



THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3

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Alysha Lewis-Coleman, Board Chair

Susan Stetzer, District Manager

August 2020 Full Board Minutes

Meeting of Community Board 3 held on Tuesday, August 25, 2020 at 6:30pm via Zoom.

Public Session:

Garret Ohringer (Orchard & Broome resident) – Spoke in support of Transportation Committee Item #2

Alex Baker (Essex Crossing Resident) – Greatly supportive of Transportation Committee Item #2. He believes that keeping streets open would be greatly beneficial to the neighborhood and help residents feel safe in an area that is being assaulted by traffic.

Harry Bubbins (Greenwich Village Society for Historic Preservation) – Support of Landmarks Committee resolution about 605 East 9th Street off of Avenue B. The situation is dangerous right now and must be addressed immediately.

Tommy Loeb – Judge ruled against the plaintiffs in the community lawsuit on the East Side Coastal Resiliency Project. Wondering how CB3 will address its role as a designated member of the CAG.

Michael Marino (Friends of Corlears Hook Park) – Finally trying to do events in the park again and the first event will be a vigil for the community to gather and remember those lost from COVID-19 on 9/14 at 6:30 PM. Local religious leaders will be there to say a few words.

Olympia Kazi – Speaking as a public school parent speaking out against the shameful way that the city has cut the budget for public education. The re-opening plans for schools is unsafe because the schools are under resourced. The teachers and staff aren't safe and thus no one is safe. Parents only want the schools to re-open if the schools are safe. There is a social action committee at EVCS that is coordinating parent action – email socialaction@evcsnyc.org. Committee is coordinating with many schools in District 1 and 2.

Mae Lee – Reminder about the Census. There are many community organizations that have been doing tireless outreach on the census and they should be thanked. Many CD3 residents haven't responded. Some census tracts have less than a 50% response rate, so CB3 encourages everyone to fill out the census. The census closes on 9/30.

Public Officials:

Mayor Bill de Blasio, Andrew Kunkes:

- Not in attendance

Public Advocate Jumaane Williams, Phillip Ellison:

- WhyNotCare – organization holding the annual United Festival on 8/27 at 12 PM at 145 Stanton Street and will be handing out book bags and PPE.

Comptroller Scott Stringer, Luke Wolf:

- Office is focusing on schools and small businesses
- Economic Development committee is helping the Comptroller's office with ideas
- Some ideas include: Cash credits to support reopening, helping some businesses move online, give businesses a grace period to fix violations, and tax incentives to entrepreneurs who open businesses in high vacancy areas.

Borough President Gale Brewer:

- Gale surveyed small businesses on Avenue A, 14th Street, and Houston, plus elsewhere in the city. Some of the restaurants are doing okay, but there are other businesses who are selling souvenirs or other tourist specific businesses are really struggling.
- BPO received \$215,000 from the state for the Census, which went to local community groups.
- Gale will be in Central Park on 8/26 to unveil statues of several female leaders in the park.
- Mayor's office moved to allow outdoor schools after a lot of requesting outdoor space. Gale will do her best to work on getting the help the schools need. She will work on how to continue the feeding program that has been ongoing since the beginning of COVID for non-students

- Gale is working on the NYPD barricade issues. She's been to every precinct in Manhattan.

Congressmember Nydia Velazquez, Lingxia Ye:

- Not in attendance

Congressmember Carolyn Maloney:

- We have a disaster on the Census. The Trump Administration has unilaterally come and clipped off four weeks of the door to door enumeration, which will make it harder for the census to get to hard to reach communities.
- House was called back in to vote in August because the administration is disrupting the Post Service. The House passed Maloney's bill to fund the USPS with an additional \$25 billion, which is the figure needed according to the CBO and other groups.
- Introducing new legislation to make the USPS less partisan.
- Please contact Maloney via her press secretary Adrien.lesser@mail.house.gov

Assemblymember Yuh-Line Niou, Shivani Gonzalez:

- Working with small businesses in Chinatown to discuss ideas about how to increase business
- Hosted a mobile testing unit that sent out results within 48 hours

Assemblymember Deborah J. Glick:

- There will be early voting in New York. Those who feel comfortable voting in person should. If you can't you should request and send your absentee ballot in early. Please read the instructions and finish it correctly.

Assemblymember Harvey Epstein, Aura Olavarria:

- Please register for the LES sports academy
- Planning a virtual open house on Thursday, September 17

State Senator Brian Kavanagh, Chantel Cabrera:

- Working on adding state oversight for affirmative fair housing when the federal government fails
- Passed mortgage forbearance for New Yorkers who are struggling
- Working with Yuh-Line Niou on a bill to allow re-negotiations on rents which would give landlords tax abatements

State Senator Brad M. Hoylman, Zach Duffy:

- Has a bill pending to allow drop off boxes
- Wrote a letter to NYPD that called attention that it is not offering remote meeting options for block meetings

Councilmember Margaret Chin, Marian Guerra:

- Worked with Vision Urbana to deliver almost 1 million pounds of fresh foods to residents in the Lower East Side and Chinatown.
- On 9/3 the office will be working with local groups to host an event at the Smith Houses for Census signups.

Councilmember Carlina Rivera, Isabelle Chandler:

- Carlina has been calling for an investigation of Officer Francisco Garcia following his assault of local residents on Avenue D

Members Present at First Vote:

David Adams	[P]	Debra Glass	[P]	Alysha Lewis-Coleman	[P]
Yaron Altman	[P]	Andrea Gordillo	[P]	David Louie	[P]
Jesse Beck	[P]	Herman Hewitt	[P]	Ellen Luo	[P]
Dominic Berg	[P]	Trever Holland	[P]	Michael Marino	[P]
Lee Berman	[P]	Linda Jones	[P]	Alexandra Militano	[P]
Karlin Chan	[P]	Vaylateena Jones	[P]	Michael Perles	[A]
Jonathan Chu	[P]	Tatiana Jorio	[P]	Tareake Ramos	[P]
David Crane	[P]	Lisa Kaplan	[P]	Paul Rangel	[P]
Felicia Cruickshank	[P]	Olympia Kazi	[P]	Carolyn Ratcliffe	[P]
Eric Diaz	[P]	Joseph Kerns	[A]	Damaris Reyes	[P]
Alistair Economakis	[P]	Michelle Koppersmith	[P]	Richard Ropiak	[P]
Shirley Fennessey	[P]	Mae Lee	[P]	Thomas Rosa	[P]
Ryan Gilliam	[A]	Wendy Lee	[A]	Robin Schatell	[P]

Heidi Schmidt	[A]	Sandra Strother	[A]	Kathleen Webster	[P]
Laryssa Shainberg	[P]	Josephine Velez	[P]	Jacky Wong	[P]
Clint Smeltzer	[P]	Troy Velez	[P]	Ricky Wong	[P]
Anisha Steephen	[P]	Rodney Washington	[A]		

Minutes:

Minutes of June 2020 were approved, as is.

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Board Chairperson's Report:

Chairperson Alysha Lewis-Coleman

- Linda Jones, Sandra Strother, Robin Schatell, Ellen Luo, and Paul Rangel are on the nominating committee.
- Please email Alysha at cb3chair@gmail.com if you need to reach her or alyshacoleman@yahoo.com.
- Please be a good neighbor during this difficult time.

