

**Executive Committee**

**Item #: 1**

January \_\_\_, 2009

Director Amanda M. Burden  
Department of City Planning  
22 Reade Street  
New York, New York 10007

Michael Ben-Asher  
Legal Department  
Department of Consumer Affairs  
42 Broadway  
New York, New York 10004

**Re: ULURP Application No: N 090124 ECM  
DCA # 1299629  
Applicant: Greek Kitchen, Inc. d/b/a Greek Kitchen  
Premises: 885-889 10<sup>th</sup> Avenue, New York, New York**

Dear Director Burden and Mr. Ben-Asher:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4, having held a duly noticed public hearing on ULURP application number N 090124 ECM, adopted the following resolution at its meeting on February 4, 2009.

We are fundamentally opposed to new enclosed sidewalk cafes in the Special Clinton District and therefore cannot recommend approval. If the application is nonetheless approved, we recommend that the approval be subject to certain conditions to which the applicant has agreed.

The Application contemplates the addition of a permanent, enclosed sidewalk café ("Café") that will be able to accommodate 13 tables and 26 seats. The Café is located at the southwest corner of West 58<sup>th</sup> Street and 10<sup>th</sup> Avenue also known as 885-889 10<sup>th</sup> Avenue. This location is in the Other Area of the Special Clinton District.

**Concerns:**

1. Enclosed Sidewalk Cafes in general

Enclosed sidewalk cafes are permanent structures, extending private property into the public realm. Unlike unenclosed sidewalk cafes, which can add to community ambiance and create more vibrant streetscapes, enclosed sidewalk cafes separate diners from sidewalk activity. Enclosed sidewalk cafes are generally not allowed in special zoning districts, except as indicated in Section 14-44 of the Zoning Resolution. Section 14-44

lists the Special Clinton District as one of only four special districts in which enclosed cafes are allowed. We believe that it is either an accident or an anachronism that the Special Clinton District should be so listed. Our sidewalks have become increasingly crowded. In November 2007 we wrote to the Department of City Planning requesting a text amendment to prohibit enclosed cafes in the Special Clinton District. In conversations, DCP staff has been sympathetic to our request, but we await a formal response.

## 2. This location

There are no other enclosed sidewalk cafes on Tenth Avenue in CD4. There are only two enclosed cafes in the Special Clinton District, one at the corner of 57<sup>th</sup> Street and Ninth Avenue, and one on 42<sup>nd</sup> Street between Ninth and Tenth Avenues. Both are on wide streets with broad sidewalks. In contrast, the proposed Greek Kitchen café would be largely on a narrow side street, and would leave the bare minimum of 8 feet clearance. Though the location now has relatively light pedestrian traffic, it is across the street from John Jay College which is in the midst of a major expansion project. It is certain that there will be much heavier pedestrian traffic in the future.

CB4 is all too familiar with the impact of rapid unplanned growth of permanent enclosed outdoor cafes as is illustrated by the recent explosion of restaurants and cafes throughout the district. As in other sections within the confines of CB4, the impact on pedestrian safety and sidewalk usage now and in the future must be carefully considered.

The physical criteria for enclosed sidewalk cafes in ZR Section 14-12 require transparency and a maximum of 7 inches between the café floor and the adjoining sidewalk, to ensure that the café is open to the sidewalk. The western end of the proposed café, however, will be 15 to 18 inches above the sidewalk [check plans], because of the steep downward slope of 58<sup>th</sup> Street. ZR Section 14-121(c) does allow the City Planning Commission, by certification, to permit the floor level to exceed the 7 inch maximum in the event of a major grade change. This certification will be required for the proposed café, and must be given careful consideration. Because of the grade change, the proposed café will truly be more an extension of the building than a part of the sidewalk.

## 3. Clearance requirements should be the same as for newsstands

Under DCA's [new?] standards for newsstands, those built structures must generally leave 10 feet of sidewalk clear between the newsstand and the property line. Since enclosed cafes are similar sidewalk encroachments, the same 10-foot clearance should be required. DCA's regulations for built structures on public sidewalks should be consistent. We would like to see Applicant use the more strict standards in the construction process to ensure future sidewalk space and create uniformity in construction on all sidewalks.

**Now, therefore, be it resolved** that Manhattan Community Board No. 4 recommends denial of Application No. N 090124 ECM; if the application is nonetheless approved, it must be subject to the following conditions, to which the applicant has agreed:

**Conditions:**

1. The Café must remove any bicycle rack presently existing on the sidewalk and must allow employees to park their bicycles in the basement.
2. Windows to the Café must be sound-proofed and should be closed after 10 pm.
3. Applicant will confirm that the measure from the edge of the tree pit to the building wall is not less than 8 feet. If deficient, Applicant shall correct same.

Sincerely,

Jean-Daniel Noland  
Chair  
Manhattan Community Board 4

cc: DCP – Steve Gagliano, Erika Sellke  
Scott Stringer, Manhattan Borough President  
Local elected officials  
Applicant – Kathleen E. Negri Stathopoulos, Esq.