

**THE BOROUGH OF MANHATTAN**  
*C. VIRGINIA FIELDS, PRESIDENT*  
**MANHATTAN COMMUNITY BOARD FIVE MINUTES**  
*KYLE MERKER, CHAIR*  
**THURSDAY, NOVEMBER 14, 2002**

**Draft**

Minutes of the regular Community Board #5 meeting held on **Thursday, November 14, 2002**, at the Fashion Institute of Technology, 227 West 27<sup>th</sup> Street, "A" Building, 8<sup>th</sup> Floor, 6:00 p.m. Kyle Merker, Chair, presiding. The tapes of the full meeting are available in the Board office.

**Members Present**

Alice Adesman  
Vikki Barbero  
Aaron Block  
Judith Breidbart  
Paul Connolly  
Candy Cook  
William Daly  
David Diamond  
Suzanne Esper  
Janelle Farris  
Lola Finkelstein  
Sharon Friedman  
Eric Gering  
Nancy Goshow  
Kevin Guillet  
Lenise Logan  
Howard Mendes  
Kyle Merker  
Joan Piker  
Connie Ress  
Michael Royce  
Doreen Seligson  
Rosalie Shields  
Maxine Teitler  
Michael Utevsy  
Bonnie Williams  
Lawrence Zucker

**Excused**

Adeena Besdin  
Angela Bledsoe  
Joyce Matz  
John Mills  
Carmel Reingold  
David Siesko  
Brad Wilson

**Present Part**

Susan Baida  
Philip Beer  
Muriel Bernstein  
Scott Isebrand  
Brian Landeche  
Michael Presser  
David Rabin  
Mickey Schwartz

**Absent**

Robert Baublitz  
George Elkins  
Michael Pollok

**Public Members**

Jon Schachter

**Public**

Salvatore Arzulese  
Marcia Bernstein  
David Cohen  
Elliot Cohen  
James Collins  
L. English  
Cecilia Feng  
Gail Fox  
Joanne Koldare  
Aaron Liebman  
Anne Lytle  
Ana Marengo  
Michael Martone  
M. McGregor  
Morgan McLean  
Walter Melvin  
Ray S. Montgomery  
Thomas Olson  
Margery Perlmutter  
Gregory Perrin  
Diane Powers  
Sante Sardillo  
Hoi-Ming So

**Elected Officials**

**Christopher Dorian**  
Mayor Michael Bloomberg  
  
**Nicole Johnson**  
Borough President C. Virginia Fields  
  
**Leah Kane**  
Congress Member Jerrold Nadler  
  
**Minna Elias**  
Congress Member Carolyn Maloney  
  
**Sawa Hale Stern**  
State Senator Liz Krueger  
  
**Keri Sender**  
Assembly Member Richard Gottfried  
  
**Emily Negrau**  
Councilmember Christine Quinn

**Staff**

**Kathy Kinsella**  
District Manager  
  
**Cindy Perez**  
Community Associate

**PUBLIC SESSION**

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

**Police Officer Hoi Ming So** – New York Police Department Transit D-02 – introduced himself as the Community Affairs Officer.

**Margery Perlmutter** – explained 74-711 procedures and described an application in front of the Board for 130 West 30<sup>th</sup> Street LLC, and asked for the Board's approval.

**Walter Melvin** – described the current condition of the building at 130 West 30<sup>th</sup> Street, and asked that the application be approved, so that an ongoing maintenance plan in conjunction with the renovation be maintained in perpetuity.

**Anne Lytle – American Cancer Society** – asked the Board to support the Mayor’s Clean Indoor Air Bill.

**Joanne Koldare** – spoke about the dangers of second hand smoke.

**Ray Montgomery – Nightlife Association** – asked the Board to oppose the Mayor’s proposed smoking ban.

**Dan Rosan – American Cancer Society** – cited an informal research poll he conducted that indicated that a non-smoking ban in bars/clubs does not exacerbate street conditions.

**Mannie McGregor** – stated that there is evidence that if the smoking ban is passed, there will be no impact on noise levels, and urged the Board to support the Mayor’s proposal.

**Ana Marengo** – asked the Board to support the proposed smoking ban.

**Jon Schachter** – cited other instances of smoking bans being implemented and asked the Board to support the ban for New York City.

