

**Brooklyn Borough
President
Recommendation**



CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
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 # 090462 ZMK Carroll Gardens – Columbia Street 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 of the zoning map to facilitate the rezoning of 86 blocks in the Carroll Gardens/Columbia Street communities.

COMMUNITY DISTRICT NO. 6 BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

Recommendation to follow

BOROUGH PRESIDENT

August 12, 2009

DATE

RECOMMENDATION FOR THE PROPOSED AMENDMENT OF THE ZONING MAP 090462 ZMK

This application by the Department of City Planning (DCP) requests approval for an amendment to the Zoning Map in order to facilitate the contextual rezoning of the Carroll Gardens and Columbia Street communities.

The borough president commends the Department of City Planning (DCP) for the time and effort put in by staff with this rezoning, as with all of its rezoning applications, including consultation with the community, Community Board 6 and affected local elected officials to reach a consensus. He thanks DCP Executive Director Amanda Burden, Brooklyn Office Director Purnima Kapur, Deputy Director Winston Von Engel and Project Manager Jen Posner for their thorough review of the neighborhood and crafting this proposal for the community.

Public Hearing

On July 14, 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 primarily by three- to- five story rowhouses interspersed with four- to- five story multifamily apartment buildings; establish zoning districts with height limits; and, reducing the depth of the existing commercial overlay districts.

There were 16 speakers, including 13 in support, one in opposition, and one who was neutral. Representatives for Council Member Bill de Blasio, Assemblywoman Joan Millman and State Senator Daniel Squadron expressed appreciation and thanks to DCP, all generally speaking in favor of the proposal. Though, State Senator Squadron cited some concerns for DCP, as he believes the proposed R6A is too excessive for portions of the rezoning area and urges DCP to address these concerns.

Speakers from the general public spoke highly of the proposal, although some identified an interest in having specific areas changed to R6B zoning, with its height limit of 50 feet, instead of R6A. Though, it was conceded that at this point in the process, that request is out of scope, many believe that R6B zoning would further keep the neighborhood the way in which it is.

Consideration

Zoning Compliance

The community was seeking a zoning change to R6B to the largest extent possible to limit height to 50 feet. After careful analysis, DCP determined that it could not propose the desired R6B for certain areas based on built conditions. Sections of Clinton, Henry, President, Sackett and Union streets, and First Place were generally mapped R6A to change the status of much of the legal non-compliant floor area into compliant floor area. For Columbia Street, R6A was proposed to both change this status and also encourage limited growth in a manner that would encourage full lot coverage of the ground floor for the benefit of retail development.

Most buildings in Carroll Gardens are three- to- four stories with basements, which makes it less obvious to the casual observer that certain lots exceed the amount of permitted

floor area. For the proposed R6A area, it is not uncommon to find lot depths less than 100 feet, some less than 80 feet. In addition, several lots have buildings that cover a substantial portion of the lot with only minimal rear yard area. Many of the buildings fronting the above referenced streets have more floor area than permitted by the regulations governing the existing R6 district, thus became legal non-compliant buildings. Buildings with this status are not permitted to have building additions.

As a result of the City's 1961 rezoning, which based permitted floor area on building height and a ratio of floor area to required open space, many lots in Carroll Gardens became legal non-compliant with the mapping of the R6 district. According to the standards introduced in 1961, the permitted floor area could be increased by providing more floors. Though, as buildings became taller, more open space would be required on the lot. On this basis 14 percent more floor area is available for a four-story building as compared to one at three stories, and nine percent for a building of five stories compared to four stories. Buildings in the area proposed for R6A, though often the same number of floors and building depth than what is in the proposed R6B district, often are located on lots with less depth than the typical lot depth, therefore many buildings in the proposed R6A became non-compliant by likely exceeding the floor area limits established in 1961.

In 1987, the Zoning Resolution was modified to establish optional development rules known as Quality Housing regulations. These regulations are more reflective of brownstone neighborhoods. For a typical lot of 2,000 sf, 4,400 sf of residential floor area can be achieved in four- to five- story buildings. For the sections of the streets proposed for R6A noted above, the majority of the lots remained legal non-compliant despite the optional rules.

