

THE BOROUGH OF MANHATTAN
C. VIRGINIA FIELDS, PRESIDENT
MANHATTAN COMMUNITY BOARD FIVE MINUTES
DAVID DIAMOND, CHAIR
THURSDAY, SEPTEMBER 9, 2004

Minutes of the regular Community Board #5 meeting held on **Thursday, September 9th, 2004, at the Fashion Institute of Technology, 227 West 27th Street, "A" Building, 8th Floor, 6:00p.m.** David Diamond, Chair, presides. The tapes of the full meeting are available in the Board Office.

Members Present

Scott Alling
Susan Baida
Vikki Barbero
Philip Beer
Nicholas Bergman
Aaron Block
Judith Breidbart
James Collins
Paul Connolly
Candy Cook
David Diamond
Lola Finkelstein
Eric Gering
Robyn Hatcher
Joyce Matz
Jason Mendelson
Howard Mendes
John Mills
Karen Newman
Meile Rockefeller
Doreen Seligson
Sung Ae Song
Maxine Teitler
Bonnie Williams

Present Part

Muriel Bernstein
Angela Bledsoe
David Rabin
Mickey Schwartz
Craig Wilson

Absent

William Daly
Lorna Duff
Janelle Farris
Nancy Goshow
Brian Landeche
Kyle Merker
Michael Presser
Carmel Reingold
Connie Ress
Joel Sesser
Rosalie Shields
David Siesko
Ana Vidal-Kaufman
Lawrence Zucker

Public Members

Jon Schachter
Jack Taylor

Public Attendees

Indira Orenstein
Richard Lobel
Eric Palatnik
Nathan Whiting
Jay Segal
Jean Shen
Brenda Levin
Stephen M. Evans IV
Emily Csendes
Matthew Frank
Rick Parisi
Martin Andersen
Morgan McLean
Marie Sepanski
Lisa Wager
Robb McDougale
Liz Meyer

Elected Officials

Margarita Lopez
Councilmember

Lori Williams
Borough President C. Virginia Fields

Cassandra Ritas

State Senator Liz Krueger

Michael Kay
Congressman Jerrold Nadler

Philip Yeuger
Senator Thomas Duane

Danielle Porcaro
Councilmember Christine Quinn

Erin Mears
NYC Public Advocate Betsy Gotbaum

Staff

Kathy Kinsella
District Manager

Kim Rodney
Assistant District Manager

Cindy Perez
Community Associate

At 6:00 p.m., the Full Board meeting of Manhattan Community Board Five was called to order, David Diamond presiding.

PUBLIC SESSION

Michael Kay – Representative from Congressman Jerrold Nadler’s office – introduced himself as Congress Member Nadler’s new liaison.

Philip Yeager – Representative from Senator Tom Duane’s Office – introduced himself as the Senator Duane’s new liaison.

Carsten Brohemann – described discrimination and labor camps in China, and asked people not to buy products produced in Chinese labor camps.

Jane Dai – Australian Citizen - stated that her husband was tortured to death at the age of 34 in China because of his relationship to Falon Gong. She described the suffering in China of those practicing Falon Gong.

Indira Orenstein – described structural problems in her apartment and asked for the Board’s assistance.

Nathan Whiting – asked the Board to support his application for a dance performance in Madison Square Park and invited Board Members and the public to attend.

Liz Meyer– Avon Walk for Breast Cancer – announced the Avon Walk on Saturday, October 2nd and Sunday, October 3rd, in support of breast cancer research. She also announced that there will be a cheering station in Community Board Five and urged the public to come out and support the walkers.

Emily Csendes – introduced herself to the Board as the Republican Candidate for 27th State Senate District.

Marie Sepanski – asked the Board to support her application for a newsstand at Union Square East and 15th Street, which she stated has the Department of Transportation’s approval.

Erin Mears – NYC Public Advocate – introduced herself as the Public Advocate’s liaison to Community Board Five and described the Public Advocate’s constituent services and Ombudsman program.

Lisa Wager – Director of Gov’t and Community Relations at FIT – welcomed Board Members to the facility and described materials on the information table and announced a museum exhibit opening on October 7th.

BUSINESS SESSION

● CHAIR’S REPORT ~ *David Diamond*

Mr. David Diamond gave a brief update on recent issues taken up by the Board: (1) Ladies’ Mile Historic District Rezoning: bars/clubs will require a special permit from the Board of Standards and Appeal; (2) Hudson Yards: the Board had asked that the blocks east of 8th Avenue and South of Madison Square Garden be removed from the proposal and submitted as a separate application. The Department of City Planning has amended the application in accommodation of this request.

Mr. Diamond then announced that sale of 2 Columbus Circle was approved by the Borough Board. He also announced the Borough President’s professional development session on October 4, 6:00pm to 9:00pm at the Fashion Institute of Technology. He then announced the dates for Budget Consultations and urged members to attend especially on the dates that agencies dealing with their respective committee will meet.