**Nicole Johnson – Borough President C. Virginia Fields Office** – informed the board of an upcoming forum on “Can We Talk”, for children/family regarding sexuality and distributed fliers.

**James Collins** – spoke of his concerns that city services will be reduced and that Sanitation conditions will worsen in light of budget concerns.

**Thomas Olsen** – introduced the Middle East Peace Coalition group to the Board.

**Marcia Bernstein** – introduced herself as a member of the Middle East Peace Coalition.

**Elliot Cohen** – spoke against street fairs on 7<sup>th</sup> Avenue and Broadway in the Times Square area.

**David Cohen** – spoke in opposition to street fairs from 46-57 Streets on 7<sup>th</sup> Avenue and Broadway and read a letter from local businesses.

**Gregory Perrin** – discussed Kidney & Urology health issues and stated that his organization is there to help.

**Joan Piker – Community Board Five Board Member** – informed the Board that she believes that City residents would benefit from smoking ban.

## BUSINESS SESSION

### ● CHAIR’S REPORT ~ *Kyle Merker*

Mr. Merker spoke briefly about the opening of Union Square Park and of Community Board Five’s participation with this project. He then thanked the Parks Committee, especially Scott Isebrand and Kevin Guillet, also Kathy Kinsella for a job well done in following up on construction and any concerns that came into the Board Office.

Mr. Merker thanked Larry Zucker for agreeing to co-chair the Consents & Variances Committee.

He then informed the Board of an upcoming ULURP for Two Columbus Circle scheduled to come before the Board next year.

Mr. Merker then informed the Board of an award that the Board received from Heritage of Pride, thanking the Board for their support over the years. The award will be kept in the Board office.

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

Ms. Kinsella announced to the board that within their package there was a memo on the 2003 Committee meeting schedule and also committee assignments. She reminded members to call the Board office if they did not receive their monthly meeting schedule notices.

**Mr. Merker recognized the Elected Officials’ representatives present.**

## ● VOTE ON MINUTES OF THE SEPTEMBER 12, 2002 BOARD MEETING

The minutes passed with a vote of 33 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Bernstein, Block, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Farris, Finkelstein, Friedman, Gering, Goshow, Guillet, Isebrand, Landeche, Logan, Mendes, Piker, Presser, Rabin, Ress, Royce, Schwartz, Seligson, Shields, Teitler, Utevsky, Williams, Zucker. **ABSTENTIONS:** Merker.

## COMMITTEE REPORTS

### ● CONSENTS & VARIANCES ~ MICKEY SCHWARTZ

**Mr. Schwartz presented an application from the Kidney and Urology Foundation, and after extensive discussion regarding the impact of a new street activity at the location, the application was withdrawn.**

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

#### ***Church of Transfiguration - Street Activity Permit Application.***

WHEREAS, The Church of the Transfiguration has applied for a permit to hold a street festival on Broadway, between 25<sup>th</sup> and 34<sup>th</sup> Streets on October 5, 2003; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by The Church of the Transfiguration to hold a street festival.

The resolution passed with a vote of 26 in favor, 8 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Block, Breidbart, Connolly, Cook, Daly, Esper, Farris, Friedman, Gering, Goshow, Guillet, Isebrand, Landeche, Logan, Mendes, Rabin, Schwartz, Shields, Teitler, Utevsky, Zucker. **OPPOSED:** Diamond, Finkelstein, Piker, Presser, Ress, Royce, Seligson, Williams. **ABSTENTION:** Merker.

**Mr. Schwartz then introduced the following bundled resolutions (9):**

#### ***The Lamb's Theater/Church - Street Activity Permit Application***

WHEREAS, The Lamb's Church/Theater has filed an application to hold a block party on April 26, 2003, on 44<sup>th</sup> Street, between 6<sup>th</sup> Avenue and Broadway; and

WHEREAS, this event was held last year without incident; therefore be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by The Lamb's Church/Theater to hold a block party.

#### ***Union Square Community Coalition – Street Activity Permit Application.***

WHEREAS, The Union Square Community Coalition has applied for a permit to hold a street festival on Broadway, between 17<sup>th</sup> Street and 23<sup>rd</sup> Street on April 13, 2003; and

WHEREAS, This event is held every year without incident; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by The Union Square Community Coalition to hold a street festival.

