



CITY PLANNING COMMISSION

November 16, 2005/Calendar No. 9

C 010049 MMK

IN THE MATTER OF an application, submitted by Brooklyn Mason Supply, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of Paerdegat Avenue between Troy Avenue and East 45th Street;
- the delineation of a sewer easement;
- the adjustment of grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

Community District 17, Borough of Brooklyn, in accordance with Map Nos. X-2659 and X-2660 dated March 25, 2005 and signed by the Borough President.

The application (C 010049 MMK) for an amendment to the City Map was filed by Brooklyn Mason Supply, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code on July 27, 2000. It involves: the elimination, discontinuance and closing of a portion of Paerdegat Avenue between Troy Avenue and East 45th Street; the delineation of a sewer easement; the adjustment of grades necessitated thereby; and any acquisition or disposition of real property related thereto.

BACKGROUND

The portion of Paerdegat Avenue to be eliminated, discontinued and closed is mapped at a width of 60 feet and extends from Troy Avenue to East 45th Street. It is unimproved and not open to pedestrian or vehicular traffic.

Paerdegat Avenue is generally bounded by Farragut Road to the north, Glenwood Road to the south, East 45th Street to the east and Troy Avenue to the west. It is located in an M1-1 zoning district. Surrounding zoning districts are M1-3 and R4. The uses in the surrounding area include masonry manufacturing, warehouses, auto repair shops, vacant lots, and a gas station.

The proposed site is currently leased from the city and is used for storage of building materials by the applicant, who owns an adjoining lot (Lot 14, Block 5019) which is also used for material

storage. The applicant operates a building supply business several blocks away, on Glenwood Road. The proposed amendment to the City Map will enable the applicant to consolidate his property and continue to operate his business more efficiently.

An interagency conference was held on October 10, 2000. No city agency had any objections to the proposal.

ENVIRONMENTAL REVIEW

This application (C 010049 MMK) 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 No. is 01DCP017K. 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 June 20, 2005.

UNIFORM LAND USE REVIEW

This application (C 010049 MMK) was certified as complete by the Department of City Planning on June 20, 2005, and was duly referred to Community Board 17 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 17 did not submit a recommendation.

Borough President Recommendation

This application (C 010049 MMK), was considered by the President of the Borough of Brooklyn, who issued a recommendation disapproving the application on September 28, 2005.

City Planning Commission Public Hearing

On September 28, 2005 (Calendar No. 1), the City Planning Commission scheduled October 19, 2005 for a public hearing on this application (C 010049 MMK). The hearing was duly held on October 19, 2005 (Calendar No. 37).

There were four speakers in favor and two in opposition to this application. The speakers in favor were the applicant, an attorney representing the applicant, an environmental consultant and the applicant's counsel. The speakers in favor described the proposal and its intent. The applicant stated in response to the Borough President's concerns that the applicant would construct a 15 foot high wall to reduce the dust and the noise. The applicant's representatives stated that they had received a letter from the School Construction Authority stating that the Department of Education would not require this site for their use.

The speakers who spoke against the proposals were the Chair and a member of Community Board 17. The speakers stated that the street should be reopened to provide emergency egress for Public School 109 which is located on the easterly side of East 45th Street, directly across from the proposed site; and the entire community. The speakers also suggested reopening this street to provide parking for the faculty of Public School 109 and parents of the students attending this school. The speakers also raised issues regarding health concerns and stated that the environmental review was not properly conducted. The Chair of Community Board 17 stated that the applicant's business can operate without eliminating Paerdegat Avenue.

There were no other speakers and the hearing was closed.

CONSIDERATION

The City Planning Commission believes that this amendment to the City Map is appropriate.

The portion of Paerdegat Avenue proposed to be eliminated, discontinued and closed is unimproved and not open to pedestrian or vehicular traffic. The current street network is not affected by the proposed action.

Several concerns were raised by the Borough President of Brooklyn and testimony given by Community Board members at the City Planning Commission public hearing regarding dust and noise pollution, the Department of Education assuming control of this site and the significance of this street for emergency egress and parking purposes. In response to these concerns, the applicant submitted a letter to the Commission dated October 19, 2005, stating that:

- The applicant would invest in constructing not merely a fence but a “15 foot high wall” that would reduce both the dust and the noise.
- It takes more than a day for a concrete block to “cure” and be ready for use and therefore storage is an indispensable part of the manufacturing process. The applicant is uncertain if the business would be able to continue without the use of Paerdegat Avenue.
- The statement made by the speakers who spoke in opposition to this proposal that the applicant never performed an environmental analysis on Paerdegat Avenue is not true. An environmental assessment statement was performed by Lemonides Heineman Associates and the Department of City Planning issued a Negative Declaration on June 20, 2005.

