

1 **Executive Committee**

**Item# 01**

2

3 May 6, 2015

4

5 Patricia Gouris

6 [REDACTED]

7 [REDACTED]

8

9 Dear Patricia,

10

11 After taking a vote on this matter at the full board meeting on May 6, 2015, Manhattan  
12 Community Board 4 is pleased to offer you the position of Associate Planner. Your annual  
13 compensation will be \$40,000 and your start date will be Monday May 11, 2015.

14

15 The members of the board and the staff are truly delighted that you will be joining  
16 Manhattan Community Board 4.

17

18 Sincerely,

19

20

21 Christine Berthet

22 Chair

23 Manhattan Community Board 4

24

25 cc: Jesse R. Bodine, District Manager, Community Board 4

26 Deirdre Lyles, Director of HR & Operations, Office of the Manhattan Borough President

1 **Quality of Life Committee**

**Item # 02**

2  
3 May 6, 2015

4  
5 Street Activity Permit Office  
6 100 Gold Street, 2nd Floor  
7 New York, NY 10038

8  
9 **Re: Street Activity Permit Renewal Application 2015**

10  
11 **Applicant: Folsom Street East**

12 **Location: W. 27th Street (10th -11th Avenue)**

13 **Date:** \_\_\_\_\_

14 **Time:** \_\_\_\_\_

15 **Appl.** \_\_\_\_\_

16  
17 Manhattan Community Board 4 recommends denial of the renewal application for a street  
18 fair located at \_\_\_\_\_ on W. 27th Street between 10th and 11th Avenue, to be  
19 operated by Folsom Street East, unless the following provisions are agreed to by the  
20 operators:

- 21 • Hours of operation are 11 a.m. to 4 p.m. w/set up starting at 9 a.m. and clean-up  
22 being finished by 6:00 p.m..
- 23 • To reach out to all residences and businesses on 27th St. between 10<sup>th</sup> and  
24 11<sup>th</sup> Avenues to alert them to the event, its ticket policy, and to give contact  
25 information for the operators in case residents/businesses have questions or  
26 concerns;
- 27 • Work with the Police Department to procure barricades to line the sidewalks to  
28 give easy access for residents and businesses to get on and off the block;
- 29 • Best efforts be made to ensure that the live performance space be angled in such a  
30 way so that a physical view of the stage from the apartment building located  
31 at 537 West 27<sup>th</sup> is not possible.
- 32 • Provide adequate security to manage the expected large crowds and to provide  
33 information regarding the event to any interested parties.
- 34 • Make sure that residents and business personnel of the block have no issues  
35 gaining admittance to and from their residences and businesses on the day of the  
36 event (and that all New Yorkers be made to feel welcome to traverse the block in  
37 question using the sidewalks).
- 38 • Amplified Sound/music will be permitted for a four hour window during the  
39 event. Such sound will be monitored by the operators and will not be unduly  
40 loud. All Residents and businesses will be given a contact phone number for the  
41 operators of the event in order to register concerns and/or complaints about the  
42 sound levels.

- 43       • Regarding the amplified sound/music to be used as noted above, the organizers  
44 agree to bring to the May 11, 2015 Quality of Life Meeting all sound operators  
45 and/or sound firms being used by the event organizers to determine legally  
46 permissible sound levels in advance and how complaints are to be monitored and  
47 acted upon.

48 Sincerely,

49

50

51 David M. Pincus and Tina

52

53 cc.: \_\_\_\_\_

54

DRAFT

1 **Quality of Life Committee**

**Item # 03**

2  
3 May 6, 2015

4  
5 Dear State Elected Officials:

6 We are writing to express our support for the creation, enactment and passage of new  
7 legislation that would change the NY State Penal Code Classification of synthetic  
8 cannabinoids (known on the street as "K2", "Spice") to that of a Controlled Substance

9 Synthetic cannabinoids are an emerging problem in our neighborhoods. A multitude of  
10 residents of Community Board 4 have come to the Board looking and asking for help and  
11 relief from this specific drug that is adversely victimizing our residents, most particularly  
12 our lower income and shelter residents.

13 It is our belief that local law enforcement and district attorneys do not have adequate  
14 legal tools to remove these harmful substances from commercial sale and distribution;  
15 since existing regulations classify possession of "K2" as a mere violation, with no  
16 distinction between possession and distribution. In other words, "K2" is legally akin to  
17 the public consumption of alcohol. As such, it is not possible for local law enforcement  
18 and district attorneys to uncover and shut down networks involved in the illicit sale,  
19 distribution and importation of "K2" because it is not possible to obtain a search warrant  
20 or to engage in plea bargaining with defendants with regard to same.

21 The NYC Department of Health and Mental Hygiene has reported that emergency  
22 department visits related to synthetic cannabinoids were up 220% in first six months of  
23 2014. The manufacture of "K2" includes an unpredictable blend of ingredients, which can  
24 cause an array of serious and unpredictable side effects. Common psychological reactions  
25 include agitation, fear and paranoia, which can cause intense experiences of panic attacks  
26 and disorientation. Significant physiological side effects can include heart palpitations  
27 and respiratory difficulties.

28 CB4 wishes to respond to the community residents coming to our Board for help and  
29 protection of people using K2. Our lower income residents are particularly being  
30 victimized and hurt by use of this drug, which can be bought for as little as \$2.00 on the  
31 street.

32 CB4 supports legislation that would not punish the user, but instead would target  
33 distributors preying on our community. Only possession with intent to distribute should  
34 result in misdemeanor or felony charges. CB4 believes that classifying the mere  
35 possession of small quantities of "K2" as anything more serious than a "violation" does  
36 nothing to improve overall public health or safety. **To be very clear, CB4 does not**  
37 **support any change in legislation that would impact individual users of this drug.**  
38 Drug convictions have already criminalized and marginalized millions of Americans,  
39 with consequences that can include loss of a job, voting rights, housing, and access to  
40 education. It is our intention that users of "K2" should not be further victimized. "K2" is  
41 an emerging public health problem that should be addressed by legislation to curb its sale  
42 and distribution, not to criminalize its possession;

43 In 2013, NY State enacted legislation to address synthetic cathinones (another class of  
44 drugs commonly known by their street name, "bath salts"), reclassifying them from a  
45 violation to a controlled substance under the state penal code. That legislation closed a  
46 significant loophole and toughened penalties to curb the sale and distribution of "bath  
47 salts" by allowing local law enforcement and district attorneys to use search warrants and  
48 plea bargaining. Legislation to address "K2" could be modeled on the "bath salts"  
49 legislation.

50 CB4 encourages all of our State elected officials to write, support and enact legislation to  
51 classify synthetic cannabinoids (a/k/a., "K2") as a controlled substance under NY State  
52 penal code for the purposes of intent to sell and distribute in NY State which would result  
53 in more serious misdemeanor or felony charges for those individuals charged and  
54 convicted.

55

56 Christine, David and Tina.

57

DRAFT

2  
3 May 6, 2015

4  
5 Ms. Madlyn Wils  
6 President and Chief Executive Officer  
7 Hudson River Park Trust  
8 Pier 40, 2<sup>nd</sup> Floor  
9 353 West Street  
10 New York, NY 10014

11  
12 **Re: Pier 57**

13  
14 Dear Ms. Madelyn Wils,

15  
16 Manhattan Community Board 4 (MCB4) would like to take this opportunity to thank the Hudson  
17 River Park Trust (HRPT) for keeping the Board apprised of the progress in the development of  
18 Pier 57. Pier 57, a historic pier that formerly housed the New York Department of Marine and  
19 Aviation, is listed on the State and National Registers of Historic Places and has been vacant for  
20 many years. In December 2012 MCB4 voted unanimously to approve the ULURP action to make  
21 the restoration and development of this pier possible. Changes to the HRPT Act in 2013,  
22 allowing for office space on commercial piers, gave rise to a re-imagined plan for Pier 57. The  
23 new concept of both retail and office space on Pier 57 prompted a mandated update of the  
24 environmental assessment. The results of this new assessment and a general status report  
25 were presented to MCB4's Waterfront, Parks and Environment Committee. Overall MCB4 is  
26 satisfied with the results of the assessment and supports the vision of Pier 57 that HRPT shared  
27 with the Board.

28  
29 Pier 57 is located west of Route 9A at the ends of 16th and 17th Streets, within Hudson River  
30 Park. To the north are Piers 59 through 62, the Chelsea Piers complex, and to the south is the  
31 site of the planned Pier 55, and the Gansevoort Peninsula. In 2012 HRPT awarded a Request for  
32 Proposal to redevelop Pier 57 to Young Woo & Associates. Young Woo envisioned a unique  
33 retail concept for the historic pier. The idea was to house within the building "creative" retail  
34 vendors in container boxes referred to as "incuboxes." Additionally, there would be public open  
35 space around the structure and on the rooftop.

36  
37 Following the changes to the HRPT Act referred to earlier, Young Woo partnered with RXR  
38 Realty to modify the plan and include office space as part of the project. The premise is the  
39 addition of office space will help activate the retail space. RXR Realty has stated they are  
40 committed to Young Woo's original concept of unique retail and public open space. RXR Realty  
41 specializes in landmark restoration having worked on the 1896 Beaux-Arts style building at 620  
42 Avenue of the Americas and is currently working on 75 Rockefeller Center.

44 Young Woo and RXR Realty have already filed with the Department of Buildings. Currently there  
45 is a Memorandum of Understanding in place between Young Woo/RXR Realty and HRPT to  
46 lease the pier for a period of 99 years. It is assumed the project will cost more than \$300  
47 million, a significant increase from the original proposal which was priced around \$120 million.  
48 In order to finance this project, the developers must rely on historic tax credits offered for the  
49 historic preservation of the pier. To qualify for such credits and to be considered for financing,  
50 a long lease is deemed necessary. The lease period in the MOU triggers a Significant Action for  
51 HRPT and they will be required to hold public hearings on the matter before it can be approved  
52 by the HRPT Board.

