

THE BOROUGH OF MANHATTAN
C. VIRGINIA FIELDS, PRESIDENT
MANHATTAN COMMUNITY BOARD FIVE MINUTES
KYLE MERKER, CHAIR
THURSDAY, DECEMBER 13, 2001

Minutes of the regular Community Board #5 meeting held on **Thursday, December 13, 2001**, at the Fashion Institute of Technology, 227 West 27th Street, "A" Building, 8th Floor, at 6:00 p.m. Kyle Merker, Chair, presiding. The tapes of the full meeting are available in the Board office.

Members Present

Alice Adesman
 Robert Baublitz
 Muriel Bernstein
 Judith Breidbart
 Paul Connolly
 Candy Cook
 Suzanne Esper
 Sharon Friedman
 Eric Gering
 Scott Isebrand
 Brian Landeche
 Michael J. Levine
 Michael Royce
 Mickey Schwartz
 Rosalie Shields
 Evelyn Strouse
 Maxine Teitler
 Bonnie Williams
 Brad Wilson
 Lawrence Zucker

Excused

Vikki Barbero
 Adeena Besdin
 David Diamond
 Lola Finkelstein
 Joyce Matz
 Howard Mendes
 Kyle Merker

Present Part

Carl Pasbjerg
 Michael Utevsky

Absent

Jackon Jhin
 Grace Forrester
 Joan Piker
 Michael Presser
 David Rabin
 David Siesko

Public Members

George Elkins
 Kevin Guillet
 Jon Schachter

Public

Wendy Bermudez
 Dan Biederman
 Kisasi Brooks
 Young Ae Kim
 Richard King
 Kenneth Kraemer
 Anna Mathioudakis
 Morgan McLean
 Na Ostersen
 Margery Perlmutter
 Les Taub
 Claudia Wagner

Elected Officials

Nicole Johnson
 Borough President C. Virginia Fields

Andree Tenemas

Councilwoman Margarita Lopez

Joshua Karetney

Councilmember Eva Moskowitz

Emily Negrau

Councilmember Christine Quinn

Leah Kane

Congressman Jerrold Nadler

Dan Golub

Assembly Member Richard Gottfried

Staff

Kathy Kinsella

District Manager

Cindy Perez

Community Associate

Kim Rodney

Community Associate

PUBLIC SESSION

At 6:20 p.m. the Full Board meeting of Community Board Five was called to order.

Kenneth Kraemer – Tishman Realty - spoke in opposition to the proposed newsstand on 42nd Street, between 7th and 8th Avenues. He listed the numerous entities that were opposed to the application.

Kisasi Brooks – Parks Council/Parks 2001 - announced the release of Parks District Profile, which lists parks and playgrounds in New York City and profiles each park's conditions.

Nis Petersen – spoke on various landmark and land use issues.

Les Taub – Chelsea Alliance – spoke in opposition to the proposed ConEdison Substation at 24th Street and 6th Avenue.

Joshua Karetney – Councilwoman Eva Moskowitz – gave an update on the Councilmember's work, trying to protect funding to service organizations, and to obtain funding for an additional High School in School District 2, which serves the Community Board Five area.

Richard King – ConEdison – spoke regarding the need for the substation at 24th Street and 6th Avenue to serve the area.

BUSINESS SESSION

● CHAIR'S REPORT ~ *Brad Wilson substituting for Kyle Merker (Report was waived)*

● DISTRICT MANAGER'S REPORT ~ *Kathy Kinsella*

District Manager Kinsella spoke of New Years Eve in Times Square and security concerns relating to that event. She announced that she attended the Times Square BID's Security Directors/ Property Managers meeting, which addressed some of these concerns. She informed the Board that because of the size of the crowd expected, passes would be issued by the various businesses within the Times Square area; no backpacks or large bags would be allowed and there would be extensive parking restrictions.

Ms. Kinsella spoke of two affordable housing opportunities, one available to Senior Citizens only at 351 East 61st Street and the other to households that meet income guidelines at 66 West 38th Street. She also announced that New York City Police exam applications are available to any interested person.

Ms. Kinsella wished everyone a HAPPY HOLIDAY.

● VOTE ON MINUTES OF THE NOVEMBER 08, 2001 BOARD MEETING

The minutes were corrected on page 5, second resolution in the Public Safety and Quality of Life section to read *Ms. Maxine Teitler then introduced the following resolution* and on page 6 to read *Ms. Suzanne Esper then introduced the following resolution* and on page 8 in the Landmarks section to read *Mr. Bob Baublitz then introduced the following resolution*, and approved by a vote of 19 in favor, 0 opposed, 1 abstention as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Isebrand, Landeche, Levine, Royce, Schwartz, Shields, Strouse, Teitler, Williams, Zucker. **ABSTENTION:** Wilson.

