



CITY PLANNING COMMISSION

April 28, 2010, Calendar No. 21

C 070109 MMQ

IN THE MATTER OF an application submitted by Robinson Brothers, Inc., 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 55th Road between 43rd Street and 44th Street;
- the delineation of a sewer easement; and
- the adjustment of grades necessitated thereby,

including authorization for any acquisition or disposition of real property related thereto, in Community District 2, Borough of Queens, in accordance with Map No. 4989, dated December 24, 2007, and signed by the Borough President.

The application (C 070109 MMQ) for an amendment to the City Map involving the elimination, discontinuance and closing of 55th Road between 43rd Street and 44th Street; the delineation of a sewer easement; and the adjustment of grades necessitated thereby, including authorization for any acquisition or disposition of real property related thereto, was filed by Robinson Brothers, Inc., on September 14, 2006, to facilitate the creation of surface accessory parking spaces and the construction of a one-story extension to the applicant's existing warehouse building in the Maspeth area of Queens.

BACKGROUND

The applicant, Robinson Brothers, Inc., is proposing a change to the City Map involving the elimination, discontinuance and closing of 55th Road between 43rd and 44th streets, to facilitate the creation of surface accessory parking areas and the construction of a one-story extension to the applicant's existing warehouse building adjacent to 55th Road. A 35-foot-wide sewer easement over which no structure may be built will also be shown on the City Map for informational purposes only. The applicant intends to acquire from the City the entire street-bed, the westerly portion of which would be for the applicant's own use, while the easterly portion would be leased to a neighboring business, to be used as an accessory parking area.

Fifty-fifth Road is City-owned, mapped to a width of 60 feet, unimproved and not open to traffic. The applicant currently owns Lot 4 in Block 2525, which abuts the westerly portion of the street's northerly boundary. The applicant's business on this lot, Awisco NY Corporation, is a distributor of compressed gases, and welding, safety and industrial supplies serving various construction trades such as mechanical, steel, and infrastructure repair contractors.

In the southwesterly portion of the streetbed the applicant intends to create approximately 10 surface parking spaces for employee use. The applicant's proposed warehouse extension would be located in the northwesterly portion of the streetbed and would consist of an approximately 90 by 30-foot (2,720 square feet) one-story building to serve as storage for welding and safety equipment. The proposed warehouse would extend approximately 12.5 feet into the northwesterly portion of 55th Road, thereby avoiding encroachment into the Department of Environmental Protection's sewer easement. The foundation of the proposed building would not impose any loads on the existing sewer.

The easterly portion of the streetbed, which is at an elevation approximately 35 feet higher than the westerly portion, would be leased by the applicant to JSB Equities, LLC ("JSB"), who would use this area for approximately 26 surface parking spaces to supplement its existing parking lot for its existing warehouse buildings which are located both south and north of 55th Road on Lot 30 in Block 2526, and Lots 50 and 17 in Block 2525. JSB's warehouses are used for vehicle storage.

The site is located within an M3-1 zoning district, and the surrounding area is comprised mainly of one- and two-story warehouse buildings and vacant land. Lot 50 in Block 2526, which abuts the westerly portion of 55th Road's southerly line, is owned by 56th Road and 43rd Street LLC, who currently uses the property for storage of heavy construction equipment. Nearby the site is the Long Island Expressway to the north; the Long Island Rail Road, and Newtown and Maspeth Creeks to the south; the Brooklyn-Queens Expressway and Calvary Cemetery to the west; and the New Calvary Cemetery to the east.

Affected agencies and utilities were polled around November 03, 2006. Currently, no city agencies have any objections to the proposal.

ENVIRONMENTAL REVIEW

This application (C 070109 MMQ) 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 06DCP008Q. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration was issued. The lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

The applicant, Robinson Bros., Inc., agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

The applicant signed the Conditional Negative Declaration on December 10, 2009. The Conditional Negative Declaration was published in the City Record on December 21, 2009 and in the New York State Environmental Notice Bulletin on December 23, 2009. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.*, a 30-day comment period followed. No comments were received and the Conditional Negative Declaration was issued on April 26, 2010.

UNIFORM LAND USE REVIEW

This application (C 070109 MMQ), was certified as complete by the Department of City Planning on December 14, 2009, and was duly referred to Queens Community Board 2 and the Queens Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

COMMUNITY BOARD PUBLIC HEARING

Community Board 2 held a public hearing on this application (C 070109 MMQ) on February 4, 2010, and on that day, by a vote of 30 to 0, with 0 abstentions, adopted a resolution recommending the application be approved with the condition that the applicant purchase the land at the City's appraised value.

BOROUGH PRESIDENT RECOMMENDATION

This application (C 070109 MMQ) was considered by the Borough President of Queens, who issued a recommendation of approval on March 11, 2010.