53  
54 Pier 57 is zoned for 5 FAR. The revised project will be a total of 450,000 square feet,  
55 approximately 2.75 FAR, well below what is permitted. The building has two 27 foot floors  
56 which will be bifurcated. The proposed layout envisions retail for the first two levels of the  
57 building and a lobby entrance with access to the second two levels for the office space. For the  
58 office space talks are in progress to identify potential tenants. Young Woo and RXR Realty  
59 indicate there is a good deal of interest from TAMI companies -- the Tech, Arts and Media  
60 sector. This is consistent with the type of companies that have taken up residence within our  
61 district.

62  
63 A food option is being considered for the west end of the pier and there is the potential for a  
64 marina with possible ferry service. The rooftop will be public open space and potentially a  
65 home for the Tribeca Film Festival.

66  
67 In light of Super Storm Sandy, MCB4 expressed concerns for the possibility of such an expensive  
68 project sustaining damage from future storms. In response to these concerns, HRPT informed  
69 MCB4 that designs for the Pier 57 project have been updated to comply with new regulations in  
70 place since Sandy. All mechanicals will be placed on the higher levels and storm proofing of the  
71 lower levels will be implemented.

72  
73 Another area for concern was the potential increase in traffic in the area especially with the  
74 Pier 55 project in the same vicinity. HRPT has assured MCB4 that Pier 55 and Pier 57 events will  
75 not be scheduled for the same day. The updated environmental assessment also included a  
76 new traffic analysis. According to the study conducted by HRPT the new project of office  
77 spaced added to retail indicated there would be no adverse vehicular traffic affects; in fact the  
78 new plan will reduce traffic. In conjunction with this project, federal funds have been allocated  
79 to improve the esplanade around the pier which will greatly improve the pedestrian  
80 experience.

81  
82 Overall, MCB4 is pleased with the proposed development of the historic Pier 57. The timely  
83 and frequent updates from HRPT is very much appreciated. MCB4 looks forward to the long  
84 awaited revitalization of this wonderful structure within our district boundaries and continuing  
85 to be included in the public process as the Pier 57 project progresses.

86  
87 Sincerely,

88  
89 Christine Berthet                      Maarten de Kadt Co-Chair                      Delores Rubin Co-Chair  
90 Chair                                      Waterfront, Parks &                      Waterfront, Parks &  
91    Environment Committee                      Environment Committee  
92  
93

94 cc:    Brad Hoylman, NY State Senator  
95        Richard Gottfried, NY State Assemblymember  
96        Linda B. Rosenthal, NY State Assemblymember  
97        Jerrold Nadler, Congressmember  
98        Gale Brewer, Manhattan Borough President  
99        Corey Johnson, NYC Councilmember

100  
101

DRAFT



2  
3 May 6, 2015

4  
5 Joseph H. Boardman  
6 President  
7 Amtrak  
8 60 Massachusetts Avenue  
9 Washington DC 20002

10  
11 **RE Amtrak Gateway project – Resiliency Phase**

12  
13 Dear Mr. Boardman:

14  
15 Manhattan Community Board #4 (CB4) appreciates the opportunity to comment on Amtrak’s  
16 planned Gateway Program, particularly as you initiate the scoping of the Environmental Impact  
17 Study (EIS) required under NEPA (National Environmental Policy Act) for the resiliency phase  
18 of the project. CB4 supports immediately enhancing the resiliency of the system, and repairing  
19 the damage Super Storm Sandy caused to the existing tunnels and mechanical systems as quickly  
20 as possible. We also support the overall expanded capacity proposed in the longer term Gateway  
21 Program, including an additional tunnel provided it enables a very significant increase in transfer  
22 free commutes from New Jersey to their final destination in New York.

23  
24 The saltwater infiltration in the Hudson River tunnel created damage beyond what can be fixed  
25 during the reduced service weekend times currently used to make repairs. Additional capacity is  
26 required to enable a full shut down of each of the two existing rail tracks in the Hudson River  
27 tunnel both to complete storm damaged mechanical systems and tunnel repairs and a create a  
28 more resilient tunnel that can weather (pun intended) the next storm. The resiliency phase thus  
29 proposes the construction of two new tracks under the Hudson River, the creation of a new Portal  
30 North Bridge in New Jersey to replace the damaged Hackensack River Bridge between Kearny  
31 and Secaucus, the replacement of the control systems for substations 41 and 42, and the  
32 rehabilitation of the existing tunnels.

- 33  
34
- 35 • We request that during the EIS, Amtrak studies alternatives to the proposed plan  
36 including building a tunnel with a single track (with and without capacity to add a second  
37 track in the future). This could result in completing the project faster and at a lower cost.  
38 It would also save expenses since the second track potentially cannot be used to increase  
39 capacity until the final design and construction of the Penn Station extension is built,  
40 which may be decades away. A single track could be designed to accommodate double  
41 decker cars so that capacity could be somewhat increased at the end of that phase for a  
42 lower cost.

43 We share Amtrak’s sense of urgency to begin the resiliency program to prevent the next storm  
44 from totally incapacitating the rail system. Separately from the EIS scoping, we encourage  
45 Amtrak to investigate how they can, over a 2 to 3 year period, repair and improve the existing  
46 Hudson River tunnel to enable the rail system to survive another major storm. Given that the

1 planning and funding required for the defined Resiliency program will require a minimum 10  
2 year effort, likely not achievable before another major storm.

3  
4  
5 We support the long term goal of expanding the Trans-Hudson commuting capacity  
6 recommended in the Gateway Program. Penn Station sees 150,000 daily train commuters and the  
7 Bus terminal has 220,000 bus commuters. Bus commuters are expected to grow by 35% to  
8 337,000 commuters a day by 2040 while the rail is expected to reach 225,000 passengers daily in  
9 coming decades <sup>1</sup>. Both of those networks are well over capacity, experiencing excessive delays  
10 on a regular basis and unable to absorb the explosion in commuters that is anticipated. The  
11 Gateway Project overall vision of additional tracks and capacity, new surrounding regional portal  
12 bridges and a turnaround at Secaucus Station enabling no-transfer Manhattan trips on the Bergen  
13 county and Pascack Valley New Jersey Transit Lines are promising ideas. The Gateway Project  
14 meets an important CB4 priority of providing convenient non-bus mass transit for a large  
15 proportion of both commuters and regional tourists/travelers. We look forward to working with  
16 Amtrak in moving the vision into more defined plans and eventually reality.

17  
18 We are, however, disappointed that the plan does not include two components that are both  
19 priorities for Manhattan CB4 and crucial for a strategic long-term regional transportation  
20 network

- 21 • **Direct Access to the East Side/East Side subway lines for West of the Hudson River**  
22 **commuters:** Even with creative mitigations, the Penn Station accessed west side subway  
23 system (particularly the E train, which goes to the east side from Penn Station) will likely  
24 be saturated beyond existing subway lines with the projected Gateway Program growth.  
25 Enabling direct commuter lines from New Jersey to the east side will enable more  
26 options and thus easier rail commute and avoid oversaturating the subway system;
- 27 • **Enabling a multi-state subway system** by providing a Hudson River rail line for the #7  
28 train extension to the Secaucus/Lautenberg station. Any long-term regional  
29 transportation system should enable a multi-state subway system. This will enable more  
30 options for commuters and enable further growth than provided by the two current  
31 transportation HUBS (Penn Station and Grand Central Terminal).

32  
33 We also have other important recommendations related to the long-term Gateway Plan:

- 34  
35 • Related to the two above recommendations, we urge Amtrak to coordinate their long-  
36 term plans with the Port Authority. More specifically, we encourage Amtrak to await the  
37 results of the Port Authority's Long Term Planning for Hudson Crossing Transit Capacity  
38 before devising their final long-term plans and to ensure the Gateway Project  
39 complements and assists that plan. This is important to ensure the project meets the  
40 commuter focus that also reflects the system's usage.
- 41  
42 • We encourage Amtrak to ensure the EIS for the future Gateway phases include the affects  
43 a 50% increase in commuters will have on the surrounding mass transit systems - both

---

<sup>1</sup> Port Authority Master Bus plan, March 2015, Study of the # 7, City Hall, December 2013

1 below (from Penn Station) and above ground subway platforms, entrances/exits,  
2 surrounding bus lines, 6<sup>th</sup> through 9<sup>th</sup> Avenue sidewalks and street usage and bicycle  
3 (include bicycle lanes), pedestrian and vehicular traffic will all be affected.

4 •  
5 This impact, particularly related to subways, will need to take in account the cumulative effects  
6 of plans to increase by 35% the capacity of the Port Authority Bus Terminal, which shares  
7 subway lines and 8<sup>th</sup> Avenue to disgorge its commuters and should include examining building  
8 new subway tunnels for projected substantial impacted lines such as the A, C and, as mentioned  
9 above, E trains. It should also examine the requirements for increased 8<sup>th</sup> Avenue sidewalk  
10 capacity and its effect on the number of traffic lanes. Fully understanding the impact will require  
11 close coordination with DOT, MTA, DCP, CB4, CB5 and local community groups so the  
12 impacts can be analyzed in the context of the other major transportation growth and additional  
13 building density

- 14 .  
15  
16 • While we understand that much of the construction in the CB4 district is close to  
17 completion including the concrete casing under the Hudson Yards, or will have minimal  
18 above ground impact, such as the recently begun 11<sup>th</sup> Avenue Viaduct, surrounding  
19 Community Board districts, notably CB5, will be impacted and we encourage Amtrak to  
20 do substantial planning with CB5 and include active construction noise and traffic impact  
21 mitigations.

22  
23 The CB4 district will be highly impacted by the Amtrak Gateway project, including its initial  
24 Resiliency phase. Its impact can be extremely positive by reducing bus and car traffic on our  
25 streets and creating a more neighborhood and pedestrian friendly Penn Station area or it can have  
26 a negative impact by increasing the crowds on already overcrowded streets and traffic on already  
27 jammed roads and creating a regional mass transit system that forecloses creative possibilities  
28 that could maximize mass transit use, such as a multi-state subway system.

