

**Final as of 12/11/03
Passed by a vote
of 29-0-1**

THE BOROUGH OF MANHATTAN
C. VIRGINIA FIELDS, PRESIDENT
MANHATTAN COMMUNITY BOARD FIVE MINUTES
KYLE MERKER, CHAIR
THURSDAY, NOVEMBER 13, 2003

Minutes of the regular Community Board #5 meeting held on **Thursday, November 13, 2003, at the Fashion Institute of Technology, 227 West 27th Street, "A" Building, 8th Floor, 6:00p.m.** Kyle Merker, Chair, presiding. The tapes of the full meeting are available in the Board Office.

Members Present

Alice Adesman
Susan Baida
Vikki Barbero
Phillip Beer
Muriel Bernstein
Nicholas Bergman
Judith Breidbart
Candy Cook
William Daly
David Diamond
Lorna Duff
Suzanne Esper
Janelle Farris
Eric Gering
Nancy Goshow
Kevin Guillet
Robyn Hatcher
Brian Landeche
Howard Mendes
Kyle Merker
John Mills
Sharon Paley
Connie Ress
Doreen Seligson
Rosalie Shields
Maxine Teitler
A. Vidal-Kaufman
Bonnie Williams

Brad Wilson
Craig Wilson
Lawrence Zucker

Present Part

Lola Finkelstein
Karen Newman
David Rabin
Mickey Schwartz

Absent

Angela Bledsoe
Aaron Block
James Collins
Paul Connolly
George Elkins
Lenise Logan
Jonathan Morse
Michael Presser
Carmel Reingold
Meile Rockefeller
Joel Sesser
David M. Siesko

Excused

Joyce Matz

Public Members

Jon Schachter

Joe Tucker

Public

Jeff Willeb AIA
Carole Slater
Tom Rosenkilde
Vincent Hanley
Peter Mackie
Don Weston
Richard Trautwein, AIA
David Moehrke
Dierdre Carson
Howard Hornstein
Roe Love
John Shahinian
Dave Youngstein
Mimi Liu
Woody Enoicaras
Carolynne Ascher
Reyes Cavilan
Alexandra Sox
Nancy Charnee
Sally Park
Chris Frey
Kyung Choi
Natassa Contini
Marianna Vadukul
Morgan McLean
Lisa Wager

Elected Officials

Lori Williams
Borough President C. Virginia Fields

Jordon Isanstadt
Senator Liz Krueger

Micah Kellner
Congress Member Carolyn Maloney

Dan Golub
Assembly Member Richard Gottfried

Amy Hartz
Councilmember Margarita Lopez

Leah Kane
Congress Member Jerrold Nadler

Staff

Kathy Kinsella
District Manager

Kim Rodney
Assistant District Manager

Carla Mapelli
Community Assistant

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

PUBLIC SESSION

Carole Slater – Slater & Beckerman – gave a brief introduction of American Girl Place Inc. (retail store) and described its application for a Revocable Consent.

Tom Rosenkilde – described the stanchions being applied for at 609 Fifth Avenue (American Girl Place Inc.).

Vincent Hanley Jr. – Attorney for property owner at 253 West 28th Street – gave historical background regarding agreements between the co-op and Eugene’s at 253-255 West 28th Street and spoke in favor of the application for a BSA variance for residential use on the 3rd, 4th, and 5th floors of the building.

Peter Mackie – a resident of 28th Street – spoke of the Board’s original approval for the BSA application for variance at 253-255 West 28th Street (rescinded in October) and asked that it be upheld.

Don Weston - Architect for 253-255 West 28th Street – also spoke of the Community Board’s original approval for the BSA application (rescinded in October) and asked that the approval be upheld.

Hon. Liz Krueger – State Senator – introduced her Community Board Five liaison, Jordon Isanstadt, and then spoke of the value of Community Boards in balancing all the diverse interests that make up the community. She spoke of issues with the SLA and that it is time to look at ways to restructure the agency and allow for the city to play a role in licensing matters. The Senator then spoke about the VA hospital on 23rd Street and how efficient and important the hospital is. She then spoke of zoning issues and vendor legislation, stating that the legislature may take up the latter at a special session in December. She also spoke of issues around the selection of voting machines for use in New York State.

Jon Schachter – Public Member of CB#5 – informed the Board that UFT has moved out of 260 Park Avenue South and that there is an application in front of the Board related to that building’s conversion to residential use. Mr. Schachter spoke of the importance of preserving commercial and manufacturing space in New York City and asked the Board to keep that in mind when voting.

Lisa Wager – Fashion Institute of Technology – introduced herself as the New Director of Government and Community Relations at FIT and distributed her business card.

Richard Trautwein – Mancini Duffy – informed the board that Hudson United Band was withdrawing its application for a Certificate of Appropriateness at 75 Rockefeller Plaza and will provide a copy of the letter to Landmarks Preservation Commission stating so. They would like to come back to the board to present at a later date.

Howard Hornstein – Fishbein Badillo – spoke against the application for a zoning variance at 253-255 West 28th Street, stating that it would change the character of the block and prevent a previously approved use (Eugene’s) from operating legally.

