

Approved 7/10/03

THE BOROUGH OF MANHATTAN
C. VIRGINIA FIELDS, PRESIDENT
MANHATTAN COMMUNITY BOARD FIVE MINUTES
KYLE MERKER, CHAIR
THURSDAY, JUNE 12, 2003

Minutes of the regular Community Board #5 meeting held on **Thursday, June 12, 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 bull meeting are available in the Board Office.

Members Present

Alice Adesman
Philip Beer
Muriel Bernstein
Angela Bledsoe
Aaron Block
Judith Breidbart
Paul Connolly
Candy Cook
William Daly
David Diamond
George Elkins
Janelle Farris
Eric Gering
Nancy Goshow
Kevin Guillet
Robyn Hatcher
Howard Mendes
Kyle Merker
John Mills
Sharon Paley
Michael Presser
Meile Rockefeller

Mickey Schwartz
Doreen Seligson
Rosalie Shields
David Siesko
Maxine Teitler

Present Part

Susan Baida
James Collins
Lenise Logan
Karen Newman
David Rabin
Michael Utevsky

Absent

Vikki Barbero
Lola Finkelstein
Brian Landeche
Carmel Reingold
Connie Ress
Brad Wilson

Excused

Suzanne Esper

Joyce Matz
Jonathan Morse
Joel Sesser
A. Vidal Kaufman
Bonnie Williams
Lawrence Zucker

Public Members

Jon Schachter
Jack Taylor

Public

Carla Rabinowitz
Hoi-Ming So
Nancy Charnee
Ashley Cross
Helen Guditis
David Golab
Gordon Pelarin
Laurence Marner
Brandt Gassmon
Morgan McLean

Elected Officials

Lori Williams
Borough President C. Virginia Fields

Leah Kane
Congress Member Jerrold Nadler

Dan Golub
Assembly Member Richard Gottfried

Sara Hale-Stern
Senator Liz Krueger

Guy Margalith
Councilmember Christine Quinn

Amy Hartz
Concilmember Margarita Lopez

Staff
Kathy Kinsella
District Manager

Kim Rodney
Assistant District Manager

Cindy Perez
Community Associate

PUBLIC SESSION

At 6:10 p.m., the Full Board meeting of Manhattan Community Board Five was called to order, Kyle Merker presiding.

Carla Rabinowitz – Project Liberty Peer Support – announced Peer Support initiative, which specializes in crisis counseling for Mental Health consumers.

Nancy Charnee – New York Public Library – introduced herself as Donnell Library’s representative to Community Board Five and thanked the Board for its support of the library.

Guy Margalith – Representative for Councilmember Christine Quinn’s office – introduced himself as Councilmember Quinn’s new liaison to Community Board Five.

Dan Golub – Representative for Assembly Member Richard Gottfried’s office – announced that the Assembly and Senate passed a temporary Rent Law. He also spoke of the liquor license application for Rocco’s and that the State Liquor Authority had allowed the process for the application to be circumvented. He distributed the Assembly Member’s letter to the SLA on this matter.

There were no speakers for the public hearing on ULURP # 030192 ZSM - 140 West 40th Street

BUSINESS SESSION

● CHAIR’S REPORT ~ *Kyle Merker*

Mr. Merker introduced new Board Members James Collins, Robyn Hatcher, Karen Newman and Meile Rockefeller, and asked them to each to say a few words about themselves. He then informed the new members that the board will be contacting them regarding Community Board Five’s orientation.

Mr. Merker then reported that Congress Member Nadler had responded to the Medicaid resolution passed by the Board last month.

He then recognized the Elected Officials’ representatives present.

● DISTRICT MANAGER’S REPORT ~ *Kathy Kinsella*

Ms. Kinsella announced that a package of information would be sent to new members.

● VOTE ON MINUTES OF THE MAY 2003 BOARD MEETING

The minutes passed with a vote of 22 in favor, 0 opposed, 4 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Mendes, Paley, Presser, Schwartz, Seligson, Shields, Siesko, Teitler. **ABSTENTION:** Collins, Merker, Newman, Rockefeller.