It is the policy of DCP to decrease the number of buildings that are legally non-compliant when it undertakes comprehensive, area-wide rezoning analysis. Though, in doing so, many buildings that haven't had any additional building rights, since the enactment of the 1961 Zoning, would gain such rights with the adoption of the proposed zoning. While extra zoning rights might facilitate home improvements such as kitchen enlargements and additional bedrooms and bathrooms, it is possible that some buildings might see one or two additional floors. There is also the inadvertent possibility that an existing one- to two-story building could be demolished to make way for new construction. Therefore it is important to understand what the proposed zoning could permit.

Implication of the Proposed R6A for Certain Areas

R6A permits heights up to 70 feet, with the street wall height partially limited (approximately 50 percent of the length of the frontage) to 60 feet. Such height is not consistent with the development pattern of the neighborhood, though sections of First Place proposed for R6A come closest to such height. In determining whether inconsistent development might occur due to the proposed zoning, development sites and the practical nature of feasible construction need to be taken into consideration.

There are few vacant sites in the proposed R6A, with the exceptions being the excess side yards for 391 Clinton Street (though the lots shallow depth renders this a less appealing site) and 76 First Place and vacant lots at 199 Columbia Street (though it is in HPD's jurisdiction) and a construction site known as 138 Sackett Street, with additional Columbia Street frontage. Buildings that would be considered significantly under-built/under-utilized, based on the proposed residential floor area ratio that could be attractive for demolition in a strong housing market include the Sokol Brothers furniture store at 251-253 Columbia Street; 236 President Street; and 240 Union Street (though the shallow lot

depth might deter any attempt to make use of the proposed allowable floor area).

Under the existing zoning, these buildings would be limited to 55 feet in height as the sites are too small to facilitate taller buildings under standard height-based zoning regulations. Most of these lots could achieve similar floor area under the existing zoning if a developer thought to incorporate community facility use on the ground floor, though residential floor area is typically considered a more valuable real estate asset. Under the proposed R6A zoning, the question is whether a developer believed that the most profitable building for these sites would be one that took advantage of the permissible 70 foot height allowed by zoning. On a typical lot, the proposed floor area can be achieved in a five-story building. Such a building would provide for the largest area of useable floor space per floor. By choosing to develop a building at six or seven stories, the floor area would require a reduction of all floors and require space for elevators. Since ground floor area devoted to enclosed parking does not reduce the amount of floor area, it increases the possibility of the building being at least six-stories. Conversely, if the ground floor was almost entirely used for commercial purposes, the resulting building could be one floor less. 138 Sackett Street and the furniture store could become candidates to be built to the maximum height of 70 feet, or could just as easily be developed in a manner that is closer to 50 feet. Depending on developer preference for ceiling heights, the other referenced sites would more likely be in the 50-60 feet height range.

The additional floor area provided by the R6A zoning might result in the addition of one or two floors to many properties. This is not expected for the few buildings in condominium or cooperative ownership, given the complications of coordinating the construction above occupied units and the logistics to secure construction financing. Additionally, lots with less than 18 feet of frontage or less than 1,700 sf of lot area (approximately 25 such lots exist in the proposed R6A) as being less than the minimum zoning requirement, are limited to two-units, thus, full use of floor area is less likely given that the resulting units would be exceptionally large. There are approximately 65-70 buildings with up to a few units that could become candidates for additional floors, with the more likely circumstance occurring when a building is sold with leases not renewed. Given that, buildings being enlarged by one or two floors would likely occur at a very slow pace. There appears to be approximately 20 such buildings existing along both Clinton and Columbia streets, 12 along Henry Street, three along President Street, four along Union Street and eight along First Place.

