

Final as of 10/9/03

CITY BOROUGH OF MANHATTAN

C. VIRGINIA FIELDS, PRESIDENT

MANHATTAN COMMUNITY BOARD FIVE MINUTES

KYLE MERKER, CHAIR

THURSDAY, SEPTEMBER 11, 2003

Minutes of the regular Community Board #5 meeting held on **Thursday, September 11, 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
Phil Beer
Muriel Bernstein
Nicholas Bergman
Aaron Block
Judith Breidbart
James Collins
Paul Connolly
Candy Cook
William Daly
David Diamond
Suzanne Esper
Eric Gering
Nancy Goshow
Kevin Guillet
Robyn Hatcher
Brian Landeche
Howard Mendes
Kyle Merker
John Mills
Karen Newman
Sharon Paley
David Rabin
Carmel Reingold
Connie Ress
Meile Rockefeller
Rosalie Shields
Maxine Teitler
Ana Vidal-
Kaufman

Bonnie Williams
Craig Wilson

Present Part

Angela Bledsoe
Lorna Duff
Lola Finkelstein
Lenise Logan
Michael Presser
Mickey Schwartz
Joel Sesser
David M. Siesko

Absent

George Elkins
Janelle Farris
Jonathan Morse
Doreen Seligson
Brad Wilson
Lawrence Zucker

Excused

Joyce Matz

Public Members

Jon Schachter
Joe Tucker

Public

Fitore Milovic
Michael Martone
Patricia Wischan-Rosen
Ron Kelar

Heidi Sawyer
Elizabeth Finkelsteyn
Stephen Evans
Rick Brownell
Carla DeSarno
Steven Steigman
Hoi-Ming So
Matthew Bauer
John Herrold
Peter Mackie
Christie O'Sullivan
Frank Malensek
Wayne Antworth
Robert Prouse
Mark Valenta
Anthony Pemper
Don Weston
Lila Braine
Marianna Vadukul
Kenneth Radcliffe
Itai Shoffman
David Fogel
Gila Welt
Eunice Paul
Daniel Ko
Mahzukh Fatima
Choi Taki
Rohit Misra
Morgan McLean

Elected Officials

Lori Williams
Borough President C. Virginia Fields

Jordon Isanstadt

Senator Liz Krueger

Leah Kane

Congress Member Jerrold Nadler

Micah Keller

Congress Member Carolyn Maloney

Maria Guzman

Assembly Member Richard Gottfried

Susie Lim

Councilmember Eva Moskowitz

Aimee Gaudette

Councilmember Eva Moskowitz

Guy Margalith

Councilmember Christine Quinn

Amy Hartz

Councilmember Margarita Lopez

Staff

Kathy Kinsella

District Manager

Kim Rodney

Assistant District Manager

Cindy Perez

Community Associate

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

Don Weston – Applicant for Variance at 253-255 West 28th Street – asked the Board for its support of an application for a variance to allow residential use in a manufacturing district at 253-255 West 28th Street.

Peter Mackie – Resident of 28th Street - asked the Board's support for the application to allow legal residential use in at 253-255 West 28th Street.

Matthew Bauer – President of Madison Avenue BID – thanked the Board for its review of the BID's expansion proposal and asked for the Board's support.

Jordon Isastadt – Senator Liz Krueger's office – introduced himself as the Senator's new liaison to Community Board Five.

Stephen M. Evans III – introduced himself as a candidate for City Council in District 3 on the Republican and Independent lines.

Deacon Kenneth Radcliffe – NY State Criminal Justice Alliance – asked the Board to support reform of the Rockefeller Drug Laws.

Eunice Paul – Correctional Association – gave a brief background on the movement to repeal/reform the Rockefeller Drug Laws.

Lila Braine – Women In Black - informed the Board that the group holds vigils in Union Square Park and disseminate information regarding the conflict in the Mid East.

Mark Valenta – Association Director of the East Midtown Association BID – gave an update on BID activities and informed the Board that a new staff member, Bob Iveno, has joined the BID as Director of Operations.

Nitin Vadukul – Resident of West 28th Street – asked the Board to support the variance application for 253-255 West 28th Street.

