



CITY PLANNING COMMISSION

September 5, 2012/Calendar No. 13

C 110163 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 74-90 of the Zoning Resolution to allow a 298-bed nursing home use within a proposed 8-story building on property located on the easterly side of Parsons Boulevard between 71st and 72nd 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 110164 ZSQ Special permit pursuant to Section 74-902 of the Zoning Resolution to permit the allowable community facility floor area ratio of Section 24-11 (Maximum Floor Area and Percentage of Lot Coverage) to apply.

BACKGROUND

The applicant is seeking the grant of a special permit pursuant to Section 74-90 of the Zoning Resolution to permit the development of an eight-story, 298-bed nursing home in an R6 district in Queens Community District 8.

The project site is a portion of a vacant tax lot located on the east side of Parsons Boulevard between 71st and 72nd Avenues in the Pomonok neighborhood of Queens Community District 8. The site is within an R6 zoning district. The zoning lot is a 56,252-square-foot portion of Block 6797, Lot 30. It is an interior lot with 209 feet of frontage on Parsons Boulevard. Currently, personnel of the adjacent 107th Precinct and the Queens South Patrol Borough of the New York Police Department park their vehicles on a strip on the north end of the subject site through an informal arrangement with the owner.

In 2000, the City Planning Commission approved an application (C 990696 ZSQ) for a special

permit pursuant to Section 74-90 of the Zoning Resolution to allow the development of a six-story, 200-bed nursing home on the project site. The project facilitated by the previous CPC action was not built and the land has remained vacant.

The proposed action would facilitate a proposal by the applicant to construct an eight-story, 165,990-square-foot nursing home with 298 beds on the site. The proposed building would have a floor area ratio of 2.95. The main entrance would face Parsons Boulevard. Parking and loading areas would be accessed through three curb cuts on Parsons Boulevard. One loading dock would be located at the north end of the site, adjacent to the Police Department building. No parking is required by zoning, but the applicant proposes to build an accessory parking garage with 133 car spaces and 18 bicycle spaces. The garage would be a four-level automated system, located at the south end of the site. The garage's lower three levels would be below grade. Three outdoor seating areas with, in total, 58 linear feet of seating would be provided at the front, rear, and north side of the building. A walkway would wrap around the building from north to east through a planted area with an additional 72 linear feet of seating.

Pursuant to Section 22-42, nursing homes in community districts with a ratio of beds to population that exceeds the citywide ratio must obtain a special permit pursuant to Section 74-90. In Queens Community District 8, there are presently 8.5 nursing home beds per 1,000 residents. Since this ratio exceeds the citywide ratio of 5.5 beds per 1,000 residents, Brookhaven is seeking this special permit.

In addition, the applicant is seeking a special permit pursuant to Section 74-902. Section 24-111 stipulates that nursing homes in R6 districts may not exceed an FAR of 2.43. The concurrent application (C 110164 ZSQ) was filed to modify Section 24-111 to allow the proposed nursing home to be developed to an FAR of 2.95. The maximum FAR that may be requested pursuant to this special permit in an R6 district is 4.8.

The majority of land uses in the vicinity of the project site are residential. Across Parsons Boulevard, west of the site, the block contains a two-story garden apartment complex (Pomonok Crest) and two nine-story apartment buildings (Aguilar Gardens). To the south, a series of three-

story attached residential buildings line Parsons Boulevard and a seven-story assisted living facility (Boulevard ALP) faces 72nd Avenue. Beyond 72nd Avenue, the neighborhood is primarily composed of one- and two-family detached frame buildings within an R3-2 zoning district. To the east of the site is the applicant's vacant lot, beyond which is a complex of three-story apartment buildings. To the north of the site, adjacent to the police building, is an eight-story apartment building (The Atria). Beyond 71st Avenue there are two large residential complexes containing multiple buildings of between three and eight stories. West of Parsons Boulevard is a New York City Housing Authority complex, Pomonok Houses. Across Parsons Boulevard from the public housing complex is Electchester, a cooperative housing development with a shopping plaza facing Parsons Boulevard.

ENVIRONMENTAL REVIEW

This application (C 110163 ZSQ), in conjunction with the application for the related application (C 110164 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 110163 ZSQ), in conjunction with the application for the related application (C 110164 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 on June 11, 2012, and on June 13, 2012, by a vote of 15 to 25 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 the following condition:

“A Community Advisory Group comprised of area civic associations, Community Board 8, local elected officials should be convened when needed 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.”

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 two speakers in favor and none opposed.

The applicant's representative described the proposal and site history. He also stated that the applicant is willing to discuss establishing a community advisory group with Community Board 8 and local civic associations.

An engineer described the proposed building's parking system. There were no other speakers and the hearing was closed.