He also announced that the Search Committee, chaired by Vikki Barbero, has begun the search for a replacement for District Manager Kathy Kinsella.

● DISTRICT MANAGER’S REPORT ~ *Kathy Kinsella*

Ms. Kinsella informed the board of an affordable housing opportunity at “The Christopher” (which was taken over by Common Ground) at 202-212 West 24th Street. Anyone interested can obtain application from www.comonground.org. She then informed the board that the Department for the Aging will host a Big Apple Senior Stroll in New York Botanical Garden on Wednesday, October 6, 2004.

Ms. Kinsella then introduced new staff member, Stephanie Kirschner.

● VOTE ON MINUTES OF THE JULY, 2004 BOARD MEETING

The minutes passed with a vote of 25 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Baida, Barbero, Beer, Bergman, Bernstein, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **ABSTENTION:** Diamond.

COMMITTEE REPORTS

● CONSENTS & VARIANCES ~ *MICKEY SCHWARTZ & LAWRENCE ZUCKER*

Mr. Schwartz presented the following resolution:

BSA Special Permit for a physical culture establishment at 5 West 37th Street

WHEREAS, an application has been made for a special permit for a physical culture establishment to operate a “Day Spa” at 5 West 37th Street; and

WHEREAS, the application is for the use of 1,400 Sq. ft. in the basement of a four story commercial building; and

WHEREAS, the application seeks to legalize the subject space, which has been built without first obtaining a required special permit, and has accordingly been served with a “stop work order” by the Department of Buildings; and

WHEREAS, there is a history of Department of Buildings violations at this location; therefore, be it

RESOLVED, that Community Board Five **recommends denial** of the application for a physical culture establishment at 5 West 37th Street.

The resolution passed with a vote of 23 in favor, 1 opposed, 1 abstention, as follows: **IN FAVOR:** Baida, Barbero, Bergman, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Rabin, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **OPPOSED:** Block. **ABSTENTION:** Diamond.

● COUNCILMEMBER MARGARITA LOPEZ

Councilmember Lopez spoke regarding 400 Park Avenue South's ULURP application and asked the Board to support the application.

● CONSENTS & VARIANCES ~ *RESUMED*

Mr. Schwartz presented the following resolution:

Special Permit application to legalize a physical culture establishment at 19 East 57th Street, 3rd Floor

WHEREAS, Bliss Spa has submitted an application for an existing physical culture establishment at 19 East 57th Street; and

WHEREAS, the application is for the use of 3,742 sq. ft. on the 3rd floor of the building; and

WHEREAS, Bliss is a well known operator of Day Spas in New York and London; therefore, be it

RESOLVED, That Community Board Five **recommends approval** for the legalization of the physical culture establishment at 19 East 57th Street.

The resolution passed with a vote of 23 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Block, Breidbart, Collins, Connolly Cook, Gering, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Williams, Wilson. **ABSTENTION:** Diamond.

Mr. Schwartz then introduced the following bundled resolutions (2):

Application for a distinctive sidewalk at The Museum of Modern Art (MoMA)

WHEREAS, Request has been made by the Museum of Modern Art (MoMA) for installation of a distinctive sidewalk along the building frontage on 53rd and 54th Streets, between Fifth and Sixth Avenues; and

WHEREAS, the proposed pattern consists of scoring the sidewalk to align with the vertical joints in the facade of the new building; and

WHEREAS, the scoring will also coordinate with tree pits; and

WHEREAS, the sidewalk will be constructed of standard concrete, meeting all New York City requirements; and

WHEREAS, the only distinctive aspect of the proposed sidewalk will be the width between the scored joints which will vary from approximately 5'-0" to 8'-0"; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by MoMA for the installation of a distinctive sidewalk along 53rd and 54th Street.

Application for a distinctive sidewalk at 810 7th Avenue

WHEREAS, A request has been made by the Reckson Associates Reality Corporation, for the installation of a distinctive sidewalk at 810 Seventh Avenue; and

WHEREAS, the proposed distinctive sidewalk will be granite extending along the building frontage and at the building entry at Seventh Avenue and also two circular paving nodes on the corners of Seventh Avenue and 53rd Street and Broadway and 53rd Street ; and

WHEREAS, the proposed pattern is made up of a grid of 2'-6" black and red pavers that align with the City standard 5'x5' paving grid; and

WHEREAS, the materials to be used will be tested and required to conform to the Department of Transportation's slip resistance regulations, therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by Reckson Associates Reality Corporation, for the installation of a distinctive sidewalk at 810 Seventh Avenue, with the understanding that the materials will meet anti-slip regulations.

The resolution passed with a vote of 25 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **ABSTENTION:** Diamond.

