

BRONX BOROUGH PRESIDENT'S RECOMMENDATION
ULURP APPLICATION NO: C 190403 ZMX
Staten Island and Bronx Special District Text Update

DOCKET DESCRIPTION

Bronx Community District #8

IN THE MATTER OF an application submitted to the New York City Department of City Planning pursuant to Section 197-c and 201 of the new York City Charter for the amendment of the Zoning Map, Section Nos. 1a, 1b, 1c, and 1d:

1. Eliminating a Special Natural Area District (NA-2) bounded by a boundary line of the City of New York, Riverdale Avenue, a line 300 feet southerly of West 261st Street, Independence Avenue, a line 600 feet northerly of West 256th Street, Arlington Avenue, West 254th Street, Henry Hudson Parkway West, West 252nd Street Henry Hudson Parkway East, West 253rd Street, The Post Road, West 252nd Street, Tibbett Avenue, West 244th Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246th Street, Henry Hudson Parkway West, West 249th Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue, distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246th Street, West 246th Street, Independence Avenue, West 240th Street, the centerline of the former West 240th Street, and its westerly centerline prolongation, Douglass Avenue, West 235th Street, Independence Avenue, West 232nd Street, Henry Hudson Parkway, West 231st Street, Independence Avenue, the westerly centerline prolongation of West 230th Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231st Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line) the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations; and
2. Establishing a Special Natural Resources District (SNRD) bounded by a boundary line of The City of New York, Riverdale Avenue, a line 300 feet southerly of West 261st Street, Independence Avenue, a line 600 feet northerly of West 256th Street, Arlington Avenue, West 254th Street, Henry Hudson Parkway West, West 252nd Street, Henry Hudson Parkway East, West 253rd Street, The Post Road, West 252nd Street, Henry Hudson Parkway East, West 253rd Street, The Post Road, West 252nd Street, Tibbett Avenue, West 244th Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246th Street, Henry Hudson Parkway West, West 249th Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246th Street, West 246th

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Borough of The Bronx, Community District #8, as shown on a diagram (for illustrative purposes only) dated May 6, 2019.

BACKGROUND

Approval of this application will eliminate the Special Natural Area District (SNAD) and establish the Special Natural Resource District (SNRD). Approving this application will not alter the boundaries of the existing Special Natural Area District (SNAD). This district is located in the Riverdale community of The Bronx, in Community District #8. The SNAD boundaries are; the cityline on the north, the merge between the Harlem and Hudson Rivers on the south (Spuyten Duyvil), the Hudson River on the west and Riverdale Avenue on the east. Whereas the Fieldston Historic District area is included in the SNAD, the eastern boundary is Tibbett Avenue, between the Henry Hudson Parkway on the north and West 244th Street on the south. The SNAD or the proposed SNRD approximates 900 acres, includes approximately 1,003 lots of which approximately 83% are occupied by one and two family homes. Of the lots remaining, 5% are multi-family and 12% are institutions. These institutions include schools, colleges and nursing home facilities.

Originally adopted by the New York City Planning Commission in 1974 and expanded into The Bronx in 1975, the key objective of Special Natural Area District (SNAD) in Riverdale is to protect and enhance the many unique natural features of this community. These features include:

- Rock outcroppings
- Steep slopes
- Old growth trees
- Buffers adjacent to aquatic resources
- Recreational Open Space

The Current Special Natural Area District (SNAD)

The primary objective of SNAD is to protect the natural features found within its boundaries. To that end, the consistent challenge has been to balance development with the need to protect these natural features. To date this has been done on a site-by-site basis, focusing on specific natural features found on the specific site, with less emphasis on how a development plan's approval may impact the broader community's natural environment. So too, the ordinances that pertain to

development within the SNAD are applicable to all sites, regardless of their size, type of natural features that are present and whether the site is residential or institutional.

To find “relief” from this one-size-fits-all approach, property owners are able to work with the Department of City Planning (in this case the Bronx office) in order that the final plan that is adopted satisfies the SNAD’s objectives but also allows for a proposed development to proceed. Accomplishing this requires that the property owner

- Hire an architect and provide a site survey showing how the proposed project will impact the natural features.
- Properties that are located within a landmarked district (such as Fieldston) a separate filing must be submitted to the Landmark’s Preservation Commission (LPC).
 - These steps average seven months to complete.
- The proposed project is then presented to the Community Board (in this case, Community Board #8) for its review. The Community Board has 60 days to review the project. During this time ongoing presentations and subsequent modifications pursuant to the Community Board’s dictates are made of the applicant.
- The Community Board will recommend or not recommend that the project move forward.
- The proposed project goes before the City Planning Commission (CPC) for a vote. Pending approval by the CPC, the owner completes legal documents for approval by the Department of City Planning (DCP).
- Upon approval, the DCP submits the approvals and project details to the Department of Buildings (DOB).
 - This complete process averages 13 months to finalize. If necessary, resolving all outstanding matters may require additional time.
 - This review process is “subjective,” as review standards may vary from project to project. As a result, property owners cannot be certain as to precisely what is required to realize a timely approval
- In Riverdale a majority of the projects that are subject to review pertain to the horizontal addition of a residence, constructing a swimming pool, patio or a driveway.