● ELECTION OF OFFICERS

Election was held for the vacant position of Assistant Secretary with nominees Candy Cook and Maxine Teitler giving a brief introduction of themselves. The vote for Assistant Secretary was: 8 Candy Cook, 18 Maxine Teitler, 2 abstentions, as follows: **CANDY COOK:** Adesman, Connolly, Diamond, Mendes, Mills, Presser, Seligson, Siesko. **MAXINE TEITLER:** Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Daly, Elkins, Farris, Gering, Goshow, Guillet, Logan, Paley, Rockefeller, Schwartz, Teitler. **ABSTENTIONS:** Merker, Newman.

The following uncontested candidates were then presented to the board: **Chair – Kyle Merker; 1st Vice Chair – David Diamond; 2nd Vice Chair – Sharon Paley; Secretary – Suzanne Esper; Assistant Secretary – vacant; Treasurer – Brad Wilson.** The bundled vote in favor of electing said officers passed as follows: 27 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Collins, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler. **ABSTENTION:** Merker, Newman.

COMMITTEE REPORTS

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

Mr. Schwartz presented the following resolution:

MCC Theater, to hold a street festival on 29th Street, between Madison and Park Avenues, on September 13, 2003.

WHEREAS, The MCC Theater has filed an application to hold a street activity on September 13, 2003, on 29th Street, between Madison and Park Avenues; and

WHEREAS, This event has been held in previous years without incident; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by the MCC Theater to hold a street activity on September 13, 2003.

The resolution passed with a vote of 27 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler. **ABSTENTION:** Merker.

Mr. Schwartz then introduced the following resolution:

20th Street Property Associates L.P., application to erect a new entry portico at the existing building entry at 900 Broadway

WHEREAS, A request was made by 20th Street Property Associates L.P. to erect a new entry portico at the existing building entry at 900 Broadway; and

WHEREAS, The design will have a new roof leader, with new limestone cornice, new limestone column, stucco ceiling, new limestone pilaster and a limestone base; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application by 20th Street Property Associates L.P. to erect a new entry portico at the existing building entry at 900 Broadway.

The resolution passed with a vote of 27 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson Shields, Siesko, Teitler. **ABSTENTION:** Merker.

Mr. Schwartz then introduced the following resolution:

Olympic Tower Condominium, application to install planters at 641 5th Avenue

WHEREAS, A request was made by Olympic Tower Condominium to install planters in front of 641 5th Avenue and at the main entrance; and

WHEREAS, The planters will be 3' x 3' x 3' x 3' concrete buckets and 2' 6" x 2' 6" x 2' 6" x 2' 6" concrete planters; and

WHEREAS, The planters are already in place and the applicant was not present at the Consents & Variances Committee meeting to answer any concerns the Committee may have; therefore, be it

RESOLVED, That Community Board Five **recommends denial** of the application by Olympic Tower Condominium to install planters at 641 5th Avenue.

After some discussion, the resolution passed with a vote of 26 in favor, 1 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler. **OPPOSED:** Newman. **ABSTENTION:** Merker.

Mr. Schwartz then introduced the following resolution:

JP Morgan Chase, application to install security planters in front of 522 5th Avenue along Fifth Avenue and Bollards along 44th Street.

WHEREAS, A request was made by JP Morgan Chase to install sixteen (16) planters in front of the entrance to 522 5th Avenue and five (5) bollards along 44th Street in front of the loading bay; and

WHEREAS, The planters will be 3' x 3' concrete filled security planters on round concrete pads and bolted to the sidewalk, and the bollards will be retractable; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application by JP Morgan Chase to install planters and bollards at 522 5th Avenue and along 44th Street.

After some discussion regarding the use of planters as a security measure, the resolution passed with a vote of 16 in favor, 12 opposed, 1 abstaining, as follows: **IN FAVOR:** Adesman, Bernstein, Block, Connolly, Cook, Daly, Diamond, Farris, Gering, Goshow, Logan, Mendes, Mills, Newman, Presser, Siesko. **OPPOSED:** Beer, Bledsoe, Breidbart, Elkins, Guillet, Paley, Rockefeller, Schwartz, Seligson, Shields, Teitler, Utevsky. **ABSTENTION:** Merker.

Mr. Schwartz then introduced the following resolution:

365 Park Corp- Unenclosed sidewalk café at 365 Park Avenue South

WHEREAS, 365 Park Corp. has filed an application for an unenclosed sidewalk café for 22 tables and 44 seats at 365 Park Avenue South; and

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

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

WHEREAS, the revised application (see attached plan and agreement) is for 16 tables/32 chairs; and

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

RESOLVED, That Community Board Five **recommends approval of the amended application** by 365 Park Corp. for an unenclosed sidewalk café at 365 Park Avenue South for 16 tables and 32 chairs only.

