



**THE BOROUGH OF MANHATTAN
GALE BREWER, BOROUGH PRESIDENT
MANHATTAN COMMUNITY BOARD FIVE**

VIKKI BARBERO, CHAIR WALLY RUBIN, DISTRICT MANAGER

Minutes of the regular Community Board Five meeting held on **Thursday, April 9, 2020 via teleconferencing, at 6:00pm. Vikki Barbero, Chair, presided.**

Members Present

David Achelis
Nicholas Athanail
Vikki Barbero
James Beitchman
Julie Chou
Christopher Clark
James Dale
Sarah Dowson
Aaron Ford
Laura Garcia
Nancy Goshow
Michael Greeley
Tristan Haas
John B. Harris, Jr.
Matthew Hartman
William Heyer
Robert Isaacs
Samuel Johnson
Michael Kaback
E.J. Kalafarski
Renee Kinsella
Layla Law-Gisiko
Sam Levy
Lucas Lopes

Blaga Lucic
Joseph Maffia
Kimberly McCall
Evan Meyerson
Charles Miller
Jonathan Rabar
Jonathan Rabar
Tod Shapiro
Craig Slutzkin
Clayton Smith
Barbara Spandorf
Daniel Spence
Simon Tschinkel
Jessica Verdi
July Yang

Present Part

Absent

Jordan Goldman
Jennifer Kasner
Janet Pawson
Rachel Weintraub
Pete Webb

Excused

Ryan Whalen

Public Members

Renee Cafaro

Elected Officials

Keith Powers
Councilmember

Carlina Rivera
Councilmember

Laurie Harjowaroga
Speaker Johnson

Liz Krueger
Senator

Gale Brewer
Borough President

Luke Wolf
Comptroller Stringer

Carolyn Maloney
Congresswoman

Brad Hoylman
Senator

Anabel de Castro
Senator

Staff
Wally Rubin
District Manager

Luke Szabados
Community Associate

Public Attendees

Valerie Campbell
Sanny Makki
Ryan Smith
Andrew Rosenthal
David Warren
Chelsea Yamada
Renee Cafaro
Matthew Hartman

At 6:00 p.m., the Manhattan Community Board Five April 9th, 2020 full Board meeting was called to order by Chair, Vikki Barbero.

PUBLIC SESSION

Councilmember Keith Powers: Thanked CB5 for hosting the meeting virtually. Discussed several recent events including 700 meals being packed by City Harvest and other volunteers in Stuyvesant Town which were delivered to people in need. If anyone is aware of families who might need additional meals, please reach out to his office. He announced that there would be a

forum on April 14 at 6pm with the City's Small Business Administration and the Federal Small Business Administration COVID-related issue including available resources. He reminded everyone that his Council office is fully operational.

Assemblymember Richard Gottfried: Thanked CB5 for hosting the meeting virtually.

Discussed the New York State budget which was recently enacted, including cuts to the State Medicaid program such as long term care, nursing home care, and home health care.

Congresswoman Carolyn Maloney: Thanked CB5 for hosting the meeting virtually and wished everybody a Happy Passover and Happy Easter. Discussed efforts of the U.S. Congress including the \$2.2 trillion stimulus package/disaster relief. Within the package is a very important provision which provides for major reforms to our unemployment and expansion of the unemployment insurance program, including and for the first time those who have non-traditional employment and an increase to the maximum of unemployment benefits by \$600 per week, and ensuring that laid off workers on average will receive their full pay for four months. The bill injected billions into our hospitals and healthcare as well as more money for our Strategic National Stockpile. Discussed the PPP loan program, specifically provisions for businesses with less than 500 employees and discussed Economic Injury Disaster Loans. The Congresswoman called for a nationwide moratorium on foreclosure evictions on federally backed mortgages, and also called on NYCHA to more effectively implement COVID-19 outreach cleaning protocols. Reminded everyone to fill out the Census.

State Senator Liz Krueger: Expressed that her heart goes out to any of you who have already lost family and friends. She reminded everyone that her office is responding to any issues that comes to her offices by phone, by email and by mail. Discussed the New York State Budget. Thanked Congresswoman Maloney for her actions at the federal level. Expressed a need for a bailout / funding from the federal level because of impending state budget deficits and also a need for federal assistance for the MTA.

Borough President, Gale Brewer: Noted that the Economic Development Corporation worked with the Garment District to issue contracts to do the surgical gowns and face shields. Discussed 347 Madison Avenue, the MTA building, of which Boston Properties purchased it through a 99-Year lease. The property will go through ULURP. Encouraged everyone to complete the Census. Discussed NOTIFY NYC which has been used for Census encouragement. Reported that a professor at Columbia University has been willing to help small businesses fill out paperwork for government assistance. Thanked Congresswoman Maloney for her small business advocacy. Noted that the BIDs have been helpful to small businesses as well. Noted that Manhattan Community Boards have taken the lead in virtual communications. Discussed "Essential Businesses" such as laundromats, Fresh Direct, and supermarkets. Noted that the plastic bag legislation is on pause. Discussed the city budget and that she would be working with the local councilpersons.

Councilwoman Carlina Rivera: Discussed food access efforts and the work of volunteers. Also discussed small business work outreach that her office has done in conjunction with the Small Business Administration. Discussed unemployment insurance benefits including that fact that many of our undocumented New Yorkers are not covered. Discussed hospitals which are at 95% capacity. Noted that some of our hospitals actually acting as giant ICU-use including Elmhurst Hospital, Queens Hospital, Lincoln Hospital, Woodhall and private hospitals like Jamaica.

Anabel de Castro, State Senator Brad Hoylman's Office: Discussed that her office has been assisting many constituents get through to the Department of Labor to apply for unemployment. The Department of Labor has switched over to a new system to process unemployment insurance

applications which provides for a response from the staff within 72 hours. Reported that the senator has introduced new legislation called the New York State Tenants Safe Harbor Act which will prevent landlords from seeking an eviction for unpaid rent that accrues between the beginning of the COVID-19 commencement period through a six month period following the end of the emergency whenever that is. Also reported that the senator introduced legislation to preemptively authorize pharmacists and certified nurse practitioners to administer COVID-19 vaccines as soon as one is approved for use by the FDA. Also reported that the senator introduced legislation to create a \$1,000 tax credit for New Yorkers who have recovered from COVID-19 and donated their blood plasma either for medical research or for the treatment of patients currently suffering from.

Laurie Hardjowirogo, Speaker Corey Johnson's Office: Reminded everyone that their offices were open and everyone has been working remotely. Their office has seen a number of unemployment and small business issues and is putting together a housing clinic. They are also focusing on seniors and others who are vulnerable during this pandemic.

Lucas Wolf, Comptroller Scott Stringer's Office: Thanked CB5 for hosting the meeting virtually. Discussed the State Budget and how it will likely affect New York City over the next year including cuts to education and hospitals, though as of now, the level of funding is consistent with the previous year. With a record number of unemployment claims, there will be significant pressure on the budget ahead.

