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October 20, 2021/Calendar No. 19C 210422 ZMM

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**IN THE MATTER OF** an application submitted by New York City Department of City Planning (DCP) pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos.12a & 12c:

1. changing from an M1-5A District to an M1-5/R7X District property bounded by West Houston Street, Mercer Street, Broome Street, a line midway between West Broadway and Wooster Street, a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, West Broadway, Broome Street, and a line midway between Thompson Street and West Broadway;
2. changing from an M1-5B District to an M1-5/R7X District property bounded by:
  - a. Great Jones Street, a line 100 westerly of Bowery, Bleecker Street, Lafayette Street, a line 122 feet southerly of Bond Street, and a line 140 feet easterly of Broadway;
  - b. a line passing through two points: one on the easterly street line of Lafayette Street distant 120 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the easterly street line of Lafayette Street and the other on the westerly street line of Mulberry Street distant 100 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the westerly street line of Mulberry Street, Mulberry Street, Prince Street, and Lafayette Street;
  - c. Prince Street, Lafayette Street, Broome Street, Centre Street, Grand Street, a line 100 feet easterly of Crosby Street, Howard Street, and Crosby Street; and
  - d. Broome Street, Mercer Street, the westerly centerline prolongation of

Howard Street, Greene Street, a line perpendicular to the easterly street line of Wooster Street distant 150 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Wooster Street and the northerly street line of Canal Street, Wooster Street, a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, and a line midway between West Broadway and Wooster Street;

3. changing from an M1-5A District to an M1-5/R9X District property bounded by a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, a line midway between West Broadway and Wooster Street, Canal Street, and West Broadway;
4. changing from an M1-5B District to an M1-5/R9X District property bounded by Astor Place, Lafayette Street, a line 100 feet southerly of Astor Place, a line 100 feet westerly of Fourth Avenue, a line 100 feet westerly of Bowery, Great Jones Street, a line 140 feet easterly of Broadway, a line 122 feet southerly of Bond Street, Lafayette Street, Bleecker Street, Mulberry Street, East Houston Street, Lafayette Street, Prince Street, Crosby Street, Howard Street, the southerly prolongation of a line 100 feet easterly of Crosby Street, a line perpendicular to the northerly street line of Canal Street distant 110 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of Canal Street and the westerly street line of Lafayette Street, Canal Street, a line midway between West Broadway and Wooster Street, a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, Wooster Street, a line perpendicular to the easterly street line of Wooster Street distant 150 feet

northerly (as measured along the street line) from the point of intersection of the easterly street line of Wooster Street and the northerly street line of Canal Street, Greene Street, the westerly centerline prolongation of Howard Street, Mercer Street, West Houston Street, and Broadway;

5. changing from an M1-5A District to an M1-6/R10 District property bounded by Broome Street, West Broadway, Canal Street, and a line midway between West Broadway and Thompson Street;
6. changing from an M1-5B District to an M1-6/R10 District property bounded by:
  - a. a line 100 feet southerly of Astor Place, Fourth Avenue, Bowery, Great Jones Street, 100 feet westerly of Bowery, and a line 100 feet westerly of Fourth Avenue;
  - b. a line 200 feet northerly of Broome Street, a line midway between Thompson Street and West Broadway, Canal Street, Avenue of the Americas, Watt Street, and Thompson Street; and
  - c. Grand Street, Baxter Street, Canal Street, a line perpendicular to the northerly street line of Canal Street distant 110 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of Canal Street and the westerly street line of Lafayette Street, and a line 100 feet easterly of Crosby Street and its southerly prolongation; and
7. establishing a Special SoHo-NoHo Mixed Use District (SNX) bounded by Astor Place, Lafayette Street, a line 100 feet southerly of Astor Place, Fourth Avenue, Bowery, Great Jones Street, a line 100 feet westerly of Bowery, Bleecker Street, Mulberry Street, East 93 Houston Street, Lafayette Street, a line passing through two points: one on the easterly street line of Lafayette Street distant 120 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the easterly street line of Lafayette Street and the other on the westerly street line of Mulberry Street distant 100 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the westerly street line of Mulberry Street, Mulberry Street, Prince Street, Lafayette Street, Broome Street, Centre

Street, Grand Street, Baxter Street, Canal Street, Avenue of the Americas, Watts Street, Thompson Street, a line 200 northerly of Broome Street, a line midway between Thompson Street and West Broadway, West Houston Street, and Broadway;

Borough of Manhattan, Community District 2, as shown on a diagram (for illustrative purposes only) dated May 17, 2021, and subject to the conditions of CEQR Declaration of E-619.

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An application (C 210422 ZMM) for a zoning map amendment was filed by the Department of City Planning (DCP) on May 14, 2021. The zoning map amendment, along with the related application for a zoning text amendment (N 210423 ZRM) would facilitate land use changes for a 56-block area to implement the SoHo/NoHo Neighborhood Plan in Manhattan Community District 2.

The project area encompasses approximately 56 blocks across 146 acres in the SoHo and NoHo neighborhoods and is roughly bounded by Astor Place and Houston Street to the north; Bowery, Lafayette Street, and Baxter Street to the east; Canal Street to the south, and Sixth Avenue, West Broadway, and Broadway to the west.

The SoHo/NoHo Neighborhood Plan is a comprehensive neighborhood plan developed with community stakeholders and elected officials, in close coordination with city and other public agencies, that seeks to create opportunities for new housing, including affordable housing, better reflect existing built conditions, strengthen the mixed-use character of the neighborhoods, including office and retail uses, and celebrate the unique architectural and creative legacies of the SoHo and NoHo neighborhoods. Importantly, the implementation of the SoHo/NoHo Neighborhood Plan would support the creation of over 3,500 new homes<sup>1</sup>, including approximately 900 permanently affordable homes.

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<sup>1</sup> Incl. 1,829 homes on projected development sites and 1,719 on potential development sites, based on the analysis in the FEIS.

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The SoHo/NoHo Neighborhood Plan was developed in response to neighborhood-wide planning challenges spurred by changing economic and demographic trends and informed by local and citywide stakeholder input during the Envision SoHo/NoHo process, a public engagement initiative launched in 2019 by the Manhattan Borough President and the Council Member for City Council District 1, in conjunction with DCP. The proposed zoning actions would replace zoning regulations that have been in place since 1971 and have not been comprehensively updated to meet the changing needs and evolving character of SoHo and NoHo.

By allowing for new residential development and requiring affordable housing, removing regulatory burdens for businesses, and supporting arts and cultural activities in a manner that better reflects the needs of the city’s artists and creative workforce, the proposed actions would ensure SoHo and NoHo’s continued cultural vitality, support citywide policies related to housing and equity as articulated in *Housing New York*, *Where We Live NYC*, and *PlaNYC/OneNYC*, increase access to the neighborhoods’ amenities and employment opportunities, and contribute to economic recovery and resiliency efforts in the wake of the COVID-19 pandemic.

## **RELATED ACTIONS**

In addition to the zoning map amendment that is the subject of this report (C 210422 ZMM), the following action is also being sought concurrently with this application:

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|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>N 210423 ZRM</b> | Zoning Text Amendment to establish the Special SoHo-NoHo Mixed Use District in Zoning Resolution (ZR) Section 14-03 and establish a Mandatory Inclusionary Housing (MIH) area. |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## **BACKGROUND**

The SoHo/NoHo Neighborhood Plan is part of *Housing New York*, the City’s plan to build and preserve affordable housing throughout New York City in coordination with strategic infrastructure investments to foster a more equitable and livable New York City. *Housing New York* calls for neighborhood plans to be undertaken in communities across the five boroughs that offer new opportunities for affordable housing. Further, the City’s fair housing report *Where We*

*Live NYC* articulates the importance of expanding housing opportunities and housing choice in neighborhoods with superior access to transit, jobs and neighborhood amenities as such Gowanus and SoHo and NoHo.

The impetus for the SoHo/NoHo planning process was a 2015 joint letter to DCP from the Manhattan Borough President and the local City Council Member for District 1 noting, among other matters, the high volume of site-specific land use actions (including special permits and zoning variances) being sought for properties within SoHo and NoHo, outdated zoning, and the lack of a holistic planning strategy. The letter called for the creation of a new planning framework informed by a robust public process to strengthen the varied retail character of the area, promote a diversity of uses and employment base, recognize the arts and creative foundation of the neighborhoods, and encourage the development and preservation of affordable housing. The letter also identified three key issues to be examined: the utility and functionality of the Joint Living-Work Quarters for Artists (JLWQA) in today's creative sector; retail regulations, including size restrictions and the clarity, predictability, and enforceability of rules; and a potential zoning structure that contributes to the creation or preservation of affordable housing.

DCP, in conjunction with the Manhattan Borough President and local City Council Member, began a series of technical studies that set a baseline for the community planning process. The findings from the studies provided specific data confirming the significant mismatch between the existing zoning and established land use patterns. In January 2019, DCP, alongside local elected officials, initiated the six-month Envision SoHo/NoHo public engagement process to examine key land use and zoning issues, publicly share the results of the technical analysis, and seek community input to inform strategies to both honor the history of SoHo and NoHo and ensure the continued vitality of the neighborhoods moving forward.

Guided by an 18-member stakeholder advisory group comprised of residents, business owners, elected officials, representatives of various city agencies, and other advocacy organizations, the Envision SoHo/NoHo engagement process gathered local input on a wide range of topics,

including housing, jobs, arts and culture, historic preservation, retail, quality of life, and creative industry. The process included over 40 meetings, including six public meetings/workshops, 17 advisory group meetings, and eight focus group meetings with various resident and stakeholder groups, as well as numerous other individual meetings with key stakeholders.

In November 2019, DCP, the Manhattan Borough President, and Council Member, in consultation with the stakeholder advisory group, issued a final report, *Envision SoHo/NoHo: A Summary of Findings and Recommendations*, which synthesized the comments and key discussion points from the public engagement process and provided a series of zoning, land use, and other recommendations and priorities. The report concluded that existing zoning and other regulations fall short of producing the vision for a vibrant, mixed-use neighborhood. The report articulated several goals to facilitate a successful, diverse and inclusive community, including promoting mixed-use districts in ways that respect and support neighborhood diversity and character; fostering the small business community by reducing regulatory barriers and providing supportive resources; creating housing and live-work opportunities on underused land in ways that respect and support neighborhood diversity and character; maintaining, enforcing, and strengthening existing protections for residents, including renters and those in rent regulated units; supporting and promoting artist and maker communities while allowing people to live in SoHo/ NoHo without artist certification; preserving, promoting, and creating more spaces and uses for arts, maker uses, and cultural uses; and improving the quality of life of residents and workers in the SoHo and NoHo mixed-use environment.

Following the issuance of the *Envision SoHo/NoHo* report, DCP reviewed the report's recommendations, conducted additional analysis, and hosted four virtual public information sessions between October 2020 and March 2021 to provide safe and widely accessible fora for focused discussions around the major themes of the planning effort – housing, mixed-use and public realm, and arts and culture. Agencies critical to the planning effort including HPD, DSNY, DOT and DCLA participated in these virtual outreach events.

Building on the report's findings as well as continuous public and stakeholder dialogue, DCP established a planning framework that identifies a long-term vision for a balanced, coordinated approach to neighborhood planning. The framework includes areas prioritized for the preservation of neighborhood character, residential growth, and expansion of locations for job-generating commercial uses. The framework contains specific land use objectives to guide a vision for the future of SoHo and NoHo, which recognizes the area's varied built context and aims to meet multiple objectives. As the city proactively plans for the neighborhood's future, the framework also seeks to meet citywide goals of increasing housing production, including affordable housing, and fostering growth in appropriate locations.

### **Project Area History**

The SoHo and NoHo neighborhoods were used as farm and pastureland up to and through the 17<sup>th</sup> century, including the significant establishment of Manhattan's first free Black settlement in SoHo on land granted by the Dutch West India Company. Portions of the project area were developed with manufacturing use as early as the late 18<sup>th</sup> century and the subsequent draining of Collect Pond and transformation of Broadway into a paved thoroughfare initiated the transformation of the area into a residential district. In the mid-19<sup>th</sup> century, SoHo and NoHo emerged as important manufacturing and commercial districts, with Broadway featuring new marquee retail stores, entertainment venues, and hotels. The resulting iconic cast-iron loft buildings throughout the neighborhoods contain large, contiguous floor plates, high ceilings and sturdy floors that can accommodate a wide range of business activities. This flexibility made them particularly conducive to adaptive reuse in later years.

Starting in the 1860s, SoHo shifted from a commercial and entertainment destination to a critical manufacturing and wholesale center for textile and garments, fueled by an industrializing economy and the subsequent construction boom of non-residential buildings in Lower Manhattan. The area also includes other types of industrial businesses, such as wood and metal production, hardware and paper wholesale. After World War II and throughout the 1970s, the number of manufacturing and related businesses in SoHo and NoHo depleted significantly, influenced by changes within the manufacturing industry such as transportation and spatial

needs. This dramatic decline of manufacturing, wholesale and related uses in SoHo and NoHo left many former industrial lofts in SoHo empty, presenting an opportunity for versatile live-work spaces for artists.

In 1971, the City amended SoHo's basic M1-5 industrial zoning that had been in place since 1961 CP21256A. These zoning changes sought to address the decline in manufacturing uses and recognize the growing artist community that was drawn to the area's vacant manufacturing loft buildings. The JLWQA designation was created as a new manufacturing use within zoning Use Group 17 to allow certain artists and their households to live and practice their craft in one space. At first, this use was permitted only in SoHo, within two newly created zoning districts (M1-5A and M1-5B). In 1976, the M1-5B zoning was expanded to NoHo. The M1-5A/B zoning required that spaces used as JLWQA must be occupied by an artist certified by the Department of Cultural Affairs (DCLA). DCLA established criteria for artist certification based on the limited definition of "artist" in the New York State Multiple Dwelling Law (MDL). Under the MDL, a certified artist is a person who is regularly engaged in the fine arts, such as painting and sculpture; in the performing or creative arts, including choreography and filmmaking; or in the composition of music on a professional basis and is so certified by DCLA and/or New York State Council on the Arts and who intends to use JLWQA to conduct their practice.

In the following decades, as SoHo and NoHo gained increasing popularity as loft districts, residential occupancies not associated with artists and arts production became more prevalent. This trend was also occurring elsewhere in Manhattan. As industrial sectors relocated to buildings and areas that could accommodate larger, more modern production and distribution, loft buildings were increasingly occupied by residents unaffiliated with the arts. The rationale at the time was multifaceted: on one hand, arts production activities that occurred in artist live-work spaces, unlike residences, were seen as compatible to industrial activities in manufacturing districts; on the other, many art disciplines present in SoHo at the time – including sculpture and painting – required large loft spaces in a manner that was meaningfully different from typical residences.

In the early 1980s, the city and state introduced zoning and legislative changes to regulate the conversion of non-residential loft buildings after recognizing a growing trend of illegal residential loft conversions. The State MDL was amended by the enactment of Article 7C (Loft Law), which enabled the creation of Interim Multiple Dwellings (IMDs). IMDs were used to designate a temporary legal status on commercial or manufacturing buildings occupied by three or more families with the expectation that such buildings be eventually upgraded to permanent housing. The legislation also established the New York City Loft Board in order to regulate such conversions to residential use. Article 7C provided that residential conversions were only permitted in areas where zoning allowed residential use as-of-right, which effectively excluded residential lofts in SoHo and NoHo. In 1987, Article 7C was amended to allow IMDs in zoning districts where residential uses were not permitted as-of-right, thus opening the door for residents in SoHo and NoHo to seek Loft Law coverage. Many non-artists as well as artists did so. Subsequent Loft Law amendments extended filing windows and eligibility for coverage.

Since the inception of the M1-5A and M1-5B zoning, occupations and circumstances of artists continued to change. Recognizing that many residents did not qualify for artist certification, the city granted amnesties over the years for non-artist residents in SoHo and NoHo JLWQAs to allow units formerly restricted to JLWQA use to be occupied by non-artists. Additionally, familial successions of JLWQA by non-artists, sales and leasing of units to non-artists, as well as Use Group 2 residential conversions and new construction via zoning variances and special permits also contributed to SoHo and NoHo's shift from a limited artist community to a broader residential demographic. With a population of close to 8,000 in 2010, SoHo and NoHo now have a much more significant residential presence than typical manufacturing districts across the city.

In addition to residential use restrictions, M1-5A and M1-5B zoning districts also impose additional controls on certain commercial uses, introduced in 1976 with the intent to ensure that the larger buildings and prime ground floor space be reserved for industrial purposes and to restrict large entertainment establishments. Driven by high storefront demand and zoning that does not permit most ground floor uses beyond industrial or heavy commercial establishments, the area sees an extraordinarily high volume of applications for special permits and variances to

locate or legalize retail uses. Based on DCP's survey of land uses in the research phase of the neighborhood planning process, retail and other commercial uses (including eating and drinking establishments, commercial art galleries, banks, showrooms) occupy the majority of the ground floor space within the project area, with some multi-level stores concentrated along the Broadway corridor. Beyond the ground floor, retail and related uses comprise 18 percent of total built floor area in existing buildings. Office uses, which are distributed in commercial and mixed-use buildings throughout SoHo and NoHo, make up approximately one-third of the total built floor area.

Traditional manufacturing and industrial uses have diminished in SoHo and NoHo, consistent with citywide trends due to broader macroeconomic changes. Despite the area's manufacturing zoning, DCP fieldwork conducted between 2015 and 2016 found that there were only about 20 industrial businesses in operation in the neighborhoods at that time, half of which were semi-industrial or new types of "maker" uses that function in relation to a retail space or office setting (including lighting design, sound recording studio, or 3D printing). According to the 2018 Longitudinal Employer-Household Dynamics by the Census Bureau, only approximately two percent of total jobs in SoHo and NoHo were in industrial sector businesses such as manufacturing, wholesale, and construction. In contrast, the neighborhood's non-industrial employment base was sizable and exhibited consistent trends of growth, totaling over 53,000 private-sector jobs throughout the same period. Office-based sectors, including professional and technical services, information, finance and insurance, and management of companies accounted for 48 percent of total jobs within the project area. Retail trade constituted close to 20 percent of the jobs in SoHo and NoHo and, according to a study conducted by HR&A Advisors, contributed an estimated \$170 million in sales tax to New York City and State each year, reflective of the neighborhood's position as the second highest-grossing retail market in New York City.