BUSINESS SESSION

● CHAIR'S REPORT ~ *Kyle Merker*

Mr. Merker asked for a moment of silence to commemorate the anniversary of 9 -11.

Mr. Merker then spoke to the Board Members about talking during meetings. He stated that there were several complaints from members. He also spoke about members coming into the meeting late.

Mr. Merker then informed the board of changes to the Committees; Michael Utevsy has resigned and David Diamond will be chair of the Land Use & Zoning Committee also the representative for the Times Square BID; Suzanne Esper will take over as chair of Arts, Culture and Tourism; Eric Gering will Co-Chair Landmarks with Joyce Matz and Phil Beer will Co-Chair Parks with Kevin Guillet.

Mr. Merker then announced that a presentation on security will come before the Board next month.

Mr. Merker then announced Elected Official representatives present.

● DISTRICT MANAGER'S REPORT ~ *Kathy Kinsella*

Ms. Kinsella informed the Board Members that a new Members' directory was being distributed.

She then informed the board that information regarding Borough Consultations was sent via e-mail and asked that members make an effort to attend the agency consultations that has a direct effect with their committee.

Ms. Kinsella informed the Board that an affordable housing opportunity was available at 800 6th Avenue.

● VOTE ON MINUTES OF THE JULY 2003 BOARD MEETING

The minutes passed with a vote of 37 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Duff, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, C. Wilson. **ABSTENTIONS:** Merker, Williams.

● EXECUTIVE COMMITTEE REPORT

At the Executive Committee meeting held on September 8, 2003, Bryant Park Restoration Corporation presented a preliminary proposal for the installation of an Ice Skating Rink. They agree to come before the Parks Committee in October or November to present this proposal.

COMMITTEE REPORTS

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

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

Distinctive Sidewalk – 270 West 43rd Street (The Westin New York)

WHEREAS, an application has been made for a distinctive sidewalk at 270 West 43rd Street (The Westin New York); and

WHEREAS, the application is for paving with porcelain gray sparkle concrete, with the sidewalk at the main building entrance at 43rd Street in brick red concrete, and steel curb at 43rd Street and 8th Avenue, and

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

RESOLVED, That Community Board Five **recommends approval** of the application for a distinctive sidewalk at 270 West 43rd Street (The Westin New York), with the understanding that the materials meet anti-slip regulations.

Distinctive Sidewalk – 40 West 57th Street

WHEREAS, an application has been made for a distinctive sidewalk at 40 West 57th Street; and

WHEREAS, the application is for the use of 15" x 60" granite slabs , and

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

RESOLVED, That Community Board Five **recommends approval** of the application for a distinctive sidewalk at 40 West 57th Street, with the understanding that the materials meet anti-slip regulations.

The bundled resolutions (2) passed with a vote of 36 in favor, 0 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **ABSTENTION:** Merker. **PRESENT NOT ENTITLED TO VOTE:** Block.

Mr. Schwartz then introduced the following resolution:

Distinctive Sidewalk – 1029 Sixth Avenue (Marriot Hotel)

WHEREAS, an application has been made for a distinctive sidewalk and flagpoles at 1029 Sixth Avenue (Marriot Hotel); and

WHEREAS, the application is for the use of 4" concrete slabs and gold anodic finished flagpoles, and

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

WHEREAS, the applicant has agreed that only the flag of the United States of America will be flown from the flagpoles and that they will be flown in accordance with City, State and Federal regulations; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application for a distinctive sidewalk at 1029 Sixth Avenue, on the conditions that the sidewalk materials meet anti-slip regulations and that only the flag of the United States of America is flown from the flagpoles and that the United States flags are treated in accordance with all City, State and Federal regulations.

The resolution passed with a vote of 35 in favor, 2 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Block, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, C. Wilson. **OPPOSED:** Breidbart, Williams. **ABSTENTION:** Merker.

