

**THE BOROUGH OF MANHATTAN**  
*C. VIRGINIA FIELDS, PRESIDENT*  
**MANHATTAN COMMUNITY BOARD FIVE MINUTES**  
*KYLE MERKER, CHAIR*  
**THURSDAY, OCTOBER 09, 2003**

Minutes of the regular Community Board #5 meeting held on **Thursday, October 9, 2003, at the Fashion Institute of Technology, 227 West 27<sup>th</sup> Street, "A" Building, 8<sup>th</sup> Floor, 6:00p.m.** Kyle Merker, Chair, presiding. The tapes of the full meeting are available in the Board Office.

**Members Present**

Alice Adesman  
Vikki Barbero  
Phillip Beer  
Muriel Bernstein  
Angela Bledsoe  
Judith Breibart  
James Collins  
Candy Cook  
William Daly  
David Diamond  
Suzanne Esper  
Lola Finkelstein  
Eric Gering  
Nancy Goshow  
Kevin Guillet  
Robyn Hatcher  
Lenise Logan  
Howard Mendes  
Kyle Merker  
Sharon Paley  
Carmel Reingold  
Connie Ress  
Meile Rockefeller  
Doreen Seligson  
Rosalie Shields  
David M. Siesko  
Maxine Teitler

Bonnie Williams  
Lawrence Zucker

**Present Part**

Aaron Block  
Paul Connolly  
Brian Landeche  
John Mills  
Karen Newman  
Michael Presser  
David Rabin

**Absent**

Susan Baida  
George Elkins  
Janelle Farris  
Jonathan Morse  
Mickey Schwartz  
Ana Vidal-Kaufman  
Brad Wilson  
Craig Wilson

**Excused**

Nicholas Bergman  
Lorna Duff  
Joyce Matz  
Joel Sesser

**Public Members**

Jack Taylor

**Public**

Rebecca Berkey  
John Carmichael  
Jenny Chan  
Lucia Chen  
Ward Dennis  
Lisa Diaz  
David Fox  
Brandt R. Gassman  
Peter Geis  
Michael Glick  
John Harrold  
Christine Jensen  
Michelle Lin  
Peter Machie  
Agustino Mantegna  
Michael Martone  
Morgan McLean  
Christie O'Sullivan  
Krishna Patel  
Kevin Roach  
Lisa Wager  
Don Weston  
Yazmin Young

**Elected Officials**

**Lori Williams**  
Borough President C. Virginia Fields

**Jordon Isanstadt**  
Senator Liz Krueger

**Micah Kellner**  
Congress Member Carolyn Maloney

**Maria Guzman**  
Assembly Member Richard Gottfried

**Guy Margalith**  
Councilmember Christine Quinn

**Amy Hartz**  
Councilmember Margarita Lopez

**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, Kyle Merker presiding.**

**PUBLIC SESSION**

**Michelle Lin – New York Foundation for Senior Citizens** – introduced herself as the Director for the Foundation's Care Management program. She explained that the program provides for low cost services for frail, low income elderly. She distributed information on the program.

**Rev. John Carmichael – Church of Scientology** – introduced himself and thanked the Board and the Transportation Committee for their consideration of the Church's application for a loading zone.

**Christine O’Sullivan – Area resident** - spoke against the liquor license application at 200 Park Avenue South and asked the Board to vote no. She also asked that the Board consider a moratorium on new licenses in the Park Avenue South area.

**Peter Mackie – a resident of 28<sup>th</sup> Street** - asked the Board to reaffirm its recommendation of approval for the BSA application for a variance at 253-255 West 28<sup>th</sup> Street that was passed in September at the full board meeting.

**Don Weston - Architect** – asked the Board to stand by its September resolution regarding the BSA application for variance at 253-255 West 28<sup>th</sup> Street.

**Peter Geis – Fishbein Badillo** – represented the club operator at 253-255 West 28<sup>th</sup> Street, and asked the Board to rescind its approval of the BSA application at 253-255 West 28<sup>th</sup> Street so that additional information could be considered regarding the application.

**David Fox – Condominium President** – stated that the area of 21<sup>st</sup> and 22<sup>nd</sup> Streets between 5<sup>th</sup> and 6<sup>th</sup> Avenues is oversaturated with liquor licensed establishments and that the neighborhood suffers from noise, congestion, litter and violence. He stated that Cheetah and the Tikki Bar are specifically responsible.

**Lisa Wager – Fashion Institute of Technology** – introduced herself as the New Director of Government and Community Relations and welcomed the Community Board to FIT. She informed the Board that she is available for any questions that the Board may have.

**The chair announced the public hearing on ULURP # C020244 ZSM – 38-42 West 18<sup>th</sup> Street a.k.a. 41-45 West 17<sup>th</sup> Street. There were no speakers and the hearing was closed.**

## BUSINESS SESSION

### ● PRESENTATION ON STREET FURNITURE AS A SECURITY MEASURE ~ *Detective Crespo, NYPD Counter Terrorism Division – Threat Reduction Unit*

Detective Crespo informed the Board that the unit was formed about one and a half years ago. He spoke of the risk assessment process that NYPD uses in relation to applications for street furniture as security measures. Landmarks, banks and other high profile buildings are considered major targets. The Threat Reduction Unit makes recommendations to owners of the buildings on how to improve security. He explained that the Unit works with architects to determine proper designs and structural integrity of furniture like planters and bollards. The Unit also works with the Department of Transportation and the Department of City Planning. Detective Crespo informed the board that an application for planters and bollards as a security measure should have a report on risk assessment, a security consultant’s report, an assessment on traffic impact and ADA approval.

