***CORRECTION**

This resolution adopted on February 7, 2012, under Calendar No. 54-11-BZ and printed in Volume 97, Bulletin No. 7, is hereby corrected to read as follows:

54-11-BZ
CEQR #11-BSA-087K
APPLICANT – Law Office of Fredrick A. Becker, for Bay Parkway Group LLC, owner.
SUBJECT – Application April 21, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory diagnostic or treatment facility building. R6/C1-3 zoning district.
PREMISES AFFECTED – 6010 Bay Parkway, west side of Bay Parkway between 60th Street and 61st Street, Block 5522, Lot 36 & 42, Borough of Brooklyn.
COMMUNITY BOARD #12BK
APPEARANCES –
For Applicant: Lyra J. Altman.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez 5
Negative:.....0
THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 25, 2011, acting on Department of Buildings Application No. 310101047, reads in pertinent part:

> Proposed number of accessory parking spaces for the building at the premises is less than the number of parking spaces required by ZR Section 36-21; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, within a C1-3 (R6) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use community facility/commercial building from 231 to 177, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on August 16, 2011, after due notice by publication in The City Record, with continued hearings on September 13, 2011, October 18, 2011, November 22, 2011 and January 10, 2012, and then to decision on February 7, 2012; and

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

WHEREAS, City Council Member David G. Greenfield and New York State Assemblymember William Colton provided testimony in opposition to the application; and

WHEREAS, Community Board 12, Brooklyn, recommended disapproval of the application; and

WHEREAS, the Neighbors for the Preservation and Development of Brooklyn Southwest, represented by counsel, provided testimony in opposition to the proposal stating concerns that (1) the applicant does not meet the requirements of the special permit including that it act in good faith, (2) there is a discrepancy between the required number of parking spaces set forth in the as-of-right approval and the proposal for a reduction before the Board, (3) there are flaws in the parking studies and the calculation of parking demand, and (4) any reduction in parking will negatively impact the surrounding area; and

WHEREAS, certain members of the community provided oral testimony in opposition to this application, citing concerns with its effect on parking in the surrounding neighborhood due to high parking demand associated with three area schools and existing parking demands; and

WHEREAS, the subject site is located on a through lot with frontage on Bay Parkway, 61st Street, and 60th Street, within a C1-3 (R6) zoning district; and

WHEREAS, the site is under construction with an as-of-right mixed-use community facility/commercial building, pursuant to DOB approval; and

WHEREAS, the applicant initially proposed a nine-story mixed-use community facility/commercial building with 93,920 sq. ft. of floor area and 120 accessory parking spaces, which required a reduction from the required 235 parking spaces (four for commercial use and 231 for community facility use); and

WHEREAS, at the Board's direction and after several iterations, the applicant now proposes a nine-story mixed-use community facility/commercial building with 92,304 sq. ft. of floor area (90,837 sq. ft. for community facility use and 1,467 sq. ft. for commercial use) and 177 accessory parking spaces with a program as follows: (1) 57 parking spaces in the cellar (including 18 stackers); (2) UG 6 commercial use and UG 4 community facility use on the first floor; (3) 48 parking spaces on the second floor; (4) 72 parking spaces on the third floor; and (5) community facility use on the fourth through ninth floors; and

WHEREAS, the initial proposal reflected an attended parking lot without stackers and the current proposal reflects an attended parking lot with stackers; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C1-3 (R6) zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provision, for ambulatory diagnostic or treatment facilities in the parking category B1; in the subject zoning district, the Board may reduce the required parking 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 § 36-21 the total number of required parking spaces for all uses at the site is 231; and

WHEREAS, the applicant represents that the proposed 177 parking spaces are sufficient to accommodate the parking demand generated by the use of the site; and

WHEREAS, the applicant notes that 1,467 sq. ft. of floor area in the building is occupied by commercial space, which is not in parking category B1 and therefore the associated four required spaces have been excluded from the calculations for the requested reduction in parking; and

WHEREAS, the applicant states that the remaining 90,837 sq. ft. of floor area at the site will be occupied by ambulatory diagnostic or treatment facility space, which is eligible for the parking reduction under ZR § 73-44; at a rate of one required parking space per 400 sq. ft. of floor area, 227 parking spaces are required for this use; and

