



Town of Brookhaven Long Island

Kevin J. LaValle, Town Clerk

June 7, 2023

Supervisor Edward P. Romaine
Town Council Members

RE: Change of Zone/Special Permit: **McDonald's Blue Point
Blue Point, NY
File # 2022-014
Declaration of Covenants and Restrictions**

Dear Supervisor and Members of the Town Board:

Attached please find a copy of the Declaration of Covenants and Restrictions regarding the above referenced application. The Town Clerk's office has received approvals from the Law Department and Planning Division.

The Covenants and Restrictions will be considered for acceptance at the June 8, 2023 Town Board Meeting under Communications.

Sincerely,

Kevin J. LaValle
Brookhaven Town Clerk

KJL:kds

att

cc: Annette Eaderesto, Town Attorney
Leigh Rate, Senior Assistant Town Attorney
James Tullo, Commissioner of PELM
Donald Hohn, Director of Planning

Office of the Town Clerk

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www.brookhavenny.gov

General Information: (631) 451-TOWN

DECLARATION OF COVENANTS AND RESTRICTIONS

This DECLARATION made and dated this 26th day of May, 2023, by Vibon Associates, a partnership duly authorized to do business in the State of New York with an address at 29-C Station Road, Bellport, New York 11713, hereby referred to as the "Declarant":

W I T N E S S E T H :

WHEREAS, the Declarant is the owner of the property described in Schedule "A", (hereinafter, the "Property"), which is annexed hereto and made a part hereof; and

WHEREAS, an application for (i) a Change of Zone from the J Business 2 and A Residence 1 Zoning Districts to the J Business 5 Zoning District; (ii) a Town Board Special Permit to operate a Major Restaurant with Accessory Drive-Through; and (iii) Waivers of Special Permit Criteria, for the Property described in Schedule "A" was filed with the Town Clerk of the Town of Brookhaven on behalf of the Declarant; and

WHEREAS, a public hearing was duly held on the 4th day of May, 2023 before the Town Board of the Town of Brookhaven, a municipal corporation situate in Farmingville, County of Suffolk and State of New York, upon the application of the Declarant for (i) a Change of Zone from the J Business 2 and A Residence 1 Zoning Districts to the J Business 5 Zoning District; (ii) a Town Board Special Permit to operate a Major Restaurant with Accessory Drive-Through; and (iii) Waivers of Special Permit Criteria, on a parcel of property located on the south side of Montauk Highway (New York State Route 27A), east of Buffin Lane in Blue Point, New York, further identified as Suffolk County Tax Map Number 0200-98230-0200-016000; and

WHEREAS, at a regular meeting of the Brookhaven Town Board held on the 4th day of May, 2023 the application of the Declarant was duly granted, a copy of which is annexed hereto as Schedule "B", and conditioned upon certain covenants and restrictions; and

WHEREAS, the Declarant deems it advisable and in the best interest of the Town of Brookhaven to impose certain covenants and restrictions upon the Property;

NOW, THEREFORE, in consideration of the premises, the Declarant declares that the above-described Property is held subject to the following covenants and restrictions:

1. Submission of the outstanding balance of the land use intensification mitigation fee in the amount of eleven thousand three hundred fifty-one dollars and 25/100 cents (\$11,351.25) shall be a condition of final site plan approval per Town Code § 85-82.F. The check shall be made payable to the Joseph Macchia Environmental Preservation Capital Reserve Fund.
2. The subject site shall be used exclusively for a major restaurant with drive-through. No other uses or special permit uses within the J Business 5 zone shall be permitted.


These covenants and restrictions shall run with the land and shall be binding on the Declarant, Declarant's heirs, successors and assigns, subject to the right of the Town Board or the Town of Brookhaven to amend, modify, annul or repeal the foregoing covenants at any time.

Each of the above covenants is enforceable through all powers of the Town Attorney's Office.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Declarant has hereunto set his/her/their/its hand and seal the day and year first above written.