Committee Reports:

Executive Committee

no vote necessary

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Health, Seniors, & Human Services / Youth, Education, & Human Rights Committee

1. Approval of previous month's minutes
approved by committee
2. District Needs Statement
no vote necessary
3. CAB reports
no vote necessary
4. Vote to adjourn
approved by committee

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

SLA & DCA Licensing Committee

1. Approval of previous month's minutes
approved by committee
2. Amend administrative approval stipulations to require one year of operation before applying for an upgrade
no vote necessary

New Liquor License Applications

3. Bel-Fries Foods LLC, 132 Ludlow St btwn Stanton & Rivington Sts (wb)
VOTE: TITLE: Community Board #3 Recommendation To Deny

MOTION TO DENY FOR SLA ITEM #3

WHEREAS, Bel-Fries Foods LLC is seeking a wine beer license for a take-out food business, doing business as Bel-Fries, in the premises located at 132 Ludlow Street, between Stanton Street and Rivington Street, New York, New York; and

WHEREAS, this applicant is seeking to operate a take-out Belgian fries business with a certificate of occupancy of seventy-four (74) people, four (4) tables and fifteen (15) seats although the applicant submitted a diagram depicting only standing rails with holes for the cones carrying the fries, counter service for both fries and alcohol, hours of operation of 1:00 P.M. to 2:00 A.M. Sundays through Wednesdays and 1:00 P.M. to 4:00 A.M. Thursdays through Saturdays, a kitchen open during all hours of operation serving fries in paper cones, French and accordion doors although the applicant submitted a picture showing that façade is completely open, no televisions, recorded background music no soundproofing, happy hours to 8:00 P.M. each night and no agreement about no wait lines outside; and

WHEREAS, this is a previously unlicensed commercial storefront; and

WHEREAS, there are fifty-eight (58) liquor licenses and nine (9) pending liquor licenses within two (2) blocks of this location per the SLA LAMP map; and

WHEREAS, the applicant opened this business in May of 2020; and

WHEREAS, the applicant has no experience operating a licensed business and its two principals have experience in the fashion industry and marketing industry; and

WHEREAS, the applicant hosted an unpermitted event fundraiser on May 31, 2020, in which it invited luxury vehicles to the street, blocked off the street with cones and hosted a DJ on the sidewalk and which resulted in numerous luxury vehicles and people on the street, few of whom wore masks or engaged in social distancing; and

WHEREAS, a resident of the area who is also a member of the LES Dwellers, a local tenants organization, submitted a statement with video recorded evidence of this event and appeared in opposition to this application, stating that the event appeared to be planned given that flyers advertising the event and identifying the applicant as the host were distributed, cones were put out to block traffic and facilitate the luxury vehicles idling on the street and there was a DJ who set up a table and this resident further stated that the applicant should not have a liquor license because the business is a small take-out spot with no seating; and

WHEREAS, two (2) residents of 101 Stanton Street submitted letters in opposition to this application, one appending the flyer advertisement which listed the business as the host, complaining that the applicant had hosted a disruptive, irresponsible luxury car event with an outdoor DJ on May 31, 2020, which closed the street to vehicular traffic and resulted in a lack of social distancing as there were as many as one hundred fifty (150) people, most without masks, gathered on the street, and as many as fifty (50) luxury vehicles idling and repeatedly honking their horns on the street; and

WHEREAS, the LES Dwellers also submitted a letter in opposition to this application with an accompanying photograph of an eating area on the sidewalk, stating that in addition to hosting the event on May 31, 2020, the business has also set up a makeshift dining station for patrons, consisting of wooden planks, with holes for the cones holding the fries, on top of the residential garbage cans next to its business which is unsanitary and prevents social distancing on the sidewalk since patrons standing at this station block the public walkway; and

WHEREAS, the board chairperson of Community Board #3 appeared and stated that she had been present in the area when the event began on May 31, 2020, and had observed that the street had been closed, that there were specialty cars bearing the applicant business logo and a DJ on the block and that whoever was in charge was not controlling what was happening and that the event was out of control; and

WHEREAS, the district manager of Community Board #3 submitted a statement that as a result of numerous complaints made to elected officials regarding this event, as well as another unrelated gathering on the same block, she, representatives of the LES Partnership which is the area business improvement district, the 7th Precinct, State Senator Brian Kavanaugh, State Assemblywoman Yuh-line Niou, Councilmember Margaret Chin and Borough President Gale Brewer attended a site meeting on the block organized by the LES Dwellers to address the uncontrolled unsafe conditions; and

WHEREAS, the community board members at the meeting where the application was heard shared via ZOOM which was recorded a post-event promotional video that one of the members found online that was produced by or on behalf of the applicant that showed the event, including principal Glenn Schlossberg in the driver's seat of one of the luxury vehicles and a walk through of the business, including its kitchen; and

WHEREAS, principal Glenn Schlossberg spoke on behalf of the applicant, stating that he and his daughter devised the idea to have a Belgian fries business, that he chose Ludlow Street because it is a "young electric location" but otherwise knew nothing of the area before opening his business and worked for two years on the marketing of the business but did not distribute flyers for a luxury car fundraiser on the street on May 31, 2020, although he is a car enthusiast, or have anything to do with the planning of the event or the appearance of what he counted as approximately thirty-six (36) car enthusiast friends of his that appeared on the block on behalf of him and the business with what he characterized as their own "homemade" promotional decals for the business on their vehicles and a DJ; and

WHEREAS, subsequent to the meeting where this applicant was heard, officers responding to the May 31, 2020 event reported to the district manager of Community Board #3 that when they arrived on

Ludlow Street that day, they spoke directly to one of the principals and directed him to tell the DJ to shut down his table which he did himself and further, that the principal informed them that the event was a fundraiser for first responders, that he did not plan the event and that his daughter was in charge of the day-to-day operations of the business; and

WHEREAS, despite the applicant denying responsibility for the May 31, 2020 fundraiser, Community Board #3 believes that there is strong documentary evidence that this event was planned by one or both principals or by the daughter of one of the principals who appears to be at the business daily, given that 1) flyers for the event bearing the business logo were distributed before the event, 2) there is a video recording that was submitted to Community Board #3 showing principal Glenn Schlossberg speaking to the responding officers during the event, and 3) there is a post-event promotional video recording of the event online, which includes a tour of the business, luxury vehicles bearing the business logo on the street and principal Glenn Schlossberg seated in one of those vehicles at the event; and

WHEREAS, the business is not appropriate for the sale of alcohol, in that it has no tables or seats but just a standing rail with holes to hold the cones of fries and the attorney for the applicant stated that, although the questionnaire submitted to Community Board #3 stated that the business would have four (4) tables and fifteen (15) seats, the tables and seats are what the applicant now has for its temporary outdoor dining rather than what it will actually have inside the business and that the storefront is so small that only approximately seven (7) people can stand inside the business at any given time; and

WHEREAS, given the numerous late-night licensed businesses within the immediate area and the existing late-night foot traffic and noise in this area, the addition of a late-night quick-serve business offering beer and wine in a previous unlicensed location would only exacerbate these conditions: and

WHEREAS, despite hosting an event during a national health crisis and having a business whose character and size should not allow for the sale of alcohol, Community Board #3 apprehends that this applicant is likely to be issued a wine beer license by the SLA given the legal standard that is applied in evaluating such applications; and

WHEREAS, Community Board #3 would consequently have recommended the denial of this application provided that the applicant agree to make as conditions of its license stipulations that it will 1) operate as a fast food, Belgian fries take-out restaurant, with a full-service kitchen serving food during all hours of operation, 2) have hours of operation of 1:00 P.M. to 12:00 A.M. all days, 3) not commercially operate any outdoor areas, 4) close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances, or during unamplified live performances or televised sports, 5) play ambient background music only, consisting of recorded music, and not have DJs, live music, promoted events, scheduled performances or any event at which a cover fee will be charged, 6) not apply for any alteration in its method of operation or for any physical alterations without first appearing before Community Board #3, 7) not seek a change in class to a full on-premises liquor license without first obtaining approval from Community Board # 3, 8) not host pub crawls or party buses, 9) not have unlimited drink specials with food, 10) not have "happy hours," 11) ensure that there are no wait lines outside and designate an employee to oversee patrons and noise on the sidewalk, 12) conspicuously post this stipulation form beside its liquor license inside of its business, and 13) provide a telephone number for residents to call with complaints and immediately address any resident complaints; and

WHEREAS, the applicant would not agree to the proposed stipulations; and

WHEREAS, Community Board #3 does not believe that this applicant should be issued a wine beer license given that the applicant will not sign stipulations governing its method of operation, given the mall size and character of the business and given that the applicant hosted an unpermitted event within days of opening which was also in flagrant violation of public health and safety during a national pandemic; now

THEREFORE, BE IT RESOLVED that Community Board #3 recommends the denial of the application for a wine beer license for Bel-Fries LLC, doing business as Bel-Fries, for the premises located at 132 Ludlow Street, between Stanton Street and Rivington, New York, New York.