CITY PLANNING COMMISSION PUBLIC HEARING

On March 10, 2010 (Calendar No. 6), the City Planning Commission scheduled March 24, 2010 for a public hearing on this application (C 070109 MMQ). The hearing was duly held on March 24, 2010 (Calendar No. 12).

There was one speaker on this application. The speaker, a representative of the applicant, described the application to the City Planning Commission. 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 subject mapped street has never been built or used as a street, and the Department of Transportation has no plans to do so. Building the street would be difficult due to the significant elevation difference between its westerly and easterly portions.

In addition, the Department of Environmental Protection will retain a 35-foot-wide sewer easement that runs the length of the street bed. Since no structures may be built over the existing easement, development within the street bed would be limited.

The street is adjacent to two successful industrial businesses, whose operations would benefit

from the applicant's purchase of the vacant street bed from the City. Aside from the applicant's proposed small extension to the existing warehouse building, the street bed would be used mainly as a surface parking area for employees, which, in the context of this industrial area, would be a minor change in the use of the vacant street bed.

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, subject to the following condition:

The applicant, Robinson Bros., Inc., agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan;

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 070109 MMQ) for the amendment to the City Map involving:

- the elimination, discontinuance and closing of 55th Road between 43rd Street and 44th Street;
- the delineation of a sewer easement; and
- the adjustment of grades necessitated thereby,

including authorization for any acquisition or disposition of real property related thereto, in Community District 2, Borough of Queens, in accordance with Map No. 4989, dated December 24, 2007, 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 the legally required number of counterparts of Map No. 4989 dated December 24, 2007, providing for the discontinuance and closing of 55th Road between 43rd Street and 44th Street, said street to be discontinued and closed being more particularly described as follows:

Beginning at a Point located at the intersection of the easterly line of 43rd Street and the former northerly line of 55th Road, said Point being 250.69 feet south of the intersection of the southerly line of 55th Avenue and the easterly line of 43rd Street, as said streets are shown on Map No. 4989 dated December 24, 2007;

1. Thence, running southerly 60.15 feet, along the easterly line of 43rd Street, to a point;
2. Thence, running easterly 392.77 feet, along the former southerly line of 55th Road, discontinued and closed, which forms an interior angle of 85 degrees, 57 minutes, and 39.3 seconds with the previously mentioned course, to a point;
3. Thence, running northerly 60.00 feet, along the westerly line of 44th Street, which forms an interior angle of 90 degrees with the previously mentioned course, to a point;
4. Thence, running northerly 388.53 feet, along the former northerly line of 55th Road, discontinued and closed, which forms an interior angle of 90 degrees with the previously

mentioned course, to the Point of Beginning.

Said lands have an area of 23,439.00 square feet or 0.538 acres; and be it further

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:

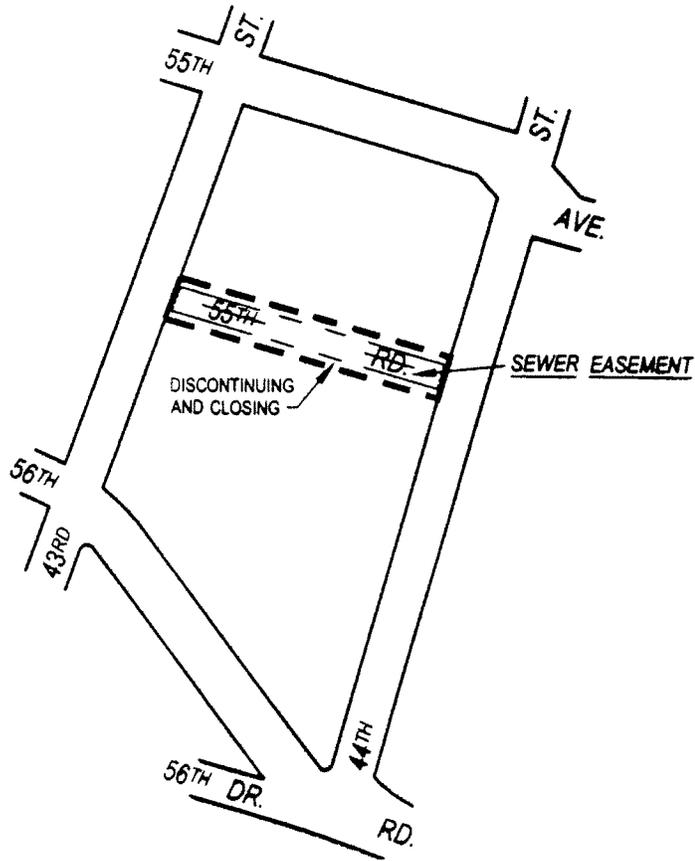
- a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map No. 4989 are filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter and Section 5-435 of the New York City Administrative Code; and
- 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 Mapping Agreement shall contain a provision providing for the recordation of a restrictive declaration approved by DEP upon transfer of title to the applicant or its successor, the form of which declaration shall be attached to the Mapping Agreement and shall govern any necessary testing for and remediation of hazardous materials in accordance with DEP requirements. The applicant or its successor shall submit proof of

recording of the restrictive declaration to counsel for the Department of City Planning and DEP; and