Mr. Schwartz then introduced the following resolution:

St. George Association, Inc., (NYPD), application for a street festival

WHEREAS, St George Association, Inc. (NYPD) has filed an application to hold a Street Festival on 45th Street, between 6th and 7th Avenues, on Saturday, November 20th, 2004; and

WHEREAS, the applicant has agreed to abide by Community Board Five's Street Activity Guidelines; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by St George Association, Inc. (NYPD) to hold a street festival.

The resolution passed with a vote of 24 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **ABSTENTION:** Diamond.

Mr. Schwartz then introduced the following bundled resolutions (2):

Broadway Jerusalem II, application to erect a Succah

WHEREAS, Broadway Jerusalem II has filed an application to erect a Succah on 38th Street, between Broadway and 7th Avenue, during the period of Saturday, October 2nd to Thursday, October 7th, 2004; and

WHEREAS, the Succah will be temporary to providing communal space for persons to eat in observance of the rules of Succot; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by Broadway Jerusalem II for a Succah from October 2nd to October 7th, 2004.

Wicked, LLC, application to hold a block party

WHEREAS, Wicked, LLC has filed an application to hold a block party on 51st Street, between Broadway and 8th Avenue, on Saturday, October 30th, 2004; and

WHEREAS, the event is a celebration of the one year anniversary of Wicked and is free and open to the public; and

WHEREAS, the applicant has agreed to abide by Community Board Five's Street Activity Guidelines; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by Wicked, LLC for a block party on Saturday, October 30th, 2004.

The bundled resolutions (2) passed with a vote of 25 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **ABSTENTION:** Diamond.

Mr. Schwartz then introduced the following resolution:

Church of Scientology, application to hold a grand opening event

WHEREAS, The Church of Scientology has filed an application for a street activity on Sunday, September 26, 2004; and

WHEREAS, the activity is a celebration of the Church's 50th Anniversary and the re-opening of the redesigned building; and

WHEREAS, the event's stage will be primarily on private property (a parking lot) but will extend out into the street, but pedestrians will have the ability to transverse the area unimpeded; and

WHEREAS, the event is free and open to the public; and

WHEREAS, the event will end by 1:30p.m. on Sunday, September 26 and therefore will not interfere with theatre performances in the area; and

WHEREAS, an emergency lane will be maintained at all times; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by the Church of Scientology to hold a grand opening event

After some discussion of the event the resolution passed with a vote of 22 in favor, 1 opposed, 2 abstentions, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Teitler, Wilson. **OPPOSED:** Williams. **ABSTENTIONS:** Diamond, Mendes.

Mr. Schwartz then introduced the following resolution:

The Pediatric Center of the New York Foundling

WHEREAS, The Pediatric Center of the New York Foundling has filed an application to hold a “Day at the Zoo” street activity on 17th Street on October 3rd, 2004; and

WHEREAS, this is a high vehicular and pedestrian traffic area in a busy shopping area; and

WHEREAS, Community Board Five is concerned that this event will impede pedestrian and vehicular traffic in the area; and

WHEREAS, area residents have voiced objections to this application; therefore be it

RESOLVED, That Community Board Five **recommends denial** of the application by The Pediatric Center of the New York Foundling to hold a real life zoo.

After some discussion, the resolution passed with a vote of 21 in favor, 3 opposed, 1 abstention, as follows: **IN FAVOR:** Baida, Barbero, Beer, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Mendelson, Mendes, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **OPPOSED:** Alling, Hatcher, Matz. **ABSTENTIONS:** Diamond.

Mr. Schwartz then introduced the following bundled resolutions (3):

Newsstand Application # 1171178 – S/E/C of Union Square East and East 15th Street

WHEREAS, an application has been made by Marie Sepanski for the operation of a newsstand at the S/E/C of Union Square East and East 15th Street; and

WHEREAS, this location is one of the most congested sites in Community Board Five and the placement of a newsstand at this location will be an impediment to pedestrian flow; therefore be it

RESOLVED, Community Board Five **recommends denial** of the application for a newsstand at the above referenced location.

Newsstand Application # 1176644– N/W/C of East 57th Street and Lexington Avenue

WHEREAS, an application has been made by Ignatius Low for the operation of a newsstand at the N/W/C of East 57th Street and Lexington Avenue; and

WHEREAS, this is an extremely congested location in Community Board Five and the placement of a newsstand at this site will be an impediment to pedestrian flow; therefore be it

RESOLVED, Community Board Five **recommends denial** of the application for a newsstand at the above referenced location.

Newsstand Application # 1176647 – N/E/C of West 32nd Street and 7th Avenue

WHEREAS, an application has been made by Ignatius Low for the operation of a newsstand at the N/E/C of West 32nd Street and 7th Avenue; and

WHEREAS, this location is one of the most congested sites in Community Board Five and the placement of a newsstand at this location will be an impediment to pedestrian flow; therefore be it

RESOLVED, Community Board Five **recommends denial** of the application for a newsstand at the above referenced location.