The Proposed Special Natural Resource District (SNRD)

As proposed by the Department of City Planning (the applicant) the Special Natural Resource District (SNRD) will reduce the cumbersome (and subjective) approval process most applicants must currently follow. More specifically:

- Codify best practices and streamline the special districts rules
- End the site-by-site review which fail to consider implications for the broader community
- Establish specific guidelines based on property acreage and/or intended use
- Reduce the cost and time required for small property owners to obtain an approval for proposed projects
- Consider the overall ecology of an entire area rather than that of a specific site

A significant change between the former SNAD and the proposed SNRD is that the Department of Buildings will oversee and enforce the provisions of the SNRD. This will also result in a diminishing oversight role for both the Department of City Planning and the local Community Board.

Key comparisons between the existing SNAD and the proposed SNRD include updating and existing rules that better reflect the Riverdale community's needs and proposing new rules. A general comparison includes:

- SNAD: When evaluating a project's impact on the natural areas of a site, these impacts are analyzed independently (site by site).
- SNRD: When evaluating a project's impact on the natural areas of a site, these impacts are analyzed by mapping natural features across the community (holistic).
- SNAD: Natural features are protected independently. The City Planning Commission can modify these rules (feature by feature).
- SNRD: All natural features are protected with special consideration to natural features that cannot be replaced (comprehensive).
- SNAD: Most applicants seek to modify the rules. No limits on the number of such modifications .
- SNRD: The proposed rules will define limits to modifications.
- SNAD: Lot coverage doesn't consider context; for example, is this site part of a larger steep slope and how steep is this slope. There are no clear guidelines for the City Planning Commission to consider. There are no lot coverage regulations for community facilities.
- SNRD: Lot coverage is based on ecological area and slope. R1 Districts range from 12.5% to 25%. Lot coverage for community facilities and large institutions; 25%. Lot coverage mandates apply to all sites. There is an incentive to preserve steep slopes by providing flexible lot coverage if the proposed development is on a flatter portion of the site. Accessory buildings are also included in calculating lot coverage .
- SNAD: There are no rules regulating hard surface areas (driveways).
- SNRD: Establish limits to hard surface areas as a percent of lot area. Such areas will include a building's footprint, driveways, patios, decks or pools. (R1 Districts range from 40%-50%). Provides for additional site controls to include more than a building's footprint.
- SNAD: Tree requirements are 1-tree per 1,000 square feet OR 51% of existing tree credits, whichever is greater. Each tree is regulated regardless of size or ecological importance. Trees can be removed within 15 feet of buildings and within required parking or driveways. Anything beyond these areas requires City Planning Commission approval.
- SNRD: In R1, R2 and R3 zoning districts tree requirements are 1-tree per 1,000 square feet AND 3 tree credits for every 750 square feet. For community facilities and

commercial uses, one tree would be required for every 2,000 square feet of lot area and 1.5 tree credits would be required for every 750 square feet of lot area.

- SNAD: Ground cover requirements on steep slopes where average percent of slope is greater than 10%, mandates that no vegetation can be removed except within 15 feet of a building to allow for driveways, private roads or parking. These requirements can be modified by the City Planning Commission. If vegetation is disturbed it must be replaced.
- SNRD: Biodiversity is encouraged. Groundcover planting that prioritizes sensitive areas with more planting including:
 - Wildlife gardens
 - Basic gardens
 - Landscape buffer on rear or side
 - Green roofs; Intensive 12.5% roof coverage, Extensive, 15% roof coverage

Biodiversity points: 4 points for most residential uses

2 points for community facilities uses

6 points for resource adjacent area (which are properties adjacent to ecologically sensitive resources)

The objective is to make clear those planting requirements that will enhance the biodiversity and ecological health of the community.