COMMITTEE REPORTS

● CONSENTS & VARIANCES ~ *MICKEY SCHWARTZ*

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

Newsstand Application # 1093949 – N/W/C of 42nd Street, between 7th and 8th Avenue

WHEREAS, An application was made to operate a newsstand at the N/W/C of 42nd Street, between 7th and 8th Avenues; and

WHEREAS, Placement of a newsstand at this location would have a severe impact on pedestrian flow, forcing people to walk in the roadway; and

WHEREAS, Community Board Five previously passed a moratorium on the placement of any new street furniture in this area (see attached); and

WHEREAS, This application is opposed by numerous local businesses and organizations, including the Midtown South Police Precinct; therefore, be it

RESOLVED, That Community Board Five **recommends denial** of the application for a newsstand at the N/W/C of 42nd Street, between 7th and 8th Avenues for the reasons stated above.

Newsstand Application # 1024544 – S/W/C of 45th Street and Madison Avenue

WHEREAS, An application was made for a newsstand on the S/W/C of 45th Street and Madison Avenue; and

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

WHEREAS, This application is opposed by numerous local businesses and organizations, including the property owner and the Metropolitan Transportation Authority (MTA); and

WHEREAS, This same application was previously turned down by Community Board Five and the Department of Consumer Affairs previously (see attached); therefore, be it

RESOLVED, That Community Board Five **recommends denial** of the application for a newsstand at the S/W/C of 45th Street and Madison Avenue due to the negative impact on pedestrian flow.

After some discussion, the bundled resolutions (2), passed with a vote of 19 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Isebrand, Landeche, Levine, Royce, Schwartz, Shields, Strouse, Teitler, Williams, Zucker. **ABSTENTION:** Wilson.

Mr. Schwartz then introduced the following bundled resolutions (2):

Knights of Vartans – Street activity application

WHEREAS, Knights of Vartan has filed an application to hold a commemorative ceremony on Sunday, April 21, 2002, on Broadway between West 43rd and 44th Streets; and

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

RESOLVED, That Community Board Five **recommends approval** for the application for a commemorative ceremony for Knights of Vartan.

Stage Delicatessen and Restaurant Inc., 832-834 Seventh Avenue – renewal application for unenclosed sidewalk café

WHEREAS, Stage Delicatessen and Restaurant Inc. has filed a renewal application for an unenclosed sidewalk café for (13 tables/54 seats), at 832 Seventh Avenue; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the application by Stage Delicatessen and Restaurant Inc., for renewal of an unenclosed sidewalk café at 832 Seventh Avenue.

After some discussion the bundled resolutions (2) passed with a vote of 19 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Isebrand, Landeche, Levine, Royce, Schwartz, Shields, Strouse, Teitler, Williams, Zucker. **ABSTENTION:** Wilson.

● **PARKS ~ SCOTT ISEBRAND**

Mr. Scott Isebrand and Ms. Sharon Friedman introduced the following resolution.

Bryant Park Restoration Corporation application for a carousel in Bryant Park.

WHEREAS, Bryant Park Restoration Corporation (BPRC) has proposed placing a carousel in Bryant Park for a 3-year term; and

WHEREAS, The carousel would be placed on the 40th Street alley, midway between Sixth Avenue and the back of the New York Public Library on a gravel bed; and

WHEREAS, The carousel and surrounding fence would occupy a footprint 28 feet in diameter; and

WHEREAS, A small ticket booth would be placed in the vicinity of the carousel; and

WHEREAS, The carousel would seat 18 people on 14 figures and one chariot; and

WHEREAS, The season of operation would run from April to November (or longer if weather permits), seven days a week from 11:00 a.m. until 6:00 p.m., 8:00 p.m. or 10:00 p.m. depending on the time of year; and

WHEREAS, The carousel would be under BPRC security personnel's observation during operating hours and when the park is closed; and

WHEREAS, Two employees would operate the carousel at any given time during the operating day; and

WHEREAS, The per-person fare would be \$1.50; and

WHEREAS, Low volume European-style carousel music would be played for carousel riders only; and

WHEREAS, The carousel would be leased to BPRC and operated by Fabricon Carousel Company of Brooklyn, NY for a one-year trial period; and

WHEREAS, All aspects of the carousel's appearance and operation will be consistent with the community's image of the park; and

WHEREAS, Sound created directly and indirectly by the carousel will be kept low and non-intrusive to other park users and those in surrounding areas; and

WHEREAS, Discounted admission for students and senior citizens will be made available; and

WHEREAS, Free admission for appropriate groups and occasions will be made available; and

WHEREAS, During private events, the carousel will remain open for public use; and

WHEREAS, BPRC agrees to bring any changes regarding the operation of the carousel to Community Board Five for review; therefore be it

RESOLVED, Community Board Five **recommends approval** of the placement of a carousel in Bryant Park.

