

## **CITY PLANNING COMMISSION**

---

February 27, 2019 / Calendar No. 16

C 180171 ZMK

---

**IN THE MATTER OF** an application submitted by Congregation Chasdei Belz Beth Malka pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22c, by establishing within an existing R5 District a C2-4 District bounded by Avenue C, McDonald Avenue, a line 150 feet northerly of Cortelyou Road, a line 100 feet easterly of Dahill Road, a line 180 feet southerly of Avenue C, and Dahill Road, Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only) dated October 15, 2018.

---

This application for a zoning map amendment was filed by Congregation Chasdei Belz Beth Malka (the applicant) on September 6, 2018, to map a C2-4 district within an existing R5 district on a portion of a block at 600 McDonald Avenue and 317 Dahill Road to facilitate the legalization and continued operation of a commercial banquet facility located in the interconnected cellar area of two existing school buildings in the Borough Park neighborhood of Community District 12, Brooklyn.

### **BACKGROUND**

The applicant is proposing to rezone the northern and eastern portions of Block 5369 (Lots 1, 2, 3, 4, 5, 6 and 82) along Avenue C between McDonald Avenue and Dahill Road, and along McDonald Avenue between Avenue C and Cortelyou Road, in the Borough Park neighborhood of Brooklyn Community District 12.

The project area is currently zoned R5 and includes the development site, a school at 600 MacDonalD Avenue (Block 5369, Lots 6 and 82) that was enlarged pursuant to Board of Standards and Appeals (BSA) variances. Lot 6, located at 600 McDonald Avenue, is a 27,678-square-foot irregular lot with 40 feet of frontage on Avenue C and 655 feet of frontage on McDonald Avenue. In 1997, the 600 McDonald Avenue lot was granted a BSA zoning variance (Cal. No. 1-96-BZ) to allow the addition of a second floor to an existing one-story school (with basement and cellar), including waivers of front yard, side yard, and rear yard requirements. The building contains 60,846 square feet of floor area, for an FAR of 2.2, is 35 feet high with a 19-foot deep open yard at the north end along Avenue C, and a 123 foot deep open yard at the south end.

Lot 82, located at 317 Dahill Road, is a 10,000-square foot interior lot with frontage on Dahill Road and abuts Lot 6 to its rear. The building at 317 Dahill Road was constructed pursuant to a variance granted by the BSA in 2002 (Cal. No. 56-02-BZ) to allow construction of a four-story school, and included waivers of lot coverage, front, side and rear yard requirements. The four-story building contains 31,507 square feet of floor area for an FAR of 3.15. The two school buildings on each of lots 6 and 82 are connected through the cellar.

The cellar level spanning both lots, encompassing approximately 20,000 square feet, includes a multipurpose lunch room that jointly serves the schools and acts as an event venue for school-related activities. Since at least June, 2007, the cellar multi-purpose room has also functioned as a non-school related, commercial banquet hall (Use Group 9) which not permitted in an R5 zoning district. The use of this space as a commercial banquet hall was disclosed during BSA hearings for a proposed enlargement of the building (17-14-BZ; 1-96-BZII), but those applications were withdrawn in 2016 and 2014 respectively. The BSA requested that the applicant legalize the commercial banquet hall use and, to the present day, has continued to require that the applicant operate the illegal use in a manner that ensures the health and safety of its occupants.

The other lots in the rezoning area (Lots 1, 2, 3, 4 and 5) are developed with two-story residential buildings, one of which includes a community facility use. The applicant has proposed to include them in the rezoning area to rationalize the zoning map and allow for additional uses along Avenue C, but no changes to these buildings or uses are proposed. The remainder of the subject block outside the project area is developed with housing, a synagogue, a gas station, and a one-story building supply retailer.