Mr. Schwartz then introduced the following resolution:

Newsstand application #1145864, at the S/E/C of West 45th Street and Broadway

WHEREAS, An application has been made by Vicliffe John for the operation of a newsstand at the S/E/C of West 45th Street and Broadway; and

WHEREAS, There is heavy pedestrian congestion at this location; and

WHEREAS, Placement of a newsstand at this location would have a severe negative impact on pedestrian flow; and

WHEREAS, Community Board Five has a moratorium on any new street furniture, including newsstands, in the Times Square area, based on the area's dangerous congestion level; therefore be it

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

The resolution passed with a vote of 37 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **ABSTENTION:** Merker.

Mr. Schwartz then introduced the following resolution:

Collegiate Church Corp. application for installation of two light poles and four bollards at 270 5th Avenue

WHEREAS, A request was made by The Collegiate Church Corp. to install two light poles with mounted lamps on Fifth Avenue Sidewalk and four bollards (2 at each light pole) at 270 5th Avenue, and

WHEREAS, the materials consist of 2 round tapered aluminum poles with floodlights and 4 bollards each of 4" diameter; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application by Collegiate Church Corp. to install light poles and bollards at 270 5th Avenue.

After questions regarding what other alternatives to lighting the building had been considering and comments regarding the effect of the poles and bollards on the sidewalk, the resolution passed with a vote of 26 in favor, 11 opposed, 1 abstaining, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Bernstein, Block, Connolly, Cook, Daly, Esper, Goshow, Hatcher, Logan, Mendes, Mills, Newman, Presser, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Teitler, Vidal-Kaufman, C. Wilson. **OPPOSED:** Beer, Bergman, Breidbart, Collins, Diamond, Finkelstein, Gering, Guillet, Paley, Siesko, Williams. **ABSTENTION:** Merker.

● **PARKS ~ KEVIN GUILLET**

Mr. Guillet presented the following resolution:

Women In Black – Vigil in Union Square Park

WHEREAS, Women in Black has applied for a special event permit to hold a vigil in Union Square Park each Thursday evening in October, November and December, 2003; and

WHEREAS, The event would be held in the southern end of the park; and

WHEREAS, Set-up would begin at 5:15 p.m., the event itself will run from 5:30 p.m. to 6:30 p.m., and clean up will conclude by 6:45 p.m.; and

WHEREAS, The event consists of 20 to 50 people who will display signs and distribute pamphlets providing information and education about the Israeli-Palestinian conflict; and

WHEREAS, The applicant will not be erecting a stage or using amplified sound for the event; and

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

WHEREAS, The applicant has held similar events in Union Square Park in the past without incident or complaint; therefore, be it

RESOLVED, Community Board Five **recommends approval** of a special events permit for Women in Black to hold a vigil in Union Square Park each Thursday evening, in October, November and December, 2003.

The resolution passed with a vote of 34 in favor, 1 opposed, 3 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Block, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **OPPOSED:** Breidbart. **ABSTENTION:** Mendes, Merker, Schwartz.

Mr. Guillet then introduced the following resolution:

Christian City Church – Ceremony and Musical Performance in Union Square Park

WHEREAS, The Christian City Church has applied for a special event permit to hold a concert in Union Square Park on Sunday, October 19, 2003; and

WHEREAS, The event would be held in the paved area adjacent to the north end of the park; and

WHEREAS, Set-up would begin at 1:00 p.m., the event itself will run from 1:30 p.m. to 2:30 p.m., and clean up will conclude by 2:45 p.m.; and

WHEREAS, The event will include musical performances by approximately ten (10) church members; and

WHEREAS, The applicant will not be erecting a stage; and

WHEREAS, The applicant is using amplified sound for the event and has agreed to get a sound permit from the New York Police Department; and

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

WHEREAS, The applicant has held similar events in Union Square Park in the past without incident or complaint; and

WHEREAS, The Christian City Church is a member of the Union Square community, located on the corner of 17th Street and Park Avenue South in the New York Film Academy building; therefore be it

RESOLVED, Community Board Five **recommends approval** of a special events permit for The Christian City Church to hold a concert in Union Square Park on Sunday October 19, 2003.

The resolution passed with a vote of 36 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Logan, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **ABSTENTIONS:** Mendes, Merker.