29  
30 The outreach to Manhattan Community Boards 4, as well as city and regional agencies, is a good  
31 first step. We encourage Amtrak to continue these discussions and ensure an EIS scoping and  
32 project planning process that brings together the variety of local communities and local and  
33 regional players already active in improving commuters' experience and creating positive change  
34 in the dynamic Penn Station neighborhood.

35  
36 Sincerely yours,

37  
38  
39 cc: Governor Cuomo  
40 Governor Christie  
41 Congressman Nadler  
42 Senators Gillibrand and Schumer  
43 Manhattan CB5  
44 Elected officials

2  
3 May 6, 2015

4  
5 Margaret Forgione  
6 Manhattan Borough Commissioner  
7 NYC Department of Transportation  
8 59 Maiden Lane, 37th Floor  
9 New York, NY 10038

10  
11 **Re: Intercity Commuter Bus Drop Off at 300 West 40th Street**

12  
13 Dear Commissioner Forgione:

14  
15 Manhattan Community Board 4 (CB4) appreciates the opportunity to review the Intercity Bus  
16 Stop applications from Galaxy Towers, Inc., Fuji Express, Fuji Lines, and Three Aces  
17 Transportation, Inc. for a stop located at 300 West 40th Street, on the south side of the street  
18 between 8th and 9th Avenues. This is a drop off only: the Department of Transportation (DOT)  
19 and Bus companies are seeking approval from Manhattan Community Board 5 for pick up  
20 locations.

21  
22 At its May 2015 full board meeting CB4 voted to recommend approval of this application for 78  
23 drop-offs on each weekday and 59 on Sundays, subject to the following conditions to be included  
24 in their license:

- 25
- 26 • The bus operators will coordinate their schedules so that only two buses are dropping off
  - 27 at the same time.
  - 28 • The bus operators will use the location exclusively for drop off location, and will not
  - 29 have their busses lay over at this location. All buses dropping passengers off at this
  - 30 location should layover only in designated layover bus parking west of 9<sup>th</sup> Avenue or in
  - 31 New Jersey
  - 32 • The bus operators will reach their layover locations by turning north onto 8th Avenue and
  - 33 travel north to West 41st Street, where they will turn west and head west to bus layover
  - 34 locations or to the Lincoln Tunnel to go back to NJ.
  - 35 • The operators will train their drivers on proper routes to take to and from the location and
  - 36 on best practices at the drop off location including no idling.
  - 37 • The bus operators will not idle at anytime (even during drop off), and will install “no
  - 38 idling” signs in the cabin of the bus as a reminder for the driver.
- 39

40 CB4 also requests that DOT installs a bus stop pole at this location and removes the current poles  
41 from 42<sup>nd</sup> Street.

42  
43 CB4 appreciates the cooperation of the DOT and the bus companies in relocating their operation  
44 from West 42nd Street between Eighth and Ninth Avenues to a DOT approved stop.  
45 The pick up and drop off stops on 42<sup>nd</sup> Street have become incompatible with the adjacent street  
46 and commercial uses. The pedestrian traffic has grown significantly in the vicinity of the Port

1 Authority Bus Terminal over the last 10 years and the stops are now conflicting with the  
2 commuters and local residents. The sidewalks have become impassable for most pedestrians  
3 (particularly around commuting and after-theater hours). During the evening commute and after  
4 theater shows, the lines for commuting passengers waiting to load on the North Side of the 42nd  
5 Street, where the sidewalk narrows, typically extends from mid-block to around the corner to  
6 mid block on Ninth Avenue between West 42nd and West 43rd Streets. The bus operations  
7 currently block designated bus lanes and cause significant delays for the MTA M42 bus which  
8 has repeatedly been the winner of the Straphanger Campaign’s “Slow Poke Award.”. The current  
9 bus stops are located right below the windows of a Pre-K school, where the young students  
10 inhale the fumes of very old buses that idle constantly.

11  
12 Furthermore, the buses are a safety concern for pedestrians. The buses are frequently double-  
13 parked causing greater congestion on an already heavily congested roadway and creating  
14 unnecessary pollution. The location of their current stops causes them to use routes that add to  
15 existing congestion on 42<sup>nd</sup> Street and 9<sup>th</sup> Avenue, or to detour through residential streets with  
16 schools. It also makes them cross the two most dangerous intersections in New York City: 42<sup>nd</sup>  
17 Street and 8<sup>th</sup> and 9<sup>th</sup> Avenues.

18  
19 CB4 is well aware of the service these buses provide to commuters from New Jersey, but would  
20 like their operation to be better integrated with the current traffic and safety constraints of the  
21 Port Authority and the Lincoln Tunnel. CB4 recognizes the improvements the companies have  
22 made over the past few years in regards to the safety of their buses and the practices of their  
23 drivers. Some of them indicated that they were compliant with all state and federal regulations  
24 and that they had no safety violations on record in the last 2 years.

25  
26 CB4 believes the proposed drop off location will be better suited for the operation of the buses.  
27 CB4 does not support the use of this stretch of 42<sup>nd</sup> Street for any bus stops at any time, except  
28 the MTA and will continue to advocate for pick up locations that minimize congestion and  
29 dangerous turns.

30  
31 Our community has been the home of bus operations for a very long time . We hope that with  
32 the cooperation of the DOT, and the bus operators, this new drop off location will improve the  
33 situation for all involved. We recommend approval of this application with the above  
34 stipulations. As always we thank you for your time and consideration.

35  
36  
37 Cc: Corey Johnson  
38 Brad Hoylman  
39 Richard Gottfried  
40 Gale Brewer

41  
42  
43  
44 Schedule A

45

1 Details of the application as outlined in a letter received from the Department of Transportation  
2 (DOT):

- 3 • The Stop will be in front of 300 West 40th Street, South side of the street between 8th  
4 and 9th Avenues, right at the subway entrance. The proposed location has an existing  
5 “No Standing” regulation. The approval from DOT will be for 68 feet which will  
6 accommodate two commuter buses at a time.  
7 •
- 8 • The bus operators are Galaxy Towers, Inc., Fuji Express, Fuji Lines, and Three Aces  
9 Transportation, Inc. commuter buses
- 10 • Drop Off Schedule from 6:12am to 11:40pm
  - 11 ○ Galaxy Towers, Inc.
    - 12 ▪ Monday through Friday 38 drop offs per day
    - 13 ▪ Saturday and Sunday 24 drop offs per day
  - 14 ○ Fuji Express Inc.
    - 15 ▪ Monday Through Saturday 18 drop offs per day
    - 16 ▪ Sunday 16 drop offs
  - 17 ○ Fuji Lines
    - 18 ▪ Monday through Saturday 8 drop offs per day
    - 19 ▪ Sunday 7 drop offs per day
  - 20 ○ Three Aces Transportation, Inc.
    - 21 ▪ Monday through Saturday 14 drop offs per day
    - 22 ▪ Sunday 12 drop offs per day
- 23 • The buses will travel from New jersey to New York City
- 24 • Contact information:
  - 25 ○ Galaxy Towers, Inc. Mr. Madhy Abdallah, 1089 Edgewater Avenue Ridgefield,  
26 NJ 07657, Phone: 201 945 0556, Email: magdy1usa@yahoo.com
  - 27 ○ Fuji Express Inc., Fuji Lines, and Three Aces Transportation, Inc. Mr. Adel  
28 Saadalla, 781 Fairview Avenue / 161 Anderson Ave, Fairview NJ 07022, Phone:  
29 201 945 0222, Email: fujiexpressinc@aol.com



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

330 West 42<sup>nd</sup> Street, 26<sup>th</sup> floor New York, NY 10036  
tel: 212-736-4536 fax: 212-947-9512  
[www.nyc.gov/mcb4](http://www.nyc.gov/mcb4)

**CHRISTINE BERTHET**  
Chair

**JESSE BODINE**  
District Manager

April 29, 2015

Margaret Forgione  
Manhattan Borough Commissioner  
Department of Transportation  
59 Maiden Lane, 35th Floor  
New York, NY 10038

**Re: Dyer Avenue Contra Lane Change**

Dear Borough Commissioner Forgione:

Manhattan Community Board 4 (CB4) is pleased with the recommendations the New York City Department of Transportation (DOT) has made for traffic improvements in Manhattan Community District 4 (MCD4). At the April 15, 2015 meeting of the CB4 Transportation Committee the DOT presented several traffic improvements slated for imminent installation in our community including the implementation of a Dyer Avenue Contra Lane, CB4 supports this proposal, and has additional recommendations to make it more effective. Due to DOT's projected project line the Executive Committee approved this letter and is subject to ratification by the Full Board on May 6<sup>th</sup>, 2015.

CB4 has long supported the proposal to implement a southbound contra lane on Dyer Avenue, from 42nd street to the entrance of the Lincoln Tunnel during peak traffic hours, 4pm to 7pm. The Port Authority police will install cones every day at 4 pm to create a southbound lane on Dyer Avenue (three northbound lanes will remain) between 41<sup>st</sup> and 42<sup>nd</sup> Streets. This lane will connect with a pre-existing contra lane south of 41<sup>st</sup> Street. The Port Authority personnel will also flip DOT traffic guidance signs to indicate Lincoln Tunnel access for buses during 4pm to 7pm and no access all other times.

The Dyer Avenue contra lane will greatly improve traffic and safety conditions and safety on 42nd street and on 9th Avenue by diverting buses to Dyer Avenue to access the Lincoln Tunnel. The DOT estimates that 150 busses travel to New Jersey via the Lincoln Tunnel from 4pm to 7pm every weekday, most originating from West 42nd street. Currently these busses turn southbound on 9th avenue and then westbound on West 41 street, and southbound again on Dyer Avenue before finally reaching the Lincoln Tunnel access. This zig- zag approach causes increased congestion on the 9th Avenue corridors and increases pedestrian risks at two intersections. The Dyer Avenue contra lane will provide buses with a direct route to Lincoln Tunnel, with only one turn at 42nd street and Dyer Avenue.