4. The Bronx Brewery LLC, 64 2nd Ave btwn E 3rd & E 4th Sts (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny

WHEREAS, The Bronx Brewery LLC is seeking a full on-premises liquor license to operate a tavern in the premises located at 64 Second Avenue, between East 3rd Street and East 4th Street, New York, New York; and

WHEREAS, the SLA notice, questionnaire and statement submitted by the applicant indicates that this applicant is also seeking to operate a small pilot brewery at this location; and

WHEREAS, this applicant is seeking to operate a tavern brewery with a certificate of occupancy of seventy-four (74) people, eighteen (18) tables and fifty-nine (59) seats, a twenty (20) foot bar with ten (10) stools, a kitchen open during all hours of operation serving "Swedish street food" with a menu consisting primarily of burgers, accordion doors and windows, two (2) televisions, recorded music and DJs at background and entertainment levels, promoted and ticketed events, security and wait lines; and

WHEREAS, the applicant has submitted a statement that the public benefit for the approval of a full on-premises liquor license for its business is that its business will be one of two breweries located in Manhattan providing "unique access and experience to the beer making process" and that it will showcase "up and coming creatives" and the applicant has further stated that a full on-premises liquor license is necessary to provide non-beer alternatives to its patrons with allergies and gluten intolerance; and

WHEREAS, the applicant has operated the same business since 2011, located at 856 East 136th Street, Bronx, New York, and for which the SLA issued a full on-premises liquor license on September 21, 2018; and

WHEREAS, the applicant submitted a letter from a representative of the Bronx Overall Economic Development Corporation in support of its application in which it stated that it has become a destination location in its Bronx community; and

WHEREAS, this location is a five (5) story residential building with ground floor commercial space, constructed in 1900, which has never housed a licensed business and which is surrounded by similarly aged and constructed buildings in an area that is densely populated with people and businesses; and

WHEREAS, this location is within two hundred (200) feet of a house of worship, in that this location is two (2) buildings away from the Iglesia de Cristo East Side Church of Christ, located at 56 Second Avenue, between East 3rd Street and East 4th Street; and

WHEREAS, there are twenty (20) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant and there are also four (4) pending full on-premises liquor licenses within five hundred (500) feet of this location per the SLA LAMP map; and

WHEREAS, a representative of the East Village Community Coalition, an organization serving area businesses and residents, appeared in opposition to this application, stating that there are numerous existing licensed and other business which should have community support rather than supporting the addition of a new business with a full on-premises liquor license to a location that has not been previously licensed and noting that the applicant had provided an inadequate reason for needing to apply for a full on-premises liquor license during its community board hearing, in that the applicant stated that it really wanted to serve alcohol to provide variety and options to its patrons; and

WHEREAS, the exiting business of the applicant is housed in a stand-alone warehouse in an industrial area of the Port Morris section of Bronx County and is surrounded by no other licensed business; and

WHEREAS, this area is well-served by businesses selling beer and craft beer and businesses identifying themselves as focused on the sale of craft and locally sourced beer, including beer produced in small breweries in New York City and New York State; and

WHEREAS, Community Board #3 believes that this applicant should not be approved a full on-premises liquor license given that this location is within two hundred (200) feet of an active house of worship; and

WHEREAS, Community Board #3 further believes that this applicant should not be approved a full on-premises liquor license given that the applicant has furnished an insufficient public benefit for the approval of a full on-premises liquor license to operate a tavern brewery with limited food, promoted and ticketed events, DJs and wait lines in a location that is within five hundred (500) feet of twenty

(20) full on-premises liquor licenses and in an area already well-served with businesses selling craft and locally sourced beer; now

THEREFORE, BE IT RESOLVED that Community Board #3 recommends the denial of the application for a full on-premises liquor license for The Bronx Brewery LLC for the premises located at 64 Second Avenue, between East 3rd Street and East 4th Street, New York, New York

5. Cenoté (Merse Group LLC), 109 Ludlow St (op)
withdrawn

6. Ten Degrees (241 On St Marks Corp), 121 St Marks Pl btwn Ave A & B (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—Stipulations Attached

WHEREAS, 241 On St Marks Corp. has applied for a full on-premises liquor license for the premises located at 121 Saint Marks Place, between First Avenue and Avenue A, New York, New York; and

WHEREAS, this is an application for a full on-premises liquor license for a new corporation consisting of a new principal and the principal of the existing business; and

WHEREAS, this applicant operates a cocktail bar restaurant with no listed certificate of occupancy, fifteen (15) tables and thirty-three (33) seats consisting of seats at tables and couches, a ten (10) foot by eight (8) foot by ten (10) foot bar with sixteen (16) stools, hours of operation of 4:00 P.M. to 4:00 A.M. Mondays through Thursdays, 2:00 P.M. to 4:00 A.M. Fridays and 12:00 P.M. to 4:00 A.M. Saturdays and Sundays, less than a full-service kitchen serving food during all hours of operation, an open façade, no televisions, recorded background music, occasional private parties and happy hours; and

WHEREAS, the existing licensee was denied the transfer of a full on-premises liquor license by Community Board #3 in July of 2006 because the applicant failed to appear before the community board for a review of its application; and

WHEREAS, the existing licensee was then heard for a renewal of its full on-premises liquor license by the SLA Committee of Community Board #3 in April of 2007 because of numerous violations, including violations for sales of alcohol to minors and noise, as well as because it had been nuisance abated in June of 2006, and the licensee was denied a renewal of its full on-premises liquor license unless it agreed to make as conditions of its license stipulations that it would 1) continue to abide by the terms and conditions of the stipulation it entered into with the City of New York in 2006, and 2) close any and all façade doors and windows at 10:00 P.M. Sundays through Thursdays and 11:00 P.M. Fridays and Saturdays; and

WHEREAS, the applicant then withdrew its application before the full board vote of Community Board #3 in April of 2007 and did not again appear; and

WHEREAS, the SLA website has a record that the full on-premises liquor license for the previous applicant was first issued on May 5, 1987; and

WHEREAS, there are eighteen (18) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant but there are thirty (30) full on-premises liquor licenses and two (2) pending full on-premises liquor licenses within five hundred (500) feet of this location per the SLA LAMP map, with ten (10) full on-premises liquor licenses, including that of the current licensee, two (2) pending full on-premises liquor licenses and eleven (11) wine beer licenses on this block of Saint Marks Place, between First Avenue and Avenue A; and

WHEREAS, given that the applicant is composed of an existing principal and intends to maintain the business name, method of operation and staff of the existing business, Community Board #3 will approve this application for a full on-premises liquor license with stipulations governing the method of operation of the business; now

THEREFORE, BE IT RESOLVED that Community Board #3 recommends the denial of the application for a full on-premises liquor license for 241 On St Marks Corp., doing business as 10 Degrees, for the premises located at 121 Saint Marks Place, between First Avenue and Avenue A, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