State Senator Brad Hoylman: Noted that his office is open to assist constituents virtually. Noted that the largest number of inquiries now is relating to filing for unemployment insurance. Reported that the new and improved website is up. Noted that, along with Senator Kruger, he introduced the Tenant Safe Harbor Protection Act to allow New York State tenants six months after the COVID-19 declaration of emergency ends before landlords could commence eviction proceedings for non-payment of rent. Discussed the New York State Budget which had a number of disappointing cuts. Along with Senator Krueger, he pushed back on several cuts such as on education. The State provided \$3 billion to the MTA to keep the subways running.

Renee Cafaro: Discussed various COVID-19 related assistance-activities in the district, including hiring people to make masks and hospital gowns and a GoFundMe page for COVID-19 assistance.

Ryan Smith: Spoke in favor of the resolution on the 6th Avenue Protected Bike Lane.

David Warren: Spoke in favor of the resolution on the 6th Avenue Protected Bike Lane.

Matthew Hartman: Discussed various COVID-19 related assistance-activities in the district and provided links which he felt would be of interest to others.

Chelsea Yamada: Spoke in favor of the resolution on the 6th Avenue Protected Bike Lane and called for additional pedestrian advocacy.

Sanny Makki: Resident of the Gilsey House; Spoke in opposition of the 1162 Broadway resolution.

Valerie Campbell: Counsel to the Gilsey House; spoke in opposition of the 1162 Broadway resolution.

Andrew Rosenthal: Spoke in favor of the resolution on the 6th Avenue Protected Bike Lane.

BUSINESS SESSION

- **CHAIR’S REPORT – VIKKI BARBERO**

Chair Barbero announced the ratification of the following action and the minutes of February 2020 meeting passed by the Executive Committee in March. A role call was made for ratification of the action items in March and the minutes of the February full board meeting, with a vote of 37 in favor, 0 opposed, 1 abstaining, as follows: **IN FAVOR:** Achelis, Athanail, Beitchman, Chou, Clark, dale, Dowson, Ford, Garcia, Goshow, Greeley, Haas, Harris Jr., Hartman, Heyer, Isaacs, Johnson, Kaback, Kalafarski, Kinsella, Law-Gisiko, Levy, Lopes, Lucic, Maffia, McCall, Meyerson, Miller, Rabar, Shapiro, Slutzkin, Smith, Spandorf, Spence, Tschinkel, Verdi, Yang. **ABSTAIN:** Barbero.

MARCH 2020 RESOLUTIONS

PUBLIC SAFETY & QUALITY OF LIFE COMMITTEE

GLASS CEILING EVENTS, LLC D.B.A “THE GLASS CEILING”, 1204 BROADWAY (BETWEEN 29TH AND 30TH STREETS) NEW YORK, NY, APPLICATION FOR A NEW LIQUOR LICENSE

WHEREAS, GLASS CEILING EVENTS LLC ("Applicant"), has notified Community Board Five of its intention to apply for a new liquor license for a rooftop bar/lounge/event space to be located at 1204 Broadway (between 29th and 30th Streets) New York, New York (the "Premises"); and

WHEREAS, The entirety of the space is outdoors, on a rooftop (the “Rooftop”) above the fourth floor of the building; and

WHEREAS, In December 2019, CB5 issued a resolution denying the application, attached hereto as Exhibit A (the “Denial Resolution”); and

WHEREAS, Applicant has now requested that CB5 reconsider its decision and submitted a brief (the “Applicant Brief”) which lists four points the Applicant wishes CB5 to address; and

WHEREAS, The first claim Applicant makes in the Applicant Brief is that various windows in the adjacent residential building are non-compliant, and/or are lot-line windows, and/or should be bricked up, and/or that a sound/privacy wall could be constructed to block certain windows; and

WHEREAS, The windows in question are indicated in these images provided by the Applicant; and

WHEREAS, The potential sound/privacy wall proposed by the Applicant is depicted in these images provided by the Applicant; and

WHEREAS, These questions about whether various windows are non-compliant, lot line, etc., or whether some windows have to be bricked up, or whether a sound/privacy wall can be constructed, are all questions of local zoning law and building code, which questions are not before CB5 and about which questions CB5 does not need to make a determination in order to opine on the liquor license application; and

WHEREAS, CB5’s denial is based on the fact that residential windows, including the windows in question, do currently exist and are currently being used as residential windows; and

WHEREAS, CB5 finds that, even if some windows are non-compliant, and/or must be bricked up, and/or if a sound/privacy wall can be constructed to block certain windows, other residential windows will nonetheless remain in close proximity to the Rooftop operation; and

WHEREAS, The second claim Applicant makes in the Applicant Brief is that some residents who have opposed the Rooftop operation do not have direct exposure to the proposed rooftop use; and

WHEREAS, CB5 finds that the fact that objection has been made by residents not directly facing the Rooftop does not mitigate CB5's concern that many other residents, who do directly face the Rooftop, will be affected; and

WHEREAS, The third claim Applicant makes in the Applicant Brief is that CB5 was misled by the Acoustilog sound engineering report submitted by the neighboring residents (the "Acoustilog Report"); and

WHEREAS, The Acoustilog Report mainly addresses noise from HVAC equipment located on the Rooftop and,

WHEREAS, CB5 finds that, although the Acoustilog Report is mentioned in the Denial Resolution, the Acoustilog Report was not given much weight in CB5's recommendation for denial; and

WHEREAS, Although both sides are spending a lot of time and resources addressing the HVAC noise, CB5 recommends that, because the HVAC units will remain on the Rooftop whether the liquor license is granted or not, the HVAC noise issue should be addressed separately and not complicate the liquor license application; and

WHEREAS, The fourth claim Applicant makes in the Applicant Brief is also about HVAC noise: that the neighboring residents should be estopped from currently complaining about HVAC noise because of statements made in various marketing materials by real estate agents describing the residential apartments as "pin-drop quiet" and the like; and

WHEREAS, Again, because the HVAC units will remain on the Rooftop whether the liquor license is granted or not, CB5 recommends that HVAC noise should be addressed separately and not complicate the liquor license application; and

WHEREAS, Even if HVAC noise was a necessary consideration in the liquor license application, CB5 finds that statements made in marketing materials by real estate agents should not be given the effect of estoppel against the residents; and

WHEREAS, CB5 repeats that, because of the location of the Rooftop mere feet away from residential windows, there is no way the Rooftop can be operated as a bar/lounge/event space without significantly and unreasonably imposing on the residents adjacent to the space; and

WHEREAS, Although CB5 strives to balance the interests of residents and businesses in the district, in this case, the huge potential for negative impact on the adjacent residents cannot be balanced against a rooftop bar in such close proximity to the residences; and

WHEREAS, Although CB5 opposes the location of a rooftop bar at the Premises, CB5 would be willing to work with the Applicant on options other than licensing the Rooftop, for example licensing portions of the interior four (4) floors of the building; and

WHEREAS, Because of the location of the Rooftop Premises immediately adjacent to residential windows, CB5 reaffirms that granting a liquor license for the Premises is NOT in the public interest; therefore, be it

RESOLVED, That Community Board Five **reaffirms its denial** of the application by GLASS CEILING EVENTS, LLC for a new liquor license for the rooftop bar/lounge/event space to be located at 1204 Broadway (between 29th and 30th Streets) New York, New York.