CB4 makes the following recommendations for the implementation of the Dyer Avenue contra lane:

- Along with the installation of flip signs, 2 traffic agents instead of only one, should be stationed at Dyer Avenue and 42nd Street to facilitate the change in traffic pattern, especially during the initial few weeks.
- Traffic agents already stationed at 42nd Street and 9th Avenue should be trained to systematically direct all turning buses to Dyer Avenue and 42nd street for Lincoln Tunnel access.
- Simultaneously or soon thereafter we urge the DOT to modify the signal and install a red arrow for the southbound turning movement at westbound 42nd Street and 9th Avenue to prevent trucks or other vehicles to rush while making a left turn during the green through phase. This remains a major pedestrian threat at that intersection during the balance of the day (21 non peak hours). This change had been contemplated earlier in the study and postponed pending the installation of the contra lane, which will significantly reduce the volume of turning vehicles.
- DOT should notify all GPS based navigation systems of these changes.

CB4 is grateful to the DOT for their responsiveness to our concerns about the safety of our streets, and we look forward to the implementation of these proposals with our recommendations. Thank you for your partnership with CB4 in implementing these traffic improvements.

Sincerely,



Christine Berthet  
Chair



Jay Marcus  
Co-Chair, Transportation  
Planning Committee



Ernest Modarelli  
Co-Chair, Transportation  
Planning Committee



2  
3 May 6, 2015

4  
5 Ms. Margaret Forgione  
6 Manhattan Borough Commissioner  
7 NYC Department of Transportation  
8 59 Maiden Lane, 35th Floor  
9 New York, NY 10038

10  
11 **Re: DOT Traffic Safety Improvements Proposal: LPI, 11th Avenue, and Turn Bans**

12  
13 Dear Commissioner Forgione:

14  
15 Manhattan Community Board 4 (CB4) is pleased with the recommendations the New York City  
16 Department of Transportation (DOT) has made for traffic and safety improvements in Manhattan  
17 Community District 4 (CD4). At the April 15, 2015 meeting of the CB4 Transportation  
18 Committee the DOT presented several improvements in our community including the installation  
19 of Lead Pedestrian Interval traffic signals, changes to the direction of 11th Avenue, and the  
20 removal of turn bans. While CB4 supports most of these proposals, we have recommendations  
21 for their implementation and CB4 is opposed to the removal of turn bans in our community.

22 **Installation of More Lead Pedestrian Interval Traffic Signals**

23 CB4 has supported the installation of split phase leading pedestrian interval traffic signals (LPI)  
24 in our community for many years. The LPI installed last year at 43rd street and 9th Avenue has  
25 greatly improved safety for pedestrians at this intersection. CB4 is pleased that the DOT has  
26 recommended the installation of 10 more LPI's in our community in the summer of 2015 and  
27 recommends the following locations based on DOT crash analysis, and on total number of  
28 injuries and fatalities over the last three years. . We urge DOT to install LPIs at all of the  
29 following locations. These LPI's will help CB4 improve the safety of our streets in accordance  
30 with the New York City Vision Zero initiative.

- 31 1. On West 55th Street turning south onto 9th Avenue
- 32 2. On West 53rd Street turning south onto 9th Avenue
- 33 3. On 8th Avenue turning west onto West 51st Street
- 34 4. On West 50th Street turning north onto 8th Avenue
- 35 5. On 9th Avenue turning east onto West 46th Street
- 36 6. On West 39th Street turning south onto 9th Avenue
- 37 7. On 9th Avenue turning east onto West 38th Street
- 38 8. On 8th Avenue turning west onto West 39th Street
- 39 9. On 8th Avenue turning west onto West 35th Street
- 40 10. On 8th Avenue turning west onto West 29th Street

41 Additionally we strongly urge the DOT to install accessible pedestrian signals at these  
42 intersections and at all intersections that have changes to the usual traffic patterns.

43 **Change to 11th Ave Direction**

44 CB4 strongly supports the proposal to change the direction of 11th Avenue from two-way to  
45 one-way between W. 57th and W. 44th Streets, restore the two-way traffic between 37th and  
46 34th streets, and convert traffic to two- way between 34th and 22nd streets.

1 11th avenue has only two moving lanes southbound between W. 57th and W. 44th Streets. These  
2 lanes are extremely congested during most of the day but particularly during the peak afternoon  
3 hours, as they provide queuing to the north tube of the Lincoln Tunnel. While traffic is  
4 continually backed up in the Southbound lanes the northbound lanes are underused. CB4 is on  
5 record asking for such a change, and is pleased that the DOT now plans to implement this in  
6 early 2016.

7  
8 CB4 requests that DOT comes back to CB4 to present the proposed design in the fall of 2015 for  
9 review and comments.

10 **Removal of Turn Bans**

11 CB4 is greatly concerned about the proposal to remove two turn bans in our community one  
12 located at West 37th street and 9th Avenue on to Ramp C of the Lincoln Tunnel approach and  
13 the other at West 41st Street and 10th Avenue. We would like to ensure that proper education,  
14 information and incentives have been given to drivers, and that such changes will not have a  
15 larger impact on the traffic flow at the various approaches to the Lincoln Tunnel.

- 16  
17 • CB4 recommends that all new turn bans (37<sup>th</sup> and 9<sup>th</sup>, 36<sup>th</sup> and Dyer) and existing ones  
18 (23<sup>rd</sup> and 10<sup>th</sup>, 41<sup>st</sup> and 10<sup>th</sup>) be officially communicated and advertised to all GPS  
19 systems providers.

20 CB4 originally requested the implementation of the turn ban on West 37th street and was  
21 delighted when it was installed. We believe this ban is vital to the safety of pedestrians crossing  
22 at this intersection and to the flow of traffic on 9th Avenue.

23 We have observed that without this ban, traffic becomes so congested at this intersection that  
24 pedestrians must weave in between cars when crossing the street and the intersection becomes  
25 backed up, blocking the flow of traffic down 9th Avenue. When properly enforced there is  
26 considerably less congestion at the intersection and pedestrians are more safely able to cross the  
27 street.

28 We note that the DOT only observed this intersection on weekdays, and CB4 has found that  
29 Saturday and late evenings are times when there is significant congestion at this intersection.  
30 CB4 will be seeking an increased NYPD presence at this intersection during relevant hours.  
31 Furthermore, we believe that compliance with the regulation would improve with improved  
32 signage.

- 33  
34 • CB4 urges DOT not to remove the turn ban at West 37th Street and 9th Avenue and that  
35 they install more signage leading up to the intersection. Signs indicating that traffic must  
36 travel past 9th Avenue and use 11<sup>th</sup> Avenue for Lincoln Tunnel access should be placed  
37 at 8th Avenue and every 50 feet on West 37th street approaching the intersection. Such  
38 way-finding signage should also be continued from 9<sup>th</sup> to 11<sup>th</sup> Avenues.
- 39 • CB4 noted that the traffic agents posted at this intersection routinely installs cones to  
40 extend the flexible bollards north of the crosswalk, a few feet in the intersection. This  
41 gives a visual clue to drivers that the left turn is not permitted in the ramp. We  
42 recommend that DOT extend the flexible bollards to the same footprint.

43 CB4 is also concerned about the removal of the turn ban on West 41st Street and 10th Avenue  
44 which we believe is vital to the safety of the increasing amount of pedestrians who cross this  
45 intersection and to the road capacity needed to absorb bus flow emanating from 9th Avenue and

1 41<sup>st</sup> Street. It is also a key part of the effort to direct Tunnel traffic to the Expressway at 30<sup>th</sup>  
2 Street.

3 Although DOT has observed that it is not enforced, validating the removal of the turn ban  
4 requires further study. The west side of our community has seen a significant influx of new  
5 development, much of which has been residential buildings, including the development of a  
6 residential building at this intersection. In the last two years one pedestrian was killed and there  
7 were 7 injuries at that intersection. With more pedestrians crossing this intersection we expect  
8 the number of conflicts with turning vehicles to increase.

9 Therefore we recommend that DOT not remove the turn ban and at 41st street and 10th Avenue  
10 until a study has been completed of this intersection, showing this impact on other part of the  
11 system and proving a method to improve the pedestrian safety at this location.

12 CB4 is very grateful to the DOT for their responsiveness to our concerns about the safety of our  
13 streets, and we look forward to the implementation of these proposals with our  
14 recommendations. Thank you for your partnership with CB4 in implementing these traffic  
15 improvements.  
16

DRAFT

2  
3 May 6, 2015

4  
5 Borough Commissioner Margaret Forgione  
6 Department of Transportation  
7 59 Maiden Lane, 35th Floor  
8 New York, NY 10038  
9

10 **Re: Request for Revocable Consent for landing extension and railing at the emergency exit**  
11 **of 336 West 37<sup>th</sup> Street**

12  
13 Dear Commissioner Forgione:

14  
15 Manhattan Community Board #4 opposes the proposed Revocable Consent for a landing  
16 extension and railing at the emergency exit of 336 West 37<sup>th</sup> Street unless the plans are modified  
17 to reduce the length of the landing to no more than 36 inches (from proposed 44 inches) and the  
18 railing is reduced to 6” (from 12”) beyond the landing. We believe the proposed length of the  
19 landing and railing are an unnecessary impingement on the pedestrian sidewalk access and  
20 blocks the flow otherwise created by the surrounding 2’ building line planters.  
21

22 The requirement for the landing and railing is related to the owner’s effort to meet Building  
23 Department requirements to legalize its conversion of this 1928 built factory building into  
24 Commercial Offices. Their proposal for the conversion was approved by BSA on 9/11/2012  
25 pending required modifications. Adding the additional landing space and railing outside the  
26 emergency exit doorway is a required modification to make conforming this otherwise non-  
27 conforming stairway.  
28