1) it will operate as a tavern cocktail bar, with less than a full-service kitchen serving food during all hours of operation,

- 2) its hours of operation will be 4:00 P.M. to 4:00 A.M. Mondays through Thursdays, 2:00 P.M. to 4:00 A.M. Fridays and 12:00 P.M. to 4:00 A.M. Saturdays and Sundays,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances, or during unamplified live performances or televised sports,
- 5) it will play ambient background music only, consisting of recorded music, and will not have DJs, music, promoted events, scheduled performances or any event at which a cover fee will be charged, except that it may employ a DJ on New Year's Eve,
- 6) it will not apply for any alteration in its method of operation or for any physical alterations without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it may have "happy hours" to 8:00 P.M. each night,
- 10) it will ensure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

7. Dinah Restaurant (Dinah Corporation), 162-166 2nd Ave btwn E 10th & E 11th Sts (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—Stipulations Attached

WHEREAS, Dinah Corporation is seeking a change in class of its wine beer license to a full on-premises liquor license, for the premises doing business as Dinah Restaurant, located at 162-166 Second Avenue, between East 10th Street and East 11th Street, New York, New York; and

WHEREAS, the SLA notice and questionnaire submitted by this applicant reflect that this applicant is also seeking to amend its method of operation to include a hookah bar and belly dancing and to change its hours of operation to 10:00 A.M. to 2:00 A.M. all days; and

WHEREAS, this applicant operates a Mediterranean restaurant hookah bar with a certificate of occupancy of forty-six (46) people, thirteen (13) tables and forty-four (44) seats, a sixteen (16) foot bar with an unspecified number of stools, hours of operation of 10:00 A.M. to 2:00 A.M. all days, a full-service kitchen serving food during all hours of operation, no answer about its façade, one (1) television, recorded background music and belly dancing Fridays; and

WHEREAS, the applicant was administratively approved a wine beer license by Community Board #3 in September of 2015 provided that the applicant agreed to make as conditions of its license the stipulations that it would 1) operate a full-service Balkan restaurant with a kitchen open and serving food to within one (1) hours of closing, 2) have hours of operation of 2:00 P.M. to 12:00 A.M. all days, 3) close its sidewalk café at 10:00 P.M., 4) close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances, 5) play ambient background music, consisting of recorded music, but not have DJs, live music, promoted events, scheduled performances or any events at which a cover fee would be charged, 6) employ security guards Fridays and Saturdays, 7) not apply for any alteration in its method of operation without first appearing before Community Board #3, 8) not seek a change in class of its liquor license to a full on-premises liquor license without first obtaining the approval of Community Board #3, 9) not host pub crawls or party buses, 10) not have wait lines and designate an employee to oversee patrons and noise on the sidewalk, 11) conspicuously post its stipulation form beside its liquor license inside of its business, and 12) provide a telephone number for residents to call with complaints and immediately address any resident complaints; and

WHEREAS, the applicant was issued a wine beer license by the SLA on January 14, 2016; and

WHEREAS, the applicant has amended its hours of operation to 4:00 P.M. to 11:00 P.M. Sundays through Thursdays and 4:00 P.M. to 12:00 A.M. Fridays and Saturdays and is presently using the outdoor area on the sidewalk within its building line for dining; and

WHEREAS, there is one (1) full on-premises liquor license within five hundred (500) feet of this location per the applicant but there are twenty-five (25) full on-premises liquor licenses and one (1) pending full on-premises liquor license within five hundred (500) feet of this location per the SLA LAMP map; and

WHEREAS, a representative of the East Village Community Coalition, an organization serving area businesses and residents, appeared to express concerns that the applicant had recently changed its business name to Meyhane which is displayed on the façade of the business and that it has a much larger outdoor seating area than the applicant described, including seating within its building line and seating on the public sidewalk for which she could find no temporary seating permit issued and as evidenced by a photograph of the outdoor dining area that she submitted subsequent to the meeting; and

WHEREAS, the applicant stated that it had changed its business name to Meyhane and was awaiting a permit for temporary outdoor seating but otherwise had only four (4) tables with eight (8) seats within its building line; and

WHEREAS, the questionnaire submitted to Community Board #3 by the applicant stated that this location is within two hundred (200) feet of a house of worship, that being Saint Marks Church in the Bowery, located at 131 East 10th Street, at the corner of Second Avenue and East 10th Street but the attorney for the applicant stated that he had submitted a proximity report indicating that this church is three hundred ten (310) feet away from this location; and

WHEREAS, Community Board #3 asks that the SLA evaluate the proximity of Saint Marks Church in the Bowery to the subject location and its primary use as a house of worship given its historical significance as the second oldest church structure in Manhattan and given that it has been the location of continuous religious worship, with regular religious service, since 1795; and

WHEREAS, should the SLA determine that this location is not within two hundred (200) feet of a house of worship, Community Board #3 would support a change in class of the wine beer license of this applicant to a full on-premises liquor license with stipulations governing the method of operation for its business given that this business has been operating with a wine beer license since 2016 and given its moderate hours of operation; now

THEREFORE, BE IT RESOLVED that Community Board #3 recommends the denial of the application for a full on-premises liquor license for Dinah Corporation for the premises located at 162-166 Second Avenue, between East 10th Street and East 11th Street, New York, New York, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service Mediterranean restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 4:00 P.M. to 11:00 P.M. Sundays through Thursdays and 4:00 P.M. to 12:00 A.M. Fridays and Saturdays; and
- 3) it will operate the outdoor area on the sidewalk within the building line as a dining area with seating consisting of four (4) tables and eight (8) seats and hours of operation of 4:00 P.M. to 11:00 P.M. all days,
- 4) it will close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances, or during unamplified live performances or televised sports,
- 5) it will play ambient background music only, consisting of recorded music, and will not have DJs, live music, promoted events, scheduled performances or any event at which a cover fee will be charged, except that it may have one (1) belly dancer from 9:00 P.M. to 10:00 P.M. on Fridays,
- 6) it will not apply for any alteration in its method of operation or for any physical alterations without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it will not have "happy hours,"
- 10) it will ensure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

8. Avenue A Gourmet LLC, 202 Ave A (op)
withdrawn

9. Corp to be Formed, 511 E 5th St btwn Aves A & B (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—Stipulations Attached

WHEREAS, Derossi 5th Street LLC is applying for a full on-premises liquor license for the premises located at 511 East 5th Street, between Avenue A and Avenue B, New York, New York; and

WHEREAS, this applicant is proposing to operate a vegan Mexican restaurant with a certificate of occupancy of seventy-four (74) people, twelve (12) tables and thirty-six (36) seats, a thirteen (13) foot bar with six (6) stools, hours of operation of 5:00 P.M. to 1:00 A.M. Mondays through Thursdays, 5:00 P.M. to 2:00 A.M. Fridays, 12:00 P.M. to 2:00 A.M. Saturdays and 12:00 P.M. to 1:00 A.M. Sundays, a kitchen open to within one (1) hour of closing, windows and recorded background music; and

WHEREAS, the previous licensee was denied a full on-premises liquor license by Community Board #3 in December of 2017 unless the applicant agreed to make as conditions of its license stipulations that it would 1) operate as a full-service pizza restaurant, with a kitchen open and serving food during all hours of operation, 2) have hours of operation of 12:00 P.M. to 12:00 A.M. all days, 3) not commercially operate any outdoor areas, 4) close any front or rear façade entrance doors at 9:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances, 5) play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee would be charged, 6) not apply for any alteration in its method of operation without first appearing before Community Board #3, 7) not have "happy hours," 8) not host pub crawls or party buses, 9) not have unlimited drink specials with food, 10) review its existing exhaust system and make necessary repairs to address the complaints of the ground floor tenant, 11) not have wait lines and designate an employee to oversee patrons and noise on the sidewalk, 12) conspicuously post this stipulation form beside its liquor license inside of its business, and 13) provide a telephone number for residents to call with complaints and immediately address any resident complaints; and