The bundled resolutions (3) passed with a vote of 21 in favor, 4 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Barbero, Beer, Bergman, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Matz, Mendelson, Mendes, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **OPPOSED:** Baida, Hatcher, Mills, Newman. **ABSTENTION:** Diamond.

Mr. Schwartz then introduced the following resolution:

57 Restaurant Associates, LLC, 60 West 57th Street

WHEREAS, 57 Restaurant Associates LLC, has filed an application for 13 tables and 52 seats at 60 West 57th Street; and

WHEREAS, the board has concerns that the size of the café will impede the flow of pedestrians; and

WHEREAS, the applicant has agreed to amend the application to address the Board's concerns regarding the above condition; and

WHEREAS, the revised application (see attached plan and agreement) is for 12 tables/48 seats; and

WHEREAS, the applicant will submit revised plans reflecting said revisions to the Department of Consumer Affairs; therefore be it

RESOLVED, That Community Board Five **recommends approval of the amended application** by 57 Restaurant Associates LLC, for an unenclosed sidewalk café at 60 West 57th Street for 12 tables/48 seats only.

The resolution passed with a vote of 16 in favor, 9 opposed, 2 abstentions, as follows: **IN FAVOR:** Alling, Barbero, Bergman, Breidbart, Connolly, Gering, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Schwartz, Song, Teitler, Wilson.

OPPOSED: Baida, Beer, Block, Collins, Cook, Finkelstein, Rockefeller, Seligson, Williams. **ABSTENTIONS:** Bledsoe, Diamond.

Mr. Schwartz then introduced the following resolution:

Request to co-name Park Avenue South with 4th Avenue

WHEREAS, Community Board Five has received a request to support a co-naming of Park Avenue South as 4th Avenue; and

WHEREAS, this request has come from one individual and there does not appear to be broad based support for such a co-naming; and

WHEREAS, the applicant was invited to but did not attend Community Board Five's Consents & Variances Committee meeting to answer questions regarding his request; therefore, be it

RESOLVED, that Community Board Five **recommends denial** of the request for a co-naming of Park Avenue South as 4th Avenue.

The resolution passed with a vote of 26 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Rockefeller, Schwartz, Seligson, Song, Teitler, Williams, Wilson. **ABSTENTION:** Diamond.

● PARKS ~ PHIL BEER

Mr. Beer presented the following bundled resolutions (5):

Madison Square Park Conservancy Fall Plant Sale

WHEREAS, the applicant, Madison Square Park Conservancy, has applied for a permit to hold a Fall Plant Sale on October 7, 2004 and October 8, 2004 with a rain date of October 14, 2004 and October 15, 2004 in the southern fountain area; and

WHEREAS, this event will benefit the Madison square Park Conservancy with all proceeds going to the conservancy; and

WHEREAS, there will also be sale of tee shirts and handouts of conservancy materials; and

WHEREAS, the event will be between 11:00 am - 4:00 pm with set up starting at 9:30 am and clean up completing at 5:30 pm; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the permit for Madison Square Park Conservancy for a fall plant sale.

Madison Square Park Conservancy Fall playground festival.

WHEREAS, the applicant, Madison Square Park Conservancy has applied for a permit to hold a Fall Playground Festival on October 22, 2004 with a rain date of October 29 2004 in the playground and northern end of Madison Square Park; and

WHEREAS, this is an annual event; and

WHEREAS, this event is attended by 500- 1,000 of the community's children; and

WHEREAS, there are no complaints on record for this annual event and area children look forward to this event; and

WHEREAS, the only items sold are Madison Square Park Conservancy tee shirts at eight dollars apiece, and the only matter distributed will be MSPC literature; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the permit for Madison Square Park Conservancy to hold a fall playground festival.

Nathan Whiting and Dancers, application to hold dance performances in Madison Square Park

WHEREAS, The Applicant, Nathan Whiting and Dancers, requests to perform a dance exhibition in Madison Square Park on October 2nd, 8th and 9th, 2004; and

WHEREAS, Performances will begin at 6:15pm and end at 7:20pm with minimal set up; and

WHEREAS, There will be as many as 7 dancers with no amplified sound and no stage; and

WHEREAS, the group has previously performed in the park with no complaints; therefore be it

RESOLVED, Community Board Five **recommends approval** the application by the Nathan Whiting and Dancers to perform in Madison Square Park on October 2nd, 8th and 9th, 2004.

The Star Wars Coalition, application to hold a charity event in Union Square Park.