Proposed Art Project for the Park Avenue Malls

WHEREAS, The Parks Department has proposed a temporary art installation of four works by Jean DuBuffett for the Park Avenue Malls between 54th and 57th Streets from mid September to mid November 2003, and

WHEREAS, The installation consists of four sculptures constructed of foam and fiberglass, ranging in size from 9 to 13 feet in height and weighing between 1,100 to 1,600 pounds; and

WHEREAS, the installation is being sponsored by Pace Wildenstein Gallery which has agreed to restore and repair any damage done to the grass underneath the sculptures once removed; and

WHEREAS, the installation will be located on the ends of the malls (54th, 55th, 56th and 57th); and

WHEREAS, the installation and tear down will be completed in accordance with DOT requirements; and

RESOLVED, That Community Board Five **recommends approval** of the proposed temporary art installation of four works by Jean DuBuffett for the Park Avenue Malls between 54th and 57th Streets.

After some discussion regarding the artist's reputation, the resolution passed with a vote of 37 in favor, 1 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **OPPOSED:** Bergman. **ABSTENTION:** Merker.

ID&A, LLC – Holiday Festival in Bryant Park

WHEREAS, ID&A, LLC has applied for a special event permit to hold a Fetes de Noel Holiday Market in Bryant Park from November 23, 2003 to December 24, 2003; and

WHEREAS, The event would be held in the areas near the fountain on the west side of the park and the upper terrace near the library on the east side of the park; and

WHEREAS, the event will consist of vendor stalls constructed to resemble a holiday village; and

WHEREAS, the market will consist of approximately 75 artisans, the majority of whom are from the metropolitan New York area, who will sell their products and art work to the public; and

WHEREAS, the applicant will provide 24 hour security, additional lighting and trash removal throughout the duration of the market; and

WHEREAS, The applicant will lease space to a number of not-for-profit cultural institutions at a discount; and

WHEREAS, the applicant is seeking to provide periodic demonstrations by artisans, which will be free of charge,

WHEREAS, the hours of operation will be Monday through Saturday, 11:00 am to 7:00 pm and Sunday 12:00 pm to 6:00 pm; and

WHEREAS, the applicant is seeking to partner with a charitable organization to highlight and assist that organization's mission; therefore, be it

RESOLVED, Community Board Five **recommends approval** of a special events permit for ID&A, LLC to hold a Fetes de Noel Holiday Market in Bryant Park from November 23, 2003 to December 24, 2003.

After some discussion regarding the impact of the market on other uses in the park and a friendly amendment (Barbero) (see italics), the resolution passed with a vote of 38 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstien, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **ABSTENTION:** Merker.

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

Ms. Barbero presented the following resolution:

Don NYC Inc., - 15-17 East 32nd Street, 2nd Floor – Application for Restaurant Wine License

WHEREAS, Community Board Five received a letter of intent to file an application for a restaurant wine license for DON NYC, INC., located at 15-17 East 32nd Street; and

WHEREAS, This establishment will be a 24-hour operation "Barbeque" Restaurant with 140 seats and a small "waiting" bar for 6 or 7 people; and

WHEREAS, The premises has a certificate of occupancy of 160 and is approximately 3,000 square feet with a 2,000 square foot basement to be used for food preparation and storage; and

WHEREAS, The applicant has assured the board that there will be:

1. no live music,
2. no entertainment,
3. no karaoke,

4. no cabaret,
5. no sidewalk cafe; and

WHEREAS, There were no objections from the community regarding this application; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application for a restaurant wine license for DON NYC, INC., located at 15-17 East 32nd Street.

The resolution passed with a vote of 38 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Schwartz, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **ABSTENTION:** Merker.

Request for expansion of New York City's Paid Detail Unit (PDU)

WHEREAS, the overwhelming majority of complaints received by Community Board Five regarding nightlife establishments are about activities that take place on the public sidewalks and streets directly outside and in the vicinity of clubs; and

WHEREAS, street noise has only been exacerbated since the smoking ban in bars and clubs was enacted; and

WHEREAS, the ability of the nightlife owners to control negative activities on the sidewalks, is, at best, limited especially when the complained of activity is not directly in front of the establishment, but down the block; and

WHEREAS, ideally, the Police Department would be able to provide more coverage in areas with nightlife establishments, however, the reality is that NYPD is overburdened; and