- d. The subject street 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 (C 070109 MMQ), duly adopted by the City Planning Commission on April 28, 2010 (Calendar No. 21), 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
KENNETH J. KNUCKLES, *Esq.*, Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, *P.E.*,
ALFRED C. CERULLO, *III*, BETTY Y. CHEN, MARIA M. DEL TORO,
RICHARD W. EADDY, NATHAN LEVENTHAL, ANNA HAYES LEVIN,
SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners



CITY PLANNING COMMISSION
CITY OF NEW YORK
DIAGRAM SHOWING PROPOSED
MAP CHANGE

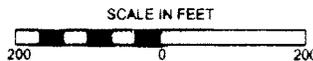
ON SECTIONAL MAP

13a

BOROUGH OF
QUEENS

I. Sedko, P.E.
I. Sedko, P.E.
Chief Engineer

New York, Certification Date
DECEMBER 14, 2009



- NOTE:**
- Indicates line of street legally adopted.
 - Indicates line of street proposed to be established.
 - - - Indicates line of street proposed to be eliminated.
(Discontinuing and Closing is shown on Alt. Map No. 4989).

THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # C 070109 MMO
CEOR # 06DCP008Q
Community District No. 02 Borough: Queens
Community District No. ___ Borough: ___
Project Name: 55th Road De-Mapping

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by Robinson Brothers, Inc., 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 55th Road between 43rd Street and 44th Street;
- the delineation of a sewer easement; and
- the adjustment of grades necessitated thereby,

including authorization for any acquisition or disposition of real property related thereto, in Community District 2, Borough of Queens, in accordance with Map No. -989, dated December 24, 2007, and signed by the Borough President.

Applicant(s):

Robinson Brothers, Inc.
55-15 43rd Street
Maspeth, NY 11378
718-786-7788

Applicant's Representative:

Joe Mee Kim
Sam Schwartz Engineering, PLLC
611 Broadway, Suite 415
New York, NY 10012
212-598-9010

Community Board No. 2 Borough: Queens

Borough Board

Date of public hearing: 2/4/2010

Location: Queens

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: 2/4/2010

Location: 43-31 39th Street
Sunnyside, NY 11104

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

See attached letter

Voting

In Favor: 30 Against: 0 Abstaining: 0

Total members appointed to the board: 44

By a show of hands with Chair present and not voting!

Community/Borough Board Officer

Title

v.012006w

Date

MAR 12 2010 **Queens Borough President Recommendation**

QUEENS OFFICE

APPLICATION: ULURP# 070109 MMQ

COMMUNITY BOARD: Q02

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by Robinson Brothers, Inc., pursuant to Sections 197c and 199 of the NYC Charter, and Section 5-430 et seq. of the NYC administrative code, for an amendment of the City Map involving:

- the elimination, discontinuance and closing of 55th Road between 43rd & 44th Streets
- the delineation of a sewer easement; and
- the adjustment of grades necessitated thereby,

Including authorization for any necessary acquisition or disposition of real property thereto, in Community District 2, in accordance with Map No. 4989, dated December 24, 2007, and signed by the Borough President.

PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, February 8, 2010 at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were no other speakers. The hearing was closed.

CONSIDERATION

Subsequent to a review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- The applicant is proposing demapping and acquisition of an unimproved mapped 60 feet wide street (55th Road located between 43rd and 44th Streets) and the delineation of a 35 feet wide sewer easement. A portion of the demapped street would be used to facilitate development of an one-story warehouse.;
- The site located in an M3-1 district that is developed with warehouses. The unimproved street is currently used for parking and storage by the tenants of adjacent properties in the area.;
- The applicant has agreed to assume responsibility for any cost associated with removal of a cap on a remediated part of the mapped streetbed, that was mandated by the NYS Department of Environmental Conservation, should the NYC Department of Environmental Protection need access to the sewer easement.;
- Community Board 2 conditionally approved this application by a vote of thirty-one (31) in favor with none (0) against or abstaining at a public hearing held on February 4, 2010. Their condition of approval was that the sale price for the demapped street should be at the City's appraised value.

RECOMMENDATION

- Based on the above consideration, I hereby recommend approval of this application.


PRESIDENT, BOROUGH OF QUEENS


DATE