WHEREAS, the previous licensee was then issued a full on-premises liquor license by the SLA on December 19, 2018; and

WHEREAS, there are twenty-four (24) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant but there are twenty-five (25) full on-premises liquor licenses and one (1) pending full on-premises liquor license within five hundred (500) feet of this location per the SLA LAMP map; and

WHEREAS, the applicant has operated numerous other eating and drinking establishments, with wine beer and full on-premises liquor licenses, within this neighborhood, with no recent history of complaint for its businesses; and

WHEREAS, a resident of 509-511 East 5th Street submitted a letter and appeared, expressing concerns that the applicant not commercially use the backyard of the location or the basement of 509 East 5th Street, which is attached to the basement of 511 East 5th Street and owned by the same landlord, given that neither area is permitted to be commercially used under the current zoning for these buildings; and

WHEREAS, the applicant was advised by Community Board #3 that the residential zoning of this location, zoned R7B, does not permit an extension of commercial use outside the original footprint of the commercial space and, consequently, use of the backyard or any area outside of the original footprint of the business is not permitted; and

WHEREAS, the applicant was also advised by Community Board #3 to speak with the landlord of the building about the legality of commercially using the basement of 509 East 5th Street which is attached to the basement of the location that is the subject of this application; and

WHEREAS, given that the applicant has operated numerous licensed businesses within this neighborhood and is now proposing to operate a full-service restaurant in a location which has previously operated as a full-service restaurant with a full on-premises liquor license, Community Board #3 would support this application with stipulations governing the method of operation of the business; now

THEREFORE, BE IT RESOLVED that Community Board #3 recommends the denial of the application for a full on-premises liquor license for Derossi 5th Street LLC, for the premises located at 511 East 5th Street, between Avenue A and Avenue B, New York, New York, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service vegan Mexican restaurant with a kitchen open and serving food during all hours of operation,

- 2) its hours of operation will be 5:00 P.M. to 1:00 A.M. Mondays through Thursdays, 5:00 P.M. to 2:00 A.M. Fridays, 12:00 P.M. to 2:00 A.M. Saturdays and 12:00 P.M. to 1:00 A.M. Sundays
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade doors and windows at 9:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances, or during unamplified live performances or televised sports,
- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 6) it will not apply for any alteration in its method of operation or for any physical alterations without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it will not have "happy hours,"
- 10) it will ensure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

Items not heard at Committee

10. The Ground (Chinatown United Food Services LLC), 130 Madison St (wb)
administratively approved
11. Lhasa (Lhasa Fast Food LLC), 177 1st Ave (wb)
administratively approved
12. Global Nippa USA Inc, 239-241 E 5th St (wb)
administratively approved
13. Clandestino Cafe & Bar (35 Canal Café LLC), 35 Canal St (op/corp change)
withdrawn
14. Vote to adjourn
approved by committee

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Landmarks Committee

1. Approval of previous month's minutes
approved by committee
2. LES Preservation Initiative Informational Presentation: State Historic Preservation Office's Determination of Eligibility for the ERP Track House and Tennis House
no vote necessary
3. GVSHP request for support for better landmark protection of old PS 64/Charas to require better seal of property to prevent existing break ins and proactively prevent fires and destruction

VOTE: TITLE: Need for better protection for old PS 64/Charas to preserve and protect the landmarked building

WHEREAS, 605 East 9th Street, the former P.S. 64 school building, also known as CHARAS/El Bohio Community Center, was a beloved community facility that served the Lower East Side community for over a hundred years; and

WHEREAS, this location has been the subject of CB 3, actions including a December 17, 2013 resolution describing in detail the long history of community engagement and the contested sale of the public property by the Giuliani Administration; and

WHEREAS, as a condition of sale, the buyer was required to provide the Department of Citywide Administrative Services proof of the ability to comply with the community facility use restriction within 30 days of sale; and

WHEREAS, the buyer did not provide proof other than a statement claiming to comply with the use restriction; and

WHEREAS, since the eviction in 2001, the community has suffered great hardship from the displacement of the invaluable services that CHARAS/El Bohio Community Center provided; and

WHEREAS, in 2004, the owner filed plans to demolish the building to construct a 20-story dormitory, "University House", though the owner had no accredited educational institution participation; and

WHEREAS, after an unprecedented community campaign, in 2006, the NYC LPC designated the Former P.S. 64 C. B. J. Snyder-designed school building as a landmark, recognizing its physical, cultural and historical distinction; and

WHEREAS, after the landmark designation, the owner removed the building's south facade cornices and dormers, as well as removed the architectural detail at the roof line, leaving the building open to the elements; and

WHEREAS the owner has allowed the building to fall into extreme disrepair; and

WHEREAS, the DOB has received 188 complaints, issued 110 DOB and OATH violations together, of which 62 are open, including the failure to maintain the premises; and

WHEREAS, the owner currently owes the City of New York over \$50,000 in unpaid penalties for OATH/ECB violations; and

WHEREAS, it has been almost 20 years since the auction sale and the owner has been unable to comply with the conditions of sale to develop a community facility; and

WHEREAS, the building has not been properly maintained by the current owner and has become a threat to public safety; and

WHEREAS, on February 6, 2019, adjacent buildings on East 10th Street were evacuated for safety concerns and crews from Con Edison, the FDNY and the Office of Emergency Management had to close the street to inspect a large crack and then issued another violation; and

WHEREAS, the NYC DOB issued an Emergency Vacate Order on February 13, 2019, noting "*at various exposures of educational facility, ornamental facade elements are in a state of disrepair with visible cracks, gaps, and deterioration. these ornamental elements has the potential to fall into the street and yard. in addition, interior fire proofing are missing thereby exposing structural steel members. these conditions have made the entire building and yards unsafe to occupy*"; and

WHEREAS, the NYC LPC issued an Order by the Chair to Repair on March 4, 2019, noting that the property is "*in a condition of disrepair with cracks at various locations, facade elements in a compromised condition. Back up masonry exposed to the elements on the north facade and cracked chimneys, among other issues*"; and

WHEREAS, the NYC DOB has the power to make repairs under an emergency declaration and bill the property owner; and

WHEREAS, the NYC LPC Chair Order to Repair indicates that failure to respond to that Order may result in legal action and possible daily fines up to \$5,000; and

WHEREAS, as of August 7, 2020, there are no publicly available documents on the NYC DOB BIS system or the LPC permit map to indicate that any permits have been applied for or obtained or any record of work done to address these violations and hazards; and

WHEREAS, concerned neighbors have recently witnessed and have photographic evidence of people consistently and regularly entering the premises despite the appearance of a locked up property and going through all the floors and accessing the roof, including using a pickaxe to further damage the property and allowing water exposure and damage; and

WHEREAS, CB 3 suffered a terrible loss when the similarly vacant and neglected landmarked *Beth Hamedrash Hagodol* on Norfolk Street suffered an arson fire and was burnt down and that tragedy was compounded by the loss of life that occurred during the course of the demolition of the fire damaged property, and

WHEREAS, CB 3 does not want to experience a repeat of that demolition by neglect that also resulted in the loss of life; and

WHEREAS, the current title holder of 605 East 9th Street is the subject of foreclosure action for failure to pay the mortgage and therefore may not have the inclination or be in the financial position to pay for urgently needed repairs; and

WHEREAS, the present and persistent condition of the building is a danger and hazard to life and property; so

THEREFORE BE IT RESOLVED, CB 3 recommends the following actions:

- NYC DOB should immediately properly secure the building, make emergency repairs and bill the owner
- Due to public safety issues at the building, including but not limited to fire hazard and materials that could fall off at any time, CB3 asks DOB to require that the owner provide authorization for the NYPD to enter the building
- LPC take legal action to compel repairs and issue the maximum fines retroactively and moving forward
- The city should place a lien on the property and send a letter with a copy of this Resolution to the lender of the owner to make them aware of these issues
- The City/LPC should retain a preservation engineer as soon as possible to assess the building for potential hazards, for areas where the building has been structurally compromised, and the exterior envelope for points of potential water infiltration and degradation of original building materials

BE IT FURTHER RESOLVED, consistent with a statement made by Mayor de Blasio at a Town Hall meeting he held in October 2017 where he stated his intent to pursue City acquisition of PS 64 and return it to community use, CB 3 reiterates its call made in a resolution in 2013 requesting that the de Blasio mayoral administration return the former P.S. 64 school building to the community by legally retrieving and then selling or giving it to a well-established not-for-profit organization(s) with a long history of serving the people of the Lower East Side/East Village including, but not limited to restoring the not-for-profit organization known as CHARAS/ El Bohio to the building located at 605 East 9th Street.

