



## **CITY PLANNING COMMISSION**

May 26, 2010, Calendar No. 2

C 050001 MMX

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**IN THE MATTER OF** an application submitted by Roc-Sedgwick, LLC, and the Trust under the Will of Robert S. Olnick, 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 West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. Boulevard and Major Deegan Boulevard, including authorization for any acquisition or disposition of real property related thereto, in Community District 4, Borough of The Bronx, in accordance with Map No. 13106, dated April 25, 2007, and signed by the Borough President.

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The application (C 050001 MMX) for an amendment to the City Map involving the elimination, discontinuance and closing of West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. Boulevard and Major Deegan Boulevard, was filed by Roc-Sedgwick, LLC, and the Trust under the Will of Robert S. Olnick on July 1, 2004, to facilitate the acquisition by the applicants of the unbuilt City-owned street in order to consolidate the applicants' property into one contiguous parcel for a future residential development in the Highbridge area of The Bronx.

### **BACKGROUND**

The applicants are requesting a change to the City Map involving the elimination, discontinuance and closing of West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. ("MLK") Boulevard and Major Deegan Boulevard. This unimproved portion of West 169<sup>th</sup> Street is mapped at a width of 30 feet and is located along a very steep hillside in the Highbridge area of The Bronx. The hill's upper bank runs along MLK Boulevard (a/k/a University Avenue), and its lower bank runs along Sedgwick Avenue (part of Major Deegan Boulevard), which in turn runs generally parallel to and alongside the Major Deegan Expressway. Due to the hillside's steep slope it would not be feasible to improve this portion of West 169<sup>th</sup> Street as a functioning street.

MLK Boulevard is mapped to a 50-foot width and is open for one-way traffic northbound. Sedgwick Avenue varies in width and is open for two-way, north-south traffic. The applicants own all of the lots (Block 2530, Lots, 1, 25, and 51; and Block 2533, Lots, 1, 6, 116, 118, and 120) fronting on West 169<sup>th</sup> Street, except for a service station on Block 2530, Lots 32 and 39,

which has primary street access via Sedgwick Avenue. The lot area currently under the applicants' ownership is approximately 145,400 square feet, though this area is presently divided by the subject portion of West 169<sup>th</sup> Street. The applicants intend to construct two new as-of-right residential buildings on their property. Elimination and acquisition of the subject street area would allow consolidation of the applicants' property into one contiguous development site and allow for a single shared parking garage to be located between the two buildings. The street proposed to be eliminated would add 15,613 square feet of developable lot area to the site, and would increase the site's allowable floor area by 33,236 square feet. The street and the adjacent lots owned by the applicants are located within an R7-1 zoning district. A 100-foot by 75-foot westerly portion of Block 2530, Lot 25, which fronts on Sedgwick Avenue, is located within a C8-1 zoning district.

The Major Deegan Expressway is located to the west of the proposed site. To the north of the subject street is a Step Street for pedestrians to ascend from Sedgwick Avenue easterly up to MLK Blvd. and to the High Bridge, the latter of which spans over the Harlem River to Manhattan. A Police Station and a hotel are located southwest of the site, and a public elementary school (No. 11) is located two blocks easterly from the site. A public middle school is proposed to be built one block south of the site.

An interagency mapping conference was held on August 6, 2004. No city agency had any objections to the proposal.

### **ENVIRONMENTAL REVIEW**

This application (C 050001 MMX) 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 05DCP017X. 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 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 applicants signed the Conditional Negative Declaration on November 23, 2009. The Conditional Negative Declaration was published in the City Record on January 4, 2010 and in the New York State Environmental Notice Bulletin on January 6, 2010. 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 May 24, 2010.

#### **UNIFORM LAND USE REVIEW**

This application (C 050001 MMX), was certified as complete by the Department of City Planning on January 4, 2010, and was duly referred to Bronx Community Board 4 and The Bronx 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 4 held a public hearing on this application (C 050001 MMX) on March 23, 2010, and on that day, by a vote of 15 to 2, with 4 abstentions, adopted a resolution recommending approval of the application.

#### **BOROUGH PRESIDENT RECOMMENDATION**

This application (C 050001 MMX) was considered by the Borough President of The Bronx, who issued a recommendation of approval on April 14, 2010 with the condition that:

the applicant agree to work with the Department of Education and my office and Community Board 4, to include community facility space for a middle school, be it an on-site complex, or a free standing building on the property.

### **CITY PLANNING COMMISSION PUBLIC HEARING**

On, April 14, 2010 (Calendar No. 1), the City Planning Commission scheduled April 28, 2010 for a public hearing on this application (C 050001 MMX). The hearing was duly held on April 28, 2010 (Calendar No. 23).