After some discussion, the resolution passed with a vote of 27 in favor, 1 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Utevsky. **OPPOSED:** Teitler. **ABSTENTION:** Merker.

Mr. Schwartz then introduced the following resolution:

676 Restaurant Corp. d/b/a The Tomato Restaurant, - Unenclosed sidewalk café at 676 Sixth Avenue

WHEREAS, 676 Restaurant Corp. d/b/a The Tomato Restaurant has filed an application for an unenclosed sidewalk café for 14 tables and 29 seats at 676 Sixth Avenue; and

WHEREAS, Community Board Five has concerns that the size of the café would impede the flow of pedestrians; and

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

WHEREAS, the revised application (see attached plan and agreement) is for 11 tables/22 chairs; and

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

RESOLVED, That Community Board Five **recommends approval of the amended application** by 676 Restaurant Corp. d/b/a The Tomato Restaurant, for an unenclosed sidewalk café at 676 Sixth Avenue for 11 tables and 22 chairs only.

After some discussion, the resolution passed with a vote of 25 in favor, 3 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Farris, Gering, Goshow, Guillet, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Utevsky. **OPPOSED:** Elkins, Logan, Teitler. **ABSTENTION:** Merker.

● **LAND USE & ZONING ~ MICHAEL UTEVSKY**

Mr. Utevsky presented the following resolution:

ULURP # 030192 ZSM, request for a special permit for certain bulk and use modifications pursuant to Zoning Resolution section 74-711, entitled at 140 West 42nd Street

WHEREAS, the owner of the designated landmark building known as Bush Tower, located at 130-132 West 42nd Street between Sixth and Seventh Avenues, also owns the adjacent land at 140 West 42nd Street, and the owner desires to build an office tower on the adjacent land that would offer floor-through connections between the two buildings; and

WHEREAS, the owner has obtained approval of the Landmarks Preservation Commission (“Landmarks”) for the design of a new 23-story tower, having 174,000 gross square feet and 143,000 zoning square feet, under Zoning section 74-711, in exchange for the owner providing a periodic maintenance plan for the landmark building and also agreeing to perform certain restoration work to the roof and decorative finials and lanterns near the roof; and

WHEREAS, the design of the building, as approved by Landmarks, requires the following waivers of zoning requirements:

1. waiver of height and setback requirements, so that the building’s façade will present a uniform street wall with Bush tower and so that the new 23-story building will have uniform floor plates and be shorter than the 30-story Bush Tower in order not to obscure the view of the landmark’s crown;
2. waiver of 280 square feet of the required 477 square feet of pedestrian circulation space, in order to bring the retail storefront to the sidewalk line and present a substantially uniform ground floor frontage along the sidewalk;
3. waiver of the requirement of a loading dock, since the new building will have frontage only on 42nd Street, where no loading dock is permissible, and its only access to 41st Street will be through the adjoining landmark which does not have a loading dock;
4. waiver of retail continuity requirements and special regulations requiring entertainment uses on the ground floor, in order to accommodate an adequate building lobby on this narrow site;
5. waiver of limitations on transfers of development rights across zoning district boundaries, in order to allow the transfer of permitted floor area from the 10-story rear portion of the Bush Tower to the land on which the new building will be erected (from zoning district C5-2.5 to C6-7); and

WHEREAS, the waivers sought will allow the applicant to build a building that contains 60,700 gross square feet more than the “as of right” building of 113,500 gross square feet that can be constructed without the above waivers; and

WHEREAS, the Board is concerned about the extraordinary congestion in the Times Square area, and believes that the absence of a loading dock and the reduction in required pedestrian circulation space will exacerbate the congestion caused by the addition of the new building; however, the Board recognizes that this building is insignificant in size by comparison to the new office towers that have been built and are being planned for the Times Square area, and the resulting addition to congestion is not material; and

WHEREAS, the applicant, as owner of both sites, has agreed to enter into a recorded agreement whereby Bush Tower will grant the new building an easement of ingress and egress to the 41st Street exit for use by tenants and delivery personnel and for the disposal of rubbish, for so long as the new building shall stand; now, therefore, be it

RESOLVED, that Community Board Five **recommends approval** of the application by 140 West 42nd Street for waivers of zoning requirements under Section 74-711, **on the condition that the adjoining landmark building grant an easement to the new building for ingress and egress through the ground floor and cellar levels of the landmark building to and from 41st Street for tenants and delivery persons and for the disposal of rubbish, which easement shall be recorded against the land and shall remain in effect for so long as the new building shall stand.**

After a brief presentation, the resolution passed with a vote of 26 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Paley, Presser, Rockefeller, Schwartz, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Merker.

