



CITY PLANNING COMMISSION

July 2, 2008, Calendar No. 15

N 080345 ZRK

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning the modification of bulk regulations in Articles II and III, relating to certain narrow streets in Community District 6 in the Borough of Brooklyn.

This application for a zoning text amendment (N 080345 ZRK) was filed by the Department of City Planning on March 27, 2008 to consider 1st Place, 2nd Place, 3rd Place and 4th Place; and 2nd Street, Carroll Street and President Street between Smith Street and Hoyt Street as ‘narrow streets’ for certain zoning calculation purposes in the Carroll Gardens neighborhood of Community District 6, Brooklyn.

BACKGROUND

In response to concerns about out-of-scale development from Community Board 6, local civic groups and elected officials, the Department of City Planning is proposing zoning text amendments that would consider certain streets in Carroll Gardens as narrow streets for certain zoning calculations. The text amendment would limit the size and configuration of new buildings and enlargements to more closely match the area's prevailing built character.

The Carroll Gardens neighborhood is predominantly occupied by three- and four-story single and multi-family row houses with front yards. A few apartment buildings rising to five stories and some one- and two-story accessory parking and storage structures are also present. A small number of non-residential uses include local retail and service establishments, houses of worship, and lots owned by New York City Transit associated with the F and G subway line running below and along Smith Street. The blocks of Carroll Street and President Street between Smith Street and Hoyt Street are within the

Carroll Gardens Historic District, designated by the New York City Landmarks Preservation Commission in 1973.

The streets affected by the proposed text amendment (1st Place, 2nd Place, 3rd Place and 4th Place; 2nd Street, Carroll Street and President Street between Smith Street and Hoyt Street) are zoned R6, with C1-3 and C2-3 overlays on some blocks along Court and Smith Streets. These streets are mapped on the City Map with widths of 100 to 130 feet and therefore are considered wide streets for zoning purposes. On these streets in Carroll Gardens, the mapped street therefore includes the characteristic deep front yards of homes as well as the sidewalks and roadbeds. The Zoning Resolution has more liberal floor area and height and setback regulations for wide streets that are mapped at widths of 75 feet or more.

Although these streets have mapped widths that qualify them as wide streets, they look and function as narrow streets. The total width of sidewalks and roadways on these streets is approximately 50 feet. In R6 districts, the maximum floor area ratio for residential buildings is 2.43; however, buildings on wide streets that are developed under the Quality Housing Program may have a Floor Area Ratio (FAR) of 3.0 and can have a maximum height of 70 feet. The ability to utilize the more liberal bulk regulations for wide streets has resulted in out-of-context development on the subject blocks.

PROPOSED TEXT AMENDMENT

The text amendment would limit the permitted heights and densities so that future developments would more closely match the existing low-scale context.

The proposal would amend sections of the Zoning Resolution that regulate height and setback, density and FAR. For those sections of the Zoning Resolution, 1st, 2nd, 3rd and 4th Places, and 2nd Street, Carroll Street and President Street between Smith Street and Hoyt Street would be considered 'narrow streets'. The mapped width of the streets on the City Map would be unchanged.

For buildings developed pursuant to Quality Housing, the proposed amendments would limit new development to an FAR of 2.2 and a maximum building height of 55 feet. For buildings developed pursuant to R6 height factor regulations, the text change would increase the depth of the initial setback distance and produce a more shallow sky exposure plane ratio.

ENVIRONMENTAL REVIEW

This application (N 080345 ZRK) 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 (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 08DCP055K. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on April 7, 2008.

PUBLIC REVIEW

This application (N 080345 ZRK) was duly referred on April 7, 2008, to Community Board 6 and the Borough President for information and review in accordance with the procedures for non-ULURP matters.

Community Board Recommendation

At its May 14, 2008, general meeting, Community Board 6 adopted a resolution recommending approval of the application by a vote of 20 in favor, 7 opposed and 7 abstentions.

Borough President Recommendation

This application was considered by the Brooklyn Borough President, who issued a recommendation on May 22, 2008 approving the application.

City Planning Commission Public Hearing

On May 21, 2008 (Calendar No. 2), the City Planning Commission scheduled June 4, 2008, for a public hearing on this application (N 080345 ZRK). The hearing was duly held on June 4, 2008 (Calendar No. 18). There were 30 speakers in favor of the application and 5 speakers in opposition.