EXHIBIT A

[December 2019 Resolution]

1

Manhattan Community Board Five

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

December 13, 2019

Michael E. Jones
Deputy Chief Executive Officer
New York State Liquor Authority
Alcoholic Beverage Control Division
163 West 125th Street
New York, N.Y. 10027

RE: Glass Ceiling Events, LLC, d.b.a “The Glass Ceiling”, 1204 Broadway (Between 29th and 30th Streets), New York, NY, application for a new liquor license

Dear Deputy Chief Executive Officer Jones:

At the regularly scheduled monthly Community Board Five meeting on Thursday, December 12, 2019, the following resolution passed with a vote of 37 in favor; 0 opposed; 1 abstaining:

WHEREAS, GLASS CEILING EVENTS LLC (“Applicant”), has notified Community Board Five of its intention to apply for a new liquor license for a rooftop bar/lounge/event space to be located at 1204 Broadway (between 29th and 30th Streets) New York, New York (the “Premises”); and

WHEREAS, The Premises consists of approximately 3,761 square feet of space on the rooftop of a four (4) story building, immediately adjacent to a residential building; and

WHEREAS, The entirety of the space is outdoors, on a rooftop (the “Rooftop”) above the fourth floor of the building; and

WHEREAS, The Premises would consist of completely unenclosed outdoor space as well as outdoor space enclosed by a glass structure having sliding doors on the outside and a retractable roof; and

WHEREAS, Approximately 85% of the Rooftop would be enclosed by the glass structure and approximately 15% of the rooftop would be completely unenclosed; and

WHEREAS, The total capacity of the Premises is 74 persons, with table seating capacity of 64 and bar seating capacity of 10; and

WHEREAS, The Premises would include one (1) patron bar and no service bars; and

WHEREAS, The Premises would be open seven days a week, 11am-1am Sunday through Wednesday, and 11am-2am Thursday through Saturday; and

WHEREAS, The Premises, which has never been licensed to serve liquor, is new construction and is subject to the 500 Foot Rule of the ABC Law; and

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WHEREAS, Immediately adjacent to, abutting, and overlooking the Rooftop is a residential building located at 1200 Broadway, with residences and their windows located mere feet from the Rooftop (see photo); and

WHEREAS, Plans for operation of the Premises include occupancy by as many as 74 patrons, amplified speakers for music, and at times a DJ; and

WHEREAS, Although Applicant would be willing to (i) close the sliding doors and roof of the glass structure and close the un-enclosable areas of the Rooftop at 10pm Sunday through Wednesday and 11pm Thursday through Saturday, and (ii) not have speakers on the exterior unenclosed space (outside of the glass structure), nonetheless, those concessions are not sufficient and cannot make this proposed use of the Rooftop acceptable because the space is just too close to the residential windows; and

WHEREAS, The adjacent residential building engaged a sound engineer who issued a report stating that noise from the adjacent proposed bar/lounge venue on the top floor of 1204 Broadway would cause sound disturbance to the residential building and that the HVAC equipment on the roof is already in violation of the NYC Noise Code; and

WHEREAS, Although Applicant provided their own sound engineering report with recommendations about how music within the glass enclosure can be mitigated to levels at or below the NYC Noise Code, music is not the only concern regarding this operation and the report does not address patron noise, or sound from the unenclosed portions of the Rooftop, or sound at times when the glass enclosure is open; and

WHEREAS, Even if the glass enclosure could mitigate sound, such mitigation would only be effective when the structure was completely closed and the un-enclosable portions of the Rooftop were vacated, leaving the adjacent residences uninhabitable the rest of the time; and

WHEREAS, Even if the glass enclosure could mitigate sound and even if the un-enclosable portions of the Rooftop were vacated, any proposed bar/lounge/event operation on a rooftop so immediately adjacent to residential windows is insupportable because of the very close proximity; and

WHEREAS, Even if we accept the Applicant's proposed concessions and give the applicant the benefit of every doubt about the glass enclosure, because of the location of the Rooftop mere feet away from residential windows, there is no way the Rooftop can be operated as a bar/lounge/event space without significantly and unreasonably imposing on the residents adjacent to the space; and

WHEREAS, Residents of the neighboring building and representatives of the 29th Street Association, the local community organization, have voiced strenuous objection to the licensing of the Rooftop; and

WHEREAS, Although CB5 strives to balance the interests of residents and businesses in the district, in this case, the huge potential for negative impact on the adjacent residents cannot be balanced against a rooftop bar in such close proximity to the residences; and

WHEREAS, Although CB5 opposes the location of a rooftop bar at the Premises, CB5 would be willing to work with the Applicant on options other than licensing the Rooftop, for example licensing portions of the interior four (4) floors of the building; and

WHEREAS, Because of the location of the Rooftop Premises immediately adjacent to residential windows, CB5 finds that granting a liquor license for the Premises is NOT in the public interest; therefore, be it

RESOLVED, That Community Board Five **recommends denial** of the application by GLASS CEILING EVENTS, LLC for a new liquor license for the rooftop bar/lounge/event space to be located at 1204 Broadway (between 29th and 30th Streets) New York, New York.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Nicholas Athanail
Chair, Public Safety & Quality of Life Committee

LAND USE, HOUSING AND ZONING COMMITTEE

Inclusionary Housing application for 241 West 28th Street, which will be a 22-story, 480 unit rental building on a through-block parcel. The project will have ground floor retail on both 28th and 29th St.

WHEREAS, The applicant (known as 241 West 28th Owner LLC, c/o L&L MAG) proposes to build two 22-story buildings, that will include units of the affordable housing under the AFFORDABLE HOUSING PLAN APPLICATION PURSUANT TO THE VOLUNTARY INCLUSIONARY HOUSING PROGRAM

WHEREAS, The applicants proposes to build two 22 story rental buildings separated by an interior usable court yard, with frontages on W 28th and W 29th Streets; and

WHEREAS, The proposed building is receiving a 3 FAR bonus, in exchange for the construction of the 96 inclusionary housing units, and will be a total of 12 residential FAR; and

WHEREAS, The buildings will comprise a total of 480 units, of which 96 will be Inclusionary Housing (IH), 383 units market rate, and 1 unit for superintendent; and

WHEREAS, 50% of the IH units will be offered for rent to tenants earning 70% of AMI, and 50% to tenants earning 80% of AMI; and

WHEREAS, The applicant has represented that affordable units will be spread out throughout the building in a way that mirrors the market rate apartments, with units on higher floors, and with apartments ranging in size from studios to three-bedrooms; and

WHEREAS, The level of finishes, fixtures and interior amenities in the affordable units will be exactly identical to the market-rate units; and

WHEREAS, The various amenities offered by the building such as fitness room, play room, etc will be accessible to the affordable units for free while market rate tenants will be charged a fee; and

WHEREAS, the pool located on the roof of the building will be accessible for a reduced fee to affordable tenants, while market rate tenants will be charged a higher fee; and

WHEREAS, the building will offer a bike storage facility with over 200 bikes capacity; and

WHEREAS, the building will be ADA compliant and fully accessible including all the amenity rooms, the pet spa, the health club and the roof top pool; and

WHEREAS, a member of the public expressed the necessity to provide full ADA compliance and accessibility, which this building does; and

WHEREAS, a member of the public expressed opposition to the building because of its height as well as for the lack of real affordability given that the AMI is very high in this district; and

WHEREAS, the applicant has hired an affordability consultant and the project abides by the requirements of HPD; and

WHEREAS, the retail spaces located at the ground floor will be neighborhood oriented and will favor small businesses; and

WHEREAS, the building aims to be LEED Gold certified; and

WHEREAS, Community Board Five prefers when low-income units created through the IHP are mixed in a building with market-rate units, as is the case here, to further objectives of economic integration; therefore be it

RESOLVED, Community Board Five **recommends approval** of the IHP application at 241 West 28th Street for a 22-story building, that will include 96 units of the affordable housing pursuant to The voluntary inclusionary housing program of HPD, provided that the affordable units distribution throughout the building is a true reflection of the market rate units, with apartments ranging in size in equal proportions and distributed throughout the building in equal proportions, (including on the upper floors of both buildings) and with identical finishes, fixtures and interior amenities, as market rate units, which the applicant has made a commitment to.