After a presentation and slide show by the applicant and questions from the Board regarding the need for a fee to ride the carousel and the appropriateness of the location, the resolution passed with a vote of 14 in favor, 7 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Bernstein, Esper, Friedman, Gering, Isebrand, Levine, Pasbjerg, Royce, Schwartz, Shields, Teitler, Utevsky, Zucker. **OPPOSED:** Baublitz, Breidbart, Cook, Connolly, Landeche, Strouse, Williams. **ABSTENTION:** Wilson.

Mr. Scott Isebrand took over meeting.

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

The following resolutions were bundled (3): Ms. Suzanne Esper presented the following resolution.

Top Hat Restaurant Corp. – 50 West 33rd Street – application for an on-premises liquor license

WHEREAS, The applicant for Top Hat Restaurant Corp., located at 50 West 33rd Street, second floor, has applied for a liquor license; and

WHEREAS, The previous establishment at this location held a liquor license (since expired); and

WHEREAS, There is no record of complaints from the community or the police department; and

WHEREAS, The applicant has agreed to a stipulation to the liquor license that a cabaret license will **not** be applied or in the future; and

WHEREAS, This establishment will be a bar/lounge open six days a week, from noon until 4 a.m., is located on a commercial block, is only 1500 square feet with a certificate of occupancy of 50, and will have slow music and no cabaret; therefore be it

RESOLVED, That Community Board Five **recommends approval** of the liquor license for Top Hat Restaurant Corp., located at 50 West 33rd Street, second floor.

Mr. George Elkins presented the following resolution:

247 West 30th Street Corp. d/b/a Channel – 247 West 30th Street – application for an on-premises liquor license

WHEREAS, 247 West 30th Street Corporation, d/b/a CHANNEL at 247 West 30th Street, has applied for a liquor license; and

WHEREAS, At the Public Safety/Quality of Life Committee meeting of Community Board Five held on November 8th, 2001, Mr. Park and Mr. Lee, on behalf of “Channel,” gave a presentation, however, sufficient confusion existed with respect to a misrepresentation by the landlord regarding the relation between the fourth floor tenant and Mr. Park; and

WHEREAS, Concern was voiced by the neighborhood residents and a decision was made by the committee to postpone the vote until the December meeting if Mr. Park withdrew his application and signed an affidavit to such effect in order to allow the committee extended time to gain necessary information to vote on this application; and

WHEREAS, The committee furthered its own investigation and Wayne Chan, the landlord of Goodland Realty Corp. clarified the fact that Mr. Park and his business, i.e., Channel, hold no relation or interest with the fourth floor tenant (see attached letter); and

WHEREAS, Channel had an assessment done by Chon Engineering, PC, clarifying:

- a) the C of O to be 70 and not 180 and,
- b) a primary and secondary egress that meets NYC Building Code (letter attached); and

WHEREAS, Mr. Lee, on behalf of Channel, has been forthcoming with the committee and has met several times with the neighborhood group to satisfy their concerns regarding the impact a karaoke bar could have on their quality of life; and

WHEREAS, Mr. Park and Mr. Lee, representing Channel, and the Community residents came before the Quality of Life Committee on December 10, 2001 and an agreement was reached to satisfy said concerns; and

WHEREAS, Channel agrees to the stipulation of soundproofing the front of the space on 30th Street to EPA decibel level standards, including a soundproof window treatment; and

WHEREAS, Channel agrees to provide outdoor security personnel for control on Friday, Saturday and peak evenings; and

WHEREAS, Channel agrees that ~~should they learn that~~ if a cabaret license is necessary for a karaoke bar, said license would be limited to the entertainment of karaoke only, with no dancing and no live music; and

WHEREAS, The premises are surrounded on either side by commercial buildings; there are no residents in this specific building, the karaoke will be located in the back on the mezzanine level; the intended hours of operation are 11 a.m. to 2 a.m.; lunch and dinner will be served and Mr. Park has been in the restaurant business for fifteen years; and

WHEREAS, Channel and the community residents agreed to a team of three, consisting of Mr. Lee representing Channel (to be replaced by the manager), Richard Schwartz representing the community residents and George Elkins representing the Community Board; that would monitor problems; therefore be it

RESOLVED, That Community Board 5 **recommends approval** of a liquor license for 247 West 30th Street Corp., d/b/a Channel, with the stipulations noted above and that such stipulations be attached to the liquor license.