Roe Love & Mimi Liu – Walgreens – store manager Roe Love informed the board that Walgreens will be opening at 33 East 23rd Street and Park Avenue next week. Pharmacy Manager Mimi Liu gave a brief introduction and stated that the pharmacy will be open 24 hours a day.

Woody Enolcaras – Neighbor of 253 West 28th Street – informed the board that he was a legal resident of 213 West 28th Street since 1984 and that the residents on the block have a sense of community and that he came to the board to speak in support of his neighbors application for a residential variance at 253-255 West 28th Street.

Carollyne Ascher – Resident of 213 West 28th Street – spoke in support of the variance at 253-255 West 28th Street and asked the board to acknowledge their residency and the residency of the others.

Frank Anelino – not present when called but had registered to speak regarding 253-255 West 28th Street.

Chris Frey – PerScholas – spoke of scholarship programs and placement programs offered by PerScholas. He also gave his information for anyone interested (cfrey@perscholas.org) (718- 991-8400 X 258).

BUSINESS SESSION

● CHAIR'S REPORT ~ *Kyle Merker*

Mr. Merker informed Board Members that the Economic Development Corporation (EDC) announced a sale price of over 17 million dollars for the sale of 2 Columbus Circle to the Museum of Art & Design, and that lawsuits have been filed against the City for the disposition of the property.

He then informed the Board that the EDC has given a courtesy presentation to the Executive Committee regarding 1 Bryant Park. The building is a collaboration of Durst and Bank of America, with BofA occupying a significant portion of the building. The parcel being developed is Sixth Avenue, between 42nd and 43rd Streets. The building will cost 996 million dollars, 650 million of which will be financed with Liberty Bonds. An underground tunnel will connect the V and F trains with the Times Square subway station and the subway entrance will be incorporated into the building. The project will also provide a through block pedestrian passageway. The Henry Miller Theater will be renovated and updated to an 1100 seat theater and the façade restored and preserved. The theater lobby will also be restored to its original design. There will be public space within the building, including an Urban Garden and an L- shaped outdoor public plaza.

Mr. Merker then spoke of questions and concerns that the Executive Committee had and urged people to attend the public hearing on November 20th to see the model and ask questions.

Mr. Merker then stated that the Times Square BID would like to solicit comments as they develop RFP for the redesign of Duffy Square. This proposal will be discussed in the Arts, Culture & Tourism, Parks and Transportation/Environment committees.

Mr. Merker then wished everyone a wonderful Thanksgiving.

● DISTRICT MANAGER'S REPORT ~ *Kathy Kinsella*

Ms. Kinsella waived her report.

● VOTE ON MINUTES OF THE SEPTEMBER 2003 BOARD MEETING

The minutes passed with a vote of 32 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Paley, Ress, Schwartz, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker.

COMMITTEE REPORTS

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

Mr. Zucker presented the following bundled resolutions (10):

Gramercy Stuyvesant Independent Democrats – Street Festival

WHEREAS, The Gramercy Stuyvesant Independent Democrats has applied for a permit to hold a street festival on Broadway, between 17th Street and 23rd Street on November 7, 2004; and

WHEREAS, This event is held every year without incident; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application by The Gramercy Stuyvesant Independent Democrats for a street festival.

Kidney & Urology Foundation – Street Festival

WHEREAS, The Kidney & Urology Foundation has applied for a permit to hold a street festival on Lexington Avenue, between 42nd and 57th Streets, on June 20, 2004; and

WHEREAS, The applicant has agreed to amend the application to be held on Lexington Avenue, between 42nd and 56th Streets, instead of 42nd and 57th Streets; and

WHEREAS, The event is held every year without incident; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval of the application as amended** by The Kidney & Urology Foundation to hold a street festival on Lexington Avenue between 42nd Street and 56th Street on June 20th, 2004.

Daytop Village – Street Festival

WHEREAS, The Daytop Village has applied for a permit to hold a street festival on Madison Avenue, between 42nd Street and 57th Street on August 29, 2004; and

WHEREAS, The applicant has agreed to amend the application to be held on Madison Avenue, between 42nd and 56th Streets, instead of 42nd and 57th Streets; and

WHEREAS, The event is held every year without incident; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval of the application as amended** by The Daytop Village to hold a street festival on Madison Avenue, between 42nd Street and 56th Street on August 29, 2004.

23rd Street Association – Street Festival

WHEREAS, the 23rd Street Association has applied for a permit to hold a street festival on Sixth Avenue, between 14th Street and 23rd Street on August 22, 2004; and

WHEREAS, this event has been held in prior years without incident; and

WHEREAS, the applicant will also seek approval for this event from Community Board Four since the event location falls within the boundaries of both Community Board Four and Community Board Five; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, that Community Board Five **recommends approval** of the application by 23rd Street Association to hold a street festival.

Motion Picture Club – Street Festival

WHEREAS, The Motion Picture Club has applied for a permit to hold a street festival on Seventh Avenue, between 45th Street and 57th Street on July 25, 2004; and

WHEREAS, The applicant has agreed to amend the application to be held on Seventh Avenue, between 45th and 56th Streets, instead of 45th and 57th Streets; and

WHEREAS, The event is held every year without incident; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval of the application as amended** by The Motion Picture Club to hold a street festival on Seventh Avenue between 45th Street and 56th Street on July 25, 2004.