The area around the development site contains a mix of uses, including warehouses and light industrial uses, retail, community facilities, schools and houses of worship, and residences. The area to the north of the project area is generally residential in character with commercial uses lining the ground floors along McDonald Avenue and Church Avenue, the neighborhood's main shopping street. Residential buildings in the area are two- to three-story, single- and multi-family detached, semi-detached, and attached homes, in addition to numerous multi-story apartment buildings of varying size. Interspersed with the residential uses are several community facilities and other non-residential uses. Directly to the east of McDonald Avenue is the predominantly residential neighborhood of Kensington. To the south, along McDonald Avenue, are industrial and

commercial uses that range from garages and building supply shops, to catering halls and other commercial uses serving the nearby residential neighborhoods. To the west of the project area is a mix of commercial, residential, and industrial uses, including a significant number of warehouse and industrial buildings.

The F train, or “Culver Line,” emerges from below grade to elevated tracks immediately east of the project area and development site in the middle of McDonald Avenue. The project area is close to transit, with F and G train stops at Church Avenue two blocks to the north and an F train stop at Ditmas Avenue two blocks to the south. The B67 and B69 bus lines terminate just north of the project area, and run to Downtown Brooklyn. The B35 bus line runs along Church Avenue, one block to the north of the project area, between Sunset Park and Brownsville.

Open spaces in the area include Dome Playground to the southwest, and the Avenue C Plaza opposite the northwest corner of the project area at McDonald Avenue and Avenue C.

An R5 zoning district, in which the project area is located, extends north over much of the surrounding area. Commercial “overlay” zoning districts are mapped along several corridors, including C1-3 and C2-3 districts, along Church Avenue, along portions of Cortelyou Road, and along portions of 15th Avenue. When established within an R5 district, these commercial overlays allow a floor area ratio (FAR) of up to 1.0 of commercial use. The Special Ocean Parkway District, which regulates the bulk of community facilities and off-street parking for residences, is east of the project area across McDonald Avenue.

To facilitate the legalization of the Use Group 9 commercial banquet hall use, the applicant proposes a zoning map amendment to establish a C2-4 district within the existing R5 zoning district. R5 districts allow residential and community facility uses at a maximum FAR of 1.25 and 2.0 respectively. The proposed R5/C2-4 district would allow commercial uses at a maximum FAR of 2.0 and Use Groups 5, 6, 7, 8, 9 and 14, including banquet halls. Because the existing illegal banquet hall space is located in a cellar, which is not floor area, and no new construction is proposed, the size and design of the building would remain unchanged.

## **ENVIRONMENTAL REVIEW**

This application (C 180171 ZMK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission (CPC). The designated CEQR number is 18DCP076K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on October 15, 2018.

## **UNIFORM LAND USE REVIEW**

This application (C 180171 ZMK) was certified as complete by the Department of City Planning on October 15, 2018 and was duly referred to Brooklyn Community Board 12 and the Brooklyn Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Brooklyn Community Board 12 held a public hearing on this application (C 180171 ZMK) on December 19, 2018, and on January 22, 2019, by a vote of 30 in favor, none opposed, and no abstentions, issued a recommendation to approve the project.

### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on this application (C 180171 ZMK) on January 7, 2019, and on January 24, 2019 issued a recommendation to approve the application with the following condition:

“That the Certificate of Occupancy (C of O) for 600 McDonald Avenue be revised to allow a Use Group 9 banquet hall and/or catering establishment subject to the condition that one or more active leases for a property within 2,000 feet of McDonald Avenue be on file with the New York City Department of Buildings (DOB), requiring no fewer than 50 parking spaces be secured during operating hours.”

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

On January 9, 2019 (Calendar No. 7), the CPC scheduled January 30, 2019 for a public hearing on this application (C 180171 ZMK). The hearing was duly held on January 30 (Calendar No. 29). One speaker testified in favor of the application.

