

# Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION  
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## 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 #: 110386 ZMK – 110387 ZRK

### Special 4<sup>th</sup> Avenue Enhanced Commercial District

In the matter of an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map by establishing a Special 4<sup>th</sup> Avenue Enhanced Commercial District (EC) bounded by a line midway between Atlantic Avenue and Pacific Street, 4<sup>th</sup> Avenue, Pacific Street, a line 100 feet southeasterly of 4<sup>th</sup> Avenue, President Street, a line 150 feet southeasterly of 4<sup>th</sup> Avenue, the northeasterly boundary line of James J. Byrne Memorial Park and Playground, a line 100 feet southeasterly of 4<sup>th</sup> Avenue, 24<sup>th</sup> Street, 4<sup>th</sup> Avenue, Prospect Avenue, a line 100 feet northwesterly of 4<sup>th</sup> Avenue, 6<sup>th</sup> Street, 4<sup>th</sup> Avenue, Douglass Street, and a line 100 feet northwesterly of 4<sup>th</sup> Avenue. This would facilitate ground floor retail use along Fourth Avenue for new developments.

COMMUNITY DISTRICT NO.

2, 6, 7

BOROUGH OF BROOKLYN

### RECOMMENDATION

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS



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BOROUGH PRESIDENT

August 22, 2011

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DATE

# **RECOMMENDATION FOR THE PROPOSED ZONING MAP AMENDMENT AND TEXT AMENDMENT FOR FOURTH AVENUE 110386 ZMK – 110387 ZRK**

## **PUBLIC HEARING**

On July 27, 2011 the Borough President held a public hearing on the proposed actions. A representative from the Department of City Planning (DCP) detailed the main points of the application and there were no speakers for or against the plan. As part of the hearing, it was noted that DCP practice has been to only make the Inclusionary Housing Program (IHP) district applicable in conjunction with an upzoning. The necessity for increased density along Fourth Avenue, by DCP standards, is not prevalent – therefore incorporating the IHP has not been considered.

Community Boards 2, 7 voted to approve these applications, while Community Board 6 approved while noting that if the R8A district were to be enlarged, it should include the IHP.

Subsequent to the hearing, the Borough President announced the formation of a task force aimed at the transformation of Fourth Avenue that will oversee planning of project specifics, including tree planting and use of a newly expanded Times Plaza at the intersection of 4<sup>th</sup>, Atlantic, and Flatbush Avenues.

## **CONSIDERATION**

At the 2011 State of the Borough Address (SOTB), the Borough President promoted his vision for a transformation of Fourth Avenue into a livable, walk-able, tree-lined avenue. He seeks to turn Fourth Avenue's plain brick facades, speckled with ventilation exhaust grates of enclosed parking, into a grand avenue spanning from the Atlantic Ocean to Atlantic Avenue – dubbed as 'Brooklyn Boulevard'.

Subsequent to the SOTB Address, in a letter to DCP, he called for an amendment to the zoning that would require retail as part of the ground floor of any new buildings along Fourth Avenue – a change he believes will create a positive streetscape experience for pedestrians. DCP has created a response that largely addresses existing deficiencies of the Zoning Resolution by proposing the Special Fourth Avenue Enhanced Commercial District. The goal is to turn Fourth Avenue into a lively mixed-use neighborhood with a vibrant mix of commercial and community facilities on the ground floor of all new developments. With these applications, the Borough President commends DCP for agreeing with his vision and creating a proposal that will prevent future developments from adding to the avenue's unattractive corridor of blank masonry walls.

The Borough President generally supports the proposal though does believe that it could be enhanced by further modifying the uses to be excluded and with more specificity regarding the transparency controls as part of the adopted proposal. In addition, the Borough President is seeking further enhancement of "Brooklyn Boulevard" by: providing more opportunities to promote residential development; making applicable inclusionary housing; modifying parking requirements; and, incorporating additional streetscape/landscape enhancements. He also believes that the Special Commercial Enhancement Regulations should be incorporated in other retail corridors throughout Brooklyn. All of the above are described further below.