Application to amend a 1977 BSA variance permitting residential use of The Gilsey House (1200 Broadway)

WHEREAS, The applicant, The Gilsey House, wants to amend a BSA variance issued in 1977 which allowed the conversion of an eight-story-and-penthouse building (the "Existing Building") located in an MI-6 district from commercial to residential use, as well as the construction of mezzanines and a two-story penthouse enlargement for residential use; and

WHEREAS, The Premises affected is 1200 Broadway, between 29th and 30th streets, Block 831, Lot 20 at the North-East corner of Broadway and W 29th Street; and

WHEREAS, The Gilsey House was first constructed in 1869, and was designated an individual landmark in 1979; and

WHEREAS, 1200 Broadway sits on a lot of 13,975 square feet, has a 10 FAR, has 108,594 sf existing and a base ZSF of 31,156 sf; and

WHEREAS, A variance granting residential use is a benefit making property more valuable than similarly-sized and similarly-zoned properties in a neighborhood; and

WHEREAS, Residential use places additional burdens on the community (schools, parking, health&social services...); and

WHEREAS, In 1977 the applicant sought and received a variance to allow for residential use due to the "practical difficult and undue hardship" of the declining commercial viability of the district; and

WHEREAS, The applicant argues that in 1977, the owner did not “consider the possibility of redeveloping the site or any neighboring property” and “did not foresee that the site’s unused development rights would have any value; and

WHEREAS, Now, in 2020, the applicant seeks BSA approval through an amendment of their variance for the transfer of unused development rights appurtenant to the Premises to planned “new development” in Block 831 comprising Tax Lots 28, 29, 30, 33, 48, 49, 50, 51 and 52 ("the Development Site") as of the date of this application; and

WHEREAS, The BSA says that: "*Community Boards and civic groups can be extremely helpful to the Board when testimony and comments speak directly to the findings, including issues or information on neighborhood character and impact, real estate prices, unique conditions, and other development projects in the area;*" and

WHEREAS, The applicant is looking to sell 30,500 square feet of unused development rights, which would equate to about 2 1/2 floors of the “the Development site” and sell for about \$5,000,000; and

WHEREAS, “The Development site” is a commercial tower, which sits on a lot of 25,194 square feet and encompasses lots 28, 29, 30, 48, 49; and

WHEREAS, “The Development site” has secured the development rights from several additional lots including Lot 33, home to Marble Collegiate Church, lots 50, 51, 52; and

WHEREAS, The attorneys for Gilsey House, who also represent the developer HFZ have indicated that lots 50 and 51 are vacant and the buildings could be demolished although no demolition permit has been filed to this date, and that lot 26 is not part of this development but could become part of the development at a later time; and

WHEREAS, The “Development site” continues to seek acquisition of other unused development rights to the block; and

WHEREAS, There is a current DOB permit for a 33 story tower for the development, and the attorneys for the applicant presented a rendering of a 44 story tower during their presentation, while acknowledging that the tower could be taller; and

WHEREAS, When a property that received a variance due to financial hardship subsequently seeks to profit from the sale of air rights (previously allocated no financial value), the NY Court of Appeals in *Bella Vista v. Bennett*, 89 N.Y. 2d 565 (1997) requires that the BSA have jurisdiction over the lot merger and place their earlier finding in considerable doubt:

"If a landowner retains the bonus option to sell surplus development rights as they existed before the use variance is acquired, the variance might not have been the "minimum variance necessary to afford relief," and the lack of any "reasonable possibility" of a "reasonable return" is retrospectively placed in considerable doubt...Allowing the combination of a use variance with a spinoff as-of-right surplus development rights between adjoining properties, so that a FAR deficient lot could then qualify even for a permitted use, might enable variance holders to manipulate and augment the generous benefit of their variances. The BSA must retain the power of review of these kinds of proposals to preserve coherent land use determinations and adherence to the zoning plan itself;" and

WHEREAS, The question before the BSA is not whether unused development rights can be sold at a given point in time but, rather, whether the totality of a property (including unused development rights) have a "reasonable possibility" of a reasonable return; and

WHEREAS, The applicant represents that at the time of issuance of the variance, the air rights had no value and were not taken into account into the hardship economic analysis; and

WHEREAS, the amendment to the variance must establish the same five findings as the variance itself, including “C finding”, the variance would not alter the character of the neighborhood; and

WHEREAS, the neighborhood is made of loft and office buildings ranging in height from 5 to 12 stories with an average height of 150 feet, contains a high number of historic buildings, including Gilsey House and Marble Collegiate Church, and is directly adjacent to the LPC designated Madison Square North Historic District; and

WHEREAS, the amendment would facilitate the development of a very large out-of-scale mid-block development possibility triple the size of any building on that block that would obstruct the views of the Empire State Building, permanently and profoundly altering the character of the neighborhood; and

WHEREAS, the amendment to the variance must establish the same five findings as the variance itself, including “e finding”, the variance must be the minimum necessary to afford relief, and

WHEREAS, the amendment would permit the sale of excess development rights in addition to the use variance that was deemed to be the minimal variance at the time, therefore issuance of the amendment would undermine the prerequisite findings made by BSA in connection with the grant of a use variance and would constitute double-dipping ; and

WHEREAS, if a parcel owner retains the bonus option to sell its development rights after receiving a use variance, the variance may not have been the minimum variance necessary to afford relief; and

WHEREAS, The applicant described the financial burden to maintain Gilsey House, and the extensive cost to co-op residents to repair the façade and other areas of the building pursuant to Local Law 11, aka “Facade Inspection Safety Program” (FISP); and

WHEREAS, The applicant represented that the proceeds from the sale of air rights would fund the current maintenance costs, with leftover funds, if any, put into a trust for future repair and maintenance work; and

WHEREAS, The applicant represented that Gilsey House has received a loan from the developer of the tower for their façade repairs and maintenance; and

WHEREAS, The financial needs of a property is not a criteria retained to evaluate BSA variance amendments; and

WHEREAS, in 2015, the developer, Gilsey House and Marble Collegiate Church filed an application pursuant to ZR 74-711 to transfer air rights from the landmarked properties onto the receiving site, and such plan would have included a maintenance plan in perpetuity for the two landmarked buildings and would have included repairs and façade restoration, and Community Board Five supported the maintenance plan while opposing the density transfer but this plan that would have supported necessary maintenance to both buildings was abandoned by the developer for unknown reasons; and