### ● CHAIR’S REPORT ~ *Kyle Merker*

Mr. Merker informed the Board Members that there would be an item before the Board as Old Business, and encouraged members to stay through to the end of the meeting.

He then spoke of the Borough Board’s effort to have the SLA be more responsive to Community Boards. He stated that the Borough Board had passed a resolution which asked the SLA to follow the spirit of the law and reported that he had reached out to other Community Boards in an attempt to have the other Boroughs join in the process. Every Chair he has spoken with agreed that their SLA issues are a major problem, except for one board in Brooklyn. He also stated that a lobbying day is being planned for the Community Boards to meet with their elected representatives in late winter or early spring.

Mr. Merker then commended the work of Joyce Matz in preserving the town houses on 54<sup>th</sup> and 55<sup>th</sup> Streets.

## ● DISTRICT MANAGER'S REPORT ~ *Kathy Kinsella*

Ms. Kinsella informed the Board Members that they were invited to the dedication of the Biltmore Theater and that invitational flyers had been distributed.

## ● VOTE ON MINUTES OF THE SEPTEMBER 2003 BOARD MEETING

The minutes passed with a vote of 31 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Paley, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

## COMMITTEE REPORTS

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

**Mr. Zucker presented the following resolution:**

***Unenclosed Sidewalk Café Application: Calshea Restaurant Corp. d/b/a Triple Crown, application for 5 tables/15 seats at 330 7<sup>th</sup> Avenue.***

WHEREAS, Calshea Restaurant Corp. d/b/a Triple Crown has filed an application for an unenclosed sidewalk café for 5 tables and 15 seats at 330 7<sup>th</sup> Avenue; therefore be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by Calshea Restaurant Corp. d/b/a Triple Crown, for an unenclosed sidewalk café at 330 7<sup>th</sup> Avenue.

The resolution passed with a vote of 28 in favor, 3 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Paley, Ress, Rockefeller, Seligson, Siesko, Teitler, Zucker. **OPPOSED:** Reingold, Shields, Williams. **ABSTENTION:** Merker.

### ● PARKS ~ *KEVIN GUILLET*

**Mr. Guillet presented the following resolution:**

***Madison Square Park Conservancy – Fall programming***

WHEREAS, Madison Square Park Conservancy has made application to conduct a Fall Playground Festival for children in Madison Square Park on Friday October 17, 2003 (Rain date: Friday October 24, 2003), and

WHEREAS, the proposed event will take place in an area around the reflecting pool and on the lawn behind the Farragut Monument, and

WHEREAS, each event will run from 1:00 p.m. to 4:00 p.m., with set up beginning at 11:00 a.m. and clean up completed no later than 5:00 p.m., and

WHEREAS, the program will include a musical performance (from 2:00 p.m. to 3:00 p.m.), arts & crafts and other child appropriate activities, and

WHEREAS, there will no charge for the event, which is being sponsored by Whole Foods, who is providing free food, Con Edison and Doral Bank, there will be minimal signage regarding these sponsorships, and there will be no vendors or merchandise sold during the events, and

WHEREAS, a similar event was successfully held in the spring of 2003 and was well received and well attended, therefore, be it

**RESOLVED**, that Community Board Five **recommends approval** of the Madison Square Park Conservancy's application to conduct a Fall Playground Festival on Friday October 17, 2003 (Rain date: Friday October 24, 2003) in Madison Square Park.

The resolution passed with a vote of 31 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Paley, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

**Mr. Guillet then introduced the following resolution:**

***City Year New York – morning programming in Union Square Park***

WHEREAS, City Year New York has applied for a special event permit to hold a morning program in Union Square Park each Monday, Wednesday and Friday morning, in October, 2003; and

WHEREAS, City Year New York is a member of Americorps and seeks to demonstrate, improve and promote the concept of national service to local communities; and

WHEREAS, The event would be held on the steps in the southern end of the park and will consist of 55 young people (17 to 24 year olds) who are participating in the City Year program doing exercises and interacting with the public on the issue of community service; and

WHEREAS, there will be no set –up, staging or amplified sound and the exercise session will begin at 8:15 a.m. and last no more than 45 minutes; and

WHEREAS, the members of the Union Square community have expressed concern with the proliferation of events in Union Square Park; and

WHEREAS, the Union Square subway station is a major transit hub and the southern end of the park is congested with commuters on weekday mornings; and

*WHEREAS, the applicant has agreed to amend the application to conduct the morning program to one day a week instead of three days a week; and*

WHEREAS, Community Board 5 recognizes and supports the good work of City Year New York but believes that to hold this event three times each week would exacerbate the issues of overuse of the park and congestion during morning rush hour; therefore, be it

**RESOLVED**, Community Board Five **recommends approval** of a special events permit for City Year New York to conduct a morning program in Union Square Park during October, 2003 **on the condition that the applicant amends its application to conduct the morning program to one day a week instead of three days a week.**

After some discussion and a friendly amendment (Barbero) (see italics), the resolution passed with a vote of 32 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Newman, Paley, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTIONS:** Merker.

