



## **CITY PLANNING COMMISSION**

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November 19, 2003/Calendar No. 11

C 030032 ZSQ

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**IN THE MATTER OF** an application submitted by Jamaica Hospital Nursing Home Co. Inc., 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 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 4-story, approximately 121,000 square foot nursing home building on property located between 134<sup>th</sup> and 135<sup>th</sup> Streets, approximately 130 feet north of 91<sup>st</sup> Avenue, (Block 9263, Lots 8, 10, 12, 14, 16, 18, 20, 22, 40, 42, 44, 46, 48, 50, 52 and 54) in R4 and R6 districts, Borough of Queens, Community District 9.

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The application for the special permit was filed by Jamaica Hospital Nursing Home Co. on July 25, 2002, in order to facilitate the construction of a 226-bed nursing facility to replace an existing 204-bed facility.

### **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:

N 030183 ZCQ	Certification pursuant to Section 22-42 of the Zoning Resolution that none of the findings which are a precondition of designation pursuant to Section 74-903 exist in Community District 9, Queens.
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### **BACKGROUND**

The applicant, Jamaica Hospital Nursing Home Co., Inc., is seeking the grant of a special permit pursuant to Section 74-902 of the Zoning Resolution to permit the allowable community facility floor area ratio (FAR) of Section 24-11 of the Zoning Resolution to apply to a proposed 226-bed nursing home in Community District 9. In addition, a certification is required pursuant to Section 22-42 of the Zoning Resolution that the project is not in a Community District that requires a special permit pursuant to Sections 74-90 and 74-903 of the Zoning Resolution.

The site consists of sixteen lots. Twelve lots are zoned R4 and the remaining four lots are zoned R6. The area west of the site is zoned R4 while the hospital complex fronting on the Van Wyck Expressway is zoned R6. The area across the Van Wyck Expressway is zoned R5. Two blocks west of the site are the Long Island Rail Road tracks, which separate the neighborhood from an industrial area zoned M1-1. Much of the land in the vicinity is used for transportation and utility infrastructure in the form of the Van Wyck Expressway and the Long Island Rail Road. The area between the rail line and the site is developed almost entirely with single-family detached homes. Several detached homes are adjacent to the proposed facility on 134<sup>th</sup> Street. Most of the land between 134th Street and the Van Wyck is occupied by hospital buildings. Directly across the Van Wyck Expressway there are community facilities and some commercial uses, including a hotel and offices.

The applicant intends to construct a 226-bed nursing home on the site of an unused 225-space parking lot located behind Jamaica Hospital Medical Center in Jamaica, Queens. The parking lot on the subject property is no longer used because a 990-space garage has been constructed across 89th Avenue from the hospital complex. The existing nursing home, Trump Pavilion, has 204 beds and is located across 135th Street from the proposed nursing home. The existing facility was constructed over 27 years ago and no longer meets the needs of the nursing home residents. Once the new facility is in operation, the Trump Pavilion building will be used as offices for existing hospital employees.

The project site is approximately 57,946 square feet and is situated in the mid-portion of a block bounded by 89th Avenue, 135th Street, 91st Avenue and 134th Street. The development parcel consists of 16 tax lots (Block 9263, Lots 8, 10, 12, 14, 16, 18, 20, 22, 40, 42, 44, 46, 48, 50, 52 and 54) owned by Jamaica Hospital Medical Center.

The proposed 226 bed nursing home would have twenty-two (22) bed more beds than Trump Pavilion. The proposed 121,000 square foot facility would be 50 feet (four stories) in height and will provide the 16 required parking spaces on-site. Entrances to the building would be located

on 135th Street, a street that primarily serves the hospital complex. The building would be set back 30 feet from the street line on 134th Street as well as from the adjacent privately owned residence to the south of the project site. Plans for the new nursing home also include space that could potentially be used as a 24-station dialysis center.

Nursing homes are limited to the residential floor area ratio (FAR), which for this site is 0.75 in the R4 portion and 2.43 in the R6 portion (a maximum of 65,931 square feet). With a Special Permit under 74-902, as requested in this application (C 030032 ZSQ), the site could be developed at 2.0 FAR in the R4 portion and 4.8 FAR in the R6 portion (a maximum of 153,147 square feet). The proposed nursing home would be developed at 1.92 FAR in the R4 and 2.67 FAR in the R6 (a total of 121,000 square feet).