● **PARKS ~ KEVIN GUILLET**

Mr. Guillet presented the following resolution:

NEW YORK BUDDHIST CHURCH, APPLICATION TO HOLD A FESTIVAL IN BRYANT PARK

WHEREAS, New York Buddhist Church has applied for a special event permit to hold an Obon (Japanese Folk Dance) Festival in Bryant Park on Sunday, July 13, 2003; and

WHEREAS, the event would be held in the area near the fountain on the west side of the park; and

WHEREAS, Set-up would begin at 9:30 am, the event itself will run from 12:30 p.m. to 4:30 p.m., and clean up will conclude by 6:00 p.m.; and

WHEREAS, approximately 1,000-2000 spectators are anticipated throughout the day; and

WHEREAS, The applicant is using amplified sound, understands the concerns of the community regarding the use of amplified sound and has agreed to obtain and abide by the terms of 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, New York Buddhist Church has held similar events in Bryant Park without incident for the last 10 years; therefore, be it

RESOLVED, Community Board Five **recommends approval** of a special events permit for New York Buddhist Church to hold an Obon (Japanese Folk Dance) Festival in Bryant Park on Sunday, July 13, 2003.

The resolution passed with a vote of 27 in favor, 0 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Merker. **PRESENT NOT ENTITLED TO VOTE:** Logan.

Mr. Guillet then introduced the following resolution:

SISA PAKARI, APPLICATION TO HOLD A CULTURAL EVENT IN BRYANT PARK

WHEREAS, Sisa Pakari has applied for a special event permit to hold an Intiraimi (Andean Cultural) Festival in Bryant Park on Sunday, July 27, 2003; and

WHEREAS, the event would be held in the area near the fountain on the west side of the park; and

WHEREAS, Set-up would begin at 9:00 am, the event itself will run from 11:30 p.m. to 4:30 p.m., and clean up will conclude by 6:00 p.m.; and

WHEREAS, Approximately 700 spectators are anticipated throughout the day; and

WHEREAS, The applicant is using amplified sound, understands the concerns of the community regarding the use of amplified sound and has agreed to obtain and abide by the terms of 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, Sisa Pakari has held similar events in Bryant Park without incident for the last 2 years; therefore, be it

RESOLVED, Community Board Five **recommends approval** of a special events permit for Sisa Pakari to hold an Intiraimi (Andean Cultural) Festival in Bryant Park on Sunday, July 27, 2003.

The resolution passed with a vote of 28 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky.
ABSTENTION: Merker.

Mr. Guillet then introduced the following resolution:

RE: FESTIVAL PRODUCTIONS INC., APPLICATION TO HOLD A FREE CONCERT IN BRYANT PARK

SINOVISION, APPLICATION TO HOLD A SINGING COMPETITION IN BRYANT PARK

STEWART BOROWSKY, APPLICATION TO HOLD A WEDDING RECEPTION IN UNION SQUARE PARK

THE MICHAEL ALAN GROUP, APPLICATION TO HOLD A PROMOTIONAL EVENT IN BRYANT PARK

WHEREAS, Community Board Five takes its role in the review of applications for Parks Special Events seriously; and

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

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

The resolution passed with a vote of 26 in favor, 1 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Newman, Paley, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **OPPOSED:** Mills.
ABSTENTIONS: Merker, Presser.

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

● LANDMARKS ~ JOYCE MATZ

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

401 FIFTH AVENUE AT 37TH STREET (COMMERCE BANK), APPLICATION TO INSTALL SIGNAGE IN EXISTING SIGN PANELS

WHEREAS, the applicant is proposing new internally illuminated signage on the ground floor of an individually landmarked building ("The Tiffany Building"); and

WHEREAS, the building is an Italian Renaissance-inspired building designed by Stanford White and built in 1903-1906; and

WHEREAS, the applicant s seeking to install new internally illuminated signage in seven building bays (three bays on Fifth Avenue and four bays on 37th Street); and

WHEREAS, the signage consists of 9" high, internally illuminated, white letters projecting 4" that spell "Commerce Bank" and 20" high, internally illuminated, red "C" logos projecting 5", as well as internally illuminated signage of indeterminate size spelling "Open 7 days"; and

WHEREAS, the extent and amount of internally illuminated signage seems excessive for this elegant and historic individual landmark; therefore be it

RESOLVED, that Community Board Five **does not recommend approval** of the application to install internally illuminated signage on the ground floor at 401 Fifth Avenue.

