



CITY PLANNING COMMISSION

April 22, 2009/ Calendar No. S1

M 090312 ZMK

IN THE MATTER of an application submitted by Hudson Eldert, LLC, and Skyview Realty Association, Ltd., for modification of a Restrictive Declaration, which was approved as part of a Zoning Map Amendment (CP 21749), to eliminate the restriction that the property be limited to hospital and hospital-related uses, including nursing home facilities and the restriction that the parking be subject to the requirements applicable in an R4 District, on property located at 783 Eldert Lane (Block 4469, Lots 1, 6, 10, 16 and 54), in an R6 District.

WHEREAS, on February 6, 2009, Hudson Eldert, LLC, and Skyview Realty Association, Ltd., submitted an application (M 090312 ZMK) for the modification of a Restrictive Declaration, dated December 20, 1971, to permit residential development located on Block 4469, Lots 1, 6, 10, 16, and 54, in the Borough of Brooklyn; and

WHEREAS, the Restrictive Declaration (hereinafter “Declaration”), dated December 20, 1971, and recorded in the Office of the New York City Register, Kings County on January 17, 1972, in connection with approval of an amendment to the Zoning Map (CP 21749), submitted by Interboro General Corporation, Dumont Estates, Inc., and South Brooklyn Estates, Inc., to facilitate the expansion of a hospital and the development of a nursing home on Block 4469, Lots 1, 6, 10, 16, and 54, in Community District 5, Borough of Brooklyn; and

WHEREAS, the Declaration limits the development of the Subject Property to hospital and hospital-related uses, including nursing home facilities, and restricts parking to the requirements applicable in R4 zoning districts; and

WHEREAS, Hudson Eldert, LLC, and Skyview Realty Association, Ltd., have submitted this application (M 090312 ZMK), for the modification of the Declaration in order to facilitate Hudson’s development of an apartment building which will provide affordable rental housing to low income residents, to facilitate Skyview’s construction of senior housing and/or senior assisted living housing and/or replace the existing nursing home facility with a new nursing home facility, and to ensure compliance with project components related to the environment; and

WHEREAS, Hudson intends to develop on Block 4469, Lots 1 and 54 a residential apartment building of not more than 70 feet in height containing approximately 135,413 square feet of residential floor area and containing up to 176 residential units for low income persons, with parking provided in accordance with regulations applicable in R6 districts; and

WHEREAS, Skyview intends to develop on Block 4469, Lot 6, 10, and 16 a senior housing and/or senior assisted living housing project, containing up to 150 residential units and approximately 109,000 square feet of residential floor area in one or more buildings of not more than 70 feet in height and/or replace the existing nursing home facility with a new nursing home facility, with parking provided in accordance with regulations applicable in R6 districts; and

WHEREAS, this application (M 090312 ZMK) 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 91 of 1977. After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on April 22, 2009; and

WHEREAS, in a letter dated April 14, 2009, Community Board 5 expressed support of the Modification of the Subject Declaration; and

WHEREAS, the Commission has determined that the application warrants approval; and

THEREFORE, be it **RESOLVED** that the City Planning Commission, after consideration of the proposed modification, finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, that the application (M 090312 ZMK) submitted by Hudson Eldert, LLC, and Skyview Realty Association, Ltd., for the modification of the Restrictive Declaration dated December 20, 1971, and originally approved as part of an application for a Zoning Map Amendment (CP 21749), to permit residential development on property generally bounded by

Eldert Lane, Dumont Avenue, Drew Street and Linden Boulevard (Block 4469, Lots 1, 6, 10, 16, and 54), in an R6 District, Community District 5, Brooklyn is approved subject to the following conditions:

1. Such development shall conform to all applicable provisions of the Zoning Resolution.
2. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
3. Such development shall conform to requirements set forth in the modified restrictive declaration described below.
4. A copy of this resolution and the modified restrictive declaration described below, and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
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 and the attached modified restrictive declaration whose provisions shall constitute conditions of the approvals granted herein, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said approval. 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 any approvals hereby granted or of the attached restrictive declaration.
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 approval.

The above resolution (M 090312 ZMK), duly adopted by the City Planning Commission on April 22, 2009 (Calendar No. S1), is filed with the Office of the Speaker, City Council.

AMANDA M. BURDEN, FAICP, Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,

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KAREN A. PHILLIPS, Commissioners