VIBON ASSOCIATES, a partnership

By 
Name: William Bongiorno
Title: Partner

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

On the 26 day of May, 2023, before me, the undersigned personally appeared William Bongiorno, 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

CATHERINE RIEDEL
NOTARY PUBLIC, STATE OF NEW YORK
NO: 01R14685395
QUALIFIED IN SUFFOLK COUNTY
TERM EXPIRES JANUARY 31 2026

UNIFORM CERTIFICATE OF ACKNOWLEDGMENT
(Outside of New York State)

Country of _____)
) ss.:
County of _____)

On the _____ day of _____ in the year 2023 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the _____ . (Insert the city or other political subdivision and the state or country or other place the acknowledgement was taken).

Notary Public

SCHEDULE "A"
Legal Description



2929 Expressway Drive North
Suite 125
Hauppauge, NY 11749
Tel: 631.580.2645
cpasurvey.com

DATED: MAY 24, 2022
CPA PROJECT # 07-210147-00

SURVEYOR'S DESCRIPTION

LOT 16, BLOCK 2, SECTION 982.3, DISTRICT 200
BLUE POINT, TOWN OF BROOKHAVEN
SUFFOLK COUNTY, STATE OF NEW YORK

ALL THAT CERTAIN PLOT PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE TOWN OF BROOKHAVEN, COUNTY OF SUFFOLK AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MONTAUK HIGHWAY (A.K.A. S.R. 27A, A.K.A. SOUTH COUNTRY ROAD, VARIABLE WIDTH), SAID POINT BEING A DISTANT OF 209.27 FEET EASTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF MONTAUK HIGHWAY AND EASTERLY RIGHT-OF-WAY LINE OF BUFFUM ROAD (30' WIDE), RUNNING THENCE THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. NORTH 49 DEGREES 50 MINUTES 00 SECONDS EAST, A DISTANCE OF 115.29 FEET TO A POINT;
THENCE
2. NORTH 45 DEGREES 16 MINUTES 40 SECONDS EAST, A DISTANCE OF 63.99 FEET TO A POINT;
THENCE

ALONG THE DIVIDING LINE BETWEEN LOT 16 (LANDS NOW OR FORMERLY OF VIBON ASSOCIATES) WITH LOT 17 (LANDS NOW OR FORMERLY OF WILLIAM CARROLL), BLOCK 2, SECTION 982.3, RUNNING THENCE THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. SOUTH 16 DEGREES 41 MINUTES 10 SECONDS EAST, A DISTANCE OF 203.10 FEET TO A POINT;
THENCE
2. NORTH 73 DEGREES 21 MINUTES 00 SECONDS EAST, A DISTANCE OF 88.20 FEET TO A POINT;
THENCE

ALONG THE DIVIDING LINE BETWEEN LOT 16 WITH LOT 26 (LANDS NOW OR FORMERLY OF MARK DOLLOP), BLOCK 2, SECTION 982.3, SOUTH 16 DEGREES 38 MINUTES 40 SECONDS EAST, A DISTANCE OF 80.43 FEET TO A POINT; THENCE

ALONG THE DIVIDING LINE BETWEEN LOT 16 WITH LOT 27 (LANDS NOW OR FORMERLY OF SEAN A. FARLEY & CATHERINE A. FARLEY), BLOCK 2, SECTION 982.3, SOUTH 17 DEGREES 26 MINUTES 00 SECONDS EAST, A DISTANCE OF 25.34 FEET TO A POINT; THENCE

ALONG THE DIVIDING LINE BETWEEN LOT 16 WITH LOT 29.3 (LANDS NOW OR FORMERLY OF STEVEN J. HASHER) AND LOT 29.2 (LANDS NOW OR FORMERLY OF THOMAS O'ROURKE), BLOCK 2, SECTION 982.3, SOUTH 51 DEGREES 16 MINUTES 30 SECONDS WEST, A DISTANCE OF 270.32 FEET TO A POINT; THENCE

ALONG THE DIVIDING LINE BETWEEN LOT 16 WITH LOT 15 (LANDS NOW OR FORMERLY OF TRENDSETTERS HAIR & SKIN CARE CENTER, INC.), BLOCK 2, SECTION 982.3, NORTH 16 DEGREES 42 MINUTES 30 SECONDS WEST, A DISTANCE OF 334.34 FEET TO A POINT AND PLACE OF BEGINNING.