29 The two regulations that the owner is seeking to comply with are Section 27-375d of the 1968  
30 NYC Building Code, which requires the length of stairway must be at least the width of the  
31 stairway, which is 44” (which includes 18” that already exists inside the exit doors and 26”  
32 outside the door on the sidewalk) and American with Disability Act section 505.10.1, which  
33 requires a 12” railing beyond the step down for a non-ramped stairwell landing.  
34

35 While we appreciate these requirements in most instances, we feel they are excessive when the  
36 stairwell landing includes space on a sidewalk, which creates a landing immediately adjacent to a  
37 one step away easily accessible landing space. The 6” additional length for the railing is also  
38 easily sufficient to enable a mobility impaired (but with ability to use the interior stairs that lead  
39 to this landing) individual sufficient support to enable safe sidewalk landing. We also note that,  
40 the current design would only leave 8’3” sidewalk clearance to the curb (in essence further  
41 reduced to 7’6” when taking into an account a sidewalk lamp post and street sign immediately  
42 adjacent at the curbside to a parallel line to the proposed landing/railing), which seems  
43 insufficient given the extensive residential development immediately to the west along 10<sup>th</sup>  
44 Avenue and the West 37<sup>th</sup> Street. The proposed modification would enable a more appropriate  
45 9’6” sidewalk access.  
46

1 We additionally note that the proposal includes placing 2' by 2' planters on either side of the  
2 landing along the building line consistent with planters currently along the building line, which  
3 we support pending the landing/railing modifications.  
4

5 We hope that DOT and the owner would request the Building Department enable a waiver of the  
6 above landing and railing requirements to reflect the flexibility appropriate when a stairwell  
7 landing is on sidewalk space.  
8

9 Sincerely,  
10

11  
12  
13 cc: Martin Rebholz, RA, Manhattan Borough Commissioner, Building Department  
14 Jason Gross, Zaskorski & Notaro Architects  
15 IGS Realty Company  
16  
17  
18

DRAFT

1 **Transportation Planning Committee**

**Item #: 31**

2  
3 May 6, 2015

4  
5 Margaret Forgione  
6 Manhattan Borough Commissioner  
7 NYC Department of Transportation  
8 59 Maiden Lane, 37th Floor  
9 New York, NY 10038

10  
11 **Re: Parking Signage Request at 127 West 25th Street**

12  
13 Dear Commissioner Forgione:

14  
15 Manhattan Community Board 4 (CB4) requests parking regulation changes on the north side of  
16 West 25rd Street between Sixth and 7th Avenues, in front of the Bowery Residents' Community  
17 (BRC) located at 127 West 25th Street. We request the current curbside regulation of "3 Hour  
18 Metered Parking Commercial Vehicles Only Others No Standing Monday-Friday 8am-7pm,"  
19 directly in front of 127 West 25th Street for about 100 feet, be changed to "No Standing  
20 Anytime."

21  
22 CB4 makes this request on behalf of BRC and members of the community who have expressed  
23 concerns about traffic congestion on West 25th Street. The current curbside regulation in front of  
24 BRC at 127 West 25th street allows for 3 hour commercial parking. Commercial vehicles and  
25 DHS employees' private vehicles regularly occupy the space and obstruct access to the curb by  
26 emergency vehicles, who are frequently called to the BRC facility, causing them to double park  
27 and block the flow of through traffic on the street. Changing the parking regulation to "No  
28 Standing Anytime" would clear up the curb space in front of the BRC, allowing emergency  
29 vehicles to pull up to the curb when responding to calls and improving the flow of through  
30 traffic.

31  
32 Thank you very much for your consideration and assistance.  
33

2  
3  
4 May XX, 2015

5  
6 Hon. Margery Perlmutter, Chair  
7 Board of Standards and Appeals  
8 250 Broadway, 29th Floor  
9 New York, NY 10007

10  
11 **Re: BSA Cal. 67-15-BZ; Special Permit for the Cell Theatre, 338 West 23<sup>rd</sup> Street**

12  
13 Dear Ms. Perlmutter:

14  
15 On the recommendation of its Chelsea Land Use Committee, Manhattan Community  
16 Board No. 4 (CB4) at its the regular Board meeting on May 6, 2015, by a vote of \_\_\_ in  
17 favor, \_\_\_ opposed, \_\_\_ abstaining and \_\_\_ present but not eligible to vote, voted to deny the  
18 Board of Standards and Appeals (BSA) special permit to legalize the theatre unless five  
19 conditions related to noise are included in the special permit.

20  
21 The Cell Theatre is located in a C1-6A zoning district which does not permit a theatre  
22 (Use Group 8) as per ZR 32-10. The building at 338 West 23<sup>rd</sup> Street has a certificate of  
23 occupancy (C of O) for stores (Use Group 6) for the basement floor, a two story high  
24 space with a mezzanine; and residential use for the second and third floors. The Cell  
25 Theatre evolved from 2007 as an art gallery to a space for small gatherings such as poetry  
26 readings, and then to a performing arts theatre. It has a maximum capacity of 72 persons,  
27 well below the 500-person ceiling for the special permit.

28  
29 Theater uses are not permitted as-of-right in C1 districts, but BSA may permit theatres  
30 with a maximum capacity of 500 persons in such districts by special permit as per ZR 73-  
31 201. This application seeks such a special permit.

32  
33 CB4 supports appropriately-located performing arts uses which enrich our  
34 neighborhoods. We believe that a small theatre is an appropriate use on the south side of  
35 West 23<sup>rd</sup> Street between Eight and Ninth Avenues as long as it is operated in a manner  
36 that does not disturb the community. Addressing one potential concern, the applicant has  
37 assured us that people do not form queues on the sidewalk in front of the building.

38  
39 For a number of years, however, neighbors have complained about noise coming from  
40 the Cell Theatre's rear yard and interior spaces: music, singing loud voices and applause  
41 during rehearsals, performances, intermissions and gatherings. These complaints have  
42 been discussed multiple times at the CB4 Quality of Life Committee. Discussions with  
43 neighbors and Cell Theatre representatives have had mixed success. Despite Cell

44 Theatre's apologies and stated good intentions, noise decreases for a while but invariably  
45 returns to prior levels.

46  
47 The rear yard space is a special problem because it is shared by the theater and by the  
48 building's owners, who are the founders and principal promoters of the theater. The  
49 Board believes that theater use of the rear yard is inappropriate because of its  
50 demonstrated ability to disturb neighbors. However, the distinction between theater use  
51 and owner use of the rear yard is blurred when the owners have a gathering of friends  
52 outside before a performance and then lead them into the theater. Unfortunately, this  
53 happened again the evening after the Chelsea Land Use Committee meeting where the  
54 application was considered and at which the owners promised to be good neighbors.

55  
56 In order to address the long-standing noise complaints, CB4 recommends approval of the  
57 special permit only if it contains the following conditions:

- 58
- 59 1. Windows and doors leading to the back yard are closed during all theatre  
60 activities, including gatherings, rehearsals, performances, set-ups and clean-ups.  
61 Theater staff has said this will not be a problem because the theater is fully air  
62 conditioned.  
63
  - 64 2. The back yard is never used for theatre-related activities during intermissions or  
65 for pre-theatre and post-theatre gatherings.  
66
  - 67 3. Cell Theatre management purchases a cell phone for the use of theatre security  
68 staff during theatre activities. The phone number will be given to nearby neighbors  
69 to report theatre-related noises. Security staff will be thoroughly briefed on this  
70 procedure, and will correct the noise-producing activity by whatever means are  
71 necessary, including closing doors and windows and redirecting people indoors  
72 from the rear yard.  
73
  - 74 4. A sign is posted on or near all doors and windows facing the rear yard stating:  
75
    - 76 • Please be respectful of our neighbors
    - 77 • Rear doors and windows must be closed during all theatre activities
    - 78 • Theater activities are prohibited in the rear yard.
  - 79 5. When the Cell Theatre space is rented to outside users, a written contract clearly  
80 states the above phone, door and window conditions and procedures. These rules  
81 must be reviewed verbally with such renters to ensure they understand and abide  
82 by them.

83  
84 Theater management has agreed to purchase a phone for security staff and to keep doors  
85 and windows closed during all theater events, including rehearsals that generate noise.  
86 As described above, however, the owner's use of the rear yard is a more difficult issue.



87 During the meeting at which the application was discussed, the owners pledged to be  
88 good neighbors, including their personal use of the rear yard. We hope they will be more  
89 considerate in the future.

90

91 CB4 recommends that BSA deny the special permit to legalize theater use for the Cell  
92 Theatre unless the five conditions above are incorporated into the special permit.

93

94 Sincerely,

95

96 Christine, JLC, Betty

DRAFT

1 Chelsea Land Use

Item#: 35

2

3 May XX, 2015

4

5 Hon. Margery Perlmutter, Chair

6 Board of Standards and Appeals

7 250 Broadway, 29th Floor

8 New York, NY 10007

9

10 **Re: BSA Cal. # 71-15-BZ**  
11 **Manhattan Block 693 Lot 59 - 548 West 22nd Street**

12

13 Dear Ms. Perlmutter:

14

15 At its regularly scheduled Full Board meeting on May 6, 2015, Manhattan Community Board 4  
16 (CB4), on the recommendation of its Chelsea Land Use Committee, voted \_\_ in favor, \_\_  
17 opposed, \_\_ abstaining and \_\_ present but not eligible to vote, to recommend approval of the  
18 Application for 548 West 22<sup>nd</sup> Street for variances for use, floor area and height under ZR 42-  
19 10, 43-12, 98-22, 98-423(a) and 98-423(b)(3), and to recommend denial of the Application for  
20 variances for additional parking under ZR 13-11, 13-12, and 13-13, subject to the condition that  
21 the Board of Standards and Appeals (BSA) confirm the applicant's contention that the desired  
22 waivers are the minimum necessary to achieve a reasonable financial return.

