

**327-13-BZ**

**CEQR #14-BSA-089K**

APPLICANT – Goldman Harris LLC, for JCWH Coney Island LLC, owner.

SUBJECT – Application December 23, 2014 – Special Permit (§73-44) to reduce the required number of accessory parking spaces from 346 to 272 spaces for a mixed use building containing UG4 health care and UG 6 office uses. C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, aka 1498, 1526, 1528, 1532-1538 Coney Island Avenue, property occupies the northwest corner of Coney Island Avenue and Avenue L. Block 6536, Lot(s) 28, 30, 34, 40, 41, 42, 43, Borough of Brooklyn.

**COMMUNITY BOARD # 12BK**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT –**

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez .....4  
Negative:.....0

**THE RESOLUTION –**

WHEREAS, the decision of the Department of Buildings (“DOB”), dated November 26, 2013, acting on DOB Application No. 301820698, reads, in pertinent part:

The number of accessory parking spaces provided for ambulatory diagnostic or treatment facilities listed in Use Group 4 and uses in parking requirement category B1 do not comply with ZR 36-21; and

WHEREAS, this is an application under ZR §§ 73-03 and 73-44 to permit, on a site partially within a C8-2 zoning district and partially within an R5 (C2-3) zoning district, within the Special Ocean Parkway District, a reduction in the required number of accessory parking spaces for an eight-story mixed commercial and community facility building occupied by a department store (Use Group 10A), retail stores (Use Groups 6A and 6C), offices (Use Group 6B), an ambulatory diagnostic or treatment health care facility (Use Group 4A), and a philanthropic or non-profit institution without sleeping accommodations (Use Group 4A), contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on July 22, 2014, after due notice by publication in the *City Record*, with continued hearings on September 9, 2014, October 21, 2014, December 9, 2014 and January 30, 2015, and then to decision on February 24, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 12, Brooklyn, recommends disapproval of this application, citing concerns about traffic along Coney Island Avenue and

parking; and

WHEREAS, Councilperson David Greenfield submitted testimony in opposition to the application, citing concerns about traffic and parking; and

WHEREAS, certain members of the surrounding community provided testimony in opposition to the application, citing concerns about traffic, parking, and the height of the proposed building; and

WHEREAS, certain members of the surrounding community provided testimony in support of the application; and

WHEREAS, the subject site is rectangular lot located on the northwest corner of the intersection of Coney Island Avenue and Avenue L, partially within a C8-2 zoning district and partially within an R5 (C2-3) zoning district, within the Special Ocean Parkway District; and

WHEREAS, the site has 340 feet of frontage along Coney Island Avenue, 100 feet of frontage along Avenue L, and 34,000 sq. ft. of lot area; and

WHEREAS, Tax Lots 28, 30, 34, 40, 41, 42, 43, and 45 comprise the site; Lot 28 is located within the R5 (C2-3) portion of the site; all other lots are within the C8-2 portion of the site; and

WHEREAS, the applicant states that there are no buildings on the site; however, foundation work for an as-of-right building has been commenced; and

WHEREAS, the applicant proposes to construct an eight-story mixed commercial and community facility building with 145,983 sq. ft. of floor area (4.78 FAR in the C8-2 district; 0.68 in the R5 (C2-3) district) to be occupied by a Use Group 10A department store (37,173 sq. ft. of floor area), Use Group 6A retail stores (20,514 sq. ft. of floor area), Use Group 6B offices (3,413 sq. ft. of floor area), a Use Group 4A ambulatory diagnostic or treatment health care facility (56,569 sq. ft. of floor area), and a Use Group 4A philanthropic or non-profit institution without sleeping accommodations (28,314 sq. ft. of floor area); and

WHEREAS, the applicant proposes to provide the required number of accessory parking spaces for the department store, the retail store(s), and the philanthropic or non-profit institution without sleeping accommodations; however, pursuant to ZR § 73-44, the applicant seeks a reduction in the required number of parking spaces for the offices and the ambulatory diagnostic or treatment health care facility, as set forth below; and

WHEREAS, the applicant states that, pursuant to ZR § 36-21, 346 parking spaces are required for all uses at the site (142 for ambulatory diagnostic or treatment health care facility, nine for the offices, 124 for the department store, 60 for the retail store(s), and 11 for the philanthropic or non-profit institution without sleeping accommodations); and