The applicant's representative described the history of the development of the schools, including the zoning waivers granted by the BSA. The applicant's representative also described the commercial banquet use at the proposed development site, and discussed the operation of the facility, noting that it is a resource to the community for affordable weddings and other events, and that off-site parking is provided (50 spaces). The applicant's representative made note that, as per zoning, the facility can currently host large events that are accessory to the school use, but can not lawfully host commercial events. The representative also discussed the commercially-active nature of surrounding area, noting that the proposed rezoning would be in keeping with this mixed nature.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 180171 ZMK) is appropriate.

The requested action would legalize the continued use of a commercial banquet hall for events not accessory to the school at this site. The commercial banquet hall has been illegally serving as a venue for social celebrations in the surrounding community. The proposed zoning change would be consistent with zoning and use in the surrounding area and would allow commercial use along McDonald Avenue, a major thoroughfare with mass transit access.

Nonetheless, the Commission notes its serious concerns over the willfull disregard by the applicant for the continued illegal use of the cellar as a commercial banquet hall for over 10 years and despite repeated BSA requests to discontinue the illegal use and pursue legalization. Zoning protects public health, safety and general welfare. Ignoring its regulations not only is illegal but also potentially puts human lives at risk. The Commission urges the applicant to promptly obtain all

required permits and licenses, make all necessary physical improvements to ensure a safe facility, and comply with all code requirements and inspections.

The Commission notes that the applicant wishes to increase the bulk of the building fronting on McDonald Avenue and that the applicant would need to return to the BSA to expand or otherwise change the buildings. The Commission's rezoning would not allow for the expansion of the school buildings.

The Commission is pleased that the BSA is actively engaged in requiring the applicant to operate the commercial banquet hall in a manner that ensures the health and safety of its occupants.

Regarding the recommendation of the Borough President regarding a revised Certificate of Occupancy contingent on a lease for parking, the Commission notes that this is beyond the scope of this application.

## **RESOLUTION**

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

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section 22c, by establishing within an existing R5 District a C2-4 District bounded by Avenue C, McDonald Avenue, a line 150 feet northerly of Cortelyou Road, a line 100 feet easterly of Dahill Road, a line 180 feet southerly of Avenue C, and Dahill Road, Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only) dated October 15, 2018.

The above resolution (C 180171 ZMK), duly adopted by the City Planning Commission on February 27, 2019 (Calendar No. 16), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

