



DEBORAH J. GLICK
Assemblymember 66TH District
New York County

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Higher Education Committee
Intern Committee

COMMITTEES
Environmental Conservation
Rules
Ways & Means

**Testimony of Assemblymember Deborah J. Glick
Regarding the SoHo/NoHo Neighborhood Plan & ULURP
Zoning Text Amendment N210423ZRM
Before the Manhattan Borough President's Office**

August 23, 2021

Thank you for the opportunity to testify before you today regarding the application for the Department of City Planning's (DCP) rezoning proposal known as the SoHo/NoHo Neighborhood Plan. This application includes a significant change to the zoning code and text for the Lower Manhattan neighborhoods of SoHo and NoHo. As per the DCP, this Uniform Land Use Review Procedure (ULURP) is targeted at creating new affordable housing in downtown communities which are transit rich and do not currently have income subsidized affordable housing. The DCP further purports that this ULURP will aid economic recovery and small business development by expanding commercial uses and opportunities throughout the neighborhood while modernizing arts uses throughout these districts. Finally, DCP argues that an update to the current zoning in these neighborhoods will support the existing historic districts in SoHo/NoHo and allow for new construction only in areas where larger floor area ratio (FAR) is permissible.

Despite the nearly two-year process known as Envision SoHo/NoHo, an extended pre-certification timeline during which DCP held several listening session with the community, and review by Manhattan Community Board 2 (CB2), I still have serious concerns about this project and feel that the this Administration is ignoring the community's desires for their neighborhood. I agree with organizations like CB2 who claim that this plan falls short of the Mayor's affordable housing goals and continue to be concerned about subsidies funded by luxury development to produce affordable housing.

The harsh reality is that there is no guarantee this plan will produce any affordable housing, making it difficult to justify the other negative aspects of this plan. The City has chosen to leave out a workable solution for artists or those who live in Joint Live Work Quarters for Artist (JLWQA) lofts and instead included a fee thought to add to potential loss of an arts district in SoHo and NoHo. I am alarmed that retail concerns in SoHo and NoHo have not been directly addressed despite that they have been the subject of years of meetings and organizing on the part

of concerned citizens and elected offices. For these and other reasons, I believe that the Manhattan Borough President's Office should not recommend approval of this ULURP.

JLWQA & Legalization Mechanism Concerns

The SoHo and NoHo neighborhoods have a long history of housing artists, including JLWQA and other provisions for artist residences. I have successfully sponsored the Loft Law bill in the State Legislature, as well as any subsequent updates that would bring additional units into rent regulations under the New York State Department of Homes and Community Renewal (HCR). In 2016, I joined my colleagues Senator Brad Hoylman, then Senator Daniel Squadron, and Councilmembers Margaret Chin and Corey Johnson in writing to Mayor de Blasio asking if following the implementation of MIH and its partner program, Zoning for Quality and Affordability (ZQA), the city would pursue the legalization of Interim Multiple Dwelling (IMD) buildings. Despite the success of the Loft Law and the JLWQA program, there are still many non-certified buildings in SoHo and NoHo where artists live in unregulated IMD units. While an artist in that space may have a right to the apartment under rent regulation, they lack the full thrust of protections because the entire building has gone unregistered with the Loft Board. This is a voluntary delinquency on the part of the building owner/landlord and the city, who are tasked with enforcing this provision, but have failed to do so for many years.

As I understand it, this Administration's plan would eliminate Manufacturing Use Group 17-D for JLWQA units, which is specifically designed to legalize the particular uses which are seen in live-work spaces occupied by artists. If DCP's goals of creating significant housing in SoHo and NoHo are realized, I am concerned that the lack of protections for artists within the zoning code will create situations ripe for harassment and potential evictions. While SoHo and NoHo have become desirable in recent decades and the median income in these communities has dramatically increased, this may not necessarily be an accurate reflection of the financial situations for artists living in SoHo and NoHo. Throughout the Envision SoHo/NoHo process, community members repeatedly brought up the need to address JLWQA residents and their unique status. I am alarmed that DCP has chosen to disregard these community members and were unmoved when asked to make a special accommodation for these individuals.

Furthermore, as I understand it, DCP will allow JLWQA units to continue to exist within SoHo and NoHo even when the M1-5A and B districts are converted to residential uses. However, DCP has proposed an arts fund which will serve as the mechanism for converting their JLWQA unit—which only exists in manufacturing designations—to a fully residential space under the zoning change proposals in this plan. The arts fund imposes a \$100 per square feet fee charged by the city, which will then go into an arts fund run by the New York City Department of Cultural Affairs without any clarity as to how these funds will be utilized or any criteria for who might be eligible for them. While this a completely voluntary program, the arts fund fails to address residents who are currently legally conforming and would potentially be compelled to pay additional fees to bring their spaces into compliance with the city. At the same time this may make some people more vulnerable to eviction.