Ms. Suzanne Esper presented the following resolution:

Polaris Yachts Inc. – 37 West 19th Street – application for an on-premises liquor license

WHEREAS, Polaris Yachts Inc., located at 37 West 19th Street has applied for an on-premises liquor license; and

WHEREAS, The family business will occupy a ground floor space of 1400 sq. ft. and a basement storage and bathroom area of 500 sq. ft.; and

WHEREAS, The Certificate of Occupancy is for 74 persons; and

WHEREAS, The intent is to operate six days per week from 11a.m. to 2a.m. serving as a café/croissant/espresso bar during the day and as a bar offering light fare in the evening; and

WHEREAS, The kitchen will be limited and, therefore, does not present a ventilation problem for the residential buildings adjacent to and behind the premises; and

WHEREAS, There will be no DJ, no live music, no cabaret and the music provided will be background music; and

WHEREAS, Mr. Kevin Kossi, one of the owners and a co-chairman of the Quality of Life Committee for Community Board Four, has stated that there will be an acoustical ceiling with springs and rubber, that the back windows to the yard will be blocked, and a planned skylight will have double-paned glass; and

WHEREAS, The applicants have agreed to a stipulation attached to the liquor license that states that sound levels proscribed by the EPA will be met; and

WHEREAS, The applicants have for the past several years operated Zinc, a successful jazz club in New York City; and

WHEREAS, The landlord resides in this recently renovated seven story residential building; and

WHEREAS, The applicants understand that the building is landmarked and falls within the Ladies Mile Historic District and therefore no alteration can be made to the façade (including signage, window, doors, lighting, etc) without approval from the Landmarks Preservation Commission; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of an on-premises liquor license for Polaris Yachts Inc. at 37 West 19th Street.

After some discussion and a friendly amendment to the 247 West 30th Street Corp d/b/a Channel resolution (see strikethrough and italics), the bundled resolutions (3), passed with a vote of 21 in favor, 0 opposed, 1 abstention as follows: **IN FAVOR:** Adesman, Baubitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Landeche, Levine, Pasbjerg, Royce, Schwartz, Shields, Strouse, Teitler, Utevsky, Williams, Wilson, Zucker. **ABSTENTION:** Isebrand.

Ms. Maxine Teitler then introduced the following resolution:

Young K. Café Corp – 13 East 31st Street, 2nd Floor – application to change to on-premises Liquor license

WHEREAS, The applicant, Young K. Café Corp, has applied for a liquor license at 13 East 31st Street, second floor; and

WHEREAS, The building next door is an eight-story residential building and is directly adjacent to said premises; and

WHEREAS, Residents from the community came to Community Board Five's Public Safety/Quality of Life Committee meeting on December 10, 2001 and voiced concerns regarding the number of liquor license establishments already on this block and the impact yet another would have on this already saturated neighborhood (6 within 500 feet and 35 on 32nd Street – with 9 liquor license establishments in the one block radius); and

WHEREAS, The establishment will be open 7 days a week from 5 p.m. until 2 a.m.; and

WHEREAS, The community has also voiced concern regarding the already existing noise on the street especially in the early morning hours, and the impact yet another licensed establishment would have on the block; and

WHEREAS, The premises encompass 2100 square feet, the certificate of occupancy is still pending, and the applicant has no experience operating a restaurant business in the United States; therefore be it

RESOLVED, That Community Board Five **recommends denial** of the liquor license application for Young K. Café, located at 13 East 31st Street.

After some discussion, the resolution passed with a vote of 18 in favor, 3 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Pasbjerg, Royce, Schwartz, Shields, Strouse, Teitler, Utevsky, Williams, Wilson, Zucker. **OPPOSED:** Bernstein, Landeche, Levine. **ABSTENTION:** Isebrand.

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

Mr. Michael Utevsky introduced the following resolution:

745 SEVENTH AVENUE – PROPOSED ZONING TEXT AMENDMENT – REQUIREMENTS FOR ENTERTAINMENT-RELATED USES

WHEREAS, Lehman Brothers Inc., the applicant, recently has acquired the new office building at 745 Seventh Avenue, between 49th and 50th Streets, and proposes to relocate its employees there from damaged buildings in the World Financial Center; and

WHEREAS, the Zoning Resolution currently requires new construction within the Theatre Subdistrict Core to devote 5% of its floor area to entertainment-related uses, and allows 75% of this requirement to be satisfied by the construction of music, dancing or theatrical studios that are located off-site within the theatre sub-district; and

WHEREAS, the Applicant has proposed an amendment to the provisions relating to off-site uses (Section 81-724(b)) which would: (a) enlarge the permitted off-site area by extending it west of the theatre sub-district into specified portions of Community Board 4; and (b) expand permitted off-site uses beyond rehearsal studios to include performance space and accessory uses for music, dance or theatre; and (c) allow a waiver of the requirement that a certificate of occupancy be obtained for the off-site entertainment uses prior to the issuance of a certificate of occupancy for the new development, which waiver would be conditioned on, among other things, (I) the contribution by the Applicant into a trust fund of funds that will “facilitate” the development of such off-site building, and (II) a finding by the City Planning Commission that the operator of the off-site entertainment-related use “has made substantial financial and construction-related commitments towards the development of the building” and “has secured, or has implemented a fund-raising plan to secure, the funding necessary for the development of the building, other than the financial contribution of [the Applicant]”; and

