

IN THE MATTER OF an application, submitted by LHE II, LLC 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 22nd Avenue from Ditmars Boulevard to Berrian Street,
- the elimination, discontinuance and closing of Berrian Street from 22nd Avenue to 23rd Avenue,
- the elimination, discontinuance and closing of a portion of the westerly side of 23rd Avenue from Ditmars Boulevard to Berrian Street;
- the delineation of a sewer easement, and:
- any modification of grades necessitated thereby, and any acquisition or disposition of property related thereto,

in accordance with map No. 4937 dated April 3, 1998 revised June 24, 2002 and signed by the Borough President, Borough of Queens, Community District 3.

The applicant, LHE II, LLC, filed an application for an amendment to the City Map on February 20, 1997, involving the elimination, discontinuance and closing of 22nd Avenue, Berrian Street and a portion of the westerly side of 23rd Avenue between Ditmars Boulevard and Grand Central Parkway.

BACKGROUND

22nd Avenue, Berrian Street and the subject portion of 23rd Avenue, are vacant, unimproved and city-owned. They form a loop separating the applicant's property from several parcels of publicly owned land, including a mapped park to the west of 22nd Avenue, the Grand Central Parkway to the northeast of Berrian Street, and the 23rd Avenue bridge over the Grand Central Parkway to the southeast.

The applicant owns Block 1634, Lots 99 and 101, bounded by Ditmars Boulevard, two of the three streets proposed to be eliminated and Lot 1, an adjacent privately-owned property containing an existing eight and nine story hotel complex. Lots 99 and 101 are largely occupied by open parking. Lot 99 is largely encumbered by a sewer easement.

The applicant proposes to eliminate the subject streets from the City Map and acquire and consolidate them with its land, creating a larger development site which he intends to develop with a hotel. These street areas are not improved or in use and their elimination from the City Map will not affect vehicular traffic.

The applicant's property, unimproved streets and adjacent hotel complex occupy a hillside which slopes down from Ditmars Boulevard to the intersection of Berrian Street and 23rd Avenue,

with a grade differential of approximately 19 feet, rendering the improvement of these streets impractical.

The applicant's property and most of the land in the subject street beds are zoned C4-2. The area to the east is zoned R3-2. The block to the south, between 100th Street and 101st Street, is zoned R6. The easterly portion of 23rd Avenue, including the 23rd Avenue bridge over the Grand Central Parkway providing access to LaGuardia Airport, will remain mapped. Existing low density residential development to the south is buffered from the applicant's property by Ditmars Boulevard and by existing parkland to the south and west. There is no residential development directly across from the streets proposed to be eliminated.

An interagency conference was held on March 25, 1997. No agency has any objections to the proposed action.

ENVIRONMENTAL REVIEW

This application (C 970422 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 97DCP042Q. 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 30, 2002.

UNIFORM LAND USE REVIEW

This application (C 970422 MMQ), was certified as complete by the Department of City Planning on September 30, 2002 and was duly referred to Community Board 3 and the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 3 held a public hearing on this application (C 970422 MMQ) on November 21, 2002, and on that date, by a vote of 14 in favor with 16 against and 1 abstaining, adopted a resolution disapproving this application with the following statement/conditions:

No specific plans were presented, several possible uses were discussed: a hotel, commercial building, nursing home and housing. While we understand that the developer can build as of right, we believe we must be furnished with specific details of what will be constructed. The Board is concerned about the impact the

development may have on the overall community and therefore, the question of the de-mapping, at this juncture, is premature.

We request that the developer come back to the Board to discuss their proposal once a specific use has been identified.

Borough President's Recommendation

This application (C 970422 MMQ) was considered by the Borough President, who issued a recommendation on January 7, 2003, disapproving the application with the following comments:

- The applicant has stated that the preferred development is a hotel. However, the applicant does not have any agreement or commitment from any hotel operators indicating interest to operate a hotel on the site, any detailed building or site plans indicating work leading to development of a hotel;
- the applicant reserves the right to develop the site with an unspecified as of right use if the proposed hotel were not feasible. The potential as of right development on the C4-2 site could be up to 200,000 sf. An unspecified development of that size with unknown uses and impacts may have adverse effects on the adjacent predominantly low density community;
- Although the letter to the Borough President agrees to advise of any alternative plans if the hotel option were not feasible, it does not preclude alternative development that could be detrimental to the adjacent low density neighborhood.

City Planning Commission Public Hearing

On January 8, 2003 (Calendar No.7) the City Planning Commission scheduled January 22, 2003 for a public hearing on this application (C 970422 MMQ). The hearing was duly held on January 22, 2003 (Calendar No. 12). There were three speakers in favor of the application and one against.