WHEREAS, the applicant "The Star Wars Coalition" has applied for a special event permit to conduct a charity event in Union Square Park on September 21st, 2004; and

WHEREAS Community Board Five is concerned with the use of parks as venues for purely commercial events with no clear benefit to the local community; and

WHEREAS the applicant, "The Star Wars Coalition", was invited to but did not attend the Community Board Five Parks Committee meeting on August 30th, to discuss the event in more detail and answer questions regarding safety and other concerns; therefore be it

RESOLVED that Community Board Five **recommends denial** of the application by the applicant "The Star Wars Coalition" to conduct a charity event in Union Square Park on September 21st, 2004.

Vertical, application to hold a dance performance in Union Square Park

WHEREAS, the applicant, "Vertical", has applied for a special event permit to conduct a dance performance in the South Plaza in Union Square Park on September 19th, 2004; and

WHEREAS Community Board Five is concerned with the use of parks as venues for purely commercial events with no clear benefit to the local community; and

WHEREAS the applicant "Vertical" was invited to but did not attend the Community Board Five Parks Committee meeting on August 30th, to discuss the event in more detail and answer questions regarding safety and other concerns; therefore be it

RESOLVED that Community Board Five **recommends denial** of the application by the applicant "Vertical" to conduct a dance performance with music in Union Square Park on September 19th, 2004.

The bundled resolutions (5) passed with a vote of 23 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Alling, Barbero, Beer, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Mendelson, Mendes, Mills, Newman, Rabin, Rockefeller, Seligson, Song, Teitler, Wilson. **ABSTENTIONS:** Baida, Diamond.

● **LANDMARKS ~ JOYCE MATZ AND ERIC GERING**

Mr. Gering presented the following bundled resolutions (2):

44 West 17th Street, bet. 5th and 6th Avenues (Ladies' Mile Historic District), application to install new storefront infill.

WHEREAS, the property is a Beaux-Arts style rowhouse, designed by Schwartz & Gross and built in 1909-10; and

WHEREAS, the proposed materials and colors (wood and glass, with a painted metal cornice) are consistent with the nature of the historic district and this building; and

WHEREAS, the transom façade detail is reminiscent of the original design and will have signage back-painted on the glass; and

WHEREAS, there will be no exterior lighting, nor security grilles; and

WHEREAS, the proposed storefront is generally sympathetic to the historic district and the building as seen in historic photos; therefore be it

RESOLVED, That Community Board Five recommends approval of the application for Certificate of Appropriateness to install new storefront infill at 44 West 17th Street.

22 West 21st Street, bet. 5th and 6th Avenues (Ladies' Mile Historic District), application to replace the storefronts

WHEREAS, this property is a neo-Renaissance style store and commercial loft building designed by Maynicke & Franke and built in 1908; and

WHEREAS, the store is contained within one and one-half bays, and there is currently only one single-door entry for staff, deliveries, and customers; and

WHEREAS, the applicant wishes to create two entries to the store by reconfiguring the one and one-half bays of the store, thereby providing a separate entrance for staff and deliveries, and one for customers; and

WHEREAS, the proposed entry for staff and deliveries will be in the first bay and configured by removing the current single door and replacing it with a center door flanked by windows, requiring the removal of some of the bulkhead, but replacing it where the former single door entry stood; and

WHEREAS, a new single-door entry will be installed in the half-bay that will require a loss of the bulkhead to accommodate the new door; and

WHEREAS, all materials and colors of the replacements will match the present fabric, and the applicant intends also to remove the neon signage inside the current storefront; and

WHEREAS, the Committee notes that there is no master plan for this building, and the remaining distinctive transom over the shared half-bay may be original materials, but that the transoms over the other bays have been removed and replaced with nondescript fabric; and

WHEREAS, this is a minimally intrusive change for this storefront and does not detract from the character of the building or the neighborhood; therefore, be it

RESOLVED, that Manhattan Community Board Five **recommends approval** of the application for a Certificate of Appropriateness for 22 West 21st Street.

The bundled resolutions (2) passed with a vote of 23 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Mendelson, Mendes, Newman, Rabin, Rockefeller, Seligson, Song, Teitler, Wilson. **ABSTENTIONS:** Diamond, Matz.

Mr. Gering then introduced Meile Rockefeller who presented the following bundled resolutions on behalf of the Committee:

130 West 42nd Street, aka 135 West 41st Street, bet. 6th Ave. & B/way, (Bush Tower), application to replace storefront infill on the 41st Street façade..

