



## **CITY PLANNING COMMISSION**

September 4, 2012/ Calendar No. 14

C 110164 ZSQ

**IN THE MATTER OF** an application submitted by Utopia Realty LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-902 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of Section 24-11 (Maximum Floor Area and Percentage of Lot Coverage) to apply to a proposed 8-story 298-bed nursing home on property located on the easterly side of Parsons Boulevard between 71<sup>st</sup> Avenue and 72<sup>nd</sup> Avenue (Block 6797, p/o Lot 30), in an R6 District, Borough of Queens, Community District 8.

The application for the special permit was filed on December 2, 2010 by Utopia Realty LLC in order to facilitate the construction of a nursing home.

### **RELATED ACTIONS**

In addition to the special permit which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 110163 ZSQ	Special permit pursuant to Section 74-90 of the Zoning Resolution to permit the development of a nursing home.
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### **BACKGROUND**

A description of this application, the surrounding area and the proposed project is included in the report on the related action for the grant of a special permit (C 110163 ZSQ).

### **ENVIRONMENTAL REVIEW**

This application (C 110164 ZSQ), in conjunction with the application for the related action (C 110163 ZSQ), 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 11DCP059Q. The lead is the City Planning Commission.

After a study of the potential impacts of the proposed action, a Conditional Negative Declaration

was issued. The lead agency has determined that the proposed actions 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 Phase II Environmental Assessment Statement (ESA), hazardous materials sampling protocol and health and safety plans, 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 protocols 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 plans.

With the implementation of the above referenced restrictive declaration, no significant adverse impacts related to hazardous materials would occur.

The applicant signed the Conditional Negative Declaration on May 17, 2012. The Conditional Negative Declaration was published in the City Record on June 4, 2012 and in the New York State Environmental Notice Bulletin on June 6, 2012. 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 September 5, 2012.

## **UNIFORM LAND USE REVIEW**

This application (C 110164 ZSQ), in conjunction with the application for the related action (C 110163 ZSQ), was certified as complete by the Department of City Planning on May 21, 2012, and was duly referred to Community Board 8 and the 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 8 held a public hearing on this application (C 110042 ZSQ) on June 11, 2012, and on June 13, 2012, by a vote of 14 to 26 with no abstentions, failed to adopt a resolution

recommending approval of the application with conditions.

### **Borough President Recommendation**

This application was considered by the Borough President of Queens, who issued a recommendation approving this application on July 12, 2012, with conditions. A summary of the Borough President's recommendation appears included in the report on the related action for the grant of a special permit (C 110163 ZSQ).

### **City Planning Commission Public Hearing**

On July 25, 2012 (Calendar No. 3), the City Planning Commission scheduled August 8, 2012, for a public hearing on this application (C 110163 ZSQ). The hearing was duly held on August 8, 2012 (Calendar No. 17). There were a number of appearances as described in the report on the related action for the grant of a special permit (C 110163 ZSQ) and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this application (C 110164 ZSQ) for grant of a special permit and the related application (C 110163 ZSQ) are appropriate.

A full consideration and analysis of the issues and reasons for approving this application appear in the report on the related application (C 110163 ZSQ).

### **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-902 of the Zoning Resolution:

74-902 Certain community facility uses in R3 to R9 Districts and certain Commercial Districts

- (a) that the distribution of *bulk* on the *zoning lot* will not unduly obstruct the access of light and air to adjoining properties or public *streets*, and will result in satisfactory site planning and satisfactory urban design relationships of *buildings* to adjacent *streets* and the surrounding area;

- (b) that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made; and
- (c) that the *streets* providing access to such *use* will be adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

## 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 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by Utopia Realty LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-902 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to a proposed 8-story 298-bed nursing home on property located on the easterly side of Parsons Boulevard between 71<sup>st</sup> Avenue and 72<sup>nd</sup> Avenue (Block 6797, p/o Lot 30), in an R6 District, Borough of Queens, Community District 8, is approved, subject to the following terms and conditions:

1. That the property that is the subject of this application (C 110164 ZSQ) in conjunction with the related application (C 110163 ZSQ) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Warren L. Schiffman Architect, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Drawing Title</u>	<u>Latest Revision Date</u>
DCP-001	Site Plan	March 2, 2012
DCP-002	Zoning Analysis	September 23, 2011
DCP-004	Contextual Building Sections	September 23, 2011
DCP-005	Contextual Building Sections	September 23, 2011

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for modifications specifically granted in this resolution and shown on the plans listed above which has been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application or modification, cancellation or amendment of the special permit hereby granted.
6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 110164 ZSQ), duly adopted by the City Planning Commission on September 5, 2012 (Calendar No. 14), 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  
**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**