While the COVID-19 pandemic has impacted office occupancy and activity, retail and tourism, SoHo and NoHo's central location, transit accessibility, historic architecture, and retail

ecosystem is such that office, retail, accommodation and food services and other non-industrial sectors are expected to remain long-term core economic assets in the neighborhood.

## **Demographics**

Approximately 7,800 residents live in SoHo and NoHo who own or rent units that fall into three general categories, none of which include income-restricted affordable housing: JLVQA, considered a manufacturing use in zoning and generally requires the presence of an artist certified by DCLA; Loft Law buildings, such as IMDs and former IMDs that have been fully legalized under the Loft Law; and converted or newly constructed residential units approved by numerous CPC special permits or variances granted by the Board of Standards and Appeals (BSA), which are market-rate and luxury housing with no affordability requirements. There are also some residents in the project area who reside in older residential buildings, such as tenements that pre-dated the manufacturing zoning. The number of artist certifications issued by DCLA has declined significantly in recent decades. As of 2015, fewer than 10 certifications were issued annually. The population in SoHo and NoHo is also predominantly white non-Hispanic with higher education attainment, higher incomes and has a higher share of homeowners than Manhattan and NYC overall.

## **Project Area**

The proposed actions would affect an approximately 56-block, 146-acre area of the SoHo and NoHo neighborhoods of Manhattan, Community District 2. The project area is roughly bounded by Astor Place and Houston Street to the north; Bowery, Lafayette Street, and Baxter Street to the east; Canal Street to the south; and Sixth Avenue, West Broadway, and Broadway to the west. Canal Street is the gateway to the SoHo neighborhood and Houston Street is the major arterial separating NoHo to the north from SoHo to the south. Broadway is the primary north-south corridor that extends the entire length of the project area. Other secondary corridors within the project area include West Broadway, Lafayette Street, and Broome Street. The project area consists of distinct subareas of commercial corridors and residential blocks, with varying building typologies and character. The majority of the project area is located within the Landmarks Preservation Commission (LPC)-designated SoHo-Cast Iron Historic District (LP-

0768) and its extension (LP-2362), the NoHo Historic District (LP-2039) and its extension (LP-2287), and the NoHo East Historic District (LP-2129).

### *Historic Districts*

Over 80 percent of the project area is within LPC-designated historic districts. Proposed development projects in SoHo and NoHo historic districts are subject to LPC review, inclusive of any alteration, reconstruction, demolition or new construction affecting buildings. Areas outside of historic districts (including the southeast and southwest corners of SoHo, and certain areas along Bowery) are generally transitional in nature, and possess a different built character than core areas of the SoHo and NoHo historic districts where cast-iron loft buildings are concentrated.

The SoHo-Cast Iron Historic District was designated by the LPC in 1973 and listed on the National Register of Historic Places and declared a National Historic Landmark in 1978. The district is bounded by Canal Street, Broadway, Howard Street, Crosby Street, East Houston Street, West Houston Street and West Broadway and consists of 26 city blocks and contains approximately 500 buildings. The SoHo–Cast Iron Historic District Extension, designated in 2010, consists of approximately 135 properties located on the blocks immediately adjacent to the east and west sides of the SoHo–Cast Iron Historic District. The SoHo-Cast Iron Historic District and Extension are significant not only for their historic role in the commercial development of New York City, but also for the survival of the largest concentration of full and partial cast-iron facades anywhere in the world.

The NoHo Historic District, designated by the LPC in 1999, consists mainly of the blocks east and west of Broadway between Houston Street and Ninth Street, and is comprised of approximately 125 buildings. The NoHo Historic District represents the period of New York City's commercial history from the early 1850s to the 1910s, when the area prospered as one of the city's major retail and wholesale dry goods centers. Today, the historic district is distinguished by unifying streetscapes of marble, cast iron, limestone, brick, and terra-cotta facades. The NoHo Historic District was further extended to the east in 2008 to include fifty-six

additional buildings centered on Bond, Great Jones, and East 4th streets between Lafayette Street and the Bowery.

In 2003, the LPC created the NoHo East Historic District, which is centered on Bleecker Street between the Bowery and Lafayette Street, and consists of 42 buildings constructed between the early 19<sup>th</sup> and the early 20<sup>th</sup> centuries. The district's low-scale, early-19<sup>th</sup>-century houses on Bleecker and Elizabeth streets are reminders of the area's early residential history, while the larger store and loft buildings testify are indicative of New York's growing importance as a hub of commercial activity. Today, this diversity of small dwellings, apartment buildings, factories, lofts, and stables represent an intact and unusual historic mixed-use neighborhood in Lower Manhattan.

A small portion of the project area is located within the Sullivan-Thompson Historic District (LP-2590). Designated in 2016, the historic district is characterized by a diversity of row houses, tenements, commercial structures, and institutional buildings that developed in the early 19<sup>th</sup> century.

### *Neighborhood Context*

Both SoHo and NoHo are almost uniformly mixed-use. Unlike most other neighborhoods in Manhattan and elsewhere that have commercial uses concentrated on avenues and wide streets and predominantly residential midblocks and side streets, SoHo and NoHo have various commercial, residential, and other uses side-by-side – and, in many cases, above and below within individual buildings – on nearly every street. This pervasive mixed-use character contributes to the charm and vibrancy of SoHo and NoHo while also introducing unique conditions related to zoning, land use, and quality of life. Within SoHo and NoHo, built conditions, area context, and existing use patterns form several distinct subareas.

### *SoHo and NoHo Historic Cores*

The historic centers and cores of SoHo and NoHo are generally located between West Broadway, Grand Street, Mercer Street, and Houston Street in SoHo, and East Fourth Street,

Bowery, Broadway, and Bleecker Street in NoHo. These core areas consist primarily of high lot coverage, well-preserved cast-iron and/or masonry loft buildings constructed during the mid- to late-19<sup>th</sup> century and are typically five to seven stories tall with floor area ratios (FAR) generally ranging between 3.0 to 6.5, but on certain blocks reaching 10.0 or more. These lofts tend to reach their full height at the street wall. The unique character of these areas is distinguished by the building stock that existed prior to the M1-5A/B zoning districts, resulting in building bulk and envelopes that are not wholly consistent with the existing zoning but are preserved through the area's LPC-designated historic districts. Much of the core streets retain their original Belgium block pavers. These areas are overwhelmingly mixed-use residential and commercial. Smaller retail uses are prevalent on the ground floors while most of the upper floors of the loft buildings have been converted from their original light industrial uses to JLWQA, residential, and office uses. Bars and restaurants are interspersed throughout the project area, but are more prevalent along Lafayette, Great Jones, and Bond streets, as well as West Broadway.

### *Historic Corridors*

While also largely within historic districts and featuring cast-iron lofts, commercial corridors within the project area contain distinct land use and built characters.

### Broadway Corridor

Broadway is a major commercial corridor and a wide thoroughfare that runs through SoHo and NoHo. Buildings along Broadway, between Crosby and Mercer Street in SoHo, and along the adjacent Lafayette Street in NoHo, are generally taller and bulkier than those in the neighborhood cores – between six to 12 stories tall with FARs often exceeding 10.0 - and consist of a mix of older loft buildings in addition to newer construction. Like their counterparts in the historic cores, lofts in the Historic Corridors are unique due to the prominence of tall street walls. The Broadway corridor contains the largest floorplates found within the project area, with a high concentration of commercial uses, particularly offices and destination retail. This corridor is an employment hub and has the lowest concentration of residential uses in the project area. The Broadway corridor north of Fourth Street in NoHo has a relatively high concentration of

institutional uses, interspersed with a number of low-rise industrial uses, and low intensity uses such as vacant land and garages.

### Canal Street Corridor

The project area also includes the northern frontages of Canal Street, a thoroughfare and shopping corridor characterized by a mix of tenements, Federal-style rowhouses, historic cast-iron lofts, newly constructed residential buildings, low-rise retail stores, and some low-intensity semi-industrial businesses and parking garages. As potential development sites become increasingly scarce in the SoHo core, interest in the Canal Street Corridor has grown. New residential development projects are transforming the corridor by replacing low intensity uses such as single-story discount retail and surface parking. Several recently approved buildings along this corridor are establishing Canal Street as a gateway to the neighborhood and serve as a transition between SoHo and the taller commercial buildings south of Canal Street.

### *Opportunity Areas*

#### Southwestern and Southeastern Opportunity Areas

The areas along the periphery of the project area, including Opportunity Area 1 (OA-1), the area generally south of Watt Street and west of West Broadway, and Opportunity Area 2 (OA-2), the area generally south of Grand Street and east of Crosby Street, are mostly located outside of the historic districts. These areas contain a high concentration of low-intensity uses relative to other parts of the project area, including low-rise industrial uses, tenement-style buildings, surface parking lots and garages, and one-story eating and drinking establishments. FARs in the area generally range from 3.0 to 6.5, though some of the older commercial office buildings can far exceed this range and reach 12 stories. Recently, a number of large hotels ranging between 16 and 26 stories have been developed along Thompson Street, West Broadway, and Crosby Street. These areas, while framed by major wide streets such as Sixth Avenue, Canal Street, Centre Street, and Lafayette Street, are generally less residential and less dense than the other areas described above. Subarea OA-1 serves as a transitional area between the SoHo Historic Core and Hudson Square to the west. Hudson Square is known as a high-density mixed-use district characterized by high lot coverage large office buildings and new residential development.

Subarea OA-2, framed by multiple wide streets such as Lafayette Street, Canal Street, and Centre Street, is a transitional area where SoHo, Little Italy, Chinatown, and Lower Manhattan CBD converge.

### Northeast Opportunity Area

Opportunity Area 3 (OA-3) is centered along the Bowery, a major commercial corridor and wide street located at the northeast corner of the project area in NoHo between Great Jones Street and Astor Place. The stretch north of Fourth Street is characterized primarily by mixed residential and commercial buildings and a large institutional presence, with heights ranging from four to 16 stories and FARs generally between 5.0 and 9.0. In the area outside of the historic district along and south of East Fourth Street, there are a number of underbuilt sites, including vacant land, low-rise tenements, and single-story semi-industrial or formerly industrial buildings that have been converted to eating and drinking establishments. Ground-floor retail is more common south of East Fourth Street.

### **Existing Zoning**

The project area consists of approximately 0.23 square miles, or approximately 146 acres, in the south-central part of Manhattan Community District 2. The project area's 56 blocks are split between the neighborhoods of NoHo (11 blocks) and SoHo (45 blocks).

### *M1-5A/M1-5B*

M1-5A and M1-5B are medium-density manufacturing districts. In general, M1-5A/M1-5B zoning districts follow many of the same use and bulk regulations as standard M1-5 manufacturing districts, except for certain use restrictions that apply only to SoHo and NoHo. The M1-5A zoning district is mapped exclusively in SoHo, across approximately 13 blocks along and east of West Broadway between East Houston and Canal streets. The M1-5B zoning district covers much of the project area and is mapped across 11 blocks in NoHo and approximately 32 blocks in SoHo.

Both districts permit a maximum FAR of 5.0 for commercial and manufacturing uses and 6.5 for community facility uses. The maximum height of a building at the street wall is six stories or 85 feet, whichever is less, above which, an initial setback of 20 feet (narrow street) or 15 feet (wide street) is required. Maximum building height and setbacks are controlled by a sky exposure plane which may be penetrated by a tower under certain conditions. Although new industrial buildings are -usually low-rise structures that fit within the sky exposure plane, commercial and community facility buildings can be constructed as towers. A 20-foot rear yard is required in most cases.

M1-5A/M1-5B zoning districts allow a broad range of light manufacturing and commercial uses as-of-right. Residential use, which is not permitted as-of-right, consists of residential lofts legalized under the Loft Law and residential units that are pre-existing non-conforming uses or were permitted by special permit granted by the CPC or by variance granted by the BSA. JLWQA is permitted through conversion of existing floor area, though buildings containing JLWQA units may not be enlarged as-of-right. Eating and drinking establishments are permitted subject to a 5,000 square foot size and other typical capacity and entertainment limits. Non-commercial clubs, theaters of 100 seats or more, and entertainment uses such as banquet halls are not permitted as-of-right. Use Group 10A retail establishments of 10,000 square feet or more are only permitted by CPC special permit.

The primary distinction between M1-5A and M1-5B districts relates to the location of certain uses within the building. In M1-5B zoning districts, only uses listed in Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E, which exclude retail, eating and drinking, office, amusement and entertainment uses, are allowed below the floor level of the second story as-of-right. In M1-5A zoning districts, the restrictions on the location of Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E do not apply to buildings occupying less than 3,600 square feet of lot area. Similarly, buildings occupying less than 3,600 square feet of lot area in M1-5B zoning districts may not contain JLWQA located below the floor level of the second story unless modified by the CPC. In an M1-5A zoning district (but not M1-5B), the CPC may authorize a museum or non-commercial art gallery where it is not permitted as-of-right.

### *M1-5*

M1-5 is a medium-density manufacturing district that frequently buffers higher intensity M2 or M3 districts from adjacent residential or commercial districts. An M1-5 manufacturing zoning district is mapped across a small four-block area south of Canal Street between Walker Street, Broadway, and Baxter Street south of the project area.

Broadly similar to M1-5A and M1-5B zoning districts, M1-5 zoning districts permit a maximum FAR of 5.0 for commercial and manufacturing uses and 6.5 FAR for community facility uses. The maximum street wall height is six stories or 85 feet, whichever is less; maximum building height and setbacks are controlled by a sky exposure plane. Although new industrial buildings are usually low-rise structures that fit within the sky exposure plane, commercial and community facility buildings can be constructed as towers.

M1-5 zoning districts permit a wide range of commercial and light industrial uses as-of-right, such as offices, repair shops, and wholesale service and storage facilities. Unlike the more restrictive M1-5A/M1-5B zoning districts, most eating and drinking places and retail uses are allowed as-of-right. A limited range of community facilities such as houses of worship are permitted; certain community facilities, such as hospitals, are allowed in M1 zoning districts only by CPC special permit. Likewise, retail establishments of 10,000 square feet or more are permitted only by CPC special permit. JLVQA are not a permitted in M1-5 zoning districts; other residential uses are not permitted unless paired with residence districts in a Special Mixed Use District.

### *Special Hudson Square District (M1-6)*

M1-6 is a high-density manufacturing zoning district. An M1-6 district is located to the west of the project area in the Hudson Square neighborhood. In general, many of the same use and building envelope rules of the M1-5 zoning district apply, except that in M1-6 zoning districts, the maximum permitted FAR is 10.0, or 12.0 with a public plaza bonus. The Special Hudson Square District, which is co-extensive with the M1-6 area, modifies some of the use and bulk controls of the underlying M1-6 district – encouraging new residential including affordable

housing through the Inclusionary Housing program and retail development while also preserving larger commercial and light manufacturing buildings.

## *C6*

Much of the project area is surrounded by various C6 commercial zoning districts to the south, east, and north, including C6-1, C6-1G, C6-2, C6-2G, C6-2A, C6-3, and C6-4. C6 districts are high-density commercial zoning districts that permit a wide range of high-bulk commercial uses requiring a central location, including large office buildings, large hotels, department stores, and entertainment facilities in high-rise mixed buildings. Most residential and community facility uses are also allowed as-of-right. Maximum commercial FAR in the surrounding areas ranges from 6.0 (C6-1, C6-2, C6-3) to 10.0 (C6-4). C6-2A districts are contextual districts with a contextual base and maximum building heights; all other C6 districts allow towers to penetrate a sky exposure plane and do not require a contextual base. C6-1G and C6-2G districts are mapped in Chinatown and Little Italy and have special rules for the conversion of non-residential space to residential use. The regulations of the Special Tribeca Mixed Use District, mapped to the southwest of the project area within a C6-2A zoning district, encourages mixed-use development, including residential and light industrial uses. The Special Little Italy District, mapped to the east of the project area within the underlying C6-1, C6-2, and C6-3 districts, has additional use and bulk controls designed to maintain the mixed-use character and mid-rise scale of the historic Little Italy neighborhood.

## *C1-7*

A C1-7 commercial zoning district is mapped in a portion of Greenwich Village north of Houston Street and west of Mercer Street. C1 districts are predominantly residential in character and are typically mapped along major thoroughfares in medium- and higher-density areas of the city. Typical retail and local service uses include grocery stores, dry cleaners, drug stores, restaurants, and local clothing stores that cater to the daily needs of the immediate neighborhood. The maximum commercial FAR is 2.0. The residential district equivalent for C1-7 is R8, which has a maximum FAR of 6.02 under height factor regulations. Quality Housing regulations with

MIH allow for a maximum residential FAR of 7.2 and a maximum building height of 215 feet with a contextual base.

#### *R7-2*

An R7-2 zoning district, which is mapped to the northeast of the project area, is a medium-density, non-contextual residential district generally characterized by mid-rise apartment buildings with a maximum FAR of 3.44 under height factor regulations. Quality Housing buildings with MIH allow for a maximum residential FAR of 4.6 and a maximum building height of 135 feet with a contextual base. C1-5 commercial overlays, mapped within the R7-2 district along streets that serve local retail needs, allow for a maximum commercial FAR of 2.0.

In addition to the above surrounding zoning districts, an approximately 2.5-block area southwest of the project area west of Thompson Street and north of Watt Street is zoned M1-5B. This area is largely within the Sullivan-Thompson Historic District and is more residential in character than the SoHo-Cast Iron Historic District to the east and the rest of the M1-5A and M1-5B districts. These blocks contain a high concentration of one- and two-family buildings and a limited commercial presence. FARs within the boundaries of the historic district generally range from 2.0 to 4.5. Outside of the historic district, parcels have recently been developed as residential buildings, including a 16-story condominium building and townhouses.