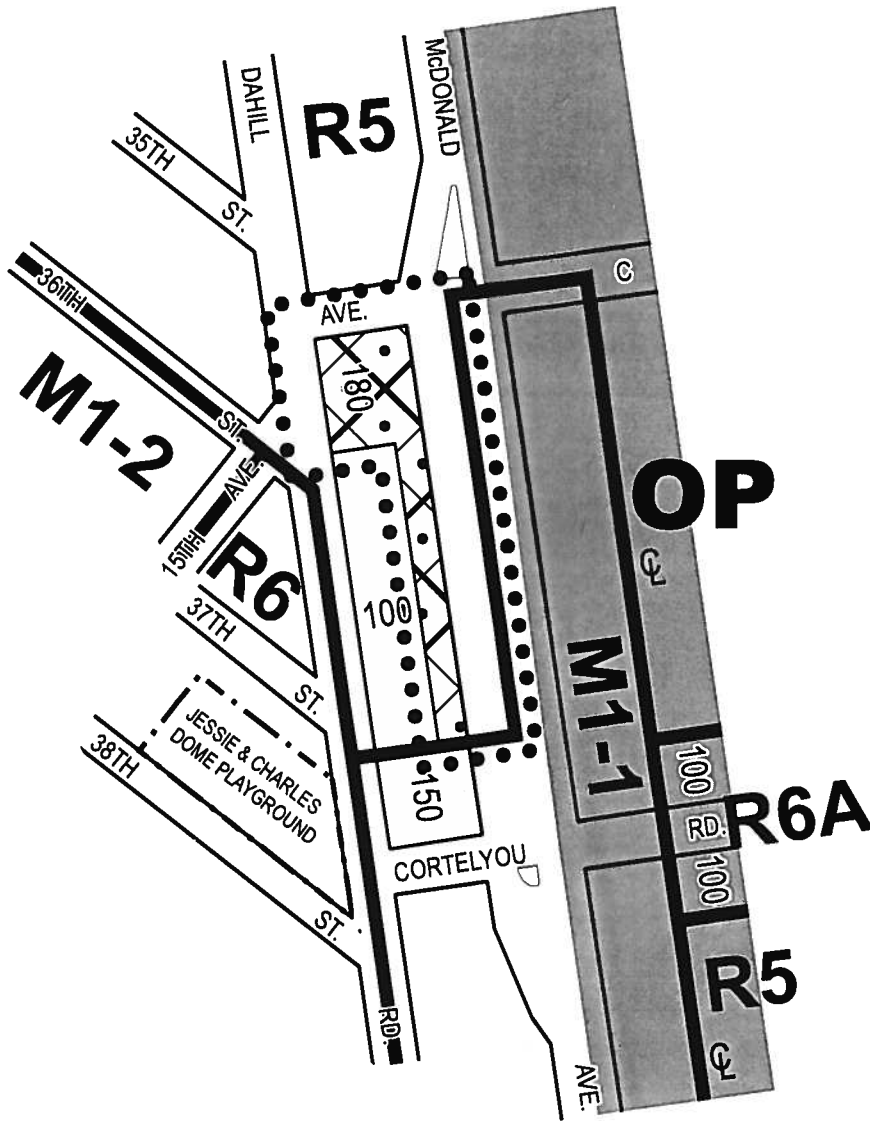
**MARISA LAGO**, *Chair*

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

**ALLEN P. CAPELLI, ESQ., ALFRED C. CERULLO, III, MICHELLE de la UZ,**

**HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,**

**RAJ RAMPERSHAD**, *Commissioners*



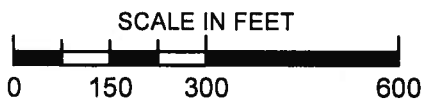
CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP

**22c**  
 BOROUGH OF  
**BROOKLYN**





*S. Lenard*  
 S. Lenard, Director  
 Technical Review Division



New York, Certification Date  
 OCTOBER 15, 2018



**NOTE:**

-  Indicates Zoning District Boundary
-  The area enclosed by the dotted line is proposed to be rezoned by establishing within an existing R5 District a C2-4 District.
-  Indicates a C2-4 District
-  Indicates a Special Ocean Parkway District (OP).





**Brooklyn Borough President Recommendation**

CITY PLANNING COMMISSION

120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271

CalendarOffice@planning.nyc.gov



**INSTRUCTIONS**

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

**APPLICATION #:** McDONALD AVENUE CATERING – 180171 ZMK

An application submitted by Congregation Chasidei Belz Beth Malka pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment affecting the south side of Avenue C between Dahill Road and McDonald Avenue, and McDonald Avenue from Avenue C toward Cortelyou Road, in Brooklyn Community District 12 (CD 12). The zoning map amendment would add a C2-4 overlay to the existing R5 district on the block. Such action would facilitate the continued operation of a non-conforming commercial banquet facility housed within the interconnected cellar area of two school buildings, located at 317 Dahill Road and 600 McDonald Avenue.

BROOKLYN COMMUNITY DISTRICT NO. 12

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITION

SEE ATTACHED

*Eric Adams*

BROOKLYN BOROUGH PRESIDENT

January 24, 2019

DATE

## **RECOMMENDATION FOR McDONALD AVENUE CATERING – 180171 ZMK**

Congregation Chasidei Belz Beth Malka submitted an application pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment affecting the south side of Avenue C between Dahill Road and McDonald Avenue, and McDonald Avenue from Avenue C toward Cortelyou Road, in Brooklyn Community District 12 (CD 12). The zoning map amendment would add a C2-4 overlay to the existing R5 district on the block. Such action would facilitate the continued operation of a non-conforming commercial banquet facility housed within the interconnected cellar area of two school buildings, located at 317 Dahill Road and 600 McDonald Avenue.