### APPROPRIATE USE

The Borough President shares DCP's belief that the mandatory retail frontage (50 percent of the total frontage) should exclude certain uses that, by their nature, are not conducive to creating engaging retail, commercial or community facility use along the Fourth Avenue corridor. DCP's proposal would exclude such uses as banks, loan offices, offices, public service establishments, motels, small wholesale establishments, auto related stores such as glass, seat covers and tire sales, auto rental establishments, public parking and wholesale hair products. Such uses would otherwise be permitted in the remaining balance of the frontage that is not utilized for residential lobbies or accessory parking.

In addition to the excluded uses proposed by DCP, the Borough President believes that it is appropriate to exclude from the mandatory commercial frontage the following uses from Use Group 8A: trade schools; business schools; and, medical dental labs, that he believes are not lively or engaging uses or necessarily pedestrian friendly. Such uses support retail corridors best when often situated above the ground floor as their staff and student body might patronize nearby retailers.

### TRANSPARENCY

Transparency standards provide opportunities for pedestrians to look inside at merchandise and activity in a manner that makes a more interesting experience when strolling along a retail corridor. Interesting corridors often result in more foot-traffic that support retailers while providing more eyes on the street as a means to enhance a feeling of being safe in the neighborhood. This is further enhanced when lighting from stores augment the City's street lights. DCP proposes that transparency must start not less than four feet above the sidewalk within the proposed regulated zone. The Borough President believes that the minimum level of streetscape transparency proposed by DCP could be further improved by providing additional standards that govern the maximum height of show window sills between the proposed regulated zone of between two and twelve feet above the sidewalk. Without such a control, development might meet the 50 percent transparency requirement by providing much of the glazing above eye level.

The Borough President notes that the Special Downtown Brooklyn District contains a requirement for the show sill height not to exceed two feet six inches above the sidewalk level. He believes that such a control is appropriate to incorporate into this zoning proposal in order to ensure that a sufficient portion of the transparency is below eye level, thus enabling pedestrians to see more of what is inside the retail space.

### ALLOWING RESIDENTIAL ALONG MORE OF "BROOKLYN BOULEVARD"

In his 2003 recommendation for the rezoning of Park Slope, the Borough President noted that despite already being predominately residential, block frontages along the west side of Fourth Avenue (between Douglass and Sixth streets) were not included in the proposed rezoning. Other blocks contain sites occupied by one-story uses similar to those that DCP identified as likely to be converted to housing. Similarly, as part of the 2005 recommendation for the South Park Slope Rezoning, the Borough President noted that the block fronts along the west side of Fourth Avenue south of the Prospect Expressway contained a wide range of uses, including residential.

As part of DCP's May 2008 draft zoning proposal for the Gowanus Canal Corridor, the analytical framework depicted the frontages between Douglas and First streets for residential development by suggesting the zoning be R8A with a C2 commercial overlay ([http://www.ci.nyc.ny.us/html/dcp/html/gowanus/presentation\\_0508.shtml](http://www.ci.nyc.ny.us/html/dcp/html/gowanus/presentation_0508.shtml)). In order for this section of Fourth Avenue to truly become a grand residential boulevard, the Borough President believes DCP should analyze these additional areas along Fourth Avenue (west side of Fourth Avenue between Douglas to 6<sup>th</sup> streets and south of the Prospect Expressway to 24<sup>th</sup> Street) to determine the appropriateness of enlarging the R8A district for the potential to provide more opportunities to facilitate housing.

#### INCLUSIONARY HOUSING

It is the Borough President's firm belief that developers should provide housing for those who are being priced out of Brooklyn, especially vulnerable populations such as seniors. He believes that plans to grow the residential housing stock of a neighborhood are deficient when they do not increase or preserve the supply of affordable housing.

The Borough President has consistently stated his interest in having the section of Fourth Avenue north of 15<sup>th</sup> Street be incentivized through zoning to produce affordable housing. In the Borough President's consideration of the 2003 rezoning of Park Slope which included the section of Fourth Avenue in Community District 6, he noted that it was appropriate to provide affordable housing through incentives linked to a zoning text amendment as a means to achieve the inclusion of units affordable to the median income of area residents. Subsequently as part of the rezonings for West Chelsea, the Hudson Yards and the Williamsburg-Greenpoint waterfront neighborhoods in 2005, the City established an expanded version of its Inclusionary Housing Program (IHP) zoning incentive.