### **Vision and Goals**

Building on the findings of *Envision SoHo-NoHo* and subsequent public engagement efforts, DCP established a set of planning goals that seek to address conditions unique to SoHo and NoHo as well as citywide policy objectives. These goals include prioritizing the expansion of housing, including permanently affordable homes through MIH, bolstering job-generating uses, improving the public realm, providing direct support for arts and culture, preserving neighborhood character, and directing growth to appropriate locations.

### *Introduce Residential Use and Promote Housing Equity*

The proposed actions would allow residential uses as-of-right throughout the newly proposed zoning districts. Within historic districts, the need for residential growth, particularly the potential for residential conversions, expansions, and infill development, is delicately balanced with the goal of preserving the unique historic character of low- and mid-rise loft buildings. Areas on the periphery of SoHo and NoHo that are largely outside of historic districts represent the greatest opportunity for new residential development and affordable housing production. In addition, the proposed actions would allow for a transition from a narrow allowance for only JLVQA manufacturing use to a more expansive set of residential and live-work arrangements without any occupation-based restrictions. Critically, the application of MIH would encourage the construction of new permanently affordable housing in two of the city's most desirable and opportunity-rich neighborhoods.

### *Replace Outdated Manufacturing Districts with Mixed Use Districts*

The proposed actions would replace the outdated manufacturing zoning and rigid use restrictions with rational, appropriately flexible regulations that promote the mix of uses and support COVID-19 economic recovery, business adaptation, and long-term resiliency. The broad range of uses would support existing businesses in SoHo and NoHo as they continue to operate, expand, and grow, while allowing a greater range of commercial, cultural, and civic activities within the highly adaptable existing loft buildings and new mixed-use developments. The proposed actions would also provide protection for the existing concentration of commercial and remaining light manufacturing uses in large loft buildings to balance non-residential with residential uses and ensure that SoHo and NoHo—particularly the Broadway corridor—continue to thrive as employment hubs and reservoirs of critical Class B and Class C office space.

In anticipation of growth in population and commercial activity, various City agencies are concurrently developing strategies specifically tailored to the unique challenges, desires and needs of businesses and residents in SoHo and NoHo, including programs to address quality of life issues such as loading and unloading and refuse collection. While not part of the proposed

actions, these programs are an important component of the broader SoHo/NoHo Neighborhood Plan.

### *Facilitate Superior Urban Design and Appropriate Building Forms*

The existing M1-5A and M1-5B zoning district bulk regulations do not always facilitate building forms that relate harmoniously to the loft building context within and beyond the historic districts. In such instances, special permits and zoning variances are often needed to allow for building forms appropriate for the historic district context and acceptable by the LPC. The proposed actions would establish contextual bulk envelopes – including minimum and maximum base heights, maximum building heights, setbacks, and streetwall requirements - that more appropriately respond to neighborhood context, help to minimize the effects of new developments and enlargements on neighboring buildings and allow the LPC to shape building forms in a manner appropriate to the historic neighborhood fabric. Additionally, relaxed rear yard and courtyard provisions would allow for greater flexibility to create efficient floorplates and promote superior site planning, especially on shallow and oddly shaped lots that are common throughout SoHo and NoHo.

The proposed actions would also include supplemental ground-floor use regulations in key locations to require active non-residential uses, impose limits on the widths of residential and parking uses, establish minimum levels of streetwall transparency, as well as limit curb cut widths, where appropriate. These requirements would enhance the existing streetscape, better align with existing mixed-use buildings in the area, and provide an improved pedestrian experience.

### *Support Arts and Culture*

The unique JLWQA regulations in the M1-5A and M1-5B zoning districts, established in 1971, played an important role in facilitating the transformation of SoHo and NoHo from declining manufacturing districts to a vibrant mixed-use area and culture hub. The proposed actions seek to reinvigorate this legacy by continuing to permit existing JLWQA use and expand live-work options, while establishing a voluntary option to transition from JLWQA to regular residential

use via a contribution to a dedicated fund that would more directly benefit the arts in a public oriented way, in and around SoHo and NoHo. This would facilitate the legalization of existing non-artist occupancy, broaden live-work to be more inclusive and reflective of modern needs, regularize residential market transactions to align with the rest of the city, and support arts and cultural organizations to ensure that SoHo and NoHo's cultural legacy remains relevant over the long-term.

### **Proposed Actions**

The proposed actions would rezone an approximately 56-block area of SoHo and NoHo, replacing the existing M1-5A and M1-5B zoning districts within the project area with paired M1-5/R7X, M1-5/R9X, and M1-6/R10 zoning districts. One of the primary goals of pairing manufacturing districts with residential districts is to strengthen the mixed-use character of the neighborhoods and allow for a broad range of diverse uses, many of which are present in SoHo and NoHo today – including residential use – and are non-conforming under existing zoning. Under the proposed zoning, as-of-right uses would include residential uses in Use Groups 1 and 2; community facility uses in Use Groups 3 and 4, such as schools, libraries, museums, doctors' offices, and non-profit art galleries; commercial uses such as offices, theaters, restaurants, bakeries, delis, book stores, clothing stores, salons, and drug stores; and manufacturing uses such as wholesalers, theater scenery workshops, ceramic studios, and garment manufacturing, among many other common uses that contribute to thriving, mixed-use districts.

The proposed zoning map amendment would also establish the Special SoHo NoHo Mixed Use District (SNX) boundaries coterminous with the project area. The proposed special district would modify certain aspects of the underlying use and bulk regulations, as well as establishing special provisions for conversions, urban design, arts and culture and the MIH program. The zoning districts, as modified by the special district, are proposed to reflect differing conditions between corridors and interiors of the neighborhood, expand housing opportunities and require affordable housing, achieve the right balance among uses, establish densities commensurate with the area's central location and transit access, and facilitate appropriate building forms, good design, and a pedestrian-friendly streetscape.

## *Zoning Map Amendment (C 210422 ZMM)*

### *Proposed M1-6/R10 (within the SNX)*

#### *(Existing M1-5A and M1-5B)*

High-density M1-6/R10 zoning districts are proposed to be mapped across approximately 13 full or partial blocks in three general areas along the project area's periphery: along the west side of Bowery between Astor Place and Great Jones Street; between Canal Street, Baxter Street, Grand Street, and the western side of Lafayette Street; and, between Canal Street, West Broadway, Watts Street, and Sixth Avenue.

M1-6/R10 zoning districts typically allow a maximum FAR of 12.0 for residential uses with MIH, 10.0 for commercial and manufacturing uses, and 10.0 for community facility uses. Typically, in paired M1-6/R10 districts, the maximum base height is 110 feet. Above the base, buildings are required to be set back 10 feet on a wide street and 15 feet on a narrow street. The maximum building height is 350 feet on both narrow and wide streets.

As detailed in the description of the zoning text amendment, the SNX would modify the proposed M1-6/R10 district's use and bulk regulations to address unique conditions and achieve planning goals specific to SoHo and NoHo.

### *Proposed M1-5/R9X (within the SNX)*

#### *(Existing M1-5A and M1-5B)*

High-density M1-5/R9X zoning districts are proposed to be mapped across approximately 26 full or partial blocks in two general areas along the project area's wider corridors that are generally within historic districts: along and east of Broadway the entire length of the project area and along Lafayette Street north of Great Jones Street; along the north side of Canal Street between West Broadway and Lafayette Street.

M1-5/R9X zoning districts typically allow a maximum FAR of 9.7 for residential uses with MIH, 5.0 for commercial and manufacturing uses, and 9.0 for community facility uses. Quality

Housing residential buildings with qualifying ground floors developed pursuant to Inclusionary Housing (IH) regulations have a base height of 60 to 145 feet on a narrow street and 105 to 145 feet on a wide street. Above the base, buildings are required to be set back 10 feet on a wide street and 15 feet on a narrow street. Maximum building height is 195 feet or 19 stories on a narrow street and 205 feet or 20 stories on a wide street.

As detailed in the description of the zoning text amendment, the SNX would modify the proposed M1-5/R9X district's use and bulk regulations to address unique conditions and achieve planning goals specific to SoHo and NoHo.

*Proposed M1-5/R7X (within the SNX)*

*(Existing M1-5A and M1-5B)*

Medium-density M1-5/R7X districts are proposed to be mapped across approximately 29 full or partial blocks in what are generally considered to be the historic cores of the neighborhoods: between Great Jones Street, Shinbone Alley, Jones Alley, Lafayette Street, and Bleecker Street; between East Houston Street, Mercer Street, along and east of West Broadway, and along Grand Street; between Prince Street, Lafayette Street, Broome Street, Centre Street, Grand Street, and Crosby Street; the southern half of the block bounded by Prince Street, Mulberry Street, Lafayette Street, and Jersey Street.

As detailed in the description of the zoning text amendment, the SNX would modify the proposed M1-5/R7X district's use and bulk regulations to address unique conditions and achieve planning goals specific to SoHo/NoHo.

*Zoning Text Amendment (N 210423 ZRM)*

*Proposed SNX*

The proposed SNX would be mapped across the entirety of the project area, encompassing approximately 56 blocks, and would modify certain underlying regulations and establish special use, bulk, height, urban design regulations, and additional parameters for future development derived from and responding to block- and neighborhood-wide characteristics in order to reflect

and enhance SoHo and NoHo's unique history, building typologies, existing and anticipated mix of uses, and to support targeted planning goals.

### *Special Uses*

The proposed paired districts - M1-5/R7X, M1-5/R9X, and M1-6/R10 - allow a broad range of compatible residential, community facility, commercial, and light manufacturing uses as-of-right. The SNX would allow Use Group 10A retail and service uses, such as department stores without limitation on floor area, as-of-right, an acknowledgement of SoHo and NoHo as global retail destinations. Consistent with existing zoning regulations, the SNX would require a CPC special permit for any new transient hotel developments. Rather than require a BSA special permit, Physical Culture or Health Establishments of any size, as defined in the ZR, such as gyms and licensed therapeutic massage studios, would also be allowed as-of-right.

### *JLWQA and Arts Fund*

The SNX would allow existing JLWQA to remain as a legal non-conforming use. Existing artists occupying their homes as JLWQA would see no change under the proposed zoning. Units that legalized, or are in legalization process, under the Loft Law will also not be affected by the proposed zoning. The SNX would provide an option to allow the conversion from Use Group 17D JLWQA to Use Group 2 residential use by requiring a onetime contribution to an Arts Fund that would be administered by DCLA or a nonprofit entity designated by the city. Such contribution would be permitted by a newly created CPC chairperson certification. The Arts Fund would provide funding for programmatic and/or facilities-related expenses to qualifying arts-related organizations that promote the public presence of the arts. The fund could be structured to prioritize under-resourced organizations and groups in under-served areas within Lower Manhattan south of 14th Street. The proposed contribution amount would be set at \$100 per square foot in the current fiscal year – a rate informed by a market study of unit transactions in SoHo and NoHo over the last decade - increasing over time with inflation per the Consumer Price Index.

### *Home Occupations*

In newly constructed and converted residential units, the proposed SNX includes an expanded home occupation provision. Regulations allowing home workspaces to occupy a dwelling unit as an accessory use, which already apply to certain commercial and mixed-use zoning districts elsewhere in the city, would be adapted for the SoHo and NoHo's live-work tradition and modern live-work needs. Up to 49 percent of the floor area of the dwelling may be used for workspace - for fine arts, music, film, or other media - and may employ up to three non-residents. Additionally, the definition of home occupation would be expanded to include most commercial and manufacturing uses permitted by the underlying zoning, including professional offices.

### *Location of Uses*

The SNX would introduce greater flexibility for the location of uses within the same building. For conversions within existing buildings, commercial and manufacturing uses may be located above residential uses. For new mixed developments or enlargements, dwelling units on the same story as a commercial use would be permitted, provided there is no access between them.

### *Non-Residential Floor Area Retention*

The SNX would introduce a mechanism to preserve the largest commercial and manufacturing buildings and jobs. For redevelopments, enlargements, and conversions of existing buildings containing at least 60,000 square feet of floor area and in which at least 20 percent of the floor area within such building was allocated to non-residential uses, new residential floor area would be permitted only upon certification by the Chairperson of the CPC. The Chairperson must certify that the amount of existing non-residential floor area would be retained at a one-to-one ratio with future non-residential uses on the zoning lot. In conjunction with such certification, a restrictive declaration would be required to be executed and recorded requiring the amount of pre-existing non-residential floor area in the existing building to be maintained on the zoning lot. Non-residential uses include commercial (excluding hotels), community facility (excluding community facility uses with sleeping accommodations), warehouse, and light manufacturing

(excluding JLWQA). IMDs, units currently undergoing residential legalization under the Loft Law, will not be subject to this requirement.

#### *Active Ground-Floor Uses*

The SNX would include supplemental ground floor use regulations in key locations to require active non-residential or commercial uses and minimum levels of transparency as well as limit curb cuts, where appropriate, to enhance the streetscape. Non-residential ground-floor uses (including commercial space, light industrial space, arts-related space, or community facilities) would be required along key corridors. The supplemental regulations would apply to Broadway, Canal Street, Lafayette Street, Centre Street, Houston Street, Broome Street, Bowery, West Broadway, and Avenue of the Americas/Sixth Avenue.

#### *Floor Area Regulations*

The SNX would modify certain floor area regulations of the underlying proposed zoning districts. The maximum FAR for community facility uses throughout the SNX would be set at 6.5, remaining consistent with the existing M1-5A and M1-5B zoning. Separately, to recognize and strengthen Broadway and the NoHo section of Lafayette Street's status as critical corridors where larger commercial lofts are more prevalent, in the paired M1-5/R9X zoning district north of Howard Street, the maximum FAR for commercial and manufacturing uses would be increased from 5.0 in the underlying district to 6.0 and non-residential uses up to two stories would be a permitted obstruction in rear yards.

#### *Bulk Envelope*

The SNX would introduce height limits throughout the entirety of the project area and would modify certain height regulations to be more consistent with the muscular, loft-like building forms common in the neighborhoods. The proposed bulk regulations would respond to neighborhood context both within and around the project area while allowing sufficient flexibility to achieve the plan's development and housing goals.

Across proposed districts, the SNX eliminates the distinction between wide and narrow streets for the purpose of applying base height and building height regulations. In addition, West Broadway, Watts, Centre, and Great Jones streets, which are narrow streets, i.e., less than 75 feet wide, would be treated as wide streets for the purpose of applying setback and street wall regulations. The SNX would also generally require buildings with 100 percent streetwalls while allowing articulation and certain design flexibility. These rules are intended to facilitate loft-like building forms in keeping with the neighborhoods' historic context, while providing envelope flexibility to accommodate a variety of building design and site planning options.

Specifically, in M1-5/R9X zoning districts, the minimum base height would be increased to 85 feet and the maximum base height would be 145 feet on both narrow and wide streets; the maximum building height would be 205 feet on both narrow and wide streets. In M1-6/R10 zoning districts, the minimum base height would be 125 feet and the maximum base height would be 155 feet on both narrow and wide streets; the maximum building height would be 275 feet on both narrow and wide streets. In the proposed M1-5/R7X districts within the SNX, the underlying regulations governing base heights and maximum building heights apply.

For zoning lots located within LPC-designated historic districts, the SNX would introduce special rules that would give the LPC the flexibility to modify the minimum and maximum base height regulations to match that of adjacent historic structures.

The SNX would modify certain yard regulations of the underlying zoning districts to facilitate better site planning, ensuring light and air to adjacent buildings, and providing a uniform set of yard regulations that are more appropriate for the unique mixed-use typologies in SoHo and NoHo. For residential buildings on interior and corner lots, required rear yards would be reduced from 30 feet to 20 feet for all uses. For shallow interior lots, the depth of a required rear yard may be reduced by six inches for each foot by which the depth of a zoning lot is less than 90 feet, not to be reduced to less than 10 feet. For through lots, there would be no required rear yard equivalent for non-residential uses. For through lots with residential uses, the required rear yard

equivalent would be 40 feet. Additionally, minimum dimensions of inner courts would be reduced, and small court provisions of the underlying districts would apply.

#### *Mandatory Inclusionary Housing Program (MIH)*

The proposed actions would amend Appendix F of the ZR to apply MIH Options 1 and 2 to the proposed M1-6/R10, M1-5/R9X, and M1-5/R7X zoning districts to require between 25 and 30 percent of new housing to be permanently affordable where significant new housing capacity would be created. MIH requires permanently affordable housing within new residential developments, enlargements, and conversions from non-residential to residential use within the mapped MIH areas. The MIH program includes two primary options that pair designated percentages with different affordability levels to reach a range of low and moderate incomes while accounting for the financial feasibility trade-off inherent between income levels and size of the affordable set-aside. Option 1 would require 25 percent of residential floor area to be for affordable homes for residents with incomes averaging 60 percent of the Area Median Income (AMI). Option 1 also includes a requirement that 10 percent of residential floor area be affordable at 40 percent AMI. Option 2 would require 30 percent of residential floor area to be for affordable for residents with incomes averaging 80 percent of AMI. For both options, no homes could be targeted to residents with incomes above 130 percent AMI.

The program typically requires permanently affordable housing to be allocated for all developments over 10 units or 12,500 square feet within the MIH areas. Developments, enlargements, or conversions that do not exceed either 10 units or 12,500 square feet of residential floor area would normally be exempt from the requirements of the program. As an additional option for developments between 10 and 25 units, or between 12,500 and 25,000 zoning square feet, a payment into an Affordable Housing Fund may be made.

To fully realize the affordable housing potential in SoHo and NoHo, the SNX would apply targeted adjustments for developments and conversions. These adjustments are made to respond to the unique built and regulatory context of SoHo and NoHo, where unique building specifications and historic district limitations may result in atypical configurations and

inadvertent incentives for underbuilding. The SNX regulations would augment the basic MIH program to apply to any residential floor area developed on a lot that permits 12,500 square feet of residential floor area on top of a non-residential ground floor, regardless of how much residential floor area is actually developed. In cases of hardship, where these requirements would make development financially infeasible, developers may apply to the BSA for a special permit to reduce or modify the requirements. Additionally, within the SNX, for conversions from non-residential to residential use in buildings that are not otherwise eligible to elect the payment-in-lieu option, the BSA may permit a contribution to the Affordable Housing Fund where strict compliance with the options for on-site affordable housing requirement may not be feasible. In such case, the BSA must determine that the configuration of the building imposes constraints such as deep, narrow or otherwise irregular floorplates, limited opportunities to locate legally required windows, or pre-existing locations of vertical circulation or structural column systems that would create practical difficulties in reasonably configuring the required affordable floor area into a range of apartment sizes and bedroom mixes.