**Mr. Guillet then introduced the following resolution:**

***Jack Morton Worldwide – music event/concert in Union Square Park***

WHEREAS, Jack Morton Worldwide has applied for a special event permit to hold a concert in Union Square Park promoting Smirnoff Vodka and related products on Thursday, October 16, 2003; and

WHEREAS, the event would be held in the northern paved area adjacent to the park; and

WHEREAS, Set-up could begin as early as 5:00 a.m., the event itself will run from 6:00 p.m. to 6:45 p.m., and clean up could conclude as late as 2:00 a.m. (set-up and teardown times are not set because it depends upon which of three stage configuration used); and

WHEREAS, the event will consist of a free concert sponsored by Smirnoff; and

WHEREAS, The applicant will be using amplified sound for the event and will use one of three stage configurations, which has yet to be determined; and

WHEREAS, the sole purpose of the event is to promote Smirnoff products, there will be signs advertising the products, there will be consumer give-aways such as branded Metro Cards and T-Shirts and the applicant plans on notifying local bars of the event to encourage bar patrons to attend; and

WHEREAS, the Community has several serious concerns about this event, including but not limited to:

- Overuse of Union Square Park for special events;
- Noise associated with early morning set-up, the event itself and late-night teardown;
- The use of city parks as a venue for purely commercial events;
- Safety issues related to the cross promotion of the event with local bars;

Therefore, be it

**RESOLVED**, Community Board Five **recommends denial** of a special events permit for Jack Morton Worldwide to hold a concert in Union Square Park promoting Smirnoff Vodka and related products on Thursday, October 16, 2003.

After several questions regarding the length of the concert and what materials would be distributed and what advertising would be presented, the resolution passed with a vote of 27 in favor, 5 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Mendes, Paley, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **OPPOSED:** Bernstein, Bledsoe, Block, Mills, Newman. **ABSTENTIONS:** Logan, Merker.

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

**Ms. Maxine Teitler presented the following bundled resolutions on behalf of the Committee (2):**

### ***314 Fifth Avenue – 2<sup>nd</sup> floor (31<sup>st</sup> & 32<sup>nd</sup> Streets) – Rock Music Factory Corp. – liquor license application***

WHEREAS, Rock Music Factory Corp., located at 314 Fifth Avenue, 2<sup>nd</sup> Floor, is applying for an on-premises liquor license; and

WHEREAS, this location

- is in a commercial/business area, one block from the Empire State Building,
- is in a high-traffic area,
- is in a commercial building (all tenants are commercial),
- is on the second floor above a 24-hour pizzeria,
- is on a block with many hotels,
- is not zoned for cabaret; and

WHEREAS, this establishment

- is 2000 square feet,

- has a second egress
- will have a kitchen,
- has a certificate of occupancy of approximately 76,
- will operate 24 hours a day, seven days a week, and

WHEREAS, the applicant has assured the community board that:

1. There will be no karaoke, cabaret or outdoor café
2. They will provide a security guard when the rest of the building is closed
3. They will provide a contact and telephone number in the event contact is needed; and

WHEREAS, many other establishments in this area are located on floors above street level; therefore be it

**RESOLVED**, That Community Board Five **recommends approval of the liquor license** for Rock Music Factory Corp., located at 314 Fifth Avenue.

***47 East 29<sup>th</sup> Street – 47 McPub, Inc. d/b/a “The Bay Club” – Application for an on-premises liquor license***

WHEREAS, 47 McPub, Inc., d/b/a “The Bay Club” is applying for an on-premises liquor license for 47 East 29<sup>th</sup> Street (which is an existing business with a wine and beer license); and

WHEREAS, this establishment

1. Has two floors—1800 square feet on the first floor and 1550 square feet upstairs
2. Has a certificate of occupancy of approximately 130 combined for both floors
3. Is located in a commercially zoned area and in a two-story building with no tenants
4. Is surrounded by other commercial buildings, one of which has three of five floors as residential
5. Has two owners who have former restaurant experience
6. Will be a full-service restaurant, operating Sunday – Thursday 12 noon to 2 a.m. and Friday and Saturday 12 noon to 4 a.m.; and

WHEREAS, the applicant has assured the community board that:

- There will be a doorman until closing to control any outside problems including patrons who are smoking outside
- There will be a contact person with a telephone number provided to address any community concerns
- There will be no outside café, no open windows, no cabaret; and

WHEREAS, the applicant has also agreed to sign an affidavit regarding these assurances; therefore be it

**RESOLVED**, That Community Board Five **recommends approval of an on-premises liquor license for 47 McPub, Inc., d/b/a “The Bay Club,”** located at 47 East 29<sup>th</sup> Street, **on the condition** that the above agreements are carried out and an affidavit is received.