- SNAD: Rock outcroppings; there is a prohibition on the disturbance of all rock outcrops, but this can be modified by the City Planning Commission. There is no limit as to the amount of these modifications.
- SNRD: Limit rock outcrop disturbance to 50% in front and rear portions of a lot, with no such disturbance permitted in front yard. Boulders can be moved to the front. Any disturbance greater than 400 square feet will require authorization by the City Planning Commission. This will reduce disturbance of visible outcrops.
- SNAD: Subdivisions: Rules for subdivisions are inconsistent and vague. All zoning lot subdivisions must be certified by the City Planning Commission.
- SNRD: All subdivisions and/or development on sites exceeding one acre must meet clear rules for protection of natural features. Subdivisions will require a site plan review by the City Planning Commission. This review will include public comments and community board input. A natural resource assessment would map out the habitat areas that would be preserved and maintained permanently and could only be modified by special permit if the City Planning Commission finds strict conditions are met. This applies to:
 - Sites larger than one acre: residential development would be required to preserve 25% of the site, community facilities, 35% of the site with 15% preserved as open space. This open space could be used for recreation.
 - Sites in an Historic District (Fieldston).
 - Sites that create 4 or more lots or 8 or more dwelling units in a Resource Adjacent Area.
 - Sites with private roads.

Sites that are less than 1-acre are not subject to review by the City Planning Commission but compliance remains subject to approval by the Department of Buildings.

A Campus Plan

To facilitate long term planning on large sites (more than 1 acre) an applicant may apply for a campus plan. This requires the entire scope of future work to be established; including an open space plan and a habitat preservation area plan. A Designated Development Area for future work is defined as either flexible or defined. In addition to any other approvals being sought, a campus plan will require authorization. All campus plans are subject to review by the Community Board. Such plans allow for better long term planning.

Preserving Valuable Habitat

Natural areas located within the SNRD that provide valuable habitats referred to as “Designated Natural Resources” (DNR) serve as the basis for a holistic ecological strategy. In addition to the specific area so designated, those areas located within proximity to the DNR are prioritized to ensure proposed development is balanced by:

- Establishing clear requirements for trees, ground planting, permeability for the overall special district gleaned from 40 years of experience.
- Establishing tailored regulations for trees, ground planting, permeability for properties adjacent to DNR’s. These adjacent areas will be referred to as Resource Adjacent Areas and Escarpment Areas.
- For properties exceeding 1-acre require preservation of portions of existing habitat, where applicable, while considering cluster development to maintain development potential and create options for long-term planning approvals.
- Establishing a review process based on the size of the property and its proximity to sensitive areas.

The City Planning Commission will review plans for properties less than 1-acre based on the following:

- Sites with four or more lots or buildings, or eight dwelling units in a Resource Adjacent or Escarpment Areas because the revised as-of-right rules may not predict every outcome that best achieves the goals of balancing development with preservation.
- Developments with private roads.
- Development or subdivisions in an historic district such that the goals of the historic district and resource preservation are met.

The Department of City Planning notes that 4 out of 7 yearly applications in the Riverdale SNAD (60%) would now be able to apply directly to the Department of Buildings (DOB). Likewise, 3 or of 7 applications (40%) would apply to the Department of City Planning for Plan Site Review approval. Those applications going directly to the DOB will save approximately 7 months.

Ultimately, pursuant to SNRD the benefits include:

- Clearer rules
- More knowledgeable and empowered enforcement provided by the DOB
- Site plan review by the DOB
- Site inspections
- A better informed community by offering on-line tools to track construction sites

ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION

This application was reviewed pursuant to CEQR and SEQRA a Type I Designation. An EAS was filed on November 9, 2018. The City Planning Commission certified this application as complete on May 6, 2019.

BRONX COMMUNITY BOARD PUBLIC HEARING

Bronx Community Board #8 held a public hearing on this application on June 27, 2019. At that hearing Community Board #8 adopted a resolution stating that they could not properly vote on this application given that “no intelligible or valid ULURP Certification received.” The complete resolution is attached. A unanimous vote to adopt this resolution was zero opposed, 37 in favor, zero abstaining.

BRONX BOROUGH PRESIDENT’S PUBLIC HEARING

The Borough President convened a public hearing on July 11, 2019. Representatives of the applicant spoke in favor of this application. Twelve members of the public attended the hearing, of which all speakers voiced their opposition to this application and requested that it be denied. In addition, a total of 96 e-mails were received. Of this total 94 recommended that this application be denied and 2 recommend approval. Verbal testimony at the hearing was closed. Written testimony and/or e-mail submission remained open through Friday, July 26, 2019.

BOROUGH PRESIDENT’S RECOMMENDATION

The New York City Department of City Planning’s (DCP) proposed change would facilitate an amendment to the City Map by removing the Special Natural Area District (SNAD) and establishing the Special Natural Resource District (SNRD) within the Riverdale neighborhood of Bronx Community Board #8. While there are regulatory changes between the two districts will be governed under different regulations and guidelines, the geographic boundaries will remain exactly the same under the DCP’s new proposal.

Currently, there are two major SNADs in New York City, the aforementioned Bronx location and the other located in Staten Island. While separate SNADs, both boroughs fell under the same SNAD regulations. The initial intent of this ULURP was to make wholesale changes to SNAD that would impact both boroughs. Halfway through the process, a decision was made by DCP to remove Staten Island from the existing ULURP to reevaluate the borough separately at the request of local residents. It was also decided that the ULURP would proceed for the Bronx SNAD.