#### *Discretionary Approvals and Certifications*

As noted above, though much of the proposal provides a future as-of-right zoning framework to achieve the stated land use objectives of the rezoning, the proposed actions would provide for two special permits and two CPC Chairperson certifications: The proposed actions would create a CPC special permit to allow hotels in the project area. For conversions from non-residential to residential uses in existing buildings, a BSA special permit would be created to allow a contribution to the affordable housing fund in lieu of providing on-site affordable residential homes for conversions over 25,000 square feet, if the building's configuration creates practical difficulties in physically siting such affordable homes. The proposed actions would also create a Chairperson certification to allow for conversions of Use Group 17D JLWQA to Use Group 2 residences upon a one-time contribution to the Arts Fund, as well as create a Chairperson certification to require the preservation of non-residential floor area in certain large buildings containing over 60,000 zoning square feet of floor area.

## **ENVIRONMENTAL REVIEW**

This application (C 210422 ZMM), in conjunction with the application for the related action (N 210423 ZRM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 21DCP059M. The lead is the City Planning Commission.

It was determined that the proposed actions may have a significant impact on the environment, and that an environmental impact statement would be required. A positive declaration was issued on October 28, 2020, and distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on October 28, 2020. A public scoping meeting was held on December 3, 2020, and the Final Scope of Work was issued on May 17, 2021.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on May 17, 2021. Pursuant to the SEQRA regulations and the CEQR procedures, a joint public hearing was held on the DEIS on September 13, 2021, in conjunction with the public hearing on the ULURP item (C 210422 ZMM) and the related item (N 210423 ZRM).

A Final Environmental Impact Statement (FEIS) reflecting the comments made during the public hearing was completed, and a Notice of Completion of the FEIS was issued on October 8, 2021. Significant adverse impacts related to hazardous materials, air quality and noise would be avoided through the placement of (E) designations (E-619) on selected projected and potential development sites as specified in Chapters 10, 15 and 17, respectively of the FEIS.

The FEIS determined that the proposed actions would have identified significant adverse impacts with respect to open space (passive and active), shadows (Most Precious Blood Church stained glass windows, Merchant's House Museum rear garden, Grand Canal Court, a Greenstreet between Thompson Street and Canal Street, Petrosino Square, and a planned open space at

Bowery and East Fourth Streets), historic and cultural resources (archaeological and architectural), transportation (pedestrian and transit), and construction noise. The identified significant adverse impacts and proposed mitigation measures under the proposed actions are summarized in Chapter 21, “Mitigation” of the FEIS.

## **UNIFORM LAND USE REVIEW**

This application (C 210422 ZMM), in conjunction with the related action (N 210423 ZRM), was certified as complete by the Department of City Planning on May 17, 2021, and was duly referred to Manhattan Community Board 2 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment (N 210423 ZRM), which was referred for information and review in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

Community Board 2 held a public hearing on this application (N 210422 ZMM) on June 24, 2021 and, on July 27, 2021, by a vote of 36 in favor, one against, and none abstaining, adopted a resolution recommending disapproval of the application. The full recommendation is attached to this report.

### **Borough President Recommendation**

The Manhattan Borough President considered this application (N 210422 ZMM) and did not issue a recommendation. The Borough President’s testimony at the City Planning Commission public hearing is summarized below.

### **City Planning Commission Public Hearing**

On August 18, 2021 (Calendar No. 21), the City Planning Commission scheduled September 2, 2021 for a public hearing on this application (C 210422 ZMM) and the related action. The hearing was duly held on September 2, 2021 (Calendar No. 1), in conjunction with the public hearing on the related action. Twenty two speakers testified in favor of the application and sixty nine in opposition.

Speakers in favor included the Commissioner of the New York City Department of Housing Preservation and Development (HPD), The Commissioner of the Department of Cultural Affairs (DCLA), The Chief of Staff and Deputy Commissioner of the New York City Department of Sanitation (DSNY), the Manhattan Deputy Borough Commissioner of the Department of Transportation (DOT), and representatives from various advocacy groups, including the NoHo Business Improvement District, the SoHo Broadway Initiative, Citizens Housing Planning Council, the Regional Plan Association, and NoHo-Bowery Stakeholders, and Open New York. Additional speakers in favor included local residents, representatives from local businesses, affordable housing advocates, historic preservationists, and experts in land use law.

The HPD Commissioner testified in support, stating that the SoHo/NoHo Neighborhood Plan would expand housing choice and availability and is a critical step towards furthering fair housing goals in New York City. They noted that allowing low- and moderate-income households to live in thriving neighborhoods such as SoHo and NoHo would help narrow disparities with respect to job access, educational attainment, health outcomes, and safety. They also mentioned that the Fair Housing Act obligates the City to proactively improve the fairness and quality of the City's housing stock and noted that constraints to building housing are a contributing factor to high housing costs and why these neighborhoods have little racial or ethnic diversity. They also mentioned that, absent the rezoning, these neighborhoods would continue to exclude low-income households and people of color. In response to concerns about the impact on existing rent regulated housing, the Commissioner noted that the Tenant Protection Act of 2019 Housing Stability and Tenant Protection Act has greatly strengthened protections. In response to questions about whether the MIH program is sufficient to motivate developers to build housing rather than commercial uses, the Commissioner stated that developers are indeed able to build the requisite affordable housing while also earning a return on investment such that residential development is an attractive option. In response to the community's concerns that developers would opt out of providing affordable housing on-site, the Commissioner noted that there is a strong disincentive for developers to take advantage of the fee-in-lieu option for smaller projects and that, to date, no developer has availed themselves of that program.

The DCLA Commissioner spoke in support of the proposed SoHo/NoHo Arts Fund, noting that it builds on this history of supporting the cultural sector in SoHo and NoHo and it would represent an instrumental tool used to offer long-term, sustainable support for arts and culture in these neighborhoods. In addition, the Commissioner noted that funds from the program would be available to support arts organizations in under-served areas of Lower Manhattan such as Chinatown. In response to questions related to the administration of the fund, the Commissioner indicated that the funds would be disbursed based on mechanisms that have proved effective and reliable in the past, such as through a peer review panel made up of community members and representatives of cultural organizations who are responsible for vetting applications in a rigorous and transparent way.

The Chief of Staff and Deputy Commissioner of DSNY spoke about the agency's involvement in the SoHo/NoHo neighborhood planning process, recognition of quality-of-life challenges in mixed-use neighborhoods such as SoHo and NoHo, and how the proposed programs for piloting containerized waste storage and consolidated waste collection for residential and commercial waste would address community concerns and lead to safer streets, cleaner air, and reduced noise. They also noted that DSNY is currently involved in a comprehensive reform of the private carting industry by greatly reducing the number of concessionaires allowed to operate in each waste zone, streamlining operations, and creating more efficient, less disruptive truck routes. These companies would be expected to meet high standards related to price, customer service, infrastructure, sustainability, and safety.

The DOT Manhattan Deputy Borough Commissioner testified in favor, acknowledging existing challenges around deliveries and the public realm. They noted that DOT is committed to working with local stakeholders to explore and implement strategies beyond zoning to improve the quality of life in SoHo and NoHo , such as noise mitigation guidelines for off-hour deliveries, Neighborhood Loading Zones, the commercial cargo bike pilot, and Open Streets. These efforts are aimed at reducing double parking, reducing conflicts between trucks and pedestrians and cyclists, and improving bus travel times, among other objectives. The Deputy Commissioner also mentioned the development of the NYC Streets Plan which sets an ambitious goal to create one

million square feet of pedestrian space that will improve access to public space in SoHo and NoHo – two neighborhoods with a deficit of passive and active open space.

The Manhattan Borough President spoke in acknowledgement of complicated planning issues that the proposal seeks to balance and the hard work of the community and local stakeholders, noting that MIH affordability levels, JLVQA-to-residential conversions, arts fund administration, retail size and operations, historic preservation, anti-demolition provisions and tenant protection, commercial FAR allowances, and quality-of-life concerns are critical issues to address as part of the SoHo/NoHo Neighborhood Plan. They also expressed optimism that the City would be able to acquire the federally owned site at 2 Howard Street to support the creation of 100 percent affordable housing and supplement the permanently affordable units created through MIH. The Borough President indicated general support for a rezoning proposal that addresses these issues but qualified their endorsement of the specific proposed actions, noting what they believe to be lingering questions that have yet to be resolved.

The Executive Director of the NoHo Business Improvement District, a local BID, spoke about the organization's involvement in the SoHo/NoHo neighborhood planning process and urged the city and local stakeholders to move forward with compromises. They commended the proposal for lifting use restrictions in the existing zoning, which they believed would level the playing field for smaller business and provide more flexibility for a changing retail industry.

The Executive Director of the SoHo Broadway Initiative, a local BID, spoke in support while recommending modifications, including lowering the proposed density and building heights along Broadway and finetuning retail regulations.

The Executive Director of Citizens Housing Planning Council, a non-profit research and education organization focused on housing policy, spoke in favor of the plan, stating the proposed rezoning would ensure that the benefits and privileges of affluent communities such as SoHo and NoHo would be made available to more New Yorkers.

A representative of the Regional Plan Association spoke in favor with a recommendation to lower the commercial FAR to 2.0, also noting that mapping appropriate high-density districts where markets are strong is an important strategy to support housing growth.

The President of NoHo-Bowery Stakeholders, a local community organization, spoke in support of prioritizing housing and recommended that careful consideration be given to designing regulations that harmonize with the character of different parts of NoHo. A land use attorney representing NoHo-Bowery Stakeholders spoke about the negative impact of the outdated existing zoning, urging the community and Department to continue working together and adjust the plan to address stakeholder concerns.

Several speakers in favor, comprised primarily of local residents and housing advocates, testified to the merits of the proposed actions and cited the need to create more affordable housing in high-opportunity, transit-rich neighborhoods such as SoHo and NoHo. They noted that MIH is an effective tool to leverage private investment to expand access to jobs, resources, and amenities to low- and moderate-income households. Speakers expressed optimism that introducing permanently affordable housing in affluent neighborhoods such as SoHo and NoHo would make these areas more diverse and support racial and economic equity. Several supporters also noted their belief that creating more housing in SoHo and NoHo would help alleviate displacement pressure and overcrowding in adjacent neighborhoods such as Chinatown. Speakers also noted that the existing zoning, which prohibits new housing as-of-right, represents an exclusionary policy and signals that New York City is not a welcoming place. A speaker urged Manhattan Community Board 2 to do more to support housing so that the next generation of New Yorkers could afford to live in the city. At the same time, speakers also supported a balanced approach to maintain SoHo and NoHo's mixed-use character by reforming outdated zoning regulations that inhibit job creation and create unnecessary regulatory hurdles for small businesses.

Several speakers, including preservationists, expressed their belief that upzoning and historic district preservation need not be mutually exclusive, and that additional development would facilitate new history and allow more residents to enjoy the neighborhoods' historic charm.

A member of the public noted that denser development helps to reduce emissions that contribute to climate change.

A local resident testified in support of the proposal, noting that virtual public meetings have increased access to participation in the community engagement and public review processes.

Several speakers qualified their support by advocating for minor changes to the proposal such as lowering proposed commercial and manufacturing FARs in the highest density zoning districts to maximize residential development, reconsider MIH's community preference policy so that more residents outside of Manhattan Community Board 2 have the opportunity live in SoHo and NoHo, and giving the LPC additional flexibility to modify certain base height regulations.

Sixty-nine speakers testified in opposition, including the New York State Assembly Member for District 66, the Democratic Party candidate for City Council District 1, members of Manhattan Community Board 2, representatives of preservation, civic and community organizations such as the Landmarks Conservancy, Municipal Art Society of New York, the Village Preservation, Save Washington Street, Lower East Side Preservation Initiative, SoHo Alliance, Broadway Resident Coalition, Bowery Alliance of Neighbors, Tenants Political Action Committee (Tenants PAC), Downtown Independent Democrats, Chinatown Working Group, Artists Against Expressway, Tribeca Trust, Humanscale NY, and the Judd Foundation, as well as local residents, long-time SoHo artists, and other members of the public.

The State Assembly Member for New York's District 66 noted their opposition to the project, citing a lack of guaranteed affordable housing, perceived inadequacy of MIH, disregard toward JLWQA and historic districts, and insufficient tenant protection measures.

The Democratic Party's candidate for City Council District 1 spoke in opposition, expressing their belief that the plan has no guarantee for housing, no support for small businesses, would exacerbate quality of life challenges, and is racially motivated.

Five representatives of Community Board 2 testified in opposition, reiterating the Community Board's recommendation to deny the application, stating that they did not believe the plan would produce enough affordable housing, that outreach and community engagement by City agencies was insufficient, that the arts fund mechanism represented a unfair tax on existing JLWQA residents, that large retail establishments would dislocate small businesses and strain infrastructure, that upzoning would incentivize the demolition of historic resources, and that quality-of-life issues were not sufficiently addressed.

A representative of the Municipal Art Society urged the planning efforts to take a wider view and consider strategies beyond zoning to address a multitude of goals.

Many spoke in opposition to the land use actions while noting their overall support for many of the proposal's goals, including creating affordable housing, supporting the needs of small businesses, allowing for context-sensitive infill development, including height limits, and promoting the arts. A local resident and working artist stated that the plan received good input from both proponents and opponents of the proposal, noting that, rather than being anti-development, the opponents of the rezoning believe the proposal would lead to unintended consequences. They also dispute that the proposal's stated objectives would materialize and are skeptical of the motivations behind the plan, which they believe are driven by the development community and other special interests.

Several speakers in opposition criticized the plan as a threat to SoHo and NoHo's architectural legacy and the integrity of historic districts and other historic resources. They also noted that the proposal would be the first upzoning of a City-designated historic district, which they believed would set a bad precedent and lead to future upzonings of historic neighborhoods. Some speakers also suggested that the Landmarks Preservation Commission was not adequately

consulted in the development of the proposal and that the upzoning would place pressure on the LPC to approve projects that comply with the new zoning. Many speakers expressed their belief that increased FAR and height allowances would incentivize the demolition of historic buildings and promote out-of-scale development. Some preservationists expressed support for Village Preservation's alternative plan, which they noted includes affordability mandates, but not an upzoning. Some opponents suggested that there are ways to achieve affordable housing goals without the need to demolish any existing structures.

Many who spoke in opposition stated that they did not believe the MIH program would deliver affordable housing. Some speakers noted their belief that the required set-aside for affordable units – 25 to 30 percent of residential floor area – is insufficient and that deeper levels of affordability below 60 or 80 percent of area median income should be mandated. Those in opposition also stated the belief that the MIH program includes loopholes that would allow developers and property owners to circumvent the MIH requirements, specifically in conversions and expansions of existing buildings. One speaker suggested that the Commission consider an affordable homeownership program.

Speakers in opposition also expressed concerns that the proposal, by incentivizing new development, would lead to displacement of small businesses and residents, both within SoHo and NoHo and in adjacent neighborhoods such as Chinatown. Some opponents also stated a belief that new residential development would lead to less racial and income diversity than what presently exists in SoHo and NoHo. Many also stated that existing rent regulations and tenant protections are not strong enough nor adequately enforced and requested that the City share more information on rent regulated units.

Several speakers objected to the JLWQA to residential conversion proposal. In addition to concerns about possible zoning, building code and Multiple Dwelling Law complications in converting JLWQA to residential use, several residents expressed fears that the contribution to the SoHo/NoHo Arts Fund would be a punitive tax on certified artists or that current residents would be forced to sell their unit in order to comply with the new zoning regulations. A SoHo

artist resident stated that the lack of enforcement of the JLWQA rules over the years contributed to the gentrification of SoHo and NoHo and that the proposal would accelerate that trend. Some residents also expressed disappointment that the plan would not create any new artist housing and noted that commercial owners would not be required to pay into the fund. A property owner expressed misgivings about the validity of the market study that informed the arts fund contribution rate.

Many residents noted that large retail establishments created quality-of-life challenges for residents, including noise and traffic congestion from delivery trucks, overcrowding of sidewalks, and inadequate refuse storage and spotty collection. They objected to eliminating the special permit for large retail establishments over 10,000 square feet due to quality of life concerns.

A number of residents criticized the Department for what they perceived to be deficient community engagement – demanding that the public review process be halted until the COVID-19 pandemic subsides and in-person hearings are allowed to resume. Some community members also objected to what they believed to be a delayed and unsatisfactory outreach effort to the Asian-American and Chinatown communities, which, in their view, would be disproportionately affected by the proposed rezoning.

A NoHo resident noted their opposition to the plan citing a lack of open space mitigation.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 210422 ZMM), in conjunction with the related zoning text amendment (C 210423 ZRM), as modified herein, is appropriate.

The Commission notes that the SoHo/NoHo Neighborhood Plan, which the proposed actions seek to implement, builds on years of engagement, recognizes the area's rich history and varied context, and is well-balanced in meeting multiple planning objectives. The objectives of the plan include creating of significant opportunities for new housing, including affordable housing; introducing bulk and use regulations that better reflect existing conditions; strengthening the uniquely mixed-use character of the neighborhoods; and celebrating the unique architectural and creative legacies of the SoHo and NoHo neighborhoods. The Commission notes that the proposal under consideration has greatly benefited from an engaged local community and active public participation throughout the neighborhood planning process, and appreciates the effort, advocacy, and thoughtful input by elected officials, as well as a wide range of local and citywide stakeholders.