After a brief description of both locations, the resolution passed with a vote of 34 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

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

***29 West 21<sup>st</sup> Street - Turmeric Inc. - application for an on premises liquor license***

WHEREAS, Turmeric, Inc. located at 29 West 21st Street has applied for the transfer of an on-premises liquor license; and

WHEREAS, Mr. and Mrs. Moses as owners, and Mrs. Moses, as chef, having no background as restaurateurs will be assisted by a cousin, Madhi Selvasekaran, who has been in the restaurant business for the past six years; and

WHEREAS, the intention is to operate an Indian restaurant with hours of operation from 11am to 10 pm; and

WHEREAS, the restaurant will occupy a 2200 sq.ft. ground floor, including approximately 1500 sq.ft. of dining space and 400 sq.ft. of kitchen space and will utilize approximately 400 sq.ft. of basement area for refrigerators, storage and office space; and

WHEREAS, The Certificate of Occupancy is for less than 75 persons; and

WHEREAS, this location has been occupied by restaurants for the past twenty years; and

WHEREAS, Background music will be provided with no amplification and at a decibel level compatible with dining; and

WHEREAS, Refuse will be stored until as close to pickup as possible; and

WHEREAS, The landlord resides in the building and, as a resident, is sensitive to the concerns of residents on a block that is included in CB 5's Moratorium on new liquor licenses and has written stipulations and guidelines reflecting these concerns into the lease; and

WHEREAS, this location is within the Ladies Mile Historic District and therefore no exterior changes or alterations can be made to the building (including signage, windows, doors, lighting, etc.) without the approval of the Landmarks Preservation Commission; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of an on-premises liquor license transfer to Turmeric, Inc. located at 29 West 21<sup>st</sup> Street.

After some discussion, the resolution passed with a vote of 34 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

**Mr. William Daly presented the following resolution on behalf of the Committee:**

***200 Park Avenue South (between 17<sup>th</sup> & 18<sup>th</sup> Streets)—Votive LLC, d/b/a Votive – On-Premises Liquor License Application***

WHEREAS, The applicant, Michael Glick, founder and managing partner Votive LLC, d/b/a Votive, will be applying to the New York State Liquor Authority for a new on-premises liquor license to be located at 200 Park Avenue South; and

WHEREAS, The applicant sought input and advice from Community Board Five's Public Safety/Quality of Life Committee prior to filing the letter of intent and application with the SLA for a 2000 sq. ft. upscale lounge with occupancy of approximately 100 persons, operating from 5 p.m. until 4 a.m.; and

WHEREAS, At the committee meeting on October 7, 2003, residents of the surrounding area voiced concerns about the concentration of licensed establishments along Park Avenue South; and,

WHEREAS, the applicant (who has a management background and has worked in other NYC clubs/lounges) has assured the board that he will undertake the following measures to mitigate community concerns:

1. There will be no cabaret license, no outdoor café and no live music
2. Mr. Glick will hire only licensed security guards
3. A patron line outside the premises will be limited to 10 persons and the line will be controlled against the wall extending south in front of the wall of a store that is closed at night. Security guards will prevent a longer line from forming and patrons will be instructed to return at another time
4. Exterior of premises will be kept clean at all times and garbage will be put out shortly before pick-up
5. Signs will be posted instructing smokers to respect the neighborhood and keep noise to a minimum
6. Mr. Glick's cell phone number has been provided and he will be at the lounge six days a week so that the community can contact him directly with any concerns
7. Mr. Glick will undertake soundproofing and noise abatement measures, including having no open doors or windows, and the creation of a vestibule; and

WHEREAS, Any alterations or renovations will be accomplished in accordance with the provisions of the Landmarks Preservation Commission, and the food preparation area will be operated according to Department of Health standards; therefore be it

**RESOLVED**, That Community Board Five **recommends approval of an on-premises liquor license** for Votive LLC, d/b/a "Votive," located at 200 Park Avenue South **on the condition that the above agreements are carried out.**

After much discussion regarding the nature of the area and potential impact of an additional license in the immediate area, the resolution passed with a vote of 26 in favor, 6 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Block, Connolly, Cook, Daly, Diamond, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Newman, Paley, Presser, Ress, Rockefeller, Shields, Siesko, Williams, Zucker. **OPPOSED:** Breidbart, Collins, Esper, Finkelstein, Reingold, Teitler. **ABSTENTION:** Merker. **PRESENT NOT ENTITLED TO VOTE:** Rabin.

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

***12 West 21<sup>st</sup> Street – Venture 12, LLC – transfer of liquor license***

WHEREAS, Venture 12, LLC, submitted a transfer application of the liquor license for the premises at 12 West 21<sup>st</sup> Street; and

WHEREAS, The premises are currently owned and operated by Relm Assoc., LLC, d/b/a as "Cheetah"; and

WHEREAS, This location is within Community Board Five's designated moratorium area, on the block most densely populated and adversely affected by loud, unruly patrons, traffic jams, volume-raised boom boxes, strewn promotional flyers and pole-stapled promotional posters, etc.; and

WHEREAS, This venue is cited by the 13th Precinct as being the major "problem liquor license establishment" in the area, having received 232 summonses since January 1, 2002; and

WHEREAS, In September 2002, Community Board Five passed a resolution (attached) opposing renewal of the liquor license at this location and additionally requesting the application of "The Rowdy Bar Law"; and