WHEREAS, pursuant to the above text amendment, Lehman Brothers has proposed to contribute \$5 million towards the development of a new 71,000 square foot rehearsal and performance building for the Alvin Ailey Dance Foundation to be located at the northwest corner of 9th Avenue and 55th Street, which is located approximately two blocks west of Alvin Ailey’s primary performance space at City Centre; and

WHEREAS, of the estimated \$47.5 million cost of the Alvin Ailey building, the Foundation has raised \$37.5 million from other sources, and the proposed Lehman Brothers contribution of \$5 million will add one-half of the remaining \$10 million cost, and Alvin Ailey representatives have expressed their satisfaction with the Lehman Brothers’ contribution and their confidence that the remaining \$5 million will be raised through additional contributions; and

WHEREAS, the Alvin Ailey Dance Foundation is a valuable cultural and educational resource for the City of New York, and Community Board 5 desires that its activities be strengthened and expanded by the construction of its proposed new building; and

WHEREAS, Community Board 4 has approved the expansion of the permitted area for off-site entertainment-related uses to an area that is smaller than the area initially proposed by the Applicant but which would still include the new Alvin Ailey building—bounded by 42nd Street on the south, 57th Street on the north, and a line 150 feet west of Ninth Avenue on the west—and certain restrictions on the underlying zoning of the site; now, therefore, be it

RESOLVED, that Community Board 5 **approves** the proposed zoning text amendment to Section 81-724 on the conditions that:

- i. the restrictions on the boundaries and underlying zoning of the off-site location proposed by Community Board 4 be adopted; and
- ii. the conditions under which completion and occupancy of the off-site entertainment-related space may occur subsequent to occupancy of the new development be strengthened to add the requirement of a finding that there is a “substantial likelihood that the operator of the off-site entertainment-related use will complete the construction of its building”; and be it further

RESOLVED, that Community Board 5 **approves** Lehman Brothers’ application for Zoning Authorization under the amended Section 81-724 and the related application for modification of its special permit.

After much discussion regarding if \$5 million is an appropriate contribution for the value of the bonus, the resolution passed with a vote of 20 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Landeche, Levine, Pasbjerg, Schwartz, Shields, Strouse, Teitler, Utevsky, Williams, Wilson, Zucker. **ABSTENTION:** Isebrand.

● LANDMARKS ~ JOYCE MATZ

Mr. Eric Gering introduced the following resolutions on behalf of Ms. Matz:

Modification of Use & Bulk – 130 West 30th Street (corrected version read into record)

WHEREAS, This is an Assyrian Revival style office building, recently designated a New York City landmark and built in 1927-28, designed by noted Architect Cass Gilbert; and

WHEREAS, The application is a request to the Landmarks Commission that they issue a report to the City Planning Commission; and

WHEREAS, This application is being made in conjunction with a 74-711 request to modify use; and

WHEREAS, The applicant agrees to provide a significant façade renovation, an ongoing maintenance program with a preservation purpose and also agrees to an inspection of the building every five years in return for the Landmarks Commission's approval for a modification of use from a commercial building to a residential building; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the application for modification of use for the 130 West 30th Street building.

Certificate of Appropriateness – 889 Broadway (The Gorham Building)

WHEREAS, This is a Queen Anne style store and apartment building, built in 1883-84, and designed by Edward Hale Kendall; and

WHEREAS, The application is to install new aluminum with bronze finish windows that will replace the existing wood windows in the same configuration and in an appropriate color; and

WHEREAS, Four casement windows within one opening will be replaced by two double hung windows; and

WHEREAS, This application is only for the apartment windows and not for the storefront windows; therefore, be it

RESOLVED, That Community Board Five **recommends approval** for the Certificate of Appropriateness application for 889 Broadway (The Gorham Building).

Certificate of Appropriateness - 1260 Avenue of the Americas (Radio City Music Hall)

WHEREAS, This is an art deco style theatre, built in 1931-32 and is an interior landmark; and

WHEREAS, The proposal is to install railings at the mezzanine level; and

WHEREAS, This is being done to comply with Federal OSHA regulations to protect the public; and

WHEREAS, The design of the railings is based on the existing interior railings; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the Certificate of Appropriateness application for 1260 Avenue of the Americas (Radio City Music Hall).