The applicant and the applicant's attorney and architect explained the proposed action and indicated that the areas of the eliminated street beds will be used for parking.

The representative stated that the owner intends to develop the site with a hotel to be located on the northerly side of Ditmars Boulevard, which is consistent with other nearby commercial developments. He further stated that he does not expect the proposed development to have any impact on the residential community, which is located south of Ditmars Boulevard.

A community representative expressed concerns regarding the uncertainty of the proposed project, the potentially increased height of any new development, and any additional traffic and pollution which would result from an increased development site.

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 streets proposed to be eliminated, discontinued and closed are unimproved and not open to traffic. The substantial grade differential makes the construction of these streets impractical. The proposed map amendment will not change the physical configuration of existing streets or affect vehicular or pedestrian traffic patterns in the area. This action will result in the city map reflecting existing conditions more closely.

The Commission notes the concerns raised by the Community Board and the Borough President regarding the lack of a commitment from the applicant to limit the potential development of the site to a hotel. The site lies within an existing C4-2 zoning district which permits residential and commercial uses as-of-right. The Commission believes that the existing C4-2 zoning designation is appropriate. The zoning and permitted uses will not change as a result of this action. Existing low density residential development located to the south is buffered from the development site by Ditmars Boulevard, which is a major collector street, and by existing parkland to the south and west. An existing mid-rise nursing home development is located between this area and the low rise residential community to the southeast. There is no low density residential development directly across the development site.

Regarding the size and height of the proposed development, the Commission notes that the site, located between the Grand Central Parkway to the north and Ditmars Boulevard, a major collector street, to the south, is within close proximity to LaGuardia Airport and all proposed development must comply with FAA regulations which limit the maximum height of buildings near major airports. Comparable commercial development, primarily serving LaGuardia Airport, exists to the east along the south side of the Parkway.

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 that, 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 970422 MMQ), for an amendment to the City Map involving:

- the elimination, discontinuance and closing of 22nd Avenue from Ditmars Boulevard to Berrian Street,
- the elimination, discontinuance and closing of Berrian Street from 22nd Avenue to 23rd Avenue,
- the elimination, discontinuance and closing of a portion of the westerly side of 23rd Avenue from Ditmars Boulevard to Berrian Street;
- the delineation of a sewer easement, and:
- any modification of grades necessitated thereby, and any acquisition or disposition of property related thereto,

in accordance with map No. 4937 dated April 3, 1998 and revised June 24, 2002 and signed by the Borough President, Borough of Queens, Community District 3, 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. 4937 providing for the discontinuance and closing of 22nd Avenue, Berrian Street and a portion of the westerly side of 23rd Avenue; more particularly described as follows:

IN THE MATTER OF discontinuing and closing a portion of 22nd Avenue, Berrian Street and a portion of the westerly side of 23rd Avenue, with an area of 54,757 square feet, as shown on Alteration Map No. 4937

BEGINNING at a point, at the intersection of the northerly line of Ditmars Boulevard with the easterly line of 22nd Avenue, being discontinued and closed, as these streets are laid out on the City Map.

- a. **THENCE** northerly, along the easterly line of 22nd Avenue being discontinued and closed, a distance of 116.71 feet to a point on curve, on the southerly line of Berrian Street, being discontinued and closed;
- b. **THENCE** easterly, along the southerly line of Berrian Street, being discontinued and closed, along a curve to the right, for which a tangential line at said point on curve forms an interior angle of 242 degrees 29 minutes 50.4 seconds with the previous course, and having a radius of 2,397.000 feet, a central angle of 15 degrees 46

minutes 56.8 seconds, a distance of 660.27 feet to a point on curve;