In conjunction with this application (C 030032 ZSQ), the applicant is also seeking a Certification that no special permit is required for a property to be used as a nursing home in Community District 9. For Certification under Section 22-42 of the Zoning Resolution, the proposed project must not meet the three findings found in ZR 22-13: that the ratio of nursing home beds to total population in the District shows a relative concentration of beds compared to other Community Districts; that there is a scarcity of land for general community purposes; or that construction of such facilities should be reviewed because a large number have been built over the last three years and they now threaten to disrupt local land use balance.

According to the August 2003 bed-to-population ratios, Queens Community District 9 currently has 204 beds for 141,600 persons for a ratio of 1.4 beds per 1000 persons - well below the city average of 5.7 beds per 1000 persons. With the additional twenty-two beds (22) from the proposed facility and 280 beds from an unrelated project approved in the 1990s but never constructed, the ratio would rise from 1.4 to 3.6 beds per 1000 persons. At 3.6 beds per 1000 persons, Community District 9 would still be below the city average of 5.7 beds per 1000 persons.

## ENVIRONMENTAL REVIEW

This application (C 030032 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 02DCP063Q. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on November 17, 2003, stating the following:

The applicant agrees to comply with the recommendations presented in the letter dated November 20, 2002 from the New York City Department of Environment Protection (NYC DEP) regarding hazardous materials conditions on the project site. The recommendations are as follows:

1. In order to adequately identify/characterize the surface and subsurface soils of this site, OEPA recommends that a total of 4 soil borings should be performed on the site in the vicinity of the four corners. Two soil samples should be collected from each test boring (one from the surface interval - 0-2' bgs and one from the subsurface interval at the proposed excavation depth). Each borehole shall be continuously screened with PID/OVA for the presence of VOCs. The collected soil samples should be analyzed by an NYSDOH ELAP-certified laboratory for the presence of VOCs by Method 8260, SVICs (base neutrals and acid extractables) by Method 8270, Pesticides /PCBs Method 8081/8082 and Priority Pollutant Metals.
2. Groundwater samples will not be necessary due to the depth of the groundwater table.
3. An investigative Protocol/Workplan summarizing the proposed drilling and soil sampling activities should be submitted to DEP. The workplan should include blueprints and/or site plans displaying the current surface grade and sub-grade elevations, and a site map depicting the proposed soil boring locations. Additionally, an investigative Health and Safety Plan (HASP) should be submitted to DEP for review.

4. At the completion of the soil/groundwater sampling activities, a detailed report summarizing the investigative findings and summary of analytical results (in tabular form) with correlating NYSDEC TAGM 4046 Guidance Levels, must be submitted to DEP. In addition, a written narrative, updated site map depicting soil boring locations, and remedial recommendations (if warranted) should be submitted to the DEP for review and approval.
5. Due to the potential for contamination which may exist at the site, a restrictive declaration with DEP that should be binding on the property's assessors and assigns is necessary to prevent future exposure to either construction workers or occupants. The restrictive declaration restricts the manner in which the property may be developed or redeveloped, by requiring that subsurface testing and remediation measures, if required, serve as a condition precedent to any change of use or subsurface excavation conducted as part of any development or redevelopment of the property.
6. The Workplan and HASP should be submitted to DEP prior to the start of any field work. Upon written approval of this document, the DEP should be notified one week prior to the start of any field work.

## **UNIFORM LAND USE REVIEW**

This application (C 030032 ZSQ), in conjunction with the application for the related action (C 030183 ZCQ), was certified as complete by the Department of City Planning on August 11, 2003, and was duly referred to Community Board 9 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 9 held a public hearing on this application on January 8, 2002, and on that day, by a vote of 25 to 1 with 0 abstentions, adopted a resolution recommending approval of the application.

This hearing and vote were held before ULURP certification and the vote is therefore non-complying.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application on October 21, 2003.

However, the Borough President's recommendation was submitted after the Borough President's 30-day review period expired and is therefore non-complying.