On January 7, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on this zoning map amendment. There were no speakers on the item.

In response to Borough President Adams' inquiry as to how often the banquet facility is in use during a typical week, how many staff are employed directly in banquet operations, and the extent of hiring outreach done by the operator to maximize locally-based employment, the applicant's representative stated the facility operates Sundays through Thursdays, with three to four events per week. Additionally, the caterer employs 14 full- and part-time staff, with an additional 15 to 20 part-time servers, who are all recruited via local employment agencies.

In response to Borough President Adams' inquiry as to how patrons of the banquet facility arrive and depart the building, when and where deliveries are received, and when and where refuse is brought to the street and picked up, the representative indicated that most deliveries, drop-offs, and refuse pickups occur along the McDonald Avenue frontage. Events typically require multiple deliveries, which are received during daytime hours.

In response to Borough President Adams' inquiry regarding the banquet hall's off-site valet parking facility, its capacity, typical utilization, and for how long the operator would have guaranteed access to the property, the representative noted that the facility, located at 3611 14<sup>th</sup> Avenue, accommodates 100 cars. However, the banquet hall utilizes about half of this capacity of its larger events.

Subsequent to the hearing, the applicant's representative noted that the lease was for 50 parking spaces, though the lot has a capacity of 100. Furthermore, while McDonald Avenue is utilized for the majority of deliveries, there are occasional deliveries via the Dahill Road building.

### **Consideration**

Brooklyn Community Board 12 (CB 12) voted to approve this application on January 22, 2019.

The proposed rezoning would affect those lots occupied by two interconnected school buildings, the Darul Jinnah Islamic Center and four residential properties. The two-story school buildings have significant frontage along McDonald Avenue with additional frontage along Avenue C and Dahill Road. The McDonald Avenue frontage was originally constructed as a one-story warehouse, and subsequently enlarged to two stories for school use via a bulk variance granted by the New York City Board of Standards and Appeals (BSA). The Dahill Road building was constructed in 2002 pursuant to a BSA bulk variance. The BSA variances allowed the two school buildings to exceed the district's permitted community facility FAR of 2.0.

The two buildings share a cellar that is used for non-school functions by a Use Group 9 banquet hall/catering establishment, which accommodates up to 400 patrons and operates during non-school hours. The facility contains 20,000 sq. ft. of entertainment, restroom, and seating areas, as well as kitchen facilities. The banquet hall/catering establishment is primarily accessed via an entrance on McDonald Avenue, with an access for females at Avenue C.

Lacking zoning that permits commercial use, the operation of the banquet hall as a catering facility is not a permitted use. The requested C2-4 commercial overlay would bring the operation into zoning conformance and ensure its continued operation as a legal use.

The banquet hall/catering facility relies on existing parking in the vicinity of 600 McDonald Avenue to accommodate its needs. In addition to the utilization of curbside parking, the banquet/catering operation benefits by leasing a nearby parking facility for its valet parking operation.

The five non-applicant sites fronting Avenue C would not gain any additional bulk benefits from the establishment of the proposed commercial overlay. However, the overlay would permit these buildings to convert their ground floors to commercial use. However, regulations pertaining to a change of use, such as Americans with Disabilities Act (ADA) compliance and fire safety code regulations, would likely discourage pursuit of this option.

The surrounding context is defined by a mix of commercial, community facility, and semi-industrial uses, as well as low-rise multi-family homes. The area is defined by the elevated Culver line, which runs along McDonald Avenue and carries the Sixth Avenue Local F and Crosstown Brooklyn-Queens G trains.