#### ***Lexington East Twenties Society – Street Activity Permit Application.***

WHEREAS, The Lexington East Twenties Society has applied for a permit to hold a street festival on Lexington Avenue, between 23<sup>rd</sup> Street and 34<sup>th</sup> Street on June 29, 2003; and

WHEREAS, This event is held every year without incident; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by The Lexington East Twenties Society to hold a street festival.

***McBurney YMCA – Street Activity Permit Application.***

WHEREAS, The McBurney YMCA has applied for a permit to hold a street festival on Sixth Avenue, between 14<sup>th</sup> Street and 23<sup>rd</sup> Street on July 6, 2003; and

WHEREAS, This event is held every year without incident; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by The McBurney YMCA for a street festival.

***Meretz/Israeli Civil Rights Education Fund – Street Activity Permit Application***

WHEREAS, The Meretz/Israeli Civil Rights Education Fund has applied for a permit to hold a street festival on Lexington Avenue, between 34<sup>th</sup> Street and 42<sup>nd</sup> Street on Sunday, July 13, 2003; and

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

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

***23<sup>rd</sup> Street Association – Street Activity Permit Application***

WHEREAS, The 23<sup>rd</sup> Street Association has applied for a permit to hold a street festival on Sixth Avenue, between 14<sup>th</sup> Street and 23<sup>rd</sup> Street on August 17, 2003; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by 23<sup>rd</sup> Street Association to hold a street festival.

***Daytop Village – Street Activity Permit Application***

WHEREAS, The Daytop Village has applied for a permit to hold a street festival on Sixth Avenue, between 42<sup>nd</sup> Street and 56<sup>th</sup> Street on August 24, 2003; and

WHEREAS, This event is held every year without incident; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval** of the application by The Daytop Village to hold a street festival.

***St. Cecile Scholarship Fund – Street Activity Permit Application***

WHEREAS, The St. Cecile Scholarship Fund has applied for a permit to hold a street festival on Sixth Avenue, between 23<sup>rd</sup> Street and 33<sup>rd</sup> Street on September 01, 2003; and

WHEREAS, This event is held every year without incident; therefore, be it

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

***Gramercy Stuyvesant Independent Democrats – Street Activity Permit Application***

WHEREAS, The Gramercy Stuyvesant Independent Democrats has applied for a permit to hold a street festival on Broadway, between 17<sup>th</sup> Street and 23<sup>rd</sup> Street on November 2, 2003; and

WHEREAS, This event is held every year without incident; therefore, be it

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

The resolution passed with a vote of 32 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Block, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Farris, Finkelstein, Friedman, Gering, Goshaw, Guillet, Isebrand, Landeche, Logan, Mendes, Presser, Rabin, Ress, Royce, Seligson, Shields, Teitler, Utevsky, Williams, Zucker. **ABSTENTIONS:** Merker, Piker.

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

***The Motion Picture Club – Street Activity Permit Application***

WHEREAS, The Motion Picture Club has applied for a permit to hold a street festival on Seventh Avenue, between 45<sup>th</sup> Street and 57<sup>th</sup> Street on July 27, 2003; and

*WHEREAS, The applicant has agreed to amend the application to be held on Seventh Avenue, between 47<sup>th</sup> and 56<sup>th</sup> Streets, instead of 45<sup>th</sup> and 57<sup>th</sup> Streets; and*

WHEREAS, The event is held every year without incident; therefore, be it

**RESOLVED**, That Community Board Five **recommends approval of the application as amended** by The Motion Picture Club to hold a street festival on Seventh Avenue between 47<sup>th</sup> Street and 56<sup>th</sup> Street on July 27, 2003.

After some discussion regarding the impact of street fairs in the Times Square bow tie area, the resolution as amended (see italics), passed with a vote of 28 in favor, 4 opposed, 2 abstentions, as follows : **IN FAVOR** : Adesman, Baida, Barbero, Beer, Bernstein, Block, Breidbart, Connolly, Cook, Daly, Esper, Farris, Finkelstein, Friedman, Gering, Goshow, Guillet, Isebrand, Logan, Mendes, Presser, Rabin, Ress, Royce, Shields, Teitler, Utevsy, Williams. **OPPOSED** : Diamond, Piker, Seligson, Zucker. **ABSTENTIONS** : Landeche, Merker.

