republican administrations on interpreting the meaning of the AFFH. Recently, Democrats have appeared to hew more closely to the spirit of the law, which sought to ameliorate decades of racial discrimination and the ensuing segregation in America's neighborhoods. Republicans appear more comfortable with a "race-neutral" approach, such as HUD's direction under Secretary Ben Carson when an attempt was made to implement AFFH by focusing on exclusionary zoning and the development of affordable housing (U.S. Department of Housing and Urban Development 2020). But whatever the political winds at the moment, it is clear that the law calls for some type of proactive planning to overcome enduring spatial inequality. Racial equity analyses could be helpful in both instances. In the case of a race-conscious approach, racial equity analyses are perhaps the type of actions envisioned by the framers of the Fair Housing Act. Racial equity analyses would explicitly consider how planning actions affect racial equity, including impacts on segregated housing patterns. But even in the case of a more race-neutral approach, racial equity analyses provide a framework for considering how planning actions are related to inequities in the built environment.

3.2 The Perils

In this discussion of racial equity planning as a tool to address the inequities that plague many American cities, I would be remiss if I failed to consider possible unintended consequences of the use of this tool. The most apparent pitfall associated with the adoption of racial equity analysis would be its use as a tool to further stymie new development, including that which might serve to address racial inequities. As a number of activists, policymakers, and scholars have argued, regulations of the built environment have been used for NIMBY purposes (Einstein, Glick, and Palmer 2020). Typically, new development that deviates from what is allowable under the extant land use regime must undergo some type of review. As described above, this is the point at which I would suggest that considerations of racial equity be put into effect.

The review process provides a window through which community planners and other stakeholders can ensure that allowing deviation from existing regulations is warranted. But that window can also be used to delay and even deny new developments. Sometimes new developments are denied based on the merits. But sometimes delaying can also serve to deny proposed developments. Requesting additional studies, disputing such studies, and engaging in other delaying tactics can increase the cost of proposed development to an extent that the developer simply cannot complete the deal. Einstein, Glick, and Palmer (2020) document how neighborhood defenders use these review processes to stymie proposed development. They describe how these defenders attempt to persuade planning board members to oppose new development, use real or feigned

expertise to point out the shortcomings of proposed projects, and threaten to, or do, file lawsuits claiming that the opposed development does not comply with all laws and regulations.

These efforts are successful not so much because the neighborhood defenders are always accurate or correct in their interpretations of laws and regulations or that they are exceptionally prescient and capable of anticipating potential problems arising from new development, but because their participation in the process and their opposition can change minds and dash or slow down the development to an extent that costs rise and the development is no longer feasible.

Requiring a racial equity analysis would be another box that would have to be checked for a development to win approval. Certainly, the potential exists for “defender” types to use it as a tool to block proposed developments. Undoubtedly in some instances, blocking the proposed development would be warranted on any number of grounds, including the impacts on racial equity. But it is also possible that a racial equity analysis done in good faith that demonstrates benefits to the community in terms of reducing inequities might get rejected if opponents are able to use the requirement to slow down the development process. Opponents could make claims about the inadequacies of the racial equity analysis, dispute its findings, or find other technical details to dispute as a way of slowing down and in some instances killing the proposed development.

In early 2022, the *New York Times* reported how activists opposed to the expansion of the University of California at Berkeley campus are using the California Environmental Quality Act, intended to protect the environment, to slow down and perhaps stop that expansion.¹ While racial equity planning is intended to reduce inequities, could it also be similarly weaponized as an additional tool to combat all types of development?

But we should not let NIMBYism and anti-development threats cause us to shy away from attempting to address racial inequities head-on

Perhaps. But we should not let NIMBYism and anti-development threats cause us to shy away from attempting to address racial inequities head-on. Instead, “we should give serious thought to the way that new development occurs and how community input affects such development. It is beyond the scope of this article, and it is not my intention, to address in depth the strengths and weaknesses of the current land use regime in the United States. But I will take this opportunity to make the point that while community input is important, we should try to think of a way to incorporate it so that its impact can at least be anticipated by developers. Successful developers are entrepreneurial and can adapt to a variety of scenarios if they can anticipate beforehand what the possible conditions might be. It is the unexpected and unanticipated obstacles that can increase the riskiness of a proposed development and make costs prohibitive.