Meretz/Israeli Civil Rights Education Fund – Street Festival

WHEREAS, The Meretz/Israeli Civil Rights Education Fund has applied for a permit to hold a street festival on Lexington Avenue, between 34th Street and 42nd Street on Sunday, July 11, 2004; and

WHEREAS, The event is held every year without incident; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application by The Meretz/Israeli Civil Rights Education Fund for a street festival.

McBurney YMCA – Street Festival

WHEREAS, The McBurney YMCA has applied for a permit to hold a street festival on Sixth Avenue, between 14th Street and 23rd Street on July 4, 2004; and

WHEREAS, The applicant has requested that its application be amended from Sunday, July 4th to Saturday, July 3rd; and

WHEREAS, The event is held every year without incident; and

WHEREAS, The applicant will also seek approval from Community Board Four since the location falls within the boundaries of both Community Board Four and Community Board Five; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval of the application as amended** by The McBurney YMCA to hold a street festival on Sixth Avenue, between 14th Street and 23rd Street on July 3rd, 2004.

St. Cecile Scholarship Fund – Street Festival

WHEREAS, The St. Cecile Scholarship Fund has applied for a permit to hold a street festival on Sixth Avenue, between 23rd Street and 33rd Street on May 23, 2004; and

WHEREAS, This event is held every year without incident; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application by The St. Cecile Scholarship Fund to hold a street festival.

Union Square Community Coalition – Street Festival

WHEREAS, the Union Square Community Coalition has applied for a permit to hold a street festival on Broadway, between 17th Street and 23rd Street on April 11, 2004; and

WHEREAS, the applicant has requested that its application be amended from Sunday, April 11th, 2004 to Sunday, April 18th, 2004; and

WHEREAS, the event is held every year without incident; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, that Community Board Five **recommends approval of the application as amended** by The Union Square Community Coalition to hold a street festival on Broadway, between 17th Street and 23rd Street on April 18th, 2004.

Chelsea Chamber of Commerce – Street Festival

WHEREAS, Chelsea Chamber of Commerce has applied for a permit to hold a street festival on 18th Street, between 5th and 6th Avenues on November 15, 2004; and

WHEREAS, the requested location is at the suggestion of the Street Activity Permit Office, which denied the location originally applied for; and

WHEREAS, the event was held at the 18th Street between 5th and Sixth Avenue location last year and there are no complaints on file with the Community Board Five office; and

WHEREAS, Community Board Five has guidelines for street activities held in our district, which include that store owners should be given the first opportunity to have the “space” in front of their establishments; and

WHEREAS, the event producer, Clearview Festival Productions, has stated that since there is an abbreviated opportunity to inform businesses on the block that there will be a street fair on November 15, that the promoter will ensure that any store on the block that does not occupy the “space” in front of their establishment will have that “space” left clear, so as not to obstruct that establishment’s visibility; and

WHEREAS, Community Board Five requests that the sponsor and producer of the event screen for and do not allow vendors selling counterfeit goods; therefore, be it

RESOLVED, That Community Board Five **recommends approval of the application** by Chelsea Chamber of Commerce to hold a street festival on 18th Street, between 5th and 6th Avenues on November 15, 2004 with the understanding that the above-described conditions will be met.

After some discussion regarding notification that no counterfeit goods be sold at these events, the bundled resolutions (10) passed with a vote of 32 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Paley, Ress, Schwartz, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker.

Mr. Zucker then presented the following resolution:

American Girl Place Inc. - application for installation of 27 removable stanchions in recessed sleeves at 609 Fifth Avenue

WHEREAS, A request was made by American Girl Place Inc. to install 27 removable stanchions in recessed sleeves mounted flush with the sidewalk at 609 Fifth Avenue, and

WHEREAS, the stanchions will be brass and 2" in diameter with retractable black tape and solid brass sockets with caps; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application by American Girl Place Inc. to install 27 removable stanchions at 609 Fifth Avenue.

After much discussion regarding the use of stanchions for crowd control, the resolution passed with a vote of 25 in favor, 9 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Finkelstein, Gering, Goshow, Hatcher, Mills, Newman, Rabin, Seligson, Teitler, Vidal-Kaufman, B. Wilson, C. Wilson, Zucker. **OPPOSED:** Beer, Guillet, Landeche, Mendes, Paley, Ress, Schwartz, Shields, Williams. **ABSTENTION:** Merker.

● PUBLIC HEARING – FY2005 CAPITAL & EXPENSE BUDGET PRIORITIES

Chair Merker announced the Public Hearing on the FY 2005 Capital & Expense Budget Priorities. There were no speakers and the hearing was closed.