After some discussion the bundled resolutions (3) passed with a vote of 21 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Landeche, Levine, Pasbjerg, Royce, Schwartz, Shields, Strouse, Teitler, Utevsky, Williams, Wilson, Zucker. **ABSTENTION:** Isebrand.

Mr. Eric Gering then introduced the following resolution:

Certificate of Appropriateness – 700 Fifth Avenue (the Gotham Building, now the Peninsula Hotel)

WHEREAS, The building is a magnificent Italian Renaissance hotel, built in 1902-05 and designed by Hiss and Weekes; and

WHEREAS, The application is to legalize the installation of a canopy over a secondary entrance, which is handicapped accessible and which was designed to mimic the canopy over the main entrance; and

WHEREAS, Community Board Five recognizes the need for protection the canopy provides to the accessible entrance; and

WHEREAS, The illegal canopy is not the same color as the main canopy, nor does it have the same configuration; and

WHEREAS, It was felt that the canopy had excessive lettering; therefore, be it

RESOLVED, That, *despite the illegal installation of the canopy*, Community Board Five **recommends approval** of the Certificate of Appropriateness application for 700 Fifth Avenue (Gotham Building, now the Peninsula Hotel), ~~but would like to see~~ **on the condition** that the proposal *is altered for the canopy* to have less lettering and to more accurately match the main entrance canopy *in color and style*.

After much discussion regarding the applicant not following correct procedures and installed canopy without Community Board and Landmarks review, and a friendly amendment (see strikethrough and italics), the resolution passed with a vote of 17 in favor, 1 opposed, 1 abstention, 1 present not entitled to vote, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Levine, Pasbjerg, Royce, Schwartz, Shields, Teitler, Williams, Zucker. **OPPOSED:** Utevsky. **ABSTENTION:** Isebrand. **PRESENT NOT ENTITLED TO VOTE:** Wilson.

Mr. Eric Gering then introduced the following resolution:

Certificate of Appropriateness – 595 Madison Avenue (The Fuller Building)

WHEREAS, This application is to alter the lobby and building entrance; and

WHEREAS, This is an exterior and lobby landmark in an art deco style office building designed in 1928-29 by Walker & Gillette; and

WHEREAS, This building is a significant landmark; and

WHEREAS, There is a storefront master plan proposal to restore the original transom windows over time; and

WHEREAS, The proposal includes the installation of “electronic glass”, or a “scrim of glass” suspended from the lobby ceiling which would provide variable lighting for day and night; and

WHEREAS, The same “electronic glass” is proposed to be installed at the main building entrance on East 57th Street; and

WHEREAS, The application proposes to restore the entire lobby floor and to recreate as much as possible the original lobby ceiling prior to installing the “electronic glass scrim”; and

WHEREAS, These proposals are designed to recapture “the building’s prominence from the 1930’s”; therefore, be it

RESOLVED, That Community Board Five **recommends approval** of the Certificate of Appropriateness application for 595 Madison Avenue (The Fuller Building).

After some discussion, the resolution passed with a vote of 21 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Landeche, Levine, Pasbjerg, Royce, Schwartz, Shields, Strouse, Teitler, Utevsky, Williams, Wilson, Zucker. **ABSTENTION:** Isebrand.

● **HOUSING & HUMAN SERVICES ~ PAUL CONNOLLY & SHARON FRIEDMAN**

Ms. Sharon Friedman introduced the following resolution:

ConEdison Substation – 105 West 24th Street (6th Avenue)

WHEREAS, Consolidated Edison has proposed to construct an electric utility substation at 105 West 24th Street (at Sixth Avenue); and

WHEREAS, ConEdison requires a special permit and a variance to build this substation; and

WHEREAS, The site for the proposed substation is located in Community Board Four, directly adjacent to Community Board Five; and

WHEREAS, After reviewing ConEdison’s proposal and hearing much public commentary, Community Board Four has found:

“The proposed site minimally acceptable and *therefore does not approve this application unless* the following conditions...are satisfied:

1. Evidence must be presented that serious attempts have been made to find and acquire a satisfactory site in a manufacturing district where such uses are as of right and none has been found, including sites now owned by Con Edison;
2. ***Proof that after serious study, there is no feasible way to use the site on Route 9A between 28th and 29th streets for this substation;***
3. The facades have been redesigned to be less inharmonious with the content.
4. Independently verified evidence must be made available that the readings under normal load around the constructed substation shall be no greater than [ConEdison has presented them to be]...that the exterior readings near the southwest corner shall be significantly reduced from those [presented]...and that the readings throughout all living and working spaces of the adjacent buildings shall be no more than four milligauss. Appropriate precautions must be taken for employees spending major periods of time in the substation. The feeder cables to the substation must not pass under the north sidewalk of 24th Street. All design precautions must be taken to protect transformers from events causing fire or dispersal of contained oil.”; and