WHEREAS, Community Board Five sympathizes with Gilsey House residents’ financial burden and urges the Co-Op to explore grants and easement programs that could provide funds, especially the LPC’s Historic Preservation Grant Program (HPGP) that offers grants primarily for façade restoration; and

WHEREAS, Residents of Gilsey House attended a meeting of the LUHZ committee of Community Board Five and spoke in favor of BSA variance amendment because of their need for additional capital to perform façade repairs; and

WHEREAS, The 29th Street Neighborhood association spoke against the variance amendment citing the negative impact such development rights transfer would have to the character of the neighborhood; and

WHEREAS, Community Board Five has supported applications for variance amendments in the past, when the original variance was a minor use change limited to a retail space, or because of a clerical error caused by the DOB, and has opposed variance amendments when the whole building had received a use variance and then wished to transfer their unused development rights; and

WHEREAS, Community Board Five believes that the variance amendment for Gilsey House would contradict the “c finding” of the variance and would profoundly and permanently alter the character of the neighborhood; and

WHEREAS, Community Board Five believes that the variance amendment would contradict the “e finding” of the variance and may not have been the minimum relief of hardship; therefore be it

RESOLVED, Community Board Five **recommends denial** of the BSA variance amendment to permit the transfer of development rights from The Gilsey House at 1200 Broadway.

JOINT PARKS AND PUBLIC SPACES AND TRANSPORTATION/ENVIRONMENT COMMITTEE

2020 Applications for the following Post-Parade Events in and around Madison Square Park:

- **Persian Parade Foundation Inc: Sunday, April 19**
(East 26th Street between Madison Ave and Park Ave South)
- **Sikh Cultural Society: Saturday, April 25**
(Madison Avenue between East 24th and 26th Streets and East 26th Street between Madison and Park Avenue South)
- **Philippine Independence Day Council Inc.: Sunday, June 7**
(Madison Avenue between East 24th and 26th Streets and East 26th Street between Madison and Park Avenue South)
- **Federation of Indian Association: Sunday, August 16**
(Madison Avenue between East 24th and 26th Streets and East 26th Street between Madison and Park Avenue South)
- **Pakistan Day Festival: Sunday, August 23**
(Madison Avenue between East 24th and 26th Streets and East 26th Street between Madison and Park Avenue South)
- **Muslim Foundation of America, Inc.: Sunday, September 27** (Madison Avenue between East 24th and 26th Streets)

WHEREAS, The entities listed above ("Applicants") have submitted permit applications to the Parks Department and the Street Activity Permit Office (SAPO) to hold post-parade events in Madison Square Park and on certain adjacent streets as noted above, causing those streets' full or partial closures; and

WHEREAS, Over the course of several years, Applicants have worked with Community Board Five, in coordination with SAPO and the Madison Square Park Conservancy (MSPC), to improve their events operationally and alleviate any issues from prior years' events; and

WHEREAS, Each Applicant has signed a Statement of Compliance acknowledging their understanding and acceptance of Community Board Five's Policy on Madison Square Park Large Events and each of its required operational commitments and restrictions; and

WHEREAS, Each Applicant has provided a site map of their event, including emergency lane clearance requirements, as well as plans for sanitation, security, amplified sound, and cell phone contact information for day-of point persons to respond to any immediate concerns, all of which have been shared with SAPO; and

WHEREAS, Each Applicant has agreed to set the volume level of their amplified sound system by 2:00 p.m. on the day of their event, in coordination with SAPO and MSPC, and commits to no further increase of volume levels past that time; and

WHEREAS, Each Applicant has agreed to notify the residential buildings surrounding the park at a minimum of one week prior to their event, and to conduct on-site meetings with MSPC two weeks prior to their event to work out operational details and anticipate any concerns; and

WHEREAS, In the case of the Pakistan Day Festival, Applicant has been put on notice that their failure to adequately manage attendees' parking violations, as well as one vendor who parked in front of a fire hydrant that was not moved when asked, has resulted in heightened scrutiny for this year's event, with the explicit understanding that failure to fully comply this year with Community Board Five's Policy on Madison Square Park Large Events could result in an automatic denial of their event in 2021, as per Community Board Five's and SAPO's policies not to support any event after material non-compliance for two consecutive years; and

WHEREAS, Community Board Five continues to question the appropriateness of these large events and their detrimental impact on the Flatiron neighborhood, including the considerable impact on Madison Square Park in seasonal months of park usage; and we implore NYPD and SAPO to far more proactively consider alternative locations for these events in 2021; and

WHEREAS, Despite Community Board Five's longstanding concerns about the impact of these large events on Madison Square Park and the area around it, Applicants are in full compliance with Community Board Five's Policy on Large Events in Madison Square Park, have exhibited good faith efforts in continuing to improve the execution of their events, including multiple meetings and correspondence with Community Board Five for planning purposes, there is long-standing precedent for them, some of which have been held for decades, and events in 2019 were improved over prior years' events, warranting Community Board Five's approval; therefore, be it

RESOLVED, Community Board Five **recommends approval** of the following 2020 applications for annual Post-Parade Events in and around Madison Square Park: Persian Parade Foundation Inc, Philippine Independence Day Council Inc., Pakistan Day Festival, Federation of Indian Association, and Muslim Foundation of America, Inc.

PARKS AND PUBLIC SPACES COMMITTEE

Application from J&J V2 LLC for a new unenclosed sidewalk café at 377 Park Avenue South, between East 26th and 27th Streets, featuring 6 tables and 12 chairs

WHEREAS, J&J V2 LLC ("Applicant") is applying for a new unenclosed sidewalk cafe license at 377 Park Ave. South (Block #882 Lot #89) between E. 26th and E. 27th Streets; and

WHEREAS, Applicant seeks to have a sidewalk café occupying a space totaling approximately 92 square feet, with 6 tables and 12 chairs on Park Ave. South, composed of two rows of two-top tables perpendicular to the property line, with one row containing two tables and one row containing four; and

WHEREAS, The required service area is within the footprint of the seating area, and takes up no additional square footage in front of the footprint of the café; and

WHEREAS, The layout complies with DCA regulations and is consistent with the other sidewalk cafes previously approved by Community Board Five; and

WHEREAS, The Applicant has committed to removing the sandwich board sign that currently occupies part of the proposed footprint if the sidewalk cafe is approved, removing a potential obstacle to pedestrian traffic; and

WHEREAS, The Applicant originally proposed closing hours of midnight from Sunday to Wednesday, and 1am from Thursday to Saturday; however, in response to community concerns, the Applicant agreed to restrict the café hours to 11pm closing from Sunday to Wednesday, and midnight closing from Thursday to Saturday, with the understanding that, in one year's time, the Applicant can return to Community Board Five for reconsideration of hours, provided there have been no complaints from members of the community in the year of operation; therefore, be it

RESOLVED, Community Board Five **recommends approval** of the application from J&J V2 LLC for a new unenclosed sidewalk café at 377 Park Avenue South, between East 26th and 27th Streets, featuring 6 tables and 12 chairs.