There was one speaker in favor of this application and none opposed. The speaker, an attorney representing the applicants, described the proposed City Map amendment and the applicants' development plans. He stated that while there was an intermediate school planned for the area, in response to the Borough President's concerns, the applicants would be willing to discuss this matter further with the Borough President.

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, is not necessary for the flow of traffic in the area, and building the street would be generally infeasible due to the terrain's steep slope. Further, The Department of Transportation has no plans to build it.

The street separates two lots owned by the applicants. As proposed, the street elimination would facilitate the creation of one contiguous parcel of land intended to be developed with an as-of-right residential use on the consolidated property. In response to the Borough President's condition that the applicants include a public middle school in their plans to develop the site, the applicants' representative indicated at the City Planning Commission's public hearing that, although a public intermediate school site is already proposed for the area, they are willing to

discuss the matter further with the Department of Education, the Borough President's office, and Community Board 4.

### **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 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 050001 MMX) for the amendment to the City Map involving the elimination, discontinuance and closing of West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. Boulevard and Major Deegan Boulevard, including authorization for any acquisition or disposition of real property related thereto, in Community District 4, Borough of The Bronx, in accordance with Map No. 13106, dated April 25, 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. 13106, dated April 25, 2007, providing for the discontinuance and closing of West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. Boulevard and Major Deegan Boulevard, said street to be discontinued and closed being more particularly described as follows:

Starting at a point of beginning located on the westerly line of Dr. Martin Luther King, Jr. Boulevard, said point lying 498.86 feet northwesterly of the northwest corner of the intersection of Dr. Martin Luther King, Jr. Boulevard and West 168th Street, as those streets are heretofore laid out on the City Map, thence;

1. Running 88.90 feet in a northwesterly direction along the westerly line of Dr. Martin Luther King, Jr. Boulevard to a point, thence;
2. Running 15.34 feet in a northerly direction along the westerly line of Dr. Martin Luther King, Jr. Boulevard, said course forming an internal angle with the previous course of 214 degrees 6 minutes and 19 seconds, thence;
3. Running 148.18 feet in a northwesterly direction, said course forming an internal angle with the previous course of 133 degrees 46 minutes 12 seconds, thence;
4. Running 95.06 feet in a northwesterly direction, said course forming an internal angle with the previous course of 196 degrees 4 minutes 0 seconds, thence;
5. Running 258.93 feet in a northerly direction, said course forming an internal angle with the previous course of 200 degrees 51 minutes 10 seconds, thence;

6. Running 57.68 feet in a southwesterly direction along the southerly line of Sedgwick Avenue, said course forming an internal angle with the previous course of 31 degrees 15 minutes 30 seconds, thence;

7. Running 214.81 feet in a southerly direction, said course forming an internal angle with the previous course of 148 degrees 44 minutes 29 seconds, thence;

8. Running 104.82 feet in a southeasterly direction, said course forming an internal angle with the previous course of 159 degrees 8 minutes 50 seconds, thence;

9. Running 250.15 feet in a southeasterly direction, said course forming an internal angle with the previous course of 163 degrees 56 minutes 0 seconds to the point or place of beginning.

The area described above consists of 15,613 square feet or 0.36 acres, more or less; 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:

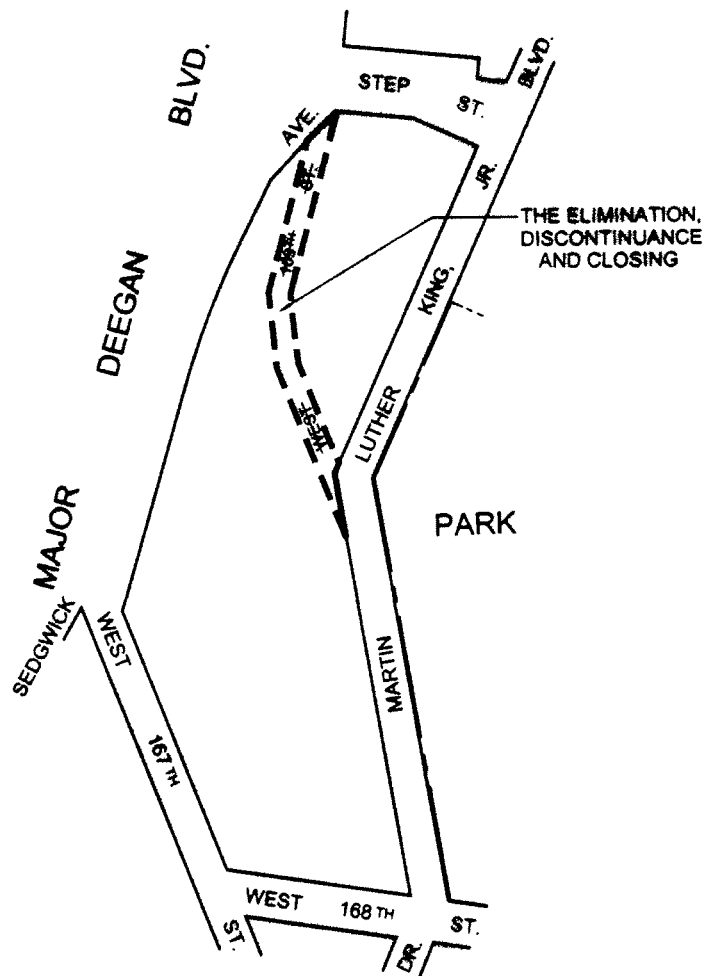
- a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map No. 13106 are filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter and Section 5-435 of the New York City Administrative 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 applicants 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 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 050001 MMX), duly adopted by the City Planning Commission on May 26, 2010 (Calendar No. 2), 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.*,**  
**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**  
**NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. MCRAE, Commissioners**