- c. **THENCE** southerly, along the westerly line of 23rd Avenue, being discontinued and closed, which forms an interior angle of 281 degrees 43 minutes 12.8 seconds with a tangential line at said point on curve, a distance of 99.95 feet to a point of curvature;
- d. **THENCE** southwesterly, along the westerly line of 23rd Avenue, being discontinued and closed, along a curve to the right having a radius of 170.000 feet, a central angle of 18 degrees 40 minutes 22.8 seconds and, a distance of 242.33 feet to a point of tangency;
- e. **THENCE** easterly, along the northerly line of Ditmars Boulevard, a distance of 39.92 feet to a point of curvature;
- f. **THENCE** northeasterly, along a curve to the left, having a radius of 267.192 feet and a central angle of 50 degrees 13 minutes 06.1 seconds, a distance of 234.19 feet to a point on curve;
- g. **THENCE** northerly, along the westerly line of 23rd Avenue to be established, which forms an interior angle of 142 degrees 18 minutes 16.1 seconds with the tangential line to the previous course at said point on curve, a distance of 133.39 feet to a point;
- h. **THENCE** westerly, along a line which forms an interior angle of 87 degrees 54 minutes 50 seconds with the previous course, a distance of 26.13 feet to a point;
- i. **THENCE** northerly, along the westerly line of 23rd Avenue to be established, which forms an interior angle of 278 degrees 19 minutes 37.2 seconds with the previous course, a distance of 12.29 feet to a point of curvature;
- j. **THENCE** northwesterly, along a curve to the left, having a radius of 40.000 feet and a central angle of 101 degrees 37 minutes 56 seconds, a distance of 70.95 feet to a point of tangency;
- k. **THENCE** westerly, along the northerly line of Berrian Street, being discontinued and closed, along a curve to the left having a radius of 2440.000 feet and a central angle of 15 degrees 58 minutes 04 seconds, a distance of 680.00 feet to a point of curvature;
- l. **THENCE** southwesterly, along a curve to the left having a radius of 40.000 feet and

a central angle of 62 degrees 24 minutes 00 seconds, a distance of 43.56 feet to a point of tangency;

- m. **THENCE** southwesterly, along the westerly line of 22th Avenue to be eliminated, discontinued and closed, a distance of 125.37 feet to a point on curve on the northerly line of Ditmars Boulevard;
- n. **THENCE** easterly, along the northerly line of Ditmars Boulevard, along a curve to the right, which forms an interior of 77 degrees 37 minutes 07.1 seconds between a tangential line to said curve and the previous course, and having a radius of 515.000 feet and a central angle of 4 degrees 3 minutes 15.7 seconds, a distance of 36.44 feet to a point of tangency;
- o. **THENCE** easterly, along the northerly line of Ditmars Boulevard, which forms an interior angle of 98 degrees 19 minutes 37.2 seconds with the first course, a distance of 9.26 feet to the point or place of **BEGINNING**.

and be it further

RESOLVED, that any acquisition or disposition of property related thereto is also approved,

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. 4937 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 an agreement protecting the City's interest, approved as to form and sufficiency by the Corporation Counsel and accepted by the City Planning Commission provided that, 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 possible 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 March 5, 2003 (Calendar No. 20), 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 BURDEN, AICP, Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, ANGELA R. CAVALUZZI, R.A., RICHARD W. EADDY, ALEXANDER GARVIN, JANE D. GOL, WILLIAM J. GRINKER, JOHN MEROLO, KAREN A. PHILLIPS, JOSEPH B. ROSE, Commissioners.

Commissioner IRWIN G. CANTOR, P.E. voting no.

Community/Borough Board
Recommendations

City Planning Commission
22 Reade Street, New York, 10002

ARRIVING COMMISSION
DEC 11 PM 3:20
OF CITY PLANNING

INSTRUCTIONS

- 2. RETURN COMPLETED FORM WITH ANY ATTACHMENTS TO THE CALENDAR INFORMATION OFFICE, CITY PLANNING COMMISSION, ROOM 2E AT THE ABOVE ADDRESS.
- 2. SEND COPY OF THE COMPLETED FORM WITH ANY ATTACHMENTS TO THE APPLICANT'S REPRESENTATIVE AS INDICATED ON THE NOTICE OF CERTIFICATION, ONE COPY TO THE BOROUGH BOARD WHEN APPLICABLE.

APPLICATION #

970422
C870422MMA *MMQ*

DOCKET DESCRIPTION IN THE MATTER OF AN application for the demapping, closing and discontinuance of the following streets:

- 22nd Avenue from Ditmars Blvd. to Berrian Street
- Berrian Street from 22nd Avenue to 23rd Avenue
- A portion of the westerly side of 23rd Ave. from Ditmars Blvd. to Berrian Street

COMMUNITY BOARD NO. 3

BOROUGH Queens -DATE OF PUBLIC HEARING November 21, 2002

WAS 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
DATE 11/21/02

LOCATION I.S. 227, 32-02 Junction Boulevard

RECOMMENDATION
 APPROVE APPROVE WITH MODIFICATIONS/ CONDITIONS
 DISAPPROVE DISAPPROVE WITH MODIFICATIONS/ CONDITIONS

EXPLANATION OF RECOMMENDATION-MODIFICATION/ CONDITIONS (ATTACH ADDITIONAL SHEETS IF NECESSARY)

Community Board #3 at its monthly meeting held on November 21, 2002, reviewed the above referenced application and recommended that it be **denied** for the following reasons:

No specific plans were presented, several possible uses were discussed: a hotel, commercial building, nursing home and housing. While we understand that the developer can build as of right, we believe we must be furnished with specific details of what will be constructed. The Board is concerned about the impact the development may have on the overall community and therefore, the question of de-mapping, at this juncture, is premature.

