

Simeon Bankoff, Executive Director, Remarks of the Historic Districts Council Regarding the proposed SoHo/NoHo Rezoning Plan (presented by Gregory Dietrich, Board Member)

The proposed SoHo/NoHo rezoning proposal has the potential to be profoundly damaging to the designated landmark properties of the historic districts it encompasses and to the practice of historic preservation throughout New York City.

The premise of landmark designation in New York City is dimensional in nature – the New York City Landmarks Preservation Commission regulates the physical appearance of designated properties, not their use. Under LPC oversight, a church may become a residence, a garage may become a theatre or a cold storage warehouse may become an apartment building. In all these cases, the LPC would assess the proposal on the standard of appropriateness, which only considers the effect of the proposal upon existing historic features and fabric. In the case of a historic district, the LPC also considers the effects of the proposal on the context of the existing, protected/regulated historic surroundings. This assessment of appropriateness looks at bulk, configuration, scale and appearance and development or alterations and are not permitted until the LPC deems it to be appropriate.

By contrast, properties which are not designated by the LPC as part of historic districts or as individual landmarks are regulated solely by the Department of Buildings as it interprets the underlying zoning code. This regulation looks at bulk, public safety, etc. and if those requirements are fulfilled, permission for development or alteration are automatically granted. An applicant can read the zoning requirements and draft a proposal for development which falls within those requirements with an assumption of permission. This, in a nutshell, is “as of right” development. The same cannot be said of development within a designated historic district which, by design, takes different standards into account before discretionary permission may be granted.

With that in mind, it becomes obvious that the fairest situation for property owners is when the underlying zoning conforms to the existing built environment of a designated historic district. In that instance, the development assumptions granted by the underlying zoning reinforce the existing context of the designated historic district, encouraging proposals which, by design, are more likely to meet the standards of appropriateness in their scale, bulk and relationship to historic context. In fact, there is a special zoning permit (74-712) which allows new development within certain historic districts to violate the underlying zoning in order to encourage development which is more contextual to the existing historic buildings.

Adjusting the underlying zoning to encourage development which is out of scale with the existing built environment, which this zoning proposal does, forces conflict into the regulatory framework – one city agency is encouraging actions which another city agency opposes. This baked-in conflict strains the system and is unfair to both property owners and the agencies. This is not an unknown fact or new situation. Over the past 55 years, many historic districts have been rezoned to bring the underlying zoning into better compliance with the LPC’s regulatory standards. Park Slope, Brooklyn Heights, DUMBO, the Upper East and West Sides have all benefited from post-designation rezonings which better aligned underlying zoning with preservation standards. It is sound urban planning to do so.

If adopted, the SoHo/NoHo Rezoning Plan will be the first time that HDC is aware of where the underlying zoning of a historic district is deliberately adjusted to be less aligned with the existing built environment. This disjunction replans a conflict between city regulations and undermines the preservation purpose explicitly put forward by the designation of these historic districts.

The Administrative Code of NYC, Section 25, Chapter 3 states:

The council finds that many improvements, as herein defined, and landscape features, as herein defined, having a special character or a special historical or aesthetic interest or value and many improvements representing the finest architectural products of distinct periods in the history of the city, have been uprooted, notwithstanding the feasibility of preserving and continuing the use of such improvements and landscape features, and without adequate consideration of the irreplaceable loss to the people of the city of the aesthetic, cultural and historic values represented by such improvements and landscape features. In addition, distinct areas may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable. It is the sense of the council that the standing of this city as a world wide tourist center and world capital of business, culture and government cannot be maintained or enhanced by disregarding the historical and architectural heritage of the city and by countenancing the destruction of such cultural assets.

This proposal seeks to countermand this finding.