



CITY PLANNING COMMISSION

February 28, 2007/Calendar No. 9

C 010284 MMX

IN THE MATTER OF an application, submitted by Horace Mann School 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 250th Street between Tibbett Avenue and The Post Road;
- the adjustment of grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

Community District 8, Borough of the Bronx, in accordance with Map No. 13097 dated September 3, 2002 and signed by the Borough President.

The application (C 010284 MMX) for an amendment to the City Map was filed by Horace Mann School 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 December 21, 2000. It involves: the elimination, discontinuance and closing of West 250th Street between Tibbett Avenue and The Post Road; the adjustment of grades necessitated thereby; and any acquisition or disposition of real property related thereto.

RELATED ACTIONS

In addition to the amendment to the City Map which is the subject of this report, implementation of the applicant's proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 010283 MMX Application for an amendment of the City Map involving the elimination, discontinuance and closing of The Post Road north of West 246th Street.

BACKGROUND

The Horace Mann School is requesting the elimination, discontinuance and closing of a portion of West 250th Street between Tibbett Avenue and The Post Road and a portion of The Post Road north of West 246th Street.

West 250th Street lies in an R4 zoning district, is city-owned, is mapped to a width of 60 feet and unimproved except for a small paved portion at Tibbett Avenue which is leased and used for parking by the school. As mapped, West 250th Street connects Tibbett Avenue to the southerly dead end terminus of The Post Road. West 250th Street abuts the northerly boundary of the Horace Mann school campus. There are no plans by NYCDOT to improve West 250th Street as the site has significant grade differentials which make the construction of this street impractical. The school has no plans for new development on the street proposed to be eliminated, discontinued and closed.

The Post Road was formerly mapped between West 246th and West 250th Streets but was eliminated in 1974 creating dead-end termini on The Post Road at both West 246th and West 250th streets. The portion of The Post Road to be eliminated, which is the subject of the application (C 010283 MMX) being reviewed concurrently with this application, is a 100-foot-wide cul-de-sac which is city-owned and unimproved as a street. Presently, Horace Mann School leases this portion of the street from the City; it serves as an entrance to the school campus and as a driveway to a small school parking area. The school has maintained the cul-de-sac for 20 years. The proposed eliminated, discontinued and closed street is intended to be disposed to the school. The eliminated street would continue to serve as a driveway to a small school parking area.

Horace Mann School is a co-educational college preparatory day school enrolling students in Nursery through Twelfth Grade. Among the top independent day schools in the country, Horace Mann is best known for its outstanding academic program that draws talented young people from three states and as far away as 50 miles. Founded in 1887 as a unit of Columbia University Teachers College, the school has resided in the Riverdale section of the Bronx since 1909. On April 25, 2001 (Cal. #23) the City Planning Commission approved an application (N 000617 ZAX) by the school for a zoning authorization in a large-scale community facility development (LSCFD).

The Special Natural Area District NA-2 with an underlying R1-2 zoning district is just west of the school. The surrounding area is characterized predominantly by low to medium rise

residential buildings. Broadway which runs parallel to The Post Road one block to the east is developed with a mixture of residential and commercial uses and is in an R6/C2-2 zoning district.

An interagency mapping conference was held on February 23, 2001. No city agency had any objections to this proposal.

ENVIRONMENTAL REVIEW

This application (C 010284 MMX), in conjunction with the application for the related action (C 010283 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 No. is 01DCP036X. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a negative declaration was issued on March 12, 2001.

UNIFORM LAND USE REVIEW

This application (C 010284 MMX), in conjunction with the application for the related action (C 010283 MMX), was certified as complete by the Department of City Planning on October 10, 2006, and was duly referred to Community Board 8 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 8 held a public hearing on this application (C 010284 MMX), in conjunction with the application for the related action (C 010283 MMX), on November 20, 2006, and on December 13, 2006, by a vote of 22 to 5 with 3 abstentions, adopted a resolution recommending approval of the application with the following conditions:

1. That Horace Mann will not derive, directly or indirectly, any additional floor area ratio from either or both of the two proposed demapping properties;