WHEREAS, accordingly, the total number of parking spaces which are eligible under the special permit is 227; as noted, the special permit allows for a reduction from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area, which would reduce the required parking for these uses to 114 spaces; and

WHEREAS, as noted, an additional four parking spaces are required for the 1,467 sq. ft. of floor area occupied by commercial space, which is not eligible for the special permit; and

WHEREAS, thus, the special permit allows for a reduction to a total of 118 parking spaces on the site; and

WHEREAS, the applicant notes that the proposed total of 177 accessory parking spaces would provide 59 more spaces than the minimum of 118 required under the special permit; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the ambulatory diagnostic or treatment facility use in the B1 parking category is contemplated in good faith; and

WHEREAS, the applicant states that the facility will be occupied by existing ambulatory diagnostic facilities currently operating in the area, including those associated with Maimonides Hospital, who are waiting to move to the site and who have committed to lease 52,650 sq. ft. of the building; the remaining floor area is anticipated to be used and restricted to similar ambulatory diagnostic uses; and

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

WHEREAS, however, while ZR § 73-44 allows the Board to reduce the required accessory parking, the Board requested an analysis about the impact that such a reduction might have on the community in terms of available on-street parking; and

WHEREAS, in response to the community's concerns about parking demand, the applicant asserts that its studies reflect a peak parking demand of 131 cars, and the proposed 173 spaces for community facility use provide an excess of 42 parking spaces, or 32 percent more than is required to satisfy the peak parking demand; and

WHEREAS, the applicant asserts that the onsite parking will be able to accommodate the facility's parking demand and will not create a demand for curbside or other off-site parking; and

WHEREAS, in support of this assertion, the applicant submitted a parking demand analysis into the record; and

WHEREAS, the applicant notes that its parking demand analysis was based on Institute of Transportation Engineers (ITE) traffic standards to establish the number of person trips to the site, which reflects 317 person trips during peak periods; and

WHEREAS, however, the applicant notes that to establish the number of people who would drive to the site, it performed a parking demand survey from the existing facilities to be relocated to the site, which reflected that 38 percent of patients and employees would drive to the site daily; and

WHEREAS, the applicant then applied the 38 percent to the ITE data and found that the peak parking demand would be 121 spaces, which is a revision of a prior determination of 131 spaces due to a failure to account for the overlap of 75 percent of patients of one of the building's programs (RadNet) to other programs in the building; and

WHEREAS, the applicant notes that if it were to use its survey data, rather than the adjusted ITE data and apply it to the entire building, the peak parking demand would be 143 spaces; and

WHEREAS, the applicant derives the more conservative 143 spaces by noting that, based on surveys of the existing offsite facilities, 151 people (93 patients and 58 staff) will drive to the site to visit the practices occupying 52,650 sq. ft. of the already leased space; the applicant extrapolated that the remaining portions of the building not already leased will be occupied by tenants with similar travel characteristics and thus, for the additional 38,187 sq. ft. of community

facility space, the result would be 139 additional daily driving trips (91 patients and 48 staff); and

WHEREAS, the applicant's analysis resulted in a conclusion that 151 trips (based on the survey) and 139 trips (based on extrapolation) amount to 290 daily vehicle trips, consisting of 184 patient and 106 staff trips; and

WHEREAS, the applicant asserts that patient visits will have an anticipated duration of two hours and will be spread across the course of a ten-hour day from 8:00 a.m. to 6:00 p.m.; and

WHEREAS, the applicant concludes that the proposed 173 spaces would accommodate the peak parking demand under either the ITE or parking survey of existing facilities methodologies as the adjusted ITE analysis reflects a peak parking demand of 121 parking spaces for community facility use, or 52 fewer spaces than the proposed, and the parking survey analysis reflects a demand of 143 parking spaces, or 30 fewer than the proposed; and

WHEREAS, during the hearing process, the Board directed the applicant to explore redesign of the parking facilities to maximize utility and to eliminate any non-essential space (such as the cafeteria) in the cellar to allow for additional parking; and