WHEREAS, the applicant calculates the

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ambulatory diagnostic or treatment health care facility office parking requirement as follows: pursuant to ZR § 36-21, within both the C8-2 district and the R5 (C2-3) district, the subject Use Group 4 ambulatory diagnostic or treatment health care requires one accessory parking space for every 400 sq. ft. of floor area; thus, the proposed Use Group 6 office floor area at the site generates 142 required accessory parking spaces; however, the applicant seeks to provide 72 parking spaces, resulting in a deficit of 70 parking spaces; and

WHEREAS, the applicant calculates the office parking requirement as follows: pursuant to ZR § 32-15, within both the C8-2 district and the R5 (C2-3) district, the subject Use Group 6 office is in parking requirement category B1, and, per ZR § 36-21, uses within parking requirement category B1 require one accessory parking space for every 400 sq. ft. of floor area; thus, the proposed Use Group 6B office floor area at the site generates nine required accessory parking spaces; however, the applicant seeks to provide five parking spaces, resulting in a deficit of four parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may grant a special permit allowing a reduction in the required number of accessory off-street parking spaces for the Use Group 6 office use in parking category B1 and for the Use Group 4A ambulatory diagnostic or treatment health care facility; in the subject zoning districts (C8-2 and R5 (C2-3)), the Board may reduce the required parking for such uses from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 73-44, the Board must, prior to granting the waiver, determine that the use proposed in the B1 parking category and the Use Group 4 use are contemplated in good faith; and

WHEREAS, to satisfy the good-faith requirement, the applicant submitted letters from real estate brokers acting as leasing agents, which indicate that substantial interest has been expressed by prospective tenants; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the special permit under ZR § 73-44 requires and the applicant represents that any certificate of occupancy for the building will state that no subsequent certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, at hearing, the Board directed the applicant to demonstrate that the application satisfies 73-03(a); specifically, the Board requested additional information on how the proposed reduction in parking

will impact the surrounding community in terms of parking and traffic; the Board also directed the applicant to provide additional information regarding the operations and peak parking demand of the Pomegranate grocery store, which is located across the street from the site and which, based on the record, has inadequate onsite parking and is a major source of traffic in the area; finally, the Board inquired as to what measures the application will take to ensure that the garage will be available for all patrons of the uses within the building; and

WHEREAS, in response, the applicant submitted a parking demand and utilization study, which reflects that the proposed reduction will not have significant negative impacts on the surrounding community; the study concludes that proposed parking garage capacity will be sufficient to accommodate the parking demand created by the uses at all times, and that, as such, traffic will not be increased as a result of patrons circulating the neighborhood in search of parking; and

WHEREAS, in addition, the applicant clarified the number of reservoir spaces within the garage, eliminated on-street queuing, and provided additional information regarding the proposed automated parking system, including how it will manage parking demand and ensure that enough spaces will be available to accessory parkers; and

WHEREAS, the applicant also provided the requested information regarding Pomegranate; and

WHEREAS, lastly, the applicant agreed to: (1) install signage at the garage exit prohibiting left turns; and (2) request that DOT explore additional traffic mitigation measures, including but not limited to changes in signal timing and additional signage; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit uses is outweighed by the advantages to be derived by the community; the Board notes that it reviewed numerous iterations of the parking and traffic study and that even under the most conservative set of criteria, there will be adequate parking for all uses at the site; and

WHEREAS, based upon its review of the record, the Board concludes that the findings required under ZR §§ 73-03 and 73-44 have been met; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-089K, dated December 23, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy;

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Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Unlisted action prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-03 and 73-44 to permit, on a site partially within a C8-2 zoning district and partially within an R5 (C2-3) zoning district, within the Special Ocean Parkway District, a reduction in the required number of accessory parking spaces for an eight-story mixed commercial and community facility building occupied by a department store (Use Group 10A), retail stores (Use Groups 6A and 6C), offices (Use Group 6B), an ambulatory diagnostic or treatment health care facility (Use Group 4A), and a philanthropic or non-profit institution without sleeping accommodations (Use Group 4A), contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received March 19, 2014"– (19) sheets and "April 11, 2014"–(1) sheet, and on further condition:

THAT a minimum of 272 parking spaces shall be provided at the site;

THAT a "No Left Turn" sign shall be installed at the exit of the garage prior to the issuance of the temporary certificate of occupancy and shall be maintained at all times;

THAT there shall be no change in the uses at the site without prior review and approval by the Board;

THAT a certificate of occupancy shall not be issued if either of the uses for which parking has been

reduced has been changed to a use listed in parking category B, unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

THAT the above conditions shall appear on the certificate of occupancy;

THAT the applicant shall request that DOT consider additional traffic mitigation measures;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by February 24, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 24, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, February 24, 2015.**

**Printed in Bulletin Nos. 9-10, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