WHEREAS, 130 West 42nd Street is a neo-Gothic style through-block skyscraper, constructed in 1916-18 and designed by Helmle and Corbett; and

WHEREAS, the applicant represents the only retail space located at the rear of the building, and this retail space is comprised of two bays of the building with aluminum and glass infill panels and an exterior roll-down gate; and

WHEREAS, the applicant desires to replace:

1. the existing double bay storefront with a new clear anodized aluminum and glass storefronts, each set back about three feet from the building façade to permit the entry doors to open outwards, with one or two steps up from the street,

2. the cover over the existing roll-down gates with a new steel cover painted in dark green with white lettering signage, and
3. the existing lighting with eight new gooseneck lights; and

WHEREAS, although the applicant was unable to provide any historical photographs of the building, the design for the new storefronts and lighting is not incompatible with the existing building; and

WHEREAS, an exterior roll-down gate is not compatible with the building, and notwithstanding the applicant's intention to leave the existing roll-down gate in place, its replacement by an interior roll-down gate in compliance with the Landmark Preservation Commissions guidelines is essential; therefore, be it

RESOLVED, that Community Board Five **recommends denial** of the Certificate of Appropriateness, unless the applicant amends the application to remove the exterior roll-down gate and replace it with an internal gate.

50 West 23rd Street, bet. 5th and 6th Avenues (Ladies' Mile Historic District), application to legalize installation of flagpoles and stretch banners at West 23rd street façade without Landmarks Preservation Commission permits.

WHEREAS, the applicant is requesting a Certificate of Appropriateness for 50 West 23rd Street in the Ladies' Mile Historic District, to legalize the installation of flagpoles and stretch banners at the West 23rd Street façade, which were installed without Landmarks Preservation Commission permits; and

WHEREAS, the applicant was invited, yet failed to attend Community Board Five's Landmarks' Committee meeting on August 31st, 2004, to present the proposal for review; and

WHEREAS, Community Board Five takes its role in the review of applications for Certificates of Appropriateness seriously; therefore, be it

RESOLVED, that Community Board Five **recommends denial** of the application for 50 West 23rd Street and requests an opportunity to review the application.

The bundled resolutions (2) passed with a vote of 25 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mendes, Newman, Rabin, Rockefeller, Seligson, Song, Teitler, Williams, Wilson. **ABSTENTION:** Diamond.

Mr. Gering then introduced the following resolution:

595 Madison Avenue, bet. 57th and 58th Streets (The Fuller Building), application to amend the storefront Master Plan established pursuant to Certificate of Appropriateness 86-0118.

WHEREAS, the property is an Art-Deco style office building designed by Walker and Gillette and built in 1928-29, and

WHEREAS, the amended storefront master plan proposes to remove the existing louvers in the transoms (as there were none originally); and

WHEREAS, the applicant proposes to remove the existing awnings (also none originally); and

WHEREAS, the signage is proposed to be approximately 11 1/2" high (will vary to smaller) by about 1 1/2" deep polished stainless steel letters adhered to the black granite band above the storefront windows, consistent with images seen in historic photos; and

WHEREAS, bronze mullions with art-deco style detailing will be replacing the existing dark metal horizontal transom mullions; and

WHEREAS, the applicant agrees to keep the storefront bulkheads at the existing approximate 18" high level, as seen in the historic photos, and

WHEREAS, ~~the applicant has agreed to return to the board for approval of a proposed light bar design for the signage illumination prior to proceeding with it~~ existing signage/lighting will be replaced with a light bar mounted on the granite above the signage and 6' long by 3" high by 5" deep, projecting approximately 12" and with a matte black finish to blend with the black granite; and

WHEREAS, the storefront door locations will remain recessed from the front plane of storefront windows; and

WHEREAS, there will be no change to the main entry or the service entry, therefore be it

RESOLVED, that Community Board Five **recommends approval** of the application to amend the storefront Master Plan as described above, established pursuant to Certificate of Appropriateness 86-0118, ~~on the condition that any signage illumination be a separate application that the Board has an opportunity to review.~~

After some discussion, the resolution as amended by the Committee (see strikethrough and Italics) passed with a vote of 25 in favor, 0 opposed 2 abstentions, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Mendelson, Mendes, Mills, Newman, Rabin, Rockefeller, Seligson, Song, Teitler, Williams, Wilson. **ABSTENTIONS:** Diamond, Matz.

● **LAND USE & ZONING ~ AARON BLOCK AND MEILE ROCKEFELLER**

Mr. Block presented the following resolution:

BSA # 1126-48 BZ, application for extension of term of variance permitting erection and maintenance of an open garage for the parking and storage of more than five motor vehicle at 249-251 West 43rd Street.

WHEREAS, the garage located at 249/51 West 43rd Street, New York, NY is a five story, free standing building licensed for up 225 parking spaces, consisting of Block 1015, Lot 10; and

WHEREAS, the applicant Sheldon Lobel, P.C. on behalf of the owner Advance Parking LLC seeks an extension of term of a variance for an open garage for the parking and storage of motor vehicles; and

WHEREAS, the garage has been continuously used for approximately fifty years without objection and the application in front of the BSA proposes no changes to the existing use of the Premises; and

WHEREAS, the BSA originally granted a variance pursuant to Section 7f of the Zoning Resolution in 1949 and has continuously renewed the variance and Community Board Five unanimously approved a previous extension of term in February 1994; and

WHEREAS, the applicant requests that the term of the original grant be extended for an additional ten years; and

WHEREAS, the applicant has promised to remove the minor outstanding violations of record relating to the elevator and exit signage; therefore, be it

RESOLVED, that Manhattan Community Board Five approves the request to extend the term of the variance for the parking garage located at 249/51 West 43rd Street, New York, New York.