LANDMARKS COMMITTEE

Rockefeller Center Application seeking a Certificate of Appropriateness for:

I) A Master Plan Expansion and Retail Signage throughout Rockefeller Center, and

II) Alterations for altered Retail Storefronts, and

III) New Signage on 45 Rockefeller Plaza.

WHEREAS, Rockefeller Center is made up of 19 buildings that occupy 22 acres between West 48th Street and West 52nd Street, and 5th Avenue and 6th Avenue,

WHEREAS, Rockefeller Center was built during the Great Depression by John D. Rockefeller Jr. and was designated a NYC Landmark in 1985; and

I) A Master Plan Expansion and Retail Signage throughout Rockefeller Center

WHEREAS, The applicant proposes to expand a Master Plan that was previously approved by LPC for portions of 45 Rockefeller Plaza in 1998 to 1 Rockefeller Plaza, 30 Rockefeller Plaza, the remaining façades of 45 Rockefeller, 610 Fifth Avenue, and 620 Fifth Avenue; and

WHEREAS, The applicant proposes to offer up to 20 pre-approved storefront options for future tenants that vary only by location of entry door and height of storefront in-fill, all of which are contextual with existing storefronts currently in Rockefeller Center both in design and materials; and

WHEREAS, Any proposed storefront infill alterations will remain within the existing storefront openings, less the small removal of the granite base for door entry if applicable; and

WHEREAS, This application also proposes new signage designs for all storefronts (those not located on the Avenues) that feature bronze lettering attached to acrylic bases affixed to the original black-painted glass sign bands above each storefront, and may entail brand-specific fonts but will not have logos; and

WHEREAS, This application proposes to add lighting to all storefront sign bands by adding a bronze "lip" to conceal an LED light fixture that will run the full length of each sign band and shine up on the lettering for greater retail visibility; and

WHEREAS, the storefront infill options are consistent with the design and materials already found within Rockefeller Center and further allow for ADA-compliance; and

WHEREAS, The signage proposals do not alter the design intended by the original architects, and make the retail spaces more noticeable during non-daylight hours; therefore be it

RESOLVED, Community Board Five **recommends approval** for a Certificate of Appropriateness for the expansion of the LPC-approved 1998 Master Plan for 45 Rockefeller Plaza to be implemented throughout 1 Rockefeller Plaza, 30 Rockefeller Plaza, the remaining façades of 45 Rockefeller, 610 Fifth Avenue, and 620 Fifth Avenue, which include various storefront in-fill options, consistent store signage featuring bronze lettering attached to acrylic bases affixed to the original black-painted glass sign bands, and the addition of LED lighting concealed by a bronze “lip” in each retail bay.

II) Alterations for altered Retail Storefronts

WHEREAS, The applicant proposes to alter storefronts on 1 Rockefeller Plaza, 45 Rockefeller Plaza, and 50 Rockefeller Plaza that alter existing window configurations and operating mechanisms, but will retain all banner signage and original surrounding materials; and

WHEREAS, The application for 45 Rockefeller Plaza proposes removal of the existing original revolving door to allow for ADA-compliant entry into this space while preserving the original revolver shell; and

WHEREAS, The application for 45 Rockefeller Plaza also proposes reconfiguration of five (5) storefront bays on the southwest corner of the building from large-pane display windows to a configuration including an entry door and smaller accordion-style windows that open; and

WHEREAS, The application for 50 Rockefeller Plaza proposes the replacement of non-historic doors currently within the original revolver shell to ADA-compliant entry, as well as reconfiguration of one (1) retail bay from large-pane display windows to a configuration including an entry door and smaller accordion-style windows that open; and

WHEREAS, The application for 50 Rockefeller Plaza also proposes to convert large stationary display windows in two (2) retail bays to large double-hung storefront windows with a fixed upper sash and a movable lower sash that can lift upward, and this will require the removal of the existing granite base at each of these bays in order to bring the retail floor even with the exterior sidewalk; and

WHEREAS, The application for 1 Rockefeller Plaza proposes reconfiguration of three (3) storefront bays on the southwest corner of the building from large-pane display windows to a configuration including an entry door and smaller accordion-style windows that open; and

WHEREAS, CB5 strongly urges the applicant to consider an alternative design to decrease the number of mullions in the accordion-style window proposal to keep with the original design similar to other bays already within Rockefeller Center; and

WHEREAS, CB5 recognizes the applicant’s need to maintain desirable retail spaces for continued occupancy, and that the applicant will use same materials within proposed infills; therefore be it

RESOLVED, Community Board Five **recommends denial** for a Certificate of Appropriateness for modification of openings and replacement storefront and entry infill, unless the 2 sash window bases and sills be retained at 50 Rockefeller Plaza, while recommending that the accordion window design be reworked throughout the various buildings to be more sympathetic with the buildings, and urges the applicant to perform minimal removal of original material as well as to re-use original material where possible.

III) New Signage on 45 Rockefeller Plaza

WHEREAS, The applicant proposes to add signage to four main entryways of 45 Rockefeller Plaza, aka the International Building, that will match the flush-mounted light-finished bronze letter signage already in place throughout Rockefeller Center to indicate either the building address and/or large tenants; and

WHEREAS, The entrance at 20 West 51st Street currently has “45 Rockefeller Plaza” in place and this application proposes to add “International Building” on the opposite side of the entryway, and the name of up to one tenant on each side of the building entryway to create a symmetrical look; and

WHEREAS, The entrance at 45 Rockefeller Plaza currently has “45 Rockefeller Plaza” in place and this application proposes to add “International Building” on the opposite side of the entryway, and the name of up to one tenant on each side of the building entryway to create a symmetrical look; and

WHEREAS, The entrance at 19 West 50th Street currently has “45 Rockefeller Plaza” in place and this application proposes to add the name of up to two tenants under the building name while leaving the decorative frieze untouched on the opposite side of the building entryway; and

WHEREAS, The entrance at 630 Fifth Avenue currently has incised gold-leaf signage on either side of the main entryway to indicate the building name and this application proposes to add the name of up to two tenants on each side of the building entryway to create a symmetrical look; and

WHEREAS, The proposal of all new signage will match the flush-mounted light-finished bronze letter signage already in place throughout Rockefeller Center; therefore be it

RESOLVED, Community Board Five **recommends approval** for a Certificate of Appropriateness for the addition of signage to four main entryways of 45 Rockefeller Plaza, providing the applicant continues to commit to replacing damaged limestone with like material as necessary, as they have done in the past.