As recommended by the Borough President, the applicant approached the School Construction Authority to determine if the Department of Education needs this site for their use. In a letter to the applicant’s counsel dated October 17, 2005, the School Construction Authority stated that they do not have any interest in acquiring this property.

The removal of Paerdegat Avenue will facilitate the consolidation of the applicant’s properties and enable the applicant to continue to operate his business more efficiently. No city agencies have expressed any objections to this proposal.

RESOLUTION

Therefore, the City Planning Commission, deeming the proposed amendment to the City map and any related acquisition or disposition to be appropriate, adopts the following 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 Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, that based on the environmental determination and the consideration described in this report, the application (C 010049 MMK) for the amendment to the City Map involving: the elimination, discontinuance and closing of a portion of Paerdegat Avenue between Troy Avenue and East 45th Street; the delineation of a sewer easement; the adjustment of grades necessitated thereby; and any acquisition or disposition of real property related thereto, Community District 17, Borough of Brooklyn, in accordance with Map Nos. X-2659 and X-2660 dated March 25, 2005 and signed by the Borough President, is approved; and be it further

RESOLVED that, pursuant to Section 5-432 of the New York City Administrative Code, the City Planning Commission determines that “such closing or discontinuance will further the health, safety, pedestrian or vehicular circulation, housing, economic development or general welfare of the City”; and be it further

RESOLVED that, pursuant to Section 5-433 of the New York City Administrative Code, the City Planning Commission adopts three (3) counterparts of Map No X-2660 dated March 25, 2005 providing for the discontinuance and closing of Paerdegat Avenue between Troy Avenue and East 45th Street, more particularly described as follows:

Starting at a **Point of Beginning** located at the intersection of the easterly street line of Troy Avenue and the former northerly street line of Paerdegat Avenue, discontinued and closed, said point being distant 414.38 feet southerly along the easterly street line of Troy Avenue from its intersection with the southerly street line of Farragut Road, as those streets were hereinbefore laid out on the City Map;

1. Running thence easterly, along the former northerly street line of Paerdegat Avenue, discontinued and closed, said course forming an exterior angle with the last mentioned course of 126 degrees 52 minutes 12 seconds, 250.00 feet to its point of intersection with the westerly street line of East 45th Street, said point being distant

564.38 feet southerly along the westerly street line of East 45th Street from its intersection with the southerly street line of Farragut Road;

2. Running thence southerly, along the newly established westerly street line of East 45th Street, said course forming a deflection angle to the right with the last mentioned course of 53 degrees 07 minutes 48 seconds, 75.00 feet to its point of intersection with the former southerly street line of Paerdegat Avenue, discontinued and closed, said point being distant 110.63 feet northerly along the westerly street line of East 45th Street from its intersection with the northerly street line of Glenwood Road;
3. Running thence westerly, along the former southerly street line of Paerdegat Avenue, discontinued and closed, said course forming a deflection angle to the right with the last mentioned course of 126 degrees 52 minutes 12 seconds, 250.00 feet to its point of intersection with the easterly street line of Troy Avenue, said point being distant 260.63 feet northerly along the easterly street line of Troy Avenue from its intersection with the northerly street line of Glenwood Road;
4. Running thence northerly, along the newly established easterly street line of Troy Avenue, said course forming a deflection angle to the right with the last mentioned course of 53 degrees 07 minutes 48 seconds, 75.00 feet to the **Point or Place of Beginning**.

RESOLVED that, pursuant to subdivision 1a of Section 5-433 of the New York City Administrative Code, public utility facilities within the subsurface of the streets cited herein which are to be discontinued and closed by this action, may be maintained in place or relocated within such subsurface by the public utility, so that such maintenance in place or relocation of such facilities is consistent with the proposed use of the closed portion or portions of such subsurface, and the requirements of other facilities located therein;

All such approvals being subject to the following conditions:

- a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map Nos. X-2659 and X-2660 are filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter and Section 5-435 of the New York City Administrative Code;
- b. The subject amendment to the City Map shall not be filed with the appropriate agencies in accordance with condition (a) above until the applicant shall have executed a mapping agreement protecting the city's interest, approved as to form and sufficiency by the Corporation Counsel and accepted by the City Planning Commission (the mapping agreement). If such agreement is not accepted by the City Planning Commission within two years of the date of this resolution, the approved amendment to the City Map may be returned to the City Planning Commission for rescission; and
- c. The subject streets to be discontinued and closed shall be discontinued and closed on the day following the day on which such maps adopted by this resolution shall be filed in the offices specified by law.

The above resolution, duly adopted by the City Planning Commission on November 16, 2005 (Calendar No. 9), 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, AICP, Chair
KENNETH J. KNUCKLES, Esq. Vice Chair

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