JLWQA units exist in mixed use and mixed designation buildings where some tenants are rent-regulated, market-rate, or own their apartments. It is a complex situation, and I am concerned

that DCP is choosing to rely on a blanket rezoning and the arts fund to solve this problem. JLWQA units are relatively few compared to the overall community; however, this does not mean those tenants and residents do not matter. During hearings held with CB2, representatives from DCP deflected questions about JLWQA units in mixed-residential buildings, especially those which may be governed by co-op boards. Clearly, a JLWQA tenant who lives in a co-op building could be outnumbered if their fellow shareholders chose to bring their building into compliance with the new zoning changes in the SoHo/NoHo Special Use District. If a building wishes to comply with the R-7 or R-9 designations, it is unclear if a JLWQA unit could be compelled to pay the \$100 per square foot fee for the dubious arts fund or face penalty from their board. While DCP claims this program is voluntary for the JLWQA unit, they are not considering the nature of co-ops which have other mechanisms to force a shareholder to comply. I am deeply concerned that this is a situation where the zoning change can inspire the loss of an artist's residence simply because of the bad policy.

Zoning Changes & Inclusionary Housing Programs

The DCP proposal includes the conversion of whole portions of SoHo and NoHo from M1-5A and M1-5B districts into one Special SoHo/NoHo Special Use District zoned for R-7 and R-9 designations. This plan would also create three special opportunity zones which would be mixed M1-6 and R10 designations located on the northeast, southeast, and southwest corners of these communities. These changes would result in significant potential height increases from the current 5 floor area ratio (FAR) to 6.5, 9.7, and 12 FAR allowances throughout the rezoned areas. These new FAR options are significantly higher than what is currently seen, and I am concerned that these height increases will only further add to the speculative environment which has harmed other communities in the past during rezoning proposals. These height increases are being justified by the creation of affordable housing they will allow. However, projections estimate that only 3,200 housing units will be created overall with the increase of FAR, of which 600 to 900 would be affordable. For context, Independence Plaza, which was built in the 1970s and for years existed under the Mitchell-Lama Housing Program, consists of 1,329 residential units. That is more affordable units in a single residential complex than this proposal even purports to create throughout the entire rezoned community.

The DCP proposal does not prohibit the mixing of commercial, retail, and community uses with residential construction. Given that this Administration is relying on Mandatory Inclusionary Housing (MIH) to construct potential affordable housing at 25% or 30% of new residential buildings if requirements are met, developers will be able to further build a luxury paradise in SoHo and NoHo. There are few backstops to curb the construction of buildings with retail on the ground floor and a mixed office residential use on the subsequent floors landing just shy of the MIH requirement of 25,000 square feet. Yet again, the fund which developers will have to contribute to as a penalty for not building affordable housing becomes their typical cost-of-doing-business rolled into the overall project cost. Additionally, because of the allowable increases in FAR, the proposal incentivizes developers to demolish low-rise buildings—or allow them to deteriorate until they are condemned—and then displace the remaining residents.

Inclusionary housing programs like MIH have had difficulty in the past and many policy professionals do not feel they live up to the policy goals they claim to accomplish. Research

surrounding inclusionary housing programs in New York City and in comparable cities in the US and elsewhere have shown that there are better policy mechanisms cities can use to achieve this goal. In 2017, Samuel Stein wrote in the *Journal of Urban Affairs* that zoning changes with MIH and ZQA have only further exacerbated affordable housing issues by causing real estate speculation when developers anticipate a zoning change and buy up properties, thus driving prices higher despite the goal of housing development.¹ Stein's research shows that the speculative nature of a zoning change displaces more residents in the period during which a ULURP is approved than the number of dwelling units (DUs) MIH proposes to create in the first place. Proponents of progressive housing policies have long held that inclusionary housing is a laudable goal and that all housing built moving forward should include affordable regulatory provisions and further ensure that neighborhoods truly are mixed income.