The Commission recognizes that the SoHo/NoHo Neighborhood Plan and its associated actions, which have been thoughtfully and carefully developed based on the recommendations that emerged from an extraordinary, multi-year public and stakeholder engagement effort. The Envision SoHo/NoHo engagement process allowed DCP staff to hear directly from the affected communities regarding their priorities, concerns, and ideas related to the previously existing zoning, as well as their vision for the futures of these neighborhoods. The Commission acknowledges the complex and unique nature of SoHo and NoHo, noting that outdated zoning and other regulations merited a detailed and thorough planning approach. The many recommendations contained within the *Envision SoHo/NoHo* report provided a valuable blueprint for action. The Commission notes that the proposed actions address the major themes contained within the *Envision SoHo/NoHo* report, as well as elaborate upon many of the specific recommendations put forward by the stakeholder advisory group.

The Commission notes that, absent the proposed actions and related neighborhood planning efforts, changes in SoHo and NoHo will continue to occur as they have for the past 50 years – in a piecemeal fashion according to outdated rules that create unnecessary regulatory burdens for existing residents and businesses while hindering access to housing and opportunities for New Yorkers. The resource-intensive special permit and other discretionary approval processes at the

CPC and BSA – the primary mechanism by which conversions and residential development have occurred – will continue to result in exclusively market-rate or luxury housing and perpetuate SoHo and NoHo’s status as one of the most exclusive housing markets in the country.

As the Commission notes below, by allowing for new residential development and requiring affordable housing, establishing contextual envelopes, removing unnecessary regulatory burdens for businesses, and supporting arts and cultural activities in a manner that better reflects the needs of the city’s artists and creative workforce, the proposed actions will ensure SoHo and NoHo’s continued cultural vitality, support citywide policies related to housing and equity as articulated in *Housing New York*, *Where We Live NYC*, and *PlaNYC/OneNYC*, increase access to the neighborhoods’ amenities and employment opportunities, and contribute to economic recovery and resiliency efforts in the wake of the COVID-19 pandemic.

As noted below, the Commission believes the proposed actions, as modified, will map appropriate underlying zoning districts and introduce properly tailored special regulations through the establishment of the SNX to address the unique architectural, historic and cultural context of SoHo and NoHo.

#### *Mixed Use Regulations*

The Commission believes that the proposed use regulations introduced by the zoning map and zoning text amendments, as modified herein, are appropriate.

Adopted in 1971, the current M1-5A and M1-5B zoning was intended to provide a path for existing working artists to legalize their live-work occupancies while preserving space for a shrinking manufacturing base. The Commission notes that SoHo and NoHo’s land use pattern and socioeconomic conditions have changed significantly over the last several decades. Today, SoHo and NoHo are highly unique in their character as almost completely mixed-use communities. Whereas many of New York City’s other mixed-use neighborhoods share the pattern of commercial avenues and residential midblocks, SoHo and NoHo are mixed-use on

nearly every block and street. Commercial, residential, JLVQA, and other uses coexist among buildings and, often, from floor to floor within individual buildings.

SoHo and NoHo have since evolved from primarily artists' live-work enclaves to communities with long-time certified artist residents as well as a range of non-artist residents. The Commission recognizes that this gradual shift is a result of a confluence of factors, including changes in professional pursuits and familial successions of property – which have introduced tremendous challenges in strict enforcement of the artist occupancy restriction - as well as larger economic and societal trends, including the rise of other artist communities across the five boroughs and emergence of the broader creative economy. The Commission also notes that the Loft Law, prior amnesties, CPC special permits, and BSA variances have allowed residences not restricted to certified artists in SoHo and NoHo over the years, although these mechanisms made marginal contributions to the City's overall housing supply and have not resulted in the creation of income-restricted affordable housing. As a result of chronic housing supply shortages, SoHo and NoHo have become increasingly differentiated from Manhattan and New York City as a whole along racial and socioeconomic lines - heavily restricted and prohibitively expensive housing only exacerbates this condition. The Commission believes that replacing the outdated zoning with more appropriate mixed-use districts with as-of-right residential use paired with MIH is a necessary precondition for SoHo and NoHo to play a part in addressing the City's housing affordability and equity challenges.

Traditional manufacturing and industrial uses have diminished in SoHo and NoHo, as they have in most other areas of the city due to broader macroeconomic changes and a shift towards a more service-oriented economy. Despite this shift, SoHo and NoHo's manufacturing zoning and outmoded provisions continue to prioritize traditional light industrial uses and prohibit economically viable uses such as retail on the ground floor, creating significant barriers for property owners and businesses as they attempt to respond to current market demand and economic reality. The Commission notes the "good faith marketing" special permit, a particularly egregious example of the outdated zoning is a provision that typically requires storefronts to be kept vacant—sometimes for over a year—while an attempt is made to identify

an industrial tenant to occupy the space. These regulatory burdens fall disproportionately on smaller businesses and property owners, who typically have fewer financial resources and less technical sophistication to navigate complex land use, environmental, and public review processes.

In its review of special permit applications over the past decades, the Commission has long recognized that the M1-5A and M1-5B zoning is not reflective of the neighborhoods today, and that new regulations should be enacted in order to allow residential, retail, and other common uses found in SoHo and NoHo and other similarly mixed-use areas. Therefore, the Commission sees the mapping of M1-5/R7X, M1-5/R9X, and M1-6/R10 zoning districts as a much-welcomed effort to modernize the zoning to reflect existing conditions and reinforce the dynamic mixed-use character. Additionally, given the highly mixed-use context in SoHo and NoHo where residences, commercial and light industrial uses intermingle within a single building, the Commission believes the paired M/R district approach provides the appropriate underlying regulations that already contemplate the co-location of a wide variety of uses.

The Commission believes that allowing as-of-right residential use in new development and conversions is consistent with land use trends in the past decades. As noted below, paired with the carefully calibrated density increases and the implementation of MIH, the proposal reflects an appropriate shift from a narrow allowance for highly restricted live-work to a greater acknowledgement of the need for housing for all, particularly in these centrally-located, transit rich neighborhoods with ready access to employment centers. The Commission additionally notes that the proposal's expanded home occupation provisions for all residential units duly recognizes the longstanding live-work tradition in SoHo and NoHo, while broadening it for the 21<sup>st</sup> century and the new live-work trends accelerated by the ongoing Covid-19 pandemic. The new zoning districts will also permit new community facility uses as-of-right, including schools, libraries, community centers, museums and nonprofit galleries, allowing for the addition of these amenities as the neighborhoods grow.

The broader allowance for commercial, including retail uses, will provide a largely as-of-right framework with necessary zoning flexibility to address evolving market conditions and industry trends. The proposed non-residential floor area retention requirement for buildings over 60,000 square feet reflects an intentional strategy that preserves critical space for job-generating uses and existing concentrations of businesses as residential use is being introduced to the neighborhoods. The Commission notes that the proposed use regulations will permit clothing and food stores, eating and drinking establishments, and other storefront-type commercial uses that already exist in SoHo and NoHo and are allowed as-of-right in nearby neighborhoods such as Hudson Square, Little Italy, and Chinatown. Regarding large retail uses, however, the Commission believes modifications are necessary in response to concerns raised during the public review process.

The Commission notes that the existing zoning prohibits certain retail stores in Use Group 10A such as department stores, clothing, furniture, and appliance stores with no limitations on size, except by CPC special permit pursuant to ZR Section 74-922. The certified proposal allows these large retail uses as-of-right, in recognition of SoHo and NoHo's status as major retail districts and global shopping destinations, where these types of stores are appropriate and have long been present side-by-side with smaller stores and other uses. In its review of past special permits pursuant to ZR Section 74-922 for large retail, the Commission has regularly acknowledged the important role SoHo and NoHo's retail sector plays in providing jobs, supporting a vital local economy, activating streets and creating a dynamic and unique retail district and that SoHo and NoHo's varied floor plate sizes can accommodate a diverse set of retailers.

However, given the highly mixed-use nature of these two neighborhoods where commercial uses and residences coexist and longstanding concerns expressed by the community, the Commission believes that reducing zoning rigidity around retail size and providing more flexibility for businesses and property owners should not come at the cost of quality of life for its residents. The Commission is sympathetic to the quality of life challenges exacerbated by the loading and unloading activities of certain large retail operators given the volume, frequency and hours of deliveries, particularly because most historic loft buildings that contain large stores today do not

have interior loading berths and many buildings on through lots along Broadway take in deliveries at night through their service entrances on Crosby and Mercer Streets, where many residences are located on the upper floors.

Given this condition and in response to concerns expressed by local residents, the Commission hereby modifies the proposal to include a new CPC Chairperson certification that requires additional review for stores over 25,000 square feet when interior loading berths are not provided. Specifically, the Chairperson certification process will require a loading plan developed in consultation with DOT that ensures on-street loading location and merchandize delivery operations do not unduly impede other users of buildings and the public realm, including residents, pedestrians, cyclists and vehicles including buses. The 25,000-square-foot threshold represents stores of significant size that have substantial loading needs and are generally reflective of the size of stores that have been the sources of residents' concerns over the years in SoHo and NoHo, particularly along the Broadway corridor. The Commission believes that the proposal, as modified, will provide much-needed zoning flexibility at a time where the retail industry is recovering from a global recession and adjusting to new trends, while establishing a mechanism through the certification process to reconcile operational necessities of retailers and reasonable expectations of livability and experience in the public realm of others in the neighborhoods. The requirement for a loading plan developed in consultation with DOT also reflects a common outcome of past special permit applications pursuant to ZR Section 74-922, where community concerns have drawn special attention to modification of curbside regulations adjacent to individual large retail operations.

Regarding concerns around solid waste management, the Commission is aware that DSNY is in the process of implementing the Commercial Waste Zone program, which will greatly reduce truck traffic through the neighborhoods and its related negative quality of life impacts in the near future. The Commission is assured by the Department's ongoing work with local stakeholders and agencies to develop additional strategies to supplement safeguards within zoning so that SoHo and NoHo remain vibrant and attractive places to live, work, and visit.

### *Floor Area*

The Commission believes that the proposed floor area regulations introduced by the zoning map and zoning text amendments, as modified herein, are appropriate.

The Commission believes the proposed M1-5/R7, M1-5/R9X and M1-6/R10 zoning districts provide the appropriate baseline densities. Notably, SoHo and NoHo are opportunity-rich neighborhoods with exceptional transit access, positioned between two of the nation's largest central business districts: Midtown Manhattan and the Financial District. Underutilized vacant lots, parking facilities and low-rise commercial buildings throughout the neighborhoods as well as areas along major corridors such as Broadway, Canal Street, Sixth Avenue, Bowery, Centre and Lafayette streets have the capacity to accommodate additional housing and jobs, and, commensurate with their central location and exceptional transit accessibility, are appropriate places for growth to help achieve the City's affordable housing and economic development objectives. Importantly, while the majority of the neighborhoods are located within historic districts, the Commission believes that the dual objectives of historic preservation and growth are not incompatible with one another, and that neighborhoods within historic districts, as New York City, can accommodate additional growth.

The Commission also recognizes that SoHo and NoHo contain several distinct subareas, including historic cores, historic corridors, and housing opportunity areas, that vary in character regarding density, bulk, building size, prevailing uses, and historic integrity. The proposed medium- and high-density mixed-use zoning districts and their boundaries have been carefully considered based on stakeholder feedback and curated to reflect the scale and character of both the unique subareas within SoHo and NoHo as well as their surroundings.

Within historic cores, the Commission believes that the mapping M1-5/R7X, a medium density zoning district that maintains the current maximum FAR, reflects the appropriate deference to historic districts and will accommodate a level of growth consistent with the surrounding neighborhood context. In the historic corridors such as Broadway, Canal Street, and Lafayette Street where larger, denser, historic lofts dominate, the M1-5/R9X zoning districts will allow

higher densities in keeping with the built character and density of these wide thoroughfares. The Commission also notes that the SNX's modestly higher non-residential FAR allowance in the M1-5/R9X districts north of Howard Street reflects these historic importance of these corridors as commercial centers and is necessary to support a healthy office and retail ecosystem.

The Commission believes that the M1-6/R10 high-density zoning districts proposed in the opportunity areas along the periphery of SoHo and NoHo are appropriate. These areas are more heterogenous in character compared to parts of the neighborhood within historic districts and have both a high concentration of under-developed sites as well as some of the largest buildings found within the project area. The more generous FAR allowances proposed in these transitional areas are designed to encourage the development of new, high-density residential and mixed-use buildings and represent the greatest opportunity for the creation of permanently affordable homes under MIH. The Commission recognizes that these areas have enormous potential and are poised for additional growth due to their optimal location.

The Commission, however, believes a more nuanced approach to commercial density is necessary in some of the highest-density districts proposed to further balance the goals of expanding housing opportunities while reinforcing a healthy, balanced mix of uses. The Commission commends the many engaged local and citywide stakeholders including housing advocates for their commitment to the public engagement process as well as their advocacy for maximizing housing production. Comprehensively considering these comments, SoHo and NoHo's status as regional commercial hubs and job centers, their dynamic mixed-use character, as well as the surrounding context, the Commission modifies the proposal by lowering the commercial FAR in the M1-6/R10 district of Subarea O-2 from 10.0 to 8.0, and within the M1-6/R10 district in Subarea O-3 from 10.0 to 7.0. The Commission believes that this recalibration of commercial densities reflects a recognition that the two M1-6/R10 districts in the eastern portion of the SNX are adjacent to more residential areas such as the East Village, Little Italy and Nolita, whereas the M1-6/R10 in the west borders Hudson Square, a more established mixed-use and office district already mapped with a maximum commercial FAR of 10.0. While the Commission appreciates the intention articulated by some during the public hearing to further

lower commercial FAR in the M1-6/R10 districts to further favor housing development, the Commission believes it is crucial to have a robust commercial density allowance that not only reinforces the strength of Manhattan as home to a diversity of office space, but also aligns with SoHo and NoHo's existing conditions, where large amount of Class B and C office inventory, particularly along the Broadway corridor, attract start-ups, creative firms, non-profits, and entrepreneurial businesses. While the Commission shares the perspective of many advocates who spoke at the public hearing that housing is a leading priority for our city, it also recognizes that pairing residential and manufacturing districts at comparable levels is necessary and critical to sustain SoHo and NoHo as thriving mixed-use districts. The Commission therefore believes the proposal, as modified, strikes the appropriate balance between the City's housing and economic development goals and will ensure that SoHo and NoHo can meet the demands of changing market conditions over time.

#### *Contextual Building Envelopes*

The Commission believes that the contextual building envelope rules proposed by the underlying zoning and SNX are appropriate and consistent with the loft building forms common in these neighborhoods.

The Commission notes that the 50-year-old zoning found throughout SoHo and NoHo predates the existence of contextual zoning and encourages building forms that are incongruous and out of context with the relatively uniform condition of high-streetwall, loft buildings found throughout the two neighborhoods. Specifically, the longstanding M1-5A and M1-5B zoning allow buildings of unlimited height and encourage buildings to be set back from the streetline, thereby interrupting the nearly continuous streetwalls that line every block in SoHo and NoHo.

The Commission therefore believes that the proposed maximum building heights throughout the Special District are appropriate. Within the historic districts, the proposed underlying M1-5/R7X and M1-5/R9X zoning districts will establish maximum building height rules that broadly reflect and respect the historic loft building context. While the Commission is sensitive to some community members' desire to apply maximum building heights in historic districts that exactly

match the familiar four- and five-story lofts, the Commission believes that a more flexible bulk envelope is needed to better accommodate the appropriate residential floor area and respond to unique site conditions to ensure access to light and air. In housing opportunity areas along the periphery of the project area, the SNX regulations will modify the underlying M1-6/R10 bulk rules, which facilitates tower-on-a-base, to establish a contextual, loft-type building envelope. The Commission notes that the bespoke base height range and the maximum building height in the opportunity areas are comparable to the larger buildings in these transitional areas and will facilitate buildings that relate more appropriately to adjacent buildings and the broader context south of Canal Street, west of Sixth Avenue and along the Bowery. The Commission believes that this additional height flexibility is necessary to achieve the plan's development and housing production goals. The Commission also acknowledges that these transitional areas abut neighborhoods such as Hudson Square, Tribeca, Civic Center, and the East Village where existing building heights are consistent with M1-6/R10 regulations as modified by the SNX.

The Commission understands that the SNX's adjustments to minimum and maximum base heights are designed to mirror the loft typology where buildings often have higher streetwalls than the standard M1-6/R9X and M1-6/R10 districts prescribe. Additionally, while the proposed underlying districts typically assign different base heights and maximum buildings heights depending on whether a structure fronts on a narrow or wide street, the special district eliminates this distinction. The Commission acknowledges the value of having a uniform set of rules for base and maximum building heights and recognizes that historic lofts typically have consistently high streetwalls regardless of the width of the street on which they front. The Commission also notes that the proposed SNX rules will treat West Broadway, Watts Street, Centre Street, and Great Jones Street as wide streets for the purpose of applying setback rules. The Commission observes that these streets fall just under the wide street threshold (75 feet) and are largely defined by their commercial character; many lots along these streets are shallow or otherwise substandard. The Commission also believes that this reclassification will provide the necessary flexibility for site planning, given the presence of many irregular, shallow, and otherwise challenging parcels where blocks follow an atypical street grid and strict compliance with narrow street rules will present significant obstacles to designing efficient, usable floorplates.

The Commission is pleased that the SNX allows the LPC to lower the minimum base height or raise the maximum base height of buildings within historic districts in order to better align cornices to adjacent structures and promote a more harmonious, consistent streetwall.

Additionally, the Commission notes that the proposed SNX and underlying rules will facilitate strong street walls for new infill developments, referencing the existing loft building form architecturally, while providing appropriate levels of flexibility to accommodate a variety of designs and façade articulation and promoting an inviting and active pedestrian experience.

The SNX will introduce additional building envelope flexibility with respect to rear yard, inner court, and dormer regulations in order to better reflect the high-lot-coverage loft typology where consistent, unbroken streetwalls predominate. The Commission believes these adjustments will help bring sufficient light and air to adjacent buildings, as well as provide appropriate relief for the many small, shallow, and oddly shaped lots that are common throughout the project area and for which designing efficient floorplates presents unique challenges.

The Commission shares the sentiment expressed by the preservation community that SoHo and NoHo's iconic architecture should be preserved and cherished. At the same time, the Commission firmly believes that the proposal, with its sensible urban design controls to help weave the new into the historic fabric, affirms that historic preservation and continued growth can be mutually beneficial.