● **PARK ~ SCOTT ISEBRAND AND KEVIN GUILLET**

**Mr. Isebrand introduced the following resolution:**

***Holiday Market – Bryant Park***

WHEREAS, ID&A, a cooperative of New York City artisans, has applied for a special events permit to hold a holiday market in Bryant Park; and

WHEREAS, The holiday market would be open daily from 10 a.m. to 7 p.m., November 23, 2002 to December 24, 2002; and

WHEREAS, The event will include a marketplace of artisans' wares, showcases for museums and other cultural institutions, outreach booths for local charities, and a green market of holiday goods; and

WHEREAS, The booths for the holiday market will be located entirely on paved and gravel portions of the Park, leaving the Park's gardens and lawn completely accessible; and

WHEREAS, The holiday market's booths will harmonize with the aesthetics of the Park; and

WHEREAS, The holiday market would bring activity to the Park during the quiet winter months; and

WHEREAS, The few small, quiet generators the market will use will be located behind the Bryant Park Grille, not on 40<sup>th</sup> Street; and

WHEREAS, Set up for the holiday market would take place from November 19 to November 22, 2002 between 8 a.m. and 9 p.m.; and

WHEREAS, The load out day for this event would be December 26, 2002; and

WHEREAS, Load-in and load-out will be staggered to minimize congestion on the streets around the Park and other disruptions to the community; and

WHEREAS, There will be increased security in the Park while the market is open; therefore be it

**RESOLVED**, Community Board Five **recommends approval** of a special events permit for ID&A to operate a holiday market in Bryant Park from November 23, 2002 to December 24, 2002.

The resolution passed with a vote of 33 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR**: Adesman, Baida, Barbero, Beer, Bernstein, Block, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Farris, Finkelstein, Friedman, Gering, Goshow, Guillet, Isebrand, Landeche, Logan, Mendes, Piker, Presser, Rabin, Ress, Royce, Seligson, Shields, Teitler, Utevsy, Williams, Zucker. **ABSTENTION**: Merker.

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

***Middle East Peace Coalition – Union Square Park***

WHEREAS, Union Square Middle East Peace Coalition (a.k.a. PAUSE; hereafter “the applicant”) has applied for a special events permit for rallies in the southeast triangle of Union Square Park on November 2, 9, 16, 23, and 30; and

WHEREAS, NYC/Parks & Recreation has issued a permit for a November 2<sup>nd</sup> rally only; and

WHEREAS, the applicant held several demonstrations in Union Square Park over the last several months before being made aware that a permit was required; and

WHEREAS, the applicant will begin set-up at 2:30 p.m. and end clean-up by 5:30 p.m. with the demonstrations themselves being from 3:00 p.m. to 5:00 p.m.

WHEREAS, the previous demonstrations generated no complaints, left the southeast triangle litter-free and undamaged, were non-confrontational in style, and did not exceed thirty participants; therefore be it

**RESOLVED, Community Board Five recommends the granting of a permit to Union Square Middle East Peace Coalition for demonstrations in the southeast triangle on November 9, 16, 23, and 30.**

After some discussion, the resolution passed with a vote of 26 in favor, 3 opposed, 5 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Connolly, Cook, Daly, Diamond, Esper, Farris, Finkelstein, Friedman, Gering, Goshaw, Guillet, Isebrand, Logan, Presser, Rabin, Ress, Royce, Seligson, Shields, Teitler, Utevsky, Zucker. **OPPOSED:** Block, Breidbart, Landeche. **ABSTENTIONS:** Bernstein, Mendes, Merker, Piker, Williams.

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

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

**Ms. Barbero presented the following resolution:**

### ***F-Stop LLC, d/b/a Eden – 28 West 20<sup>th</sup> Street – Liquor License renewal application***

WHEREAS, F-Stop, LLC., d/b/a “Eden,” formerly “Lava Lounge,” formerly “F-Stop,” located at 28 West 20<sup>th</sup> Street, has applied for renewal of their liquor license; and

WHEREAS, In November 1995, the owners applied for a liquor license and, after much debate, received support from Community Board Five only because they signed affidavits addressing community concerns regarding problems brought about by the saturation of liquor license establishments on this particular block and in the general area; and

WHEREAS, The State Liquor Authority accepted these affidavits and agreements as stipulations to the liquor license and placed them in the SLA record; and