4. Vote to adjourn
approved by committee

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Land Use, Zoning, Public & Private Housing Committee

1. Approval of previous month's minutes
approved by committee
2. Two Bridges Rezoning Co-application: Update and request for Support for application memo and cover letter to Department of City Planning

VOTE: TITLE: To approve CB3 sign on the Co-applicant cover letter to DCP

CB3 approves sign on to the Co-applicant cover letter to DCP with amendments approved by the Committee

August **X**, 2020

Edith Hsu-Chen, Director
Manhattan Office
NYC Department of City Planning
120 Broadway – 31st Floor
New York, NY 10271

Director Hsu-Chen,

Thank you and your team for your March 16, 2020 letter and comments on the second draft of the Reasonable Worst Case Development Scenario ("RWCDs") Memo for the proposed Special Lower East Side and Chinatown Waterfront District in December 2019.

Enclosed, please find a third draft of the RWCDs that addresses remaining technical issues and provides some additional information in response to your comments. Specifically, the below changes have been made from the December 2019 draft:

- Updated massing diagrams and changes to the descriptions of the scenarios in Sections 8, 9 and Parts II and III to reflect the updated massing diagrams,
- Clarified that this is a request for both a Map and Text change on p. 1,
- Several updates and corrections in the table in Section 3b on ps. 1-2,
- Updated information about One Manhattan Square on p. 3,
- Replaced and added detail to descriptions of existing buildings in the LSRD on ps. 3-4,
- Added block and lot information DOS uses on block 249 on p. 3,
- Updated descriptions of waterfront blocks and Piers on p. 4,
- Replaced "luxury" housing with "market-rate" housing on p. 4,
- Corrected the amount of retail floor area in the study area on p. 7,
- Clarified the with action scenario on ps. 7-8,
- Clarified development site assumptions on p. 8, and
- Made typographical, punctuation and grammatical changes throughout.

We have not made any changes to the substance of the proposed land use action and seek your Department's Charter-mandated cooperation in preparing it for presentation to the City Planning Commission (CPC) and the City Council for their evaluation on the merits.

At this stage, the Department has the obligation to review the RWCDs Memo for completeness and allow the Applicants to move forward to producing a draft land use application and environmental review materials. Per the New York City Charter and ULURP Rules, only the City Planning Commission and the City Council have the power to disapprove an application based on its content. The role of the Department of City Planning in "substantive review" is to ensure that "requirements for completeness" of an application are met before it proceeds to the ULURP decision-makers. ULURP Rules § 2-02(a)(3).¹

As the Department made clear in its Notice of Adoption of the Pre-Application Process Rules, the "Pre-Application Process is not designed to assess the merits of a proposed project." See 62 RCNY § 10-01 et. seq.² Per these Rules, a RWCDs need only be a

conservative projection of the development that may occur pursuant to a discretionary action and is used by the Department to make reasonable conclusions regarding a land use action's likely effects on the environment.

62 RCNY § 10-06(a). Policy and land use issues cannot be evaluated at this stage in the Pre-Application Process, nor can they be evaluated by the Department itself.

Nonetheless, we have prepared responses to several of your team's comments.

Your team asked that we consider whether Block 248 Lot 76 is a soft site. This lot is within the Two Bridges Large Scale Residential Development, where no new structures can be added absent a discretionary action. Thus, in our analysis, we propose a changed use but no new structures. This was also clearly spelled out in our response to Section 3B:

The four blocks bounded by South Street, Pike Slip, Cherry Street and Montgomery Street - are governed by the LSRD Site area Plan. In addition, they are governed by C6- 4 zoning district regulations. The LSRD site plan dictates when can be built in this area; permitted construction is limited to those structures that are on the site plan; in exchange for this limitation, developers of the existing buildings obtained waivers of zoning regulations that would otherwise dictate design elements like the spacing between buildings. All structures on the controlling LSRD Site Plan have been built. No new buildings can be added unless the City Planning Commission and City Council

¹ See Erik Engquist, *City speeding up building-approval process*, CRAIN'S (Jun. 11, 2014) (acknowledging that the Bloomberg administration had strayed from its Charter-mandated role during in preparing applications for ULURP, former DCP Director and Commission Chair Carl Weisbrod said, "Very often City Planning would not allow a project to be certified until the department liked it. We should follow the [City] Charter," which says applications shall be certified when they are complete.").

² 2013 Notice of Adoption of Rules, available at https://www1.nyc.gov/assets/planning/download/pdf/about/dcp-rules/notice_of_adoption_of_rules_establishing_preapplication_meeting_and_submission_requirements.pdf

adopt a revised site plan. *See Council v. Dep't of City Planning*, Index No. 452302/2018 (N.Y. Sup. Ct. Aug. 1, 2019).

Your team asked whether Block 249 is part of the rezoning area. It is. It was included in the table on page 2, with all lots listed: 1, 56, 78, 999.

Your team asked us to "provide a rationale why 5,000 sf is more appropriate" for Use Group 6 retail establishments other than food stores and restaurants. Smaller storefronts allow for a diversity of establishments and services and are less likely to be destination retail. The 5,000 sf limit, with exceptions for food stores and restaurants, will ensure that the Special District regulations will promote the multi-store character that defines much of the Lower East Side and Chinatown. Smaller stores are more likely to serve local residents and be more affordable for local entrepreneurs and shop-keepers looking for space in the neighborhood. Smaller stores will, by definition, provide more establishments, which should enhance not only the service offerings for neighborhood residents but provide more opportunities for small-scale economic development.

Your team stated that the CPC Special Permit required for transient hotels "is superfluous... given the only soft site is located within an M1-6 district which already requires a special permit for hotels." That is incorrect. The proposed Special District includes more than just an M1 district where special permits for hotels are already required. The Special District also includes several city blocks in a C6-4 district where hotels are allowed as-of-right. The only discretionary approval required for construction on those C6-4 sites is a change to the LSRD Site Plan, the requirements for which do not include any special consideration for hotels. More importantly, the land use rationale and the CPC findings for this special permit would be different than the recently adopted special permit for hotels. This special permit is not particularly concerned about the conflict between a hotel use and uses in UG 16 and 17. Rather this special permit is a mechanism to evaluate non-residential uses before permitting new ones, to ensure that emerging establishments do not displace uses that are needed by the residents of the community, and will not disrupt the *residential* character of the area. Considering this area's proximity to the Lower Manhattan Central Business District (CBD), the risk for such uses, including hotels, is real. The proposed special permit provides a mechanism to ensure that future development is oriented toward local residents.