WHEREAS, Paid Detail Units are not meant to replace or reduce in size a venues' own security force; and

WHEREAS, nightlife establishment owners welcome the opportunity to find a solution for insuring that their street is not negatively impacted by their patrons; and

WHEREAS, New York City has already established an off-duty Paid Detail Unit, (but does not presently include nightlife establishments with liquor licenses), the purpose of which is to have private entities pay for off duty police officers to mitigate the negative aspects of a legal business; and

WHEREAS, cities such as Boston, Houston, and Miami and several Upstate New York communities have found paid detail units to be effective; therefore be it

RESOLVED, that Community Board Five supports the expansion of N.Y.C.'s Paid Detail Unit (PDU) program to include nightlife establishments with liquor licenses *in principle, and requests that legislation/policy to that end be developed that will include the following on the following conditions :*

1. that the off-duty officers be paid and supervised directly by the PDU, and that the establishment be billed by the PDU;
2. that all assignments of officers be done directly by the PDU and that the officers be rotated on a regular basis;
3. that the officers only be permitted to work on the street, not inside the establishments; and
4. that multiple small establishments on the same block be permitted to pool resources to share a PDU officer; *and*

be it further

RESOLVED, that Community Board Five welcomes the opportunity to review such legislation/policy once it has been formulated.

After much discussion regarding the interaction between the police and the clubs, and friendly amendments (Esper and Finkelstein), the resolution passed with a vote of 33 in favor, 5 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Paley, Presser, Rabin, Ress, Sesser, Shields, Teitler, Vidal-Kaufman, Williams, C. Wilson. **OPPOSED:** Collins, Reingold, Rockefeller, Schwartz, Siesko. **ABSTENTION:** Merker.

● **LANDMARKS ~ JOYCE MATZ (PART I)**

Mr. Gering presented the following bundled resolutions (2) on behalf of the Committee:

859 Broadway (Ladies' Mile Historic District) – Certificate of Appropriateness to construct rear yard addition

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

WHEREAS, the application is for a Certificate of Appropriateness to construct a rear yard addition; and

WHEREAS, the first two floors are already built to their permitted full lot coverage; and

WHEREAS, the applicant is proposing to build out the existing third floor to full lot coverage, an increase of approximately 24feet-6inches and will not be seen from the street; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the application for Certificate of Appropriateness to construct a rear yard addition at 859 Broadway.

5 East 19th Street (Ladies' Mile Historic district), Certificate of appropriateness application to construct a rooftop addition and to raise the height of the elevator bulkhead

WHEREAS, this building was built in 1884, redesigned in 1906 and altered in 1920; and

WHEREAS, the application is a certificate of appropriateness to construct a rooftop addition and to raise the height of the elevator bulkhead; and

WHEREAS, the proposal is to add approximately 1,000 square feet onto the roof of this existing 5-story building and extend the elevator an approximate ten feet above the existing elevator; and

WHEREAS, the proposed addition will be set back approximately 20 feet from the front of the building and approximately 15 feet from the back of the building and should not be visible from the street; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the Certificate of Appropriateness application for a rooftop addition and to raise the elevator bulkhead at 5 East 19th Street.

The bundled resolutions (2) passed with a vote of 37 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Gering, Goshow, Guillet, Hatcher, Landeche, Mendes, Mills, Newman, Paley, Presser, Rabin, Reingold, Ress, Rockefeller, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, Williams, C. Wilson. **ABSTENTION:** Merker.

A Landmarks application for 15 West 18th Street was referred to Committee for review on the side and will be seen later in the meeting.

At this point in the meeting, David Diamond took over the chair.

● **BUSINESS IMPROVEMENT DISTRICT ~ KYLE MERKER**

Mr. Merker presented the following resolution:

Madison Avenue Business Improvement District area expansion.vices expansion.