2. That Horace Mann will not cause or permit to be erected any permanent structures on either or both of the two proposed demapping properties;
3. That Horace Mann will not cause or permit the demapped portion of West 250th Street to be used now or in the future as a through road, unless required to do so by unsolicited written order of the Fire Department and then only to the limited extent required for use or access by emergency vehicles;
4. That Horace Mann School will not be allowed to open the eliminated portion of the West 250th Street onto the dead end of The Post Road unless required to do so by unsolicited written order of the New York City Fire Department and then only to the limited extent required for access or use by emergency vehicles;
5. That Horace Mann will honor any request made by the New York City Fire Department or occasioned by any requirement of the New York City Fire Department for access to the rear of the building at 244 Fieldston Terrace;
6. That Horace Mann shall respect all existing rights and easements of adjoining property owners and shall not, as a consequence of this demapping, deny or restrict existing access of any adjoining property owner to his/her property premises.

Community Board 8 stated that the above-stated provisions shall be incorporated in the City Planning Commission's ULURP resolution as requirements of the mapping agreement to be executed by Horace Mann School and in any resolution or other measure that the New York City Council may enact. Further, Community Board 8 stated that Horace Mann School cooperate with Community Board, the Borough President of the Bronx, City Planning Commission, New York City Council and the City of New York to secure compliance with the foregoing restrictions.

Borough President Recommendation

This application (C 010284 MMX), in conjunction with the application for the related action (C 010283 MMX), was considered by the Borough President of the Bronx who issued a recommendation approving the application with conditions on December 19, 2006 with the following conditions:

1. That, Horace Mann agrees to present a conceptual long range development plan for its campus, including any properties within Community District 8 that it may own, within six months of final approval of this ULURP application;
2. That, there will be no buildings or other permanent structures on the demapped portion of either Post Road or West 250th Street, or additional floor area within the campus resulting from such acquisitions;

3. That the demapped portion of West 250th Street will not be used as a through road, or open onto Post Road, unless required for emergency purposes;
4. That, Horace Mann will honor all requests and requirements of the New York City Fire Department concerning safety and access considerations;
5. That, Horace Mann respect all existing easements and rights of adjoining property owners and shall not deny or restrict the right of access of adjoining property owners to their premises.

City Planning Commission Public Hearing

On January 10, 2007 (Calendar No. 2), the City Planning Commission scheduled January 24, 2006 for a public hearing on this application (C 010284 MMX). The hearing was duly held on January 24, 2007 (Calendar No. 10) in conjunction with the public hearings on the related application (C 010283 MMX).

At the public hearing, there was one speaker in favor and none in opposition. The speaker, the head of Horace Mann School, described the proposal and responded to Community Board 8 and the Borough President's concerns by stating that there will be no buildings or other permanent structures on the demapped portion of either Post Road or West 250th Street, or additional floor area within the campus resulting from such acquisitions; the demapped portion of West 250th Street will not be used as a through road, or open onto Post Road, unless required for emergency purposes; and that Horace Mann will honor all requests and requirements of the New York City Fire Department concerning safety and access considerations, being in the agreement. He also stated that it would take a long time and significant financial resources to prepare a long range plan for the school. Further, he mentioned that the school has stated at all public forums that it will respect all existing rights and easements of adjoining property owners, but the School is not granting any additional property rights that did not previously exist.

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 West 250th Street proposed to be eliminated from the City Map is mapped to a 60-foot width, unimproved and city-owned. Similarly, The Post Road proposed to be eliminated from the City Map is mapped to a 100-foot width, unimproved and city-owned. These streets proposed to be eliminated from the City Map are not necessary to the integrity and function of the street grid in this area. Peripheral streets can adequately, safely and conveniently carry the anticipated volume of vehicular and pedestrian traffic, at an acceptable level of service, both now and in the future.

The City Planning Commission received a letter from the applicant dated January 23, 2007 responding to the concerns and issues raised by Community Board 8 and the Borough President regarding access, rights and easements, construction of permanent structures, transfer of development rights, opening the street to The Post Road, honoring Fire Departments requests and requirements, and submitting a long range plan of the school. In this letter, the applicant stated that it has used these “paper” streets for decades, and has no interest in developing the current property other than minor improvements to the landscaping, and the on-going maintenance of paved areas. In response to the conditions required by the Borough President of the Bronx the applicant stated the following:

1. As to conditions 2, 3, and 4, the School has no objection to these conditions being incorporated in the deed and conveyance;
2. As to condition 1, the School seeks to clarify its position by noting the agreement to share a “back of the envelope” conceptual understanding of the School’s future programmatic and physical plant needs with Community Board 8, but anything more formalized will require the hiring of architects and engineers to develop a Master Plan; an expenditure of funds that should not be required of any school until such time that the expenditure is purposeful and in keeping with the immediate needs of the School; and,
3. As to condition 5, the School has stated at all public forums that it will respect all existing rights and easement of adjoining property owners (of which there are none), but in no way is the School granting any additional property rights that did not previously exist.