23

24 **Background**

25

26 548 West 22<sup>nd</sup> Street, Manhattan Block 693 Lot 59, is a 100 foot wide lot on the south side of  
27 West 22<sup>nd</sup> Street, one lot east of Eleventh Avenue. The western portion of the lot, with 50 feet of  
28 frontage and 4,970 sq. ft, is located in Subarea D of the Special West Chelsea District (SWCD)  
29 and is zoned C6-3. The eastern portion of the lot, with 50 feet of frontage and 4,905 sq. ft., is  
30 located in the SWCD's southern manufacturing area and is zoned M1-5. The site is developed  
31 with a four story building covering the lot except for a small rear yard approximately five feet in  
32 depth in the center of the lot. The building was owned by the Dia Center for the Arts from 1982  
33 until 2007. Since 2007 the ground floor has been rented to galleries and the upper floors have  
34 been used as event spaces. Stairwells on either side of the building house an art installation  
35 created by Dan Flavin.

36

37 **Proposed Development**

38

39 The applicant proposes to renovate the existing four story building and enlarge it to twenty  
40 stories. The proposed building would include commercial gallery space on the ground floor,  
41 parking for 15 cars on the second floor, residential amenities on the third floor and residential  
42 units on the fourth through twentieth floors. Above the existing fourth floor the new building  
43 would set back eight feet from the western lot line and 15 feet from 22<sup>nd</sup> Street. It also would  
44 extend 18 feet east into the M1-5 portion of the lot. The existing rear yard would be maintained  
45 for the first two floors and increased to 30 feet on the third and fourth floors through removal of  
46 a portion of the existing building. Above the fourth floor the rear yard setback would be 30 feet.

1 The total height of the building would be 250 feet plus approximately 35 feet of bulkhead. The  
2 two existing stairwells would be maintained, without access to the interior of the building, in  
3 order to preserve the Dan Flavin art installation, which would be open to the public.  
4

### 5 **VariANCES Sought**

6

7 The lot is located on filled land with difficult soil conditions and a shallow water table, as is  
8 common in the area of West Chelsea where it is located. In addition, the applicant has  
9 determined that the existing building sits on a fragile foundation system consisting of unusually  
10 irregular pilings among boulders, cobbles and soft, silty clay.  
11

12 The applicant has studied the site and has concluded that only the proposed development, with  
13 waivers permitting residential use to extend into a portion of the manufacturing district and  
14 increased bulk, would generate a reasonable financial return.  
15

16 The applicant seeks waivers under the following sections of the Zoning Resolution in order to  
17 proceed with the proposed development:  
18

- 19 • **ZR 42-10.** Residential use is not permitted as-of right in an M1-5 zoning district.  
20

21 The residential portion of the proposed development would extend 50 feet into the M1-5  
22 portion of the lot on the third and fourth floors and 18 feet into the M1-5 portion of the lot on  
23 the fifth through twentieth floors.  
24

- 25 • **ZR 98-22, ZR 43-12.** Proposed residential and total floor area ratios exceed the maximums  
26 permitted.  
27

- 28 • **ZR 98-423(a).** Proposed building height in the M1-5 portion of the zoning lot exceeds 135  
29 feet.  
30

- 31 • **ZR 98-423(b)(3).** The proposed highest 40 feet of the tower exceeds 85% of the gross area  
32 of the highest story directly below.  
33

- 34 • **ZR 13-11, ZR 13-12, ZR 13-13.** The number of proposed accessory parking spaces exceeds  
35 the maximum number permitted for the number of residential dwelling units and commercial  
36 floor area on the zoning lot.  
37

38 Seven accessory parking spaces are permitted, five for the 26 dwelling units and two for the  
39 approximately 7,000 sq. ft. of commercial space. The applicant is requesting 15.  
40

### 41 **Analysis and Discussion**

42

43 The lot on which the proposed development would be built was split in 2005 by the rezoning that  
44 created the SWCD. The eastern half of the lot remained M1-5 while the western half was  
45 rezoned to C6-3 and incorporated into Subarea D of the district. An as-of-right building would  
46 permit a 135' high commercial building in the M1-5 portion of the lot and a 250' high

1 commercial/residential building in the C6-3 portion of the lot. In addition, in order to have  
2 windows on the western side of the building, the building must be set back from the lot line,  
3 further reducing the size of an as-of-right building.  
4

5 The applicant has determined that the combination of the split lot, the setback from the western  
6 lot line and the various unfavorable subsurface conditions precludes any possibility of making a  
7 reasonable financial return with an as-of-right building. CB4 recognizes that the split lot  
8 condition alone makes development more difficult, but we do not have the resources to  
9 undertake the detailed financial analysis necessary to determine whether a reasonable financial  
10 return is possible with a complying development. We therefore defer to BSA staff for this  
11 analysis.  
12

13 CB4 has long sought to retain its M1-5 districts in order to maintain a more diverse community.  
14 The M1-5 portion of West 22<sup>nd</sup> Street between Tenth and Eleventh Avenues has four buildings  
15 with residential uses predating the creation of the SWCD: two buildings with two residences  
16 each (520 and 551 West 22<sup>nd</sup> Street), one building with twelve residential units (532 West 22<sup>nd</sup>  
17 Street) and one building with 30 residential units (525 West 22<sup>nd</sup> Street). We believe that in the  
18 context of the block the 18 foot encroachment of the proposed development into the M1-5  
19 district is not unreasonable.  
20

21 CB4 has long struggled with the issue of parking. The Board is a strong advocate of public  
22 transportation but recognizes that the automobile will remain an important mode of  
23 transportation and believes that reasonable accommodations for parking must be made. The  
24 proposed development would be permitted seven accessory parking spaces as-of-right, two for  
25 the approximately 7,000 sq. ft. of commercial space and five for the 26 dwelling units. The  
26 applicant is seeking an additional eight spaces, for a total of fifteen, and states that they will be  
27 for the use of the building's commercial and residential tenants only, not for transient use.  
28

29 Although the applicant presented the requested eight additional parking spaces as being *de*  
30 *minimis* and not requiring traffic studies, the Board has been confronted by a series of requests  
31 for small additions to the amount of parking permitted as-of-right, and expects this to continue as  
32 development of recently rezoned areas proceeds. We have concluded that our best approach is to  
33 support the 20% ratio set by the Department of City Planning for our area and oppose additional  
34 parking  
35

### 36 **CB4 Recommendations**

37

38 CB4's recommendations are subject to the condition that BSA confirm the applicant's contention  
39 that a complying building would not generate a reasonable financial return and that the desired  
40 waivers are the minimum necessary to achieve such a return.  
41

42 We recommend that BSA approve variances for the proposed development under ZR 42-10, 43-  
43 12, 98-22, 98-423(a) and 98-423(b)(3). While the building would be located partially in an M1-5  
44 district that the Board seeks to protect, the Board believes that the split lot condition makes the  
45 encroachment not unreasonable. While we would prefer that the top 40 feet of the building be

1 built in compliance with ZR 98-423(b)(3), we have been persuaded that the proposed design is  
2 an appropriate solution.

3  
4 We recommend that BSA deny variances for the proposed development under ZR 13-11, 13-12,  
5 and 13-13, and permit only the seven as-of-right parking spaces.

6  
7 Sincerely,

8  
9 Christine, Lee, Betty

10  
11

DRAFT

1 Chelsea Land Use Committee

Item#: 36

2

3 May XX, 2015

4

5 Hon. Margery Perlmutter, Chair

6 Board of Standards and Appeals

7 250 Broadway, 29th Floor

8 New York, NY 10007

9

10 **Re: BSA CAL #XXXX: Special Permit for 540 West 26<sup>th</sup> Street to permit school in**  
11 **M1-5 district**

12

13

14 Dear Ms. Perlmutter:

15

16 On the recommendation of its Chelsea Land Use Committee, Manhattan Community  
17 Board No. 4 (CB4), at its regular Board meeting on May 6, 2015, by a vote of \_\_ in  
18 favor, \_\_ opposed, \_\_ abstaining and \_\_ present but not eligible to vote, recommended  
19 approval by the Board of Standards and Appeals (BSA), with two conditions, a special  
20 permit for a community facility use which would allow the Avenues (Avenues) school to  
21 lease a portion of at 540 West 26<sup>th</sup> Street which is in an M1-5 zoning district. The  
22 conditions address potential noise from outdoor space and outreach to building users  
23 regarding students walking between buildings.

24

25 Background

26 The Avenues school opened in 2012 at 259 Tenth Avenue and occupies the entire  
27 western block front of Tenth Avenue between West 25<sup>th</sup> Street and West 26<sup>th</sup> Street. This  
28 for-profit school is intended for pre-K through high school students. In 2011 CB4  
29 recommended approval of an application from Avenues for certain modifications to bulk  
30 and use regulations subject to two conditions. The two conditions were a request for a  
31 traffic study and implementation of mitigations identified by the study, and certain  
32 community outreach and participation issues. In addition, the school and CB4 drafted a  
33 Memorandum of Understanding (MOU) which is the subject of a separate May 2015  
34 letter.

35

36 Due to high demand, the school's enrollment has been expanding. The initial enrollment  
37 was 749 students in nursery through 9<sup>th</sup> grade. Next year the school will include nursery  
38 through 12<sup>th</sup> grade with a projected enrollment of 1,375 students. Within the next 10  
39 years enrollment is expected to be over 2,000 students. The school finds the existing  
40 building inadequate to meet existing and projected needs and has developed a plan for  
41 the reconfiguration of the existing building to better utilize the existing space. Additional  
42 space is being sought to accommodate ELC (Early Learning Center) and kindergarten  
43 students to separate them from older students, to create more appropriate classrooms and

44 to improve safety in the dropoff/pickup area. Space is also sought for an important  
45 component of the upper school curriculum known as the STEAM (science, technology,  
46 engineering, arts and mathematics education) program.

