

**Brooklyn Borough  
President  
Recommendation**



CITY PLANNING COMMISSION  
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FAX # (212) 720-3356

**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #      090284 ZMK – 090285 ZRK  
Brighton Beach Rezoning

In the matter of applications submitted by the Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter seeking an amendment to the zoning map and zoning text to facilitate the rezoning of Brighton Beach.

COMMUNITY DISTRICT NO.

13

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

\_\_\_\_\_  
BOROUGH PRESIDENT

April 29, 2009

\_\_\_\_\_  
DATE

## RECOMMENDATION FOR THE PROPOSED REZONING OF BRIGHTON BEACH

### 090284 ZMK – 090285 ZRK

These applications by the Department of City Planning (DCP) request approval for amendments to the Zoning Map and Zoning Text in order to facilitate the contextual rezoning of the Brighton Beach community.

#### **Public Hearing**

The borough president greatly appreciates, as with all rezoning applications, the time and effort that is put in by the staff of the Department of City Planning (DCP), including its consultation with the community, Community Board 13 and affected local elected officials to reach a consensus. He commends the work of DCP Chair Amanda Burden, Brooklyn Office Director Purnima Kapur, Deputy Director Winston Von Engel and project manager Anna Slatinsky for their thorough review of the neighborhood and crafting this proposal for the community.

On March 24, 2009 the borough president held a public hearing on this matter.

DCP presented a proposal that would: eliminate the existing R6 zoning which has allowed out of context buildings to be interspersed within areas characterized by bungalows and two-story detached buildings on narrow lots; establish zoning districts with height limits; and, mandate ground floor retail for redeveloped sites along Brighton Beach Avenue. Areas proposed for denser development would be predominately along Ocean Parkway, Brighton Beach, Coney Island and Neptune Avenues and include the City's zoning incentive to encourage the development of affordable housing. Through the Special Ocean Parkway District, DCP is proposing special regulations along Ocean Parkway and Brighton Beach Avenue to allow for taller buildings than what is found in its generic contextual districts. For Ocean Parkway the height would offset the mandated deep front yards. For Brighton Beach Avenue it would allow development to setback further from the elevated rapid transit structure.

The proposed lower density districts would feature special regulations for the bungalow area. For bungalow lots, typically 40 to 45 feet in depth, DCP's proposal would substantially reduce development potential on a lot from approximately 2,800 square feet (sf) to approximately 1,600 sf. As most bungalows are one-story, the proposed zoning would allow 50 to 100 percent increases in the floor area of these buildings. Since approximately half of these bungalows do not front on streets, many have seen disinvestment and are deemed as fire hazards due to limited access from the ill-maintained, narrow walkways. As a means to encourage the consolidation of these interior bungalows with properties fronting on streets, DCP has devised a proposed zone that would reward the combining of lots on the interior of the bungalow blocks with lots fronting on streets. Heights would be limited on new constructions to four-stories at a slightly higher total floor area than would be achieved on an individual bungalow lot today by rewarding property owners with more than a doubling of each lot's development rights to 3,600 sf for the typical 40 feet by 45 feet lot dimension.

There were 11 speakers, including one in support, nine in opposition, and one who was neutral. Council Member Michael Nelson, who thanked DCP for its efforts, noted the benefits of the public review process which contributed to his recent position that the proposed zoning would be a detriment to property owners in the bungalow area. This

sentiment was shared by the majority of the speakers in opposition. Testimony provided highlighted certain issues with this proposal. In the non-bungalow area of predominately two-story detached structures, there was concern regarding the introduction of side yard requirements that would make redevelopment of the typical lot with a width of 20 feet impractical. As for the bungalow area, where the proposal pertained to individual lots, it was viewed as a substantial devaluation of these individual properties, especially for owners of individual lots where it is not practical to merge interior lots with lots on the street.

Additional speakers spoke of an interest to redevelop a synagogue and related facilities into a Jewish community center. They noted that the proposed zoning would substantially decrease the rebuilding potential both in achievable floor area and in terms of building envelope restrictions.

Subsequent to the hearing, the borough president received additional letters of concern and an alternative zoning proposal from the office of Council Member Nelson. The council member's map depicted R6 Quality Housing in lieu of the proposed R5D for the areas primarily consisting of two-story detached homes on narrow lots just north of Brighton Beach Avenue. His recommended zoning district would allow: nine percent more development; would not require side yards; allow height up to 55 feet in lieu of DCP's proposed 40 feet; and, does not require parking when no more than ten units are provided. North of Neptune Avenue, he recommended R6B in lieu of R5D. For the bungalow area, he recommended R6B in lieu of DCP's proposed R4A for a typical bungalow lot, without regard to whether the lot has street frontage. The R6B as compared to R4A: provides more than double the development rights; does not require side yards; allows height to 40 feet; and, does not require parking. Consolidated lots were recommended for R6 Quality Housing. The incentive to consolidate would be an additional nine percent development potential and the ability to achieve five floors to a height of 55 feet.