Speakers in favor of the text amendment included residents of Carroll Gardens and other nearby neighborhoods, members of local neighborhood associations, the Community Board 6 District Manager, and speakers representing local elected officials including the Borough President, the Councilmember from the 39th District, and the State Senator from the 25th district.

Speakers in support discussed the assets of the community and the need to protect the historic character and scale of these streets. Several speakers praised the text amendment as a solution to preserve the neighborhood scale until the Department had the resources to undertake a larger area-wide rezoning study. Several speakers noted that this text amendment would close a loophole that has allowed developers additional FAR and height than is permitted on nearby streets of similar scale and character. Speakers also testified that the text amendment would not affect property values in the neighborhood.

Speakers in opposition to the proposed text amendment included local residents and a representative of a developer in the area. Speakers in opposition voiced concerns about the perceived lack of public process throughout the development of the text amendment, noting that the process felt rushed and did not provide ample opportunities for public comment. Speakers in opposition raised concerns about the setback regulation which would be at odds with some existing five story buildings, as well as the possibility that reducing the allowable FAR and height permitted under Quality Housing zoning would entice developers to build pursuant to height factor zoning which does not have a height

limit. The speakers in opposition agreed fundamentally with the proposal to limit height on these streets through a rezoning process but disagreed with the text amendment as a mechanism to achieving this goal. Some speakers opposed to the proposal raised questions about the legal ownership of the front courtyards and whether or not this portion of the lot could be used to generate floor area if in private ownership.

A representative of the owner of a large private site on the corner of Smith Street and Second Place spoke in opposition to the text amendment because it would reduce the FAR and require the redesign of a proposed project at this site. The representative noted that development on this site was difficult due to the below-ground MTA subway platform, and that the developer had made efforts to accommodate community concerns about building height in the design of the building.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for an amendment to the Zoning Resolution (N 080345 ZRK) is appropriate.

The proposed text amendment would amend sections of the Zoning Resolution to consider 1st Place, 2nd Place, 3rd Place and 4th Place; and Second Street, Carroll Street and President Street between Smith Street and Hoyt Street as narrow streets for zoning calculation purposes. While buildings on these streets are similar in size and character to nearby narrow streets to which R6 narrow street provisions apply, these streets are considered wide streets for zoning purposes, which allows more permissive height, setback and FAR. The Department's proposal responds to the longstanding community concerns about out-of-scale development on these blocks due to their wide street classification by defining them as narrow streets for zoning calculation purposes.

In response to concerns raised at the public hearing about the loss of floor area as a result of the proposed text amendment, the Commission notes that the vast majority of the lots

on the subject streets are currently built below the proposed permitted FAR of 2.2 using Quality Housing regulations. For structures built to less than 2.2 FAR, this action would continue to allow for modest horizontal and vertical building expansions that would result in buildings that are more in character with the existing built context.

With regard to the concern that the proposed action would encourage the use of height factor zoning and produce taller buildings, the Commission notes that the practical considerations of the necessary lot area required to produce tall buildings makes use of this option impractical. In order for tall buildings to be built under height factor zoning, a large open area must be provided that increase with the height of the building, thus requiring large lots. However, the Commission notes that there no such large lot assemblages, and that the high home values and minimal land vacancy in the immediate area have resulted in the stability of the neighborhood that precludes such assemblages from occurring.

Regarding the legal ownership of the front courtyards, the Commission notes that the issue of ownership is not within its purview, and that the proposed action does not impact the status of legal ownership.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and 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 as follows:

Matter Underlined is new, to be added;

Matter in ~~Strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicate where unchanged text appears in the Zoning Resolution

* * *

23-10

OPEN SPACE AND FLOOR AREA REGULATIONS

* * *

23-145

For residential buildings developed or enlarged pursuant to the Quality Housing Program

R6 R7 R8 R9 R10

In the districts indicated, the maximum #lot coverage# and the maximum #floor area ratio# for any #residential building# on a #zoning lot developed# or #enlarged# pursuant to the Quality Housing Program shall be as set forth in the following table and the maximums for #developments#, or #enlargements# where permitted, located within 100 feet of a #wide street# in R6, R7 or R8 Districts without a letter suffix outside the #Manhattan Core#, shall be as designated by the same district with an asterisk. In an R6 District inside the #Manhattan Core# located within 100 feet of a #wide street#, the maximums shall be indicated by the same district with a double asterisk.