Your team commented that "DCP encouraged the team to remove" special permits for education and health care facilities; although that comment is not relevant at the RWCDs stage, we can explain why these permits are included in the proposed Special District regulations. Education and large health care facilities are typically regional, with workers, students, customers and patients from across the City and region. *The Plan for Chinatown and Surrounding Areas*,³ which is the foundation for this rezoning proposal, envisions a future for the Lower East Side and Chinatown that primarily serves its residents; these uses are contrary to that goal. The City has regional centers and CBDs where such uses are appropriate, including the Special Lower Manhattan District, which has a boundary just 1,000 feet away from the area proposed to be covered by the Special District Applicants now seek to create. A special permit for these uses provides a mechanism to ensure that future educational and healthcare facility development is oriented toward local residents and will only be approved when it will not displace locally-oriented uses.

Your team asked about the financial feasibility of new development in the area with the proposed rules (e.g. "we have questioned whether requiring high levels of affordability is feasible and whether it would result in any development."). This inquiry is not relevant to the development of a RWCDs.⁴

Your team asked for a rationale for the mix of housing the proposed district would require in new construction. Your team also stated that the goal to provide housing that would serve the income levels of the community is in direct conflict with the Housing New York Plan which advocates for mixed-income housing. The reality is the opposite: this Special District would encourage and preserve income-diversity and mixed-income housing by fostering appropriate development while stabilizing the neighborhood for those resident most at need. Consistent with Housing New York, this proposal

³ *The Plan for Chinatown and Surrounding Areas: Preserving Affordability & Authenticity*, developed by the Pratt Center for Community Development & The Collective for Community, Culture and the Environment (December 2013), <http://www.chinatownworkinggroup.org/2014-01-01%20Pratt%20Report%20to%20CWG.pdf>.

⁴ The studies that the City commissioned to justify the affordability requirements of MIH were dominated by for-profit developers interested in a plan that reflected their needs for financial returns. These studies are flawed as they only include part of the development universe. While for-profit developers will be free to develop under these regulations, there are many NYC-based not-for-profit developers who would not see the requirements of the Special District as a burden, and would likely develop 100% affordable projects in this area. These regulations will level the playing field and allow these developers to compete for sites again in Manhattan.

provides opportunities for new private development of over 3,400 permanently affordable housing units targeted to the median neighborhood household. At the same time, up to 50% of newly constructed residential units would be developed and tenanted at market-rates ; together with the affordable housing, this would provide a full range of mixed income housing for the area. Though there is income diversity in the neighborhood already, most residents of this area are earning 30% of New York City's Area Median Income (AMI). 46% of households are rent burdened, spending more than 30% of their income on rent. Up to 14% are severely rent burdened, dedicating up to 50% of their income on rent. As discussed in *The Plan for Chinatown and Surrounding Areas* and the PAS, housing is needed for those with the greatest need. This proposal guarantees the development of a maximum number of affordable units in the Special Lower East Side and Chinatown Waterfront District that are permanently affordable to those earning the local AMI.

Your team also asked for justification for the assumption that gentrification increases displacement risk. Gentrification is the process of higher income tenants moving into a neighborhood. Apartments that are not rent regulated can increase their rents to levels the new gentrifying residents can afford, but which long-time residents cannot afford. As a result, this can result in displacement of existing tenants, especially those in market-rate housing. By requiring rent regulated units in any new development, units will be available for those with incomes that match the median income of the neighborhood.

Your team asked for a rationale explaining why a 60% open space requirement is appropriate and how you determined the additional requirements for new construction on lots where there are existing buildings. Most of the residential development in this area follows the tower-in-the-park design paradigm, and coverage requirements of the proposed Special District, if coupled with height restrictions, reflect the coverage seen in residential developments in the area. Low coverage, buildings are more appropriate here than high coverage contextual buildings. This requirement is consistent with the current design vernacular within the Special District. The allowance for an additional 20% coverage on sites that already have existing buildings exceeding 40% coverage will provide developers and owners flexibility when infilling sites or creating additions on sites that are already developed.

Your team asked how limiting development protects the City's tax revenues. It also asked about the economic development strategies that are proposed, with the comment that it was unclear how restricting development would foster new development as well as expressed concern regarding financial feasibility of the affordability requirements. But this proposal does not seek to restrict development, simply to regulate it to foster appropriate development across the area that is responsive to the needs of current residents. In all of these questions, it is important to remember that not all development has the same impact on the economy and the local community. Small scale retail is more likely to provide local economic development and services that matter to the people in the community. Large-scale development that serves the larger region may create jobs and economic development for the City, but the benefits of that economic development are likely to pass by local residents; likewise, building a majority of residential units that are out of reach for local residents will fail to benefit them or maintain the type of mixed-income housing this neighborhood needs. Therefore, regulating the type of new development that is permitted can target the benefits of new development to the people who need it: the local residents of the community. While uses like banks and drugstores provide necessary services that residents need, the economic benefits of these establishments often accrue to owners who are outside the neighborhood, or even outside New York State. By limiting their footprint in the community, particularly the frontage that they take up that would otherwise provide sales opportunities for other types of establishments, residents are more likely to get services they require, but still leave space for small scale retail, local services and community-based organizations in the neighborhood.

Your team also stated that existing "cultural, recreational, and community facility uses" have not been clearly defined so it is unclear how restricting certain uses and bulk regulations will preserve this character, asking for explanation on how these restrictions will result in the desired goal. Development that provides small-scale retail and local services not only provides spaces for local economic development, but is an important part of the local character of Chinatown and the Lower East Side. We encourage DCP to review the Plan for Chinatown and Surrounding Areas that this zoning proposal intends to implement, in part.

Your team asked whether the special permit for the hospital should be removed on the basis that it is unlikely to be used. We don't agree with removing it. There are many uses that require special permits and many of these uses are unlikely, rare, or even non-existent in New York City. These special permits are still important so that the City can carefully consider the impacts of a wide array of uses that should not be located as-of-right. Special permits should be developed for rare and unusual uses that

are possible but have the potential to be contrary to the intended neighborhood character. As stated previously, hospitals, especially hospitals located in Manhattan, employ workers and receive patients from across the City and region. Such a regional hospital use would be contrary to the neighborhood plan as it would have the potential to crowd out other uses designed to serve the community. A community hospital, however, may be appropriate; the details of the use matter, which makes a special permit appropriate.

Please confirm, by August X, that your Department will be reviewing our submission for completeness for the purpose of evaluating the likely effects on the environment of the creation of the proposed Special District within the time provided by the Pre-Application Process Rules.

If we do not receive your confirmation by August X, we will accept the statement in your March 16 letter explaining that, absent changes to the requirements of the proposed Special Purpose District the "RWCDs will remain incomplete and the proposal will be unable to advance" as a final agency determination.