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

On September 24, 2003 (Calendar No. 8), the City Planning Commission scheduled October 8, 2003, for a public hearing on this application (C 030032 ZSQ). The hearing was duly held on October 8, 2003 (Calendar No. 24). There were three speakers in favor of the application and no speakers in opposition.

Three representatives of the applicant spoke in favor of the application. The applicant's attorney presented the project and explained that the twenty-two additional beds at the proposed facility were transferred from another area facility due to a state moratorium. The project's architect illustrated how the building was designed to minimize impacts on the neighboring residential properties. The director of construction for Jamaica Hospital discussed the hospital's future plans and the relationship that the institution has developed with the community.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the grant of this special permit is appropriate.

The proposed special permit, in conjunction with the related action (N 030183 ZCQ) will facilitate the development of a 226-bed nursing facility in Jamaica, Queens Community District 9.

The proposed special permit is necessary in order to accommodate the project's proposed bulk,

which will exceed the current permitted floor area ratio (FAR). The R4 and R6 zoning districts allow 0.75 and 2.43 FAR respectively. The special permit would allow use of the community facility FAR for the proposal. The applicant is proposing an FAR of 1.92 in the R4 portion and 2.47 in the R6 portion.

The proposed four-story structure will be oriented toward 135<sup>th</sup> Street, which currently serves the hospital campus, and away from the residential neighborhood on 134<sup>th</sup> Street. The main entrance and drop-off area will be located on 135<sup>th</sup> Street, while only one exit from the 16-space parking lot will be located on 134<sup>th</sup> Street.

The bulk and height for the proposed nursing facility will create a satisfactory relationship with the scale of the adjacent residential buildings. The hospital buildings across 135<sup>th</sup> Street are taller than the proposed structure, which would be fifty feet in height. The proposed building will be setback thirty feet from the street line on 134<sup>th</sup> Street as well as the residence to the south. The proposed development includes a brick wall to buffer the loading area from adjacent homes. Plans also include a landscaped courtyard with seating, enclosed with decorative fencing along the 134<sup>th</sup> Street frontage.

The proposed parking lot provides the requirement of 16 spaces, which the hospital intends to use for visitor parking only. Employee parking would be provided in the 990-space hospital garage to the northeast of the project site. A total of five curb cuts will be provided. Four of the five curb cuts will be on 135<sup>th</sup> Street: two for the drop-off area, one for the loading dock, and one for the entrance to the visitor parking lot. A fifth curb cut will be provided on 134<sup>th</sup> Street for the exit driveway for the visitor parking lot.

The increase in traffic generated by the proposed development will be minimal. Although an increase of twenty-beds is proposed, no additional hospital staff will be required. The hospital complex is accessed from the southbound Van Wyck Expressway service road. The proposed facility is served by several bus routes and is one block from a subway station.

The proposed facility will not require any significant additions to the neighborhood's supporting services. The Jamaica Hospital is directly adjacent to the proposed facility, and the proposed development includes plans for a tunnel under 135<sup>th</sup> Street for rapid transfer of patients, staff, and supplies. In addition, the facility would have 24 hour security.

## **FINDINGS**

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

### 74-902

1. that the distribution of the bulk of the total development will not unduly obstruct the access of light and air to adjoining properties or public access, and will result in satisfactory site planning and satisfactory urban design relationships of buildings to adjacent streets and surrounding developments,
2. that the proposed development will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made; and
3. 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 subject to the following conditions:

1. In order to adequately identify/characterize the surface and subsurface soils of this site, OEPA recommends that a total of 4 soil borings should be performed on the site in the vicinity of the four corners. Two soil samples should be collected from each test boring (one from the surface interval - 0-2' bgs and one from the subsurface interval at the proposed excavation depth). Each borehole shall be continuously screened with PID/OVA for the presence of VOCs. The collected soil samples should be analyzed by an NYSDOH ELAP-certified laboratory for the presence of VOCs by Method 8260, SVICs (base neutrals and acid extractables) by Method 8270, Pesticides /PCBs Method 8081/8082 and Priority Pollutant Metals.
2. An investigative Protocol/Workplan summarizing the proposed drilling and soil

sampling activities should be submitted to DEP. The workplan should include blueprints and/or site plans displaying the current surface grade and sub-grade elevations, and a site map depicting the proposed soil boring locations. Additionally, an investigative Health and Safety Plan (HASP) should be submitted to DEP for review.