WHEREAS, Community Board Five is concerned that a liquor license at this location will have a negative impact on the neighborhood regardless of who the applicant is; therefore be it

**RESOLVED**, That CB 5 **requests revocation of the existing liquor license for 12 West 21<sup>st</sup> Street**, presently owned by Relm Assoc., LLC, based on the foregoing and previous resolution regarding this location; and be it further

**RESOLVED**, Therefore by implication, the community board requests that the State Liquor Authority **take no action that would continue a liquor license at this location.**

After many questions regarding if the language of the resolution implies that the Community Board would not consider a future license at that location, the resolution passed with a vote of 31 in favor, 1 opposed, 2 abstentions, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Connolly, Cook, Daly, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mendes, Mills, Newman, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **OPPOSED:** Paley. **ABSTENTIONS:** Diamond, Merker. **PRESENT NOT ENTITLED TO VOTE:** Landeche.

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

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

### ***15 West 20<sup>th</sup> Street (btwn 5<sup>th</sup> & 6<sup>th</sup> Aves, N. Side)- Application to construct a two-story rooftop addition. Zoned M1-6. (Ladies' Mile Historic District) (Part 1)***

WHEREAS, The applicant is proposing to construct a two-story rooftop addition of an existing neo-Renaissance store and 9-story loft building designed by Lafayette A. Goldstone in 1905, and located in the Ladies' Mile Historic District; and

WHEREAS, The applicant is proposing to make significant restorations to the building as part of a separate application being considered simultaneously (that application is pursuant to Section 74-711 of the Zoning Resolution); and

WHEREAS, The applicant proposes to add two additional stories (a 2,350 square foot 10th floor and a 1,390 square foot 11th floor) which will be set back from the front and rear of the building and will be minimally visible from 20th Street (~~although there was no mock-up prepared for the committee's review~~); and

WHEREAS, The applicant proposes to set back the water tower location on the roof at the request of Landmarks Preservation Commission staff, but would be willing to relocate its position if called upon to do so; and

WHEREAS, The applicant proposes materials and colors which are appropriate to the building; therefore be it

RESOLVED, That Community Board Five recommends approval of this application to construct a two-story rooftop addition at 15 West 20th Street.

After some discussion and a friendly amendment (Guillet) (see strikethrough), the following resolution passed with a vote of 34 in favor, 0 opposed, 1 abstention, as followed: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Connolly, Collins, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

**Mr. Gering then presented the following resolution:**

### ***15 West 20<sup>th</sup> Street (btwn 5<sup>th</sup> & 6<sup>th</sup> Aves, N. Side)(Ladies' Mile Historic District) -Application requesting that the Landmarks Preservation Commission issue a report to the City Planning Commission relating to an application for modification of Use pursuant to Section 74-711 of the Zoning Resolution. (Part 2)***

WHEREAS, The applicant is proposing to make significant restorations to an existing neo-Renaissance store and 9-story loft building designed by Lafayette A. Goldstone in 1905, and located in the Ladies' Mile Historic District; and

WHEREAS, The applicant proposes a minimally visible two story addition (subject of a separate application), smaller than required rooftop recreation area, and a residential use allowance; and

WHEREAS, The applicant proposes to clean and repaint the façade and remove "biological growth"; and

WHEREAS, The applicant proposes to revert to and restore the original projecting bay design of the storefront; and

WHEREAS, The applicant proposes to restore missing cornices on the 7<sup>th</sup> and 9<sup>th</sup> floors with Glass Fiber Reinforced Concrete; and

*WHEREAS, approval of the landmarks portion of this application in no way implies approval of the land use application to come; and*

WHEREAS, the Board will comment upon the Land Use portion of the application at a later date; therefore be it

**RESOLVED**, That Community Board Five **recommends approval** of this Landmarks application requesting that the Landmarks Preservation Commission issue a report to the City Planning Commission relating to an application for a modification of Use pursuant to Section 74-711 of the Zoning Resolution, with the understanding that it will be given the opportunity to review the land use portion of the application at a later date.

After some discussion and a friendly amendment (Finkelstein) (see italics), the resolution passed with a vote of 34 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

**Ms. Bonnie Williams presented the following resolution on behalf of the Committee:**

***25 West 26<sup>th</sup> Street (Madison Square North Historic District) Application to restore the storefront and the arches above the second floor windows.***

WHEREAS, this is a Renaissance Revival style building designed by Charles G. Jones and constructed in 1886-87 as a five story residence, and was altered in 1909 by adding two floors and changing the entire building to commercial use, and

WHEREAS, sometime in the 1940's, a storefront was added in front of the original entrance, new windows were installed in the building, and the terra-cotta arches atop the second floor windows were removed; and

WHEREAS, the owner has removed this extraneous storefront, exposing the original storefront with its cast iron columns and low steps; and

WHEREAS, by reopening the original storefront to the building line, the sidewalk is clearer; and the building will regain its earlier appearance in harmony with the Madison Square North Historic District; and

WHEREAS, the cast iron columns and limestone steps will be cleaned and repainted, and the storefront will be made of wood-framed windows and entrances; and

WHEREAS, the window arches on the second floor will be restored using limestone and brick covering the corners of these windows, to replicate the form and pattern of the upper floor window arches; and

WHEREAS, the building will remain a commercial building, with one business tenant on the first floor; and

WHEREAS, access for the disabled for the first floor business is available through the west building entrance and lobby into the first floor area; therefore, be it

**RESOLVED**, that Manhattan Community Board Five **recommends approval** of the application for a Certificate of Appropriateness to restore the storefront and second floor window arches at 25 West 26<sup>th</sup> Street.