Thank you so much for all you do.
Sincerely,
Alysha Lewis-Coleman
Manhattan Community Board 3

Paula Z. Segal, Esq.
TakeRoot Justice
Counsel for: CAAAV: Organizing Asian Communities, Good Old Lower East Side (GOLES), Tenants United Fighting for the Lower East Side (TUFF-LES)

cc:

Jim Shelton, Manhattan Community Board 3
Susan Stetzer, Manhattan Community Board 3
George Janes, Consultant to Manhattan Community Board 3
Council Member Margaret Chin
Manhattan Borough President Gale Brewer
Stepahine Chen, Office of Manhattan Borough President Gale Brewer
Anita Laremont, DCP Executive Director
Susan Amron, DCP General Counsel
Danielle DeCerbo, DCP Governmental Affairs
Olga Abinader, DCP Environmental Review
Ken Ramnarine, DCP Technical Review
Bob Tuttle, DCP Capital Planning
Erik Botsford, DCP Manhattan Office
Scott Williamson, DCP Manhattan Office
Matthew Pietrus, DCP Manhattan Office
Annabelle Meunier, DCP Environmental Review
Laura Kenny, DCP Environmental Review
Renee Ferguson, DCP Technical Review
Vinh Vo, DCP Technical Review
John Mangin, DCP Counsel
Allan Zaretsky, DCP Waterfront and Open Space

3. Vote to adjourn
approved by committee

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED (excluding Land Use item 2)
41 YES 0 NO 0 ABS 2 PNV MOTION PASSED (Land Use item 2)

Transportation, Public Safety, & Environment Committee

1. Approval of previous month's minutes
approved by committee
2. LES Partnership: DOT Pedestrian Plaza & Neck Down Extension at Intersection of Orchard and Broome Streets
no vote necessary
3. District Needs Statement
no vote necessary
4. Vote to Adjourn
approved by committee

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Economic Development Committee

1. Approval of previous month's minutes
approved by committee
2. LESEN: Current unemployment and workforce needs
no vote necessary
3. Center for an Urban Future: Overview of current employment and industry and industry trends
no vote necessary
4. District Needs Statement
no vote necessary
5. Special District Update
no vote necessary
6. Vote to adjourn
approved by committee

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Parks, Recreation, Waterfront, & Resiliency Committee

1. Approval of previous month's minutes
approved by committee
2. Parks Manager Update
no vote necessary
3. DDC Update: East Side Coastal Resiliency/status of mitigations
no vote necessary
4. EDC Update: Brooklyn Bridge/Montgomery Coastal Resiliency
no vote necessary
5. EDC update: Pier 42
no vote necessary
6. EDC update: Package 4 East River Esplanade
no vote necessary
7. EDC update: Brooklyn Bridge Esplanade
no vote necessary
8. Pier 35 closing time and enforcement of pier regulations
VOTE: TITLE: Support for Enforcement and Maintenance actions at Pier 35

To Support Enforcement and Maintenance actions at Pier 35

WHEREAS, the park at Pier 35 on the East River waterfront has been fully open for just over one year after many years of planning and delays; and

WHEREAS, open space is limited in this area, and Pier 35 is currently the only fully accessible waterfront area in Two Bridges, as all other potential access points to the waterfront are under construction; and

WHEREAS, the NYC Parks Department has identified Pier 35 as an open space mitigation for the East Side Coastal Resiliency (ESCR) project's temporary closing of East River Parks, but has not yet allocated any funding; and

WHEREAS, damage to elements of the park at Pier 35 begin as soon as it opened; and

WHEREAS, many families and seniors (including those who live in nearby dedicated senior housing buildings) want to use this space but are often prevented from doing so because the park is overrun by people seeking open space; and

WHEREAS, Pier 35 has become the number 2 site in all of NYC for views according to NYPD Community Affairs; and

WHEREAS, there have been 37 911 calls related to Pier 35 in the last three months according to the NYPD; and

WHEREAS, there have been hundreds of noise complaints related to Pier 35, with 276 311 noise complaints in the immediate area in the past three months according to NYC Open Data, though the

true number cannot be known because Pier 35 has not yet been identified as a discrete location for 311 reports; and

WHEREAS, at least three bodies found along the East River esplanade/pier areas over the last three months and there have been multiple incidents of people either falling or jumping into the water according to the Citizen app; and

WHEREAS, every morning the park at Pier 35 is full of garbage, and there are only two garbage cans on the entire eastern pier portion; and

WHEREAS, Bigbelly garbage cans with solar-powered compactors were promised for Pier 35 but were never delivered; and

WHEREAS, there is now a big rat problem that also resulted in the new sprinkler system being eaten by rats in only a few months; and

WHEREAS, there has been extreme loud late night activity every night, often with cars two and three deep at the curb, as well as large group parties with open alcohol and loud music, which is worse on the weekends; and

WHEREAS, although bathrooms were planned in the original design, they were removed without community input, and now there are no bathrooms along the entire stretch of the Two Bridges waterfront, resulting in dozens of people knocking on nearby residential buildings to use bathrooms at all times and using planted areas as bathrooms; and

WHEREAS, the Pier 35 park has a closing time but it is difficult to enforce because there is no gate; and

WHEREAS, the NYC Parks Department is paid separately for maintaining the Esplanade area and Pier 35, so maintenance of the area should not be affected by Parks budget cuts; and

WHEREAS, there is a "Friends of" group in place but it is completely overwhelmed by multiple issues; and

WHEREAS, Pier 36 has similar issues as an open and active dock but does not have a dockmaster present; and

WHEREAS, City agencies have been meeting to discuss plans to mitigate these problems;

THEREFORE BE IT RESOLVED, NYC Parks, NYPD, and the NYC Economic Development Corporation (EDC) should take the following actions to resolve the chronic problems at Pier 35:

- NYC Parks and NYPD should close the Pier 35 park at 11 PM and re-open it at 6 AM daily
- NYC Parks should add multiple signs clearly indicating the closure time
- NYC Parks should immediately add a large sign identifying the park as "Pier 35"
- Barriers and gates with signage should be used to close the park at Pier 35, as has been done at other problematic parks
- NYC Parks and EDC should develop a long-term plan to secure and close the park at night
- NYC Parks Parks Enforcement Patrol (PEP) and NYPD should make a commitment to patrol Pier 35 and surrounding areas during the later hours
- EDC and DOCKNYC should secure and immediately repair the camera system at the adjacent Pier 36 area and also add a full-time Dockmaster and security
- NYC Parks should increase scheduled maintenance and rat abatement to handle the increased garbage and rodent problems
- DSNY should provide the promised Bigbelly garbage cans to Pier 35
- NYC Parks should immediately provide portable restrooms for the remainder of the season and work with the "Friends of" group on questions of placement and logistical issues
- NYC Parks and EDC should come up with a long-term plan for bathrooms at Pier 35
- NYC Parks and EDC should develop additional plans for ways to keep "eyes on the park" including allowing for temporary affordable concessions

9. District Needs Statement

no vote necessary

10. Vote to adjourn

approved by committee

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED (excluding Parks item 8)
42 YES 0 NO 1 ABS 0 PNV MOTION PASSED (Parks item 8)

Vote to adjourn

43 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Members Present at Last Vote:

David Adams	[P]	Linda Jones	[P]	Carolyn Ratcliffe	[P]
Yaron Altman	[P]	Vaylateena Jones	[P]	Damaris Reyes	[P]
Jesse Beck	[P]	Tatiana Jorio	[P]	Richard Ropiak	[P]
Dominic Berg	[P]	Lisa Kaplan	[P]	Thomas Rosa	[P]
Lee Berman	[P]	Olympia Kazi	[P]	Robin Schatell	[P]
Karlin Chan	[P]	Joseph Kerns	[A]	Heidi Schmidt	[A]
Jonathan Chu	[P]	Michelle Kuppersmith	[P]	Laryssa Shainberg	[P]
David Crane	[P]	Mae Lee	[P]	Clint Smeltzer	[P]
Felicia Cruickshank	[P]	Wendy Lee	[A]	Anisha Steephen	[P]
Eric Diaz	[P]	Alysha Lewis-Coleman	[P]	Sandra Strother	[A]
Alistair Economakis	[P]	David Louie	[P]	Josephine Velez	[P]
Shirley Fennessey	[P]	Ellen Luo	[P]	Troy Velez	[P]
Ryan Gilliam	[A]	Michael Marino	[P]	Rodney Washington	[A]
Debra Glass	[P]	Alexandra Militano	[P]	Kathleen Webster	[P]
Andrea Gordillo	[P]	Michael Perles	[A]	Jacky Wong	[P]
Herman Hewitt	[P]	Tareake Ramos	[P]	Ricky Wong	[P]
Trever Holland	[P]	Paul Rangel	[P]		

Meeting Adjourned