● LAND USE & ZONING ~ DAVID DIAMOND

Mr. Diamond presented the following resolution:

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BSA # 314-03 BZ, application for special permit at 18 West 18th Street (aka 25 West 17th Street)

WHEREAS, The Association for Metroarea Autistic Children, Inc. has requested a special permit to allow it to continue operating its school for autistic children and adults on the first, second and third floors of 18 West 18th Street; and

WHEREAS, the applicant is requesting only a special permit for a specific use in a single specific zoning district of a limited term and is not seeking any modification of the building that would required a modification of the underlying district bulk, signage, parking or loading regulations; and

WHEREAS, the Zoning Resolution authorizes the BSA to permit schools without residential accommodations to locate within C8 or M1 zoning districts provided that four findings are met:

- Within the neighborhood served by the proposed school there is no practical way of obtaining an as of right location of adequate size because appropriate sites in the district are occupied by substantial improvements;
- Location is not more that 400 feet from the boundary of a district wherein such a school is permitted as of right;
- The location provides for adequate separation from noise, traffic and other adverse effects of the surrounding non-residential districts is achieved;
- The movement of traffic is controlled to protect the children going to and from school; and

WHEREAS, the applicant has demonstrated that the general findings required for a special permit for a specified use in a specific district have been satisfied; and

WHEREAS, the application conforms to and complies with all of the applicable district regulations required for a special permit; and

WHEREAS, the proposed special permit use - a school for autistic children and adults - will result in no hazards or disadvantages to the community at large but instead produce a benefit to the metropolitan community as a whole; and

WHEREAS, the school's operations are isolated from the other portions of the building by a completely separate entrance and emergency exits to and from street level; and

WHEREAS, all of the students are picked up and delivered by a van or parent at the school's front door offering little opportunity for them to cause any undue crowding of the streets or sidewalks; and

WHEREAS, the school's activities will not have any significant adverse impact on the privacy or quiet of the neighborhood or on any public improvement project proposed for the buildings or the street with which the special permit use could interfere; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the application to the Board of Standards and Appeals for a special permit for a nonconforming use to permit the continued operation of a school for autistic children and adults on the first, second and third floors of 18 West 18th Street, as long as the special permit is specific for a school and has a limited term which is coterminus with this applicant's lease expiration.

After a brief description of the application, the resolution passed with a vote of 34 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Paley, Rabin, Ress, Schwartz, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTIONS:** Merker.

Mr. Diamond then presented the following resolution:

BSA # 221-03 BZ, application for variance to legalize the existing residential use of the 3rd, 4th, and 5th floors at 253-255 West 28th Street

WHEREAS, the owners of 253-255 West 28th Street have filed an application with the Board of Standards and Appeals for a residential use variance in an M1-5 District under Section 72-21 of the Zoning Resolution of the City of New York for the units on the 3rd, 4th and 5th floors of 253-255 West 28th Street; and

WHEREAS, the applicant seeks to legalize three existing illegal residential units on the 3rd, 4th and 5th floors of the property, keeping the existing commercial use for the Cellar, 1st and 2nd floors as permitted in an M1-5 District; and

WHEREAS, in 1980, floors 2, 3, 4 and 5 were bought through a commercial co-op conversion that did not allow for legal residential use; and

WHEREAS, the owners of these lofts did not take advantage of their eligibility for legalization of residential use under the IMD (Interim Multiple Dwelling) status offered to artists, which expired in 1980, and their option to legalize their residency was lost; and

WHEREAS, the 4th floor was legalized for office use by a 1985 C of O change, which excluded the uses on floors 2, 3, and 5; and

WHEREAS, financial hardship for the owners cannot be demonstrated since the cellar, 1st and 2nd floors are all operating as commercial establishments and the conditions on the 3rd, 4th and 5th floors are self created and

WHEREAS, Community Board Five has previously approved a liquor license for a club/restaurant to be located on the basement and first floor of this building, in part based on the commercial nature of the block; and

WHEREAS, the proposed use for the 3rd, 4th and 5th floors is an incompatible use with the cellar, 1st and 2nd floors; and

WHEREAS, the requested variance for residential use is incompatible with the essential nature of the block and will have an adverse impact on the surrounding neighborhood by changing the character of the block; and

WHEREAS, the variance creates no benefit to public welfare; therefore be it

RESOLVED, that Community Board Five **does not approve** the application to the Board of Standards and Appeals for a residential use variance in an M1-5 District under Section 72-21 of the Zoning Resolution of the City of New York to legalize the three illegal existing residential units on the 3rd, 4th and 5th floors of 253-255 West 28th Street.

After much discussion regarding the presence of legal residents on the block and the status of the residents in the building itself, the commercial nature of the block and whether this variance would change the essence of the block, the resolution passed with a vote of 29 in favor, 3 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Finkelstein, Guillet, Hatcher, Mendes, Mills, Newman, Paley, Rabin, Ress, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **OPPOSED:** Baida, Gering, Goshow. **ABSTENTIONS:** Landeche, Merker.

Mr. Diamond then presented a report regarding 260 Park Avenue South. A motion was then made from the floor (Gering) and seconded and read into the record as follows:

BSA # 298-03 BZ, application for variance at 260 Park Avenue South.