In May 2006, as part of the Borough President's recommendation regarding the establishment of the IHP to R7-3 zoning district, he called for DCP to advance additional amendments to such districts as R8A and its commercial equivalent districts. In his transmittal letter he referenced Park Slope as a neighborhood worthy of consideration. And in May 2009, as part of the Brooklyn Borough Board's Resolution distribution letter commenting on revisions to the IHP, he recommended that areas previously rezoned to encourage the production of housing that are not included in the IHP should be amended to incorporate this zoning incentive. One such area referenced was Fourth Avenue in Community District 6.

In consideration of the city's response for being reluctant to retroactively reduce as-of-right floor area, the Borough President believes that a shift in City policy is warranted. Most sites along Fourth Avenue experienced a doubling in residential development rights, from 3.0 floor area ratio (FAR) to 6.0 FAR, though some of the northern most blocks increased from 4.0 FAR to 6.0 FAR. In essence, the upzoning provided the opportunity for substantial financial gain when selling or redeveloping properties. If the City would be receptive to modifying the R8A to R8A with the IHP, the base FAR, while dropping to 5.4 FAR, is still substantially greater than what it was prior to rezoning. It is likely that many of the properties have not changed hands since the original zoning, therefore the City should not be viewing a change from R8A to R8A with IHP the same as a traditional downzoning. In addition, by utilizing the IHP, twenty percent of the floor area derived from the bonus can be used for market rate development, yielding a sum of 5.76 FAR as compared to the 6.0 existing today, a negligible reduction. Meanwhile, with 7.2 FAR achievable, the results would increase the supply of permanent affordable housing while having an almost identical outcome of market-rate units. The City should view such an approach as in its best interest.

The Borough President believes that DCP should undertake a zoning text amendment to make applicable the affordable housing floor area incentives for the section of the R8A district north of 15<sup>th</sup> Street.

#### PARKING REQUIREMENTS

As part of his 2005 recommendation report regarding the South Park Slope rezoning, the Borough President expressed concerns that the R8A zoning required too little parking for car ownership patterns in that part of Brooklyn. The South Park Slope area seemed to already be experiencing, on occasion, a deficit of on-street parking spaces. Therefore, the Borough President called on DCP to initiate a zoning text amendment for R8A districts in Community District 7 that would amend the parking requirement as a percent of the number of units and to modify the waiver of otherwise required parking.

Requiring more parking takes into consideration those residents that prefer car ownership for work and recreational means due to its convenience in light of inadequate public transportation. This requirement also recognizes the difficulty faced by such residents in terms of finding convenient on-street parking, a demand that's on the rise due to many recent developments since the upzonings went into effect. Too often new developments contain the minimum on-site parking standards despite what might be the possible car ownership rates of the new building occupants. Thus, the adequacy of the available on-street parking continues to be further compromised, making it more difficult for long-time residents with cars. These neighborhoods have few monthly-based public parking opportunities. While primarily a resource for residents of new high-rise residential buildings, such parking facilities may also accommodate neighbors seeking secured off-street parking.

The Borough President had expressed such concerns on multiple occasions, including letters to DCP from June 2008 and September 2009 when DCP initiated increased requirements for the Rockaways; and then again for the Special Long Island City District. Collectively, these changes increased the probability that new developments in Long Island City will provide an adequate amount of parking to accommodate the new residents. While he applauded DCP for taking those steps to address community concerns in Long Island City and in the Rockaways, he believed it appropriate to introduce these concepts in warranted areas of Brooklyn. Changes consistent to what was done in those communities make sense to be applied to certain upzoned areas in Brooklyn. Addressing the reality of automobile ownership in the City should be part of DCP's agenda. Requiring more parking recognizes the need to respect the quality-of-life for households where public transit does not provide for a sufficient range of journeys.