BUDGET, EDUCATION AND CITY SERVICES COMMITTEE

Resolution In Support of the Expansion of the Flatiron/23rd Street Partnership Business Improvement District (BID)

WHEREAS, The Flatiron/23rd Street Partnership was established in 2006 to implement services to make the corridor cleaner and safer by providing sanitation services, streetscape upgrades and beautification, marketing, district advocacy, and outreach to individuals experiencing homelessness; and

WHEREAS, The Flatiron BID is governed by a volunteer Board of Directors that is elected annually and includes representatives from the Mayor’s office, the Borough President, the Comptroller, the Councilmembers and the Community Board, and

WHEREAS, The current BID is made up of an irregularly shaped area of some 38 square blocks, running from 21st to 28th Streets and from parts of Sixth Avenue over to, but not including, Third Avenue, and

WHEREAS, The current Flatiron BID includes 21 million square feet of commercial space and more than 4,500 businesses; and

WHEREAS, The BID Expansion Steering Committee is proposing expanding the boundaries to include additional adjacent blocks to provide services and improvements and form a more cohesive, clean, and safe district; and

WHEREAS, The newly expanded district would encompass the Flatiron and NoMad neighborhoods and be generally bound by Sixth Avenue to the west, 31st Street to the north, 20th Street to the south and Park Avenue to the east; and

WHEREAS, The Flatiron BID provides, and would continue to provide, within the expanded area sanitation clean teams, public safety officers, homeless outreach, streetscape beautification, marketing and promotion for Flatiron businesses and District advocacy; and

WHEREAS, No current city services, such as sanitation, would be reduced as a result of BID services and

WHEREAS, The BID Expansion Steering Committee proposes to continue the formula employed by the current BID to calculate the annual special assessment for each property in the district which includes an annual \$1.00 per residential building fee; therefore, be it

RESOLVED, Community Board Five supports the expansion of the Flatiron/23rd Street Partnership Business Improvement District.

- **DISTRICT MANAGER'S REPORT – WALLY RUBIN - WAIVED.**

APRIL 2020 RESOLUTIONS

LANDMARKS – LAYLA LAW-GISIKO

Ms. Law-Gisiko gave brief presentations on the following three bundled resolutions:

Rockefeller Plaza – Application by Tishman Speyer to install lighting to illuminate various artwork and application to install architectural lighting at various buildings throughout Rockefeller Center.

WHEREAS, Rockefeller Plaza is an individual landmark, designated in 1985, Art-Deco commercial, office and entertainment complex of 19 commercial buildings, covering 22 acres between West 48th and 52nd Streets and 5th and 6th Avenues built by the Rockefeller Family in 1931-1939, known for harmonious integration of architecture, art and landscaping; and

WHEREAS, The current application is for exterior lighting that will focus on artwork, building entrances and architectural building features at 30, 45 & 50 Rockefeller Plaza, and 620 Fifth Avenue; and

WHEREAS, Much of the existing lighting is outdated and does not provide optimal visibility of notable art work and significant architectural features and building entrances at nighttime; and

WHEREAS The proposed lighting is energy efficient LED, small in scale and can be mostly concealed on flagpoles, in ground, or retrofitted in existing housings, high setback rooftops or minimally visible with some new sconces; and

WHEREAS, The comprehensive proposed lighting program provides enhancements that celebrate the superb and profuse artwork of Rockefeller Center, composed of sculptures, bas-relief, mosaics, friezes, created by noteworthy artists such as Isamu Noguchi, Lee Lawrie, Rene Chambellan, or Paul Manship, and include famed art pieces such as Prometheus, Atlas, sculpted metal “News” bas-relief, Story of Mankind, the Credo Monument, fountainhead figures in the Channel Gardens; and

WHEREAS, The proposed lighting scheme will also enhance lesser known art elements of the Center such as discreet yet exquisite bas-reliefs and mosaic freezes, and will enrich a human scale experience of the center at night; and

WHEREAS The design and installation of proposed architectural lighting is technologically advanced, reduces glare and provides a wider, softer moonlighting effect that celebrates the complex as an outdoor museum enhancing the public realm; and

WHEREAS, It is respectful of the historic conditions of the Rockefeller Center complex; therefore be it **RESOLVED**, Community Board Five **recommends approval** of an Application by Tishman Speyer to install lighting to illuminate various artwork and an application to install architectural lighting at various buildings throughout Rockefeller Center.

1162 Broadway LLC Application to Build a New Commercial Building at 1162 Broadway (b/w 27th & 28th Streets).

WHEREAS, 1162 Broadway is located in the Madison Square North Historic District; and

WHEREAS, In 2013, the applicant presented an application for the demolition of an existing non-contributing structure and the construction of a new 15 story hotel; and

WHEREAS, At that time Community Board Five found the proposed design to be contextual and sympathetic to the historic district; and

WHEREAS, A Certificate of Appropriateness was granted by LPC, but the Certificate has expired; and

WHEREAS, Due to market conditions, the applicant has abandoned the project to build a hotel and instead is proposing to build a commercial office building; and

WHEREAS, As zoning regulations for commercial buildings differ slightly from zoning for hotels, the massing and bulk distribution has induced minor alterations to the design of the new proposed building that include the following:

- Overall roof height reduced by 2 feet
- Number of floors reduced from 14 to 13 stories
- Window size adjusted to match updated floor height
- Gas vent and siamese connection added at street level; and

WHEREAS, The design vocabulary of the proposed commercial building is consistent with the 2013 proposal and takes its cues from the architectural style of the historic district; and

WHEREAS, Lots in the district are typically 25-30 feet wide and it is common to see contributing, historic, turn-of-the-century, high-rise buildings in the district; and

WHEREAS, The proposed building has design features compatible and complementary with the district including:

- Overall composition that a clearly defined base, shaft and top
- A prominent cornice
- A front façade of glazed brick with a granite base
- Unglazed brick sidewalls
- Storefront and fenestration that echo similarly tall buildings in the district
- The welcome addition of a rooftop water tower; therefore be it

RESOLVED, Community Board Five **recommends approval** of the application by 1162 Broadway LLC to build a new office building at 1162 Broadway, bet. 27th and 28th Streets.

160 5th Avenue, Certificate of Appropriateness application by the Simons Foundation to construct a canopy and replace infill at the building's main entrance on West 21st Street

WHEREAS, 160 Fifth Avenue is a 9 story office, store and loft building located at the southwest corner of Fifth Avenue and West 21st Street, in the Ladies Mile Historic District, designed by R.H. Robertson and built for E. H. Van Ingen and Company in 1891-92; and

WHEREAS, The applicant is the Simons Foundation, a non-for-profit organization whose mission is to advance scientific research; and

WHEREAS, The applicant proposes to make changes to the outside of the building by modifying the current main entrance on 2 West 21st Street; and

WHEREAS, The applicant proposes to remove the existing entrance doors and replace them with new entrance doors that will include a revolving door, two side doors, and two sidelights; and

WHEREAS, The applicant proposes to add a security camera, an intercom system and card reader and an ADA push plate to the entrance; and

WHEREAS, The applicant proposes to install a new burnished stainless steel canopy above the doors that extends eight feet from the building line with 8” stainless steel address signs on both sides; and

WHEREAS, The applicant proposes to replace the existing external fixed lighting at the entrance with recessed LED lighting and an LED cove light system in the canopy; and

WHEREAS, Although Community Board Five finds the proposed entrance doors appropriate, the proposed canopy obscures significant parts of the existing decorative metalwork above the doorway, is too modern, too large, too bulky, and is out of character for the building; therefore be it

RESOLVED, Community Board Five **recommends denial** of the application by the Simons Foundation at 160 Fifth Avenue for a certificate of appropriateness to make changes to the outside of the building.