After a brief description of the application, the resolution passed with a vote of 28 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Merker, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Baida, Diamond.

Mr. Gering then presented the following resolution:

79 FIFTH AVENUE AT 16TH STREET (CITIBANK) (LADIES MILE HISTORIC DISTRICT), *APPLICATION TO INSTALL NEW STOREFRONT INFILL AND ILLUMINATED SIGNAGE*

WHEREAS, the applicant is moving from one storefront location in a 1904-06 Beaux-Arts style store, loft and office building designed by Albert S. Gottlieb to another location in the same building, two window bays away; and

WHEREAS, the applicant is seeking to install new storefront infill and illuminated signage at the new location; and

WHEREAS, the existing signage from the existing storefront will be reused; and

WHEREAS, the three existing building light fixtures will be reused to provide illumination for the signage at the new location; and

WHEREAS, the new storefront will eliminate an existing roll-down security gate; and

WHEREAS, the new storefront will utilize an appropriate bulkhead design, either recreating the original design or matching the adjacent, recently renovated, bulkhead design; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the application to install new storefront infill and illuminated signage at 79 Fifth Avenue.

After a brief description of the application, the resolution passed with a vote of 29 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Merker, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Diamond.

Mr. Gering then presented the following resolution:

245 FIFTH AVENUE AT 28TH STREET (CAFÉ 28) (MADISON SQUARE NORTH HISTORIC DISTRICT), *APPLICATION TO MODIFY THE STOREFRONT INFILL*

WHEREAS, the applicant is proposing to modify the storefront infill of a neo-gothic style store and loft building designed by George F. Pelham and built in 1926-27 and located within the Madison Square North Historic District; and

WHEREAS, the applicant seeks to remove an existing ATM machine and install a new exit door along 28th Street; and

WHEREAS, the applicant seeks to install additional louvers of a compatible nature to the existing louvers at 2 1/3 window bays of the mezzanine level along 28th Street; and

WHEREAS, the proposed signage is of a modest nature in size and material and not illuminated; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the application to modify the storefront infill at 245 Fifth Avenue.

After a brief description of the application, the resolution passed with a vote of 28 in favor, 0 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Bledsoe, Breidbart, Connolly, Cook, Daly, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Merker, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Diamond. **PRESENT NOT ENTITLED TO VOTE:** Block.

Mr. Gering then presented the following resolution:

BRYANT PARK (SCENIC LANDMARK), APPLICATION TO ALTER THE PERIMETER WALL AND FENCE ON WEST 40TH STREET AND TO INSTALL A BARRIER-FREE ACCESS RAMP.

WHEREAS, the applicant is proposing to alter the perimeter wall and fence on West 40th Street and install a barrier free access ramp (with demountable bollards, and a curb cut) at Bryant Park, a scenic landmark and formal French-style garden designed in 1933 by Lusby Simpson, and reconstructed and partially redesigned by Hanna/Olin in 1988-91; and

WHEREAS, the only current wheelchair access to the park is through a small entry on 42nd Street and a larger entry further east by the service entry on 40th Street; and

WHEREAS, the applicant proposes to save the eliminated fencing and reuse the existing wall granite and otherwise use compatible materials and details; and

WHEREAS, the proposed design is very sympathetic with the existing historic park; therefore be it

RESOLVED, that Community Board Five **recommends approval** of the application to alter the perimeter wall and fence on West 40th Street and install a barrier-free access ramp.

After a brief description of the application, the resolution passed with a vote of 28 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Block, Breidbart, Connolly, Cook, Daly, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Merker, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Diamond.

Mr. Gering then presented the following resolution:

RE: 145 FIFTH AVENUE (LADIES' MILE HISTORIC DISTRICT), APPLICATION TO INSTALL NEW SIGNAGE

890 BROADWAY (LADIES MILE HISTORIC DISTRICT), APPLICATION TO MODIFY THE MARQUEE AND ALTER THE STOREFRONT INFILL

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

WHEREAS, the above referenced applicants 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 two applications and requests an opportunity to review the applications.