WHEREAS, the Applicant, 260 Park Avenue South LLC, has requested a variance pursuant to Section 72-21 of the Zoning Resolution to permit the transfer of approximately 4700 square feet of floor area from 48 East 21st Street to the adjacent building at 260 Park Avenue South, and

WHEREAS, 48 East 21st Street is a 12-story commercial building located within an M1-5B zoning district and within the Ladies Mile Historic District, and 260 Park Avenue South is an 8-story commercial building located in a C6-4A zoning district, and

WHEREAS, the Applicant proposes to convert both buildings to residential use with a single entrance, create approximately 9,500 square feet of additional floor area through the construction of an interior airshaft, quality

housing deductions and mechanical deductions, construct two additional floors on the top of 48 East 21st Street and five additional floors on the top of 260 Park Avenue South, and

WHEREAS, the Applicant may convert 260 Park Avenue South to residential use as of right, but must receive an authorization from the City Planning Commission for any change of use within 48 East 21st Street, and

WHEREAS, approval of this BSA application for the transfer of the air rights in no way implies approval of any change of use at either building; and

WHEREAS, any application for a change of use that is not “as of right” will be presented to Community Board Five for an opportunity to comment; and

WHEREAS, the Applicant has, pursuant to an application under Section 74-711 of the Zoning Resolution, received a Certificate of Appropriateness from the Landmarks Preservation Commission for the proposed alterations to 48 East 21st Street and has entered into a Restrictive Declaration for the preservation and maintenance of the Building, and

WHEREAS, the proposed transfer of approximately 4700 square feet from 48 East 21st Street to 260 Park Avenue South would result in 260 Park Avenue South exceeding the permissible FAR of 10.0 by approximately 4700 square feet, and

WHEREAS, the proposed transfer does not result in a building at 260 Park Avenue South that is outside of the character of other nearby buildings in height or bulk; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the variance to transfer floor area from 48 East 21st Street to 260 Park Avenue South.

After some discussion and a friendly amendment (see italics), the resolution passed with a vote of 24 in favor, 6 opposed, 3 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Breidbart, Cook, Daly, Diamond, Esper, Farris, Gering, Goshaw, Hatcher, Landeche, Mills, Newman, Ress, Seligson, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **OPPOSED:** Bergman, Duff, Guillet, Mendes, Paley, Shields. **ABSTENTIONS:** Merker, Rabin, Teitler.

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

Ms. Connie Ress presented the following resolution on behalf of the Committee:

Koryodang, Inc. - 31 West 32nd Street – application for a liquor license.

WHEREAS, The applicants for Koryodang, Inc., located at 31 W. 32nd Street, 1st floor, have applied to the New York State Liquor Authority for a beer and wine license; and

WHEREAS, The location, which is approximately 3500 square feet and has a full kitchen, has been an upscale “coffee bar” for two years, operating as a bakery/restaurant that serves baked goods and light appetizers; and

WHEREAS, The establishment has 20 tables serving approximately 72 people; and

WHEREAS, The new license would allow the establishment to expand their menu to include wine and beer only; and

WHEREAS, The applicants have agreed to:

- NOT apply for a cabaret license
- NOT extend its hours past its current 2 a.m. closing
- NOT apply for an outside café; and

WHEREAS, This establishment is located on a commercially zoned block; therefore be it

RESOLVED, That Community Board Five **recommends approval** of a beer and/or wine license for Koryodang, Inc., located at 31 West 32nd Street.

After a brief description of the application, the resolution passed with a vote of 30 in favor, 0 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart,

Cook, Daly, Diamond, Duff, Esper, Farris, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Rabin, Riss, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker. **PRESENT NOT ENTITLED TO VOTE:** Paley.

Ms. Barbero then presented the following resolution:

Healthier Days, Inc., - 36 West 21st Street – application for an on-premises liquor license.

WHEREAS, In September 2003, Community Board Five received a letter of intent from the applicant “Healthier Days, Inc.” to file an application for a liquor license at 36 West 21st Street; and

WHEREAS, Community Board Five’s Public Safety/Quality of Life Committee requested the applicant to attend the committee meeting in October and again in November; and

WHEREAS, The applicant has not returned numerous phone calls and did not attend either of the monthly committee meetings; and

WHEREAS, Due to the failure of the applicant to either attend the meetings, Community Board Five has no information as to the nature of this application and request for a liquor license; and

WHEREAS, Community Board Five sent a letter to the applicant stating that a failure to respond may result in a recommendation to disapprove the application; therefore be it

RESOLVED, That Community Board Five **does not recommend approval** of the liquor license for “Healthier Days, Inc.” located at 36 West 21st Street, since the applicant failed to provide any information regarding the application.

The resolution passed with a vote of 30 in favor, 0 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Rabin, Riss, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker. **PRESENT NOT ENTITLED TO VOTE:** Paley.

Ms. Suzanne Esper then presented the following resolution on behalf of the Committee:

New Lounge 4324, LLC - 55 West 21st Street – application for a liquor license.