#### *Mandatory Inclusionary Housing (MIH)*

The Commission believes the proposed zoning text amendment to establish the SNX as a Mandatory Inclusionary Housing (MIH) area and the proposed adjustments, as modified herein, are appropriate.

The SoHo and NoHo neighborhoods represent an uncharacteristically affluent subset of New Yorkers, with a much larger percentage of owner-occupied housing and no income-restricted affordable housing. This limited diversity of backgrounds and incomes is partially attributable to an outdated zoning scheme that prohibits residential use and the resulting lack of housing created

in the neighborhoods over the past decades. The Commission notes that, with the combination of allowing residential use at appropriate densities and implementing MIH, the strong markets of SoHo and NoHo will create opportunities for new mixed-income housing including permanently affordable homes, none of which exist currently, without city subsidies on private sites. Further, the Commission notes that the SNX will be one of the largest MIH Areas in the city and the only one in Lower Manhattan. Requiring permanent income-restricted affordable housing in mixed-use infill developments and residential conversions in SoHo and NoHo will newly enable the neighborhoods to play a part in the citywide project of alleviating New York City's housing crisis and supporting socioeconomic integration. While the Commission understands the desire to require a higher percentage set-aside for affordable housing, the Commission notes that 25 percent and 30 percent in the proposed MIH Options 1 and 2, respectively, represent the highest requirement in the nation and is designed to create as much affordable housing as possible without disincentivizing housing and shifting developments away from residential to commercial and other uses. The Commission believes the proposal will help advance citywide housing and equity efforts as articulated in *Housing New York, Where We Live NYC*, and *PlaNYC/OneNYC*, and increase access to the neighborhoods' amenities and employment opportunities by all New Yorkers.

The Commission believes the proposed adjustments to the standard MIH provisions maintains the integrity of the citywide program while responding to the unique regulatory and built conditions in SoHo and NoHo in a targeted, appropriately narrow manner. In SoHo and NoHo, MIH will apply to any residential development on lots that could develop above the existing MIH threshold (12,500 sf) atop a commercial ground floor. This removes the incentive to underbuild to avoid MIH and ensures that LPC adjustments to proposed developments on smaller sites within the historic districts will not inadvertently eliminate MIH applicability. The special district also provides a BSA special permit to ensure that residential conversions on physically constrained sites – including deep and narrow buildings on interior lots – do not result in suboptimal affordable housing outcomes, such as a small number of oversized affordable studio apartments at an overall floor area that would typically support several affordable family-size units. In consultation with the BSA and HPD, the Commission modifies the special permit

to require HPD's involvement so that all applications result in the outcome – on-site units or the fee – that best support the goals of MIH. These adjustments will further ensure that MIH works well given the existing fabric and history of the neighborhoods and fully realizes the affordable housing potential within SoHo and NoHo.

Beyond implementing MIH, the Commission urges the Department to continue its longstanding effort to advance conversations with federal elected officials to unlock the potential of 2 Howard Street, a federally owned parking garage, as a site for future housing.

In response to concerns raised by some local residents and tenants of rent regulated units in SoHo and NoHo about tenant harassment and displacement pressure, the Commission notes that the Housing Stability and Tenant Protection Act passed by the State in 2019 has greatly strengthened rent regulation and tenant protection, including eliminating pathways to deregulate. Additionally, the Commission is pleased that HPD is working with City Council to extend the Certificate of No Harassment (CONH) legislation, and that HPD, in collaboration with the City's Tenant Support Unit and local nonprofits, is planning to conduct outreach to tenants in the rezoning area with special attention paid to buildings with higher concentration of rent regulated units, high numbers of HPD violations, and units with seniors. The Commission values existing rent regulated housing as an important resource for residents and communities and believes the preservation of rent regulated units and the introduction of income-restricted affordable housing to SoHo and NoHo are complementary policy goals to protect existing residents while welcoming a range of newcomers. The Commission is aware of a growing body of scholarship that suggests that increasing housing supply in more affluent areas has an effect of alleviating market pressure not only within affluent areas, but in surrounding lower income and more vulnerable neighborhoods as well. In that vein, the Commission recognizes that the lack of housing in SoHo and NoHo has contributed greatly to the displacement pressures that have increasingly beset SoHo and NoHo and surrounding areas in recent decades.

### *JLWQA and SoHo/NoHo Arts Fund*

The Commission believes the proposed Chairperson certification to allow the voluntary conversion from JLWQA to residential use upon contribution to a SoHo/NoHo Arts Fund is appropriate.

The proposal will clarify the regulatory landscape for existing residents and introduce much-needed optionality to accommodate a broader range of people and occupancies. The proposal preserves the ability for existing JLWQAs to remain and continue to provide a unique live-work arrangement for certified artists, both existing and new, while establishing a new voluntary pathway to legalize as or convert to residential. The Commission acknowledges that, since the establishment of the JLWQA regulations in 1971, SoHo and NoHo's neighborhood conditions and creative landscape have evolved due to a confluence of factors. These factors introduced tremendous challenges in strict enforcement of the artist occupancy restriction and, taken together with larger economic and societal trends and the rise of other artist communities across the five boroughs, highlight a need for expanded options for voluntary conversion of JLWQAs to regular residential use. By requiring a contribution towards the Arts Fund at the time of JLWQA-to-residential conversion, the proposal will translate the lifting of the artist occupancy restriction into resources for strengthening the public presence of the arts in and around SoHo and NoHo over the long-term. The Commission therefore believes that the proposal reflects a good faith effort on part of the Department to reconcile the calls for eliminating JLWQA regulations with the desire to reinforce and reinvigorate SoHo and NoHo's status as hubs for creative expression.

By establishing a fund to support the arts and allowing for a diversity of live-work arrangements as-of-right, the proposed actions will further the SoHo/NoHo Neighborhood Plan's goal of sustaining and promoting SoHo and NoHo as an engine of the city's creative economy. These changes will build upon the original 1971 zoning's effort to allocate space for artists by providing support in a manner that is more equitable and benefits the broader arts and cultural community and their public audience. The Commission understands that the contribution rate is informed by the Department's market research and falls within a range.

As envisioned by DCLA, the SoHo/NoHo Arts Fund will be a dedicated funding stream managed by a nonprofit designated by the city with deep roots in the community and experience in grant-making. While recognizing that details of the Arts Fund, particularly regarding the composition of the peer view panel and the specific criteria for fund allocation, will exist outside of zoning and need to have some built-in flexibility to accommodate changes in needs over time, the Commission is pleased that the Department continues to advance discussions with DCLA and consider ways to tailor the tried-and-true regrant model to realize the vision for the SoHo/NoHo Arts Fund and ensure that voices of local creative and cultural communities in and around SoHo and NoHo are represented.

Hearing concerns about potential zoning, building code and the MDL obstacles that makes JLWQA-to-residential conversion difficult in practice, the Commission makes certain technical adjustments to the proposed zoning text so that it better fulfills the intent to facilitate such conversions through a coordinated and streamlined administrative process, if voluntarily sought. The adjustments include clarifying locational requirement to accommodate varied conditions of JLWQA and residences co-existing within the same building, clarifying the applicable dwelling unit factor for conversions, and removing other inadvertent zoning obstacles for JLWQA-to-residential conversions. The Commission is also aware that the Department has consulted the DOB and confirmed that the applicable regulations – including building code and the MDL - allow for relatively seamless transition from JLWQA and Use Group 2 under almost all foreseeable circumstances.

In response to public testimony advocating for continuing the regime of favoring artists when it comes of housing in SoHo and NoHo, either through a broadened artist certification process or alternative modes of artist preference, the Commission feels strongly that any zoning reform in SoHo and NoHo must reject the notion of reserving housing in an entire neighborhood for people in a narrow subset of a specific profession, and shift the focus of zoning from private live-work space for individual artists to supporting community- and public-oriented programing and cultural assets.

Aware of inaccurate characterization of the proposed JLWQA-to-residential conversion mechanism during the ULURP process, the Commission notes that the proposal will not affect existing residents – many of them are longtime artists who helped transformed the neighborhoods - who wish to continue occupying their homes as-is, and that the arts fund contribution is only applicable when units seek to convert to Use Group 2 residential use, which occurs on a voluntary basis.

In sum, the Commission notes that the SoHo/NoHo Neighborhood Plan stands for the idea that, with focused planning and robust public dialogue, all neighborhoods across the city can play a part in solving the planning challenges we, as New Yorkers, share. By bringing flexible and modern zoning to these historic mixed-use communities, the plan significantly advances New York City’s equity and inclusivity goals, helps address our serious and ongoing housing crisis, and serves to speed New York City’s economic recovery.

Lastly, the Commission notes that, since the Special SoHo-NoHo Mixed Use District’s certification into public review, the Citywide Hotels Text Amendment (N 210406 ZRY) and the Health and Fitness Citywide Text Amendment (N 210382 ZRY) proposals have been approved by the Commission, which obviates the need for the similar elements found in the original special purpose district application. Therefore, the Commission is adopting a modification to the zoning text that removes these now-redundant elements. The Commission also notes the original application included provisions similar to those found in the citywide Open Restaurants text proposal that is currently in public review. If the Commission approves that citywide proposal, the overlapping provisions applicable in the special purpose district will be removed as part of that action.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 8, 2021, with respect to this application

(CEQR No. 21DCP059M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. The environmental impacts disclosed in the FEIS were evaluated in relation to the social, economic, and other considerations associated with the actions that are set forth in this report; and
2. Consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

The report of the City Planning Commission, together with the FEIS, issued October 8, 2021, constitutes the written statement of findings that form the basis of the decision pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos.12a & 12c:

1. changing from an M1-5A District to an M1-5/R7X District property bounded by West Houston Street, Mercer Street, Broome Street, a line midway between West Broadway and Wooster Street, a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, West Broadway, Broome Street, and a line midway between Thompson Street and West Broadway;
2. changing from an M1-5B District to an M1-5/R7X District property bounded by:
  - a. Great Jones Street, a line 100 westerly of Bowery, Bleecker Street, Lafayette Street, a line 122 feet southerly of Bond Street, and a line 140 feet easterly of Broadway;
  - b. a line passing through two points: one on the easterly street line of

Lafayette Street distant 120 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the easterly street line of Lafayette Street and the other on the westerly street line of Mulberry Street distant 100 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the westerly street line of Mulberry Street, Mulberry Street, Prince Street, and Lafayette Street;

- c. Prince Street, Lafayette Street, Broome Street, Centre Street, Grand Street, a line 100 feet easterly of Crosby Street, Howard Street, and Crosby Street; and
  - d. Broome Street, Mercer Street, the westerly centerline prolongation of Howard Street, Greene Street, a line perpendicular to the easterly street line of Wooster Street distant 150 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Wooster Street and the northerly street line of Canal Street, Wooster Street, a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, and a line midway between West Broadway and Wooster Street;
3. changing from an M1-5A District to an M1-5/R9X District property bounded by a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, a line midway between West Broadway and Wooster Street, Canal Street, and West Broadway;
  4. changing from an M1-5B District to an M1-5/R9X District property bounded by Astor Place, Lafayette Street, a line 100 feet southerly of Astor Place, a line 100 feet westerly of Fourth Avenue, a line 100 feet westerly of Bowery, Great Jones Street, a line 140 feet easterly of Broadway, a line 122 feet southerly of Bond

Street, Lafayette Street, Bleecker Street, Mulberry Street, East Houston Street, Lafayette Street, Prince Street, Crosby Street, Howard Street, the southerly prolongation of a line 100 feet easterly of Crosby Street, a line perpendicular to the northerly street line of Canal Street distant 110 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of Canal Street and the westerly street line of Lafayette Street, Canal Street, a line midway between West Broadway and Wooster Street, a line perpendicular to the easterly street line of West Broadway distant 70 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West Broadway and the northerly street line of Canal Street, Wooster Street, a line perpendicular to the easterly street line of Wooster Street distant 150 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Wooster Street and the northerly street line of Canal Street, Greene Street, the westerly centerline prolongation of Howard Street, Mercer Street, West Houston Street, and Broadway;

5. changing from an M1-5A District to an M1-6/R10 District property bounded by Broome Street, West Broadway, Canal Street, and a line midway between West Broadway and Thompson Street;
6. changing from an M1-5B District to an M1-6/R10 District property bounded by:
  - a. a line 100 feet southerly of Astor Place, Fourth Avenue, Bowery, Great Jones Street, 100 feet westerly of Bowery, and a line 100 feet westerly of Fourth Avenue;
  - b. a line 200 feet northerly of Broome Street, a line midway between Thompson Street and West Broadway, Canal Street, Avenue of the Americas, Watt Street, and Thompson Street; and
  - c. Grand Street, Baxter Street, Canal Street, a line perpendicular to the northerly street line of Canal Street distant 110 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of Canal Street and the westerly street line of Lafayette Street, and a line 100 feet easterly of Crosby Street and its southerly prolongation; and

7. establishing a Special SoHo-NoHo Mixed Use District (SNX) bounded by Astor Place, Lafayette Street, a line 100 feet southerly of Astor Place, Fourth Avenue, Bowery, Great Jones Street, a line 100 feet westerly of Bowery, Bleecker Street, Mulberry Street, East 93 Houston Street, Lafayette Street, a line passing through two points: one on the easterly street line of Lafayette Street distant 120 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the easterly street line of Lafayette Street and the other on the westerly street line of Mulberry Street distant 100 feet southerly (as measured along the street line) from the point of intersection of the southerly street line of Jersey Street and the westerly street line of Mulberry Street, Mulberry Street, Prince Street, Lafayette Street, Broome Street, Centre Street, Grand Street, Baxter Street, Canal Street, Avenue of the Americas, Watts Street, Thompson Street, a line 200 northerly of Broome Street, a line midway between Thompson Street and West Broadway, West Houston Street, and Broadway;

Borough of Manhattan, Community District 2m as shown on a diagram (for illustrative purposes only) dated May 17, 2021, and subject to the conditions of CEQR Declaration of E-619.

The above resolution (C 210422 ZMM), in conjunction with the related action (N 210423 ZRM), duly adopted by the City Planning Commission on October 20, 2021 (Calendar No. 19), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**ANITA LAREMONT, *Chair***

**KENNETH J. KNUCKLES, *Esq., Vice-Chairman***

**DAVID BURNEY, ALLEN P. CAPPELLI, *Esq.*, ALFRED C. CERULLO, III,**

**JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN,**

**ORLANDO MARIN, RAJ RAMPERSHAD, *Commissioners***

CITY PLANNING COMMISSION  
CITY OF NEW YORK  
DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
ON SECTIONAL MAP  
**12a & 12c**  
BOROUGH OF  
MANHATTAN



New York, Certification Date:  
May 17, 2021

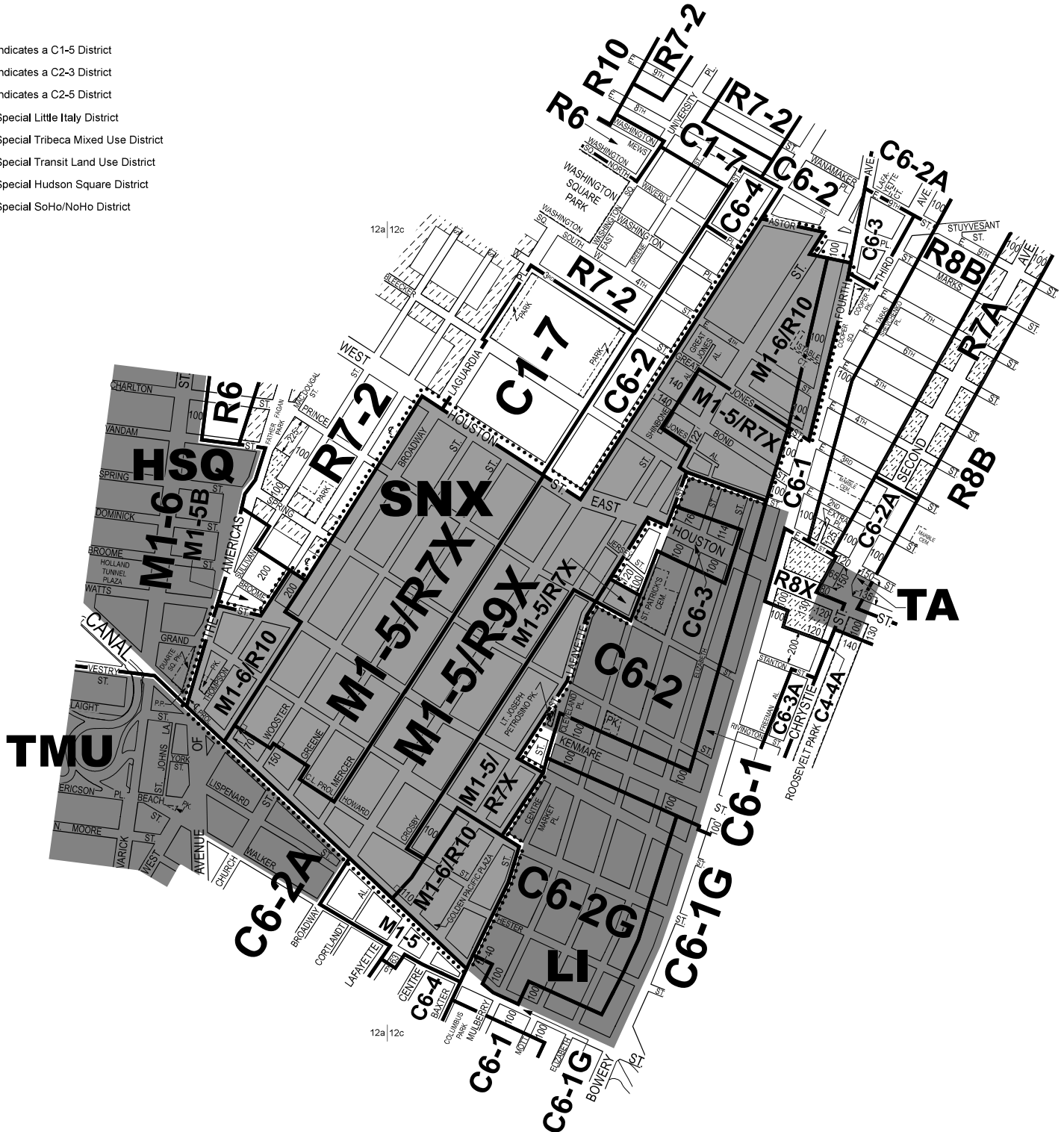
S. Lenard, Director  
Technical Review Division



**NOTE:**  
Indicates Zoning District Boundary

- ..... The area enclosed by the dotted line is proposed to be rezoned by changing M1-5A and M1-5B Districts to M1-5/7X, M1-5/R9X, and M1-6/R10 Districts and by establishing a Special SoHo-NoHo Mixed Use District (SNX).