47  
48 Proposal Description and BSA Findings

49 The owner of the property at 540 West 26<sup>th</sup> Street, located in the Special West Chelsea  
50 District in an M1-5 district, plans to demolish the existing vacant and construct a new  
51 building for art gallery and office uses. The owner also intends to rent a portion of the  
52 building to the Avenues school and is seeking a special permit because a school, a  
53 community facility (Use Group 3), is not allowed in an M1-5 district as-of-right per ZR  
54 42-00 and 42-12. BSA, as per ZR 73-01, may grant a special permit for specified uses  
55 provided general and specific findings are met.

56  
57 The owner/applicant is seeking only a special permit for the community facility use, and  
58 is not requesting any modifications to bulk, signage, parking or loading regulations. As  
59 per ZR73-19, BSA may permit schools without residential accommodations to locate  
60 within an M1 zoning district if the following four findings are met:

- 61  
62 *1. There is no practical possibility of obtaining an appropriate site in a nearby*  
63 *district that would permit a school as-of-right.*

64  
65 Avenues has presented evidence that a comprehensive search was conducted over the  
66 past year to find an appropriate site in a zoning district that would permit a school as-  
67 of-right. Of 28 properties researched, fourteen as-of-right sites were examined in  
68 Chelsea, Midtown, Downtown and Tribeca. These sites were deemed too far from the  
69 existing school, too costly to improve and/or not immediately available. Avenues  
70 concluded that the proposed site is the only practical site, and further, that it is the best  
71 site given a curriculum whereby older students must move between buildings. The  
72 Board accepts Avenues’ determination.

- 73  
74 *2. That the proposed site is located not more than 400 feet from the boundary of a*  
75 *district which would permit a school as-of-right.*

76  
77 On the west the proposed site is adjacent to a C6-3 zoning district which permits  
78 schools as-of-right.

- 79  
80 *3. That there is adequate separation from noise, traffic and other adverse effects of*  
81 *the surrounding non-Residential Districts – achieved through sound-attenuating*  
82 *exterior wall and window construction or by adequate open areas along lot lines.*

83  
84 According to the CEQR Technical Manual, buildings with a school should maintain  
85 interior noise levels of 45 dBA or lower. Current nearby uses are art galleries, offices  
86 and other commercial uses that do not generate noise associated with manufacturing

87 districts. Further, the new building will have windows made of at least one-inch  
88 insulated glass. Such windows will be sufficient to ensure interior noise levels of 45  
89 dBA or lower. The new building's exterior has a curtain wall system and concrete  
90 slabs between floors to attenuate sound.

91  
92 4. *That the movement of traffic through the street on which the school is located can*  
93 *be controlled so as to protect children going to and from the school. BSA will refer*  
94 *the application to the Department of Traffic to assess vehicular hazards to the*  
95 *safety of children.*

96  
97 According to Avenues representatives, the youngest (ELC) students are to be escorted  
98 into and away from the new building by parents or school personnel. Because there is  
99 lobby space for waiting, these students will not need to wait on the sidewalk. The  
100 older STEAM students (15 to 18 years old) will not have to cross a street between the  
101 existing building and the new building. This is the same route taken by students to PE  
102 classes at Chelsea Piers. These older students will move independently but will be  
103 monitored by school personnel.

104  
105 In addition to the above specific findings, the applicant must satisfy the general  
106 findings as per ZR 73-03 as they relate to the new building and the school use:

107  
108 *...that hazards or disadvantages to the community are outweighed by the advantages .*  
109 *..BSA must determine any adverse effect on privacy, quiet, light and air in the*  
110 *neighborhood and will be minimized.*

111  
112 The new building will have separate entrances for students and for the users of the  
113 rest of the building. Children thus will be protected from the general building  
114 population, and that population will have minimal exposure to the students.

115  
116 On the second floor of the new building there will be a 16' wide terrace along the  
117 back of the building. This outdoor area is to be used by the young ELC students for  
118 recreation and other outdoor activities. The issue of noise from these students  
119 affecting nearby neighbors was raised by CB4. Representatives of the building's  
120 owner said that noise considerations were written into the contract with Avenues  
121 school. They explained that a 10-foot wall along the back lot line would protect  
122 neighboring users from the children's sounds, but said that if noise becomes a  
123 disturbance to nearby office and gallery users, Avenues would be obligated to  
124 mitigate the problem.

125  
126 CB4 inquired about the potential impacts of students walking in front of existing  
127 businesses and galleries, particularly on deliveries to those buildings. Avenues  
128 representatives said they plan to reach out to the users of the two buildings along the



129 route students will walk so any possible negative effects would be avoided or  
130 minimized.

131  
132 CB4's Recommendation

133  
134 CB4 believes that the Avenues school is a beneficial community facility use – a very high  
135 quality educational institution in CD4, but CB4 has from the start had reservations about  
136 the school's exclusive enrollment policies and has advocated for scholarships for  
137 deserving CD4 students whose families could not afford Avenues' high tuition. This  
138 issue plus other MOU topics are the subject of a separate CB4 letter to Avenues.

139  
140 CB4 believes that the applicant for the special permit has substantially met BSA's  
141 findings for the special permit and therefore recommends approval of the special permit  
142 for school use for a portion of the building at 540 West 26<sup>th</sup> Street with the following  
143 conditions:

- 144  
145 1. The applicant requires that Avenues will mitigate any sounds from its second floor  
146 outdoor space in the new building that neighbors identify as disturbing to their  
147 quality of life.  
148  
149 2. The applicant requires that Avenues reach out to the users of buildings between  
150 the existing and new buildings so that any potential issues with students walking  
151 in front of those buildings will be addressed as soon as possible.

152  
153 Sincerely,

154  
155 Christine, JLC, Betty

1 Chelsea Land Use Committee  
2 May XX, 2015

Item#: 37

3  
4 Mr. Gardner P. Dunnan,  
5 Head of Upper School and Academic Dean  
6 Avenues School  
7 259 Tenth Avenue  
8 New York, New York 10001

9  
10 Mr. Stephen R. Hanon  
11 Chief Financial Officer  
12 Avenues School  
13 11 East 26<sup>th</sup> Street, 17<sup>th</sup> Floor  
14 New York, New York 10010

15  
16 Dear Mr. Dunnan and Mr. Hanon,

17  
18 Because CB4 has been reviewing the application by the owner of 540 West 26<sup>th</sup> Street to  
19 obtain a BSA special permit for a school in an M1-5 district so that Avenues can occupy  
20 a portion of the building at 540 West 26<sup>th</sup> Street, CB4 has been revisiting the agreements  
21 that the Board and Avenues school made in 2011 at the time the Board recommended  
22 approval (with two conditions) to the City Planning Commission of modifications to bulk  
23 and use regulations for Avenues 259 Tenth Avenue building.

24  
25 A Memorandum of Understanding (MOU) (see attached) was created to address a variety  
26 of issues that CB4 felt were of great importance to the community and needed to obtain  
27 clear commitments from Avenues about. Those commitments included:

- 28  
29
- 30 • Traffic Study and Building Egresses
  - 31 • Scholarships for CD4 Residents
  - 32 • Job Fair
  - 33 • Gymnasium and Meeting Space
  - 34 • Community Partnerships and Service
  - 35 • High Line Donation
  - 36 • Leed Design.

37 One of the most significant MOU issues is Avenue's progress in providing scholarships  
38 to CD4 students. The MOU states "The scholarship fund will total \$4 million at full  
39 enrollment and will increase at the at the same rate as student tuition. Moreover it is  
40 Avenues' goal to annually award 30% of its scholarship fund to academically and  
41 financially qualified students residing within Community Board 4."  
42

1  
2 Although the MOU was never signed by either party, Avenues has been striving to meet  
3 its scholarship commitments. Avenues reports that 35 students in CD4 are receiving full  
4 scholarships: nine \$40,000; five over \$45,000. These students represent 21 percent of  
5 students receiving financial aid and 19 percent of the monetary value. Avenues  
6 acknowledges that scholarship goals have not entirely been met but plans to renew its  
7 focus on outreach and education as stated in its April 15, 2015 program description (see  
8 attached). CB4 enthusiastically supports this action plan and looks forward to working  
9 with Avenues to attract and enroll more qualified students from CD4 who would receive  
10 scholarships.

11  
12 CB4 is pleased that Avenues has honored its High Line Donation commitment : "...to  
13 donate \$250,000 per year beginning in 2013. Such donation amount will be increased by  
14 10% every five years to reflect inflation. The annual donation will be allocated 80% to  
15 the Campaign for the High Line and 20% to the Friends of the High Line annual  
16 operations."

17  
18 CB4 aims to establish a robust relationship with Avenues to review all the commitments  
19 in the MOU. One of those MOU commitments was a "Staff Liaison: Avenues will have a  
20 specific representative whose responsibility includes liaising with Community Board 4  
21 and community-based organizations. When needed, this person will meet with and report  
22 to community organizations."

23  
24 Specifically CB4 asks the following of Avenues:

- 25  
26 1. Avenues will spearhead the review of MOU commitments, including the signing  
27 of the MOU.
- 28  
29 2. Avenues will provide an annual detailed written report on the status of  
30 scholarships given to CD4 students. Avenues will strive to reach the MOU goal of  
31 30 percent of financial aid dedicated to CD4 students as soon as possible.
- 32  
33 3. Avenues will confirm in writing their renewed strategy to attract very young CD4  
34 students to the school and will design a new outreach strategy to attract those  
35 candidates.
- 36  
37 4. Avenues will designate a Staff Liaison to CB4 and will continue to keep this  
38 function properly staffed. The Staff Liaison will meet regularly with CB4 to  
39 follow up on MOU commitments.
- 40

1 5. Avenues will review with CB4 its April 15, 2015 Outreach and Communication  
2 proposal prior to rolling it out.