**BETTY Y. CHEN, MICHELLE DE LA UZ, MARIA M. DEL TORO,  
RICHARD W. EADDY, ANNA HAYES LEVIN, ORLANDO MARÍN,  
SHIRLEY A. MCRAE, Commissioners**

Application #: **C 110164 ZSQ**

Project Name: **Brookhaven Rehab. and Health Care**

CEQR Number: 11DCP059Q

Borough(s): Queens

Community District Number(s): 8

Please use the above application number on all correspondence concerning this application

**SUBMISSION INSTRUCTIONS**

- Complete this form and return to the Department of City Planning by one of the following options:
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
  - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
  - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- 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 Utopia Realty LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-902 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to a proposed 8-story 298-bed nursing home on property located on the easterly side of Parsons Boulevard between 71<sup>st</sup> and 72<sup>nd</sup> Avenue (Block 6797, p/o Lot 30), in an R6 District, Borough of Queens, Community District 8.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, NY, 10007.

Applicant(s): Utopia Realty LCC 158-13 72nd Avenue Flushing, NY 11365		Applicant's Representative: David Marx, ESQ. 158-13 72nd Avenue Flushing, NY 11365	
Recommendation submitted by: Queens Community Board 8			
Date of public hearing: 6/11/12		Location: 64-20 175th Street - Beacon 216	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.	
Date of Vote: June 13, 2012		Location: 183-02 Union Turnpike	
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input checked="" type="checkbox"/> Disapprove With Modifications/Conditions <b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>			
<b>Voting</b> # In Favor: 14 # Against: 26 # Abstaining: 0 Total members appointed to the board: 48			
Name of CB/BB officer completing this form <i>Aburn Warshawick</i> (mas)		Title <i>Chair</i>	Date <i>6/15/2012</i>

## Queens Borough President Recommendation

APPLICATION: ULURP #110064 ZSQ

COMMUNITY BOARD: Q08

### DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by Eric Palatnik PC on behalf of Utopia Realty LLC, pursuant to Sections 197-c and 201 of the NYC Charter and Section 74-902 of the NYC Zoning Resolution, to modify the requirements of Section 24-111 (maximum floor area for certain community facility uses) to permit the allowable community facility floor area ratio to allow a 298-bed nursing home in an R6 District on property located on the easterly side of **Parsons Boulevard between 71st and 72nd Avenues**, Block 6797, part of Lot 30, Pomonok, Borough of Queens. (Related application ULURP #110063 ZSQ)

### PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, June 28, 2012, 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 in favor. 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:

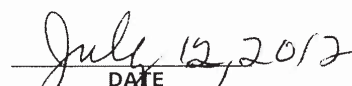
- The applicant has filed an application for a special permit that would allow the maximum Floor Area Ratio (FAR) for community facilities to allow development of a nursing home in Community District 8. The proposed FAR is 2.95 instead of the allowed 2.43.;
- The applicant is proposing to build an 8-story, 298-bed 165,000 SF nursing home. The building is set back from the property line, has been designed to maximize views and extensive landscaping has been provided around the site. Also in the plans is an automated parking garage for 133 cars. This facility would replace an existing nursing home and rehabilitation center in Far Rockaway. A separate application (ULURP #110063 ZSQ) has been filed for a required special permit when a proposed nursing home is located in a community district where the beds to 1,000 of population exceeds the citywide ratio.;
- In 2000, ULURP approvals were granted to allow a nursing home on this site. Subsequent to that approval the New York State Department of Health (NYSDOH) issued a moratorium on new nursing homes. The moratorium is no longer in effect. The proposed facility meets NYSDOH requirements.;
- The site is zoned R6 and is located directly south of the 107<sup>th</sup> Precinct Station House on the east side of Parsons Boulevard south of 71<sup>st</sup> Avenue. Parsons Boulevard is a major north south thoroughfare serving this area. Other development in the area includes Electchester, a shopping mall and a variety of small to medium density buildings in the surrounding area.
- Community Board 8 disapproved this application by a vote of twenty-five (25) against, fifteen (15) in favor with none (0) abstaining at a public meeting held on June 13, 2012. The community board voted on a motion to conditionally approve the application. The proposed conditions included the creation of a community advisory group that would meet to address issues and concerns related to the facility. Concerns raised included the following: traffic, proximity to the local police precinct building, neighborhood parking, size of the facility and noise from operations of the automated parking garage.

### RECOMMENDATION

Based on the above consideration, I hereby recommend approval of this application with the following condition:

- A Community Advisory Group comprised of area civic associations, Community Board 8, local elected officials should be convened to address issues and concerns that may arise during and after construction, and when the proposed nursing home has been completed and is in operation.

  
PRESIDENT, BOROUGH OF QUEENS

  
DATE