The resolution passed with a vote of 27 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Bledsoe, Block, Breidbart, Cook, Daly, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Merker, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Siesko, Teitler, Utevsky. **ABSTENTION:** Diamond.

At this point in the meeting Mr. Merker resumed the chair

● PUBLIC SAFETY & QUALITY OF LIFE ~ VIKKI BARBERO

Ms. Teitler presented the following resolution on behalf of the Committee:

China Grill Management d/b/a Rocco's Italian American Restaurant, application for an on-premises liquor license at 12 East 22nd Street.

WHEREAS, The applicants, China Grill Management 12 E 22 LLC, d/b/a Rocco's Italian American, located at 12 East 22nd Street, have applied to the New York State Liquor Authority for a new on-premises liquor license; and

WHEREAS, The owners, Jeffrey Chodorow, Neil Faggen and Rocco DiSpirito, principals of this new establishment, are well known NYC restaurateurs, and successfully operate/own other well known establishments, including Union Pacific, China Grill and Asia De Cuba, all within Community Board Five; and

WHEREAS, At a meeting of the Public Safety/Quality of Life Committee held on Monday, June 9, 2003, the residents of this block and the surrounding area voiced concerns and complaints based on a history of problems with other establishments at that location; and

WHEREAS, As a result of the dialogue between residents and the new restaurant's owners at the above mentioned meeting, the applicants have agreed to the following:

1. they will not request a cabaret license;
2. they will not ask for an extension to the as-of-right sidewalk café;
3. they will continue to look into the issue of further soundproofing the establishment
4. they will request no changes to the existing parking regulations;
5. they have agreed to close all but one of the floor-to-ceiling doors at 10:30 p.m. Sunday—Thursday and 11:45 p.m. on Friday and Saturday;
6. they will post signs with regard to their patrons respecting the neighbors by keeping the noise level down and will have staff and their doorman monitor customers leaving and smoking outside;
7. they will provide a letter signed by the principals stating the agreements mentioned above; and

WHEREAS, The applicants have agreed to return to the July meeting of the Public Safety/Quality of Life Committee in order to discuss with the committee the results of the agreements above; and

WHEREAS, The applicants have provided the community board with a copy of the lease with regard to their not being allowed to have live music and only background music; and

WHEREAS, at the applicants' request, Community Board five has no objection to the State Liquor Authority moving the date of the 500 Foot Hearing for this application; therefore be it

RESOLVED, That Community Board Five **recommends approval of the application on the condition that the above agreements are met and carried out**, for the liquor license for China Grill Management 12 E 22 LLC, d/b/a Rocco's Italian American Restaurant, located at 12 E. 22nd Street.

After some discussion, the resolution passed with a vote of 29 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshaw, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Merker.

Mr. Howard Mendes presented the following resolution on behalf of the Committee:

NYC OFF TRACK BETTING CORPORATION AND PLAY WRIGHT, APPLICATION TO ADD BETTING TO AN EXISTING RESTAURANT AT 27 WEST 35TH STREET

WHEREAS, New York City Off Track Betting Corporation ("OTB") is about to enter into a business agreement with Play Wright Tavern, 27 West 35th Street, New York, NY, and

WHEREAS, OTB has successfully had similar agreements with seven other restaurants, four in Queens, two in Brooklyn and one in the Bronx for the past five to six years, such agreements enabled by the New York State Legislature some eight years ago, and

WHEREAS, OTB will limit its presence at the above location as an amenity to patrons of the restaurant, and

WHEREAS, OTB has represented:

1. It will have a booth for two tellers and a manager with a safe and other security arrangements on the second floor of the premise
2. The booth will be open only from the hours of 11:30 am to 11:30 pm
3. There will not be any OTB signage outside the restaurant
4. Television for OTB customers will not be intrusive for restaurant patrons not wishing to watch OTB races; and

WHEREAS, Community Board Five has checked with five other Community Boards that have similar operations in their districts and they report that they have had no adverse experience with their OTB locations; therefore, be it

RESOLVED, that Community Board Five does not object to this business agreement on the condition that the applicant adheres to the conditions as agreed to and outlined above.