WHEREAS, Although the zoning issues do not fall under the purview of Community Board Five, the substation presents health and other concerns for the constituents of our district; therefore be it

RESOLVED, Community Board Five **supports and concurs** with Community Board Four’s findings and further:

1. Requests Con Edison make available an adequate cost benefit analysis proving other sites are not feasible for the construction of this substation, including how post September 11th changes in the real estate market has affected Con Edison's ability to locate the substation elsewhere.
2. Urges the City or other independent agency conduct a study on the possible effects of substations on persons living or working near them in New York City, so that these recurring issues can be better evaluated and a firm basis established for decisions in cases such as this. The study should seek to determine:
 - a) How electromagnetic fields (EMF) affect those in surrounding areas.
 - b) The effectiveness of shielding on EMF.
 - c) Actual levels of EMF around shielded and unshielded substations.
 - d) If shielding leaks.
 - e) The possible dangers of dielectric oil.
 - f) If substations emit toxic chemicals.
 - g) How real estate values are affected by the construction of substations.
 - h) The length and level at which peak output are sustained.
 - i) When EMF readings are conducted.

After some discussion, the resolution passed with a vote of 19 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Cook, Connolly, Esper, Friedman, Gering, Landeche, Levine, Pasbjerg, Royce, Schwartz, Shields, Teitler, Utevsky, Williams, Wilson, Zucker. **ABSTENTION:** Isebrand.

● **ARTS, CULTURE & TOURISM/TIMES SQUARE ~ *DAVID DIAMOND***

Ms. Suzanne Esper presented the following resolution on behalf of Mr. Diamond:

Security in Times Square

WHEREAS, Times Square is both a nationally and internationally recognized distinctive business, entertainment, theater, and shopping district, drawing hundreds of thousands of workers and visitors each day; and

WHEREAS, The pedestrian and vehicular traffic congestion during the holiday season is noticeably and measurably greater to the point of creating serious safety issues, with illegal peddlers, street furniture and vending particularly contributing to the problem; and

WHEREAS, World-renowned United States landmarks, including Times Square, are potential terrorist targets given the recent series of threats announced by various government agencies, national and local; and

WHEREAS, The Times Square Business Improvement District (BID) has recently formed a high level task force whose objectives are to produce immediate improvements in security, and has recommended long term enhancements to the public safety in Times Square; and

WHEREAS, Members of Community Board Five are participants in the Times Square BID task force, which has convened meetings with experts in the field of security, including current and former senior law enforcement officials who acknowledge an increase in potential terrorist opportunity due to the current street conditions of Times Square; and

WHEREAS, The Arts, Culture, Tourism and Times Square Committee of Community Board Five, security experts, and the task force are in agreement on the need for police action for the upcoming holiday season; therefore, be it

RESOLVED, That Community Board Five recommends that the New York City Police Department declare exigent circumstances in the Times Square area for the upcoming holiday season (now through January 10, 2002), to allow the police to immediately remove illegal peddlers and non-essential street furniture.

After some discussion, the resolution passed with a vote of 19 in favor, 2 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Landeche, Pasbjerg, Royce, Schwartz, Shields, Strouse, Teitler, Williams, Wilson, Zucker. **OPPOSED:** Levine, Utevsky. **ABSTENTION:** Isebrand.

● **TRANSPORTATION/ENVIRONMENT ~ *MICHAEL LEVINE***

Mr. Michael Levine introduced the following resolution:

New York City Transit proposal for "Turn Only Lanes" – 5th Avenue at 34th Street

WHEREAS, Traffic flow on 5th Avenue near 34th Street has become heavily congested; and

WHEREAS, Metropolitan Transportation Authority and other buses regularly block traffic as they attempt to turn right from 5th Avenue on to 34th Street; and

WHEREAS, The MTA has asked the Department of Transportation to create “turn only” lanes on the far right and far left sides of 5th Avenue just north of 34th Street; and

WHEREAS, Community Board Five had, at its October meeting, received inaccurate information regarding this issue leading to a resolution not supporting MTA’s request; therefore, be it

RESOLVED, That Community Board Five **does hereby rescind its October resolution not to support the request** made by the MTA request to have “turn only” lanes created on 5th Avenue north of 34th Street; and be it further

RESOLVED, That Community Board Five does ~~in fact~~ support the efforts of the MTA to create “turn only” lanes at that location, provided that the Department of Transportation make strong efforts to enforce no standing regulations already in effect for that area.

After some discussion and a friendly amendment (see strikethrough), the resolution passed with a vote of 21 in favor, 0 opposed, 1 abstention, as follows: **IN FAVOR:** Adesman, Baublitz, Bernstein, Breidbart, Cook, Connolly, Esper, Friedman, Gering, Landeche, Levine, Pasbjerg, Royce, Schwartz, Shields, Strouse, Teitler, Utevsky, Williams, Wilson, Zucker. **ABSTENTION:** Isebrand.