After some discussion, the resolution passed with a vote of 23 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Hatcher, Mendelson, Mendes, Mills, Newman, Rabin, Rockefeller, Seligson, Song, Teitler, Williams. **ABSTENTION:** Diamond.

Ms. Rockefeller then introduced the following resolution:

ULURP Application # C 040495, for a zoning special permit and ULURP Application # C 040496, an amendment of the Zoning Map, for 400 Park Avenue South

WHEREAS, the Applicant proposes to develop the site located at the southwest corner of Park Avenue South and East 28th Street (currently a parking lot), with a new residential and retail tower designed by the internationally acclaimed architect Christian de Portzamparc which will total 417,544 square feet of floor area; and

WHEREAS, the site is currently in two zoning districts, the portion fronting Park Avenue South for a depth of 100 feet is zoned C6-4A, and the remainder of the site is zoned C5-2, permitting, *inter alia*, as of right residential use with a 10 FAR or a 12 FAR with an inclusionary housing bonus resulting in a building of approximately 300,000 square feet of floor area; and

WHEREAS, the four blocks immediately to the south of the site are zoned C5-3 and are improved with buildings of similar density to that proposed for the site, and the Applicant proposes to amend the Zoning Map to extend the C5-3 zoning to the entire block bounded by Park Avenue South, East 27th Street, Madison Avenue and East 28th Street; and

WHEREAS, the zoning map change, which will permit a residential FAR of 15, and the Applicant's intended air rights transfer, will result in a permissible building area of over 523,000 square feet, of which the Applicant will only use 417,544 square feet to construct approximately 342 apartments and 10,000 square feet of retail space; and

WHEREAS, as part of the proposed development, the Applicant will renovate and relocate the subway station inside the building; and

WHEREAS, Section 74-721(a) allows the modification of height and setback requirements by means of a Special Permit on a limited number of medium and high density lots with C zoning and with at least 40,000 square feet, but does not allow for modification of (a) distances between buildings on a single zoning lot, (b) depth of rear yards and courtyards and (c) distance between windows and a lot line; and

WHEREAS; the proposed text amendment would allow Special Permits to be issued, allowing modifications of the above regulations in very limited number of locations; and

WHEREAS; the Applicant seeks a Special Permit, pursuant to the amended text to allow (a) 8 foot side yards between the proposed development and adjacent buildings, (b) windows (not required for light and air) opening on the southern side yard above the height of the adjacent building, and (c) modification of the sky exposure plane, all of which changes are dictated by the architecture of the proposed development; and

WHEREAS; ~~although~~ the Applicant ~~is urged~~ *has indicated an intention* to provide some affordable housing within the proposed development, whether through the 80/20 financing structure or otherwise, and is further urged to add some off-street loading capacity to minimize congestion on East 28th Street, and to look into possible provision of parking spaces for building residents, the overall development proposal is of the highest quality, the proposed building will be a good addition to New York, and the proposed map changes, text changes and Special Permit will facilitate its realization and not have any negative impacts; and

WHEREAS, the applicant has agreed to provide notice of the mixed use nature of the area in any contract of sale and or deed issued in conjunction with any future condominium or co-op offerings; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the zoning map amendment, the amendment to Section 72-721(a) and the issuance of a Special Permit pursuant to the amended text.

After much discussion and questions regarding affordable housing, loss of parking to the neighborhood, accessibility of entry and subway, and friendly amendments (Teitler)(see strikethrough and italics), the resolution passed with a vote of 23 in favor, 1 opposed, 1 abstention, as follows: **IN FAVOR:** Alling, Baida, Barbero, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Finkelstein, Gering, Hatcher, Matz, Mendelson, Mills, Newman, Rabin, Rockefeller, Seligson, Song, Teitler, Williams. **OPPOSED:** Mendes. **ABSTENTION:** Diamond.