The possibilities of development, according to R6A, with the potential for height above the community preferred height limit of 50 feet needs to be weighed against the alternative. By leaving some areas as R6, with its height limit of 55 feet, there is the potential for ground floor space to be converted to community facility use as a means to gain more residential floor area. While both result in similar floor area potential, community facility uses can be somewhat commercial in nature. The various types of ambulatory medical facilities in some instances do not rely on the neighborhood as its clientele, therefore, such uses may increase competition for parking in the area and might be supplemented by ambulette service. The community needs to assess its preferred quality-of-life concerns as the process continues through the City Planning Commission and City Council to provide guidance in terms of whether any of the proposed R6A should remain R6.

Possible Subsequent Actions

In order to minimize the number of locations where new construction or additional floors might exceed the height limit of 50 feet advocated by the community, the borough president would support efforts to achieve historic district designation where there is

sufficient community consensus. He understands that the Carroll Gardens Neighborhood Association is planning to undertake such a task. In addition, 236 President Street and 240 Union Street might be deserving of individual designation as a city landmark structure. For areas where neighborhood consensus is not achieved or where the Landmarks Preservation Commission does not believe that designation is warranted, it would be appropriate for the community to request that DCP consider amending the zoning towards achieving the height limit objectives of the community.

Should certain blocks within the rezoning be reconsidered at a later date, the borough president believes that the area within the proposed R6A could be reduced in a few places. In recognition of the narrow lot depth found along many block frontages, DCP had taken major steps to propose less than the standard zoning depth of 100 feet along the short end of blocks. Though, there are a few instances where DCP proposed the depth of 100 feet where properties on the side street would be unnecessarily upzoned, resulting in the potential adding of one or two floors after the rezoning. Affected properties included 97 President Street, 68 Carroll Street and 83 Summit Street, where additional height would be out-of-character. This could be addressed by revising the boundary between the R6A and R6B districts to reduce the depth of the R6A zone.

Other areas where R6B could be considered, based on largely keeping properties legally-compliant, include the following: the Brooklyn Public Library at Clinton and Union streets; the condominium on the east side of Columbia Street between President and Union streets; the east side of Clinton Street between President and Union streets (where all but one building appear to be compliant or nearly compliant with R6B and might be subjected to two-story additions); and, properties within 100 feet of the east side of Hicks Street on the south side of Union Street. The south side of President Street beyond the Clinton Street corridor could warrant consideration as well. This is because the buildings would only benefit from the opportunity to utilize the additional floor area through vacating all the rent-stabilized tenants on the justification of substantial rehabilitation.

Summit Street

Regarding the R6 zoning that was established along Summit Street in 2007, the borough president conditioned his approval on the provision of affordable housing. The property owner expressed concern that the nine percent reduction in floor area based on the proposed rezoning of the area to R6B would compromise the feasibility of the project given the intent to incorporate the affordable housing. The borough president has been advised that representatives of the Columbia Waterfront Neighborhood Association have reviewed the proposed development plans according to the R6 Quality Housing zoning provisions and have no objections to such a development proceeding if this area were to remain R6. However, there is concern that unforeseen circumstances, such as resale of the property, could result in a development of approximately 12-13 stories according to height-factor zoning and/or incorporation of additional floor area for community facility purposes (as was the case with recent construction along Carroll Street). The borough president believes that such concerns can be addressed by the filing of a legal instrument that binds the property to preclude such development. He would support the City Council and City Planning Commission retaining the R6 zoning for this site if adequate documentation is provided.

Recommendation

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council

approve the requested action on the condition that the Summit Street frontage rezoned in 2007 remain R6 provided that a suitable legal instrument is in place at the time of the adoption of the rezoning that restricts development to Quality Housing zoning regulations, limited to residential floor area, with a commitment that not less than 20 percent of the units be developed as affordable housing.

Be it further resolved that:

1. The Landmarks Preservation Commission should:
 - a. Analyze 236 President Street and 240 Union Street for individual landmark structure designation.
 - b. In consultation with community organizations, Community Board 6 and local elected officials, consider the neighborhood for historic district designation, with priorities given to certain areas proposed for R6A.
2. If options based on the outcome of the neighborhood's pursuit for individually landmarking and historic district designation efforts do not result in an adequate mechanism to limit height to 50 feet, DCP will review certain blocks for reconsideration for rezoning as R6B.