CONSIDERATION

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

The Commission notes that the design of the proposed building respects the surrounding context and meets the recreation needs of its future residents. The proposed eight-story nursing home is consistent in height with nearby buildings. Two nine-story apartment buildings are directly across Parsons Boulevard from the site; an eight-story assisted living building is adjacent to the south; an eight-story apartment building is adjacent to the northeast. NYCHA's Pomonok Houses and the Electchester co-operative complex contain buildings with seven and eight stories. Seating areas will be provided at the front, rear, and side of the building with ample seating. The grounds will be planted and landscaped. Therefore, the Commission believes that the architectural landscaping treatment and the height of the proposed building containing such uses blends harmoniously with the topography of the surrounding area. The Commission notes that the proposed building is a state-accredited nursing home with full-time medical doctors a staff of supporting health-care workers. Long-term care, including rehabilitation and physical therapy, will be provided to residents in the building. Should residents need acute care, the proposed building is approximately one mile from Queens Hospital Center and approximately two miles from New York Hospital-Queens. Opportunities for passive recreation will be provided through the seating areas, plazas, and paths included on the property. The Commission therefore believes

that the proposed facility will not require any significant additions to the area's supporting services.

The Commission notes that the applicant performed a study on the traffic impacts associated with the nursing home and found that the additional vehicle trips generated by the facility would not have adverse impacts on vehicular traffic in the surrounding street network. Although no off-street accessory parking or loading berths are required pursuant to zoning, the applicant plans to provide 133 parking spaces in an automated garage and one off-street loading berth. Very few residents of the nursing home will drive—the parking garage will primarily serve staff and visitors. The Commission therefore believes 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.

The Commission notes that the proposed nursing home intends to offer several benefits. It will provide an opportunity for elderly area residents to continue to live in Community District 8 and receive skilled nursing care. The nursing home will employ approximately 150 full-time and 74 part-time employees once complete. Approximately 48 full-time jobs lasting 24 months at a minimum will be generated by construction of the building. The applicant's proposal demonstrates sensitivity to nearby buildings. The Commission therefore believes that disadvantages to the community imposed by the concentration of these facilities in the Community District are outweighed by the benefits.

The Commission notes that the Borough President requested that a community advisory group be convened to address issues and concerns that may arise during the construction and operation of the proposed nursing home. The Commission urges the applicant to continue to communicate with the community regarding these concerns.

FINDINGS

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

74-90 Use and Bulk modifications for certain Community Facility Uses

- (a) that the architectural landscaping treatment and the height of the proposed building containing such uses blends harmoniously with the topography of the surrounding area;
- (b) that the proposed development will not require any significant additions to the supporting services of the neighborhood or that provisions for adequate supporting services has been made;
- (c) that the streets providing access to such use are adequate to handle the traffic generated thereby or provision has been made to handle such traffic;
- (d) that the disadvantages to the community imposed by the concentration of these facilities in the Community District are outweighed by the benefits; and
- (e) not applicable.

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 74-90 of the Zoning Resolution to allow a 298-bed nursing home use within a proposed 8-story building on property located on the easterly side of Parsons Boulevard between 71st and 72nd Avenues (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 110163 ZSQ) in conjunction with the related application (C 110164 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 110163 ZSQ), duly adopted by the City Planning Commission on September 5, 2012 (Calendar No. 13), 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 110163 ZSQ**

CEQR Number: 11DCP059Q

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

Borough(s): Queens

Community District Number(s): 8

DEPARTMENT OF CITY PLANNING

JUN 18 2012

QUEENS OFFICE

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 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 74-90 of the Zoning Resolution to allow a 298-bed nursing home use within a proposed 8-story building on property located on the easterly side of Parsons Boulevard between 71st and 72nd 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	
RECOMMENDATION <input type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input checked="" type="checkbox"/> Disapprove With Modifications/Conditions Please attach any further explanation of the recommendation on additional sheets, as necessary.			
Voting # In Favor: 15 # Against: 25 # Abstaining: 0 Total members appointed to the board: 48			
Name of CB/BB officer completing this form Alvin Warshawich		Title Chair	
		Date 6/15/2012	

Queens Borough President Recommendation

APPLICATION: ULURP #110063 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 74-90 of the NYC Zoning Resolution, for the grant of a Special Permit 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, Hillcrest, Borough of Queens. (Related application ULURP #110064 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:

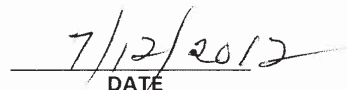
- The applicant has filed an application for a special permit, required when a nursing home is proposed in a community district which has a ratio of beds per 1,000 of population in excess of the citywide ratio, to allow development of a nursing home in Community District 8 where the ratio of beds to 1,000 of population exceeds the citywide ratio.;
- 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. A separate application (ULURP #110064 ZSQ) has been filed to allow the proposed 2.95 Floor Area Ratio. 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.;
- 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 107th Precinct Station House on the east side of Parsons Boulevard south of 71st 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 when needed 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