- Indicates a C1-5 District
- Indicates a C2-3 District
- Indicates a C2-5 District
- LI** Special Little Italy District
- TMU** Special Tribeca Mixed Use District
- TA** Special Transit Land Use District
- HSQ** Special Hudson Square District
- SNX** Special SoHo-NoHo District



Jeannine Kiely, Chair  
Susan Kent, First Vice Chair  
Valerie De La Rosa, Second Vice Chair  
Bob Gormley, District Manager



Antony Wong, Treasurer  
Eugene Yoo, Secretary  
Ritu Chattree, Assistant Secretary

## COMMUNITY BOARD No. 2, MANHATTAN

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July 27, 2021

Marisa Lago, Chair  
City Planning Commission  
22 Reade Street  
New York, NY 10007

Dear Ms. Lago:

At its Full Board meeting on July 26, 2021, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

### **Opposition to the City's Proposed Plan to Rezone SoHo, NoHo and Chinatown**

ULURP Application Nos. C210422 ZMM, N210423 ZRM  
Draft Environmental Impact Statement CEQR No. 21DCP059M

#### **Whereas:**

#### **A. The proposed SoHo, NoHo and Chinatown rezoning fails to achieve affordable housing goals and instead incentivizes office, dormitory and large retail development and will displace existing rent-protected and low-income residents.**

1. Manhattan Community Board 2 (CB2) is committed to the protection of existing rent-regulated housing and the creation of new equitable affordable housing for NYC residents who are most in need.
2. The [SoHo NoHo Neighborhood Plan](#) (the Mayor's Plan) is unlikely to produce any affordable housing, while being falsely presented as a proposal to *expand* affordable housing and instead incentivizes commercial and dormitory uses.
3. The Mayor's Plan fails to protect against displacement, particularly for residents in Chinatown, seniors aging-in-place and tenants who are rent stabilized, rent controlled or protected under New York State Loft Law.
4. The Mayor's Plan also fails to secure the future or consider expansion of the highly successful JLWQA use as well as fails to mitigate the significant adverse impacts on open space, shadows, historic and cultural resources, transportation and construction noted in the Draft Environmental Impact Statement<sup>1</sup> (DEIS).

5. Adaptive reuse has been the heart of NoHo and SoHo's success. Artists and small retailers transformed a dying industrial district into a highly distinctive, architecturally significant, world-renowned neighborhood.
6. In its wake, the Mayor's Plan will eliminate the zoning that makes these historic districts unique, attractive and highly successful.
7. The Final Scope of Work (FSOW) of the Mayor's Plan remains virtually unchanged from the Draft Scope of Work (DSOW) and ignores recommendations from sincere housing and community advocates – including CB2's own detailed, [40-page critique of the Draft Scope of Work](#) – and from the [Envision SoHo/NoHo](#) report and Advisory Group sponsored by DCP, Manhattan Borough President Gale Brewer and Council Member Margaret Chin.
8. The rushed rezoning plan is designed to coincide with the last days of Mayor de Blasio's administration and prevents input from the incoming mayor and city council.
9. The plan, conceived during the depths of the COVID-19 pandemic, cannot take into account post-pandemic changes in live-work and usage of commercial space.
10. The city's public meetings, none of which were held in-person, failed to include members of the Chinatown community, where almost half of the projected new development will be built.

***For all these reasons, and for the specific areas of concern detailed below, Manhattan Community Board 2 rejects the City's fundamentally flawed and unacceptable SoHo NoHo Neighborhood Plan.***

## **B. Key Areas of Concern**

### **1. The Mayor's Plan Fails to Guarantee Any Critically Needed Affordable Housing.**

- a. The City admits that there is **zero** guarantee that any affordable housing units will be created as a result of the proposed Plan.
- b. The rezoning will incentivize the replacement of existing architecture with new, out-of-scale luxury residential structures with a minimal number of affordable units or with commercial or dormitory uses. [Mandatory Inclusionary Housing](#) (MIH) (i) allows building enlargements with no affordable housing required, (ii) creates new luxury housing with no affordable housing on site if the developer pays into a housing opportunity fund to build it elsewhere, (iii) permits exemptions based on deep lot size and small building footprints and (iv) most importantly, fails to create affordable housing for those most in need in our community<sup>2</sup> – at income levels that fall below 40% Area Median Income<sup>3</sup> (AMI).
- c. These incentives for commercial<sup>4</sup> and dormitory use as well as the proposed modification to preserve large buildings (60,000 sq. ft. and larger) for commercial use<sup>5</sup>, will result in a proliferation of large office and/or other commercial structures with no affordable housing at all.
- d. The addition of residential use will allow dormitories of up to 6.5 FAR, which were previously not permitted and, given the limited development sites and proximity to a number of universities, will create another use that competes against affordable housing.
- e. In fact, ***the Mayor's Plan will likely result in a net reduction of the number of affordable housing units.*** It incentivizes the demolition of existing low-rise buildings and the displacement of rent-stabilized tenants in ***at least*** [635 rent-regulated units](#) and

*likely much more in at least 185 buildings.*<sup>6</sup> These units are disproportionately located in the rezoning areas with the highest proposed upzonings – the 12 FAR zones – and are therefore especially threatened by the plan. Particularly at risk are residents in Chinatown (located in the SoHo East designated opportunity zone, where one property owner has multiple contiguous properties that will benefit from higher commercial FAR) and senior citizens aging-in-place, especially those tenants in smaller JLWQA and rent-stabilized buildings, which are prime targets for demolition.

- f. The Mayor's Plan will fail to achieve a more socioeconomically and racially diverse neighborhood in part because MIH relies on large-scale luxury development with low numbers of affordable units.
- g. Any future rezoning plan must review and include protections for tenants at risk of displacement.<sup>7</sup>
- h. CB2 also insists that any rezoning plan addresses options for ***adding more permanently affordable housing, including supportive housing, without the addition of more luxury housing***, including (i) incentivizing adaptive reuse and sustainability, (ii) converting empty hotels and offices to affordable housing; (iii) constructing 100% affordable housing on the federally-owned parking lot at 2 Howard Street under existing HPD programs, (iv) identifying opportunities to build more affordable housing, particularly on vacant sites, while addressing displacement concerns, and (v) acquiring and subsidizing the development of 100% affordable housing and/or supportive housing on sites within the rezoning area, including bold and imaginative uses of the limited developable land in SoHo, NoHo and Chinatown.

## 2. **Zoning changes will squeeze out small retail stores and negatively impact quality of life for current and future residents.**

- a. CB2 supports allowing as-of-right ground-floor local retail less than 10,000 sq. ft. under Use Group 6, appropriate for a mixed-use residential district.
- b. CB2 supports maintaining a special permit for retail more than 10,000 total sq. ft., as is the case in most commercial districts in the city<sup>8</sup> to ensure community input in the creation of large-scale retail uses and to give voice to and support small business owners and opposes<sup>9</sup> any zoning-led bailout for overleveraged retail property owners.<sup>10</sup>
- c. CB2 continues to support the enforcement of the city's loading berth<sup>11</sup> requirements to reduce noise, pollution and congestion from frequent deliveries and trash pickup, based on total selling space, including basements.
- d. CB2 supports maintaining a size limit and creating a special permit for eating and drinking establishments above 5,000 sq. ft. or seating capacity above 200, similar to requirements in the nearby Special Hudson Square District<sup>12</sup> and Special Tribeca Mixed Use District.
- e. The Mayor's Plan projects residential use to increase<sup>13</sup> but does not address quality of life concerns for current and future residents. Any future rezoning plan should (i) require a special permit for any commercial rooftop or outdoor eating and drinking, club, meeting hall, event space, accessory to retail or catering uses and (ii) prohibit eating and drinking uses and high-impact retail uses above the 2nd floor. To date, voluntary city programs, including those promoted by our area's Business Improvement Districts, have not

successfully addressed quality-of-life concerns for the residential community and should not be expected to mitigate those known impacts in the future.

- f. CB2 does not support new developments or conversions that mix commercial and residential on the same floor, nor places commercial uses above existing residential uses within a building.

**3. The Proposed “Mechanism” for Converting Manufacturing Use Group 17-D, Joint Living-Work Quarters for Artists (JLWQA), to Residential Use Group 2 Creates Adverse and Unknown Consequences for Current Residents and will Eliminate this Unique Use.**

- a. The Mayor's Plan would eventually eliminate Manufacturing Use Group 17-D JLWQA units, the defining characteristic of SoHo and NoHo's M1-5A and M1-5B zoning districts<sup>14</sup> through a last minute and ill-conceived “mechanism” to remove this special use. Payments into an undefined Arts Fund do not provide a long term sustainable model using one-time contributions and DCP provided no financial analysis to support this proposal despite repeated requests from CB2.
- b. The proposed “mechanism” does not meet the stated goal of creating dedicated space for arts & culture through mandated space within buildings per zoning requirements, instead relying on arbitrary decisions directed by market forces and availability, and only then would an arts or culture use have an option for a grant to rent space.
- c. **Why 17-D?** Manufacturing Use Group 17-D is the unique designation of space for the manufacture of art, which also allows for residential use and requires occupancy by at least one certified artist in each unit. This permitted the adaptive reuse of disused manufacturing spaces for arts and residential uses and set in place similar movements to revitalize industrial districts in cities around the world.
- d. **Plan Ignores Existing Population of Artists.** Despite large numbers of Certified Artists who participated in the [Envision SoHo/NoHo](#) process and continue to utilize JLWQA units for the production of art, DCP vastly underestimates the number of working artists in SoHo and NoHo and abruptly forms its own conclusions through incorrect interpretations of the state's Department of Cultural Affairs (DCLA) data (there is no requirement that *all* artists must go through certification) and a yawning lack of interest in the underlying reasons for the drop in applications over the decades (a regimen of non-enforcement and a lengthy certification process).
- e. **Expanding Definitions.** The Mayor's Plan ignores [Envision SoHo/NoHo](#)'s recommendations to “consider a potential expansion of live-work definition that reflects current and future trends” nor does it “encourage and support artist/maker/cultural worker occupancies.” This would evolve this unique and emulated use to include a broader spectrum of certified artists or makers.<sup>15</sup>
- f. **Punitive Fee.** The Mayor's Plan imposes a \$100 per sq. ft. conversion fee that is financially punitive, particularly to pioneering legally conforming senior citizens who are aging-in-place and who went through considerable hardship to legalize their spaces and buildings under the current zoning laws. In addition, the conversion fee does not mitigate any adverse impact from the Mayor's Plan in Soho, NoHo, or Chinatown, especially the elimination of art manufacturing spaces.<sup>16</sup> Meanwhile, the Mayor's Plan would newly

allow as-of-right ground floor retail, department store, dormitory, and other uses, and significant increases to commercial FAR, at no cost to commercial building owners. Moreover, the Mayor's Plan fails to make a distinction between those property owners who legally conform to the current zoning requirements and those who do not, which results in an excessive punitive conversion fee for those who have gone to great lengths to both convert and legally occupy Use Group 17-D spaces.

- g. **Cost for Building Code Consequences.** The Mayor's Plan neither adequately considers nor did DCP adequately explore the complexity and impact of converting Manufacturing Use Group 17-D JLWQA units to Residential Use Group 2 units including the myriad changes required by the city's building code compliance during conversion from a manufacturing to a residential use and the associated costs to the "pathway to legalization" including architects, engineers, lawyers and tradespeople to do the necessary work to be code-compliant.
- h. **Displacement of Rent-Protected JLWQA Tenants.** The Mayor's Plan fails to adequately address harm that could occur to current rent regulated tenants residing in rent-stabilized loft law/former Interim Multiple Dwelling (IMD) JLWQA units or those currently protected by the loft law; DCP has acknowledged that they are not experts on loft law units<sup>17</sup> and have not initiated any conversations with our local state elected officials on the impacts on these tenants.
- i. **Adverse Impacts on Individual Owners.** The Mayor's Plan fails to adequately address co-ops or condos and the likelihood that these boards could impose conversions from Use Group 17D to Use Group 2 for all existing JLWQA units throughout their building. As a result, individual shareholders or owners could face elimination of allowable arts uses and significant financial hardship, up to and including loss of their unit.
- j. **Ill-Conceived Arts Fund.** The creation of an Arts Fund is ill conceived because it fails to acknowledge or memorialize the contributions of artists to adapting, reusing and rebuilding SoHo and NoHo and instead would simply create a non-city source for arts funding to distribute beyond the SoHo, NoHo and Chinatown proposed rezoning area which would not reflect the loss of spaces for the creation of art in SoHo and NoHo. In 1973, the Landmarks Preservation Commission (LPC) stated that "the [SoHo-Cast Iron Historic] district demonstrates one way in which the core of an old city can be given new life without the destruction of its cultural heritage."<sup>18</sup>
- k. CB2 supports the continued evolution of JLWQA, not its replacement with Residential Use Group 2<sup>19</sup>, updating and reviewing the definition of "Artist" as defined by the state and administered by the Department of Cultural Affairs (DCLA), such as the inclusion of Maker and other living-work uses.<sup>20</sup>
- l. Given the complex interplay between the city's zoning text and Article 7-B in the state's Multiple Dwelling Law, CB2 supports working in tandem with local state elected officials *before* proposing changes to JLWQA. To date, DCP has not done this.

#### 4. **Massive Increases in Allowable Square Footage will Erase the "Historic" of the Once-Historic Districts and fundamentally transform SoHo, NoHo and Chinatown.**

- a. CB2 opposes the proposed increase in allowable Floor Area Ratio (FAR) – from the current level of 5 to levels up to 12, the maximum FAR allowed under New York State law. This FAR increase incentivizes the demolition of existing buildings in the six

historic districts<sup>21</sup> that give these neighborhoods their defining character and that comprise over 80%<sup>22</sup> of the rezoning area, in Chinatown and the adjacent neighborhoods. This increased development pressure as a result of the rezoning will lead to residential and commercial displacement, and loss of significant historic and cultural assets in some of the already most economically challenged parts of the district.

- b. The proposed increase in FAR also will permit (i) vertical expansion of buildings in historic districts, putting great pressure on the LPC to approve such highly visible enlargements because the zoning allows it; (ii) construction of new towers that will destroy the best features of the existing historic neighborhood context such as the predominant street wall, mass and scale of the buildings; and (iii) pairing with “bonus” packages such as [Elevate Transit: Zoning for Accessibility](#) that will increase the size of buildings an additional 20%.
  - c. All members of the [Envision SoHo/NoHo](#) Advisory Group agreed that the historic character of the SoHo and NoHo Historic Districts should be preserved. The Group understood that historic cast-iron buildings and the legacy of an artists’ community are what draws people to this neighborhood, and fuels an economic engine of residents, workers and visitors. DCP did not consider this unanimous consensus of its own Advisory Group during the rushed, irresponsible formulation of the Mayor’s Plan.
  - d. **LPC Discretion.** While such increased allowances are still at the discretion of the LPC, this increase in the zoning would send a signal to the LPC that much larger development should be approved, and give developers a greater incentive to seek permission to demolish. In fact, the Mayor’s Plan anticipates the demolition of 73 historic architectural resources in historic districts.<sup>23</sup>
  - e. **LPC Not Consulted.** DCP has stated that they would rely on LPC review to protect the historic districts located within the Plan Area. However, despite bringing in many city agencies throughout the [Envision SoHo/NoHo](#) Neighborhood Plan processes, DCP has never included the LPC as part of that public engagement.
  - f. **Adverse Impact on Displacement.** There is also significant risk of “eviction through construction” for rent regulated and loft law tenants because of proposed as-of-right allowances for additions to buildings that are occupied.
  - g. **Adverse Impact on State/National Register (S/NR) of Historic Places.** The rezoning also will impact buildings in the S/NR of Historic Places including the portions of the SoHo Historic District, Bowery Historic District, and Chinatown and Little Italy Historic District that are outside of the impacted NYC-designated landmarked districts, the SoHo-Cast Iron Historic District and Extension, NoHo Historic District and Extension, NoHo East Historic District, and parts of the Sullivan-Thompson Historic District.
  - h. **Development Rights.** CB2 opposes the transfer of development rights beyond currently permitted contiguous lots and any future proposal must maintain the contextual 85 ft. street wall height.
5. **The Mayor’s Plan offers no mitigation measures for the significant adverse impacts on open space, shadows, historic and cultural resources, transportation and construction.**

- a. CB2 cannot accept the DCP's plan to mitigate<sup>1</sup> the adverse impact on open space by creating "additional passive open space" even though 70% of the study area population will use active open space and the study area is better served by passive open space.<sup>24</sup>
- b. The DEIS acknowledges flooding in the southwest corner of the rezoning area but fails to offer a plan to address sustainability, resilience and climate change<sup>25</sup>.