After a brief description of the application and some discussion, the resolution passed with a vote of 26 in favor, 3 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Beer, Bernstein, Bledsoe, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Mendes, Mills, Newman, Paley, Presser, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **OPPOSED:** Baida, Block, Logan. **ABSTENTION:** Merker.

● TRANSPORTATION/ENVIRONMENT ~ *DAVID SIESKO*

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

REQUEST BY THE 13TH POLICE PRECINCT FOR INSTALLATION OF “NIGHTTIME PARKING REGULATIONS” ON THE NORTH SIDE OF WEST 21ST STREET, BETWEEN 5TH AND 6TH AVENUES

WHEREAS, the 13th Precinct and the residential community in the vicinity of West 21st Street, between 5th and 6th Avenues, have made a request for a “No Standing Zone” on the north side of West 21st Street between 5th and 6th Avenue from 11 pm to 6 am due to heavy traffic and caused by late night nightclub activity; and

WHEREAS, there have been disturbances on this block and the surrounding blocks from nightclubs on West 21st Street including a recent fatal shooting; and

WHEREAS, the south side of West 21st Street between 5th and 6th Avenue currently has a No Standing zone from 11 pm and 6 am; therefore, be it

RESOLVED, that Community Board Five supports a “No Standing Zone” on the north side of 21st Street between 5th and 6th Avenues from 11 pm and 6 am and that these parking rules be strictly enforced.

After some discussion, the resolution passed with a vote of 30 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Merker.

Mr. Mills then presented the following resolution:

REQUEST BY WALGREENS DRUG STORE FOR A LOADING ZONE AT THE CORNER OF PARK AVENUE SOUTH AND 23RD STREET

WHEREAS, Walgreens is opening a store located at the Northwest Corner of 23rd Street and Park Avenue South; and

WHEREAS, the store is requesting a three hour window to accept deliveries; and

WHEREAS, the proposed loading zone is approximately 200 feet from the Northwest corner of 23rd Street and Park Avenue South *along the north side of 23rd Street* and the area in front of the proposed loading zone is a bus staging area during the day but is generally clear after 9 pm; and

WHEREAS, Walgreens was flexible in its delivery times in order to accommodate the needs of the community and its residents; and

WHEREAS, no objections were raised by either the community or the Department of Transportation; therefore, be it

RESOLVED, that Community Board Five recommends that a Loading Zone from 9 pm to Midnight approximately 200 feet from the Northwest Corner of 23rd Street and Park Avenue South be approved for a 90 day trial period; and be it further

RESOLVED, that if no complaints are raised from the community, the NYPD, or the Department of Transportation this Loading Zone be approved permanently.

After a brief description of the application and a friendly amendment by Shields (see italics), the resolution passed with a vote of 30 in favor, 0 opposed, 1 abstention as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Rockefeller, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **ABSTENTION:** Merker.

Mr. Mills then introduced the following resolution:

ACCESSIBLE PASSENGER FERRY SERVICES TRANSPORTATION ACT (APFSTA).

WHEREAS, many ferry terminals do not provide easy access to boats for people with disabled and mobility impairments, including a lack of ramps and easy shore access; and

WHEREAS, the ferry system provides important transportation services on a daily basis and is rapidly becoming a viable commuting alternative to cars, buses, and other forms of transportation; and

WHEREAS, the ferry system serves as an important evacuation route in the case of a city emergency; and

WHEREAS, the disabled community has been struggling for nearly 10 years to ensure access to the ferry system; and

WHEREAS, the Mayor has proposed spending over \$74 million in public funds to upgrade ferry terminals for New York City's bid for the 2012 Olympics; therefore, be it

RESOLVED, that Community Board Five supports New York City Council Intro 261, which would require uniformity in access to ferry boats for wheelchair users, people with mobility impairments and other disabilities, and recommends its passage by the City Council.

After some discussion, the resolution passed with a vote of 29 in favor, 1 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Beer, Bernstein, Bledsoe, Block, Breidbart, Connolly, Cook, Daly, Diamond, Elkins, Farris, Gering, Goshow, Guillet, Logan, Mendes, Mills, Newman, Paley, Presser, Rabin, Schwartz, Seligson, Shields, Siesko, Teitler, Utevsky. **OPPOSED:** Rockefeller. **ABSTENTION:** Merker.

There being no further business the meeting adjourned at 8:55 PM.

Respectfully submitted,

Suzanne Esper
Secretary