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO
FOR
QUALITY HOUSING BUILDINGS
(in percent)

District	Maximum #Lot Coverage#		Maximum #Floor Area Ratio#
	#Corner Lot#	#Interior Lot# or #Through Lot#	
R6	80	60	2.20
R6**	80	60	2.43
R6* R6A R7B	80	65	3.00
R6B	80	60	2.00
R7	80	65	3.44
R7* R7A	80	65	4.00
R7D	80	65	4.20
R7X	80	70	5.00

R8 R8A R8X	80	70	6.02
R8*	80	70	7.20
R8B	80	70	4.00
R9 R9A	80	70	7.52
R9X	80	70	9.00
R10	100	70	10.00

In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying #floor area# and open space regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

* * *

23-20 DENSITY REGULATIONS

* * *

23-22 Maximum Number of Dwelling Units or Rooming Units

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the maximum number of #dwelling units# or #rooming units# shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. In R1 through R5 Districts, no #rooming units# shall be permitted and any #dwelling unit# shall be occupied by only one #family#. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

For the purposes of this Section, where a #floor area ratio# is determined pursuant to Sections 23-142 or 23-143, notwithstanding the #height factor# of the #building#, the maximum #residential floor area ratio# shall be 2.43 in an R6 District within 100 feet of a #wide street#, 3.44 in an R7 District, and 6.02 in an R8 District. In an R6 District beyond 100 feet of a #wide street#, the maximum #residential floor area ratio# shall be as specified in Sections 23-142 or 23-143, or 2.2, whichever is greater.

In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying density regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

FACTOR FOR DETERMINING MAXIMUM NUMBER
OF DWELLING UNITS OR ROOMING UNITS

District	Factor for #Dwelling Units#	Factor for #Rooming Units#
R1-1	4,750	
R1-2	2,850	
R2, R2A	1,900	
R2X	2,900	
R3-1 R3-2*	625	
R3A	710	
R3-2 R4 R4-1 R4B	870	
R3X	1,000	
R4A	1,280	
R4** R5** R5B	900	
R5, R5D	760	
R5A	1,560	
R5B***	1,350	
R6 R7 R8B	680	500
R8 R8A R8X R9 R9A	740	530
R9-1 R9X R10	790	600

- * for #single-# and #two-family detached# and #semi-detached residences#
 ** for #residences# in a #predominantly built-up area#
 *** for #buildings# subject to the provisions of Section 25-633 (Prohibition of
 curb cuts in certain districts)

* * *

23-60
HEIGHT AND SETBACK REGULATIONS

* * *

23-67

Special Provisions Relating to Specified Streets

23-671

Special Provisions for Zoning Lots Directly Adjoining Public Parks

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, a #public park# with an area of between one and fifteen acres shall be considered a #wide street# for the purpose of applying the regulations set forth in Section 23-63 (Maximum Height of Front Wall and Required Front Setbacks) to any #building or other structure# on a #zoning lot# adjoining such #public park#. However, the provisions of this Section shall not apply to a #public park# more than 75 percent of which is paved.

23-672

Special provisions for certain streets in Community District 6 in the Borough of Brooklyn

In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying height and setback regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

* * *

24-57

Modifications of Height and Setback Regulations

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for certain #community facility uses# in specified situations, the Board of Standards and Appeals may modify the regulations set forth in Sections 24-51 to 24-55, inclusive, relating to Height and Setback Regulations, in accordance with the provisions of Section 73-64 (Modifications for Community Facility Uses).

In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying height and setback regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

* * *

35-24

Special Street Wall Location and Height and Setback Regulations in Certain Districts

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TABLE B
HEIGHT AND SETBACK FOR BUILDINGS
IN NON-CONTEXTUAL DISTRICTS

District	Minimum Base Height	Maximum Base Height	Maximum Building Height
C1 or C2 mapped in R6** C4-2** C4-3**	30	45	55
C1 or C2 mapped in R6* inside Core*** C4-2* inside Core*** C4-3* inside Core***	40	55	65
C1 or C2 mapped in R6* outside Core*** C4-2* outside Core*** C4-3* outside Core***	40	60	70

* * *

- * Refers to that portion of a district which is within 100 feet of a #wide street#
- ** Refers to that portion of a district on a #narrow street#, except within a distance of 100 feet from its intersection with a #wide street#
- *** Core refers to #Manhattan Core#.

Note: In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying height and setback regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

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The above resolution (N 080345 ZRK), duly adopted by the City Planning Commission on July 2, 2008 (Calendar No. 15), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, *FAICP, Chair*
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