## 6. Other Concerns.

- a. **Virtually Unchanged Plan Ignores Input.** The Mayor's Plan remains virtually unchanged from the Draft Scope of Work (DSOW), ignoring CB2's, Elected Officials and the community's constructive well-considered suggestions and criticisms – including details from CB2's 40-page, 16,000-word [December 2020 resolution](#) in response to the DSOW and many responses<sup>26</sup> from stakeholders, residents and others.
- b. **No Chinatown Outreach.** The city has failed to reach out to the many residents who will be displaced and have been left in the dark by the mayor and DCP. The city continues to marginalize the residents of Chinatown by utterly failing to directly outreach to residents of Chinatown even though 43% of the new housing development is projected in Chinatown. For example, the City only hosted one meeting on April 30, 2019 for the Chinatown community and only one person attended. More recently, on July 15, 2021, a member of a family with significant property holdings in Chinatown and multiple contiguous in the SoHo East designated opportunity zone was quoted in a major local Chinese Daily newspaper *Sing Tao Daily* stating that they only recently became aware of the proposed rezoning.
- c. **Failure to Share Financial Analyses.** DCP has refused to share any of the financial analyses that CB2 has repeatedly requested in response to the DSOW and the FSOW, without which it is impossible to understand the rationale of the Mayor's Plan.
- d. **Insufficient Review Time.** CB2 was not granted sufficient time to review the Mayor's Plan<sup>27</sup> as provided for in the 2019 Charter Revision changes overwhelmingly supported by New York City voters.
- e. **Plan Underestimates Development and Mitigation.** The Mayor's Plan, with only 26 Projected Sites, underestimates the actual development that will occur and thereby underestimates required mitigations, which is supported by studies of recent City rezonings.<sup>28</sup> The DEIS ignores 58 Potential Sites because the Mayor's Plan randomly assumes they will be developed in years 11 to 20.

## Therefore, be it resolved that Manhattan Community Board 2:

1. **Rejects the Mayor's Plan because it fails to meet its stated goals** – to create affordable housing, allow a wider range of commercial and residential uses, and support the creative community. Instead:
  - a. **It fails to achieve its affordable housing objectives and fails to protect against displacement of low-income tenants**, particularly Chinatown residents, seniors aging-in-place and tenants who are rent-stabilized, rent controlled or currently only protected under New York State Loft Law. Instead, the Mayor's Plan must provide significantly

more affordable housing through direct city investment in 100% affordable housing construction, adaptive reuse of existing buildings, and revise requirements that mandate far greater numbers of affordable housing units with lower median incomes than currently under the city's MIH program;

- b. **It fails to strengthen the unique mixed-use neighborhood, incentivizing commercial development and large retail at the expense of small businesses.** Eliminating retail caps threatens small businesses and removing eating and drinking caps eliminates the community's voice on uses that may be incompatible with residential neighborhoods. These changes will negatively impact the expanding residential community;
  - c. **It fails to secure the future or consider expansion of the highly successful JMWQA use** and instead (i) proposes the eventual elimination through an ill-conceived "mechanism" identified as an arts fund with no meaningful details, (ii) charges a punitive tax on current residents, many of whom are legally conforming seniors aging-in-place and (iii) imposes costly code compliance requirements as a result of the change from manufacturing to residential use that DCP has not even considered;
  - d. **It fails to protect the six historic districts** and buildings in the adjacent areas and in fact encourages unprecedented encroachment of massive commercial development within them;
  - e. **It utterly failed to directly reach out to residents of Chinatown** and include their input even though 43% of the new housing development is projected in Chinatown. It failed to engage with the community as promised throughout the [\*Envision SoHo/NoHo\*](#) process, including residents, other stakeholders, our state elected officials, the Manhattan Borough President, our local city council members and city council land use staff in the formation of the City's Plan;
  - f. **It fails to mitigate the impact of the Mayor's Plan** on active open space, shadows, historic and cultural resources, transportation and construction; and,
  - g. **It fails to modernize and preserve** the governing framework for SoHo and NoHo, to expand on the clear success achieved and does not evolve the zoning to meet the city's objectives.
- 2. Joins with tenant groups, preservationists and many highly respected organizations in SoHo, NoHo and Chinatown and across the city (see Appendix A) in opposing the Mayor's Plan that clearly financially benefits property owners and does not take into account the negative long-term effects.
  - 3. Urges the city to resume its planning process under an administration that will work in good faith to balance the goals of those advocating for affordable housing and historic preservation, since it is possible to do both, by specifically addressing the plan's failures detailed above.
  - 4. Implores our elected officials to do what DCP has refused to do – LISTEN TO THE COMMUNITY!

**Vote:** Passed with 36 Board members in favor (S. Aaron, W. Benesh, K. Berger, C. Booth, A. Brandt, R. Caccappolo, C. Dawson, V. De La Rosa, R. Ely, M. Fitzgerald, J. Gallagher, S. Gammie, D. Gruber, W. Kawadler, S. Kent, J. Kiely, I. Kwan Arce, P. Laraia, M. Levine, J. Liff,

M. Metzger, D. Miller, B. Pape, D. Raftery, B. Riccobono, R. Rothstein, S. Russo, R. Sanz, S. Sartiano, S. Secunda, G. Silvera Seamans, C. Spence, S. Wittenberg, A. Wong, E. Yoo, A. Zeldin) and one opposed (C. Dignes)

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



Jeannine Kiely, Chair  
Community Board #2, Manhattan



Anita Brandt, Chair  
Community Board #2, Manhattan  
SoHo/NoHo Working Group

JK/jt

c: Hon. Jerrold Nadler, U.S. Representative  
Hon. Carolyn Maloney, U.S. Representative  
Hon. Nydia Velazquez U.S. Representative  
Hon. Brad Hoylman, NY State Senator  
Hon. Brian Kavanagh, NY State Senator  
Hon. Deborah Glick, Assembly Member  
Hon. Yuh-Line Niou, Assembly Member  
Hon. Bill de Blasio, Mayor  
Hon. Vicki Been, Deputy Mayor  
Hon. Jumaane Williams, Public Advocate  
Hon. Scott Stringer, City Comptroller  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Corey Johnson, City Council Speaker  
Hon. Margaret Chin, City Council Member  
Hon. Carlina Rivera, City Council Member  
Edith Hsu-Chen, Manhattan Director, Dept. of City Planning  
Sylvia Li, Dept. of City Planning  
Andy Cantu, Dept. of City Planning

## Appendix A

### Letters and Statements from Affordable Housing and Tenant Groups, Neighborhood and Preservation Organizations Against the Mayor's Plan

#### Joint Letters and Statements

- (a) [May 2021 Joint Letter](#) to Borough President Brewer, Councilmembers Chin and Rivera, and Speaker Johnson
- (b) [June 2021 Press Release](#), *Affordable Housing and Tenant Groups, SoHo, NoHo, and Chinatown Neighborhood Organizations, and Artists and Historic Preservationists Slam de Blasio SoHo/NoHo Upzoning Plan, Urge "NO" Vote*

#### Affordable Housing and Tenant Groups

- 1. [Chinatown Working Group](#) <sup>(a), (b)</sup>
- 2. [Cooper Square Committee](#) <sup>(b)</sup> ([view letter](#))
- 3. [Met Council on Housing](#) <sup>(b)</sup>
- 4. [New York City Loft Tenants](#) <sup>(a)</sup>
- 5. [Tenants PAC](#) (a statewide housing and tenant group) <sup>(b)</sup>

#### Historic and Environmental Preservation Organizations

- 6. [Friends of the Upper East Side Historic Districts](#) ([December 2020 letter](#))
- 7. [Historic Districts Council](#) <sup>(b)</sup> ([June 2021 statement](#))
- 8. [Landmark West!](#) ([December 2020 letter](#))
- 9. [Municipal Arts Society](#) ([December 2020 testimony](#)) ([April 2021 statement](#)) ([July 2021 letter](#)) (*Comparison Sliders: Potential & Projected Development from SoHo/NoHo Neighborhood Plan*)
- 10. [National Trust for Historic Preservation](#) ([March 2021 letter](#))
- 11. [New York Landmarks Conservancy](#) ([Upzoning Overkill](#)) (*The Times Story on SoHo / NoHo has Flawed Assumptions*) ([July 2021 letter](#))
- 12. [Preservation League of NYS](#) <sup>(b)</sup> ([March 2021 letter](#))
- 13. [The Victorian Society New York](#) ([letter](#))
- 14. [Village Preservation](#) ([December 2020 letter](#)) (December 2020, [Community Alternative Zoning Plan](#). March 2021, [Upzoning SoHo and NoHo: Why the City's Rezoning Plan Will Decrease Socio-Economic Diversity and Reduce Net Affordable Housing](#). May 2021, [The Many Ways de Blasio's SoHo/NoHo Plan Encourages Developers to Build Without ANY Affordable Housing...](#)) <sup>(a), (b)</sup>
- 15. The Sierra Club ([July 2021 statement](#))

#### Neighborhood Organizations

- 15. Alexandr Neratoff, Architect (Envision SoHo/NoHo Advisory Group) ([July 2021 letter](#))
- 16. [Bowery Alliance of Neighbors](#) <sup>(a)</sup>
- 17. Bowery Block Association
- 18. Broadway Residents Coalition <sup>(a), (b)</sup>
- 19. [Downtown Independent Democrats](#) ([December 2020 letter](#)) <sup>(a)</sup>
- 20. [East Village Community Coalition](#) <sup>(a)</sup>
- 21. [Human-Scale NYC](#) <sup>(a)</sup>
- 22. [Lower East Side Preservation Initiative](#) <sup>(a)</sup>
- 23. [NoHo-Bowery Stakeholders](#) (June 2021, [A Better Zoning Plan for SoHo and NoHo](#))

## Appendix A cont'd.

24. [NoHo Neighborhood Association](#) <sup>(a)</sup>
25. [SoHo Alliance](#) <sup>(a), (b)</sup>
26. [SoHo Design District](#) <sup>(a)</sup>
27. [South Village Neighbors](#) <sup>(a)</sup>
28. [Tribeca Trust](#) <sup>(a)</sup>

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## Endnotes

1. DEIS, [Chapter 21, Mitigation](#), page 21-1.
2. PS 130 on Baxter Street continues to serve on average 4,500 to 6,000 free meals every day.
3. The U.S. Department of Housing and Urban Development defines [Area Median Income](#) (AMI) each year. The 2021 AMI for the New York City region for a three-person family is \$107,000 at 100% AMI, \$42,960 at 40% AMI, \$64,440 at 60% AMI, \$85,920 at 80% AMI, and \$139,620 at 130% AMI.
4. Commercial development in the proposed M1-6/R10 areas where commercial space can be built to 10 FAR without any MIH penalty vs. 12 FAR for residential use with MIH. As we see in Hudson Square, developers are opting to build office space and forego residential development at a FAR of 9 or with inclusionary housing with a 3 FAR bonus. For example, Hudson Square Properties is breaking ground on a 270,000 sq. ft. speculative office development. On July 21, 2021, [Hudson Square Properties—a consortium of Trinity Wall Street, Hines, and Norges Bank—will break ground](#) on a speculative office development at 555 Greenwich Street.
5. See “non-residential floor area retention”, DEIS, [Chapter 2, Land Use, Zoning and Public Policy](#), page 2-42 and [City Planning Commission Review Session](#), slide 72.
6. Village Preservation identified [635 units in 105 buildings](#). DCP identified [185 rent regulated buildings](#) but did not identify the number of units.
7. Anti-displacement provisions should a) not permit upzoning of any site that has rent regulated or loft law units because this will create financial incentives for demolition, b) eliminate sites where additional FAR can only be used to add vertical enlargements because this will result in penthouse additions and no affordable housing and c) include [Certification of No Harassment](#) provisions before applying for a permit for a change in use or demolition as supported by the [Chinatown Working Group](#), Pratt Center for Community Development. [Preserving Affordability & Authenticity: Recommendations to the Chinatown Working Group](#), December 2013, page 79. Reliance on legal remedies to cure displacement by construction, neglect or harassment requires tenants to take often-unavailable time to find and consult with attorneys, take off from work to provide testimony and attend related appointments and can take months to years to work its way through the courts, all while the tenants and their families experience dangerous, sometimes barely livable conditions.
8. “The representatives have argued that existing oversized retail along Broadway, which have been cited with violations for illegal conversion from manufacturing space by the Department of Buildings as recently as April 10, 2017 make this proposal within the character of the neighborhood. Illegal uses and/or establishments as the rationale for a land use decision is illogical.” Borough President’s Comments, Recommendation on ULURP Application C 170192 ZSM – 462 Broadway By 462BDWY LAND, L.P., May 22, 2017.
9. “The SoHo community is under daily siege by illegal large-scale retail. This agreement at 462 Broadway to approve retail use below the second floor, but only for stores with less than 10,000 square feet of selling space including the cellar, includes tough new quality of life restrictions to address persistent issues like overnight deliveries, trash, illumination, and sidewalk-jamming pop-up events. Most importantly, it creates a desperately needed new paradigm in this iconic neighborhood.” Press Release - CM Chin, Community Board 2 & SoHo Residents Win Agreement Blocking Illegal Big-Box Retail at 462 Broadway, August 21, 2017.
10. [REBNY Retail Reports](#), 2000 – 2021. [Soho’s Prince Building Tumbles \\$130M After Artists & Fleas Flees](#) (Commercial Observer, June 3, 2019.) [Transfers: \\$12.8M Thor Equities SoHo Foreclosure](#) (PincusCo, May 4, 2021.)
11. The Cable Building, located at 611 Broadway in the NoHo Historic District, includes loading berths on Mercer Street. In addition, the new building at 300 Lafayette at East Houston in SoHo was built with required an off-street loading berth, in conjunction with use group10 retail space within that development.
12. [City Planning Commission Resolution, January 23, 2013](#), pages 31-32.
13. Residential use will increase from the current 40% of sq. ft., [Envision SoHo NoHo: A Summary of Findings and Recommendations](#), November 2019, page 32.

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## Endnotes cont'd.

14. M1-5A and M1-5B districts are distinct from other manufacturing districts as they provide for Joint Living-Work Quarters for Artists (JLWQA), which is a use group that allows for the residential occupation and use of manufacturing buildings for manufacturing art by [Certified Artists](#) as defined by the Department of Cultural Affairs.
15. [Envision SoHo NoHo](#), pages 58 and 63.
16. Other ULURPs have created funds to mitigate adverse impacts.
  - Ex. #1 To mitigate the adverse impact on open space, the nearby 2013 Special Hudson Square District created an **Active Open Space Fund Of** only \$5 per sq. ft. for new, converted or expanded residential development and allowed these funds to be spent in Hudson Square in consultation with the local community board and councilmember as detailed in the [March 20, 2013 Restrictive Declaration](#), Section 3, Active Open Space, pages 8-9.
  - Ex. #2 To [mitigate](#) the adverse impacts on open space, shadows and transportation, the March 2017 Greater East Midtown Rezoning created a [Public Realm Improvement Fund \(PRIF\)](#). The [rezoning increased FAR by 3, ranging from 21 to 30 FAR and allowed the transfer of development rights](#) throughout the entire district, creating significant value, particularly for landmarked sites. In return, 20% of the sale of development rights fund the PRIF, at an estimated cost of [\\$61 per sq. ft.](#)
17. "I don't pretend to be a loft law expert." DCP at CB2's SoHo NoHo Working Group Meeting, July 8, 2021, [Livestream](#), 58:07.
18. Ranzal, Edward. New York Times. "[SoHo Made A Historic District](#)." August 17, 1973, page 35.
19. "The continued use of special permits to eliminate JLWQA in favor of residential use will have an adverse effect on the conforming uses in the surrounding area as there will be a systematic reduction in affordable artist housing in SoHo.", "If JLWQA is to be phased out in the neighborhood, then alternative programs for artist housing should be discussed", Borough President's Comments - Recommendation on ULURP Application No. C 130066 ZSM – 498 Broome Street By Goose Mountain NYC, LLC, December 22, 2014.
20. Testimony by Alexandr Neratoff, Architect, on the SoHo NoHo Rezoning, June 2021. He also participated on the [Envision SoHo/NoHo](#) Advisory Group, representing the NYC Loft Tenants Association.
21. The six historic districts are the 1) [SoHo–Cast Iron Historic District](#) was designated by the Landmarks Preservation Commission (LPC) in 1973 consists of 26 blocks, contains approximately 500 individual buildings, 2) [SoHo–Cast Iron Historic District Extension](#), designated by LPC in 2010, consists of approximately 135 properties, 3) [NoHo Historic District](#), designated by LPC in 1999, comprises approximately 125 buildings and 4) [NoHo Historic District Extension](#) designated by LPC in 2008, consists of 56 buildings, 5) [NoHo East Historic District](#), designated by LPC in 2003, consists of 42 buildings, and 6) a small part of the Project Area is within the [Sullivan-Thompson Historic District](#), designated by LPC in 2016. DEIS, [Chapter 7, Historic and Cultural Resources](#).
22. DEIS, [Executive Summary](#), page S-6.
23. DEIS, [Chapter 7, Historic and Cultural Resources](#), page 7-3.
24. DEIS, [Chapter 5, Open Space](#), page 5-22.
25. DEIS, [Appendix B, Known Developments and Waterfront Revitalization Programs](#).
26. Experts and community stakeholders submitted 145 written comments to DCP on the Draft Scope of Work included in the Final Scope of Work including [Joint Testimony](#) from the Office of Council Member Margaret S. Chin and the Office of the Manhattan Borough President Gale A. Brewer.
27. In letters to DCP from CB2 on April 27, 2021, and again on April 30, 2021, CB2 raised issues with DCP and stated that CB2 did not believe DCP was in compliance with the 2019 amendments to Uniform Land Use Review Procedure (ULURP) provisions under the City Charter, Section 197-c, paragraph c, and asked for clarification. DCP responded to the first letter but failed to address issues with compliance raised in the second letter, including information from the 2019 Charter Revision Commission. The Manhattan Borough President's Office followed up with DCP following an inquiry from CB2 requesting a response, but no written response was ever provided. On June 23rd, 2021, during a CB2 public meeting, DCP representatives were asked about the letter. They stated that they were aware of the letter but did not explain why no written response was provided. DCP's lack of sincere participation in the public process of the SoHo NoHo Neighborhood plan was noted in several public remarks made by Manhattan Borough President Brewer, Council Member Chin and Council Member Rivera. CB2's inquiries on DCP's compliance with the 2019 amendments to ULURP provisions under the City Charter, Section 197-c, paragraph c have not been resolved with CB2 or adequately addressed by DCP, raising serious concerns regarding the ULURP process.
28. Municipal Arts Society, "[A Tale of Two Rezoning: Taking a Harder Look at CEQR](#). Vast Miscalculations of Potential Development Have Lasting Impacts on Rezoned Neighborhoods." November 8, 2018.