WHEREAS, in response, the applicant stated that the first floor cannot be re-designed since it will be occupied by MRI equipment which, due to its sensitivity and size must be located on the first floor so that it can be serviced and moved through a portion of removable façade; and

WHEREAS, the applicant has met with DOB to review the maneuverability and other parking calculations and has maximized the number of stackers, which it will reserve for employee use; and

WHEREAS, in response to questions about maximum parking space occupancy, the applicant confirmed DOB's requirement for 200 sq. ft. per car and 153 sq. ft. per car for the second car in a stacker; and

WHEREAS, accordingly, after the redesign of the cellar space and removal of all nonessential spaces, the applicant states that DOB would not approve any more spaces and/or stackers than the 57 proposed for the cellar and the corresponding numbers on the second and third floor; and

WHEREAS, based upon the applicant's revised analysis and current parking layout, the Board agrees that the accessory parking space needs can be accommodated even with the parking reduction; and

WHEREAS, in response to the opposition's concerns that the surveys which analyze the number of people coming to the site by car versus public transportation may not be comparable to the proposed location, the applicant noted that public transportation access to the subject site, including two buses (B6 and B9) within one block of the site, two subways (F and N) approximately one-third of a mile from the site, and four buses (B4, B11, B8, and B82) within .6 to .91 miles from the site, is better than that of the existing sites studied in the transportation surveys; and

WHEREAS, accordingly, the applicant asserts that the car versus public transportation assumptions it applied to the proposed site are conservative since based on areas with less access to public transportation; and

WHEREAS, the applicant also notes that it will be providing a bicycle storage room and states that it will encourage bicycle use and carpooling; and

WHEREAS, the applicant also states that it approached several potential off site locations for parking, and was unable to find any with available parking spaces; and

WHEREAS, in response to the opposition's questions about different DOB approvals, the Board notes that DOB has approved as-of-right plans, which allow the applicant to continue construction, in contrast to the proposed plans before the Board which will allow for the as-of-right plans to be amended; and

WHEREAS, the Board notes that 231 spaces are required for the proposed building and that a smaller building was approved at DOB, which requires only 206 parking spaces; the waiver request is from 231 spaces (less the four spaces for commercial use); and

WHEREAS, the Board notes that the special permit allows for a reduction in parking by 50 percent and that the current proposal for 173 spaces for community facility use reflects a reduction of 54 spaces or approximately 24 percent; and

WHEREAS, the Board notes that the proposed use is as-of-right and the reduction is less than half the maximum reduction contemplated by the special permit; and

WHEREAS, accordingly, the Board finds that the proposed use will not have an adverse impact on the community, will not interfere with any public improvement project, and will not interfere with the existing street system; and

WHEREAS, based upon the above, 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 use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; 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 (EAS)

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CEQR No. 11BSA087K, dated July 11, 2011; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; 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 Negative Declaration under 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 §§ 73-44 and 73-03 to permit, within an C1-3 (R6) zoning district, a reduction in the required number of accessory parking spaces for a mixed-use community facility/commercial building from 231 to 177, 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 February 1, 2012"- twenty-two (22) sheets, and on further condition:

THAT there will be no change in the operation of the site without prior review and approval by the Board;

THAT a minimum of 177 parking spaces will be provided in the accessory parking garage in the subject building;

THAT no certificate of occupancy will 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;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT the layout and design of the accessory parking lot will be as reviewed and approved by the Department of Buildings;

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

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

THAT the Department of Buildings 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 7, 2012.

***The resolution has been revised to correct the required parking spaces and the community facility use in the 11th WHEREAS, which read: "…*231 parking spaces and 227 for community facility use…*" now reads: "…*235 parking spaces and 231 for community facility use…* ", and to amend the clause in the 48th WHEREAS. Corrected in Bulletin No. 8, Vol. 97, dated February 22, 2012.**

A true copy of resolution adopted by the Board of Standards and Appeals, February 7, 2012.
Printed in Bulletin No. 7, Vol. 97.

Copies Sent
To Applicant
Fire Com'r.
Borough Com'r.