MANHATTAN COMMUNITY BOARD FIVE

450 Seventh Avenue, Suite 2109

New York, NY 10123-2199

(212) 465-0907

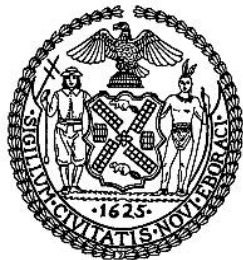
fax: (212) 465-1628

**There being no further business
at 9:35 PM.**

the meeting adjourned

Respectfully submitted,

David Diamond
Secretary



Kyle Merker, *Chair*

Kathy Kinsella, *District Manager*

May 11, 2001

Hon. Iris Weinshall
Commissioner
Department of Transportation
40 Worth Street
New York, NY 10013

RE: Moratorium on sidewalk furniture in Times Square

Dear Commissioner Weinshall:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, May 10, 2001, the Board passed the following resolution by a vote of 23 in favor, 1 opposed, 2 abstaining:

WHEREAS, Over the past decade the redevelopment of the Times Square area has reduced crime and unattractive street activities, revived local business including the theatre and entertainment industries, and resulted in a tremendous influx of visitors to the area; and

WHEREAS, The redevelopment of Times Square has been so successful that the area has become dangerously congested with pedestrian and vehicular traffic, especially with pedestrian traffic in the bow-tie area between Broadway and Seventh Avenue, from 42nd Street to 48th Street; and

WHEREAS, Current new construction in the vicinity of the bow-tie area is expected to result in further increases in congestion; and

WHEREAS, The department of Transportation has proposed the widening of certain sidewalks in the bow-tie area to help relieve pedestrian congestion, but the work has not yet commenced; and

WHEREAS, In recent years various private persons and public agencies have made proposals for the addition of street fixtures and furniture that would further impede pedestrian movement on the sidewalks; and

WHEREAS, Community Board Five believes that no additional impediments to pedestrian circulation should be placed in the bow-tie area unless and until the current level of pedestrian congestion has been reduced to acceptable levels, whether by sidewalk widening or other measures; and

WHEREAS, Representatives of the Times Square Business Improvement District have indicated their agreement with these views; therefore, be it

RESOLVED, That Community Board Five hereby declares a “moratorium” on its approval of the erection of any new permanent impediments to pedestrian circulation in the bow-tie area between Broadway and Seventh Avenue, from 42nd Street to 48th Street, except for items (such as stanchions for crowd control and certain information signage designed to reduce congestion); and be it further

RESOLVED, That such impediments shall include, but not be limited to, newsstands, kiosks, telephone booths, statuary, lighting poles, sidewalk cafes, and signposts; and be it further

RESOLVED, That Community Board Five urges all City agencies to adopt such a moratorium, including, but not limited to, the Department of Transportation, City Planning, Consumer Affairs, and Information Technology and Telecommunications; and be it further

RESOLVED, That Community Board Five shall periodically review the levels of congestion in the bow-tie area to determine whether its moratorium shall remain in effect.

Thank you for the opportunity to comment on this matter.

Sincerely,

Kyle Merker
Chair

David Diamond
Chair, Arts, Culture & Tourism/Times Square Committee

MANHATTAN COMMUNITY BOARD FIVE

**450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
(212) 465-0907
fax: (212) 465-1628**

Cc: Hon. C. Virginia Fields
Hon. Jerrold L. Nadler
Hon. Carolyn B. Maloney
Hon. Thomas K. Duane
Hon. Richard N. Gottfried
Hon. Christine Quinn
Brendan Sexton, President, Times Square BID



Lola Finkelstein, *Chair*

Kathy Kinsella, *District*

Manager

January 14, 2000

Hon. Jules Polonetsky
Commissioner
Department of Consumer Affairs
42 Broadway
New York, NY 10004

RE: Newsstand Application # 1024544, SW Corner of 45th Street between Madison Avenue and Vanderbilt Avenue

Dear Commissioner Polonetsky:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, January 13, 2000, the Board passed the following resolution by a vote of 26 in favor; 0 opposed; 1 abstention:

RESOLVED, That Community Board Five **does not approve** the application for a newsstand at the southwest corner of 45th Street between Madison Avenue and Vanderbilt Avenue.

Thank you for the opportunity to comment on this matter.

Sincerely,

Lola Finkelstein
Chair

Mickey Schwartz
Chair, Consents and Variances Committee

Cc: Hon. C. Virginia Fields
Hon. Christine Quinn
Hon. Wilbur Chapman, DOT
Beverly Gotay, DCA Licensing Center
Abdul Khondoker