WHEREAS, Within six months after opening, the owners violated such agreements and have continued to do so for the past six years—they have also made alterations (unauthorized) and changed their name and method of operation every two years, each time ~~moving farther and farther away from the original plan for the establishment~~ *renewing on one after another of their agreements and the plan* that was supported by the Board in 1995; and

WHEREAS, Community Board Five started receiving complaints regarding this establishment after the first three months of operation and these complaints have not only continued but have escalated over the years; and

WHEREAS, Complaints regarding noise from both within and surrounding the club are extreme; and

WHEREAS, On numerous occasions, letters and resolutions passed by Community Board Five (attached) cited constant violations and actions, which constitute a significant breach of the commitments made by F. Stop, LLC, that have had an adverse and negative impact on the neighborhood; and

WHEREAS, Conditions at the establishment have not improved, in fact in January of 2001, inspection by several City agencies resulted in numerous violations/summonses being issued (Dept. of Buildings, Depart. Of Health and the Fire Dept.); and

WHEREAS, F-Stop, LLC, sent representatives to attend the November 6, 2002 meeting of the Public Safety/Quality of Life Committee who had no background or information regarding, and were unable to address, concerns or problems; and

WHEREAS, F-Stop, LLC, has shown nothing but blatant disregard for the community of which it is a part; therefore be it

**RESOLVED**, That Community Board Five urges the State Liquor Authority to deny renewal of the liquor license for F-Stop, L.L.C. d/b/a Eden, located at 28 West 20<sup>th</sup> Street due to F-Stop, LLC, operating completely in opposition to the stipulations/affidavits accepted by the SLA, and because of the misrepresentation of their management plan, their breach of contract, their on-going lack of concern for the community and overall negative impact this “club” has and is having on this neighborhood.

After corrections to the resolution from Ms. Barbero, there was discussion regarding the history of F-Stop. A friendly amendment was made by Joan Piker (see italics and strikethrough). The resolution passed with a vote of 33 in favor, 0 opposed, 2 abstentions, as follows: **IN FAVOR:** Adesman, Baida, Barbero, Beer, Bernstein, Block, Breidbart, Connolly, Cook, Daly, Esper, Farris, Finkelstein, Friedman, Gering, Goshow, Guillet, Isebrand, Landeche, Logan, Mendes, Merker, Piker, Presser, Rabin, Ress, Schwartz, Seligson, Shields, Teitler, Utevsy, Williams, Zucker. **ABSTENTION:** Diamond, Royce.

*At this point in the meeting, Mr. Merker resumed as Chair.*

**Ms. Barbero then introduced the following resolution:**

***Intro. No. 256 – Prohibition of smoking in public places and places of employment***

WHEREAS, Intro. No. 256, the proposed amendment to the administrative code of the city of New York, in relation to the prohibition of smoking in public places and places of employment, currently prohibits smoking in most restaurants but specifically exempts bars and nightclubs, where food accounts for less than 40% of the gross annual revenues; and

WHEREAS, This amendment would extend the current ban to every bar and restaurant and to other indoor settings, as well as to outdoor cafes; and

WHEREAS, This issue was discussed by Community Board Five’s Public Safety/Quality of Life Committee, specifically as to the impact such an amendment would have on the quality of life in CB 5’s communities; and

WHEREAS, New York City’s unique physical make up and density, particularly within CB 5’s District, is a combination of businesses and residents co-existing side by side, above, and across from clubs, bars and lounges; and

~~Whereas, In 1996, the Rowdy Bar Bill was enacted which strengthened the ability of the State Liquor Authority to close down rowdy establishments, strengthened the 500 Foot Law, expanded the criteria for revocation and expanded the neighborhood licensee resolution process, and made clubs, bars, and lounges responsible for activity in and around the licensed establishment; and~~

WHEREAS, Because of the SLA’s failure to address problems and complaints, the lack of enforcement, and the reduction of resources that decreased police presence, this fragile co-existence has already experienced a negative impact on the quality of life on the streets and sidewalks outside many clubs, bars, and lounges, in our residential neighborhoods; and

*WHEREAS, Because of the risk of receiving “disorderly premise” and “failure to control crowd” violations that could potentially damage their ability to renew their liquor licenses, bar and nightclub owners are hesitant to call the police to assist in the removal of rowdy or noisy patrons on the street near their venue; and*