WHEREAS, the Madison Avenue Business Improvement District (BID) has applied to the Department of Small Business Services to expand the BID's boundaries by filing an amended District Plan pursuant to Section 25-405(a) of Chapter 4 of Title 25 of the Administrative Code of the City of New York, and

WHEREAS, the BID's current southern boundary is 61st Street; and

WHEREAS, the BID's current operation is contained within the Manhattan Community Board Eight district; and

WHEREAS, the BID has a history of supplying valuable services including: sanitation, security, a coordinated street furniture program, maintenance of street trees and holiday decorations within its district; and

WHEREAS, the expansion would include four additional blocks along Madison Avenue; and

WHEREAS, two of the blocks in the proposed expansion are within the boundaries of Community Board Five—from 59th Street to 57th Street on the East side of Madison Avenue; and

WHEREAS, the proposed expansion has also been reviewed and approval recommended by Community Board Eight, Manhattan; and
WHEREAS, the proposed expansion plan includes increases to the size of both the sanitation staff and the security staff; and
WHEREAS, the BID's budget will increase from \$1.3 million to approximately \$1.7 million, however the average cost per square foot will not change; and
WHEREAS, the proposed District Plan includes Community Board Five representation on the Board of Directors; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the expansion of the Madison Avenue BID on the terms set forth in the District Plan with the following stipulations:

1. that the BID will consult with Community Board Five before implementing any streetscape improvements, signage programs, awning guidelines or other capital improvements
2. that the BID will consult with Community Board Five prior to the selection and placement of all future street furniture, including but not limited to planters, news boxes, streetlights, kiosks, and newsstands
3. that Community Board Five reserves the right to withdraw from support of the BID should substantive changes of its mission take place.

After some discussion, the resolution passed with a vote of 31 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Finkelstein, Goshow, Guillet, Landeche, Mendes, Mills, Paley, Rabin, Reingold, Ress, Sesser, Shields, Siesko, Teitler, Vidal-Kaufman, C. Wilson. **ABSTENTION:** Merker.

● HUMAN SERVICES AND YOUTH ~ *PAUL CONNOLLY AND SHARON PALEY*

Ms. Paley presented the following resolution:

Rockefeller Drug Laws

WHEREAS, In 1973, the Rockefeller Drug Laws were enacted and require harsh prison terms for the possession or sale of relatively small amounts of drugs (i.e., mandating a judge to impose a prison term of no less than 15 years to life for anyone convicted of selling 2 ounces or possessing 4 ounces of a narcotic substance); and

WHEREAS, Under the Rockefeller Drug Laws, these penalties apply without regard to the circumstances of the offense or the individual's character or background (e.g., whether the person is a first-time offender is irrelevant); and

WHEREAS, Currently, there are over 18,300 drug offenders incarcerated in New York State prisons, the vast majority of whom were convicted of minor, non-violent offenses; and

WHEREAS, The Rockefeller Drug Laws disproportionately affect poor people and people of color with African-Americans and Latinos comprising about 93% of the drug offenders in New York State prisons, although government studies show that the majority of people who use and sell drugs are white; and

WHEREAS, Nearly 65% of New York State prisoners are from New York City; and

WHEREAS, The cost of keeping an inmate in New York State prison for a year is about \$32,000, compared to between \$2,700-\$4,500 per person per year for outpatient drug treatment, and \$17,000-\$21,000 per person per year for residential drug treatment; and

WHEREAS, Every year, New York State spends almost \$590 million to imprison drug offenders, shifting funds toward corrections and away from drug education, community services, and drug treatment programs; therefore be it

RESOLVED, Community Board Five urges Governor Pataki and the State Legislature to reform the Rockefeller Drug Laws by:

1. Restoring sentencing discretion to trial judges
2. Making sentencing reform retroactive, so that current inmates can petition the courts for review of their sentences

3. Expanding the funds available for alternatives to incarceration, including drug treatment, job training, and education programs so that judges have an appropriate alternative to imprisonment

A motion to amend the above resolution by deleting the 4th WHEREAS was presented by David Siesko. After discussion, the amendment was withdrawn and a friendly amendment to remove the last clause of the WHEREAS was made. The friendly amendment was not accepted. It was then proposed as an amendment and voted on. The amendment failed with a vote of 15 in favor, 18 opposed, 2 abstaining; as follows: **IN FAVOR:** Adesman, Breidbart, Cook, Daly, Guillet, Mendes, Mills, Newman, Paley, Reingold, Ress, Rockefeller, Shields, Vidal-Kaufman, Williams. **OPPOSED:** Baida, Barbero, Beer, Bernstein, Bergman, Bledsoe, Block, Collins, Connolly, Diamond, Esper, Gering, Goshow, Hatcher, Landeche, Rabin, Siesko, C. Wilson. **ABSTENTIONS:** Merker, Teitler.