WHEREAS, “New Lounge 4324, LLC” has applied for a liquor license at 55 West 21st Street; and

WHEREAS, This location, which is approximately 4000 square feet at street level, with a Certificate of Occupancy of 220 and a seating capacity of approximately 160 seats, and with a basement of approximately 2500 square feet to be used for refrigeration and storage, was formerly a restaurant known as “Cal’s,” which has never been a problem to the neighborhood; and

WHEREAS, The owners, having been aware of the problems on this block and in the surrounding area, are applying for a new license rather than a transfer, as a show of good faith to the residents and the community board; and

WHEREAS, One of the owners, John Sullivan, owns “Savannah,” “Mc Fadden’s” and “Tex Mex,” three restaurants in Manhattan, all with excellent track records; John Gable, the other owner, lives in the neighborhood; and

WHEREAS, The owners plan to operate a “Brazilian/Japanese” Restaurant to be open seven days a week with a full kitchen closing at 3:00 a.m.; and

WHEREAS, The applicants are aware that this location falls within the Ladies Mile Historic District and understand that no alteration can be made to the exterior (including signage, windows, roof, doors, lighting, etc.) without approval from the Landmarks Preservation Commission; and

WHEREAS, Since the owners are aware of the problems on this block and in the surrounding area, they will be hiring extra security to address any street/sidewalk problems that may occur, and will also provide extra soundproofing for the establishment; and

WHEREAS, The owners have agreed that:

- they will not sell their premises without first notifying the Community Board;
- if the premises are to be sold, the operators will inform the buyers that they must submit themselves to the Community board for its approval;
- they will surrender their liquor license in safekeeping to the State Liquor Authority and ultimately surrender same so that the Community Board may treat that application as a new entity;
- there will be no admittance after 2:00 a.m.
- there will be no sidewalk café and they will construct only permanently fixed windows;
- they will not operate a club or disco at the premises and will not seek the granting of a cabaret license; and

WHEREAS, All of the foregoing agreements will be included in an affidavit to be signed by the applicants regarding the liquor license for 55 West 21st Street; therefore be it

RESOLVED, That Community Board five recommends approval of the liquor license for “New Lounge 4324, LLC, located at 55 West 21st Street provided the affidavit as stated above is received; and be it further

RESOLVED, That Community Board Five requests that the State Liquor Authority consider the application for this liquor license and that the affidavit be attached and considered a stipulation to the liquor license for “New Lounge 4324, LLC,” located at 55 West 21st Street.

The resolution passed with a vote of 26 in favor, 5 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Cook, Diamond, Duff, Esper, Gering, Goshow, Guillet, Hatcher, Landeche, Mills, Newman, Rabin, Ress, Seligson, Shields, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **OPPOSED:** Breidbart, Daly, Farris, Mendes, Teitler. **ABSTENTIONS:** Merker. **PRESENT NOT ENTITLED TO VOTE:** Paley.

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

Mr. Gering announced that the application for 75 Rockefeller Plaza was withdrawn by the applicant and will come back before the board at a later date.

Mr. Gering then introduced Mr. Nicholas Bergman who presented the following resolution on behalf of the Committee:

Certificate of Appropriateness – 210 Fifth Avenue (Madison Square North Historic District)

WHEREAS, The application is to enlarge an existing penthouse and to alter the windows at 210 Fifth Avenue, a beaux-arts style loft and bachelor apartment building, built in 1901-02 and designed by John B, Snook and Sons, in the Madison Square North Historic District; and

WHEREAS, The proposal is to enlarge the penthouse in such a way that only an added sloping glass roof will be visible from the street on both the Broadway and Fifth Avenue sides of the building; and

WHEREAS, the only other visible alterations would be 1.) changing two, different sized windows into three, same sized, tempered glass windows, which would mimic the steel casement look of the existing windows and will present a more balanced appearance for the building and 2.) paint what is now a multicolored southern wall a unified color that will be less intrusive to the building’s design; and

WHEREAS, The proposal appears appropriate to the Madison Square North Historic District and is minimally visible from the street; therefore, be it

RESOLVED, that Community Board Five **recommends approval** of the application to enlarge the existing penthouse and alter the windows at 210 Fifth Avenue, in the Madison Square North Historic District.

After some discussion the resolution passed with a vote of 30 in favor, 0 opposed, 1 abstention, as followed: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Newman, Paley, Rabin, Ress, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker.

Mr. Gering then presented the following resolution:

Certificate of Appropriateness – 30 Rockefeller Plaza & 600 Fifth Avenue

WHEREAS, the application is for a Certificate of Appropriateness at 30 Rockefeller Plaza and 600 Fifth Avenue, between 49th and 51st Streets; and

WHEREAS, The applicant is proposing to reintroduce an Observation Deck, which had been a historic use (from 1933 to 1986) on the upper floors of 30 Rockefeller Center, designed by The Associated Architects: Reinhard & Hofmeister, Corbett, Harrison & MacMurray; Raymond Hood, Godley& Fouiloux in 1932; and

WHEREAS, The applicant is proposing to reintroduce 10 formerly existing sign panels announcing the Observation Roof (not for general advertising purposes), illuminated with internal lamping and designed according to historic precedent; and

WHEREAS, The applicant proposes to modify three storefronts along West 50th Street (next to the 50th Street marquee) according to previously approved master plan standards; and

WHEREAS, The applicant proposes to add blue neon sign lettering (12” high letters on the front face and 8” high on the sides) announcing “Observation Roof” in blue neon (to match the blue neon color of the Radio City Music Hall across the street) to three faces of the two marquees (50th Street and 49th Street); and

WHEREAS, The applicant proposes to add two new elevator door openings (to match Rockefeller Center historic design standards) to the mezzanine level’s west wall to convey people from the entry lobby to the 67th floor; and