WHEREAS, If the smoking ban was extended to bars, clubs, and lounges, patrons of these establishments, which are open until 4:30 a.m., would congregate outside on the streets and in nearby doorways, smoking and talking, creating noise, litter and having a detrimental impact on the quality of life of our neighborhoods, all without the establishment owners having any legal authority to prohibit this activity on the public streets; therefore be it

**RESOLVED**, That Community Board 5 commends the Mayor for his concern for the health of employees at these establishments **but urges that the smoking ban (Intro.256) not be expanded include bars, lounges and clubs in that the quality of life of thousands of residents will be adversely impacted by forcing smokers into the streets causing regular nightly mayhem on the streets, especially during early morning hours.**

After much discussion and friendly amendments from David Diamond (4<sup>th</sup> WHEREAS) and Lola Finkelstein (6<sup>th</sup> WHEREAS) (see strikethrough and italics), the resolution passed with a vote of 23 in favor, 9 opposed, 1 abstention, 1

present not entitled to vote, as follows: **IN FAVOR:** Adesman, Barbero, Beer, Block, Breidbart, Cook, Daly, Diamond, Esper, Farris, Friedman, Goshow, Guillet, Isebrand, Landeche, Logan, Mendes, Rabin, Schwartz, Seligson, Shields, Teitler, Utevsky. **OPPOSED:** Baida, Bernstein, Connolly, Finkelstein, Gering, Piker, Royce, Williams, Zucker. **ABSTENTION:** Merker. **PRESENT NOT ENTITLED TO VOTE:** Ress.

## ● LAND USE & ZONING ~ MICHAEL UTEVSKY

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

### ***Application for change in use of 130 West 30<sup>th</sup> Street, pursuant to Section 74-711 of the Zoning Resolution***

WHEREAS, the applicant/owner of 130 West 30<sup>th</sup> Street (hereinafter referred to as "the Building") has applied for a special permit pursuant to section 74-711 of the Zoning Resolution of the City of New York to permit User Group ("UG") 2 (residential) on the second through 19<sup>th</sup> floors of the Building; and

WHEREAS, after review and a positive recommendation by the Community Board Landmarks Committee in 2001, the Building was designated a historic landmark by the New York City Landmarks Preservation Commission and its historic preservation plan was approved; and

WHEREAS, the applicant/owner does not seek to make any bulk modifications to the Building; and

WHEREAS, according to the completed Environmental Assessment Statement, the proposed action for special permit to modify the use regulations for an M1-6 zoning to allow UG 2 residential uses will have minimal adverse affects on the conforming uses both within the building and surrounding areas, and

WHEREAS, the new 45 residential units will not adversely affect the surrounding neighborhood; therefore, be it

~~**RESOLVED,** That Community Board Five is concerned about the bifurcated process in use which allows an applicant to obtain Landmarks designation and/or approval of its preservation plan as an initial step towards proposing a new use without input regarding the use change from the Land Use Committee or this Board, and be it further~~

**RESOLVED,** *While* Community Board Five is concerned about protecting the industrial use and character of this neighborhood, *we do approve the special permit allowing the conversion of this Building from commercial to residential use.*

After much discussion and friendly amendments (see strikethrough and italics), the resolution **failed** with a vote of 10 in favor, 17 opposed, 2 abstentions, as follows: **IN FAVOR:** Connolly, Daly, Finkelstein, Gering, Goshow, Mendes, Royce, Shields, Williams, Zucker. **OPPOSED:** Adesman, Baida, Barbero, Bernstein, Block, Breidbart, Cook, Diamond, Esper, Friedman, Guillet, Logan, Piker, Ress, Seligson, Teitler, Utevsky. **ABSTENTIONS:** Farris, Merker.

### **The following substitute resolution was then presented from the floor by Mr. Utevsky.**

WHEREAS, the applicant/owner of 130 West 30<sup>th</sup> Street (hereinafter referred to as "the Building") has applied for a special permit pursuant to section 74-711 of the Zoning Resolution of the City of New York to permit User Group ("UG") 2 (residential) on the second through 19<sup>th</sup> floors of the Building; and

WHEREAS, after review and a positive recommendation by the Community Board Landmarks Committee in 2001, the Building was designated a historic landmark by the New York City Landmarks Preservation Commission and its historic preservation plan was approved, but the proposed change in use was not considered by this Board at that time; and

