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The SoHo-NoHo Re-Zoning Deception, and its Actual Purpose

City Hall has been driving the re-zoning proposal for SoHo-NoHo claiming it will create hundreds of new affordable housing units in a neighborhood that has been described in the media as universally wealthy and white. The City Planning Commission also set out to resolve the sales and financing problems for residential unit owners, one of the problems attributed to anachronistic 50-year-old Zoning Laws (written when SoHo-NoHo was a mix of factories and pioneering artists) that clearly needed to be addressed. Regrettably, most claims made to justify this re-zoning proposal turned out to be false: few if any affordable housing units will be created, instead, a flood of new office and retail construction will result from the substantial proposed increase in permitted building size, particularly along major thoroughfares, threatening to overcome the “appropriate scale” defense of this historic neighborhood, and potentially of other historic districts in New York and on a national level. This surrender to conventional planning theory will benefit a limited number of SoHo-NoHo real estate owners. The losers: the existing residents and those who really need affordable housing.

What is unique about SoHo-NoHo, besides its initial artist-only use, is the neighborhood’s **mixed-use** nature, from the macro level (building-by-building) down to the micro level, where each space could be used simultaneously for living and working without separation. This concept invented in SoHo-NoHo was the first such example in the US to be recognized by a Zoning Resolution, counteracting the prevalent 20th century planning theory that separated uses – living, working, commerce, industry – into exclusive zones. This still vibrant concept was much admired and copied all over the world, and is a principal basis of the neighborhood’s continued attraction, especially appropriate as Covid accelerated the trend to mix living and working on a unit-by-unit and neighborhood-wide basis.

The “stakeholders” and the CPC discussed for months how to preserve SoHo-NoHo’s specialness while fixing its problems, expanding the “artist” exclusivity to “makers” of all types, and finding ways to introduce affordable housing opportunities into an area with few underdeveloped sites. The proposal as revealed by CPC was surprisingly disappointing. More than just a squandered opportunity to build on what was invented 50 years ago, it’s as if City Hall decided to consciously exterminate everything unique about SoHo-NoHo, and to aggressively return this neighborhood to conventionality. To make it into just another Midtown with an Upper East Side flavor.

The CPC claimed this proposal would accomplish several goals. None will actually be achieved.

The Affordable Housing Rationalization will not work

Very few new affordable housing units will result from this rezoning (and many old ones will be lost). The few available large sites will go commercial: that has already been demonstrated by recent choices developers made to build new commercial buildings in NoHo, a choice that will be made even

easier by the 25% or 30% affordable housing requirement and the \$ 100/SF residential conversion fee. The CPC is relying on a theory that SoHo-NoHo is infinitely marketable and that the extra fees will not deter wealthy buyers. Market realities will put a lid on that and developers know this.

In the peripheral areas, outside the protected historic zones, the CPC proposed to go to ten times lot area, same as West 57th Street, double the existing limit: the new market values will surely trigger mass demolition, particularly in the large SE Zone, actually part of Chinatown, where more existing and actually affordable units will be displaced than new not-so-affordable ones created.

Most sites in SoHo-NoHo are small and most are already developed: none would yield enough new residential space to trigger the threshold for affordable housing. Even in the higher-yield “corridor” sites, it would be easy to avoid hitting that threshold by using a clever commercial/residential mix.

JLWQA “Preservation” will instead allow this unique type of mixed-use space to disappear

It’s truly a joke that a conversion penalty would be imposed on existing Joint Living-Work Quarters for Artists (JLWQA) and that the goal appears to be eliminate this legal special use, letting it die a natural or buy-out fueled death. No new mixed-use space would be allowed to be created by conversion or new construction. This substitution of goals is not what we discussed and a clear choice of the path to banality. It can also increase personal-use eviction risk for some rent-protected loft tenants.

JLWQA conversion to unrestricted residential, to allow financing or marketing to non-artists

The last argument for this re-zoning claimed it would resolve difficulties financing or selling SoHo-NoHo limited by present law to occupancy by Certified Artists. CPC would allow unrestricted residential use but charge the unit owner \$ 100/SF (\$ 250,000 for a classic 2,500 SF loft) to obtain a new C of O for unrestricted residential use. This solution will not work.

1. JLWQA and General Residential spaces are subject to incompatible zoning rules and requirements: converting one into another within a single building, or adding new residential space to the top, is made theoretically possible, but regulatory contradictions undermine their co-existence. The CPC failed to explore the process of changing one into the other: the process may not be possible in many buildings, and require difficult and deliberate work in other, smaller or corner buildings.
2. Getting a new C of O is very expensive and might reveal building-wide problems and require coop or condo upgrades that a unit owner might not want to pay for. Would the building assume such costs just so unit owners would qualify for market-rate mortgages? There are better solutions!

New unrestricted residential COs are achievable only in vacant or formerly commercial buildings: an option available to developers. This rationalization for the re-zoning is pointless. The few people that had a claim of being hurt by the JLWQA designation will not get anywhere with this proposal.