After a brief description, the resolution passed with a vote of 34 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

**Ms. Meile Rockefeller presented the following resolution on behalf of the Committee:**

***40 East 20<sup>th</sup> Street Application for Authorization pursuant to Section 15-20 of the Zoning Resolution (Ladies Mile Historic District)***

WHEREAS, The building, formerly an Interim Multiple Dwelling, had previously received a permit for conversion of the entire building above the ground floor to residential use from the Department of Buildings, and the applicant commenced construction; and

WHEREAS, the Department of Buildings subsequently determined such permit was issued in error; and

WHEREAS, The application had previously received a Certificate of No Effect from the Landmarks Preservation Commission; and

WHEREAS, the applicant has applied for an ~~Special Permit~~ *authorization* to convert the entire building above the ground floor to residential use and will place a restrictive declaration on the property with a plan for ongoing preservation and maintenance of the property; and

WHEREAS, the applicant will replace the seventh floor windows to match those on the second through sixth floors; clean and repaint the street façade; restore any damaged brickwork; and clean the steel cornice and band and repaint them in the original color; *and*

*WHEREAS, approval of the authorization in no way implies approval of the Land Use application to come; and*

*WHEREAS, the Board will comment upon the Land Use portion of the application at a later date; therefore be it*

**RESOLVED**, that Community Board Five recommends *approval of the Landmarks application requesting the issuance of a report* for the application ~~approves this application for a seeking authorization~~ at 40 East 20<sup>th</sup> Street, with the understanding that it will be given the opportunity to review the Land Use portion of the application at a later date.

After many questions regarding the process of an application pursuant to Section 15-20 of the Zoning Resolution, and a friendly amendment (see strikethrough and italics), the resolution passed with a vote of 32 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTIONS:** Merker, Ress.

**Mr. Gering presented the following resolution:**

***Certificate of Appropriateness – 859 Broadway (Ladies’ Mile Historic District)***

WHEREAS, this is an Italianate style building, built in 1841, converted to stores in the 1860's, and altered with a new storefront in 1897 in the Ladies’ Mile Historic District; and

WHEREAS, the application is for a Verizon store, as a new tenant, to install a new wood storefront infill, dealing for first floor only, installing two glass windows with a center entrance door and with the left door leading to the building’s upper floors, which are not a part of the Verizon store; and

WHEREAS, the storefront entrance will be ADA compliant; and

WHEREAS, the applicant has agreed to consider the Community Board Five Landmarks Committee’s request that the corporate black sign band with white lettering go across the entire width of the building, not only partially across, which the owner prefers; therefore, be it

**RESOLVED**, that Community Board Five **recommends approval** of the application **on the condition** that the sign band goes the full width of the building.

The resolution passed with a vote of 31 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

**Mr. Gering presented the following resolution:**

***Certificate of Appropriateness – 17-23 West 32<sup>nd</sup> Street (Individual Landmark)***

WHEREAS, this is a Beaux-Arts style hotel designed by Harry B. Mulliken and built in 1902-04 is an individual landmark; and

WHEREAS, the application is to legalize the installation of a projecting, internally illuminated vertical sign installed without Landmarks Preservation Commission permits; and

WHEREAS, the applicant, the LaQuinta Hotel, did not get approval from the Commission for the sign, nor did they apply in a timely manner to the Commission after receiving a letter saying they were in violation; and

WHEREAS, the sign is out of character with the building as an individual landmark; therefore, be it

**RESOLVED**, that Community Board Five **does not approve** the application for the illegal LaQuinta Hotel sign at 17-23 West 32<sup>nd</sup> Street.

After some discussion, the resolution passed with a vote of 30 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Landeche, Logan, Mendes, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Merker.

**Mr. Gering then presented the following resolution:**

***Certificate of Appropriateness – 28 West 20<sup>th</sup> Street a.k.a. 31 West 19<sup>th</sup> Street (Ladies Mile Historic District)***

WHEREAS, this is a neo-Renaissance style store and loft building constructed in 1902- and designed by H. Waring Howard, Jr.; and

WHEREAS, the application is to install new ground floor infill on the West 19<sup>th</sup> Street Façade; and

WHEREAS, the applicant will make changes to the proposed storefront design to keep it appropriate to the Ladies' Mile Historic District namely: making a single panel plate glass storefront and wooden bulkheads in lieu of the three smaller panels; making smaller pin mounted, back lit metal letters, so as not to damage the architectural detail of the entry entablature; and centering the letters on the door frame; therefore, be it

**RESOLVED**, that Community Board Five **recommends approval** of the application for a storefront infill at 28 West 20<sup>th</sup> Street a.k.a 31 West 19<sup>th</sup> Street.

The resolution passed with a vote of 29 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Cook, Daly, Esper, Finkelstein, Gering, Goshow, Guillet, Landeche, Logan, Mendes, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **ABSTENTION:** Diamond.

