



IN THE MATTER OF an application submitted by McDonald's Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 28d:

1. eliminating from within an existing R6 District a C1-2 District bounded by Neptune Avenue, West 6th Street, Sheepshead Bay Road, and a line 150 feet westerly of West 6th Street; and
2. establishing within an existing R6 District a C2-4 District bounded by Neptune Avenue, West 6th Street, Sheepshead Bay Road, and a line 150 feet westerly of West 6th Street;

Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated November 30, 2020.

This application for a zoning map amendment was filed by the applicant, McDonald's Corporation, on September 21, 2020 to map a C2-4 commercial overlay on an existing R6/C1-2 zoning district within the Special Ocean Parkway District (OP). The proposed action would facilitate the legalization of an existing accessory drive through facility and modification to the Restrictive Declaration in an existing eating and drinking establishment at 606 Neptune Avenue located in the West Brighton neighborhood of Brooklyn, Community District 13.

BACKGROUND

The applicant is requesting a zoning map amendment to establish a C2-4 commercial overlay on an existing R6/C1-2 zoning district within the OP. The proposed project site consists of Block 7270, Lot 25, and is located west of West Sixth Street in between Neptune Avenue to the north and Sheepshead Bay Road to the south. In addition to Lot 25, the project site also includes less than 10 feet of the neighboring Lot 4, located directly west of the project site.

The project site is an irregularly shaped corner lot. The project site is currently developed with an eating and drinking establishment (McDonald's) with an accessory drive through facility, 36 accessory parking spaces, and an outdoor seating area. The adjacent Lot 4 contains St. Paul's Evangelical Lutheran Church, as well as accessory surface parking for the church.

The project site is mapped with an R6/C1-2 zoning district within the OP. R6 districts are medium-density residential zoning districts that allow a development to use either height factor or Quality Housing bulk regulations. The FAR for residential uses in R6 districts can range from 0.78 to 2.43, depending on open space provisions, or from 2.2 to 3.0 floor area ratio (FAR) for Quality Housing buildings depending on street width. Community facilities in R6 districts are allowed up to 4.8 FAR. The R6 district is generally mapped between West 19th Street to the west, Shore Parkway to the north, Sheepshead Bay Road to the east and Riegelmann Boardwalk to the south.

C1-2 commercial overlays are mapped within residential districts to provide local retail uses up to a 2.0 FAR in R6 districts. C1-2 overlays are generally mapped to the east along Neptune Avenue between West Sixth and West Fifth streets.

The OP limits both community facility and residential FAR to 3.0 in R6 districts. The OP was created in 1977 (CP-23285) to limit the development of community facilities so as to preserve the surrounding residential character. The purpose of the OP is to maintain the existing scale and character of the community, protect the environmental quality, and improve the circulation within the district all while promoting and strengthening the scenic landmark designation of Ocean Parkway. The OP is a six mile long corridor up to one-half mile-wide covering over 350 blocks. It is mapped to the east and west of Ocean Parkway between Prospect Park to the north and Brighton Beach to the south. The OP is generally bounded by Fort Hamilton Parkway and West Brighton Avenue from West Sixth Street to Coney Island Avenue.

The R6/C1-2 zoning district was mapped in 1975 to allow the construction of an eating and drinking establishment on the site. McDonald's was built in 1975 and the accessory drive-through was added in 1982. The OP was mapped in 1977 and made the project site no longer eligible for a BSA special permit. The applicant's project site was approved for special permits by the BSA in 1982, 1987, 1994 and 2002. The applicants were denied by the BSA in 2014 and they applied for a rezoning in 2019. Although the applicants were informed that the accessory drive-through was not permitted in the C1-2 district, they did not know until 2015 that BSA

special permits were not allowed. The applicant has stated that in addition, the existing accessory drive-through is essential to the economic feasibility of the McDonald's and it will allow the owners to retain and provide jobs to locals in the area.

The area surrounding the project site is characterized by a wide range of land uses, including residential, commercial, parking facilities, transportation and utility. There are several residential uses, including tower-in-a-park buildings that are mostly located to the northeast, east and west of the project site, including the Amalgamated Warbasse Houses, located one block northeast of the project site, and Trump Village, located 180 feet southeast of the project site. To the north is a 12-story residential multi-family elevator building surrounded by a surface parking lot and a shed owned and operated by the New York Police Department (NYPD), used as a temporary workspace during the construction of a new facility.

Commercial uses are located to the east and south of the project site. Retail stores, a grocery store, and a gym are located one block south of the project site fronting along Sheepshead Bay Road and West Eighth Street. East of the project site is a pharmacy, a financial institution, and a one-story shopping center with local retail establishments. To the north is a 12-story self-storage building and various office locations are located to the south of the project site. The Department of Motor Vehicles, NYPD – 60th Precinct, and Fire Department of New York Engine 245 Station are also located one block to the south of the project site. Directly north of the project site are two lots (Block 7269, Lots 1 and 101) with over 70,000 square feet of vacant land, one of which (Lot 1) is used for automobile storage. A site that is one block northwest of the project site (Block 7247, Lot 113) is under construction for a new commercial building.

Several parks or open spaces are located south and southeast of the project site. These include Century Playground six blocks to the southeast along West Brighton Avenue, Asher Levy Park four blocks south along Sea Breeze Avenue, Riegelmann Boardwalk a quarter of a mile south, the New York Aquarium, Coney Island amusements and the beach.

The project site is well-served by public transportation. The Neptune Avenue Station, providing service to the F subway line, is located 400 feet to the south. The B68 and B36 bus lines have

stops one and two blocks east of the project site, and provide service from Windsor Terrace to Coney Island and Sheepshead Bay to Coney Island/Sea Gate, respectively. The streets surrounding the project site are Neptune Avenue, West Sixth Street and Sheepshead Bay Road, all of which are wide streets. The project site is located within FEMA's one percent Chance Flood Zone.

The applicant proposes to establish a C2-4 commercial overlay on the project site to facilitate the legalization of an existing accessory drive through facility within the OP.

C2-4 commercial overlays allow local retail uses and commercial development up to 2.0 FAR when mapped within R6 districts. These commercial overlays allow a wide variety of local neighborhood retail and service uses. R6/C2-4 districts also allow an accessory drive through facility to operate with an eating and drinking establishment, without requiring a Board of Standard Appeals (BSA) Special Permit. For general commercial uses, one off-street parking space is required for every 1,000 square feet of commercial floor area.

The applicant is also pursuing a modification to the Restrictive Declaration to update the site plan, an exhibit of the Restrictive Declaration. In 2002, a new site plan was approved by the BSA, but the Restrictive Declaration was not amended by the City Planning Commission to include this new site plan. The updated site plan included the reconfiguration of the accessory drive-through facility and an increase in parking spaces from 29 to 36 spaces. The 2002 BSA modifications to the site plan, reflected in a new drawing, are proposed to be included in the amended Restrictive Declaration.

ENVIRONMENTAL REVIEW

This application (C 210033 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 City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 20DCP115K.

After a study of the potential impact of the proposed actions, a Negative Declaration was issued on November 30, 2020.

UNIFORM LAND USE REVIEW

This application (C 210033 ZMK) was certified as complete by the Department of City Planning on November 30, 2020 and duly referred to Brooklyn Community Board 13 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 202(b).

Community Board Public Hearing

Brooklyn Community Board 13 held a public hearing on this application (C 210033 ZMK) on December 21, 2020 and on January 27, 2021, by a vote of 33 in favor, none opposed and none abstaining, adopted a resolution recommending approval of the application.

Borough President Recommendation

The Borough President held a public hearing on this application (C 210033 ZSK) and on January 25, 2021 issued a recommendation to approve the application.

City Planning Commission Public Hearing

On March 3, 2021 (Calendar No. 6), the City Planning Commission scheduled March 17, 2021 for a public hearing on this application (C 210033 ZMK). The hearing was duly held on March 17, 2021 (Calendar No. 33). One speaker appeared in favor of the application and none in opposition.

The applicant's representative described the project site, the actions requested, and explained the proposal to rezone for commercial use and the legalization of the accessory drive-through facility. He also explained the modification to the original Restrictive Declaration and the 2002 BSA approved site plan, which had not been reflected in the amended Restrictive Declaration.

There were no other speakers, and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application (C 210033 ZMK) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 et seq.). The designated WRP number is 19-164.

This action was determined to be consistent with the policies of the WRP.

CONSIDERATION

The City Planning Commission believes that this application (C 210033 ZMK) for a zoning map amendment is appropriate.

The requested actions will facilitate the legalization of an existing accessory drive-through facility at an eating and drinking establishment, McDonald's, on Block 7270, Lot 25.

Additionally, the actions will facilitate a modification to the Restrictive Declaration to update the 2002 BSA approved site plan. The additional actions will allow the owners to continue to operate the accessory drive-through facility in a commercial district within the OP as they have operated at this location since 1982.

While the Commission acknowledges that the drive-thru was not a permitted use under the current zoning, it nonetheless believes that the use is appropriate for the site and area. The change of use to the accessory drive-through will provide service to the heavily traveled Coney Island boardwalk and nearby residential developments.

While the Commission believes the 2002 BSA approved site plan is appropriate, the Commission notes that any subsequent modifications to the Restrictive Declaration would require review from the Commission.

The Commission acknowledges the Brooklyn Borough President's recommendation that the owner of the McDonald's engage with Brooklyn Community Board 13, area elected officials,

and workforce development organizations, to maximize local hiring, but notes that this recommendation is outside the scope of this application.

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement, for which a Negative Declaration was issued on November 30, 2020 with respect to this application (CEQR No. 20DCP115K) the City Planning Commission finds that the action described herein will have no significant adverse impact on the environment, and be it further

RESOLVED, that the City Planning Commission, acting as the City Coastal Commission, having reviewed the waterfront aspects of this action, finds that the actions will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, that the Restrictive Declaration shall be modified to include a drawing reflecting the 2002 BSA approved site plan; and be it further

RESOLVED, by the City Planning Commission pursuant to Sections 197-c of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 28d:

1. eliminating from within an existing R6 District a C1-2 District bounded by Neptune Avenue, West 6th Street, Sheepshead Bay Road, and a line 150 feet westerly of West 6th Street; and

2. establishing within an existing R6 District a C2-4 District bounded by Neptune Avenue, West 6th Street, Sheepshead Bay Road, and a line 150 feet westerly of West 6th Street;

in the Borough of Brooklyn, Community District 13, as shown on diagram (for illustrative purposes only) date November 30, 2020.

The above resolution (C 210033 ZMK), duly adopted by the City Planning Commission on April 21, 2021 (Calendar No. 6) 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.

MARISA LAGO, *Chair*

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

DAVID BURNEY, ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO, III,

JOSEPH DOUEK, RICHARD W. EADDY,

HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN,

LARISA ORTIZ, RAJ RAMPERSHAD, *Commissioners*



Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION
120 Broadway, 31st Floor, New York, NY 10271
CalendarOffice@planning.nyc.gov

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION

606 NEPTUNE AVENUE – 210033 ZMK

An application submitted by McDonald's Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to change a commercial overlay mapped to a depth of 150 feet on the west side of West Sixth Street between Neptune Avenue and Sheepshead Bay Road from C1-2 to C2-4, and a modification to a Restrictive Declaration governing use of the applicant site. Such actions are requested to legalize the accessory drive-through facility of an existing 2,450 square foot (sq. ft.) eating and drinking establishment in Brooklyn Community District 13 (CD 13).

BROOKLYN COMMUNITY DISTRICT NO. 13

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

Eric L. Adams

BROOKLYN BOROUGH PRESIDENT

March 5, 2021

DATE

RECOMMENDATION FOR: 606 NEPTUNE AVENUE – 210033 ZMK

McDonald's Corporation submitted an application, pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to change a commercial overlay mapped to a depth of 150 feet on the west side of West Sixth Street between Neptune Avenue and Sheepshead Bay Road from C1-2 to C2-4, and a modification to a Restrictive Declaration governing use of the applicant site. Such actions are requested to legalize the accessory drive-through facility of an existing 2,450 square foot (sq. ft.) eating and drinking establishment in Brooklyn Community District 13 (CD 13).

On January 25, 2021, Brooklyn Borough President Eric Adams held a remote public hearing on this zoning map amendments. There were no speakers on the item.

In response to Borough President Adams' inquiry as to what steps this McDonald's intends to take to maximize community outreach when hiring additional staff, the representative stated that the location's 60 employees are based in Brooklyn. Job applications are accepted via an online portal, referrals from current employees, and walk-in candidates. The representative noted that the owner would be willing to make additional efforts to hire locally, in consultation with the community workforce development organizations.

Consideration

Brooklyn Community Board 13 (CB 13) approved this application on January 27, 2021.

The proposed actions would affect a 35,700 sq. ft. zoning lot that extends 150 feet along Neptune Avenue and Sheepshead Bay Road, with 265 feet of frontage on West Sixth Street. The property is consists of a 4,250 square foot (sq. ft.) McDonald's restaurant, an accessory drive-through facility, and 36 parking spaces. The site is enhanced with small, landscaped areas and limited outdoor seating. The establishment is accessible via curb cuts along each of its frontages. The rezoning area also includes a 10-foot-wide portion of the adjacent lot, which contains the St. Paul's Evangelical Lutheran Church. The block is zoned R6 with a C1-2 overlay mapped over the entire McDonald's lot, and contains no other uses apart from the church and restaurant. It is located within the Ocean Parkway Special Purpose District (OP), mapped from Brighton Beach Avenue to Fort Hamilton Parkway.

The present Use Group (UG) 6 eating and drinking establishment was constructed in 1975, shortly after the underlying zoned was amended from R6 to R6/C1-2. At that time, the property owner and the McDonald's Corporation entered an Effective Declaration restricting development, maintenance, and operation of the site.

The OP was established in the New York City Zoning Resolution (ZR) in 1977, and the project area became subject to its rules and regulations. In 1980, ZR Section 32-15 was amended to permit UG 6 eating and drinking establishments and accessory drive-through facilities in certain C1 and C4 districts. In 1982, the McDonald's Corporation applied to the New York City Board of Standards and Appeals (BSA) for a special permit to construct an accessory drive-through facility, which is otherwise not permitted in C1-2 districts. However, ZR Section 73-243 specifies that such permits may be granted for a period of not more than five years, provided that the proposed operation meets certain findings. The BSA subsequently extended the permit in 1987, 1992, 1997, and 2002, when the parking area was reconfigured to accommodate 36 spaces. The declaration was not amended after 2002, and the permit lapsed in 2007.

In 2014, the McDonald's Corporation sought a new permit for the drive-through facility and was informed that ZR Section 73-243 precludes the BSA from issuing such permits in special purpose districts. The applicant is therefore seeking a rezoning from C1-2 to C2-4, which would permit the

through operation as-of-right. If approved, the request would also result in an updated site plan, which would be memorialized in the Effective Declaration.

The restaurant is located in a dense residential community, characterized by high-rise apartment buildings. It is situated north of the Coney Island Amusement Zone and the New York Aquarium. The site is well-served by public transportation. The Sixth Avenue Local F and Seventh Avenue Express Q trains are available at the nearby West Eighth Street subway station, while the B68 bus stops at Neptune Avenue and West Sixth Street. This portion of the Coney Island Peninsula is also accessible via Exit 7 of the Belt Parkway.

The applicant maintains that the existing drive-through facility is essential to the economic feasibility of this McDonald's location. Borough President Adams supports land use actions that bring existing uses into zoning conformance and help ensure continued operation of job-producing uses. As such, he believes that the request to map a C2-4 commercial overlay is appropriate for the stated purpose on this site. Therefore, the City Planning Commission (CPC) and/or City Council should approve this application.

Maximizing Local Hiring Opportunities

Borough President Adams is concerned that too many Brooklyn residents are unemployed or underemployed. It is his policy to promote economic development, including land use actions that result in job creation. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2017," double-digit unemployment remains a pervasive reality in Brooklyn, with more than half the borough's community districts reporting poverty rates of 20 percent or higher. The ongoing COVID-19 pandemic has only exacerbated widespread job insecurity. Borough President Adams believes that prioritizing local hiring is instrumental to address this crisis, particularly in Coney Island, where a large share of jobs are seasonal rather than year-round. Mission-driven entities in the area that work to connect residents to job opportunities include the Alliance for Coney Island, social service providers, and youth organizations. Borough President calls on the owner and/or manager of this McDonald's location to engage Brooklyn Community Board 13 (CB 13), area elected officials, and nonprofit organizations, to maximize local hiring.

Recommendation

Be it resolved that the Brooklyn borough president, pursuant to Section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve this application.

Be it further resolved:

That the owner and/or manager of this McDonald's location engage Brooklyn Community Board 13 (CB 13), area elected officials, and workforce development organizations, to maximize local hiring.



BROOKLYN COMMUNITY BOARD 13
1201 Surf Avenue – 3rd Fl., Brooklyn, NY 11224
(718) 266-3001 FAX (718) 266-3920
<http://www.nyc.gov/html/bkncb13>

ERIC L ADAMS
Borough President

LUCY ACEVEDO
Chairperson

EDDIE MARK
District Manager

February 3, 2021

To Whom It May Concern:

At the Community Board 13 General Board meeting which was held on Wednesday, January 27, 2021 vote was taken to approve the Zoning Amendment changes for the drive through located at 606 Neptune Avenue to existing R6 Residential District within a C1-2 Commercial District within the Special Ocean Parkway Residential District within C2-4 Commercial District.

The vote was as follows: In Favor: 33 Opposed: 0 Abstentions: 0 Recusal: 1
Motion carried. Quorum was present. Roll call on file at C.B. office.

If any further information is needed, please do not hesitate to contact the office.

Best Regards,

Eddie Mark
District Manager
Community Board 13



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: 606 Neptune Avenue	
Applicant: McDonald's Corporation	Applicant's Primary Contact: Neil Weisbard
Application # 210033ZMK	Borough:
CEQR Number: 20DCP115K	Validated Community Districts: K13

Docket Description:
 IN THE MATTER OF an application submitted by McDonald's Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 28d:

- eliminating from within an existing R6 District a C1-2 District bounded by Neptune Avenue, West 6th Street, Sheepshead Bay Road, and a line 150 feet westerly of West 6th Street; and
- establishing within an existing R6 District a C2-4 District bounded by Neptune Avenue, West 6th Street, Sheepshead Bay Road, and a line 150 feet westerly of West 6th Street;

Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated November 30, 2020.

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

RECOMMENDATION: Favorable			
# In Favor: 33	# Against: 0	# Abstaining: 0	Total members appointed to the board: 33
Date of Vote: 1/27/2021 12:00 AM		Vote Location: via Webex	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/21/2020 7:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Public Hearing during General Board meeting

CONSIDERATION:		
Recommendation submitted by	BK CB13	Date: 2/5/2021 6:27 PM