Borough President Adams generally supports efforts to facilitate the creation and/or growth of Brooklyn-based businesses. This includes zoning actions that are consistent with the predominant land use patterns to provide opportunities for job creation. He believes that achieving legal conformance of the banquet/catering operation would retain both direct and indirect jobs (suppliers, etc.), as well as ensure that the source of revenue from such operation would directly benefit the operation of the schools as well as the families and staff that depend on these schools for educational and employment purposes. The addition of a commercial overlay is appropriate based on the area's mixed-use context, including the M1-1 district across McDonald Avenue, and commercial uses along nearby 36<sup>th</sup> Street and Avenue C. However, Borough President Adams is concerned that the balance of neighborhood quality of life associated with the parking needs of the banquet/catering establishment lacks certainty.

#### **Ensuring Adequate Accessory Parking**

The proposed C2-4 overlay requires one space per 1,000 sq. ft. of floor area, which results in a number of otherwise required parking spaces that, according to the New York City Zoning Resolution (ZR), is eligible to be completely waived. Therefore, the requested zoning district would not obligate the continuation of the off-site parking arrangement.

A parking study referenced at Borough President Adams' public hearing indicates that on evenings when banquets are taking place, the utilization rate for the area's curbside parking is 98 percent, as opposed to 94.7 percent when the facility is not in operation. This figure is based on the active use of off-site parking located at 3611 14<sup>th</sup> Avenue, also known as Brooklyn Square. This off-site parking facility has been leased annually to supplement the catering operation for approximately five years and is generally not needed for more than 50 vehicles. Brooklyn Square is a former industrial loft, recently converted to office use, with legal, non-complying bulk according to its M1-2 zoning. Office occupancy is less likely to conflict with typical banquet hours, so Brooklyn Square will likely continue to serve as a parking resource for the catering facility. While there is no legal obligation to renew this arrangement, it has worked to minimize quality-of-life challenges for nearby residents who rely on street parking to maintain car ownership.

For new developments, ZR Section 36-43 Off-Site Spaces for Commercial or Community Facility Uses allows permitted or required off-street parking spaces to be provided on a separate zoning lot, provided that such parking lot is located (a) within 600 feet of the zoning lot where the use is sited and (b) in a

commercial or manufacturing zoning district. The parking operation at Brooklyn Square complies with this provision, through it is not legally binding. Selecting a commercial overlay where required parking would be in excess of an amount that might be completely waived would present difficulties in securing a formal off-site arrangement given the limited opportunities to negotiate within 600 feet of the operation; therefore, adopting a more restrictive commercial overlay might be punitive.

However, Borough President Adams believes that the lawful operation of the catering hall should be conditioned on having lawful access to a parking facility with no fewer than 50 parking spaces. Currently, there is no reason to expect that Brooklyn Square would be modified in a manner that would reduce or eliminate its parking. However, without the right to renew its lease, Congregation Chasidei Belz Beth Malka could be denied a future opportunity to utilize the parking facility. Given that the catering hall relies on a valet parking operation, Borough President Adams believes that it would be appropriate for off-site parking to be located within 2,000 feet of the banquet facility, as opposed to the more restrictive ZR limit of 600 feet.

Therefore, in order to ensure that banquet operators have lawfully binding access to no fewer than 50 parking spaces during hours of operation, the City Council should seek a commitment that the Certificate of Occupancy (C of O) be revised to allow a Use Group 9 banquet hall and/or catering establishment subject to the condition that one or more active leases for a property within 2,000 feet of 600 McDonald Avenue be on file with the New York City Department of Buildings (DOB), requiring no fewer than 50 parking spaces be secured during operating hours.

**Recommendation**

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

1. That the Certificate of Occupancy (C of O) for 600 McDonald Avenue be revised to allow a Use Group 9 banquet hall and/or catering establishment subject to the condition that one or more active leases for a property within 2,000 feet of 600 McDonald Avenue be on file with the New York City Department of Buildings (DOB), requiring no fewer than 50 parking spaces be secured during operating hours