WHEREAS, the applicant/owner does not seek to make any bulk modifications to the Building; and

WHEREAS, there is no other existing residential use on either side of 30<sup>th</sup> Street between 6<sup>th</sup> and 7<sup>th</sup> Avenues, except for one small building with 6 dwelling units near 7<sup>th</sup> Avenue; and

WHEREAS, there has been a gradual increase in residential conversions to the south of 30<sup>th</sup> Street, resulting in a loss of important commercial businesses such as the open-air flea markets on 6<sup>th</sup> Avenue and the imminent loss of the flower market on 28<sup>th</sup> Street, but the area from 30<sup>th</sup> Street north remains commercial in character; and

WHEREAS, Community Board Five has grave concerns about the change in character of its manufacturing, mixed use and commercial districts to residential use and the resulting loss of jobs; and

WHEREAS, notwithstanding the completed Environmental Assessment Statement this Board believes that the proposed change in use will have a material adverse effect upon the conforming commercial and light manufacturing uses which remain in the building and which predominate on the block and the surrounding neighborhood; and

WHEREAS, the new 45 residential units are intended to be sold at market rate and will not result in any subsidized or “affordable” housing being added to the current available stock; therefore, be it

**RESOLVED**, That Community Board Five **does not approve the special permit allowing the conversion of this Building from commercial to residential use.**

After some discussion, the substitute resolution passed with a vote of 15 in favor, 7 opposed, 5 abstentions, as follows: **IN FAVOR:** Adesman, Barbero, Block, Breidbart, Connolly, Cook, Esper, Friedman, Guillet, Logan, Ress, Seligson, Shields, Teitler, Utevsky. **OPPOSED:** Daly, Gering, Goshow, Mendes, Royce, Williams, Zucker. **ABSTENTIONS:** Diamond, Farris, Finkelstein, Merker, Piker.

## ● **JOINT LAND USE & ZONING AND CONSENTS & VARIANCES ~** ***MICHAEL UTEVSKY AND MICKEY SCHWARTZ***

**Mr. Utevsky presented the following resolution on behalf of the Committees:**

### ***Amendments to the Zoning Resolution relating to unenclosed sidewalk cafe***

WHEREAS, legal jurisdiction over sidewalk cafes is now divided among several agencies, including the Department of City Planning (“DCP”), Department of Transportation, and the Department of Consumer Affairs (“DCA”), resulting in a confusing and time-consuming process for approvals and renewals of sidewalk café permits, as well as overlapping jurisdictions over the enforcement of existing regulations; and

WHEREAS, the City has proposed to streamline the procedures for sidewalk café applications and to transfer and consolidate jurisdiction over sidewalk cafes to DCA, which proposal includes: (I) the amendment of the zoning text to remove certain regulations regarding sidewalk cafes, so that DCP will no longer have jurisdiction over them; and (II) the amendment of the Administrative Code to add certain provisions regarding sidewalk cafes and to give DCA jurisdiction over them; and (III) at a future date, the promulgation of rules and regulations by DCA regarding sidewalk cafes; and

WHEREAS, the current changes are more procedural than substantive in nature, and they include the shortening of the entire application process to a total of 105 days from the date that a complete application is submitted; the shortening of the time period that Community Boards are given to review such applications from 60 days to 45 days; and the addition of more stringent penalties for violations of rules and regulations, including the closing of the café and/or the entire restaurant (after notice and a hearing) after three separate violations; and

WHEREAS, the Board approves of the concept of streamlining the application process, does not object to the specific changes being proposed, but desires an opportunity to review and comment upon the specific rules and regulations to be adopted by DCA; and

WHEREAS, DCA representatives have assured the Board that it will have an opportunity to review and comment upon the proposed rules and regulations prior to their adoption; and

WHEREAS, no changes are being proposed with respect to the use of zoning bonus plazas for public cafés, nor to the jurisdiction of DCP over them; therefore, be it:

**RESOLVED**, that Community Board Five approves the proposed zoning text amendment and the consolidation of jurisdiction for sidewalk cafes under DCA; and

**RESOLVED**, that the Board reserves the right to review and comment upon DCA's proposed rules and regulations before they are adopted.

After some discussion, the resolution passed with a vote of 26 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Block, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Farris, Finkelstein, Friedman, Gering, Goshow, Guillet, Logan, Mendes, Piker, Ress, Royce, Seligson, Shields, Teitler, Utevsky, Williams, Zucker.  
**ABSTENTION:** Merker.