Finally, I am concerned about the increases in FAR in opportunity areas, which could go as high as 12.0 for residential buildings and 10.0 for commercial under the current proposal. This could result in potential building heights anywhere from 125 feet to 275 feet. While these areas are not within the historic districts seen throughout the DCP proposed rezoning area, they abut these them. I am concerned that tall buildings may create shadows in the SoHo Historic District and the NoHo Historic District which will detract from the character of these historic neighborhoods. Recently, the DCP voted to disapprove a proposal in Brooklyn where a development would have cast shadows over large parts of the Brooklyn Botanic Garden and the greenhouses which require sunlight in order to be functional. While SoHo and NoHo do not have the same specific concerns that the Brooklyn Botanic Garden have, these close opportunity zones can create negative conditions where light is denied to the historic districts. I raised the concern of shadows in my testimony during the scoping process for this ULURP and feel that further study should be done to better understand potential development and shadows in these areas.

Historic Neighborhoods

The DCP proposal includes areas within the SoHo Historic District and Extensions, the NoHo Historic District and Extensions, and the Sullivan-Thompson Historic District. These historic designations comprise large parts of the proposed SoHo/NoHo Special Use District and are at threat to great increases in the vertical built environment because of the new allowable FAR in the DCP proposal. I have long been skeptical of the claim that zoning changes will not affect the character of historic districts because of the ability of the Landmarks Preservation Commission (LPC) to review projects in historic neighborhoods. Experience in other historic neighborhoods with varying zoning designation like the Greenwich Village Historic District have shown that tall buildings and non-contextual structures can be built. The LPC can only consider the aesthetic quality of building applications before them, and has specifically stated that cannot consider height in the as-of-right context in a neighborhood.

The desire to see historic districts preserved is not automatically opposition to residential development or affordable housing. Too often, neighborhoods are forced to choose between

¹ Stein, S. (2017). Progress for whom, toward what? Progressive politics and New York City's Mandatory Inclusionary Housing. *Journal of Urban Affairs*, 40(6), 770–781.
<https://doi.org/10.1080/07352166.2017.1403854>

equally desirable and necessary functions. Communities are so often confronted with the false choice between housing and park space, or density and historic character. The city can construct new housing, preserve existing affordable spaces, and leave historic neighborhoods intact. During the Envision SoHo/NoHo process, there was a general consensus among participants that the historic quality of these neighborhoods should be preserved. I am astounded that the DCP has chosen to ignore this position while also throwing up their hands saying that they are not the LPC and are unable to consider the needs of historic districts. To my knowledge, LPC has not been consulted regarding this proposal and any preemptive opinion on the vulnerability of these historic districts was not considered as part of the DCP proposal we are considering.

General Concerns

Beyond the specific issues seen in this plan which affect neighborhood zoning, affordable housing production, and the general built environment, there have been several concerning aspects of how this ULURP and community engagement has been conducted. I see few changes in this plan which show that concerns raised in the Envision SoHo/NoHo process or that were brought up during the scoping hearing in December have been addressed or considered. Many people raised concerns over the three public engagement hearings this past winter which were answered but did not necessarily result in a clear change to the DCP—or this Administration's—goals in the proposal. This is unacceptable for the residents and community members who have given their time as part of the steering committee for the Envision SoHo/NoHo process and generally for the review of this ULURP. There is a social contract that if people participate in their government, their opinions will be heard and given serious and thoughtful consideration. This does not mean that all feelings of the public are weighed equally or incorporated, but community involvement should not be simply a box that is checked as it appears to be in this ULURP.

The problem of outreach as something to suffer through rather than a laudable and important feature has played out in the way DCP has interacted with the Chinatown community. As I understand it, many groups within Chinatown do not feel that their voice has been heard and are concerned that this Administration failed to adequately interface with residents. I have heard reports that there are still Chinatown residents who live within the rezoned area or in buildings that are prime targets for redevelopment who are unaware that this proposal is even being considered. This is due in part because this ULURP has been discussed during the COVID-19 pandemic while in-person meetings were not possible or generally avoided. All but three public meetings on this ULURP happened virtually and I am concerned that the overall community is unaware of what potentially may occur in their community.

Conclusion

For these reasons I am opposed to the SoHo/NoHo Neighborhood Plan and ULURP and encourage the Manhattan Borough President's Office to recommend denial of this proposal. It is clear that the development of affordable housing is needed in our communities and developing more equitable neighborhoods is the goal of most elected officials and community members in New York City. That is why I feel that building a successful New York of the future includes the construction of truly affordable housing without the seemingly necessary evil of luxury

development. This plan does not achieve this goal, and I feel that this Administration, along with state partners, should work together to create a more successful and equitable proposal. This includes honoring the commitment to JLWQA tenants and residents, preserving historic neighborhoods, and building housing in our dynamic communities that is in line with the needs of low- and-middle-income New Yorkers who can and do make vital contributions to SoHo and NoHo. In closing I believe this ULURP should not be rushed through just because this Administration is mere months from ending.

Thank you.