The Commission believes that the Mapping Agreement referred to it for acceptance should include conditions 2, 3 and 4 included in the Borough President's recommendation.

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 010284 MMX) for the amendment to the City Map involving:

- the elimination, discontinuance and closing of West 250th Street between Tibbett Avenue and The Post Road;
- the adjustment of grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in Community District 8, Borough of the Bronx, in accordance with Map No. 13097 dated September 3, 2002 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. 13097 dated September 3, 2002 providing for the discontinuance and closing of a portion of West 250th Street between Tibbett Avenue and The Post Road, more particularly described as follows:

**DISCONTINUING AND CLOSING OF A PORTION OF WEST 250TH STREET
BETWEEN TIBBETT AVENUE AND THE POST ROAD**

Starting at a point at the intersection of the westerly line of The Post Road and the southerly line of Fieldston Terrace, thence running southerly along westerly line of The Post Road, a distance of 294.930 feet to the **Point of Beginning** on the former northerly line of West 250th Street, discontinued and closed;

1. Thence running southerly, along a newly proposed westerly line of The Post Road , a distance of 12.271 feet to a point of curvature;
2. Thence running southerly, along the newly proposed westerly line of The Post Road, along an arc curving to the right, having a radius of 15.00 feet and a central angle of 61 degrees 08 minutes and 51.8 seconds, a distance of 16.008 feet to a point of reverse curvature;
3. Thence running southerly, along the newly proposed westerly line of The Post Road, along an arc curving to the left, having a radius of 45.00 feet and a central angle of 80 degrees 21 minutes and 55.5 seconds, a distance of 63.119 feet to a point of tangency located at the intersection of the newly proposed westerly line of The Post Road and the former southerly line of West 250th Street, discontinued and closed;
4. Thence running westerly, along the former southerly line of West 250th Street, along an arc curving to the left, discontinued and closed, having a radius of 260.00 feet and a central angle of 43 degrees, 01 minutes and 36.30 seconds, a distance of 195.249 feet to a point reverse curvature;
5. Thence running westerly, continuing along the former southerly line of West 250th Street, along an arc curving to the right, discontinued and closed, having a radius of 400.00 feet and a central angle of 63 degrees, 59 minutes and 43.50 seconds, a distance of 208.523 feet to a point located at the intersection of the former southerly line of West 250th Street, discontinued and closed, and the newly proposed easterly line of Tibbett Avenue;
6. Thence running northerly along the newly established easterly line of Tibbett Avenue, along an arc curving to the right, having a radius of 2840.00 feet and a central angle of

04 degrees, 31 minutes and 55.50 seconds, the radial line of said arc forming an angle of 119 degrees, 35 minutes and 40.20 seconds with the tangent line of the previous course, a distance of 224.643 feet to a point located at the intersection of the newly proposed easterly line of Tibbett Avenue and the former northerly line of West 250th Street, discontinued and closed;

7. Thence running easterly, along the former northerly line of West 250th Street, along an arc curving to the left, discontinued and closed, having a radius of 340.00 feet and a central angle of 63 degrees, 59 minutes and 43.50 seconds, a distance of 379.756 feet to a point of reverse curvature;
8. Thence running easterly, continuing along the former northerly line of West 250th Street, along an arc curving to the right, discontinued and closed, having a radius of 320.00 feet and a central angle of 31 degrees, 09 minutes and 37.10 seconds, a distance of 174.032 feet to the **POINT OF BEGINNING**;

and be it further

RESOLVED that, 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. 13097 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 (C 010284 MMX), duly adopted by the City Planning Commission on February 28, 2007 (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.

KENNETH J. KNUCKLES, Esq. Vice Chair

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