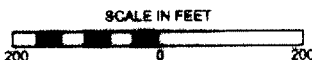




New York, Certification Date  
JANUARY 4, 2010

CITY PLANNING COMMISSION  
CITY OF NEW YORK  
DIAGRAM SHOWING PROPOSED  
**MAP CHANGE**  
ON SECTIONAL MAP  
**3b**  
BOROUGH OF  
**THE BRONX**

I. SADKO, P.E.  
Chief Engineer



NOTE:

- Indicates line of street legally adopted.
  - Indicates line of street proposed to be established.
  - - - Indicates line of street proposed to be eliminated.
  - - - Indicates Park line legally adopted.
- (Discontinuing and Closing is shown on Alt. Map No.13106).

THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.

SV/SO/JM/BV

## Community/Borough Board Recommendation

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

Application # **C 050001 MMX**  
CEQR # **05DCP017X**  
Community District No. 04 Borough: The Bronx  
Community District No. \_\_\_\_\_ Borough: \_\_\_\_\_  
Project Name: **West 169<sup>th</sup> Street 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 Roc-Sedgwick, LLC, and the Trust under the Will of Robert S. Olnick, 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 West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. Boulevard and Major Deegan Boulevard,

including authorization for any acquisition or disposition of real property related thereto, in Community District 4, Borough of The Bronx, in accordance with Map No. 13106, dated April 25, 2007, and signed by the Borough President.

### Applicant(s):

Roc-Sedgwick, LLC  
135 East 57<sup>th</sup> Street  
22<sup>nd</sup> Floor  
New York, NY 10022  
212-835-2400

### Applicant's Representative:

Gary Tarnoff, Esq.  
Kramer, Levin, Naftalis & Frankel, LLP  
1177 6<sup>th</sup> Avenue  
New York, NY 10036  
212-715-7833

Community Board No. 4 Borough: **The Bronx**

### Borough Board

Date of public hearing: **TUESDAY, MARCH 23, 2010**

Location: **BRONX LEBANON HOSPITAL CENTER-MURRAY COHEN AUDITORIUM - 1650 GRAND CONCOURSE BRONX, NEW YORK 10457**

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: **YES**

Location: **SAME AS ABOVE**

### RECOMMENDATION

☒ Approve

☐ Approve With Modifications/Conditions

☐ Disapprove

☐ Disapprove With Modifications/Conditions

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

### Voting

In Favor: **15** Against: **2** Abstaining: **4**

Total members appointed to the Board: **34**

Community/Borough Board Officer

Title

Date

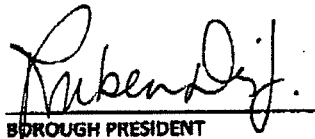
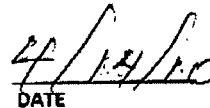
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**BOROUGH PRESIDENT  
RECOMMENDATION****CITY PLANNING COMMISSION**  
22 Reade Street, New York, NY 10007  
Fax # (212)720-3356**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

**APPLICATION # C 050001 MMX****DOCKET DESCRIPTION****PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION****COMMUNITY BOARD NO. 4****BOROUGH: THE BRONX****RECOMMENDATION**

- ☐ **APPROVE**
- ☒ **APPROVE WITH MODIFICATIONS/CONDITIONS (List below)**
- ☐ **DISAPPROVE**

**EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary)****PLEASE SEE ATTACHMENT FOR BOROUGH PRESIDENT'S RECOMMENDATION**  
**BOROUGH PRESIDENT**  
**DATE**

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION**  
**ULURP APPLICATION NO: C 050001 MMX**  
**West 169<sup>th</sup> Street De-Mapping**  
**April 15, 2010**

**DOCKET DESCRIPTION**

IN THE MATTER OF an application submitted by Roc-Sedgwick, LLC and the Trust under the Will of Robert S. Olnick, 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 of the City Map involving:

- The elimination, discontinuance and closing of West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. Boulevard and Major Deegan Boulevard,

including authorization for any acquisition or disposition of real property related thereto, in Community District 4, Borough of The Bronx, in accordance with Map No. 13106, dated April 25, 2007, and signed by the Borough President.