The CPC’s failure to find adequate ways for new construction to trigger the affordable housing program in sufficient numbers rather undermines the main reason for the proposal. Understanding that the argument for individual unit conversion does not work leaves the DCP proposal groundless.

Alternate Solutions

Instead of trying to find ways for JLWQAs and residential use to coexist in a single building, why not allow JLWQs to continue to exist, to allow new ones to be created, and even new JLWQ buildings to be built, but to open them up to a wide range of live-work users and perhaps to forgo any curatorial qualifications? This could be dealt with by a mere change of definition of the term "artist" in the Zoning Resolution, permitting JLWQAs to be occupied by non-artists, and by changing the definition of JLWQAs to allow them within post-1961 space or in new construction. Two options are possible:

- a. Making these "mixed-use" spaces unrestricted as to what you did (paint, sing, direct plays, invent widgets, sell stocks, does not matter). The area would remain an M zone (for Makers not Manufacturers, in this century) so one could make art or anything else, or one just live. Simple.
- b. One can create two classes of JLWQs – A's would be curated (with a reinvented approval by DCA or some other agency) and the M's would not be, thus would allow general living. To pass from the old JLWQA one would pay a fee, but no change in C of O would be required to pass back and forth. Enforcement would be needed. Thus restricted "A"s would remain a little more affordable. Any new unrestricted building could easily insert "affordable" JLWQA "artist-maker" units without Zoning contradictions – 25% of a classic SoHo 25 foot 6 story loft building is one affordable floor. One can mandate that SoHo-NoHo "affordable" be an "artist/maker" unit with no MIH threshold.

Outdated industrial preservation rules can be stricken, retail rules fixed, even building size adjusted without re-zoning the area or introducing conventional residential use. Updating the Mixed-Use rules would promote energy-efficiency and end use separations that promote commuting and single-use buildings and neighborhoods.

To actually create affordable housing, one would add the 25%-30% factor to all new construction, of any uses and even enlargements, without a triggering threshold, removing the "office" exemption. The off-site process will have to be re-thought: the present program is so complex no one had ever used it. Any retail over 10,000 SF and retail over 5,000 SF in any building with a less than 10,000 SF footprint would be subject to the 25-30% factor as well, or pay into the "Art Fund" the CPC proposed.

Since SoHo-NoHo has so little undeveloped space, beneficiary zones should include all of CB 1, 2, and 3, without a penalty for building off-site. Protections for existing affordable housing (particularly in Chinatown) should be built in, and an appreciable discount in SF area can be given in return for deeper affordability: the latter is what's needed, not rents set by middle-class income standards.

Conclusions

Besides a limited amount of "infill" residential construction and enlargement on small sites all fitting in below the affordable housing threshold, and development pressures leading to evictions and buy-outs of existing tenants, the real result of this up-zoning as presented would be the open floodgates of new commercial construction. The dramatic increase in office building size was a complete surprise to the community. Its imposition into and next to one of the world's most renown historic districts would leave Landmarks as the only agency to determine "appropriateness" and only for sites inside the district.

That this was the real goal of the rezoning proposal is made evident by the choice of rationalizations used by the CPC. The very first argumentation page (#7) of the 5/17/21 CPC presentation was about the "exceptional transit access", but a local increase of housing would not materially increase the use of public transportation: new residents would mostly travel to jobs in downtown Manhattan reachable by walking or by bike. Transportation infrastructure, particularly regional hubs, serve concentrations of 9 – 5 jobs, providing a destination to which residents of outer boroughs could efficiently travel to, and a draw for off-peak use by retail shoppers, tourists and restaurant patrons.

Another clue is Slide #19, emphasizing job density (#3 in NY) and retail sales (#2 in NY). The proposal reserves large buildings for 100% office use (Sound familiar? 50 years ago, the CPC tried to preserve manufacturing uses in exactly the same way): no affordable housing will thus be generated.

The third clue: which uses are proposed to benefit from a huge increase in permitted building size without any \$ 100/SF conversion fees or 25-30% affordable housing requirement? Offices and retail.

These results reveal the real rationalization for SoHo-NoHo's re-zoning: not only the outgoing mayor's parting gift to owners of commercial real estate in this area as some have charged, it points to City Hall's proposed re-positioning of SoHo-NoHo as a high-tech office and high-end retail area taking full advantage of the area's saturation with major mass transit lines and hubs (that would have been wasted if the area would develop into high-density housing, as offices produce far higher density per land area than housing thus a more effective use of city and transit resources, and generate a far larger income stream for the city in terms of real estate taxes, sales taxes and various payroll and commercial taxes than residential uses). This is the same principle used to plan massive FAR increases around transit hubs like Grand Central and Penn Station, and a regrettable reversion to 20th century planning theory advocating high density office and shopping cores surrounded by bedroom communities reached by centralized mass transit.

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