The proposed Special Fourth Avenue Enhanced Commercial District would prohibit curb cuts along Fourth Avenue frontage for lots with not more than 60 feet of frontage. Therefore the Borough President believes that parking requirements might warrant a reduction in the waiver from 15 to five to be more consistent with such lot sizes. Without such reductions, for lots greater than 15,000 sf, up to 38 market-rate units might be developed without a requirement to provide parking. For lots between 10,001 and 15,000 sf, up to 77 units might be provided without parking. If the waiver was reduced to five, as was done for Long Island City, 14 units would instead be required to provide parking for the larger lots and 28 units would trigger the requirement for parking for the mid-size lots.

Therefore, the Borough President believes that DCP should analyze a zoning text amendment for the Fourth Avenue R8A district that amends the parking requirement for lots between 10,001 square feet (sf) and 15,000 sf to no longer be permitted to be meeting the reduced requirement of 20 percent of the units to have parking; with the size of lots exempt from parking being reduced from 10,000 sf to 6,000 sf and the waiver being reduced from 15 spaces to 5 spaces.

#### STREETSCAPE/LANDSCAPE

Fourth Avenue has been defined by its absence of trees and landscaping along the traffic median and sidewalks of this wide corridor. While the zoning changes that increased residential density has brought several new buildings, it has not improved the streetscape. The Special Enhanced Commercial District regulations is expected to help bring about the retail vibrancy as a means to improve the streetscape though that in itself is merely a component of what needs to be a comprehensive set of actions.

Landscaping has contributed to the beauty of a large number of grand boulevards in this city. Ocean, Eastern, Pelham and Mosholu Parkways, as well as Park Avenue, Broadway and the Grand Concourse all exhibit qualities of properly landscaped thoroughfares. Ocean and Eastern Parkways are most special due to both the mandated large setbacks and the planted malls separating the roadways. Mosholu Parkway has a wide greenway separating the roadways. Both Park Avenue and Broadway have landscaped malls, despite being right over subway trenches. The Grand Concourse, while having a nominal width front yard, has shrubs and hedges lining the apartment buildings. These streets clearly provide an example for what can be achieved on Fourth Avenue. The Borough President is working with stakeholders and elected officials to achieve these ends through the creation of a Fourth Avenue Task Force charged with the long term planning of Fourth Avenue with the goal of realizing such transformation.

It should be City policy to have Fourth Avenue transformed into a special roadway such as these other proud streets. To truly evolve into "Brooklyn Boulevard," the center traffic median should be treated in a manner consistent with Park Avenue and Broadway uptown. Within the public right-of-way, the Fourth Avenue median should be treated in a manner consistent with Park Avenue and upper Broadway in Manhattan or Ocean and Eastern Parkways in Brooklyn. Subway grates should be upgraded with sculptural elements that may also incorporate landscaping. Many examples already exist within the MTA's system of subway vents that have been altered to incorporate sculptural elements that maintain the infrastructural needs of the system while contributing to the streetscape. The subway vents on Fourth Avenue should be treated in the same manner.

Additionally, the City should pursue the planting of sidewalk trees for the entire length of Fourth Avenue from Flatbush Avenue to Shore Road. The combination of sculptured subway vents with landscaping in front of buildings and street trees along the avenue will go a long way towards transforming the streetscape and complementing DCP's text amendment. These measures could be regulated through prescribed standards as part of the review of Builders Pavement Plans.

Already the Department of Environmental Protection's (DEP) NYC Green Infrastructure initiative is playing a role through its coordination with the Department of Design and Construction and the Department of Transportation with construction projects in the street right-of-ways. DEP intends to

see that bioswales be incorporated, to function as storm-water diverters, into the traffic calming implementation projects at three locations along Fourth Avenue during the Fall of 2011. This will be one of many positive steps towards achieving Brooklyn Boulevard. As such, the Borough President urges the City to analyze and implement means to provide streetscaping/landscaping along Fourth Avenue for all new developments.