This process to update SNAD has taken more than four years. DCP went to great efforts to include local residents, community boards and elected officials. My staff continually participated in the working group on this. While I commend the outreach effort of the DCP Bronx office in

garnering input the last four years, and have no issue with the content of the Bronx SNAD, I have very serious procedural concerns regarding the splitting of the existing ULURP before us, and the lack of adequate notification Bronx Community Board #8 was afforded in reviewing the changes.

On May 6, 2019, the City Planning Commission certified the "Staten Island and Bronx Special Districts Text Update" as finalized. Following this, on May 15, 2019, the required application documents were sent to Bronx Community Board #8 and my office, in accordance to ULURP regulation and thereby starting the clock for our subsequent evaluation. My planning and development department began its review of this material, based only on what was initially delivered to us.

Succeeding this however, in a letter dated June 10, 2019, Bronx Community Board #8 was notified that the Staten Island office of the Department of City Planning sought to modify this matter and was granted a "withdrawal" from this current ULURP. Given this change made after the fact, Staten Island was to be afforded an undetermined amount of time to reconsider the full scope of approving this application and the impact that it may have in Staten Island. No such option was afforded to The Bronx. At my public hearing on July 11, 2019, my staff asked a number of questions about the procedure of withdrawing or pulling a ULURP, whether Staten Island would have to restart the ULURP process or if they were just being given additional time along the existing ULURP timeframe; and if the latter, why The Bronx was not afforded the same courtesy in having more time to review changes made to the now split ULURPs. The response from DCP was they had not made a determination if Staten Island would have to restart the ULURP process or if they would be given an extension, and said it was "a judgement call" to continue with Bronx Community Board #8 as-is.

Conceptually, I have no problem in amending, splitting or pulling ULURPs, particularly when it is done at a community's request. In fact, I made such a request in a previous ULURP regarding the siting of the proposed jail in Mott Haven, asking the City Planning Commission that the site be pulled and reevaluated while the other sites could proceed in order to facilitate the closing of Rikers Island. The issue I have is the lack of proper notification and opportunity to review changes to the ULURP for Bronx Community Board #8. The clock was ticking and decisions were made. Unfortunately, the Community Board did not have an updated document to review in a timely fashion. In essence, Bronx Community Board #8 was asked to "take DCP's word for it" that there were no content changes as it pertained to what was agreed upon with the working group.

This strikes at the heart of checks and balances. New York City has a Charter for a reason; part of it is to lay out proper procedure to assure that established entities within City government have proper review and say in the land use process. Asking one of those entities to move forward without the opportunity for proper review while another one of those entities in another geographic location is given an undetermined amount of time to reimagine their land use process is entirely unacceptable. My office did receive updated copies of the ULURP reflecting the changes, but I often take the views of community boards into consideration. If they were not afforded sufficient chance to review the document, even if to affirm that there no changes, how am I able to take into consideration all viewpoints that may advise my recommendation?

I want to be very clear: ultimately the purpose of ULURP is to afford the public, community boards, City Planning Commission and elected officials the opportunity to comment and if necessary oppose applications that so warrant. To assure that this procedure is followed by all concerns, a *uniform* set of rules, which include very strict time limitations, must be followed. In the matter of the jail, the city saw no legitimate reason to grant The Bronx any variance from ULURP despite what we in The Bronx believe to be a very poor proposal. In the matter of SNAD vs. SNRD the city takes the opposite position, apparently seeing no reason why a variance from ULURP should not be provided to Staten Island. In both cases however, one ULURP application pertains to a related matter in multiple boroughs. In my opinion this alone violates a key rationale for ULURP. I do not wish to suggest that this was done unscrupulously, nor do I view it as done at the expense of The Bronx. The contents of this proposal are sound. However, the process has become muddled and decisions appear to be made subjectively at the behest of the City's particular stance at the time.

It is unclear if the decision to make changes to this ULURP was done by the City Planning Commission or if it was solely a staff decision. It is my understanding that the City Planning Commission has the power to amend ULURPs prior to their vote. As such, I request the Commission give Bronx Community Board #8 similar "pause" in the ULURP process as was given to Staten Island. Whether or not my objection as stated here is sustained going forward, and regardless of what a future ULURP application may pose, I do not believe that when the city is the applicant it should be able to unilaterally and arbitrarily determine that what is granted to one party cannot be granted to all parties. Again, there may be merit to the proposed SNRD map change, but as of July 23, 2019, the required text associated with this application had yet to be finalized.

At this time, based on procedural grounds, unless the City Planning Commission allows Bronx Community Board #8 the same opportunity Staten Island has to review the major changes made after initial certification, I recommend that this application be denied.