**● LAND USE & ZONING ~ DAVID DIAMOND**

**Mr. Diamond presented the following resolution:**

***ULURP # C 020244 ZSM - special permit pursuant to Section 74-711 of the Zoning Resolution at 38-42 West 18<sup>th</sup> Street a.k.a. 41-45 West 17<sup>th</sup> Street***

WHEREAS, The Applicant, 42 West 18<sup>th</sup> Street Realty Corp. has requested a Special Permit pursuant to Section 74-711 of the Zoning Resolution to facilitate the construction of a mixed use development on a zoning lot located at 38-42 West 18<sup>th</sup> Street a.k.a. 41-45 West 17<sup>th</sup> Street; and

WHEREAS, the site is in an M1-6M District within the Ladies Mile Historic District; and

WHEREAS, the project proposes to integrate a new structure with two existing structures to create one interior space which will be developed for commercial use on floors 1-3 and 90 residential units on floors 4 and above; and

WHEREAS, the requested Special Permit would allow the following:

- a) residential use on the 4<sup>th</sup> through 16<sup>th</sup> floors
- b) new building and enlarged portions to penetrate the height and setback requirements; and
- c) proposed 2-story and 3-story enlarged portions as permitted obstructions within the required rear yard; and

WHEREAS, the existing commercial space is owner-occupied by Adorama, a retailer of photographic equipment and supplies and Adorama will continue to occupy the commercial space in the reconfigured structure; and

WHEREAS, similar changes were considered by the Landmarks Committee of Community Board Five and were approved by the Board at its meeting on September 14, 2000 in conjunction with the Landmarks review portion of this 74-711 application; and

WHEREAS, the New York City Landmarks Preservation Commission issued a Certificate of No Effect on July 23, 2001, and a Certificate of Appropriateness on August 2, 2001 approving of the proposed changes; and

WHEREAS, the Department of City Planning is currently reviewing the entire area from West 22<sup>nd</sup> Street to West 17<sup>th</sup> Street between 5<sup>th</sup> and 6<sup>th</sup> Avenues for a change in zoning that would allow residential development in the area as of right; and

WHEREAS, the proposed new building and improvements to the existing buildings are in keeping with the character of the block and neighborhood; and

WHEREAS, the proposed project sets aside over 13,000 square feet more than are required for commercial or manufacturing use; and

WHEREAS, a parking garage providing 16 spaces for residents and 3 spaces for the commercial tenant is included in the proposal; and

WHEREAS, the rear yard construction does not result in loss of air or light for any residential units in neighboring buildings; and

WHEREAS, while the proposed building penetrates the height and setback requirements, the resulting building is in keeping with the character of other buildings on the block and in the Ladies Mile Historic District; and

WHEREAS, the Board feels that a building of this size is in context with the mid-block setting where it is smaller than the adjacent buildings; therefore be it

**RESOLVED** That Community Board Five **approves** the Special Permit to facilitate the construction of a mixed use development at 38-42 West 18<sup>th</sup> Street.

After much discussion regarding the impact of allowing a use by special permit, the resolution failed by a vote of 14 in favor, 18 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Bernstein, Collins, Daly, Diamond, Gering, Goshow, Hatcher, Newman, Presser, Reingold, Rockefeller, Shields, Williams. **OPPOSED:** Barbero, Beer, Bledsoe, Breidbart, Cook, Esper, Finkelstein, Guillet, Landeche, Logan, Mendes, Paley, Rabin, Ress, Seligson, Siesko, Teitler, Zucker. **ABSTENTION:** Merker.

A motion was then presented from the floor by Larry Zucker to recommend denial of the application as follows:

WHEREAS, The Applicant, 42 West 18<sup>th</sup> Street Realty Corp. has requested a Special Permit pursuant to Section 74-711 of the Zoning Resolution to facilitate the construction of a mixed use development project on a zoning lot located at 38-42 West 18<sup>th</sup> Street a.k.a. 41-45 West 17<sup>th</sup> Street; and

WHEREAS, the site is zoned M1-6M within the Ladies Mile Historic District; and

WHEREAS, the project proposes to integrate a new structure with two existing structures to create one interior space which will be developed for commercial use on floors 1-3 and 90 residential units on floors 4 and above; and

WHEREAS, the requested Special Permit would allow the following:

- a) residential use on floors 4 through 16
- b) a new building and enlarged portions to penetrate the height and setback requirements; and
- c) proposed 2-story and 3-story enlarged portions as permitted obstructions within the required rear yard; and

WHEREAS, similar changes were considered by the Landmarks Committee of Community Board Five and were approved by the Board at its meeting on September 14, 2000 in conjunction with the Landmarks review portion of this 74-711 application; and

WHEREAS, the Department of City Planning is currently reviewing the entire area from West 22<sup>nd</sup> Street to West 17<sup>th</sup> Street between 5<sup>th</sup> and 6<sup>th</sup> Avenues for a change in zoning that would allow residential development in the area as of right; and

WHEREAS, Community Board Five has general concerns regarding the impact of special permit uses within zoning districts; and

WHEREAS, The Board has specific concerns about issues that arise as residential use moves into commercial/manufacturing neighborhoods and business and residents find themselves in conflict over issues such as noise and congestion; and

WHEREAS, the Board believes that the variance sought by the applicant would contribute to a change in the character of the neighborhood; therefore, be it;

**RESOLVED** That Community Board Five **recommends denial** of the Special Permit pursuant to section 74-711 of the zoning resolution that would facilitate the construction of a mixed-use (residential and commercial) development at 38-42 West 18<sup>th</sup> Street.