#### Establishing Additional Special Enhanced Commercial Districts

The Borough President believes that there are many other commercial streets that would benefit from being regulated by the Special Enhanced Commercial District regulations. Certain retail streets contain residential density that might tempt developers or property owners to redevelop sites that are substantially under-built pursuant to the underlying zoning district.

As noted in the Borough President's 2005 rezoning of the Homecrest section of Brooklyn, he had recommended that DCP should draft a zoning text change to require retail frontage along Kings Highway prior to the redevelopment of any of the properties. He had believed that the proposed rezoning of Kings Highway between Coney Island Avenue and Ocean Avenue increased the incentive to develop housing. That section of Kings Highway is a major retail center and provides an essential service to area residents. The Borough President was concerned that neither the existing nor proposed zoning district requires retail use at the ground floor. The Borough President expressed concern that certain developers were less experienced with development of mixed-retail/residential development and that without requirements to mandate retail use for the ground floor developers might opt to construct entirely residential condominium developments. The Borough President believes that any loss of retail frontage along such streets as Kings Highway could be detrimental for the entire corridor.

While Fourth Avenue is not an established retail corridor it has demonstrated that developers make choices that are not always in the best interest of the public realm. Since the rezoning of Homecrest, the Borough President noted that the entirety of the retail districts in Staten Island mandate retail frontage. In addition, when DCP established the R7D and its C4-5D commercial equivalent, which was mapped along Fulton Street in the Bedford-Stuyvesant section of Brooklyn, such districts have mandatory retail frontages. The Borough President believes it is more than appropriate to establish mandatory retail along several retail corridors in Brooklyn as a means to remove the theoretical threat of elimination and to introduce the urban design enhancements. In addition to the Homestead section of Kings Highway, there are several other worthy retail corridors that merit consideration. These include such streets such as: 86<sup>th</sup> street in both Bensonhurst and Bay Ridge; Brighton Beach Avenue; and, one or more sections of Broadway such as where it borders Bedford-Stuyvesant and Bushwick as potential examples.

The Borough President believes that DCP should consult with Brooklyn's community boards and local elected officials to solicit interest in having mandatory retail frontage along specified retail streets where there is potential for redevelopment based on the zoning's corresponding residential density and then proceed with zoning actions to establish such districts at the urging of the affected community board.

## 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 these zoning amendments pursuant to the following conditions:

1. That for the Special Ground Floor Level Use Requirements for Commercial Districts according to the proposed Zoning Resolution Section 132-21 (a) mandatory commercial uses for a portion of the ground floor level, be modified to contain additional excluded uses from Use Group 8A: trade schools; business schools; and, medical dental labs.
2. That for the Special Ground Floor Level Transparency Requirements according to the proposed Zoning Resolution Section 132-31, that for show windows sill height, in lieu of allowing a height of four feet above curb level applicable to general transparencies, such windows shall be not more than two feet six inches (2'-6") above curb level (as per the special downtown Brooklyn District (ZR 101-12).

## Be it Further Resolved

1. That the Department of City Planning should undertake a zoning analysis for the purposes of enlarging the R8A district for the blocks frontages along west side of Fourth between Douglass to 6<sup>th</sup> streets and south of the Prospect Expressway to 24<sup>th</sup> Street;
2. That the Department of City Planning should undertake an analysis for a zoning text amendment to make applicable the Inclusionary Housing Program's affordable housing floor area incentives for the section of the R8A district north of 15<sup>th</sup> Street;
3. That the Department of City Planning should undertake a analysis of the R8A district's parking requirement in Brooklyn for the purposes of minimizing the applicability of when a development might be permitted to reduce the parking requirement for smaller zoning lots and/or waive parking otherwise required;
4. The City to analyze and implement means to provide streetscaping/landscaping along Fourth Avenue, including through subway grate upgrades and Builder Pavement Plans for all new developments; and,
5. That the Department of City Planning should consult with Brooklyn's community boards and local elected officials to solicit interest in having mandatory ground floor retail use frontage requirements pursuant to the Special Enhanced Commercial District regulations along specified retail streets where there is potential for redevelopment based on the zoning's corresponding residential density and then proceed with zoning actions to establish such districts at the urging of the affected community board.