CONTAINING 65,688 SQUARE FEET OR 1.508 ACRES

THIS PROPERTY MAY BE SUBJECT TO RESTRICTIONS, COVENANTS AND/OR EASEMENTS EITHER WRITTEN OR IMPLIED.

THIS DESCRIPTION IS PREPARED BASED ON A SURVEY BY CONTROL POINT ASSOCIATES, INC. P.C., ENTITLED "ALTA/NSPS LAND TITLE SURVEY, DISTRICT 200, SECTION 982.3, BLOCK 2, LOT 16, 32 MONTAUK HIGHWAY, BLUE POINT, TOWN OF BROOKHAVEN, SUFFOLK COUNTY, STATE NEW YORK", DATED 01-13-2022, LAST REVISED ON 05-23-2022.



CONTROL POINT ASSOCIATES, INC. PC


5/24/2022
WILLIAM T. WHIMPLE DATE
NEW YORK PROFESSIONAL
LAND SURVEYOR #50526

SCHEDULE "B"
Town Board Approval



Town of Brookhaven, New York

5/4/2023 5:00:00 PM

Resolution

Title: Resolution of Adoption Granting the Application of McDonald's Blue Point for a Change of Zone from J Business 2 and A Residence 1 to J Business 5, Special Permit for Major Restaurant with Accessory Drive-Through and Waivers of Special Permit Criteria on Property Located on Montauk Highway (New York State Route 27A) in Blue Point, New York

Department: Law Department

Permissive Referendum: No

Sponsors: Neil Foley, Councilman

SEQRA Required: No

Financial Impact

No financial impact.

Reason

To approve the application.

Body

WHEREAS, on May 4, 2023, a duly advertised public hearing was held to consider the application of McDonald's Blue Point for a change of zone from J Business 2 and A Residence 1 to J Business 5, special permit for major restaurant with accessory drive-through and waivers of special permit criteria on property located on the south side of Montauk Highway (New York State Route 27A), east of Buffin Lane, in Blue Point, New York, further identified by Suffolk County Tax Map Number 0200-98230-0200-016000; and

WHEREAS, after due consideration and deliberation;

BE IT HEREBY RESOLVED, by the Town Board of the Town of Brookhaven, that the above application for a change of zone from J Business 2 and A Residence 1 to J Business 5, special permit for major restaurant with accessory drive-through and waivers of special permit criteria is hereby approved subject to the following:

Conditions

1. The applicant must submit proof, to the satisfaction of the Town Attorney's Office, that the covenants and restrictions, approved as to form and substance, referenced below, have been filed with the Suffolk County Clerk's Office.
2. The submission of 50% of the land use intensification mitigation fee in the amount of \$11,351.25 shall be submitted prior to effectuating the zoning and special permit per Town Code § 85-82.F. The check shall be made payable to the Joseph Macchia Environmental Preservation Capital Reserve Fund.
3. Submission of a site plan application to the Planning Division.

Covenants

1. Submission of the outstanding balance of the land use intensification mitigation fee in the amount of \$11,351.25 shall be a condition of final site plan approval per Town Code § 85-82.F. The check shall be made payable to the Joseph Macchia Environmental Preservation Capital Reserve Fund.

2. The subject site shall be used exclusively for a major restaurant with drive-through. No other uses or special permit uses within the J Business 5 zone shall be permitted.

RESOLVED that the following waiver of special permit criteria is approved:

1. Brookhaven Town Code §85-467(E)(4): Exterior menu board or speakers shall not face any residential use or zone: menu boards facing south and east approved.

RESOLVED that the Town Board, as Lead Agency, has determined that pursuant to 6 New York Codes, Rules and Regulations Part 617.5(c) (26) and (33), the proposed action is deemed to be an Unlisted Action for which a Negative Declaration has been issued.

Check back soon after the meeting to view the final disposition of the resolution

ACTION: Adopt BY THE BROOKHAVEN TOWN BOARD	
MOTION TO:	Adopt (Unanimous)
MOTION BY:	Neil Foley
SECOND BY:	Michael Loguercio
AYES:	Jonathan Kornreich, Jane Bonner, Michael Loguercio, Neil Foley, Daniel Panico, Edward P. Romaine
ABSENT:	