After much discussion the resolution was approved with a vote of 18 in favor, 13 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bledsoe, Breidbart, Cook, Esper, Finkelstein, Guillet, Landeche, Logan, Mendes, Paley, Rabin, Ress, Seligson, Teitler, Zucker. **OPPOSED:** Bernstein, Collins, Daly, Diamond, Gering, Goshow, Hatcher, Newman, Presser, Rockefeller, Shields, Siesko, Williams. **ABSTENTIONS:** Merker, Reingold.

## ● **TRANSPORTATION/ENVIRONMENT ~ DAVID SIESKO**

**Mr. John Mills presented the following resolution on behalf of the Committee:**

### ***Request for 'No Parking' signs in front of the Church of Scientology of New York, 2-4 West 43rd Street***

WHEREAS, the Church of Scientology of New York has temporarily relocated to 4 West 43<sup>rd</sup> Street while it's permanent location is renovated; and

WHEREAS, the Church of Scientology has requested "No Parking" regulations in front of this location so that parishioners, especially those with disabilities, can be dropped off for services; and

WHEREAS, other religious institutions have similar rules in front of their places of worship; and

WHEREAS, the current parking regulations are Muni Meters and the Department of Transportation does not believe a change in regulations will have an impact on traffic; and

WHEREAS, the change will only be temporary and will revert to the previous regulations once The Church of Scientology returns to its permanent location; therefore, be it

**RESOLVED**, that Community Board Five recommends that a 30 foot "No Parking" zone be established temporarily in front of 4 West 43<sup>rd</sup> Street (192 feet west of 5<sup>th</sup> Avenue and 222 feet east of 6<sup>th</sup> Avenue); and be it further

**RESOLVED**, that Community Board Five recommends that the "No Parking" zone be returned to Muni Meter parking once The Church of Scientology vacates its temporary home at 4 West 43<sup>rd</sup> Street and returns to its permanent location.

The resolution passed with a vote of 27 in favor, 2 opposed, 4 abstentions, as follows: **IN FAVOR:** Adesman, Barbero, Bernstein, Bledsoe, Breidbart, Collins, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Landeche, Logan, Newman, Paley, Presser, Rabin, Reingold, Rockefeller, Seligson, Shields, Siesko, Teitler, Williams, Zucker. **OPPOSED:** Beer, Ress. **ABSTENTIONS:** Guillet, Hatcher, Mendes, Merker.

## ● OLD BUSINESS

***BSA Cal. # 221-03 BZ 253-255 West 28<sup>th</sup> Street - Application for a variance to allow the existing residential use of the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors at 253-255 West 28<sup>th</sup> Street in a M1-5 zoning district (manufacturing). This application was recommended for approval at the September 11, 2003 full board meeting.***

A motion was made by Suzanne Esper to rescind the resolution passed at the September 11<sup>th</sup> Full Board meeting, to approve the application for a variance to allow the existing residential use of the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors at 253-255 West 28<sup>th</sup> Street, and seconded by Vikki Barbero.

Chair Merker gave a brief explanation as to Parliamentary procedure regarding the rescission of a prior resolution.

There were questions from the floor as to what new information there may be regarding this application. In the course of the discussion, members pointed out that there were inconsistencies between the September 2003 resolution and previous Public Safety Quality of Life October 2001 resolution regarding the granting of a liquor license at the same location. There was also questions regarding residents on the block and whether those residential units have legal status. It was stated that in September, information was presented to the Land Use & Zoning Committee that there were other residential units on the block, but previous presentations to the Public Safety & Quality of Life Committee had stated that there were no residents on the block.

After much discussion on the potential impact this information would have had on Board Members decision on how to vote in September, the motion to rescind passed with a vote of 27 in favor, 4 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Cook, Daly, Esper, Finkelstein, Guillet, Hatcher, Landeche, Logan, Mendes, Newman, Paley, Presser, Rabin, Reingold, Ress, Seligson, Shields, Siesko, Teitler, Zucker. **OPPOSED:** Diamond, Gering, Goshow, Rockefeller. **ABSTENTIONS:** Merker, Williams.

A motion was then made by Kevin Guillet to send this item back to the Land Use and Zoning Committee for further review and seconded by Suzanne Esper. This motion passed with a vote of 28 in favor, 4 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Bledsoe, Breidbart, Collins, Cook, Daly, Diamond, Esper, Finkelstein, Guillet, Hatcher, Landeche, Logan, Mendes, Newman, Paley, Presser, Rabin, Reingold, Ress, Seligson, Shields, Siesko, Teitler, Zucker. **OPPOSED:** Gering, Goshow, Rockefeller, Williams. **ABSTENTION:** Merker.

**There being no further business the meeting adjourned at 10:15 PM.**

Respectfully submitted,

Suzanne Esper, Secretary