3. At the completion of the soil sampling activities, a detailed report summarizing the investigative findings and summary of analytical results (in tabular form) with correlating NYSDEC TAGM 4046 Guidance Levels, must be submitted to DEP. In addition, a written narrative, updated site map depicting soil boring locations, and remedial recommendations (if warranted) should be submitted to the DEP for review and approval.
4. Due to the potential for contamination which may exist at the site, a restrictive declaration with DEP that should be binding on the property's assessors and assigns is necessary to prevent future exposure to either construction workers or occupants. The restrictive declaration restricts the manner in which the property may be developed or redeveloped, by requiring that subsurface testing and remediation measures, if required, serve as a condition precedent to any change of use or subsurface excavation conducted as part of any development or redevelopment of the property.
5. The Workplan and HASP should be submitted to DEP prior to the start of any field work. Upon written approval of this document, the DEP should be notified one week prior to the start of any field work.

; 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 of Jamaica Hospital Nursing Home Co. Inc. for the grant of a 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 to a proposed 4-story, approximately 121,000 square foot nursing home building on property located between 134<sup>th</sup> and 135<sup>th</sup> Streets, approximately 130 feet north of 91<sup>st</sup> Avenue, Borough of Queens, Community District 9., Borough of Queens, Community District 9, is approved, pursuant to Sections and be of the Zoning Resolution, subject to the following terms and conditions:

1. The property that is the subject of this application (C 030032 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 RBSD Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-2	Site Plan	November 13, 2003
Z-1	Zoning Plan	June 24, 2003

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have 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. The development shall conform to all conditions, modifications and alterations set forth in the Conditional Negative Declaration (CEQR No. 02DCP063Q) dated November 17, 2003, issued pursuant to the New York State and New York City Environmental Quality Review. These conditions, modifications and alterations are as follows:
  - a. In order to adequately identify/characterize the surface and subsurface soils of this site, OEPA recommends that a total of 4 soil borings should be performed on the site in the vicinity of the four corners. Two soil samples should be collected from each test boring (one from the surface interval - 0-2' bgs and one from the subsurface interval at the proposed excavation depth). Each borehole shall be continuously screened with PID/OVA for the presence of VOCs. The collected soil samples should be analyzed by an NYSDOH ELAP-certified laboratory for the presence of VOCs by Method 8260, SVICs (base neutrals and acid extractables) by Method 8270, Pesticides /PCBs Method 8081/8082 and Priority Pollutant Metals.
  - b. An investigative Protocol/Workplan summarizing the proposed drilling and soil sampling activities should be submitted to DEP. The workplan should include blueprints and/or site plans displaying the current surface grade and sub-grade elevations, and a site map depicting the proposed soil boring locations. Additionally, an investigative Health and Safety Plan (HASP) should be submitted to DEP for review.
  - c. At the completion of the soil sampling activities, a detailed report summarizing the

investigative findings and summary of analytical results (in tabular form) with correlating NYSDEC TAGM 4046 Guidance Levels, must be submitted to DEP. In addition, a written narrative, updated site map depicting soil boring locations, and remedial recommendations (if warranted) should be submitted to the DEP for review and approval.

- d. Due to the potential for contamination which may exist at the site, a restrictive declaration with DEP that should be binding on the property's assessors and assigns is necessary to prevent future exposure to either construction workers or occupants. The restrictive declaration restricts the manner in which the property may be developed or redeveloped, by requiring that subsurface testing and remediation measures, if required, serve as a condition precedent to any change of use or subsurface excavation conducted as part of any development or redevelopment of the property.
  - e. The Workplan and HASP should be submitted to DEP prior to the start of any field work. Upon written approval of this document, the DEP should be notified one week prior to the start of any field work.
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 alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
6. Neither the City of New York or 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 and authorization.

**AMANDA M. BURDEN, AICP, Chair**

**KENNETH J. KNUCKLES, Esq., Vice Chairman**

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,**

**RICHARD W. EADDY, JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO,**

**KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners**