Land Use Review Application

Department of City Planning **120 Broadway, 31st Floor, New York, NY 10271**

City Planning will assign and stamp reference numbers here

210033 ZMK
APPLICATION NUMBER

M210034LDK
APPLICATION NUMBER

APPLICATION NUMBER

APPLICATION NUMBER

1. APPLICANT AND APPLICANT'S REPRESENTATIVES

McDonald's Corporation
APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION) *

110 N. Carpenter Street
STREET ADDRESS

Chicago **IL** **60607-2101**
CITY STATE ZIP

630-623-2240
AREA CODE TELEPHONE # FAX#

Neil Weisbard
APPLICANT'S PRIMARY REPRESENTATIVE

Pryor Cashman LLP
REPRESENTATIVE'S COMPANY/AGENCY OR OTHER ORGANIZATION

7 Times Square
STREET ADDRESS

New York **NY** **10036**
CITY STATE ZIP

212-326-0465
AREA CODE TELEPHONE # FAX#

* **List additional applicants below:**

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)
ADDITIONAL APPLICANT REPRESENTATIVE:

NAME AND PROFESSIONAL AFFILIATION (ATTORNEY/ARCHITECT/ENGINEER ETC.) TELEPHONE # FAX #

2. SITE DATA

(If the site contains more than one property complete the "LR Item 2. Site Data Attachment Sheet.")

606 Neptune Avenue
STREET ADDRESS

606 Neptune Avenue
PROJECT NAME (IF ANY)

Irregularly shaped lot, with frontages on Neptune Ave., Shell Rd., and Sheepshead Bay Rd.
DESCRIPTION OF PROPERTY BY BOUNDING STREETS OR CROSS STREETS

R6/C1-2, Special Ocean Parkway District
EXISTING ZONING DISTRICT (INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY)

28d
ZONING SECTIONAL MAP NO(S).

Block 7270, Lot 25 and a portion of Lot 4
TAX BLOCK AND LOT NUMBER

Brooklyn
BOROUGH

13
COMM. DIST.

URBAN RENEWAL AREA, HISTORIC DISTRICT OR OTHER DESIGNATED AREA (IF ANY)

IS SITE A NEW YORK CITY OR OTHER LANDMARK? NO ☒ YES ☐ IF YES, IDENTIFY

3. DESCRIPTION OF PROPOSAL

(If the entire project description does not fit in this space, enter "see attached description" below and submit description on a separate sheet, identified as "LR item 3. Description of Proposal")

See attached description

4. ACTIONS REQUESTED AND FEES

(Check appropriate action(s) and attach supplemental form)

* No supplemental form required

☐	CHANGE IN CITY MAP.....MM	$	☐	MODIFICATION	$
☒	ZONING MAP AMENDMENT.....ZM	$ 4,310.00	☐	FOLLOW-UP APPLICATION NO.	$
☐	ZONING TEXT AMENDMENT..... ZR	$	☐	RENEWAL APPLICATION NO.	$
☐	ZONING SPECIAL PERMIT.....ZS	$	☒	OTHER **CEQR Fee** SPECIFY	$ 8,195.00
☐	ZONING AUTHORIZATION.....ZA	$			
☐	ZONING CERTIFICATION.....ZC	$			
☐	PUBLIC FACILITY, SEL../ACQ.....PF	$			
☐	DISPOSITION OF REAL PROP.....PP	$			
☐	URBAN DEVELOP=T ACTION.....HA	$			
☐	URBAN RENEWAL PROJECT.....*	$			
☐	HOUSING PLAN & PROJECT.....*	$			
☐	FRANCHISE.....*	$			
☐	REVOCABLE CONSENT.....*	$			
☐	CONCESSION.....*	$			
☐	LANDFILL.....*	$			
☒	OTHER (Describe) **LD**	$ 0			

TOTAL FEE (For all actions) $ 12,505.00

Make Check or Money Order payable to Department of City Planning.

If fee exemption is claimed check box below and explain ☐

Has pre-application meeting been held? ☐ NO ☐ YES

If yes **Collin Lee** DCP Office/Representative **June 5, 2019** Date of meeting

5. ENVIRONMENTAL REVIEW

CITY ENVIRONMENTAL QUALITY REVIEW (CEQR) (Discuss with CEQR lead agency before completing)

LEAD AGENCY Department of City Planning CEQR NUMBER 20DCP115K

TYPE OF CEQR ACTION:

☐ TYPE II Type II category: _____ Date determination was made: _____

☒ TYPE I } Has EAS been filed? Yes ☒ No ☐

☐ UNLISTED } If yes, Date EAS filed: _____

Has CEQR determination been made? Yes ☐ No ☒

If yes, what was determination? Negative Declaration ☐

CND ..... ☐ } Date determination made: _____ (Attach Copy)

Positive Declaration ☐

If Positive Declaration, has PDEIS been filed? _____

Has Notice of Completion (NOC) for DEIS been issued? _____ If yes, attach copy.

If PDEIS has not been filed, has final scope been issued? _____ If yes, date issued: _____

6. COASTAL ZONE MANAGEMENT

IS SITE IN STATE DESIGNATED COASTAL ZONE MANAGEMENT (CZM)? AREA? No ☒ Yes ☐

7. RELATED ACTIONS BY CITY PLANNING

LIST ALL CURRENT OR PRIOR CITY PLANNING COMMISSION ACTIONS RELATED TO SITE:

APPLICATION NO.	DESCRIPTION/ DISPOSITION/STATUS	CAL. NO.	DATE
	Restrictive Declaration		03/07/1975
CP-22865	Rezoning to C1-2 commercial overlay		04/24/1975
CP-23285	Establishment of Special Ocean Parkway District (OP)	8	12/22/1976
	Modification of Restrictive Declaration		10/28/1982
	2nd Modification of Restrictive Declaration		12/03/1986
N790716ZRY	Zoning Text Amendment	1	12/18/1980

8. RELATED ACTIONS BY OTHER AGENCIES

REFERENCE NO.	DESCRIPTION/ DISPOSITION/STATUS	CAL. NO.	DATE
98-82-BZ	BSA special permit to permit drive-through facility		07/13/1982
98-82-BZI	BSA amendment to drive-through facility special permit		03/18/1986
98-82-BZII	Extension of drive-through facility special permit		01/27/1987
98-82-BZIII	Extension of drive-through facility special permit		10/04/1994
403-01-BZ	New BSA special permit to permit drive-through facility		05/21/2002
227-14-BZ	New BSA special permit to permit drive-through facility (Not eleigible for SP)		09/22/2014

9. FUTURE ACTIONS REQUIRED

10. APPLICANT

(Attach authorizing resolution(s), if applicable)

N e i l W e i s b a r d

NAME AND TITLE OF APPLICANT OR AUTHORIZED REPRESENTATIVE — SIGNATURE OF APPLICANT — DATE

P r y o r C a s h m a n L L P

APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION (IF ANY)

11. CO-APPLICANTS

(Attach authorizing resolution(s), if applicable)

NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE — SIGNATURE OF CO-APPLICANT — DATE

CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION

STREET ADDRESS — CITY — STATE — ZIP — TEL.NO. — FAX

NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE — SIGNATURE OF CO-APPLICANT — DATE

CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION

STREET ADDRESS — CITY — STATE — ZIP — TEL.NO. — FAX

ADMINISTRATIVE CODE

ANY PERSON WHO SHALL KNOWINGLY MAKE A FALSE REPRESENTATION ON OR WHO SHALL KNOWINGLY FALSIFY OR CAUSE TO BE FALSIFIED ANY FORM, MAP, REPORT OR OTHER DOCUMENT SUBMITTED IN CONNECTION WITH THIS APPLICATION SHALL BE GUILTY OF AN OFFENSE PUNISHABLE BY FINE OR IMPRISONMENT OR BOTH, PURSUANT TO SECTION 10-154 OF THE CITY OF NEW YORK ADMINISTRATIVE CODE.

NOTICE

THIS APPLICATION WILL BE DEEMED PRELIMINARY UNTIL IT IS CERTIFIED AS COMPLETE BY THE DEPARTMENT OF CITY PLANNING OR THE CITY PLANNING COMMISSION. ADDITIONAL INFORMATION MAY BE REQUESTED OF THE APPLICANT BY THE DEPARTMENT OF CITY PLANNING.

New York City Department of City Planning
Land Use Review Application **Supplemental Form**

City Map Change . . . . . MM

APPLICATION NO

Proposed City Map Change
(Check appropriate boxes)

1. ESTABLISH NEW…….. ☐ STREET ☐ PARK ☐ PUBLIC PLACE ☐ GRADE
2. ELIMINATE EXISTING…… ☐ STREET ☐ PARK ☐ PUBLIC PLACE ☐ GRADE
3. CHANGE EXISTING STREET…….. ☐ WIDTH ☐ ALIGNMENT ☐ GRADE
4. EASEMENT
   Delineate New..... ☐ Remove Existing……. ☐ Modify Existing……. ☐
5. RELATED ACQUISITION OR DISPOSITION OF PROPERTY ..... ☐

Zoning Map Change . . . . . ZM

210033 ZMK
APPLICATION NO

(If more than five changes are being requested, enter "see attached" below and list ALL PROPOSED ZONING CHANGES in the same format as below on a separate sheet titled "Proposed Zoning Map Changes")

Proposed Zoning Map Change(s)

		EXISTING	TO:	PROPOSED
CHANGE #1	FROM:	**C 1 - 2**	TO:	**C 2 - 4**
CHANGE #2	FROM:		TO:	
CHANGE #3	FROM:		TO:	
CHANGE #4	FROM:		TO:	
CHANGE #5	FROM:		TO:	

Zoning Text Amendment . . . . . ZR

APPLICATION NO.

If more than five sections are proposed to be amended, enter "see attached" below, and list ALL PROPOSED TEXT AMENDMENTS in the same format as below on a separate sheet titled "Proposed Zoning Text Amendments.")

Affected Zoning Resolution (ZR) Sections

ZR SECTION NUMBER	ZONING RESOLUTION SECTION TITLE

McDonald's Corporation

110 N. Carpenter St.

Chicago, IL 60607-2101

The New York City Department of City Planning
Central Intake
120 Broadway, 31st Floor
New York, NY 10271

To whom it may concern:

McDonald's Corporation, owner of Tax Block 7270, Lot 25, in the Borough of Brooklyn (the "Site"), hereby authorizes Pryor Cashman LLP, to file an application with the New York City Department of City Planning and the New York City Planning Commission, requesting:

- An amendment to Zoning Map 28d changing the existing C1-2 Commercial District within a R6 Residence District mapped 150 feet west of West 6th Street between Neptune Avenue and Sheepshead Bay Road, to a C2-4 Commercial District; and
- A modification of a Restrictive Declaration, dated March 7, 1975, and as modified on October 28, 1982 and December 3, 1986 (the "Declaration").

to facilitate the legalization of a drive-through facility, accessory to the McDonald's restaurant located on the Site.

Respectfully submitted,
McDonald's Corporation

Name: James F. Russ, Jr.
Title: Senior Counsel

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On the 16th day of July, in the year 2020, before me, the undersigned, personally appeared James F. Russ, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

OFFICIAL SEAL
KIMBERLY T WARBURTON
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:05/29/24

606 Neptune Avenue Amendment to Zoning Map 28d; and Minor Modification Tax Block 7270, Lot 25 and a portion of Lot 4, Borough of Brooklyn

Introduction

McDonald's Corporation, owner of 606 Neptune Avenue, Tax Block 7270, Lot 25, Borough of Brooklyn (the "Development Site"), seeks:

1. An amendment to Zoning Map 28d changing the existing C1-2 Commercial District within a R6 District mapped 150 feet west of West 6th Street between Neptune Avenue and Sheepshead Bay Road (the "Project Area"), to a C2-4 Commercial District; and
2. A modification of a Restrictive Declaration, dated March 7, 1975, and as modified on October 28, 1982 and December 3, 1986 (the "Declaration").

The requested actions (the "Proposed Action") will facilitate, on the Development Site, the legalization of a drive-through facility, accessory to the Use Group 6 eating and drinking establishment, which has existed since 1982.

Background

The Project Area has previous discretionary land use approvals spanning from 1975 to 2002, as follows:

- On April 24, 1975, under Application No. CP-22865, the area of Zoning Map 28d in which the Project Area is located was amended from a R6 Residence District to an R6 Residence District within a C1-2 Commercial District (the "1975 Zoning Map Amendment"). The 1975 Zoning Map Amendment enabled the construction of a McDonald's Use Group 6 eating and drinking establishment on the Development Site.
- On March 7, 1975, in conjunction with the 1975 Zoning Map Amendment, the owner of the Project Area at the time, and McDonald's Corporation[1] entered into a Declaration restricting "*the manner in which the Development Site may be developed, maintained and operated.*" The Declaration was recorded with the City Register on May 6, 1975, under Reel 777, Page 1650, and a copy is attached as Exhibit A.
- On January 20, 1977, under Application No. CP-23235, portions of Zoning Map 28d, including the Project Area were amended to create the Special Ocean Parkway District to promote and strengthen the scenic landmark designation of Ocean Parkway, while improving the environmental quality and circulation of the district.
- On December 18, 1980, under Application No. N790716ZRY, Section 32-15 of the Zoning Resolution of the City of New York ("ZR") was amended to allow the New York City Board of Standards and Appeals ("BSA") to approve a special permit, pursuant to ZR §73-243, within C1-1, C1-2 and C1-3 Commercial Districts, to allow drive-through facilities accessory to Use Group 6 eating and drinking establishments.

[1] The Declaration was executed by Franchise Realty Interstate Corporation, an affiliate of McDonald's Corporation, which has now been merged into McDonald's Corporation.

- On July 13, 1982, under BSA Cal. No. 98-82-BZ (the "1982 BSA Special Permit"), the BSA granted a special permit, pursuant to ZR §73-243, for a term of five years, to permit an accessory drive-through facility on the Development Site. The BSA Resolution and approved Site Plan are attached as Exhibit B.
- On October 28, 1982, the Declaration was modified to reflect the Site Plan approved by the BSA special permit and to provide that "*the City Planning Commission may administratively approve what it deems to be minor modification to this Modified Declaration which shall not be deemed amendments requiring the approval of the Board of Estimate. The Declarant shall notify the affected community board(s) of any such modification, amendment, or cancellation.*" This Modification of Declaration was recorded with the City Register on April 25, 1983, under Reel 1390, Page 1137, and a copy is attached as Exhibit C.
- On March 18, 1986, the 1982 BSA Special Permit was amended to "change the drive-thru traffic pattern and to decrease the accessory parking spaces from 39 to 37." The Resolution and Site Plan are attached as Exhibit D.
- On December 3, 1986, the Declaration was amended to reflect the Site Plan approved by the amended 1982 BSA Special Permit on March 18, 1986. This Second Amended Declaration was recorded with the City Register on April 13, 1987, under Reel 2005, Page 1461, and a copy is attached as Exhibit E.
- On January 27, 1987, the 1982 BSA Special Permit was extended for a term of five years to July 13, 1992. The BSA Resolution is attached as Exhibit F.
- On October 4, 1994, subsequent to the lapse[2] of the BSA Special Permit on July 13, 1992, the 1982 Special Permit was extended for a term of five years to July 13, 1997. The BSA Resolution and Site Plan are attached as Exhibit G.
- On May 21, 2002, subsequent to the lapse of the 1982 BSA Special Permit on July 13, 1997, the BSA, under BSA Cal. No. 403-01-BZ (the "2002 BSA Special Permit"), granted a new special permit for the drive-through facility for a term of five years till May 21, 2007. The 2002 Special Permit also included a reconfiguration of the drive-through facility and an increase in the number of parking spaces from 29 to 36 spaces. The BSA Resolution is attached as Exhibit H. The Applicant has been unable to locate a copy of the BSA approved plans for the 2002 Special Permit and according to the BSA, the archived file cannot be found.

  Subsequent to the approval of the 2002 BSA Special Permit, the Declaration was never amended.

- On September 22, 2014, subsequent to the lapse of the 2002 BSA Special Permit on May 21, 2007, McDonald's Corporation filed an application with the BSA, under BSA Cal. No. 227-14-BZ, to obtain a new special permit for the drive-through facility. On January 12, 2015, the BSA sent the letter attached as Exhibit I, stating "*[a]s you are aware, the Site is located within the Special Ocean Parkway District. Please be advised that ZR §73-243, which authorizes the Board to permit accessory drive-through facilities in certain zoning districts, explicitly prohibits the Board from issuing permits for accessory drive-through facilities in special purpose districts. As such, the Site is not eligible for the special permit sought in the Application.*"

[2] Lapses to the BSA Special Permits, in 1992, 1997, and 2007 were the result of the different franchisee's failure to understand its obligation to secure BSA renewals.

Description of the Surrounding Area

The surrounding area within 400 feet of the Project Area (the "Study Area") is bisected by an elevated Metropolitan Transit Authority ("MTA") subway line along West 6th Street, and includes primarily commercial, residential, and parking facilities. Residential tower-in-a-park buildings and commercial uses predominately surround the MTA subway line within the Study Area. The Neptune Avenue F subway station is in the north of the Study Area along West 6th Street.

In the northeast of the Study Area and to the east of the Neptune Avenue subway station is a private accessory parking lot for the Amalgamated Warbasse House. Directly north of the Project Area and across Neptune Avenue is another public surface parking lot with a multi-family residential building beyond. A New York City Police Department ("NYPD") shed is directly next to the public surface parking lot on Neptune Avenue and the elevated MTA subway line along the west side of West 6th Street. To the northwest is a self-storage facility along the Coney Island Creek waterfront. Immediately to the west of the Project Area (which includes approximately 10 feet of Tax Lot 4) is the remainder of Tax Lot 4, which is improved with a house of worship, St. Paul's Evangelical Lutheran Church. To the west and southwest, along the western side of Shell Road, is the Luna Park Apartments development, a multi-family residential development with five residential buildings arranged in a tower-in-a-park setting.

To the south and opposite Sheepshead Bay Road from the Project Area is a newly constructed mixed-use building with ground floor retail space, a tenants-only accessory parking facility at the second floor, and office space above. The ground floor commercial space is occupied with a grocery store, a café, and a mix of general retail establishments. Further south of this building is a two-story commercial building with a variety store at the ground level and a fitness gym above. In the southern most portion of the Study Area is the Coney Island Department of Motor Vehicles office building that also contains local retail establishments along its West 8th Street frontage. Just to the east of this lot and along the west side of West 6th Street is another public parking facility. Further south along Shell Road beyond the public parking facility on the east side of Shell Road is the NYPD 60th Precinct facility and the 43rd Battalion (Engine 245, Ladder 161) of the Fire Department City of New York ("FDNY").

To the southeast of the Project Area are two multi-family buildings arranged in towers-in-a-park setting, set back from the elevated MTA subway line. To the east of the Project Area and across Shell Road is a shopping plaza with accessory parking near the Neptune Avenue frontage. The plaza includes a three-story commercial and office building and several one-story buildings developed around the parking area perimeter, occupied by a mix of general retail uses including a pharmacy, barber shop, variety store, two banks, and a post office.

The Study Area is predominately within an R6 Residence District. R6 districts are medium-density non-contextual residential districts that allow residential and community facility uses. Within 100 feet of a wide street, residential development is permitted at a maximum floor area ratio ("FAR") of 3.0 pursuant to the Quality Housing Program regulations; a residential FAR of 2.2 is permitted beyond 100 feet of a wide street. Pursuant to the Quality Housing Program regulations, R6 districts allow development at a maximum building height of 70 feet (or 75 feet with a qualifying ground floor) within 100 feet of a wide street, and 55 feet beyond 100 feet of a wide street. Other zoning districts mapped within the Study Area include a C8-2 Commercial District to the south of the Project Area south of Sheepshead Bay Road to the West 8th Street, the NY Aquarium Subway

Station in between West 8th Street and West 6th Street. C8-2 districts are general service districts that permit a maximum FAR of 2.0 for commercial uses and requires one accessory parking space per 400 square feet of general retail space. An M1-2 Manufacturing District is also mapped to the northwest of the Project Area on the north side of Neptune Avenue and adjacent to Coney Island Creek. M1-2 districts are light manufacturing districts that permit a maximum FAR of 2.0 for manufacturing and commercial uses. Parking requirement vary by use but requires one accessory parking space per 300 square feet of general retail space.

Other than the Project Area, a C1-2 commercial overlay district is also mapped to the east of the Study Area between Neptune Avenue, West 5th Street, the prolongation of Sheepshead Bay Road, and West 6th Street. C1-2 commercial overlays are commercial districts mapped within residential zoning districts providing local retail needs with up to 2.0 commercial FAR in an R6 Residential District. One accessory parking space is required per 300 square feet of general retail space.

Description of the Project Area/Development Site

The Project Area, located 150 feet west of West 6th Street, between Neptune Avenue and Sheepshead Bay Road, and includes the entirety of the Development Site (lot 25), a 35,700 square foot zoning lot and approximately 10 feet of the eastern-most portion of Lot 4, the site of St Paul's Evangelical Lutheran Church.

The Development Site, with 150 feet of frontage on both Neptune Avenue and Sheepshead Bay and 265 feet of frontage on West 6th Street is improved with a 4,249 gross square foot, one-story McDonald's Use Group 6 eating and drinking establishment. The Development Site contains an accessory drive-through facility, 36 accessory parking spaces, outdoor seating, and small landscaped areas that help define parking and circulation. Curb cuts to the Development Site are located on Neptune Avenue (entrance only – 25 feet, two inches), West 6th Street (exit only – 11 feet, seven inches), and Sheepshead Bay Road (both entrance and exit - 24 feet, seven inches).

The Project Area is in the Special Ocean Parkway District and is in an R6/C1-2 district.

The Special Ocean Parkway District is mapped across areas to the east and west of Ocean Parkway between Prospect Park and Brighton Beach. Ocean Parkway (which is beyond the Study Area) is a scenic New York City-designated landmark. The special district is mapped on either side of Ocean Parkway and aims to enhance the qualities of the street by setting certain restrictions on front yards and off-street parking. Additionally, the special district also limits the bulk of community facilities to maintain the existing scale and character of the surrounding community.

The Project Area is located within New York City's Coastal Zone and therefore, the Proposed Action is subject to review for consistency with the policies of the Waterfront Revitalization Program ("WRP") WRP. The WRP attempts to maximize environmental conservation, public use of the waterfront and economic development, while minimizing conflicts among these goals. The WRP is designed to review activities and decisions potentially affecting development on the coastal zones, which is determined by the consistency with the coastal policies found in the WRP.

Description of the Proposed Development

There will be no construction anticipated under the Proposed Action. The Proposed Action will enable 1) the legalization of the accessory drive-through facility which has existed on the Development Site since 1982 pursuant to a BSA special permit that is no longer applicable; and 2)

allow the changes made pursuant to the 2002 BSA Special Permit to the Development Site, which were not permitted by an amendment or modification of the Declaration.

Action Necessary to Facilitate the Project

Drive through-facilities, accessory to Use Group 6 eating and drinking establishments, are not permitted in the C1-2 commercial overlay, within the Special Ocean Parkway District, underlying the Project Area pursuant to Article III, Chapter 2 of the Zoning Resolution of the City of New York ("ZR") or by BSA special permit. The proposed text amendment to Zoning Map 28d, changing the Project Area from a C1-2 commercial overlay to a C2-4 commercial overlay, will permit the accessory drive-through to be a conforming use, pursuant to ZR §32-15.

Pursuant to the Declaration, any change to the site plan of the Development Site requires a minor modification, which if deemed minor, may be approved administratively by the New York City Planning Commission ("CPC"). Approval for the changes to the site plan made pursuant to the 2002 BSA Special Permit, and which currently exist, was never sought by the CPC. Therefore, a minor modification to the Declaration is sought in the Proposed Action.

Conclusion

The Proposed Action will facilitate the legalization of a drive-through facility, accessory to the Use Group 6 eating and drinking establishment, which has existed since 1982.

The drive-through has been a valued use to the residents and workforce of the surrounding area and according to the Environmental Assessment Statement, the amendment to Zoning Map 28d will be consistent with New York City public policies, including the WRP and that no adverse impacts are anticipated by the Proposed Action.

D E C L A R A T I O N

THIS DECLARATION is made by TRUMP VILLAGE CONSTRUCTION CORP., a New York corporation having offices at 600 Avenue Z, Brooklyn, New York 11223, and FRANCHISE REALTY INTERSTATE CORPORATION, an Illinois corporation registered to do business in the State of New York having offices at 1455 Broad Street, Bloomfield, New Jersey 07003, hereinafter called the "Declarants."

REEL 777 PAGE 1650

BK 7270

LOT 25

W I T N E S S E T H:

WHEREAS, the Declarant, TRUMP VILLAGE CONSTRUCTION CORP., is the fee owner and Declarant, FRANCHISE REALTY INTERSTATE CORPORATION, is the lessee of certain real property in the Borough of Brooklyn, Block 7270, Lot 25, City and State of New York, which real property hereinafter called the "Subject Property" is further described in Exhibit A attached hereto, and

WHEREAS, the said Subject Property is in an existing R6 district and Declarants believe it to be in their best interest to have the Subject Property zoned C1-2; and

WHEREAS, the Declarants desire to restrict further the manner in which the Subject Property may be developed, maintained, and operated, intending these restrictions to benefit all the land lying within one-half mile of the Subject Property including all such land owned by the City of New York; and

WHEREAS, the Declarants represent and warrant that no restrictions of record on the use of the Subject Property nor any present or presently existing future estate or interest in the Subject Property, nor any lien, obligation, covenant limitation or encumbrance of any kind precludes, presently or potentially,

the imposition of the restrictions, covenants, obligations, easements, and agreements of this Declaration or the development of the Subject Property in accordance therewith.

NOW, THEREFORE, the Declarants do hereby declare that the Subject Property shall be held, sold, conveyed and occupied subject to the following restrictions and obligations which are for the purpose of protecting the value and desirability of the Subject Property and which shall run with such real property, binding every party having any right, title or interest in the Subject Property or any part thereof and binding all heirs, successors and assigns.

REEL 7727 PAGE 1651

1. The Declarants agree not to apply for any building or foundation permit for the Subject Property before the Department of City Planning has given its express written approval to site and landscaping plans. The aforesaid plans shall meet the following objectives:

a) Any building constructed shall bear a harmonious relationship to the surrounding streets.

b) Parking areas shall be oriented so that there is minimal environmental impact on the adjacent church.

c) Street trees shall be planted along the periphery of the Subject Property at a minimum average distance of 25 feet on center, and shall be not less than 3 inches in caliper, measured one foot above the ground. The species shall be one or more of the following: Flowering Cherry, Golden Rain Tree, Russian Olive, Ash Green, Bradford Pear, Amur Cork, Smooth Leaf Elm, Katsura, Little Leaf Linden, Red Maple, Willow Oak, Japanese Zelkova, Gingko, Japanese Pagoda, Silver Linden, Red Oak, Sweetgum, or London Plane.

d) Along the westerly lot line of the Subject Property, there shall be planted, maintained and, as the need may arise, replaced, bushes, shrubs or trees of sufficient foliage to shield the Subject Property from view from the adjoining property at all seasons of the year.

e) Bright lighting shall be installed, covering the Subject Property, including sidewalks. All lighting shall be directed away from the adjacent property.

2. Declarants covenant to include a copy of this Declaration as part of any application, pertinent to the Subject Property, submitted to the New York City Department of Buildings or any agency succeeding to its jurisdiction.

3. This Declaration shall become effective when the City Planning Commission and the Board of Estimate acting pursuant to the Zoning Resolution of the City of New York shall have duly approved CP-22865.

4. Declarants recognize that the City of New York is an interested party in this Declaration and consents to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate to the situation.

5. This covenant is intended to run with the land and shall be so construed.

6. This Declaration may be amended, modified or cancelled only with the approval of the City Planning Commission and the Board of Estimate or the agencies succeeding to their jurisdiction and no other approval or consent shall be required from any public body, private person, or legal entity of any kind.

REEL 777 PAGE 1652

7. Declarants covenant that, when the City Planning Commission and the Board of Estimate have approved CP-22865, they shall immediately file and record this Declaration in the Office of the Register of the City of New York, County of Kings, indexing it against the Subject Property. Declarants further covenant to provide the City Planning Commission with a copy of the Declaration as recorded, certified by the Register of the City of New York, County of Kings. The City of New York shall also have the right to record this Declaration. However, all costs of recordation and certification whether undertaken by the Declarant or by the City, shall be borne by the Declarants.

IN WITNESS WHEREOF, the Declarants have caused this Declaration to be signed this 7th day of March, 1975.

Donald J. Trump, President
Trump Village Construction Corp.

Anthony G. Duda
Regional Attorney
Franchise Realty Interstate
Corporation

Seal affixed

REEL 777 PAGE 1653

STATE OF New York
COUNTY OF Kings } ss.:

On the 7 day of March , 1975, before me personally came DONALD J. TRUMP, to me known, who being by me duly sworn, did depose and say that he resides at 160 East 65th Street, New York, New York ; that he is the President of TRUMP VILLAGE CONSTRUCTION CORP., the corporation described in and which executed the above instrument; that he knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Rose Ann Ellis

ROSE ANN ELLIS
Notary Public, State of New York
No. 24-6175910
Qualified in Kings County
Commission Expires March 30, 1976

REEL 727 PAGE 1604

STATE OF New York
COUNTY OF New York } ss.:

On the 7th day of March , 1975, before me personally came ANTHONY G. DUDA, to me known, who being by me duly sworn, did depose and say that he resides at 6 Horizon Road, Fort Lee, New Jersey 07024 ; that he is the Regional Attorney of FRANCHISE REALTY INTERSTATE CORPORATION, the corporation described in and which executed the above instrument; that he knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Steven Adler

STEVEN ADLER
NOTARY PUBLIC, State of New York
No. 31-4502677
Qualified in New York County
Commission Expires March 30, 1976

EXHIBIT A

"AREA G"

All that certain lot, piece of parcel of land situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, and more particularly described as follows.

BEGINNING at a point on the southerly side of Neptune Avenue 120 feet wide, distant 140 feet easterly from the corner formed by the intersection of the southerly side of Neptune Avenue and the easterly side of West 8th Street, running thence easterly along the southerly side of Neptune Avenue 150.30 feet more or less to the corner formed by the intersection of the southerly side of Neptune Avenue and the westerly side of West 6th Street 120 feet wide, running thence southerly along the westerly side of West 6th Street 265.14 feet to the northerly side of Sheepshead Bay Road, and running thence easterly along the northerly side of Sheepshead Bay Road 150.31 feet to a point; and running thence northerly along a line parallel with West 6th Street 207 feet more or less to the southerly side of Neptune Avenue, thence westerly to the point or place of beginning.

REEL 727 PAGE 1935

1975 MAY -6 PM 3:25

DECLARATION

Property Located at Neptune Avenue and West 8th Street, Borough of Brooklyn, County of Kings, City and State of New York.
Section 21
Block 7270
Lot 25

617

ORIGINAL

Rosenman Colin Kaye Petschek Freund & Emil

Attorneys for Trump Village Construction Corp.

575 Madison Avenue

Borough of Manhattan New York City

MUrray Hill 8-7800

644-7000
Called 5/7/75

CITY REGISTER
Kings County
RECORDED
Witness my hand
and official seal

CITY REGISTER

REEL 777 PAGE 1656

Exhibit B

1982 BSA Special Permit Resolution

98-82-BZ

APPLICANT—McGee and Morselline, Esqs., for Trump Village Construction, owner. McDonald's Corporation, Lessee.

SUBJECT—Application February 22, 1982—decision of the Borough Superintendent, under Section 73-243 of the Zoning Resolution, to permit in a C1-2 district, in an existing eating and drinking establishment, the installation of an accessory drive-through facility

PREMISES AFFECTED—606 Neptune Avenue, southwest corner of West 6th Street, block 7270, Lot 25, Borough of Brooklyn

COMMUNITY BOARD #13BK.

APPEARANCES--

For Applicant: Joseph P. Morsellino.

For Opposition: None.

RECOMMENDATION OF THE COMMUNITY BOARD—Favorable to the application.

ACTION OF BOARD--Application granted on condition.

THE VOTE—

Affirmative: Chairperson Deutsch, Vice Chairman Fossella, Commissioner Agusta, Commissioner Carroll and Commissioner Wolf 5

Negative: 0

THE RESOLUTION—

WHEREAS, a public hearing was held on this application on June 29, 1982, after due notice by publication in the Bulletin; laid over to July 13, 1982, and

WHEREAS, the decision of the Borough Superintendent, dated Janury 20, 1982, acting on Alt. Applic. #60/1982, reads:

> "1. Eating and Drinking Establishment with accessory drive-through facilities, Use Group 6, shall be permitted in a C1-2 district *only* by the Board of Standards and Appeals as per Sections 32-15, 32-31 and 73-243 of the Zoning Resolution."

and

WHEREAS, the premises and surrounding area had a site and neighborhood evaluation by a committee of the Board consisting of Vice Chairman Vito J. Fossella, P.E., and Commissioner Stanley M. Wolf, R.A., who recommended that the application be granted; and

WHEREAS, **COMMUNITY BOARD NO. 13, BROOKLYN,** has recommended approval of this application; and

WHEREAS, CEQR has issued a negative declaration; and

WHEREAS, the application is for a special permit to allow a drive-through facility in conjunction with an existing eating and drinking establishment; and

WHEREAS, existing parking facilities for the eating and drinking establishment are in excess of those required by law, and

WHEREAS, the application proposes reservoir space for a minimum of 10 automobiles; and

WHEREAS, the majority of the existing frontages within 500 feet of the subject property are commercial and/or motor vehicle-related in nature; and

WHEREAS, there are no residential developments within the affected area; and

WHEREAS, directional, cautionary and stop signs are being provided so as to minimize possible interference with traffic flow in this area caused by the drive-through facility, and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Section 73-243 of the Zoning Resolution.

Resolved, that the Board of Standards and Appeals does hereby make the required findings and grants a Special Permit under Section 73-243 of the Zoning Resolution to permit, in a C1-2 district, in an existing eating and drinking establishment, the installation of an accessory drive-through facility, *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted filed with this application marked "Received March 4, 1982." — 1 sheet, and "Received July 8, 1982," — 8 sheets; and *on further condition*; that this Special Permit shall be for a term of 5 years; that no Certificate of Occupancy shall be issued until the restrictive declaration filed by the owner with the City of New York with respect to this site be amended with the concurrence and approval of the City Planning Commission; that a speed bump and speed bump warning sign shall be installed at the Neptune Avenue exit of the drive-through facility to control vehicle speed exiting the property; that a "Full Stop" sign and "No Left Turn" sign shall be installed at the exit of the drive-through facility to prohibit a left turn onto Neptune Avenue; that all laws, rules and regulations applicable be complied with; and that substantial construction be completed in accordance with Section 72-23 Z.R.

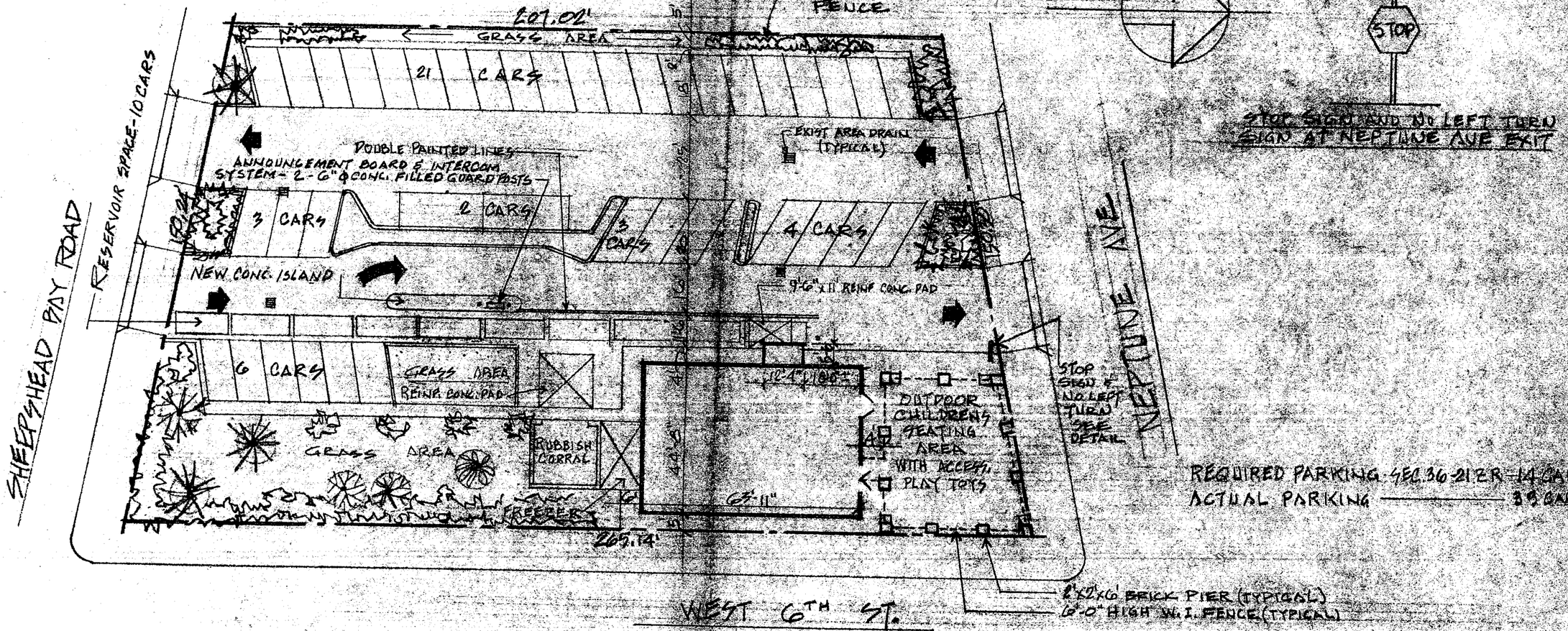
Adopted by the Board of Standards and Appeals, July 13, 1982.

A true copy of resolution adopted by the Board of Standards and Appeals, July 13, 1982.
Printed in Bulletin No. 29, Vol. LXVII.

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

Sylvia Deutsch

Chairperson.



SITE PLAN - PROPOSED CONDITIONS

NORMAN L. REITMAN
REGISTERED PROFESSIONAL ENGINEER
NEW YORK

606 NEPTUNE AVE

NORMAN L. REITMAN
600 HEMPSTEAD TURNPIKE
WEST HEMPSTEAD N.Y. 11552

SHEET 5 OF 8

REV-6-30-52

Exhibit C

First Modification to the Declaration

REEL 1390 PG. 1137

MODIFICATION OF DECLARATION

This Modification of Declaration, made this 28 day of Oct, 1982, by TRUMP VILLAGE CONSTRUCTION CORP., a New York corporation having offices at 26-11 West 2nd Street, Brooklyn, New York, and McDONALD'S CORPORATION, an Illinois corporation registered to do business in the State of New York and having offices at 1455 Broad Street, Bloomfield, New Jersey 07003, hereinafter called the "Declarants".

W I T N E S S E T H:

WHEREAS, the Declarant, TRUMP VILLAGE CONSTRUCTION CORP., is the fee owner and Declarant, McDONALD'S CORPORATION, is the lessee of certain real property in the Borough of Brooklyn, known as Tax Block 7270, Lot 25, City and State of New York, which real property hereinafter called the "Subject Property" is further described in Exhibit A attached hereto, and

WHEREAS, Declarants or their predecessors in interest, in connection with application designated CP22865 to the City Planning Commission for a rezoning of the Subject Property from R6 to C1-2, executed a Declaration ("Declaration") which was recorded on May 6, 1975 in the Office of the Register of the City of New York, Kings County, in Liber/Reel 777, Page 1650 and

WHEREAS, Declarants wish to modify the plan as previously submitted in order to permit the addition of a drive-thru facility at the Subject Property substantially in accordance with the site plan attached hereto as Exhibit B, which plan has been approved by the Board of Standards for a special permit for said drive-thru facility pursuant to Section 73-241 of the New York City Zoning Resolution, under Calendar Number 98-82 BZ, and

WHEREAS, Declarants represent and warrant that no restrictions of record on the use or development of the Subject Property nor any present or

presently existing future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of restrictions, obligations and agreements of the instant MODIFICATION OF DECLARATION or the development of the Subject Property in accordance therewith.

NOW, THEREFORE, Declarants, with the intent to bind all persons, jointly or severally, in whom the Subject Property or any part thereof is vested now or shall be vested at any time hereafter, and with the further intent to bind all persons, jointly or severally, having today or any time hereafter any other right or interest in the property, do hereby modify the Declaration as follows:

1. The site plan is hereby modified to permit the drive-thru facility substantially as shown on Exhibit B annexed hereto.

2. The following shall be added to Paragraph 6. of the Declaration:

> "However, the City Planning Commission may administratively approve what it deems to be minor modifications to this Modified Declaration which shall not be deemed amendments requiring the approval of the Board of Estimate. The Declarant shall notify the affected community board(s) of any such modification, amendment, or cancellation.

3. This Mofification of Declaration shall become effective when the Board of Estimate shall have duly approved this application designated

4. This Modification of Declaration runs with the land, binding Declarants, their successors and assigns.

5. Declarants covenant that immediately after approval of this Modification of Declaration by the Board of Estimate, they shall file and record this Moficiation of Declaration in the Office of the Register of the City of New York, Kings County, indexing it against the Subject Property. Declarants further covenant to provide the City Planning Commission with a

copy of this Modification of Declaration certified as recorded by the Register. The City of New York shall also have the right to record this Modification of Declaration. However, all cost of recordation and certification, whether undertaken by Declarants or by the City, shall be borne by Declarants.

6. The Declaration (CP22865) shall remain in full force and effect, except as herein modified.

IN WITNESS WHEREOF, the Declarants have caused this Moficiation of Declaration to be executed this 28 day of Oct, 1982.

TRUMP VILLAGE CONSTRUCTION CORP.

BY: Donald J. Trump

McDONALD'S CORPORATION

BY: Richard Adams
REG VP

STATE OF NEW YORK)
COUNTY OF Kings) SS.:

Liber 1390 Page 1140

On the 28 day of Oct, 1982, before me personally came Fred C. Trump, to me known, who, being by me duly sworn, did depose and say that he resides at 85-14 Midland Parkway Jamaica N.Y.; that he is the President of TRUMP VILLAGE CONSTRUCTION CORP., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed h name thereto by like order.

Notary Public

STATE OF ~~NEW YORK~~ New Jersey)
COUNTY OF Essex) SS.:

83

On the 1st day of October, 1982, before me personally came Richard J Christian, to me known, who, being by me duly sworn, did depose and say that he resides at [illegible] Essex Fells NJ; that he is the V.P./Reg Mgr of McDONALD'S CORPORATION, the corporation described in and which executed the foregoing instrument; ~~that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed h name thereto by like order.~~

Toni Ann Calluccio Pereira

TONI ANN CALLUCCI PEREIRA
NOTARY PUBLIC OF NEW JERSEY
My Comm. Expires Nov 17 1983

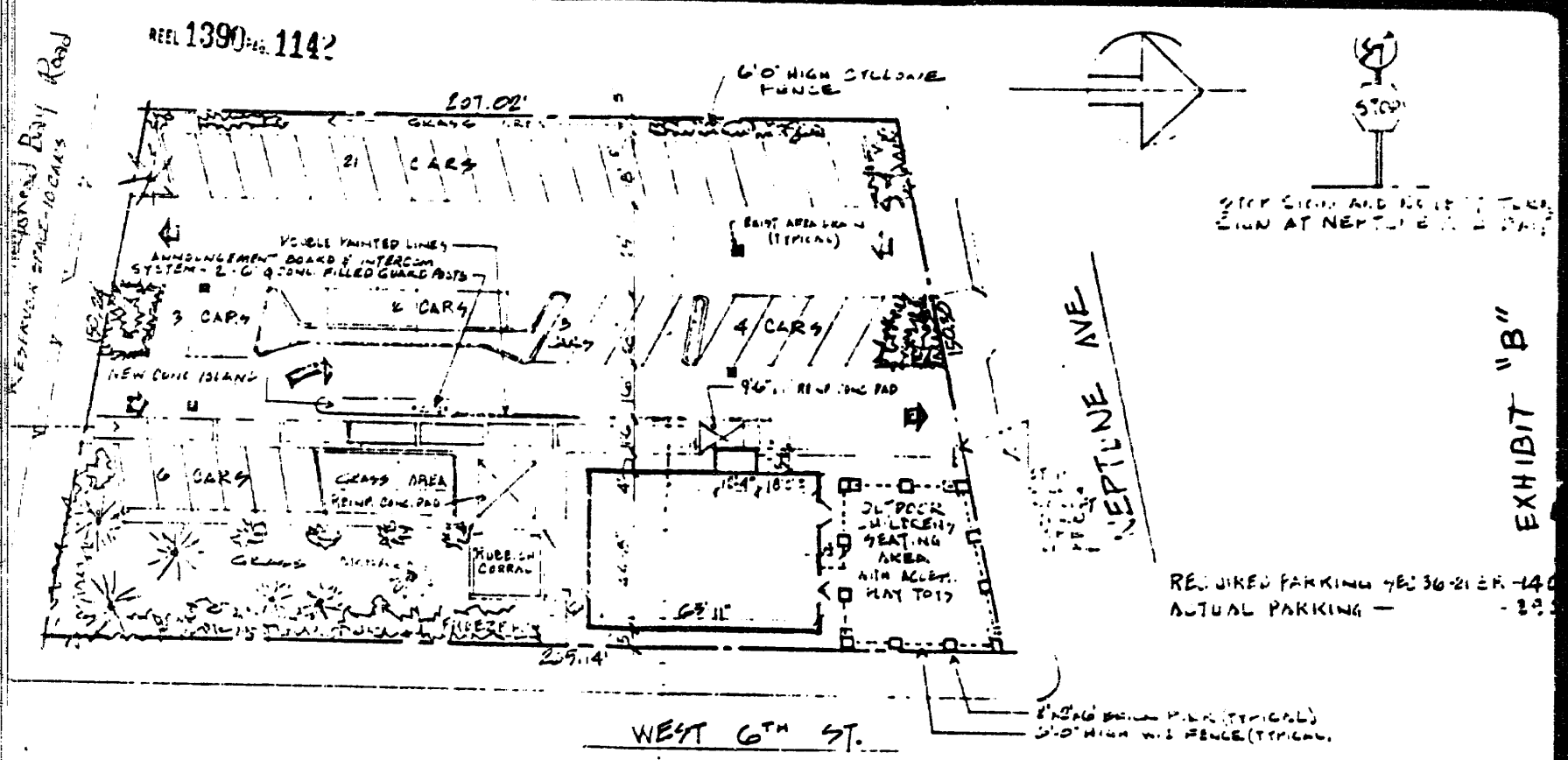
"AREA C"

All that certain lot, piece of parcel of land situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, and more particularly described as follows:

BEGINNING at a point on the southerly side of Neptune Avenue 120 feet wide, distant 140 feet easterly from the corner formed by the intersection of the southerly side of Neptune Avenue and the easterly side of West 8th Street; running thence easterly along the southerly side of Neptune Avenue 150.30 feet more or less to the corner formed by the intersection of the southerly side of Neptune Avenue and the westerly side of West 6th Street 120 feet wide; running thence southerly along the westerly side of West 6th Street 265.14 feet to the northerly side of Sheepshead Bay Road; and running thence easterly along the northerly side of Sheepshead Bay Road 150.31 feet to a point; and running thence northerly along a line parallel with West 6th Street 207 feet more or less to the southerly side of Neptune Avenue, thence westerly to the point or place of beginning.

EXHIBIT "A"

REEL 1390 PG. 1142



PROPOSED CONDITIONS

OFFICE OF THE 1139 1143
Kings County
RECORDED
Witness my
and Seal of
George J. Joseph
CITY REGISTER

RECORDED

Exhibit D

Amendment to the 1982 BSA Special Permit Resolution

98-82-BZ

APPLICANT—McGee and Morsellino, Esquires, for Trump Village Construction, owner.

SUBJECT—Application July 1, 1985—reopening for amendment of the resolution to change the drive-through traffic pattern and to decrease the accessory parking spaces from 39 to 37—decision of the Borough Superintendent, previously granted on condition under Section 73-243 of the Zoning Resolution, permitting in a C1-2 district, in an existing eating and drinking establishment, the installation of an accessory drive-through facility.

PREMISES AFFECTED—606 Neptune Avenue, southwest corner of West 6th Street, Block 7270, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #13BK.

APPEARANCES—

For Applicant: Joseph P. Morsellino.

ACTION OF BOARD—Application reopened and resolution amended.

THE VOTE TO GRANT—

Affirmative: Chairperson Deutsch, Vice Chairman Fossella, Commissioner Carroll, Commissioner Bockman and Commissioner Irrera 5

Negative: 0

THE RESOLUTION—

WHEREAS, Community Board #13BK recommended approval which was received on September 27, 1985; and

WHEREAS, the applicant requested an amendment of the resolution; and

WHEREAS, a public hearing was held on this application on October 22, 1985 after due notice by publication in the Bulletin, laid over to December 3, 1985, then to January 21, 1986, then to February 11, 1986, then to March 4, 1986 and then to March 18, 1986.

Resolved, that the Board of Standards and Appeals does hereby *reopen and amend* the resolution pursuant to Section 73-11 of the Zoning Resolution, said resolution having been adopted on July 13, 1982 by adding thereto:

"To change the drive-thru traffic pattern and to decrease the accessory parking spaces from 39 to 37; substantially as shown on revised drawing of proposed conditions marked, 'Received March 7, 1986'—one sheet; that other than as herein amended the resolution above cited shall be complied with in all respects."(Alt. 348-85).

Adopted by the Board of Standards and Appeals, March 18, 1986.

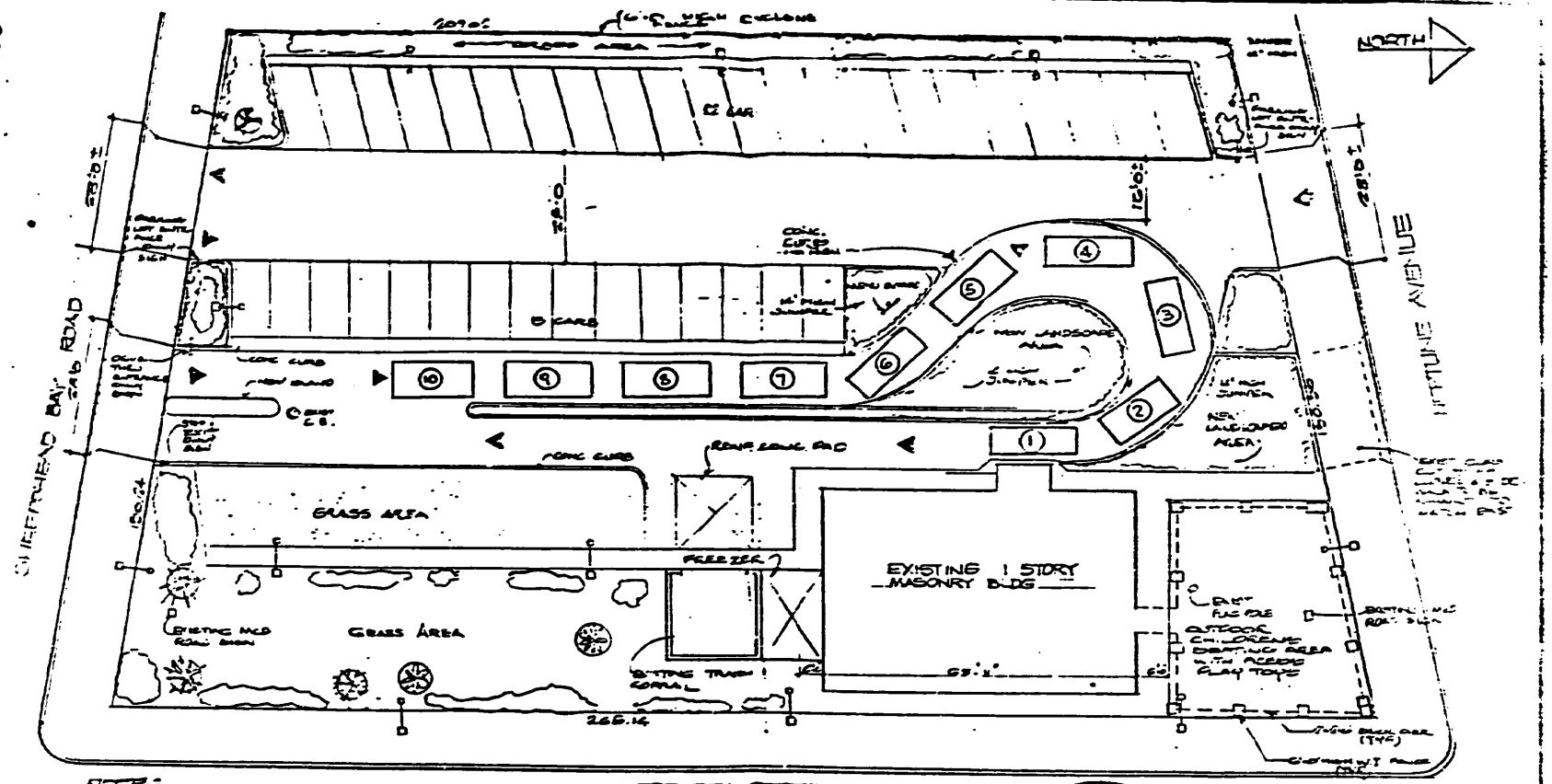
A true copy of resolution adopted by the Board of Standards and Appeals, March 18, 1986. Printed in Bulletin No. 13, Vol. LXXI.

Copies Sent 4/11/86
To Applicant — 1
Fire Com'r. — 1+P
Borough Supt. 2+P

Sylvia Deutsch

Chairperson.

REEL 2005 PAGE 1466



NOTE:
ALL EXTERIOR LIGHTING SHALL BE DIRECTED AWAY FROM CHURCH PARKING LOT.

PROPOSED SITE REVISIONS
1"-20'-0"

- REQUIRED PARKING - SECT. 36-21 ER-14 CARS
- ACTUAL PARKING — 37 CARS

5 MARCH 1986
26 FEBRUARY 1986
5 FEBRUARY 1986
10 JANUARY 1986

93-82 ET
606 NEPTUNE AVE

NORMAN L REIFFMAN
600 HEMPSTEAD TPKE
W. HEMPSTEAD NY 11552

SHEET 2 OF 2

Exhibit E

The Second Modification to the Declaration

SECOND AMENDED DECLARATION

This Second Amended Declaration, made this 3rd day of December, 1986, by TRUMP VILLAGE CONSTRUCTION CORP., a New York corporation having offices at 26-11 West 2nd Street, Brooklyn, New York, and McDONALD'S CORPORATION, an Illinois corporation registered to do business in the State of New York, and having offices at 1455 Broad Street, Bloomfield, New Jersey 07003, hereinafter called the "Declarants".

W I T N E S S E T H :

WHEREAS, the Declarant, TRUMP VILLAGE CONSTRUCTION CORP., is the fee owner and Declarant, McDONALD'S CORPORATION, is the lessee of certain real property in the Borough of Brooklyn, known as Tax Block 7270, Lot 25, City and State of New York, which real property hereinafter called the "Subject Property" is further described in Exhibit A attached hereto, and

WHEREAS, Declarants or their predecessors in interest, in connection with application designated CP22865 to the City Planning Commission for a rezoning of the Subject Property from R6 to C1-2, executed a Declaration ("Declaration") which was recorded on May 6, 1975 in the Office of the Register of the City of New York, Kings County, in Liber/Reel 777, Page 1650; and

WHEREAS, A Modification of Declaration dated October 28, 1982 was duly filed with the Register's Office of Kings County, City and State of New York, in Reel 902, Page 1486, restricting the manner in which the Subject Property can be developed (hereinafter referred to as the "First Amended Declaration"); and

WHEREAS, Declarants wish to modify the site plan as previously approved in the First Amended Declaration in order to permit the rearrangement of the drive-thru facility on the Subject Property substantially in accordance with the site plan attached hereto as Exhibit B, which plan has been approved on March 18, 1986, by the Board of Standards and Appeals, as an amendment to a special permit for said drive-thru facility pursuant to Section 73-243 of the New York City Zoning Resolution under Calendar Number 98-82 BZ; and

WHEREAS, Declarants represent and warrant that no restrictions of record on the use or development of the Subject Property nor any present or presently existing future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of restrictions, obligations and agreements of the instant SECOND AMENDED DECLARATION or the development of the Subject Property in accordance therewith; and

WHEREAS, American Title Insurance Company has certified that, as of Declarant, McDONALD'S CORPORATION and TRUMP VILLAGE CONSTRUCTION CORP., are the sole parties in interest (as defined in Section 12-10 of the Zoning Resolution, "Zoning Lot") to the Subject Property in connection with this SECOND AMENDED DECLARATION (which certification is annexed hereto as Exhibit "C");

NOW, THEREFORE, Declarant intends and acknowledges that the restrictions, covenants, conditions and obligations of this First Amended Declaration will protect the value and the desirability of the Subject Property as well as benefit all land, including land owned by the City of New York, lying within a one half mile radius of the Subject Property and which shall run with the Subject Property binding every party having any right, title or interest in the Subject Property or any part thereof and binding all heirs, successors and assigns:

(1) The site plan is hereby modified to permit the drive-thru facility substantially as shown on Exhibit B annexed hereto.

(2) The Declaration (CP22865) dated March 7,1975 and the First Amended Declaration, dated Oct. 28, 1982 shall remain in full force and effect, except as herein modified.

(3) This Second Amended Declaration may be modified or cancelled only with the approval of the City Planning Commission or the agency succeeding its jurisdiction and no other approval or consent shall be required from any other public body, private person or legal entity of any kind except parties in interest to the subject property. A statement signed by the Chairman of the

Commission certifying the Commission's approval of any modification or amendment of this Seconded Amended Declaration shall be annexed to any instrument embodying such modification or amendment of this Second Amended Declaration. After approval by the Commission the Declarant covenants to supply a copy of and to duly record any such instrument in the manner described in paragraph 6 hereof.

(4) Declarant covenants to include a copy of this Second Amended Declaration as part of any application pertinent to the Subject Property submitted to the New York City Department of Buildings or any agency succeeding to its jurisdiction.

(5) Declarant covenants that when the City Planning Commission shall have approved this Minor Modification of C800997 ZMM, it shall immediately file and record this Second Amended Declaration in the Office of the Register of the City of New York, County of New York, indexing them against the entire Subject Property. Declarant further covenants to provide the City Planning Commission with a duplicate original of this Second Amended Declaration on the date of its approval and a copy of this Seconded Amended Declaration as recorded, certified by the Register of New York County. The City of New York shall also have the right to record this Second Amended Declaration. All costs of recordation and certification, however, whether undertaken by the Declarant or by the City, shall be borne by the Declarant.

IN WITNESS WHEREOF, the Declarants have caused this Second Amended Declaration to be executed this 3rd day of December, 1986.

TRUMP VILLAGE CONSTRUCTION CORP.

By: _____
PRESIDENT

McDONALD'S CORPORATION

By: X _____
ASST. VICE PRESIDENT

STATE OF NEW YORK)
COUNTY OF Kings) ss.:

On the 3rd day of December, 1986, before me personally came Fred C Trump, to me known, who, being by me duly sworn, did depose and say that he resides at 85-14 Midland Parkway, Jamaica, N.Y. that he is the PRESIDENT of TRUMP VILLAGE CONSTRUCTION CORP., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Honey Finck
Notary Public

HONEY FINCK
Notary Public, State of New York
No. 24-4604366
Qualified in Kings County
Commission Expires March 30, 1987

STATE OF ~~NEW YORK~~ New Jersey)
COUNTY OF Essex) ss.:

On the 6 day of November, 1986, before me personally came Paul Facella, to me known, who, being by me duly sworn, did depose and say that he resides at 1455 Blond St Bloomfield NJ, that he is the Asst. Vice Pres. of McDONALD'S CORPORATION, the corporation described in and which executed the foregoing instrument, and that he signed his name thereto.

Debra L Robertella
Notary Public

Debra L. Robertella
Notary Public, State of New Jersey
My Commission Expires Dec. 28, 1988

Title No. 04-50819

SCHEDULE "A"

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Neptune Avenue, 120 feet wide, distant 140 feet easterly from the corner formed by the intersection of the southerly side of Neptune Avenue and the easterly side of West 8th Street; running thence

EASTERLY along the southerly side of Neptune Avenue, 150.30 feet, more or less, to the corner formed by the intersection of the southerly side of Neptune Avenue and the westerly side of West 6th Street, 120 feet wide; running thence

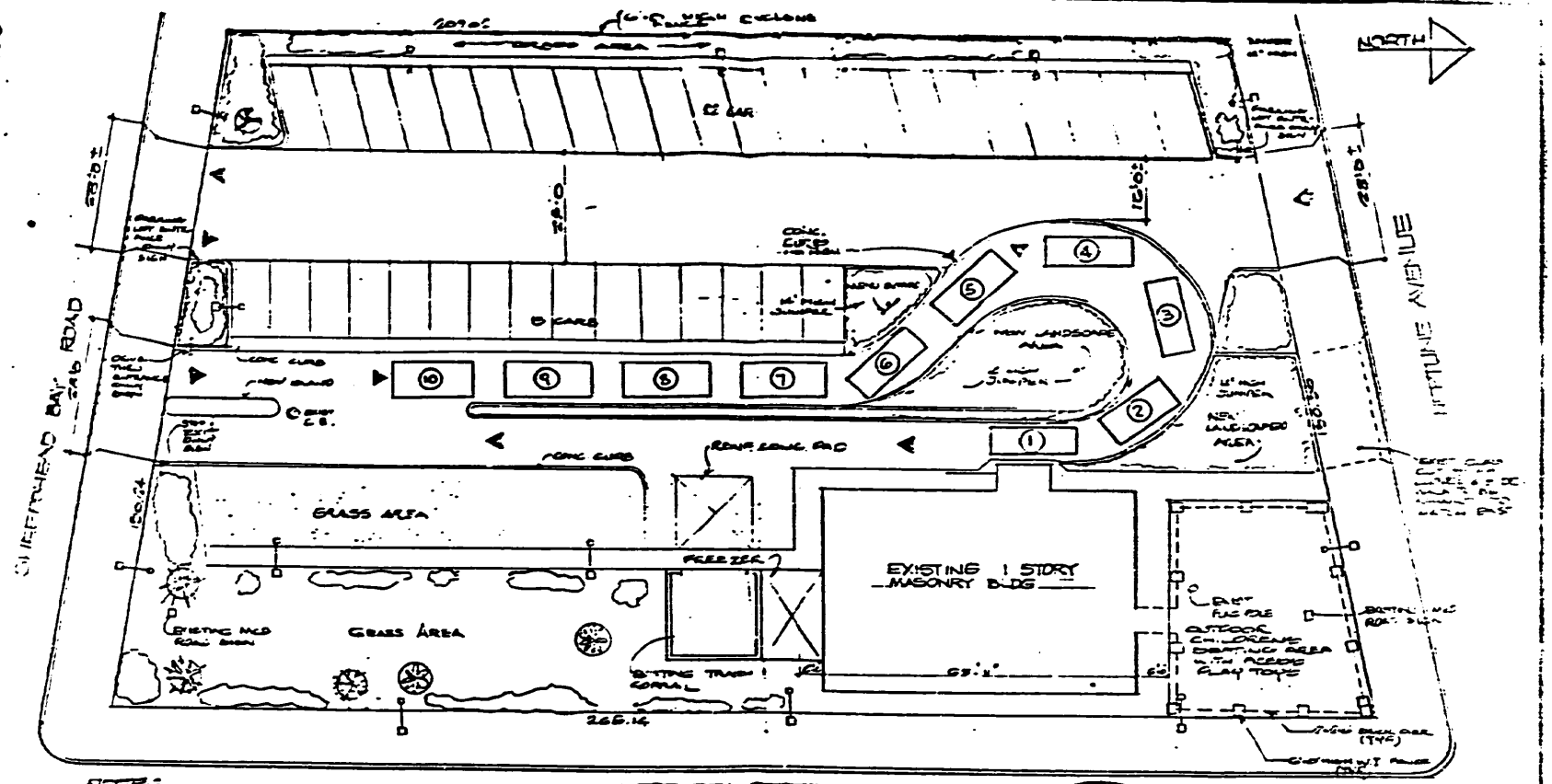
SOUTHERLY along the westerly side of West 6th Street, 265.14 feet to the northerly side of Sheepshead Bay Road; and running thence

WESTERLY along the northerly side of Sheepshead Bay Road, 150.31 feet to a point; and thence

NORTHERLY along a line parallel with West 6th Street, 207 feet, more or less to the southerly side of Neptune Avenue, the point or place of BEGINNING.

EXHIBIT "A"

REEL 2005 PAGE 1466



NOTE:
ALL EXTERIOR LIGHTING SHALL BE DIRECTED AWAY FROM CHURCH PARKING LOT.

PROPOSED SITE REVISIONS
1"-20'-0"

- REQUIRED PARKING - SECT. 36-21 ER-14 CARS
- ACTUAL PARKING — 37 CARS

5 MARCH 1986
26 FEBRUARY 1986
5 FEBRUARY 1986
10 JANUARY 1986

93-82 ET
606 NEPTUNE AVE

NORMAN L REIFFMAN
600 HEMPSTEAD TPKE
W. HEMPSTEAD NY 11552

SHEET 2 OF 2

American Title Insurance Company

Meridian Company

November 14, 1986

McGee & Morsellino, Esq.
1615 Northern Blvd.
Manhasset, New York 11030

Attn: Joesph Morsellino, Esq.

RE: Title No. 04-50819
Premises: Sheepshead Bay Road, also
known as Neptune Avenue, Brooklyn, NY
Block 7270 Lot 25

Certification of Parties in Interest

American Title Insurance Company has made a search of the records of Kings County for the premises described in Schedule "A" attached hereto, and find that the following parties have the following interests:

Party	Interest
(1) Trump Village Constrction Corp.	Fee Owner
(2) McDonald's Corporation	Unrecorded ground lease

The maximum liability of this Company with regard to this search is limited to $1,000.00.

American Title Insurance Company

Maria E. Fernandez
National Accounts Coordinator

MEF:mf
enc.

cc: McDonald's Corporation
Debby Robertella

American Title Insurance Company
Frank Podolski

675 Third Avenue
New York, NY
10017
(212) 687-5100

"C"

Title No. 04-50819

SCHEDULE "A"

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Neptune Avenue, 120 feet wide, distant 140 feet easterly from the corner formed by the intersection of the southerly side of Neptune Avenue and the easterly side of West 8th Street; running thence

EASTERLY along the southerly side of Neptune Avenue, 150.30 feet, more or less, to the corner formed by the intersection of the southerly side of Neptune Avenue and the westerly side of West 6th Street, 120 feet wide; running thence

SOUTHERLY along the westerly side of West 6th Street, 265.14 feet to the northerly side of Sheepshead Bay Road; and running thence

WESTERLY along the northerly side of Sheepshead Bay Road, 150.31 feet to a point; and thence

NORTHERLY along a line parallel with West 6th Street, 207 feet, more or less to the southerly side of Neptune Avenue, the point or place of BEGINNING.

"C"

REEL 2005 PAGE 1469

SECOND AMENDED DECLARATION

606 NEPTUNE AVENUE
BROOKLYN, NEW YORK

TAX BLOCK: 7270

LOT: 25

KINGS COUNTY

LOC. VER. BY ADDRESS

19.-

CAC-CT54

B 19-

COOKE ABSTRACT CORP.

R+R

McGEE & MORSELLINO, ESQS.
1615 Northern Boulevard
Manhasset, NewYork 11030
(718) 470-1330 (516) 627-7700

04-13-87 8-02 0-CONV 184219
PAID 0-CONV $19.00

OFFICE OF CITY REGISTER
Kings County
RECORDED
Witness my hand
and official seal
CITY REGISTER

Exhibit F

Extension of 1982 BSA Special Permit Resolution (1987)

98-82-BZ

APPLICANT—McGee and Morsellino, Esquires, for Trump Village Construction, owner.

SUBJECT—Application August 26, 1986—reopening for extension of time to complete which expires March 18, 1987 and reopening for extension of term of variance which expires on July 13, 1987—decision of the Borough Superintendent; previously granted on condition under Section 73-243 of the Zoning Resolution, permitting in a C1-2 district, in an existing eating and drinking establishment, the installation of an accessory drive-through facility.

PREMISES AFFECTED—606 Neptune Avenue, southwest corner of West 6th Street, Block 7270, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #13BK.

APPEARANCES—

For Applicant: None.

ACTION OF BOARD—Application reopened and time extended to substantially complete construction and term of variance extended.

THE VOTE TO CLOSE HEARING—

Affirmative: Acting Chairperson Bockman, Commissioner Carroll, Commissioner Irrera and Commissioner Tamm 4

Negative: 0

THE VOTE TO GRANT—

Affirmative: Acting Chairperson Bockman, Commissioner Carroll, Commissioner Irrera and Commissioner Tamm 4

Negative: 0

THE RESOLUTION—

WHEREAS, the applicant requested an extension of time to substantially complete construction and for an extension of the term of variance; and

WHEREAS, a public hearing was held on this application on December 9, 1986, after due notice by publication in the Bulletin, laid over to January 13, 1987 and then to January 27, 1987.

Resolved, that the Board of Standards and Appeals does hereby *reopen and amend* the resolution pursuant to Section 73-03(f) of the Zoning Resolution, said resolution having been adopted on July 13, 1982 as amended through March 18, 1986, expiring July 13, 1987; by adding thereto:

"That this amended variance shall continue for a term of five years from July 13, 1987; and that substantial construction shall be completed within one year from March 18, 1987; that other than as herein amended the resolution above cited shall be complied with in all respects." (Alt. 60-82).

Adopted by the Board of Standards and Appeals, January 27, 1987.

A true copy of resolution adopted by the Board of Standards and Appeals, January 27, 1987.
Printed in Bulletin No. 5, Vol. LXXII.

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

Acting Chairperson.

Exhibit G

Extension of 1982 BSA Special Permit Resolution (1992)

98-82-BZ

APPLICANT—Joseph P. Morsellino, P.C. for Trump Village, Incorporated, owner.

SUBJECT—Application October 15, 1993—reopening for an extension of the term of a special permit which expired July 13, 1992—decision of the Borough Commissioner application previously granted *on condition* under Z.R. §73-243, permitting in a C1-2 district, an eating and drinking establishment, the installation of an accessory drive through.

PREMISES AFFECTED—606 Neptune Avenue, southwest corner of Sixth Street, Block 7270, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #13BK.

APPEARANCES—

For Applicant: Joseph P. Morsellino.

For Administration: John Scrofani, Fire Department.

ACTION OF BOARD—Rules of Procedure waived, application reopened and term of the special permit extended and resolution amended.

THE VOTE TO GRANT—

Affirmative: Chairman Silva, Commissioner Chen, Commissioner Palladino and Commissioner Joseph.....4

Negative:.....0

THE RESOLUTION—

WHEREAS, WHEREAS, the applicant requested a waiver of the Rules of Procedure; and an extension of the term of the special permit and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on May 24, 1994 after due notice by publication in the *Bulletin*, laid over to June 21, August 2, 1994, then to October 4, 1994 for decision.

Resolved, that the Board of Standards and Appeals does hereby *waive the Rules of Procedure and reopens and amends* the resolution pursuant to Z.R. §73-03(f), said resolution having been adopted on July 13, 1982 as amended through January 27, 1987 expiring July 13, 1992 so that as amended this portion of the resolution shall read:

to permit the proposed reconfiguration of the drive through facility and extension of term for five (5) years from July 13, 1992; *on condition* that the premises shall be maintained in substantial compliance with the existing and proposed drawings submitted with the application marked Received October 15, 1993" two (2) sheets; that "Full Stop" and "No Left Turn" signs at the exit of the drive through facility be installed and maintained in accordance with BSA approved plans; and that other than as herein amended the resolution above cited shall be complied with in all respect, and that substantial construction be completed and a new certificate of occupancy shall be obtained within one (1) year from the date of this amended resolution."

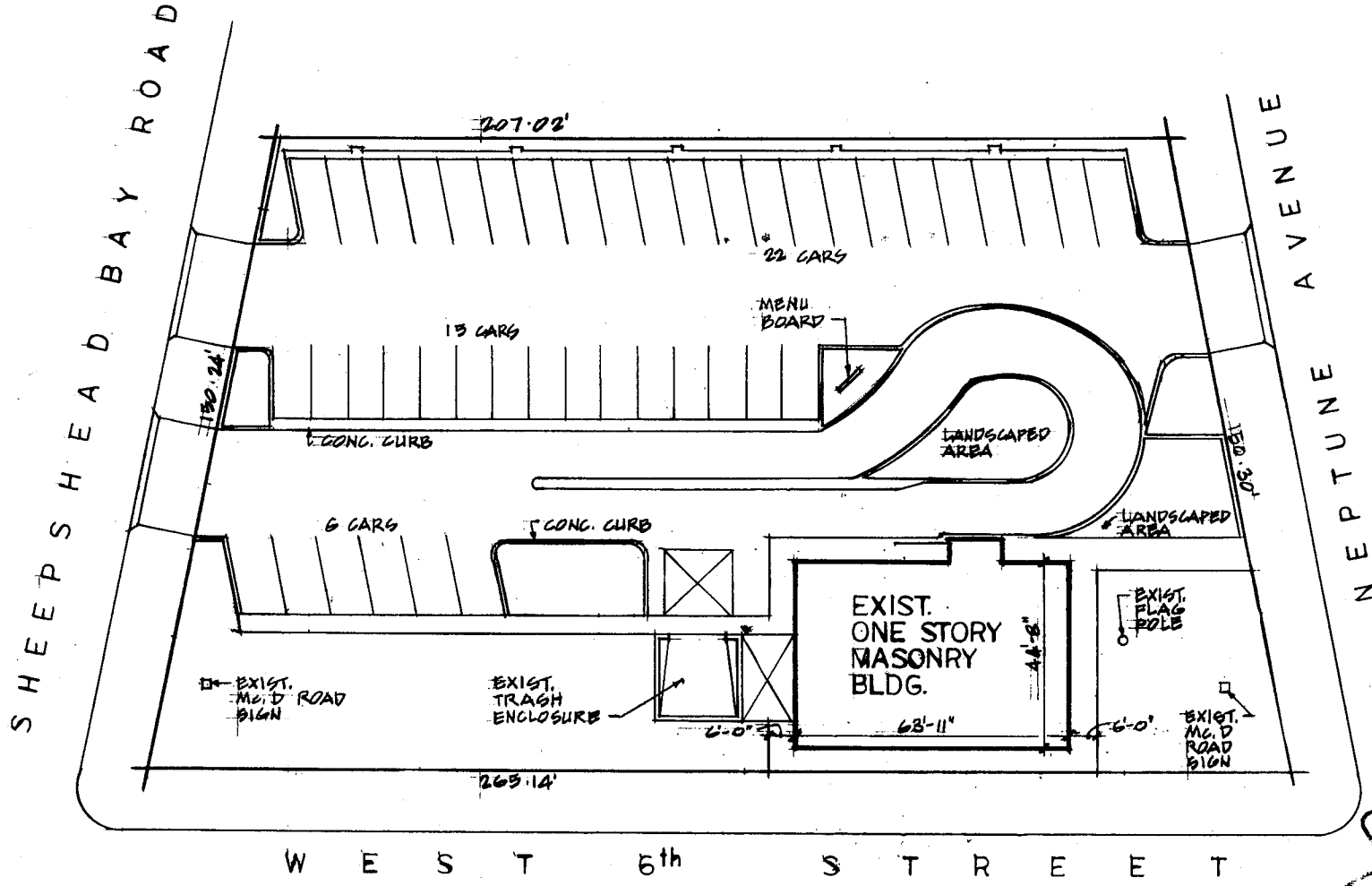
(Alt. 300292859)

Adopted by the Board of Standards and Appeals, October 4, 1994.

A true copy of resolution adopted by the Board of Standards and Appeals, October 4, 1994, Printed in Bulletin No. 41, Vol. LXXIX.

Copies Sent
To Applicant
Fire Com't.
Borough Supt.

Chairman.



SITE PLAN
CONDITIONS AS APPROVED BY BS&A & EXISTING

CAL. NO. 98-82-BZ

REGISTERED ARCHITECT
STEVEN B. RABINOFF
13618
STATE OF NEW YORK

REV.	DESCRIPTION	DATE

DRAWING NO. : 3 OF

PROJECT LOCATION : 606 NEPTUNE AVENUE BROOKLYN, NEW YORK

TITLE SHEET : SITE PLAN
CONDITIONS AS APPROVED BY BS&A & EXISTING
SCALE : 1" = 40'-0"

STEVEN B. RABINOFF ARCHITECT P.C.
ARCHITECTS & PLANNERS
58-20 FRANCIS LEWIS BLVD.
FLUSHING, NEW YORK 11364
(718) 224-8100

PROJECT NO. : 90049.20
DATE : 5/24/93

Exhibit H

The 2002 BSA Special Permit Resolution

403-01-BZ
CEQR#02-BSA-101K
APPLICANT - Sullivan, Chester & Gardner LLP, for Trump Construction Co., owner; Yandoli Foods Corp., lessee.
SUBJECT - Application December 26, 2001 - under Z.R. §73-243, to permit, in a C7 zoning district, the reestablishment of an expired special permit previously granted under Calendar Number 98-82-BZ, for an accessory drive-thru facility, the proposed reconfiguration of the drive-thru facility and lot, and the increase in the number of parking spaces from 29 to 36.
PREMISES AFFECTED - 606 Neptune Avenue, southwest corner of 6th Street, Block 7270, Lot 25, Borough of Brooklyn.
COMMUNITY BOARD #13BK
APPEARANCES -
For Applicant: Jeffrey Chester.
For Administration: John Scrofani, Fire Department.
ACTION OF THE BOARD - Application granted on condition.
THE VOTE TO GRANT -
Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4
Negative:
.....0
THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 28, 2001, acting on Alt. Applic. No. 301172503 reads:

> "Drive through window in a C1-2 Zoning District is contrary to ZR 32-31. The Drive- through facility for this location has been previously approved by the Board of Standards and Appeals. Cal. No 98-82-BZ) and has expired. Refer this application to the Board for an extension of term."; and

WHEREAS, a public hearing was held on this application on May 7, 2002 after due notice by publication in the City Record, laid over to May 21, 2002 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar R.A. and Commissioner Mitchell Korbey; and

WHEREAS, this is an application for a special permit under Z.R.§§73-243 and 73-03, to permit, in a C7 zoning district, the reestablishment of an expired special permit previously granted under Calendar Number 98-82-BZ, for an accessory drive-thru facility, the proposed reconfiguration of the drive-thru facility and lot, and the increase in the number of parking spaces from 29 to 36; and

WHEREAS, the subject lot contains approximately 35,000 square feet with 150' of frontage along Neptune Avenue, improved with a restaurant with an accessory drive-thru facility; and

WHEREAS, the existing restaurant's floor area is approximately 3,714 square feet and provides 29 accessory parking spaces; and

WHEREAS, the record indicates that the surrounding area contains a mixture of commercial, residential and community facility uses and that Neptune Avenue is a heavily trafficked thoroughfare; and

WHEREAS, the applicant represents that on Neptune Avenue, directly to the east across West 6th Street, is a large multi-tenanted shopping center with an accessory parking lot; and

WHEREAS, on July 13, 1982, under Calendar Number 98-82-BZ, the Board granted a Special Permit for a term of five (5) years, on condition that speed bumps, warning signs and stop signs be installed; and

WHEREAS, the application was amended in 1987, 1994 with the last of the five year terms expiring July 13, 1997; and

WHEREAS, the applicant represents that the current owner was not aware that the property was subject to Board renewal; and

WHEREAS, the record indicates that the drive through lane will accommodate up to 10 automobiles, that the proposed exit on West 6th Street will have a negligible impact on traffic, that 36 accessory parking spaces are being provided, that Neptune Avenue is a significant commercial thoroughfare and that the majority of the existing frontages within 500' are commercial in nature, that the drive through has existed for 18 years and has not caused an undue adverse impact on residences within the immediate vicinity, and that because there are no adjacent residential uses, there is an adequate buffer between the drive-through facility and adjacent residential uses; and

WHEREAS, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-243 and 73-03; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement; and

WHEREAS, therefore, the Board has determined that the proposed action will not result in any significant environmental effects.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Section Z.R.§§73-243 and 73-03, to permit, in a C7 zoning district, the reestablishment of an expired special permit previously granted under Calendar Number 98-82-BZ, for an accessory drive-thru facility, the proposed reconfiguration of the drive-thru facility and lot, and the increase in the number of parking spaces from 29 to 36, on condition that all work shall substantially conform to drawings as they apply to the

objection above-noted, filed with this application marked "Received April 16, 2002"-(6)sheets; and on further condition;

THAT this special permit shall be limited to a term of five years from the date of this grant expiring May 21, 2007;

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

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 shall be considered approved only for the portions related to the specific relief granted;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted

Adopted by the Board of Standards and Appeals, May 21, 2002.

Exhibit I

Letter from BSA stating drive-through facilities are not permitted in the Special District

Board of Standards and Appeals

250 Broadway, 29th Floor
New York, New York 10007
Phone: (212) 386-0009
Fax: (646) 500-6271
www.nyc.gov/bsa

Margery Perlmutter
Chair/Commissioner

January 12, 2015

Eric Palatnik, P.C.
32 Broadway, Suite 114
New York, New York 10004

Re: BSA Cal No 227-14-BZ
606 Neptune Avenue, Brooklyn, Block 7270, Lot 25 (the "Site")

Dear Mr. Palatnik:

On September 22, 2014, you filed an application relating to the above-referenced Site under BSA Cal No 227-14-BZ for a special permit pursuant to ZR §§ 73-03 and 73-243 (the "Application"). The purpose of the Application is to legalize an accessory drive-through at a Use Group 6 eating and drinking establishment at the Site, which is located within an R6 (C1-2) zoning district, within the Special Ocean Parkway District.

As you stated in the Application, the Site is occupied by a McDonald's restaurant with an accessory drive-through, which has been operating since 1982 and which was initially approved pursuant to BSA Cal. No. 98-82-BZ (the "1982 Special Permit"). The 1982 Special Permit expired by its terms and was not renewed. The use of the Site was subsequently approved pursuant to BSA Cal. No. 403-01-BZ (the "2002 Special Permit"). The 2002 Special Permit expired by its terms and was not renewed.

As you are aware, the Site is located within the Special Ocean Parkway District.

Please be advised that ZR §73-243, which authorizes the Board to permit accessory drive-through facilities in certain zoning districts, explicitly prohibits the Board from issuing permits for accessory drive-through facilities in special purpose districts. As such, the Site is not eligible for the special permit sought in the Application.

Please contact me should you have any additional questions.

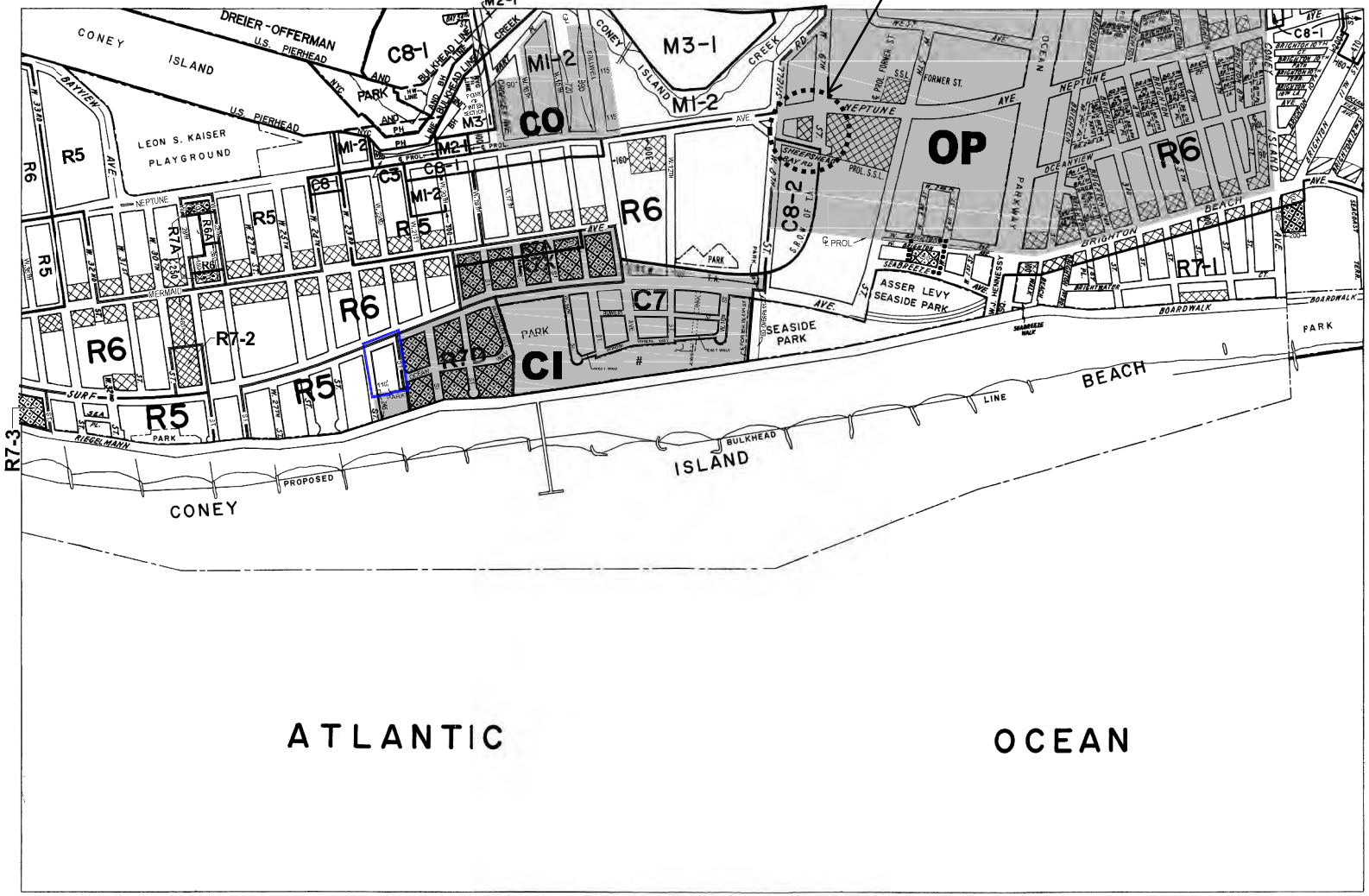
Sincerely,

Ryan Singer
Executive Director

DS/al
cc: John Egnatios-Beene, General Counsel
David J. Schnakenberg , Deputy General Counsel
Carlo Constanza, Project Manager

Project Area

Click blue outline on map to view diagram of **proposed** zoning change



600 0 600 1200 1800 FEET

#NOTE: STREETS FOR THE STREET MAP CHANGE C 090107 MMK AND N 090107(A) MMK ARE SHOWN ON THIS MAP PRIOR TO BECOMING EFFECTIVE IN ORDER TO LOCATE ZONING DISTRICT BOUNDARIES.

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

Major Zoning Classifications:

The number(s) and/or letter(s) that follows an R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

R – RESIDENTIAL DISTRICT

C – COMMERCIAL DISTRICT

M – MANUFACTURING DISTRICT

SPECIAL PURPOSE DISTRICT
The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.

AREA(S) REZONED

Effective Date(s) of Rezoning:

04–22–2020 C 190172 ZMK

Special Requirements:

For a list of lots subject to CEQR environmental requirements, see APPENDIX C.

For a list of lots subject to "D" restrictive declarations, see APPENDIX D.

For Inclusionary Housing designated areas and Mandatory Inclusionary Housing areas on this map, see APPENDIX F.

MAP KEY

28a	28c	29a
28b	**28d**	29d

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ZONING MAP **28d**

NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for this map, visit the Zoning section of the Department of City Planning website **www.nyc.gov/planning** or contact the Zoning Information Desk at (212) 720-3291.

606 Neptune Avenue, Brooklyn

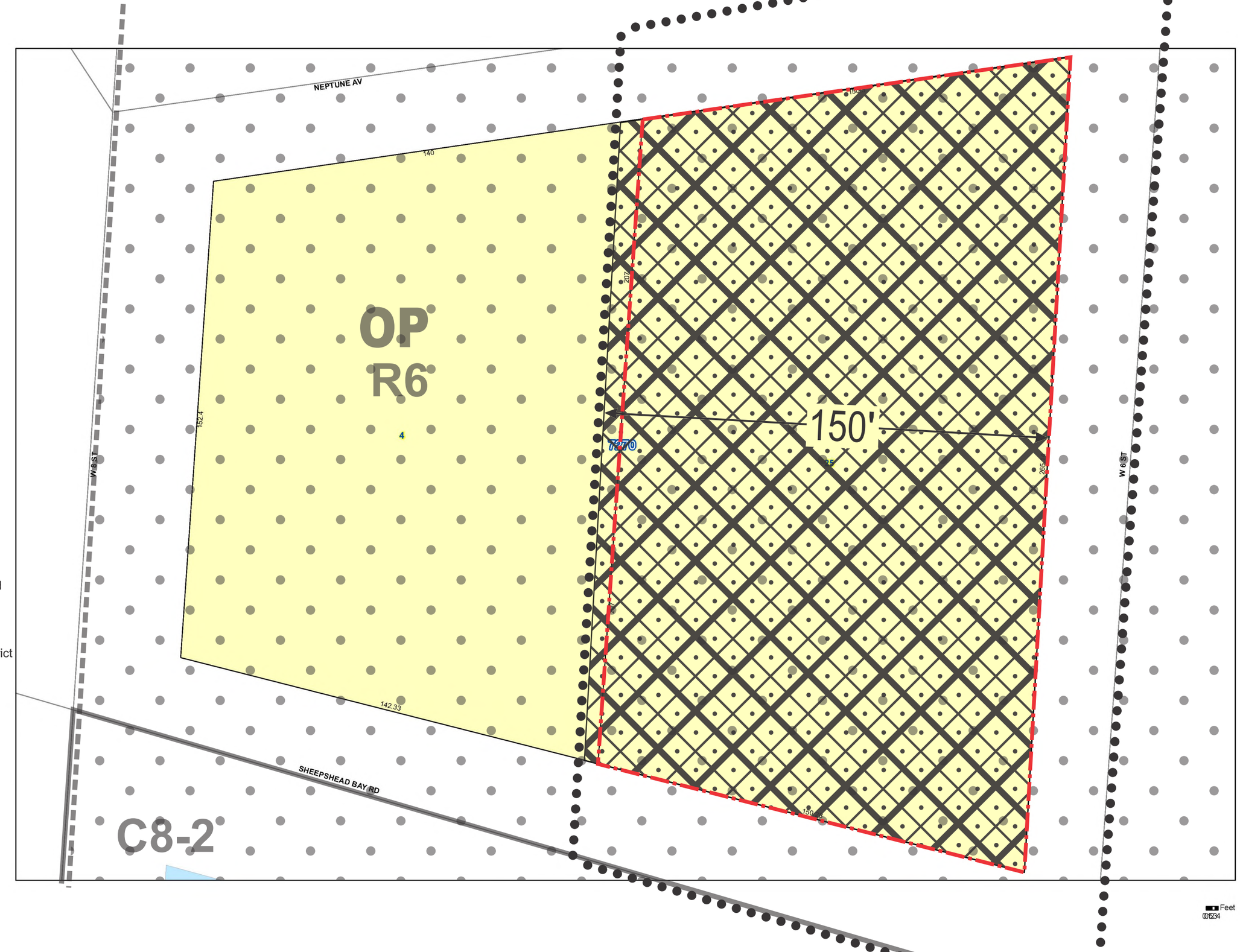
FINANCE NEW • YORK
MARTHA E. STARK
COMMISSIONER

N
W E
S

NYC Digital Tax Map

Effective Date : 12-07-2008 16:56:40
End Date : Current

Brooklyn Block: 7270

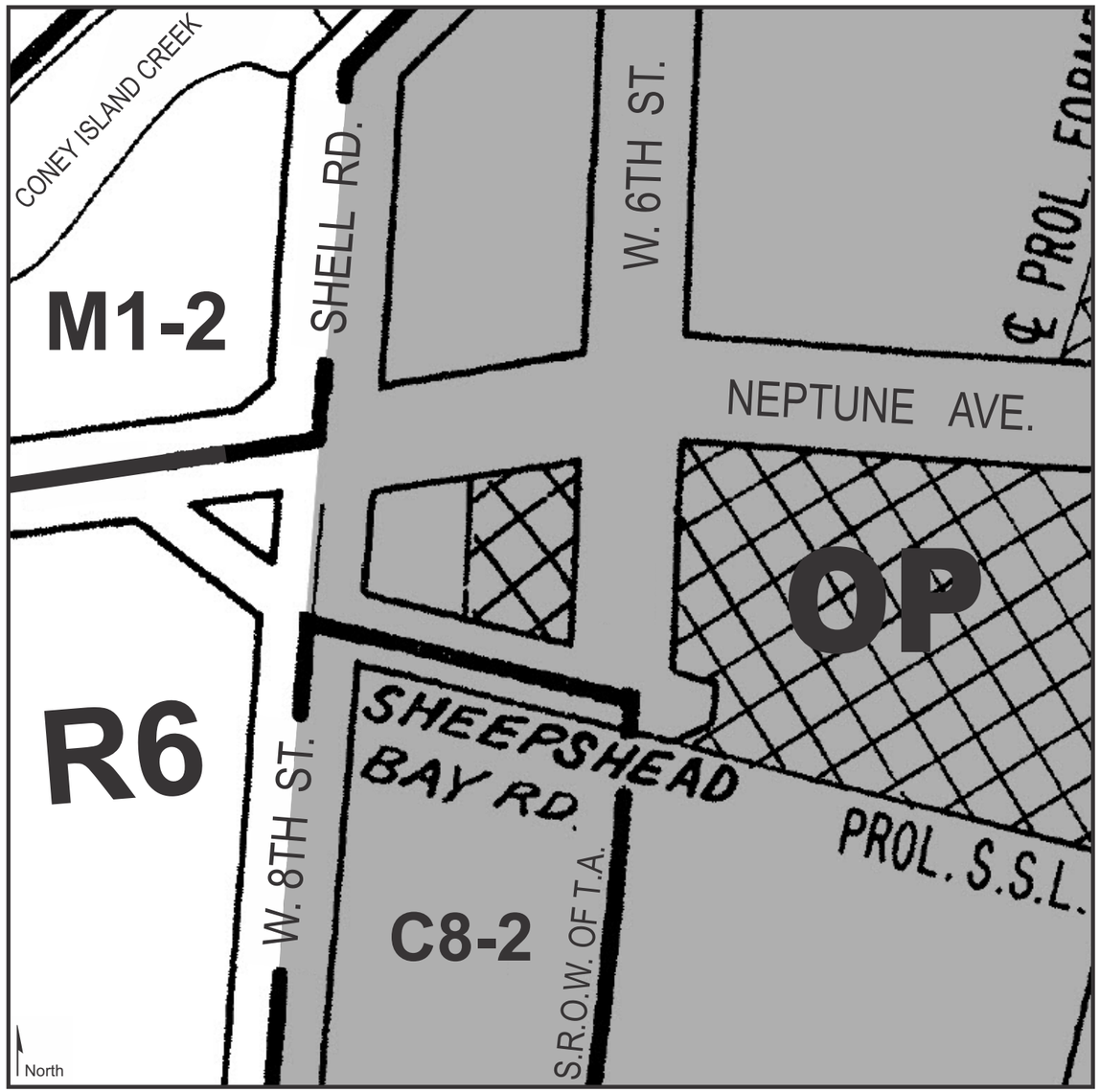


Legend

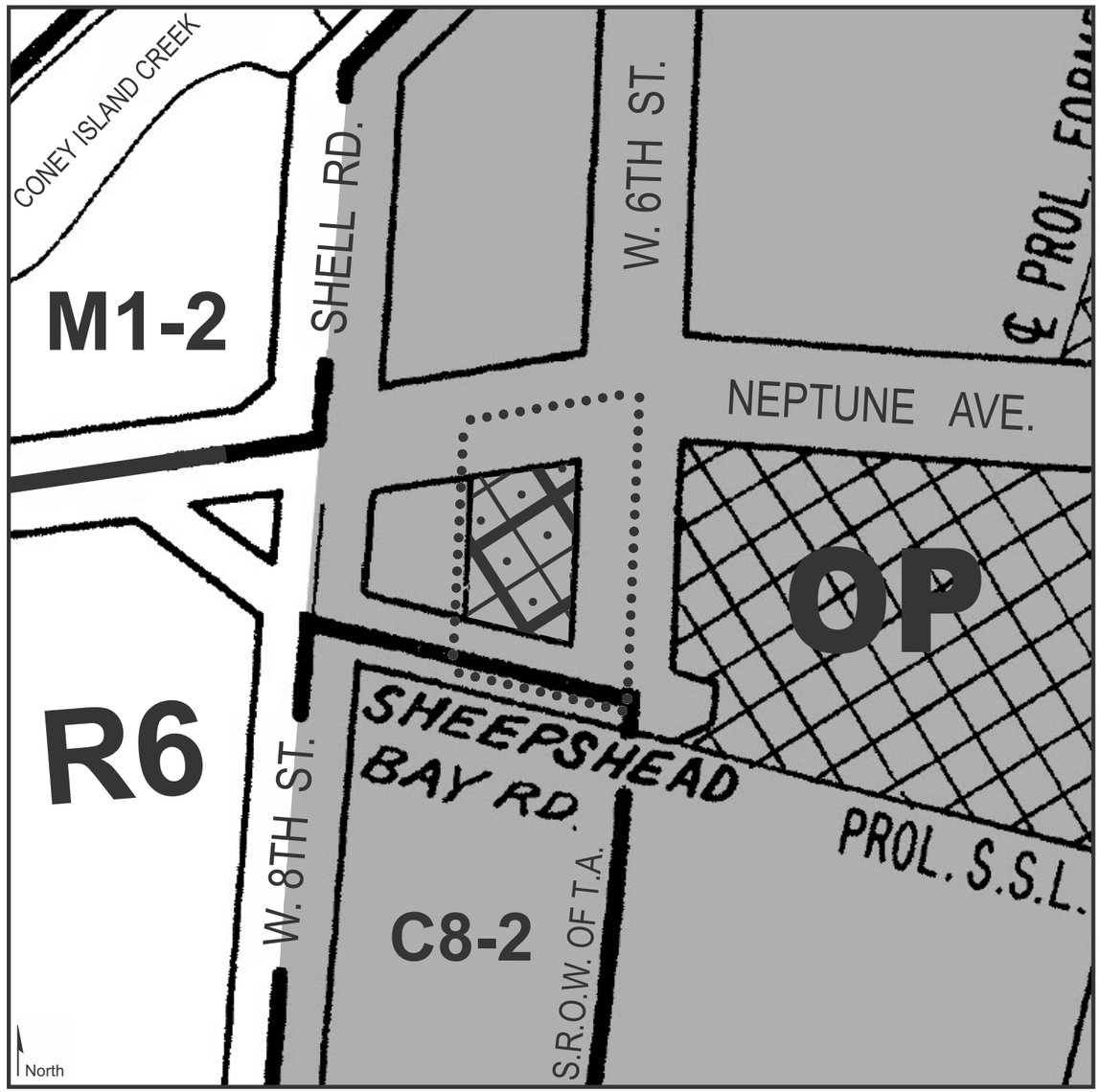
- Streets
- Miscellaneous Text
- Possession Hooks
- Boundary Lines
- Lot Face Possession Hooks
- Regular
- Underwater
- Tax Lot Polygon
- Condo Number
- Tax Block Polygon

- Development Site
- Area Proposed to be Rezoned
- Existing Zoning District Line
- Existing Special Purpose District
- R6 Existing Zoning District
- Proposed C2-4 Overlay

Zoning Change Map



Current Zoning Map (28d)



Proposed Zoning Map (28d) - Area being rezoned is outlined with dotted lines

Rezoning from C1-2 to C2-4

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

Area Map

606 Neptune Avenue, Brooklyn
Block 7270, Lots 25 & 4 (p/o)

Project Information

- 600' Radius
- Development Site
- Area Proposed to be Rezoned
- Zoning Districts
- Special Districts

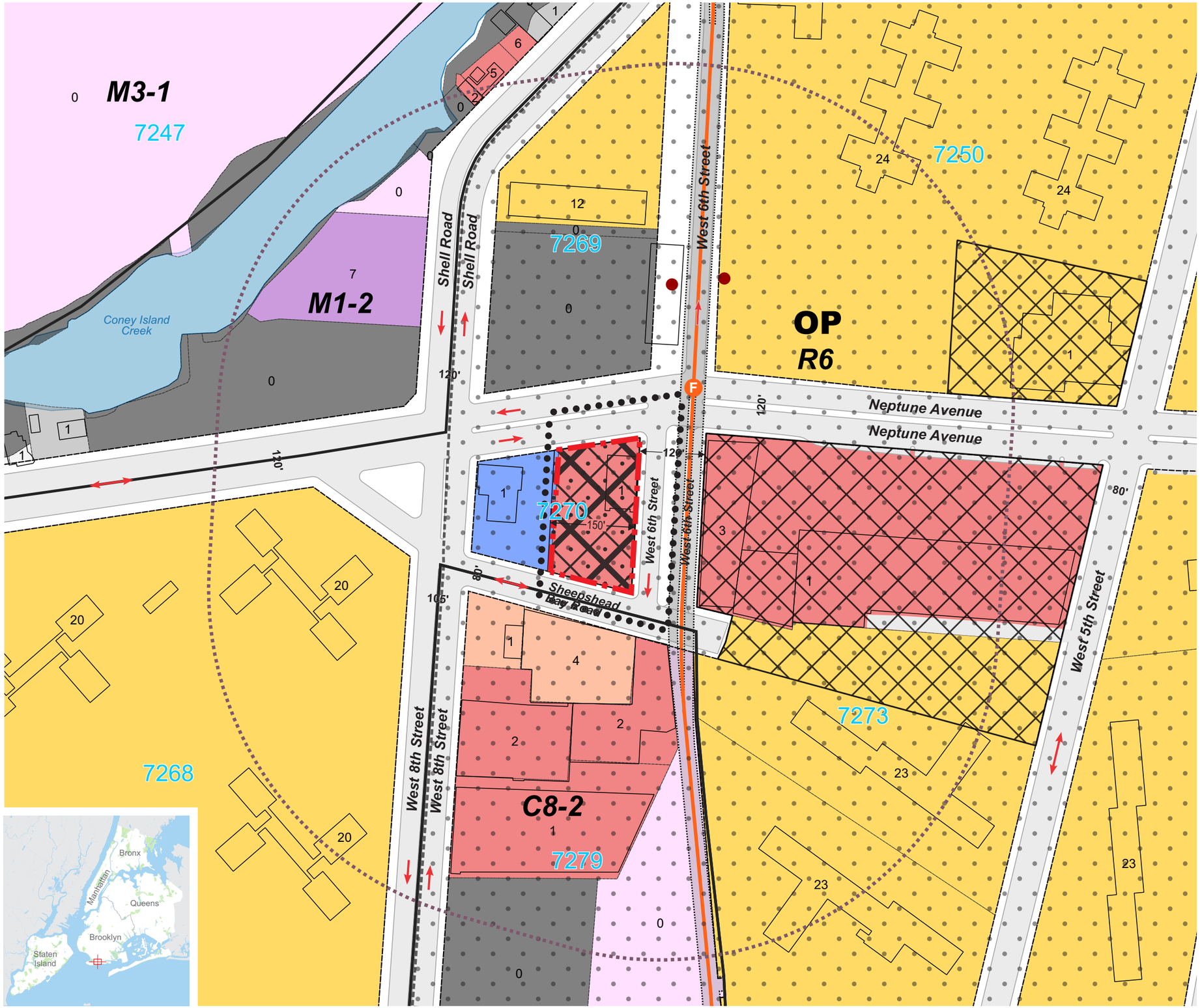
Existing Commercial Overlays

C1-1	C2-1
C1-2	C2-2
C1-3	C2-3
C1-4	C2-4
C1-5	C2-5

- Subway Entries
- 5037 Block Numbers
- Elevated Rail or Roadway
- Property Lines
- 5 Number of Floors

Land Uses

- One & Two Family Residential Buildings
- Multi-Family Residential Buildings (Walk-up)
- Multi-Family Residential Buildings (Elevator)
- Mixed Residential & Commercial Buildings
- Commercial/Office Buildings
- Industrial/Manufacturing
- Transportation/Utility
- Public Facilities & Institutions
- Open Space
- Parking Facilities
- Vacant Land
- No Data/Other



North

0 200 400 600 Feet

Prepared by Urban Cartographics June 2019



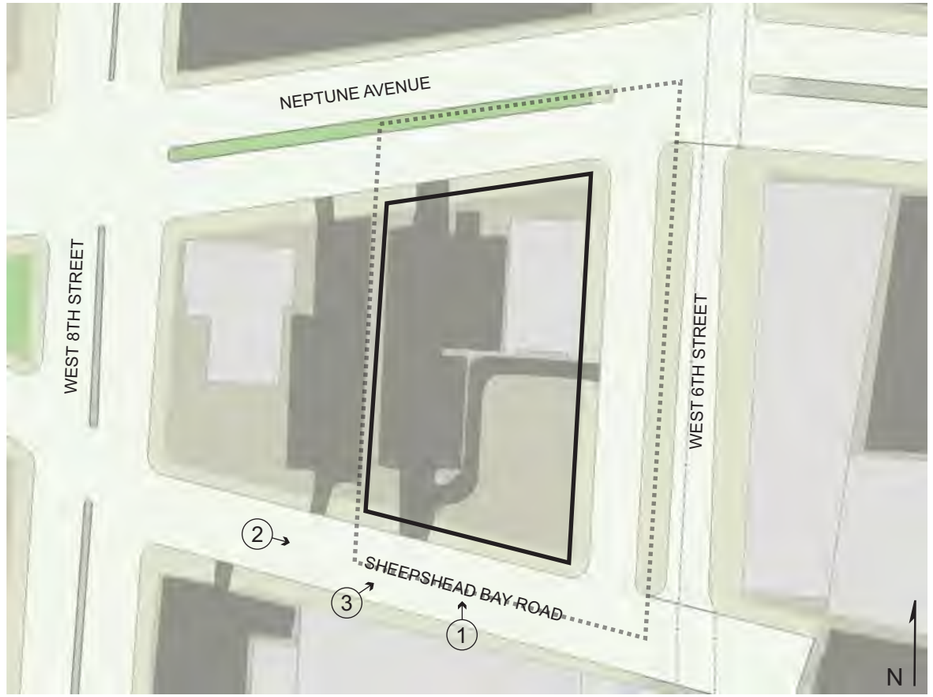
1. View of the Development Site facing north
from Sheepshead Bay Road.



2. View of Sheepshead Bay Road facing southeast
(Development Site at left).



3. View of the Development Site facing northeast
from Sheepshead Bay Road.





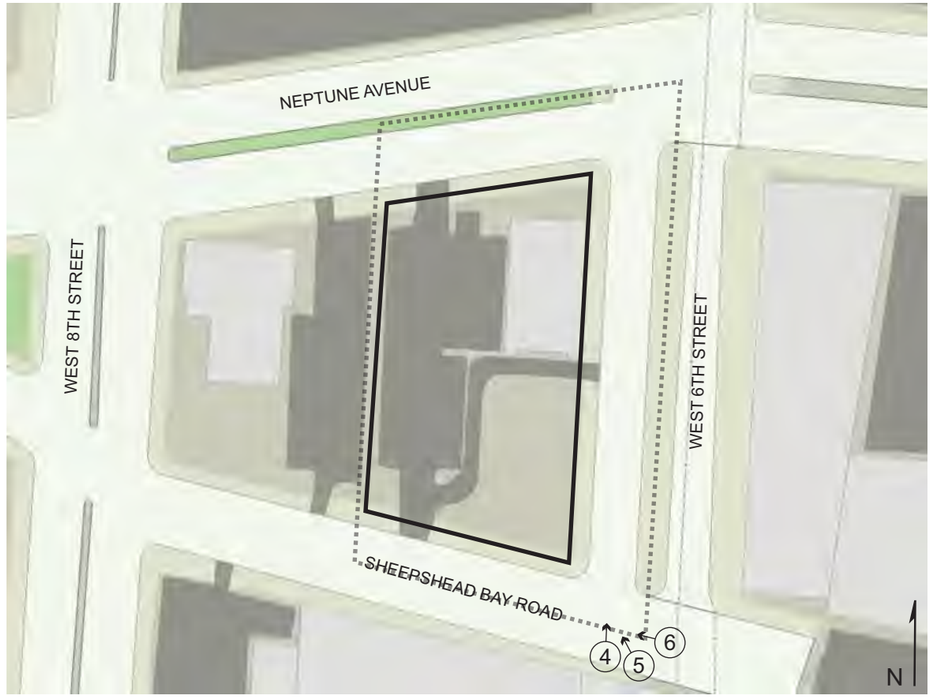
4. View of West 6th Street facing north (Development Site at left).



5. View of the Development Site facing northwest from the intersection of Sheepshead Bay Road and West 6th Street.



6. View of Sheepshead Bay Road facing northwest from West 6th Street (Development Site at right).





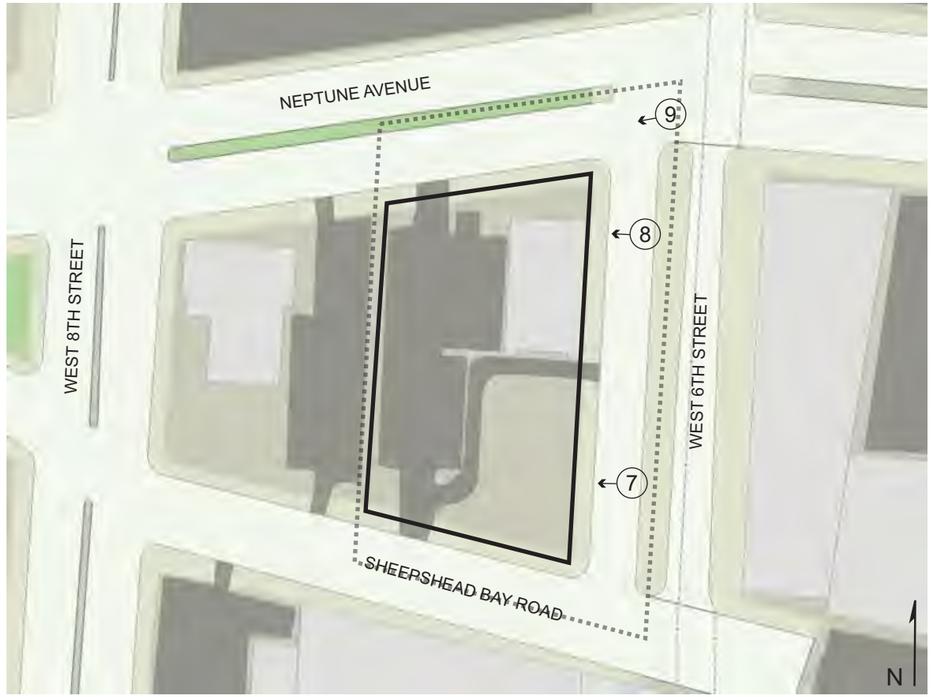
7. View of the Development Site facing west from West 6th Street.



8. View of the Development Site facing west from West 6th Street.



9. View of Neptune Avenue facing southwest
from West 6th Street (Development Site at left).





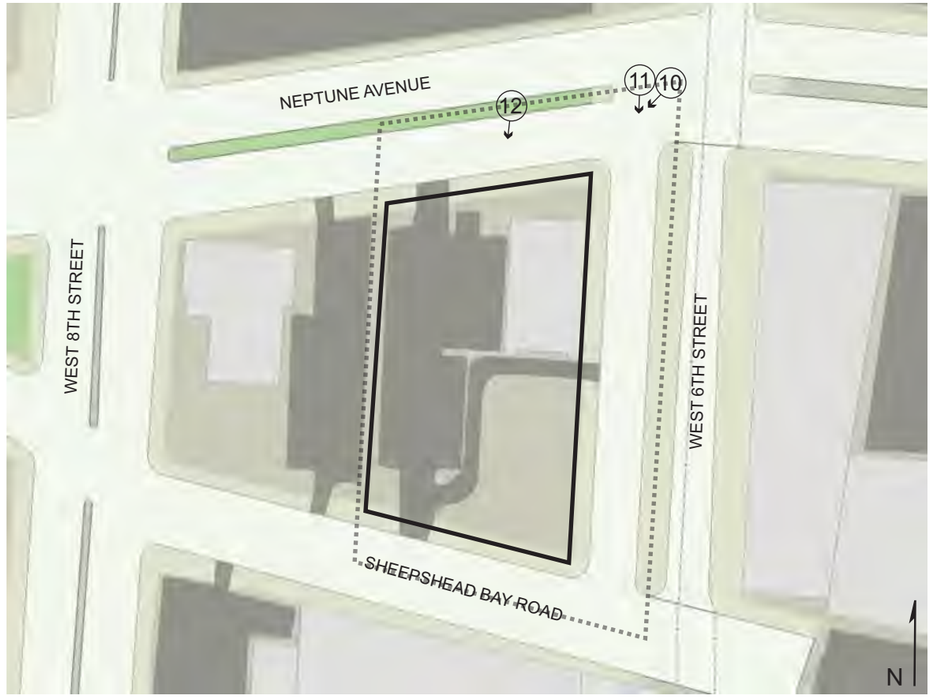
10. View of the Development Site facing southwest from the intersection of Neptune Avenue and West 6th Street.



11. View of West 6th Street facing south from Neptune Avenue (Development Site at right).



12. View of the Development Site facing south from Neptune Avenue.





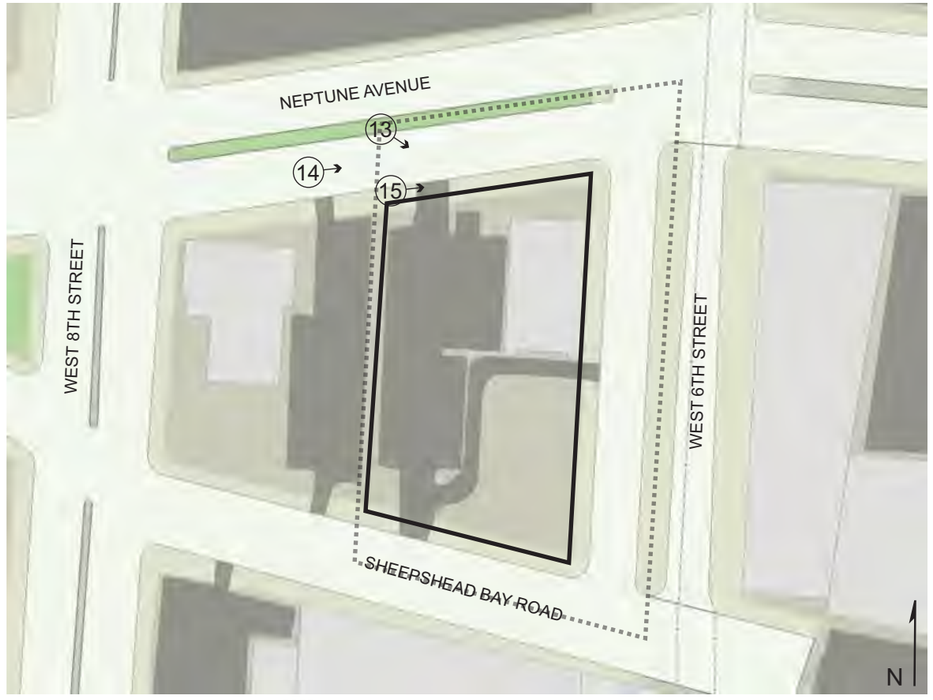
13. View of the Development Site facing southeast from Neptune Avenue.



14. View of Neptune Avenue facing northeast (Development Site at right).



15. View of the sidewalk along the south side of Neptune Avenue facing northeast (Development Site at right).





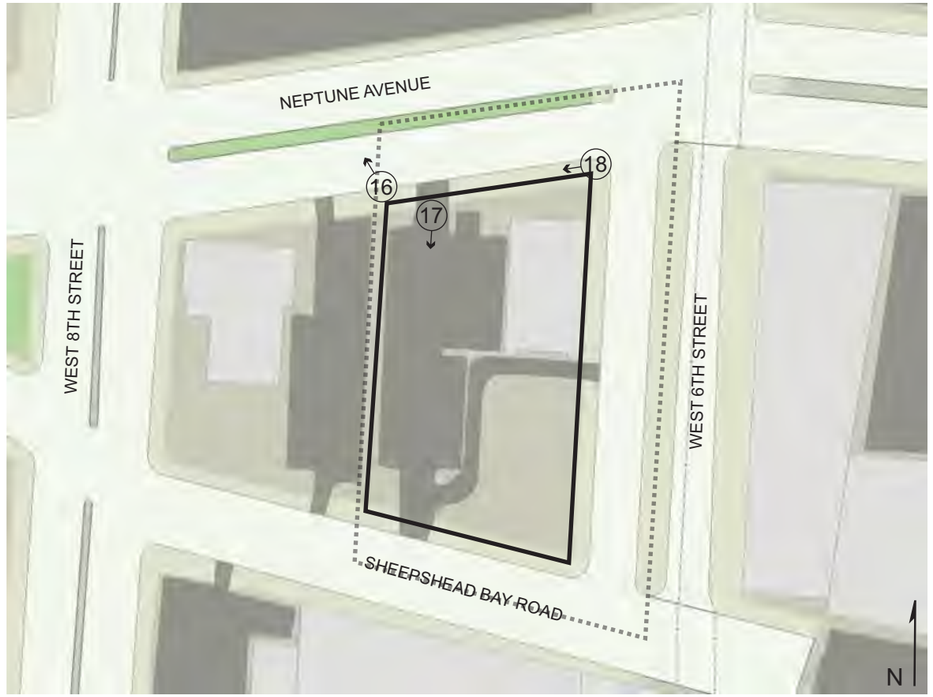
16. View of the north side of Neptune Avenue facing northwest from the Development Site.



17. View of the parking lot on the Development Site facing south from Neptune Avenue.



18. View of the sidewalk along the south side of Neptune Avenue facing southwest from West 6th Street (Development Site at left).





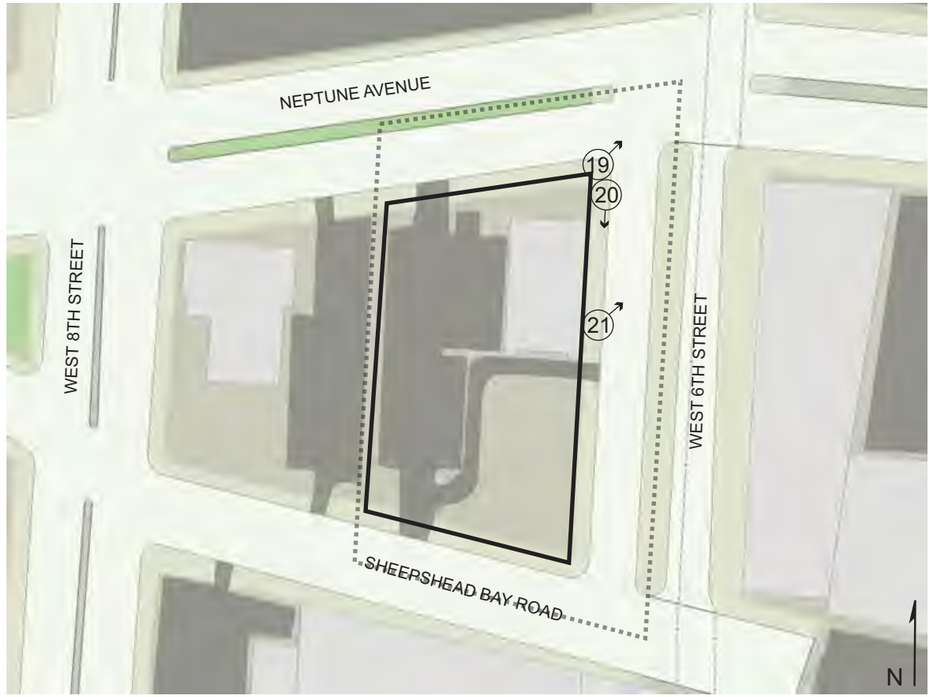
19. View of the intersection of Neptune Avenue and West 6th Street facing northeast from the Development Site.



20. View of the sidewalk along the west side of West 6th Street facing south from Neptune Avenue (Development Site at right).



21. View of the east side of West 6th Street facing northeast from the Development Site.





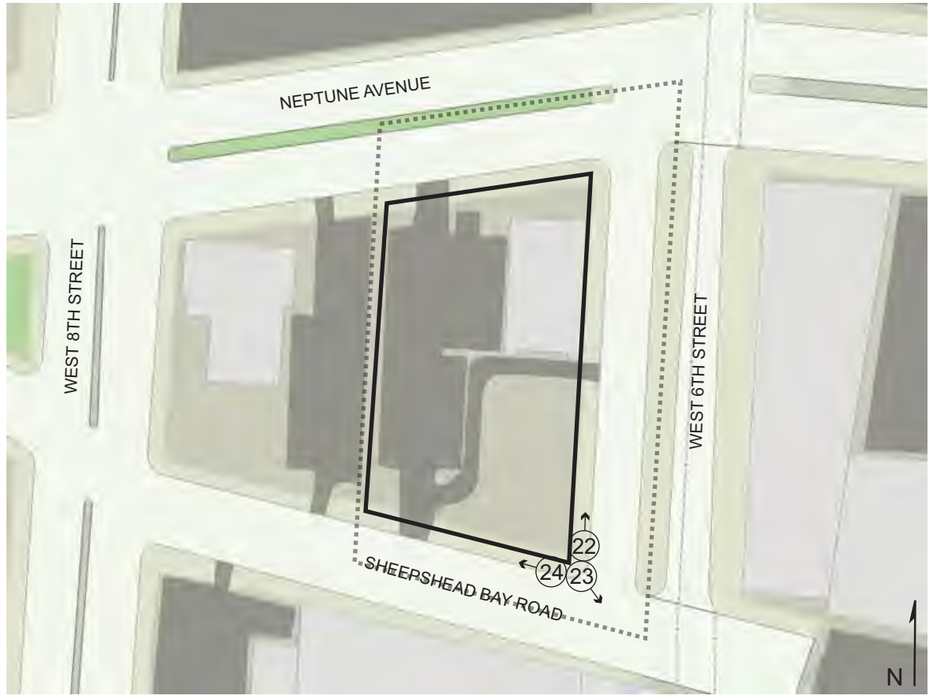
22. View of the sidewalk along the west side of West 6th Street facing north from Sheepshead Bay Road (Development Site at left).



23. View of the intersection of Sheepshead Bay Road and West 6th Street facing southeast from the Development Site.



24. View of the sidewalk along the north side of Sheepshead Bay Road facing northwest from West 6th Street (Development Site at right).





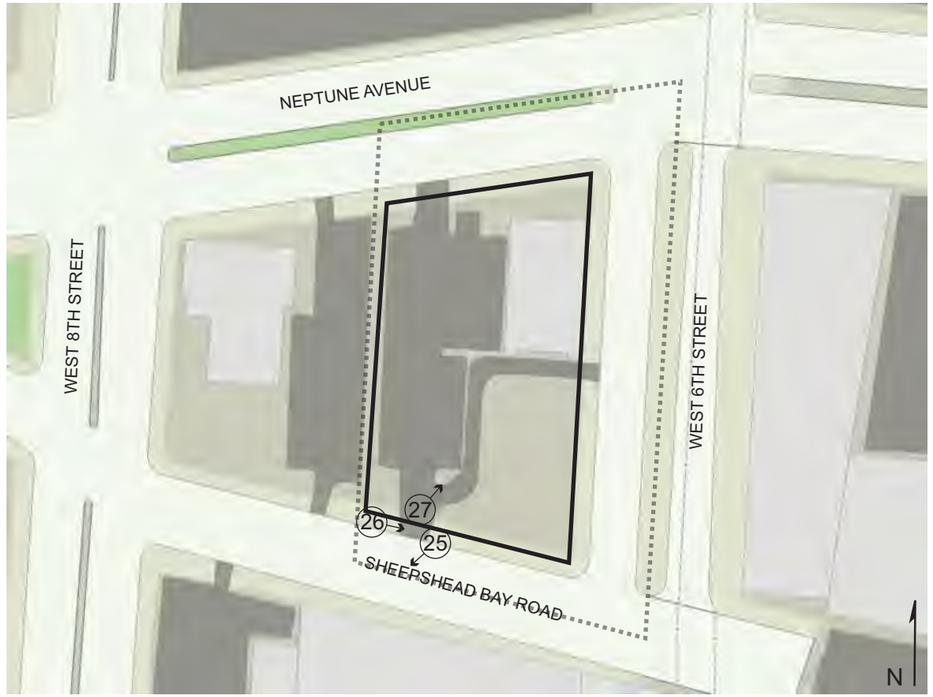
25. View of the south side of Sheepshead Bay Road facing southwest from the Development Site.



26. View of the sidewalk along the north side of Sheepshead Bay Road facing southeast (Development Site at left).



27. View of the parking lot and drive-thru on the Development Site facing northeast from Sheepshead Bay Road.



Zoning Comparison Table

606 Neptune Avenue Amednment to Zoning Map 28d	Permitted/Required			
	Existing Zoning		Proposed Zoning	
	ZR Section #	R6 District / C1-2 Overlay (OP)	ZR Section #	R6 District / C2-4 Overlay (OP)
USE GROUPS	ZR 22-10, ZR32-10	1,2,3,4,5,6	ZR 22-10, ZR32-10	1,2,3,4,5,6,7,8,9,14
Maximum FAR (Total)				
Residential	ZR 23-154	2.42 (3.6 within 100 ft. of wide street)	ZR 23-154	2.42 (3.6 within 100 ft. of wide street)
Community Facility	ZR 24-11	4.80 FAR	ZR 24-11	4.80 FAR
Commercial	ZR 33-121	2.00 FAR	ZR 33-121	2.00 FAR
YARDS				
Front Yard	ZR 113-12	30 feet on Ocean Parkway	ZR 113-12	30 feet on Ocean Parkway
Side Yard	ZR 23-462 (c), ZR 33-25	None Required or Min. of 8"	ZR 23-462 (c), ZR 33-25	None Required or Min. of 8"
Rear Yard	ZR 23-47, ZR 33-26	30 ft/20 ft (commercial)	ZR 23-47, ZR 33-26	30 ft/20 ft (commercial)
Lot Coverage	ZR 23-153	65%	ZR23-153	65%
HEIGHT AND SETBACKS				
Maximum Height of Front Wall	ZR 23-662(a)	65 feet	ZR 23-662(a)	65 feet
Maximum Building Height	ZR 23-662(a)	75 feet	ZR 23-662(a)	75 feet
Sky Exposure Plane	ZR 33-431	SEP	ZR 33-431	SEP
Setbacks from Narrow Streets	ZR 33-431	20 feet (15 feet at grade)	ZR 33-431	20 feet (15 feet at grade)
Setbacks from Wide Streets	ZR 33-431	15 feet (10 feet at grade)	ZR 33-431	15 feet (10 feet at grade)
PARKING AND LOADING				
Parking	ZR 25-23,ZR36-21	Use Dependent	ZR 25-23,ZR36-21	Use Dependent
Loading	ZR 36-62	Use Dependent	ZR 36-62	Use Dependent

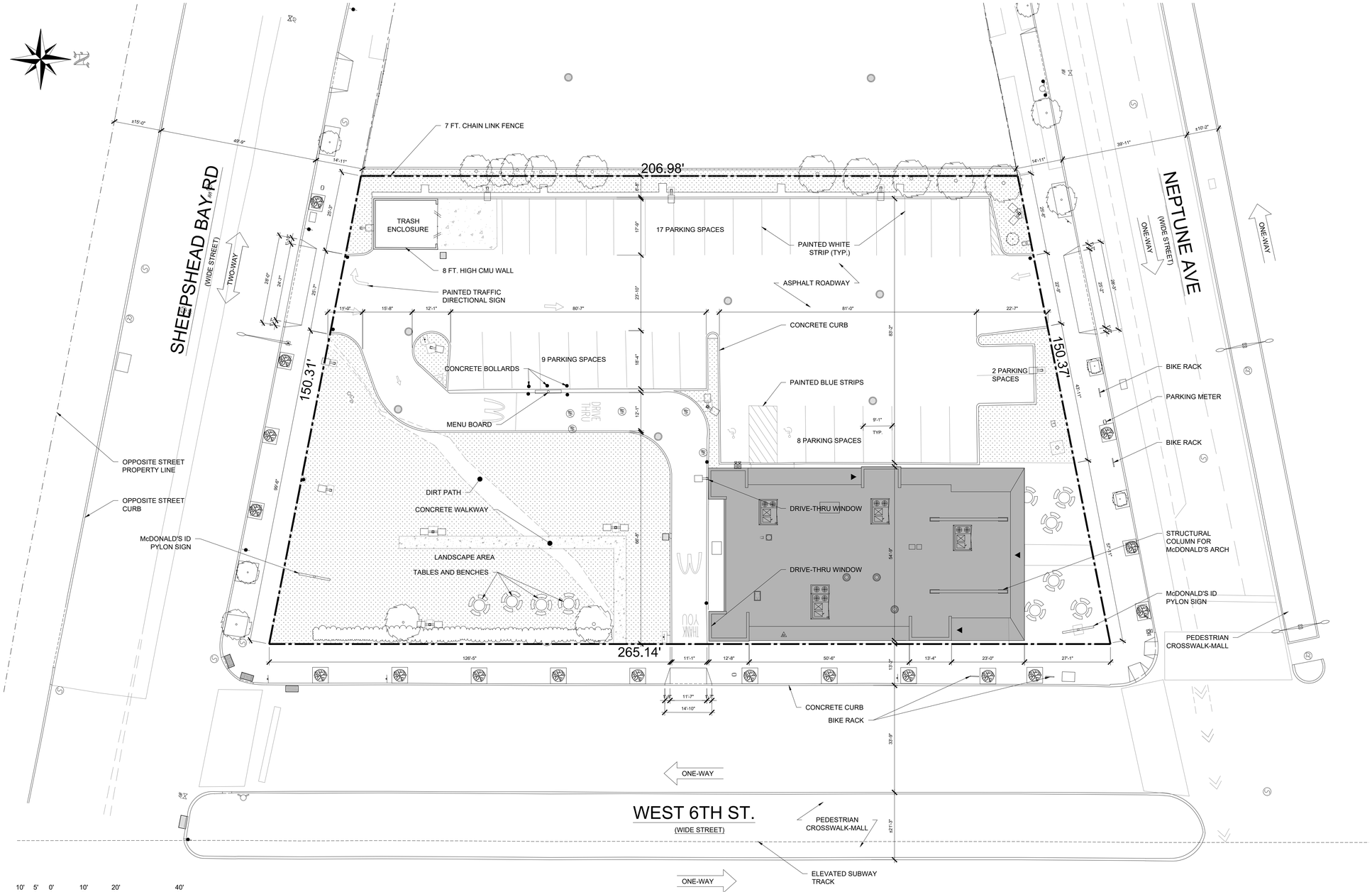
LEGEND

- ZONING LOT LINE
- NEIGHTBOR'S PROPERTY LINE
- ON-SITE LIGHT POLE
- STREET LIGHT POLE
- TRAFFIC SIGN
- FIRE HYDRANT
- WATER VALVE
- GAS VALVE
- ELECTRICAL MAN HOLE
- LANDSCAPE AREA
- CONCRETE PAD
- EXISTING TREES
- PROPOSED STREET TREES WITH PLANTING BED
- SYMBOL INDICATE EMPLOYEE ENTRANCE/EXIT ONLY
- SYMBOL INDICATE ENTRANCE/EXIT

DRAWING CERTIFICATION NOTE:

APPLICANT'S STAMP AND SEAL COORESPONDS TO THE INFORMATION REGARDING THE DEVELOPMENT SITE, ZONING LOT, AND RELATED CURB CUTS. INFORMATION REGARDING THE SURROUNDING PROPERTIES IS FOR ILLUSTRATIVE PURPOSES ONLY

SITE DATA	
BLOCK	7270
LOT:	25
BOROUGH:	BROOKLYN
STREET ADDRESS:	606 NEPTUNE AVE
ZONING:	R6 WITH C2-4 (OP) OVERLAY
COMMUNITY DISTRICT:	13
ZONING SECTION MAP:	28D
ZONING LOT AREA:	34,819 S.F.



1 A-050 SCALE: 1/16" = 1'-0"

SITE PLAN

SWA architecture

11 PARK PLACE SUITE 816
NEW YORK, NY 10007
PHONE: 212-932-7566

190 EAST MAIN STREET
HUNTINGTON, NY 11743

PHONE: 631-424-8480 FAX: 631-547-4193

PROJECT

McDONALD'S
ALT-1

606 NEPTUNE AVE
BROOKLYN, NY, 11224

MEP ENGINEER
NAME:
ADDRESS:
CITY:
STATE:
ZIP:
TEL:
E-MAIL:

STRUCTURAL ENGINEER
NAME:
ADDRESS:
CITY:
STATE:
ZIP:
TEL:

SPECIAL INSPECTOR:
NAME:
ADDRESS:
CITY:
STATE:
ZIP:
TEL:
E-MAIL:

REVISIONS:
1 2020-06-24 REVISE PER DCP COMMENTS
2 2020-09-14 REVISE PER DCP COMMENTS

DOB B-SCAN
JOB # 301303122

DRAWING TITLE / INFORMATION:

PROPOSED
SITE PLAN

SEAL & SIGNATURE:

REGISTERED ARCHITECT STEVE W. GOO 016114 STATE OF NEW YORK

DATE: 2020-09-14
DWG No.:

A-050.00

SHEET 08 OF 05

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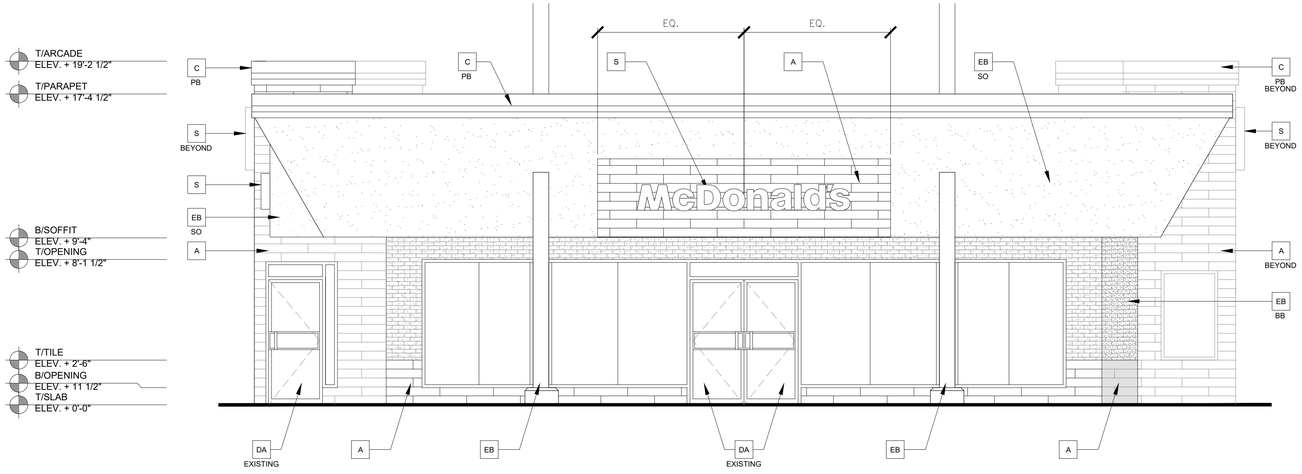
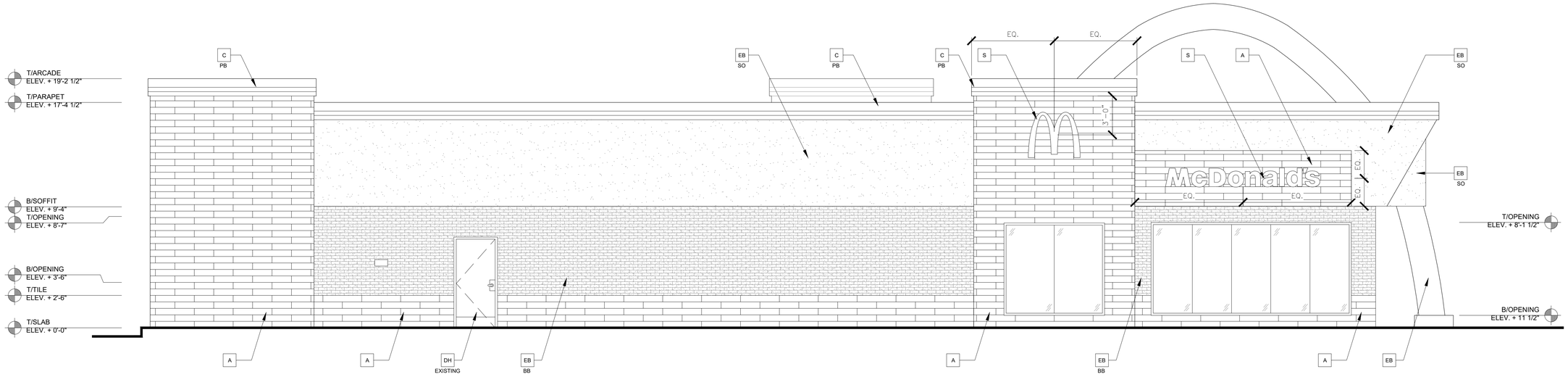


1 A200 NORTH ELEVATION
SCALE: 1/4"=1'-0"



2 A200 WEST ELEVATION
SCALE: 1/4"=1'-0"

swa architecture

11 PARK PLACE SUITE 816
NEW YORK, NY 10007
PHONE: 212-932-7566

190 EAST MAIN STREET
HUNTINGTON, NY 11743

PHONE: 631-424-8480 FAX: 631-547-4193

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E-MAIL:

REVISIONS:
1 2020-06-24 CORRECT NAMING ON TITLE BLOCK

DOB B-SCAN
JOB # 301303122

DRAWING TITLE / INFORMATION:

ELEVATIONS

SEAL & SIGNATURE:

REGISTERED ARCHITECT STEVE WYGOD 016117 STATE OF NEW YORK

DATE: 2019-10-22
DWG No.:

A-200.00

SHEET 04 OF 05

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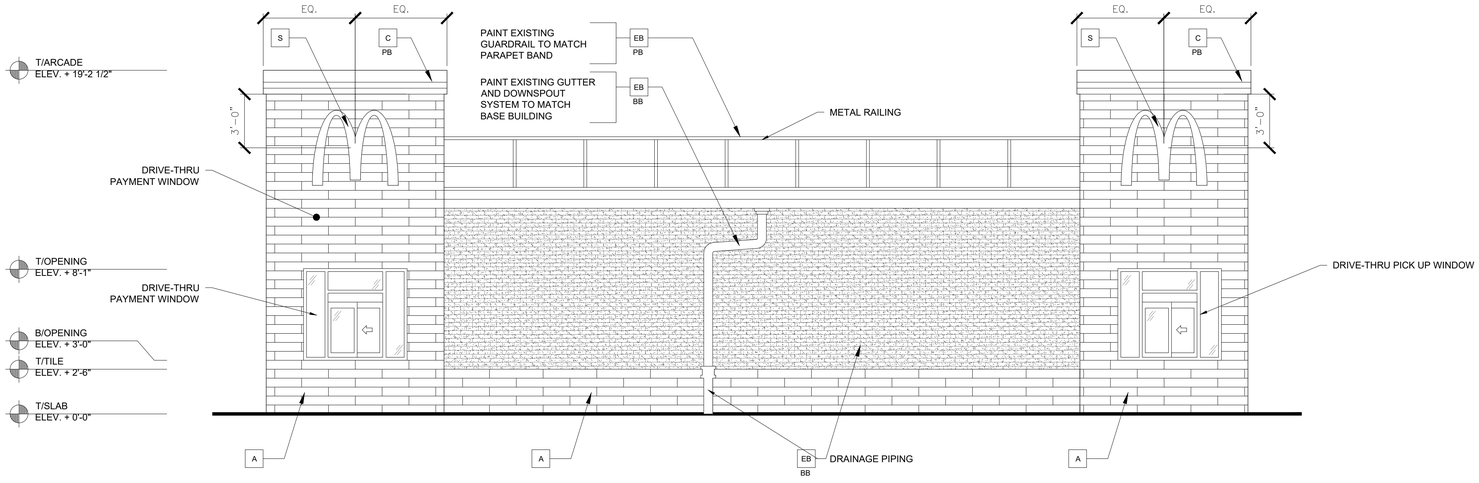
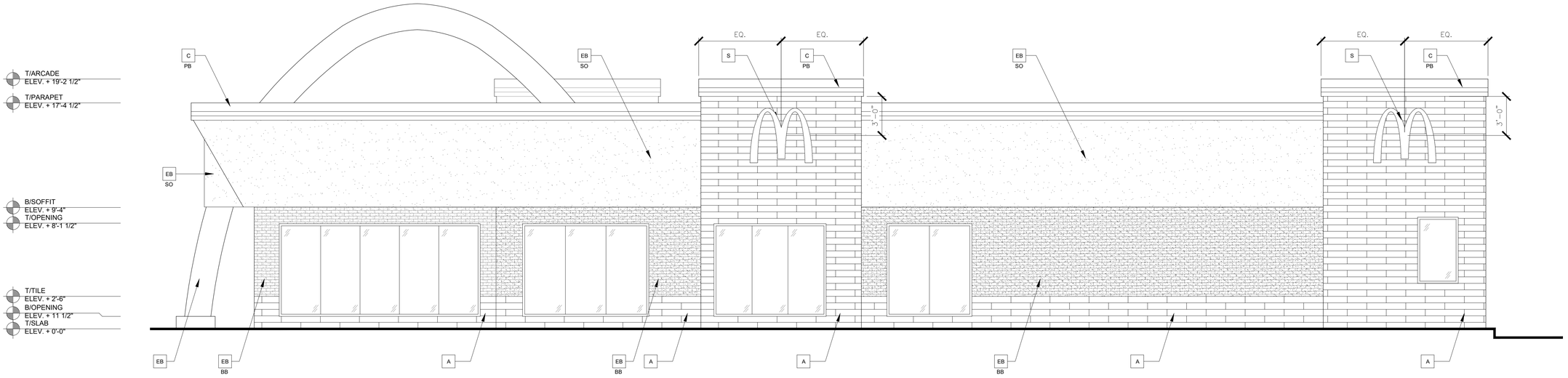


1 A201 SOUTH ELEVATION
SCALE: 1/4"=1'-0"



2 A201 EAST ELEVATION
SCALE: 1/4"=1'-0"

SWA architecture

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REVISIONS:
1 2020-06-24 CORRECT NAMING ON TITLE BLOCK

DOB B-SCAN
JOB # 301303122

DRAWING TITLE / INFORMATION:

ELEVATIONS

SEAL & SIGNATURE:

REGISTERED ARCHITECT STEVE WYGOD 016117 STATE OF NEW YORK

DATE: 2019-10-22
DWG No.:

A-201.00

SHEET 04 OF 05

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THIRD MODIFICATION OF THE DECLARATION

This Third Modification to the Declaration, made this _____ day of _____, 2020 by McDonald's Corporation (the "Declarant"), a Delaware corporation having offices at 110 N Carpenter Street, Chicago, IL 60607-2101.

WITNESSETH:

WHEREAS, the Declarant is the fee owner of certain real property in the Borough of Brooklyn, known as Tax Block 7270 Lot 25, City and State of New York, which real property hereinafter called the "Subject Property" is further described in Exhibit A attached hereto, and

WHEREAS, Declarants or their predecessors in interest, in connection with application designated CP22865 to the New York City Planning Commission for a rezoning of the Subject Property from R6 Residence District to a R6 Residence District with a C1-2 commercial overlay, executed a Declaration ("Declaration") which was recorded on May 6, 1975 in the Office of the Register of the City of New York, Kings County, in Liber/Reel 777, Page 1650; and

WHEREAS, a Modification of Declaration, dated October 28, 1982, was duly filed with the Register's Office of Kings County, City and State of New York, in Reel 902, Page 1486, restricting the manner in which the Subject Property can be developed (hereinafter referred to as the "First Amended Declaration"); and

WHEREAS, a Second Amended Declaration, dated December 3, 1982 was duly filed with the Register's Office of Kings County, City and State of New York, in Reel 2005, Page 1461, modifying the site plan as previously approved in the First Amended Declaration (hereinafter referred to as the "Second Amended Declaration") in order to permit the rearrangement of the drive-thru facility on the Subject Property; and

WHEREAS, Declarants wish to modify the site plan as previously approved in the Second Amended Declaration in order to permit the rearrangement of the drive-thru facility on the Subject Property substantially in accordance with the site plan attached hereto as Exhibit B; and

WHEREAS, Declarants represent and warrant that no restrictions of record on the use or development of the Subject Property nor any present or presently existing future estate or interest in the Subject Property, nor any lien, obligation. covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of restrictions, obligations and agreements of the instant THIRD MODIFICAITON OF THE DECLARATION or the development of the Subject Property in accordance therewith; and

WHEREAS, _____ Title Insurance Company has certified that, as of THE ___ day of _____, 2020, that Declarant is the sole parties in interest (as defined in Section 12-10 of the Zoning Resolution, "Zoning Lot') to the Subject Property in connection with this THIRD MODIFICATION OF THE DECLARATION (which certification is annexed hereto as Exhibit C).

NOW, THEREFORE, Declarant intends and acknowledges that the restrictions, covenants, conditions and obligations of this THIRD MODIFICATION OF THE DECLARATION will protect the value and the desirability of the Subject Property as well as benefit all land, including land owned by the City of New York, lying within a one half mile radius of the Subject Property and which shall run with the Subject Property binding every party having any right, title or interest in the Subject Property or any part thereof and binding all heirs, successors and assigns:

1) The site plan is hereby modified to permit the drive-thru facility substantially as shown on Exhibit B annexed hereto.

2) The Declaration (CP22865) dated March 7, 1975, the First Amended Declaration, dated October 28, 1982, and the Second Amended Declaration, dated December 3, 1986, shall remain in full force and effect, except as herein modified.

3) This THIRD MODIFICATION OF THE DECLARATION may be modified or cancelled only with the approval of the City Planning Commission or the agency succeeding its jurisdiction and no other approval or consent shall be required from any other public body, private person or legal entity of any kind except parties in interest to the subject property. A statement signed by the Chairman of the Commission certifying the Commission's approval of any modification or amendment of this THIRD MODIFICATION OF THE DECLARATION shall be annexed to any instrument embodying such modification or amendment of this THIRD MODIFICATION OF THE DECLARATION. After approval

by the Commission, the Declarant covenants to supply a copy of and to duly record any such instrument in the manner described in paragraph 6 hereof.

4) Declarant covenants to include a copy of this THIRD MODIFICATION OF THE DECLARATION as part of any application pertinent to the Subject Property submitted to the New York City Department of Buildings or any agency succeeding to its jurisdiction.

5) Declarant covenants that when the City Planning Commission shall have approved this Minor Modification of C800997 ZMM, it shall immediately file and record this THIRD MODIFICATION OF THE DECLARATION in the Office of the Register of the City of New York, County of Kings, indexing them against the entire Subject Property. Declarant further covenants to provide the City Planning Commission with a duplicate original of this THIRD MODIFICATION OF THE DECLARATION on the date of its approval and a copy of this THIRD MODIFICATION OF THE DECLARATION as recorded, certified by the Register of Kings County. The City of New York shall also have the right to record this THIRD MODIFICATION OF THE DECLARATION. All costs of recordation and certification, however, whether undertaken by the Declarant or by the City, shall be borne by the Declarant.

IN WITNESS WHEREOF, the Declarant has caused this THIRD MODIFICATION OF THE DECLARATION to be executed this ___ day of _____, 2020

DECLARANT:

McDONALD'S CORPORATION

_____

By:
Its:

ACKNOWLEDGEMENT OF INDIVIDUAL

STATE OF ILLINOIS

COUNTY OF COOK

On the ____ day of _____ in the year 2020 before me, the under-signed, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Sworn before me

_____

Notary Public

EXHIBIT A

ALL that certain lot, piece or parcel of land, situate. lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Neptune Avenue, 120 foot wide, distant 140 feet easterly iron the corner formed by the intersection of the southerly side of Neptune Avenue and the easterly side of West 6th Street; running thence

EASTERLY along the southerly side of Neptune Avenue, 150.30 feet, more or less to the corner formed by the intersection of the southerly side of Neptune Avenue and the westerly side of West 6th Street. 120 feet wide; running, thence

SOUTHERLY along the westerly side of West 6th Street, 265.14 feet to the northerly side of Sheep:dam:1 lay Road; and running thence

WESTERLY along the northerly side of Sheepshead Day Road, 150.31 feet to a point; and thence

NORTHERLY along a line parallel with West 6th Street, 207 feet, more or less to the southerly side of Neptune Avenue, the point or place of BEGINNING.

EXHIBIT B

Site Plan

EXHIBIT C

Title Certification