Also subsequent to the hearing, DCP provided a letter from the Fire Department indicating that buildings fronting undersized right-of-ways would not be approved for construction exceeding 35 feet because such streets precluded Fire Department apparatus accessibility. The borough president's staff met several times with representatives of the bungalow area, where documentation was provided indicating where properties are most likely to be substantially devalued due to the reduction of development rights. Many bungalow lots were identified where it was either impossible or impractical to achieve the maximum floor area (due to new construction and/or substantial development) except through the merging interior lots with street fronting lots. Another concern was the interpretation of when a consolidation of lots would meet the definition of being permitted the maximum floor area. While it is clear that a rectangular lot at least 70 feet in depth qualifies, it appears that the floor area maximum is not permitted when lot consolidation results in irregular shapes where portions of the lot do not front on a permitted street or that do not provide a minimum depth of 70 feet. Finally, even for lots that provide sufficient depth, there is a concern that the maximum permitted floor area would not be achieved despite the typical frontage of 40 feet when two side yards (up to eight feet maximum each) would be required because the adjacent development had a side yard.

## Consideration

Community Board 13 voted to disapprove with the following conditions: existing businesses operating on Neptune Avenue and on Brighton Beach Avenue remain legalized; buildings on Brighton Beach shall not be constructed higher than those already there; the proposal for the bungalow area be revised; and, the infrastructure for Brighton Beach needs to be evaluated and corrected where needed.

The borough president supports rezoning proposals that: encourage contextual development; encourage the development of affordable housing; and, increases the requirement for parking spaces, where appropriate. He supports the use of zoning to encourage the consolidation of interior bungalow lots with neighboring lots fronting the street as a means to reduce the number of homes that do not provide adequate access for the Fire Department to protect the health, safety and welfare of its occupants. Eliminating such properties would improve quality-of-life by removing areas that have been known to contribute to incidents of criminal activities and unsanitary conditions.

The borough president approves the overall goals of this plan. While the DCP proposal is an innovative approach to address a legitimate public policy concern, there is a belief by residents that the proposed rezoning might result in unintended, adverse consequences. The question that the City Planning Commission (CPC) and City Council must answer is whether this approach can be achieved in a manner that addresses concerns raised by the community. The borough president believes the proposal has generated many concerns of merit that warrant further considerations in order to be resolved. Persuasive arguments presented by well intentioned parties indicate that the proposal cannot proceed without more technical review by the appropriate agencies, residents, and elected officials because of the complexity of these unique sites to secure a desirable outcome at the City Council. This can be achieved by securing a consensus among the bungalow residents and city agencies as this application moves forward through the review process, revealing the wisdom needed to reach an informed and accurate decision.

As for Council Member Nelson's recommended alternative zoning proposal, CPC and the City Council need to consider whether it is likely to achieve the public policy goal of reducing the number of interior lots. The borough president believes that a continued dialogue is needed throughout the remainder of the ULURP process. He urges DCP, Community Board 13, local elected officials, and residents of the bungalow area to work with CPC and the City Council to find a common ground that will still result in incentives to consolidate lots, while addressing the concerns brought to his attention as described in the hearing section.

The borough president supports the plans to construct the Jewish community center on the site of its existing facilities. In order to allow for this redevelopment, the borough president believes that the site, in combination with the adjacent frontage to the west (unlikely to be redeveloped), be carved out of the proposal to remain as R6.

The borough president further believes that the zoning districts proposed to encourage redevelopment do not require adequate parking for areas of the borough with high car ownership rates. The proposed R7A and C4-4A zoning districts only require parking for fifty percent of the units, resulting in far fewer spaces than are demanded. Therefore, the borough president calls on DCP to draft a zoning text amendment for R7A and C4-4A districts in Community District 13 that amends the parking requirement from one for every two dwelling units to one space for each dwelling unit and eliminates the waiver of otherwise required parking.

**Recommendation**

Be it resolved that the Brooklyn Borough President, pursuant to section 197-c of the New York City Charter, approves the overall plan; however, aspects of the plan have generated many concerns of merit that require further technical review among city agencies and the community because of the complexity of the unique sites to reach an accurate and informed consensus. As such, the borough president recommends the approval of these applications by the City Planning Commission and the City Council subject to the following conditions:

- 1) That the City Planning Commission and City Council modify the proposed zoning with regard to the bungalow area in consultation with local elected officials, the Department of City Planning, Community Board 13, and bungalow residents to identify an appropriate zoning proposal that can satisfy both public policy concerns while preserving the development potential of certain lots.
- 2) That the proposed R7A zone in the area located at the south side of Neptune Avenue from Brighton 5th to the mid-block east of Brighton 6th Street remain R6.

Be it further resolved that the borough president calls on the Department of City Planning to initiate and expedite zoning text and map amendments to change the residential parking requirements from one space for every two dwelling units, to one space for each dwelling unit in any development containing multi-family housing; and, eliminate the option to waive the parking requirement for R7A and C4-4A districts in Community District 13.