

178-13-BZ
CEQR #13-BSA-157Q

APPLICANT – Jeffery A. Chester, Esq./GSHLLP for Peter Procops, owner; McDonald's Corporation, lessee.
SUBJECT – Application June 9, 2013 – Special Permit (§73-243) to allow an eating and drinking establishment with an existing accessory drive-through facility. C1-2 zoning district.

PREMISES AFFECTED – 21-41 Mott Avenue, Southeast corner of intersection with Beach Channel Drive, Block 15709, Lot 101. Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 20, 2013, acting on DOB Application No. 400441143, reads:

Use Group 6 eating and drinking in C1 is contrary to drive thru section ZR 32-31; and

WHEREAS, this is an application under ZR §§ 73-243 and 73-03, to permit, on a site within a C1-2 (R5) zoning district, the operation of an accessory drive-through facility operating in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR § 32-31; and

WHEREAS, a public hearing was held on this application on April 1, 2014, with a continued hearing on May 6, 2014, and then to decision on June 10, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

WHEREAS, the subject site located on the southeast corner of the intersection of Mott Avenue and Beach Channel Drive, within a C1-2 (R5) zoning district; and

WHEREAS, the site has approximately 85 feet of frontage along Mott Avenue, approximately 212 feet of frontage along Beach Channel Drive, 19,733 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story eating and drinking establishment (Use Group 6, operated by McDonald's) with 2,728 sq. ft. of floor area (0.14 FAR), an accessory drive-through, and 21 accessory parking spaces; and

WHEREAS, the Board first exercised jurisdiction over the site when, on June 16, 1998, under BSA Cal. No. 49-94-BZ, it granted a special permit to allow an existing accessory drive-through for a term of five years, to expire on June 16, 2003; and

WHEREAS, on July 18, 2006, under BSA Cal. No. 352-05-BZ, the Board granted a special permit to allow operation of the drive-through for a term of five years, to expire on July 18, 2011; in addition, the Board authorized a reconfiguration of the site; and

WHEREAS, the applicant now seeks to reinstate

the prior special permit; however, a new application is required under the Board's Rules of Practice and Procedure; and

WHEREAS, the applicant notes that the drive-through has operated continuously since the expiration of the prior special permit and that the site will remain in substantial compliance with the previously-approved plans; and

WHEREAS, the Board notes that a special permit is required for the proposed accessory drive-through facility in the C1-2 (R5) zoning district, pursuant to ZR § 73-243; and

WHEREAS, under ZR § 73-243, the applicant must demonstrate that: (1) the drive-through facility provides reservoir space for not less than ten automobiles; (2) the drive-through facility will cause minimal interference with traffic flow in the immediate vicinity; (3) the eating and drinking establishment with accessory drive-through facility complies with accessory off-street parking regulations; (4) the character of the commercially-zoned street frontage within 500 feet of the subject premises reflects substantial orientation toward the motor vehicle; (5) the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity; and (6) there will be adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the applicant submitted a site plan indicating that the drive-through facility provides reservoir space for ten vehicles; and

WHEREAS, the applicant represents that the facility will cause minimal interference with traffic flow in the immediate vicinity of the subject site; and

WHEREAS, in support of this representation, the applicant states that the site circulation—with two curb cuts on Beach Channel Drive and one on Mott Avenue—has been consistent for the past 16 years and that it causes minimal interference with existing traffic patterns; and

WHEREAS, the applicant submitted a site plan that demonstrates that the facility complies with the accessory off-street parking regulations for the C1-2 (R5) zoning district; as noted above, the proposed 21 parking spaces is well in excess of the nine parking spaces required under ZR § 36-21; and

WHEREAS, the applicant represents that the facility conforms to the character of the commercially zoned street frontage within 500 feet of the subject premises, which reflects substantial orientation toward motor vehicles and is predominantly commercial in nature; and

WHEREAS, the applicant states that Mott Avenue is a heavily-travelled commercial thoroughfare occupied by a variety of uses, including restaurants, drug stores, supermarkets, banks, offices and retail stores; and

WHEREAS, the applicant states that such uses and the surrounding residential neighborhoods they support are substantially oriented toward motor vehicle use; and

WHEREAS, the Board notes that the applicant has submitted photographs of the site and the surrounding streets, which supports this representation; and

WHEREAS, the applicant represents that the drive-

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through facility will not have an undue adverse impact on residences within the immediate vicinity of the subject premises; and

WHEREAS, the applicant states that the impact of the drive-through upon residences is minimal, in that most of the surrounding properties are occupied by exclusively commercial uses; and

WHEREAS, the applicant represents that there will be adequate buffering between the drive-through and adjacent uses in the form of a fence, trees, shrubs, and planting beds; and

WHEREAS, accordingly, the applicant represents that the drive-through facility satisfies each of the requirements for a special permit under ZR § 73-243; and

WHEREAS, at hearing, the Board raised concerns about the landscaping, fencing, and excessive signage at the site; additionally, the Board directed the applicant to submit photos depicting the adjacent properties and requested additional information regarding the volume of late-night traffic at the site; and

WHEREAS, in response, the applicant submitted amended plans showing additional shrubbery and fencing along the southern lot line and signage in compliance with the C1 district regulations, and the applicant submitted photos depicting the adjacent properties; and

WHEREAS, as to volume of late-night traffic at the site, the applicant states that, on average, five to ten cars visit the site per hour throughout the night; the applicant notes that weekend nights tend to be busier than weekday night; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-243 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2 and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13-BSA-157Q dated June 17, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural

A true copy of resolution adopted by the Board of Standards and Appeals, June 10, 2014.

Printed in Bulletin Nos. 22-24, Vol. 99.

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

Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-243 and 73-03 to permit, on a site within a C1-2 (R5) zoning district, the operation of an accessory drive-through facility operating in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 27, 2014"- (7) sheets; and *on further condition*:

THAT the term of this grant will expire on June 10, 2019;

THAT the premises will be maintained free of debris and graffiti;

THAT parking and queuing space for the drive-through will be provided as indicated on the BSA-approved plans;

THAT all landscaping and/or buffering will be maintained as indicated on the BSA-approved plans;

THAT exterior lighting will be directed away from the nearby residential uses;

THAT all signage will conform to C1 zoning district regulations;

THAT the above conditions will appear on the certificate of occupancy;

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; and

THAT DOB 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, June 10, 2014.