## ● **LANDMARKS ~ JOYCE MATZ**

**The following bundled resolution (4) was presented:**

### ***Certificate of Appropriateness – 862 Broadway***

WHEREAS, 862 Broadway a small, four-story rowhouse in the Ladies Mile Historic District, is a Greek-Revival style building constructed in 1847, and altered prior to 1910, and

WHEREAS, the proposed work on the façade appears to be of good quality and authentic to the history of the building and the historic district, and

WHEREAS, the rear yard addition appears to be in compliance with zoning regulations and does not impact negatively on the rowhouse, therefore be it

**RESOLVED**, That Community Board Five **recommends approval** of the application for the façade work, store infill and rear yard addition. The Board would further like to suggest that the cornice (pictured in the 1910 photo, as going across 5 rowhouses), be restored on this building to further tie the buildings together, as is appropriate for the historic district.

### ***Certificate of Appropriateness – 7 West 20<sup>th</sup> Street***

WHEREAS, 7 West 20<sup>th</sup> Street, in the Ladies Mile Historic District, is applying to legalize a storefront constructed in non-compliance with Certificate of Appropriateness 90-0008 and to legalize an awning, flagpole and banner, and lighting, all installed without Landmarks Preservation Commission permits, and

WHEREAS, 7 west 20 is an Italianate style dwelling, built in 1850-51 and later altered and

WHEREAS, the owner showed the landmarks committee of Board #5 a Certificate of Appropriateness permit for work on the storefront, dated August 1989, 3 months after designation, and

WHEREAS, the flagpole and banner and lighting that were installed are not appropriate in the historic district and

WHEREAS, the awning is retractable and of a color and style appropriate to the Historic District and

WHEREAS, the awning has lettering on the skirt and not on the slope which is also appropriate to the district, therefore be it

**RESOLVED**, That Community Board Five **recommends approval of the awning, but does not recommend approval of the other elements, including the flagpole and banner and the lighting** and suggests that the applicant review the status of its 1989 permit with the Commission.

### ***Re: 150 Fifth Avenue and 49-51 West 32<sup>nd</sup> Street***

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

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

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

The bundled resolutions (4) passed with a vote of 24 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Block, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Friedman, Gering, Goshow, Guillet, Logan, Mendes, Piker, Ress, Royce, Seligson, Shields, Teitler, Utevsky, Williams, Zucker. **ABSTENTIONS:** Merker.

**The following resolution was then presented:**

***48 East 21<sup>st</sup> Street***

WHEREAS, 48 East 21<sup>st</sup> Street, in the Ladies' Mile Historic District, is a neo-Renaissance style store and loft building built in 1910-11 and designed by noted architects Maynicke & Franke and

WHEREAS, Community Board Five previously recommended denial of this application (see attached reso from October 11, 2002) based on the lack of information on the proposal and requested a full presentation and

WHEREAS, Community Board Five's Landmarks Committee has now received a full presentation on this application and

WHEREAS, the addition, a two story penthouse of approximately 4000 sq. ft., would be built on the top of the existing 12-story historic building and would be composed of two floors, each approximately 12 feet high and made of glass, brick and railings, and

WHEREAS, the two-story penthouse would be topped by a new bulkhead of approximately 13 feet high, and

WHEREAS, although the rooftop addition cannot be seen from the east, it is very visible from the west, rising more than 37-feet over the roof line, and

WHEREAS, although the first floor of the penthouse may not be visible from the street, the second floor and bulkhead will be visible, and would set a precedent for allowing visible rooftop additions in the Ladies' Mile Historic District, therefore be it

**RESOLVED**, That Community Board Five **does not recommend approval of this rooftop addition** because of its excessive size and high visibility.

After some discussion, the resolution passed with a vote of 25 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Barbero, Block, Breidbart, Connolly, Cook, Daly, Diamond, Esper, Farris, Finkelstein, Friedman, Gering, Goshaw, Guillet, Logan, Mendes, Ress, Royce, Seligson, Shields, Teitler, Utevsky, Williams, Zucker. **ABSTENTION:** Merker.

**There being no further business the meeting adjourned at 10:30 PM.**

Respectfully submitted,

Suzanne Esper  
Secretary