● PUBLIC SAFETY & QUALITY OF LIFE ~ *VIKKI BARBERO*

Ms. Barbero introduced Howard Mendes who presented the following resolution on behalf of the Committee:

J & S Restaurant Corp, application for an wine license at 13 East 31st Street, 2nd Fl

WHEREAS, J & S Restaurant Corp., located at 13 East 31st Street – 2nd Floor, is applying for a Restaurant/wine license; and

WHEREAS, the owners of the 1st floor operation came before Community Board Five requesting a liquor license but did not operate the 2nd floor at all; and

WHEREAS, the new owner has no relationship to the former owners; and

WHEREAS, J & S plans to operate as a Korean restaurant from 3 p.m. until 5 a.m.; and

WHEREAS, the premises are 2000 square feet and will accommodate between 50 - 60 patrons; and

WHEREAS, the owner has agreed to the following stipulations and has signed an affidavit accordingly:

1. there will be no music or karaoke
2. J & S will not request or operate a liquor license now or at a later date
3. J & S will not request a cabaret license
4. the premises will be soundproofed so any noise will not impact on neighbors
5. J & S will provide a telephone number for neighbors to use so that instant communication can be established if necessary;

therefore be it

RESOLVED, That Community Board Five recommends approval of the restaurant/wine license for J & S Restaurant Corp., located at 13 East 31st Street – 2nd Floor, based on the signed affidavit, attached; and be it further

RESOLVED, that Community Board Five urges the SLA to consider the attached affidavit as a stipulation to the liquor license.

After some discussion, the resolution passed with a vote of 23 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Alling, Baida, Barbero, Beer, Bergman, Bledsoe, Breidbart, Collins, Connolly, Cook, Finkelstein, Hatcher, Matz, Mendelson, Mendes, Mills, Newman, Rabin, Rockefeller, Seligson, Song, Teitler, Williams. **ABSTENTIONS:** Block, Diamond.

Ms. Barbero then presented the following resolution:

TCS 43rd Street Corp., d/b/a "The Pink Diamond", application for transfer of premises liquor license at 252 West 43 Street

WHEREAS, TCS 43rd Street Corp., d/b/a "The Pink Diamond," is applying to the SLA to transfer the liquor license from Club New York, located at 252 West 43rd Street; and

WHEREAS, The current occupant, Club New York, has for several years been the scene of numerous disturbances, noise, crowds on the streets, unruly behavior, and a shooting involving a famous celebrity; and,

WHEREAS, At Community Board Five's Public Safety/Quality of Life Committee meeting held on September 7, 2004 regarding this matter, the owner of "The Pink Diamond," Steve Aslan, described the concept for the establishment as a "Gentlemen's Club and Restaurant" (aka topless bar), and will be operated as a 60/40 club in accordance with New York City's Adult Entertainment Zoning regulations; and

WHEREAS, Mr. Aslan is known to CB#5 for seven years as the proprietor of the VIP Lounge, a similar type of club located on West 20th Street between 5th and 6th Avenues, which has received support from the residents of that area since it was widely stated that VIP was operated without any negative effects on the community in contrast to the many other unruly night clubs located there; and,

WHEREAS, Mr. Aslan has indicated that the target market for "The Pink Diamond" will be primarily an upscale clientele including professionals and business executives, and there will be a dress code; and

WHEREAS, The main room for entertainment will be located in the rear, and the remainder of the space will consist of a high-end restaurant and a waiting area with a bar and private dining area, the hours of operation will be from 5PM to 4 AM, 6 days per week (closed Sundays), and there are plans to eventually open for lunch, and the occupancy of the club will be between 250-300 people, in contrast to often more than 1,000 at Club New York; and

WHEREAS, There is a parking lot on either side of the premises; and

WHEREAS, The applicant was sympathetic to the questions and suggestions raised by the members of the Public Safety Quality of Life committee and the Security Director of the Times Square Hotel located directly across the street, and has agreed to the following ameliorative measures that it will undertake to prevent the nuisance conditions that prevailed at this location in the past:

1. There will be no rope line on the sidewalk outside the club and applicant's security personnel will discourage patrons from congregating outside
2. There will be no flyers distributed outside the club and the area surrounding the premises will be kept clean
3. Applicant agrees to work cooperatively with the security personnel from the Times Square Hotel and will provide his personal telephone number to the security director of the hotel so that instant communication can be established if necessary
4. Signage on the exterior of the premises will be muted, there will be no flashing lights and the only sign will be the name of the club
5. Security personnel will assist patrons in hailing cabs; and

WHEREAS, based on the above-enumerated steps agreed to by the applicant and based on the applicant's track record of working cooperatively with Community Board Five; therefore be it

RESOLVED, That Community Board Five recommends approval of the transfer of the liquor license from Club New York to TCS 43rd Street Corp., dba "The Pink Diamond," located at 253 West 43rd Street.

The resolution passed with a vote of 14 in favor, 6 opposed, 5 abstentions, as follows: **IN FAVOR:** Alling, Barbero, Block, Collins, Connolly, Cook, Finkelstein, Matz, Mendelson, Newman, Rabin, Rockefeller, Song, Teitler. **OPPOSED:** Baida, Bergman, Bledsoe, Hatcher, Seligson, Williams. **ABSTENTIONS:** Breidbart, Diamond, Gering, Mendes, Mills.

There being no further business the meeting adjourned at 9:05 PM.

Respectfully submitted by

Maxine Teitler
Secretary