We request that the developer come back to the Board to discuss their proposal once a specific use has been identified.

VOTING
IN FAVOR 14 AGAINST 16 ABSTAINING 1

TOTAL MEMBERS APPOINTED TO BOARD 49

[Signature]
COMMUNITY/BOROUGH BOARD OFFICER

District Manager
Title

December 5, 2002
Date

Queens Borough President Recommendation

APPLICATION: ULURP #970422 MMQ

COMMUNITY BOARD: Q03

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by Martin Gallent on behalf of LHE II, LLC 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 22nd Avenue from Ditmars Boulevard to Berrian Street;
- elimination, discontinuance and closing of Berrian Street from 22nd Avenue to 23rd Avenue
- elimination, discontinuance and closing of a portion of the westerly side of 23rd Avenue from Berrian Boulevard to Ditmars Boulevard;
- delineation of a sewer easement; and
- modification of grades necessitated thereby and any acquisition or disposition of property-related thereto,

in Community district 3, Borough of Queens in accordance with Map No. 4937, dated April 3, 1998 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, December 12, 2002 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 was one (1) speaker against. 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 to demap portions of mapped but unopened or developed streets that are located on the perimeter of their property;
- The streets proposed for demapping are located in an C4-2 district adjacent to a planted area abutting the Grand Central Parkway. The development rights (approximately 54,769 sf) derived from the streets proposed for demapping would be used to facilitate development on the approximately 29,900 sf site. The applicant has stated that the preferred development would be a hotel operated by a major hotel operator. However, the applicant also stated that other as of right development (i.e. residential or commercial) would be built if it was determined that an hotel were not feasible;
- The site of the proposed hotel is currently in use as a long term parking facility catering primarily to LaGuardia Airport users. The lot directly to the east is also developed with a hotel. There are already other hotels nearby on this portion of Ditmars Boulevard, including national chains, within a few blocks of the site that service LaGuardia Airport. The areas to the west and south of the site are primarily developed with low density homes;
- Community Board 3 (CB 3) disapproved this application by a vote of sixteen (16) against, fourteen (14) in favor with one (1) abstention at a public hearing held on November 21, 2002. The CB 3 Land Use Committee recommended approval of the application and made a motion to the full board to approve the application. The full board voted to disapprove the motion. Concerns were raised at the public hearing because the applicant did not limit potential development on the site to a hotel, and issues related to the operations of other nearby hotels were also raised;
- A letter (attached) was submitted to the Borough President stating that the applicant's primary goal is to build a hotel and that upon approval they would follow up with the "significant hotel chain" that had expressed interest at the beginning of the ULURP process. If those efforts are unsuccessful the applicant would advise the Borough President of any alternate plan that may be considered.

continued...

DEC 12 2002
8 PM 2:20
PLANNING COMMISSION
CITY PLANNING

QUEENS BOROUGH PRESIDENTS RECOMMENDATION

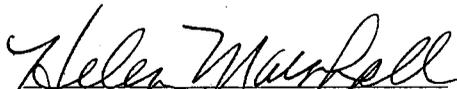
ULURP #970422 MMQ

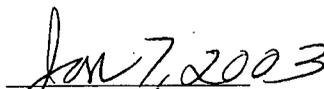
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RECOMMENDATION

Based on the above consideration, I hereby recommend disapproval of this application for the following reasons:

- The applicant has stated that the preferred development is a hotel. However, the applicant does not have any agreement or commitment from any hotel operators indicating interest to operate a hotel on the site, any detailed building or site plans indicating work leading to development of a hotel;
- The applicant reserves the right to develop the site with an unspecified as of right use if the proposed hotel were not feasible. The potential as of right development on the C4-2 site could be up to 200,000 sf. An unspecified development of that size with unknown uses and impacts may have adverse effects on the adjacent predominantly low density community;
- Although the letter to the Borough President agrees to advise of any alternate plans if the hotel option were not feasible, it does not preclude alternative development that could be detrimental to the adjacent low density neighborhood.


PRESIDENT, BOROUGH OF QUEENS


DATE