After some discussion the above three bundled resolutions passed with a vote of 37 in favor, 0 opposed, 1 abstaining, except the resolution on 1162 Broadway, which passed with a vote of 36 in favor, 0 opposed, 1 abstaining and 1 present not entitled to vote: **IN FAVOR:** Achelis, Athanail, Beitchman, Chou, Clark, Dale, Dowson, Ford, Garcia, Goshow, Greeley, Haas, Harris Jr., Hartman, Heyer, Isaacs, Johnson, Kaback, Kalafarski, Kinsella, Law-Gisiko, Levy, Lopes, Lucic, Maffia, McCall, Meyerson, Miller, Rabar, Shapiro, Slutzkin, Smith, Spandorf, Spence, Tschinkel, Verdi, Yang. **ABSTAIN:** Barbero. **PRESENT NOT ENTITLED TO VOTE:** Lopes (on 1162 Broadway only).

TRANSPORTATION/ENVIRONMENT – EJ KALAFARSKI

Mr. Kalafarski gave brief presentations on the following two bundled resolutions.

NYC DOT proposal to install a protected bike lane on 6th Avenue from West 35th Street to Central Park South

WHEREAS, The New York City Department of Transportation ("DOT") has proposed the installation of a northbound protected bicycle lane on Sixth Avenue between 35th Street and Central Park South; and

WHEREAS, The Vision Zero program mandates a multi-agency effort to improve safety measures for all road users and reduce traffic fatalities; and

WHEREAS, DOT has recognized parts of Community District Five as especially busy thoroughfares within the city's bicycle network, and the project site has been designated a Vision Zero Priority Area; and

WHEREAS, DOT reports that the stretch of Sixth Avenue between 35th Street and 59th Street has produced 547 total injuries and 37 fatalities or serious injuries in the most recent 5-year period recorded; and

WHEREAS, Currently the number of bicyclists on Sixth Avenue is approximately 3,500 (per 18 hours) each day; and

WHEREAS, Currently the protected portion of the Sixth Avenue bike lane ends at Herald Square and the unprotected lane north of 35th Street is frequently blocked by stopped vehicles; and

WHEREAS, Community Board Five has repeatedly called for DOT to redesign this section of Sixth Avenue to better prioritize pedestrian and cyclist traffic and safety; and

WHEREAS, DOT proposes to remove one moving vehicle lane (out of five) from Sixth Avenue from 35th Street to 59th Street, and create a parking-protected northbound bike lane along the west side of the Avenue and pedestrian islands and other safety improvements at intersections; and

WHEREAS, DOT proposes to create left turn lanes with split-phase signaling at the majority of intersections where a left turn is possible (41st, 42nd, 45th, 49th, 51st, 53rd, 55th, 57th, and 59th Streets); and

WHEREAS, DOT proposes to create offset crossings at the remaining intersections where left turns are possible but less common (37th, 39th, 43rd, and 47th Streets); and

WHEREAS, DOT proposes to remove a net total of 43 parking spaces along this stretch of 24 blocks, with 100% of the net loss of parking spaces due to the installation of left turn lanes at the previously identified intersections; and

WHEREAS, DOT proposes to generally update the common 3-hour commercial loading zones to new 1-hour loading zones (as has been done on all recently approved complete streets redesigns); and

WHEREAS, DOT promises to work with local stakeholders (including CB5, local businesses and property owners) to identify necessary changes or exceptions to the parking regulations and bike lane design along this route; and

WHEREAS, DOT finds that the space currently available for vehicle through-traffic will be impacted only minimally by the proposed changes; and

WHEREAS, DOT proposes to design the necessary infrastructure according to now-standard principles: to paint the newly-created bicycle lane with green-colored paint, accented with white-colored markings to indicate the proper direction of bicycle traffic; and

WHEREAS, DOT has confirmed that the infrastructure put into place for these proposed changes is temporary and can be altered or removed if necessary; and

WHEREAS, Members of the public and Community Board Five gave extensive comments about the DOT proposals via a remote committee meeting on March 23rd; and

WHEREAS, A specific concern raised by members of the public was the lack of a corresponding southbound cycling route through Midtown (no southbound lane exists between 2nd Avenue and Broadway, and the Broadway lane is often unusable for cyclists through Times Square); and

WHEREAS, While Community Board Five has consistently been supportive of the growing bike lane network, many board members continue to raise serious concerns about dangerous cycling activity throughout Manhattan and insist that these concerns be addressed by both DOT and NYPD as the city continues to upgrade its infrastructure to allow for more cycling activity; and

WHEREAS, It is the consensus view of Community Board Five that the status-quo efforts by DOT and NYPD at encouraging safe cycling behavior and preventing dangerous cycling behavior have not succeeded and are not sufficient; and

WHEREAS, Community Board Five is generally supportive of the expansion of pedestrian space and cycling infrastructure, and has specifically requested DOT redesign this section of Sixth Avenue with those needs in mind; therefore be it:

RESOLVED, Community Board Five **recommends approval** of DOT's request for the installation of a northbound protected bicycle lane and the associated sidewalk, parking and traffic flow changes on Sixth Avenue between 35th and 59th Streets; and be it further

RESOLVED, Community Board Five requests that DOT accelerate efforts to identify and install a safe southbound cycling route through the core of Midtown (ie, on either 5th, 6th, or 7th Avenue or some combination thereof), as the existing Broadway lane is insufficient; and be it further

RESOLVED, Community Board Five insists that the DOT and other appropriate city agencies (including but not limited to the Department of Consumer and Worker Affairs, the Department of Small Business Services, and the NYPD) initiate as a matter of urgency more substantive and longer-term efforts at teaching and advocating for safe cycling behavior, including but not limited to delivery cyclists, Citibike users, cyclists riding at extremely high speeds, and illegal e-bike users; and that these efforts must go significantly beyond the current temporary deployment of "Street Ambassadors" for a period of weeks during and after the installation of new bike lanes; and be it further

RESOLVED, Community Board Five insists that the NYPD revamp its approach to the enforcement of illegal and dangerous cycling behavior (with a particular focus on wrong-way cycling), by making street safety a higher priority for its officers, to end its reliance solely on "ticket sweeps," and to find a way to incorporate regular and predictable enforcement of traffic safety laws for cyclists into the standard daily patrolling duties of officers in Manhattan; and be it further

RESOLVED, Community Board Five requests that DOT return to CB5 after the installation of these proposed bike lanes as soon as practical after significant data can be collected related to this section of Sixth Avenue, to update us as to the effects of the new infrastructure.

After some discussion, the above resolution passed with a vote of 36 in favor, 1 opposed, 1 abstaining: **IN FAVOR:** Athanail, Beitchman, Chou, Clark, Dale, Dowson, Ford, Garcia, Goshow, Greeley, Haas, Harris Jr., Hartman, Heyer, Isaacs, Johnson, Kaback, Kalafarski, Kinsella, Law-Gisiko, Levy, Lopes, Lucic, Maffia, McCall, Meyerson, Miller, Rabar, Shapiro, Slutzkin, Smith, Spandorf, Spence, Tschinkel, Verdi, Yang. **OPPOSED:** Achelis. **ABSTAIN:** Athanail.

There being no further business, the regularly scheduled meeting of Community Board Five adjourned at 7:58 p.m.

Respectfully submitted by,

Craig Slutzkin
Secretary

Julie Chou
Assistant Secretary