In many local jurisdictions, the comprehensive plan is where the communities’ wants and desires for the built environment are spelled out. A comprehensive plan, as its name implies, should be comprehensive and, ideally, would be able to anticipate the needs and desires of the future as well. Perhaps it is in the formulation of the comprehensive plan where the battles over the built environment are best resolved. Undoubtedly, developing a comprehensive plan can be a long and contentious process. But a one-time battle, even if long and grueling, might be better than ad hoc revisions to out-of-date comprehensive plans that result in continuous

battles and negotiations for almost any new development. If a jurisdiction could create a comprehensive plan that is flexible enough to allow for different types of development, more “as of right” development could occur, the community’s interests would be respected and represented, and developers would know beforehand what is and is not likely to be approved in a particular locale. During the comprehensive planning stage, issues related to racial equity, environmental concerns, and other factors could be taken into consideration. Ideally, this would produce a scenario where there would be less need for developers to deviate from the extant land use regulations. As a result, more of the development that would occur would be “as of right.”

The scenario painted in the previous paragraph is perhaps idealistic. But idealism is sometimes the necessary motivator for innovation. My larger point is that we need to think of a way to allow for community input without its being excessively used as a NIMBY tool. If the aim is to reduce racial inequities, considerations of racial equity need to be a part of the development process.

3.3 The Limits

Racial equity planning is in its embryonic stages. It is unclear how widely adopted it will be, or how effective. We can hope that it will be adopted and will evolve to become a tool that truly does have an impact on persistent racial inequities. We can also hope that this occurs without unduly impeding much needed development in cities with especially tight housing markets. But we must acknowledge that even under ideal circumstances, racial equity planning alone will not erase America’s legacy of discrimination and segregation. Particularly in older cities where residential segregation and racial inequities are highest, influences on new development by themselves can have only a small impact. Inequalities in health, education, and wealth will only marginally be affected by assessments of new development. Over the long run, however, viewing the planning of new development through a racial equity lens could have a cumulative impact that does become significant.

We must also recognize that, for the most part, in the United States, planning is a local jurisdiction activity. There is substantial racial and class segregation within cities. But as Trounstein 2018 shows, such segregation between cities has been increasing. Thus, if a city adopts racial equity planning but its neighbors do not, inequities between cities might even increase. This point underscores the fact that the political geography of most metropolitan areas is fragmented and does not easily lend itself to the type of integrated and regional approaches that would be necessary to break down interjurisdictional inequities.

4. CONCLUSION

Racial equity planning represents an effort to address head-on longstanding racial inequities in American cities. Boston, New York, and Seattle are a few cities that have taken up the challenge of using this tool to try to redress the legacy of racially discriminatory planning and land use practices of the past. Such an effort would appear to be long overdue. After a flurry of legislation and initiatives during and immediately after the civil rights era, most urban policy

adopted a race-neutral tone. The race-neutral approach, while not engaging in the egregiously racist practices of the past, has not eradicated racial inequity in American cities. Residential segregation, although decreasing, persists and racial gaps in employment, health, and wealth persist. Racial equity planning is one step toward overcoming these persistent inequities.

The racial equity report produced for the Gowanus Neighborhood Plan was a pilot study illustrating how a racial equity analysis could be undertaken. The study illustrated the feasibility of such an analysis and highlighted the need for better data to enable more fine-grained neighborhood analysis. The study also documented that planning efforts have the potential to make a positive impact on persistent racial inequities.

While the Gowanus study showed the potential positive impacts of such analyses, planners should also have the foresight to try to prevent these racial equity requirements from being weaponized to delay and deny new development, unless such outcomes are warranted by deficiencies in the proposed developments themselves.

Racial equity planning alone will not undo the legacy of centuries of racial discrimination. There are too many other domains where racial inequality manifests, and our metropolitan areas are too politically fragmented to allow for the type of comprehensive regional approach that would be necessary to completely eradicate racial inequities. Nonetheless, racial equity planning does have the promise to make a substantial dent in the racial inequities that plague our cities.

NOTE

¹ See, for example, “Berkeley vs. Berkeley Is a Fight Over the California Dream,” *New York Times*, March 12, 2022, at <https://www.nytimes.com/2022/03/10/us/uc-berkeley-student-housing.html>.

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