3 |  
4  
5 CB4 has recommended that BSA approve the application submitted by the owner of 540  
6 West 26<sup>th</sup> Street to permit a school use in a portion of the new building so that Avenues  
7 can have additional space to expand its operations – with two conditions that Avenues  
8 | school must follow-up on with the owner of the new building:

- 9  
10 1. The applicant requires that Avenues will mitigate any sounds from its second floor  
11 outdoor space in the new building that neighbors identify as disturbing their  
12 quality of life.  
13  
14 2. The applicant requires that Avenues will reach out to the users of buildings  
15 between Avenues’ existing and new buildings so that any potential issues with  
16 students walking in front of those buildings will be addressed as soon as possible.  
17

18 CB4 expects Avenues to report back on its outreach to nearby building tenants and  
19 owners about any sidewalk issues and how they have been resolved, and to quickly  
20 address any noise issues from Avenues’ outdoor space if they arise.

21  
22 CB4 looks forward to a strengthened relationship with Avenues school.

23  
24 Sincerely,

25  
26 Christine, Lee, Betty  
27  
28  
29  
30

1 Chelsea Land Use Committee  
2 May XX, 2015

3  
4 Carl Weisbrod, Chair  
5 City Planning Commission  
6 22 Reade Street  
7 New York, New York 10007

8  
9 Julie Menin, Commissioner  
10 Department of Consumer Affairs  
11 Sidewalk Cafe Unit  
12 42 Broadway  
13 New York, New York 10004

14  
15 Re: ULURP No. N 150026 ECM  
16 DCA No.: 1350374 DCA  
17 New York Fast Gourmet Premier, LLC  
18 DBA: New York Burger Co.  
19 470 West 23<sup>rd</sup> Street, Borough of Manhattan

20  
21 Dear Chair Weisbrod and Commissioner Menin:

22  
23 On the recommendation of its Chelsea Land Use Committee, Manhattan Community Board No.  
24 4 (CB4), having held a duly noticed public hearing on ULURP application number N 150026  
25 ECM, by a vote of \_\_\_ in favor, \_\_\_ opposed, \_\_\_ abstaining and \_\_\_ present but not eligible to vote,  
26 again reluctantly recommends approval of the application by New York Fast Gourmet Premier,  
27 LLC for a renewal of a permit for an enclosed sidewalk café with 25 tables and 54 seats to be  
28 operated at 470 West 23<sup>rd</sup> Street, the southeast corner of the intersection of West 23<sup>rd</sup> Street and  
29 Tenth Avenue.

30  
31 In addition to our fundamental opposition to enclosed sidewalk cafes, it would be difficult to  
32 imagine a less suitable location for one than this corner. As built, the enclosed sidewalk cafe  
33 leaves an unacceptably narrow 7’6” clear sidewalk on a heavily trafficked corner. It is not  
34 uncommon on a sunny weekend afternoon to encounter a lengthy queue waiting to pass through  
35 the bottleneck on Tenth Avenue created by this sidewalk café structure.

36  
37 The sidewalks of West Chelsea have become increasingly crowded as the area has developed  
38 over the last few years, spurred by the flourishing West Chelsea art district, Chelsea Piers,  
39 Chelsea Waterside Park, the Hudson River Park and the High Line. The completion of Segment  
40 II of the High Line brought an access stair diagonally across the intersection, further increasing  
41 congestion, and the continued development of West Chelsea seems to increase pedestrian traffic  
42 on a daily basis.

43  
44 We have long sought the removal of this intrusive structure and would like to note that 470 West  
45 23<sup>rd</sup> Street was grudgingly included in the Chelsea Historic District Extension with the then

1 newly-built sidewalk café structure in place. This regrettable decision makes removal of this  
2 unfortunately sited structure even more difficult.

3  
4 We acknowledge, however, that this operation has proved to be successful and is a great  
5 improvement over the decrepit structure we were accustomed to having on our sidewalk. Before  
6 we approved the applicant's original application in December 2010 this location had proven to be  
7 problematic for restaurant operators for more than twenty five years. Even with the benefit of an  
8 enclosed sidewalk café, a succession of restaurants had failed, at times leaving an abandoned,  
9 decaying structure on this prominent West Chelsea corner for years at a time.

10  
11 Pedestrian flow is impeded by bike racks on the sidewalk along 10th Avenue. These are  
12 primarily used by the New York Burger restaurant's delivery staff. CB4 has spoken to a New  
13 York Burger representative about the removal of these bike racks and the installation of a bike  
14 corral in a parking space on Tenth Avenue to provide more sidewalk space for pedestrians. CB4  
15 is pleased that New York Burger is aware of the problem, aims to reduce the restaurant's use of  
16 the sidewalk bike racks, and is open to their removal and the installation of a bike corral in a  
17 parking space on Tenth Avenue.

18  
19 To reiterate our reasoning, we are opposed to enclosed sidewalk cafes in general for three  
20 reasons:

- 21  
22 i. They are permanent structures that appropriate public property for private use without  
23 providing a public benefit;  
24  
25 ii. Unlike unenclosed sidewalk cafes which can add to community ambiance and create more  
26 vibrant streetscapes, enclosed sidewalk cafes isolate diners from sidewalk activity and the  
27 community; and  
28  
29 iii. Since they are permanent structures, they are difficult to remove should that be warranted.

30  
31 Despite our opposition to enclosed sidewalk cafes in general, and to this one in particular, since  
32 the structure already exists we are faced with the choice between an operating restaurant and an  
33 abandoned structure. Until we succeed in having the structure removed, we are forced to choose  
34 the restaurant option and reluctantly recommend approval of the application.

35  
36 Sincerely,

37  
38 Christine, Lee, Betty  
39  
40

2  
3 Date

4  
5  
6  
7 Manhattan Borough President Gale A. Brewer  
8 Council Member Corey Johnson

9  
10 **Re: Highline Hotel**

11  
12 Dear Borough President Brewer and Council Member Johnson:

13  
14 This letter conveys Community Board 4’s (CB4) deep concern about the Landmarks  
15 Preservation Commission’s issuance of an Amendment on a staff level to the Highline  
16 Hotel for its garden, without public review and contrary to the Board’s request. The  
17 Amendment markedly expands the scope of work beyond that approved by an earlier  
18 permit and effectively legalizes multiple violations of that permit. The Hotel and its  
19 garden are within the Chelsea Historic District.

20  
21 The original Permit of 7/8/13 approved modest changes to the garden between the Hotel,  
22 which is part of the General Theological Seminary building complex, and Tenth Avenue.  
23 Subsequent construction was clearly out of compliance with this permit, substantially  
24 altering the nature of the garden and reducing visibility of the historic Seminary  
25 architecture from the public way, among other impacts.

26  
27 In December of 2014, CB4 wrote a letter to Landmarks Preservation Commission Chair  
28 Srinivasan requesting “that all violations be addressed by the Commission and cured by  
29 their removal, until the design matches its approved design.” The letter further requested  
30 “that any proposals the Commission wishes to consider for curing violations by other  
31 means be reviewed by CB4 and go before a public hearing of the Commission.” The  
32 letter took special note of the garden’s view-blocking perimeter hedge and its raised  
33 planter, which transformed the garden from an open forecourt to the Seminary to a  
34 shielded commercial enclave: “We ask specifically that the ground-embedded steel  
35 sheeting inside the property line which elevates the hedge by about 16 inches, and does  
36 not appear on the approved presentation images, be treated as a violation, and that it be  
37 cured by removal of both planter and hedge.”

38  
39 The Commission’s Compliance Officer, Katie Rice, responded to the Board’s letter on  
40 March 9, 2015, noting that “many of the items described in the letter are landscape  
41 features that would not be regulated by the Commission,” and that “the owner recently  
42 received an amendment for the as-built conditions at the front courtyard, including  
43 installation of a continuous steel planter box along the interior perimeter . . .” Ms. Rice’s  
44 letter goes on to cite 32 additional items legalized by the Commission’s Amendment at  
45 staff level, with no public review. Even so they do not include all of the deviations from

1 the original Permit cited in the Board’s letter, including a permanent landscape stair  
2 which was removed. The letter states that no enforcement action was taken.

3  
4 CB4 filed a records request and obtained the Amendment referenced by Ms. Rice, dated  
5 March 6, 2015. It shows the extensive conditions covered by the Amendment, including  
6 an entire façade lighting system never presented for public review. Together, these  
7 Amendment items exceed the scope of projects typically required to undergo a public  
8 hearing at the Landmarks Preservation Commission.

9  
10 We take exception to Ms. Rice’s statement that landscape features are not under the  
11 jurisdiction of the Commission, especially after they were given so much weight when  
12 misleadingly presented to the Board and the Commission, and debated by Landmarks  
13 Commissioners in two public hearings which resulted in a revised proposal increasing  
14 planted areas. We find nothing in the Commission’s policy indicating that landscape  
15 features are not under its jurisdiction. Rather, emphasis is given to any publicly visible  
16 element within a historic district. The Hotel’s green space was approved and cited by the  
17 original Permit but is now almost completely absent under its Amendment, replaced by  
18 hard surfacing to accommodate seating for the Hotel’s restaurant patrons. We also take  
19 exception to legalization of such substantial violations at the Commission’s staff level,  
20 aside from our specific request that this not be done in the current case.

21  
22 We are also concerned that the Commission’s sweeping Amendment rewards Permit  
23 violation, helping perpetuate a strategy among unscrupulous owners of constructing  
24 violations and asking forgiveness – if and when caught - rather than seeking permission  
25 beforehand.

26  
27 We ask that your offices investigate the Commission’s conduct in this matter and institute  
28 measures ensuring meaningful community participation in, and transparency of, its  
29 actions.

30  
31 Please see the Board’s attached 2014 letter to Chair Srinivasan for extensive, illustrated  
32 background. Also attached is the Commission’s response by Compliance Officer Katie  
33 Rice and the Amendment her letter references.

34  
35 We look forward to your response.

36  
37  
38 Sincerely,

39  
40 Christine, Lee, Betty