WHEREAS, The applicant proposes to install fully transparent, non-reflective, clear frameless glass panels, 1 1/2” thick, 5 feet wide by 9 feet high, protected by a continuous bronze rail cantilevered from the 5” spaces between the glass panels for protection at the 67th, 69th and 70th floors, and removing and saving the historic cast aluminum fleur-de-lis railings for future use at Rockefeller Center; and

WHEREAS, The applicant proposes to modify the existing stair and elevator bulkheads (raising the stair bulkhead by 6’-0” and the elevator bulkhead by 8’-6”) to provide safety egress at the 70th floor and minimally impacting the overall silhouette; and

WHEREAS, The applicant proposes to restore various other elements of the time worn roof deck such as the roof deck terra cotta tiles and the original compass rose mosaic tiles to their original historic splendor; and

WHEREAS, approval of the Certificate of Appropriateness for the design in no way implies approval of the installation of any kiosk on public sidewalks; and

WHEREAS, the applicant will need to seek a revocable consent from the New York City Department of Transportation for the installation of any kiosk on public sidewalks; and

WHEREAS, any application for a revocable consent for the installation of a kiosk will be presented to Community Board Five for an opportunity to comment; therefore be it

RESOLVED, That Community Board Five recommends approval of the application to install new storefront infill and signage; and to modify railings and bulkheads and to install glass panels at the terraces at the 67th, 69th and 70th floors of 30 Rockefeller Center.

After some discussion and a friendly amendment (Shields) (see italics), the resolution passed with a vote of 32 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Paley, Rabin, Ress, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker.

Mr. Gering then presented the following resolution:

Certificate of Appropriateness – 234 Fifth Avenue (Madison Square North Historic District)

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

WHEREAS, the above referenced applicant were invited, yet failed to attend Community Board Five's Landmarks' Committee meeting to present their proposals for review; therefore be it

RESOLVED, that Community Board Five **recommends denial** of the above referenced application and requests an opportunity to review the application.

The resolution passed with a vote of 32 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Paley, Rabin, Ress, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker.

● **PARKS ~ KEVIN GUILLET AND PHILLIP BEER**

Mr. Guillet presented the following resolution:

Rachel Kennelly – application to hold a puppet show in Union Square Park

WHEREAS, Rachel Hennelly has applied for a special event permit to hold Marionette Puppet Shows in Union Square Park on November 28, 29, 30 and December 6, 7, 13, 14, 20, 21, 2003; and

WHEREAS, The shows would be held in the north end of the park near the children's playground at a location to be determined in conjunction with the Parks Department; and

WHEREAS, Set-up is minimal and the shows, which last 30 minutes each, would run continuously from 12:00 p.m. to 3:00 p.m., with 15-20 minutes breaks between shows; and

WHEREAS, each show will consist of the applicant performing a series of scenes with two hand-made marionette puppets with musical accompaniment provided by a low level portable stereo; and

WHEREAS, The applicant will accept donations from the audience but will not actively solicit donations and will not sell any products or hand out any literature or marketing/promotional material; and

WHEREAS, The applicant has agreed to leave the park cleaner than it was found; and

WHEREAS, the Community Board is concerned with the number of events occurring in Union Square Park and the congestion resulting from events such as the Holiday market and the Green market; and

WHEREAS, The applicant has agreed to amend her application to limit the number of days requested to four Sundays, being November 30 and December 7, 14 and 21, 2003 so as to avoid Green market days; therefore be it

RESOLVED, Community Board Five **recommends approval** of a special events permit for Rachel Hennelly to hold Marionette Puppet Shows in Union Square Park **provided her application is amended and that the permit is issued for the following four dates only: November 30, 2003, December 7, 2003, December 14, 2003 and December 21, 2003.**

The resolution passed with a vote of 31 in favor, 1 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Paley, Rabin, Ress, Seligson, Shields, Teitler, Vidal-Kaufman, B. Wilson, C. Wilson, Zucker. **OPPOSED:** Williams. **ABSTENTION:** Merker.

● **CITY SERVICES & BUDGET ~ BRAD WILSON**

Mr. Wilson presented the following report:

FY 2005 Expense & Capital Budget Requests & Service Program Priorities

EXPENSE PRIORITIES

1. **Department of Homeless Services:** Maintain full funding for rental assistance programs.
2. **Department of Homeless Services:** Full funding for shelter assistance programs.
3. **Police Department (Traffic Control):** Provide or reallocate additional officers to increase enforcement of traffic and parking regulations, prevent gridlock and control traffic that disrupts our district.
4. **Department of Sanitation:** Maintain funding to ensure current level and frequency of pickup.
5. **Department of Building:** Fund additional Plan Examiners and Inspectors
6. **Department of Environmental Protection:** Increase number of inspectors in Bureau of Air and Noise to respond to community-based complaints
7. **Fire:** Fund upgrades to communication systems including the repeater system for high-rise communication.
8. **Housing Preservation & Development:** Full Funding for code enforcement, anti abandonment, litigation, loan programs and narcotics control.
9. **Police:** Restore funding to reinstate staffing levels of uniformed and civilian positions cut in FY 03 and 04.
10. **Department of Cultural Affairs:** Provide additional funding for program groups, cultural institutions and agency staffing.
11. **Parks:** Increase staff levels for maintenance and enforcement personnel.
12. **NYPD:** Restore funding for vehicle replacement of vehicles valued at less than \$35,000.
13. **Department of Transportation:** Increase personnel funds for planning staff and Borough Engineers.
14. **Administration for Children's Services:** Provide additional funding to allow the PINS (Persons In Need of Supervision) to be expanded to cover persons 16-17 years old
15. **Department of Sanitation:** Maintain funding for sanitation enforcement.
16. **Human Resources Administration:** Provide funds to ensure no reduction in key programs including employment services, childcare benefits, Medicaid-health care and wellness services and rental assistance programs.
17. **Fire Department:** Fund community fire awareness and safety education programs including 911 simulators, coloring books and equipment.
18. **Fire Department:** Fund smoke detector and battery distribution.
19. **Department of Buildings:** Fund increases in anti-corruption and audit staff.
20. **Department of Buildings:** Fund information technology initiatives
21. **Department of Building:** Additional training for inspectors and audit staff.
22. **Administration for Children's Services:** Additional funding for foster care for adolescents
23. **Department For the Aging:** Increase funding for the SCRIE program to allow the threshold for program entry to be reduced, thereby allowing greater access to the program.
24. **Libraries:** Increase funding to restore 6-day service.

CAPITAL PRIORITIES

1. **Department of Sanitation:** Provide funding for 1 additional basket truck.
2. **Fire Department:** Fund second Hazmat Unit.

3. **Housing Preservation & Development:** Fund construction of supportive housing for persons with HIV/AIDS and mental disabilities and provide low cost permanent housing to compensate for dwindling federal subsidies.
4. **Department of Homeless Services:** Fund construction of additional residential facilities for homeless families and single adults.
5. **Department of Transportation:** Provide funding for pedestrian improvements and sidewalk widening in the Times Square bowtie area.
6. **MTA/NYCT:** Provide funding for a full-length Second Avenue subway.
7. **Parks & Recreation:** Provide funding for the design, reconstruction and expansion of the north end of Union Square Park, including expanded playground space.
8. **Parks & Recreation:** Reconstruction of Duffy Square.
9. **Police Department:** Include funding for construction of 10th Police Precinct (currently funded in out years) based on location of suitable site, subject to community review.
10. **Parks and Recreation:** Fund pedestrian improvements and permanent sidewalk widening at Herald and Greeley Squares.
11. **Fire Department:** Fund 3 additional mobile command posts.
12. **Libraries (Donnell Library Center):** Provide funds for the full renovation of the first floor of Donnell Library.
13. **Police Department (Midtown South):** Provide funds for the modernization of precinct elevator.
14. **Parks & Recreation:** Fund improvements to Worth Square
15. **Parks & Recreation:** Provide 1 additional pick up truck with snowplow.
16. **Libraries:** Fund centralized facility for book return operations, branch cleaning operations and maintenance shops, security and shipping.
17. **Libraries:** Fund system-wide replacements of computer terminals with networked PCs, including general branch and research desktop technology replacement and upgrade.
18. **Libraries:** Fund second stage of the wide area network project to extend high-speed communications to desktops.
19. **Libraries:** System-wide replacement of Checkpoint Book theft detection system.
20. **Libraries:** Provide funding for the restoration of building-wide domestic water system at the 42nd Street main library.
21. **Libraries:** Upgrade system-wide telecommunications center at the Donnell branch.
22. **Libraries:** Funding for the renovation of support space at the History & Social Sciences library.
23. **Libraries:** Funding for renovation of the Berg rare books room.
24. **Libraries:** Fund exhibition lighting and cases for Salomon gallery.
25. **Libraries:** Upgrade temperature and humidity control system for main stacks (Central Library).
26. **D.E.P.:** Purchase lands around reservoirs for security of water supply.
27. **Human Resources Administration:** Upgrade Job Center's office space and data processing equipment.
28. **Fire:** Fund purchase and installation of emergency power backup generators for firehouses.
29. **Police:** Fund improvements to communication system and necessary replacements.

30. **Police:** Provide funds to meet needs of the vehicle replacement program.

CONTINUING SUPPORT: CAPITAL

- Reconstruct and rehabilitate sewers.
- Renovation and expansion of Mid-Manhattan Library.
- Support for computer initiatives/upgrades in all NYC Departments.
- Reconstruction of streets around Union Square Park and 14th Street.
- Columbus Circle/Eighth Avenue reconstruction project.
- 13th Police Precinct elevator replacement, window replacement and electrical upgrades.
- Repairs and correction of settlement around Madison Avenue, 58th, 59th and Fifth Avenue quadrangle.
- Renovation of the mezzanine that houses the Nathan Straus Young Adult Center and Donnell Reference Services Library

The report passed with a vote of 32 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Cook, Daly, Diamond, Duff, Esper, Farris, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Paley, Rabin, Ress, Seligson, Shields, Teitler, Vidal-Kaufman, Williams, B. Wilson, C. Wilson, Zucker. **ABSTENTION:** Merker.

There being no further business the meeting adjourned at 9:45 PM.

Respectfully submitted,

Suzanne Esper, Secretary