The original resolution was then voted on and passed with a vote of 26 in favor, 1 opposed, 8 abstentions, as follows: **IN FAVOR:** Baida, Barbero, Beer, Bernstein, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Diamond, Esper, Gering, Goshow, Hatcher, Landeche, Mills, Newman, Paley, Rabin, Reingold, Ress, Rockefeller, Shields, Vidal-Kaufman, C. Wilson. **OPPOSED:** Siesko. **ABSTENTION:** Adesman, Cook, Daly, Guillet, Mendes, Merker, Teitler, Williams.

At this point in the meeting Kyle Merker resumed as Chair.

● LANDMARKS ~ JOYCE MATZ (PART II)

Mr. Gering presented the following resolution on behalf of the Committee:

15 West 18th Street (Ladies' Mile Historic district), Certificate of appropriateness application to install new storefront infill

WHEREAS, this is an Art Nouveau style store and loft building designed in 1904 by Israels & Harder; and

WHEREAS, the application proposes to install bi-folding doors instead of the existing stationary glass storefront and the relocation of the street façade position 18 inches back from the building façade line; and

WHEREAS, the proposal appears appropriate to the historic district; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the application to install new storefront infill at 15 West 18th Street.

After some discussion the resolution passed with a vote of 32 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Esper, Gering, Goshow, Guillet, Hatcher, Mendes, Mills, Newman, Paley, Rabin, Reingold, Ress, Rockefeller, Shields, Teitler, Vidal-Kaufman, Williams, C. Wilson. **ABSTENTION:** Merker.

● LAND USE & ZONING ~ MICHAEL UTEVSKY

Ms. Nancy Goshow presented the following resolution on behalf of the Committee:

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 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 for the three existing residential units on the 3rd, 4th and 5th Floors of 253-255 West 28th Street; and

WHEREAS, the applicant seeks to legalize three existing 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 for joint living/work quarters through a commercial co-op conversion. The 4th floor, (initially bought for joint living/work quarters), was legalized for office use by a 1985 C of O change, which excluded the joint living/work uses on floors 2, 3, and 5; and

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

WHEREAS, the proposed use requested for this variance is a compatible use and will have no adverse impact on the surrounding neighborhood or existing zoning district since the building is located on a mixed-use block; and

WHEREAS, the unique physical conditions of the building prevent conformity with the permitted use mainly due to the inadequate floor loading capacity of 88 lbs/sf provided by the building's structural system along with the inadequacy of vertical transportation provided by a single elevator making this building functionally obsolete for either industrial or commercial use. The minimal floor loading capacity required for any commercial, office, or light-manufacturing use is at least 100 to 125 lbs/sf; and

WHEREAS, these unique physical conditions that prevent conformity with the permitted use create financial hardship for the building owners, since prior commercial tenancies could not be sustained for the 3rd, 4th and 5th floors and left the building vacant until joint live/work co-op owners took up residency; and

WHEREAS, the request for this variance seeks residential use for only the upper three floors, keeping the first two floors as commercial use; therefore be it

RESOLVED, that Community Board Five **approves** 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 for the three existing residential units on the 3rd, 4th and 5th Floors while retaining commercial use on the cellar, 1st and 2nd floors of 253-255 West 28th Street, NY, NY.

After a brief presentation from Ms. Goshow, the resolution passed with a vote of 27 in favor, 2 opposed, 3 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Bergman, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Gering, Goshow, Hatcher, Mendes, Mills, Newman, Paley, Rabin, Reingold, Rockefeller, Shields, Teitler, Vidal-Kaufman, Williams, C. Wilson. **OPPOSED:** Block, Guillet. **ABSTENTION:** Landeche, Merker, Ress.

There being no further business the meeting adjourned at 9:15 PM.

Respectfully submitted,

Suzanne Esper, Secretary