**BACKGROUND**

Approving this application facilitates the demapping of West 169<sup>th</sup> Street between Dr. Martin Luther King Jr. Boulevard (MLK Boulevard) on the east and Sedgwick Avenue on the west. This portion of West 169<sup>th</sup> Street is unimproved, situated on a slope of more than 25 percent and mapped at a width of 30 feet. This street bed is in an R7-1 zone and is located in Bronx Community District 4.

With the exception of a service station located on Block 2530, Lots 32 and 39, the applicant owns Block 2530, Lots 1, 51, 25, plus Block 2533, Lots 1, 6, 7, 116, 118, 120. Demapping of West 169<sup>th</sup> Street, yields 161,013 square feet of vacant, undeveloped property. The boundaries of this contiguous lot include MLK Boulevard on the east, Sedgwick Avenue on the west, West 168<sup>th</sup> Street on the south and the Highbridge Park step street on the north.

The applicant seeks eventual as-of-right development of this site pursuant to an R7-1 zone. Preliminary plans feature construction of two high rise buildings, the tallest being 14 stories. Mid-rise residences are also envisioned. The anticipated project will offer a grand total of 505 individual dwelling units, garden areas and an on-site parking garage with 304 spaces. The development will yield 505,748 square feet of proposed floor area.

Development of the surrounding community includes midrise residential buildings, a public park (Highbridge Park) north of the site, Public School 11 two blocks east of the site. A police station and motel are situated on Sedgwick Avenue. There is no access to subway transportation within a five block radius of the site. Bus service and retail activity are available on Ogden Avenue, two blocks east of MLK Boulevard. The site overlooks the Major Deegan Expressway (Interstate 87) and the historic Highbridge that links Manhattan to the Bronx over the Harlem River.

## **ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION**

This application has been reviewed pursuant to SEQR and CEQR and is noted as unlisted. The City Planning Commission certified this application as complete on January 4, 2010.

## **COMMUNITY BOARD PUBLIC HEARING**

Bronx Community Board 4 held a public hearing on this application on March 23, 2010. A non-complying vote recommending approval of this matter was 15 in favor, two against and four abstaining.

## **BRONX BOROUGH PRESIDENT'S PUBLIC HEARING**

The Bronx Borough President convened a public hearing on March 23, 2010. Representatives of the applicant were present and spoke in favor of this application. No other members of the public offered testimony and the hearing on this matter was closed.

## **BOROUGH PRESIDENT'S RECOMMENDATION**

The Highbridge community in the Bronx includes some of the borough's steepest terrain. For example, to access subway service many residents must walk multiple blocks, including steep streets. This area is bounded by the Cross Bronx Expressway on the north, the Harlem River on the west, Jerome Avenue on the east and West 162<sup>nd</sup> Street on the south. This application considers the demapping of an unbuilt portion of West 169<sup>th</sup> Street, which because of its topography, is not suitable for service as a functioning street.

This action as presented by the applicant at my public hearing is to facilitate the eventual as-of-right development of approximately 161,000 square feet of privately owned, contiguous vacant property for residential purposes. To this end, the applicant offered a preliminary plan for this site, featuring approximately 505,000 square feet of residential space and a garage facility offering 304 spaces. Given this information, the total permitted FAR is 548,000 square feet. If a community use facility is included within the scope of development, the FAR substantially increases to 772,800 square feet, yielding an additional 224,800 square feet.

The magnitude of this proposal raises a variety of concerns. The most important being the impact of any new large scale residential development on the severe shortage of middle school seats serving Highbridge. Currently there are five elementary schools within the area, providing a seating capacity of 3,930. The current lack of a middle school forces every one of these students to traverse the hilly streets of Highbridge and travel by bus or subway to middle schools, all of which are beyond one mile from their homes. I acknowledge that the Department of Education is anticipating the opening of a middle school for Highbridge by 2013. However, with a seating capacity of 389, it is clear that this new facility will not sufficiently mitigate the profound shortage of seats that now exists.

I therefore recommend that as a condition for my approval of this matter, the applicant agree to work with the Department of Education and my office and Community Board 4, to include community facility space for a middle school, be it an on-site complex, or a free standing building on the property. A middle school serving six hundred students requires 90,000 square feet. An annex building serving four hundred students requires 55,000 square feet. My office will be pleased to work with the applicant and the Department of Education on this matter.

With my modification so noted, I recommend approval of this application.