

Manhattan Community Board 4

(All Fields Must Be Completed)

CORPORATION NAME		DOING BUSINESS AS (DBA)	
THEORY LOUNGE LLC		N/A	
STREET ADDRESS		CROSS STREETS	ZIP CODE
331 W 38th STREET		8th & 9th AVE's	10018
OWNER <small>(Attach a list of all the people that will be associated listed with the license)</small>	NAME:	ATTORNEY/ REPRESENTATIVE	NAME: FRANK NALEVAIKO
	PHONE:		PHONE: 718-909-9398
	EMAIL:		EMAIL: blu718@gmail.com
MANAGER	NAME:	LANDLORD	NAME: 331 W 38TH STREET LLC JACK RANDAZZO, MEMBER
	PHONE:		PHONE: 718-614-3804
	EMAIL:		EMAIL: salvio24@gmail.com

APPLICATION TYPE *Liquor License* *Unenclosed Sidewalk Cafe*

<input checked="" type="radio"/> New	Has applicant owned or managed a similar business?	YES	NO
	What is/was the name and address of establishment?	(see attached page)	
	What were the dates applicant was involved with this former premise?		
<input type="radio"/> Corp Change/Class Change/Removal	What is the license # and expiration date?		
	Is applicant making any alterations or operational changes?	YES	NO
	<i>If alterations or operational changes are being made, please describe/list all changes.</i>		
<input type="radio"/> Alteration	What is the current license # and expiration date?		
	<i>Please list/describe the nature of all the changes and attach the plans:</i>		

METHOD OF OPERATION

TYPE OF ALCOHOL	<input checked="" type="radio"/> Liquor/Wine/Beer & Cider <input type="radio"/> Beer & Cider <input type="radio"/> Wine/Beer & Cider
ESTABLISHMENT TYPE	<input type="radio"/> Restaurant <input type="radio"/> Cabaret <input type="radio"/> Night Club <input type="radio"/> Hotel <input checked="" type="radio"/> Bar/Tavern <input type="radio"/> Catering Establishment <input type="radio"/> Adult Entertainment <input type="radio"/> Wine Bar <input type="radio"/> Dance Club <input type="radio"/> Sports Bar <input type="radio"/> Club (Fraternal Organization – Members Only)

Has applicant/owner filed with the SLA? If yes, when? If no, when do you plan to file?	YES	NO	THE WEEK OF MARCH 6th 2023
Is the 500 Foot Rule applicable? If yes, please attach a diagram of the On-Premise liquor license establishments within a 500 ft. radius of your establishment and the Public Interest Statement.	YES	NO	YES
Is the 200 Foot Rule applicable? If yes, please attach a diagram of the schools and houses of worship that trigger the rule.	YES	NO	NO
Has applicant/owner(s) read MCB4 Policy Regarding Concentration and Location of Alcoholic-Serving Establishments?	YES	NO	YES

Theory Lounge LLC
331 W 38th Street
New York, NY 10018

Owners prior experience

Ulises Pichardo

Employment: 2021 – present, Memorial Sloan Kettering Cancer Center, 1275 York Ave, NY, NY 10065

Job Description: Food & Nutrition Dept, Bartender & Bar Manager

Management duties: Oversees private & club member catered events.

Employment: 1996-2021 Grand Hyatt New York Hotel, 109 E 42 ST. NY NY 10017

Job Description: Food and Beverage Dept, Bartender & Bar Manager

Management duties: Create & design new restaurant themes, staffing decisions & security planning.

Arun Basnyat,

Employment: 2022 – present, Sally's Bar 129 Lexington Ave. NY NY

Job Description: Asst Manager/Bartender

Management duties: scheduling, ordering, hiring, security training

Employment: 2002 - 2021 Snafu Bar, 127 E 47th St. NY NY

Job Description: Manager/Bartender

Management duties: scheduling, ordering, hiring, security training

Employment: 2005 - 2021 Whiskey Trader, 71 W 55th St. NY NY

Job Description: Asst Manager/Bartender

Management duties: scheduling, ordering, hiring, security training

OPERATIONAL DETAILS (*Closing time will be when establishment is vacated of all patrons)

		MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
HOURS* <i>(Indoor Only)</i>	Operation	12pm-12am	12pm-12am	12pm-12am	12pm-2am	12pm-2am	12pm-2am	12pm-12am
	Kitchen	12pm-12am	12pm-12am	12pm-12am	12pm-2am	12pm-2am	12pm-2am	12pm-12am
	Music	12pm-12am	12pm-12am	12pm-12am	12pm-2am	12pm-2am	12pm-2am	12pm-12am

If you plan to have music, what type(s)? (Circle all that apply)	BACKGROUND	LIVE MUSIC	DJ	JUKE BOX	KARAOKE
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OCCUPANCY

	Capacity (Certificate of Occupancy)	Maximum # of Persons Occupying Premises (Including Employees)	Number of Tables	Number of Seats	Number of Service Only Bars	Number of Stand-Up Bars	Number of Seats at Stand-Up Bar
INSIDE	42	41	5	22	0	1	15
OUTSIDE <i>(Other than sidewalk café)</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
DCA APPROVED UNENCLOSED SIDEWALK CAFÉ	N/A	N/A	N/A	N/A			

How many floors are there? What is the capacity for each floor?	GRND BSTMNT 6	2 FLOORS, GRND FL HAS KITCHEN, BAR & SEATING AREA, BASEMENT BATHROOMS
How frequently will the owner(s) be at the establishment?	EVERY DAY	
Will there be dancing?	YES	NO
Will applicant have bottle or table service for beverage alcohol?	YES	NO
Will applicant be hosting private; promotional or corporate events?	YES	NO
Will outside promoters be used on a regular basis? If yes please describe.	YES	NO
Will applicant have a security plan? If, yes please attach.	YES	NO
Will security plan be implemented?	YES	NO
Will State certified security personnel be used?	YES	NO
Will New York Nightlife Association and NYPD Best Practices be followed?	YES	NO
Does applicant agree to notify MCB4 prior to making changes to its method of operation?	YES	NO
Will applicant be using delivery bicycles? If yes, how many?	YES	NO
Will delivery bicycles be clearly marked with the name of the restaurant and will staff wear attire clearly noting name as described by NYC Law?	YES	NO
Where will delivery bicycles be stored during the day when not in use?	N/A	

MULTIPLE SPACES/FLOORS CAPACITY BREAKDOWN

Space /Floor	Description/Use of Space	Capacity	Hours	# of Tables	# of Seats	# of Service Only Bars	# of Stand-Up Bars/Seats at Bar	Music
GROUND FLOOR	FRONT BAR AREA, DINING AREA, KITCHEN	42 PERSON	12pm-12am Sunday to Wednesday 12pm-2am Thursday to Saturday	5	22	0	(1) 15 SEATS	RECORDED BACKGROUND
BASEMENT	2 BATHROOMS	6						

LOCATION & ZONING

Is this a Special District? If yes, is it Clinton, West Chelsea or Hudson Yards?	YES	NO	GARMENT DISTRICT
Does the building have a Certificate of Occupancy ("C of O") or a letter of no objection?	YES	NO	(PENDING)
Is a Public Assembly permit required?	YES	NO	NO
Are your plans filed with DOB?	YES	NO	YES

Community Notification/Relations

NOTIFICATION: List all block associations; tenant associations, co-op boards or condo boards of residential buildings; and community groups that applicant has notified regarding its application. For each please list both the organization and individual you contacted	# 1	11 ASSOCIATIONS/PERSONS WERE CONTACTED BY EMAIL TAKEN FROM THE CB4 SUPPLIED LIST
	# 2	
	# 3	
	# 4	
	# 5	

Please provide dates when applicant met with the groups listed above.	A MASS EMAIL NOTIFICATION WAS SENT TO ALL ASSOCIATIONS TAKEN FROM THE CB4 RECOMMENDED LIST		
Who was your contact person at each group you met with?	THE EMAIL WAS SENT BY FRANK NALEVAIKO THE REPRESENTATIVE FOR THE APPLICANT 3/2/2023		
When did applicant post the notice that was provided?	2/24/2023		
Where did applicant post the notice that was provided?	APPLICANTS FRONT DOOR, 9th AVE @ 38th ST LAMP POSTS & 8th AVE @ 38th ST LAMP POSTS		
Will applicant provide owner cell phone number to neighbors and respond to complaints that arise? Please provide number in space provided.	YES	NO	ULISES PICHARDO 917-560-9758 ARUN BASNYAT 917-270-2318
Will applicant inform the Community Board office of its job openings and/or provide a hyperlink to applicants jobs webpage?	YES	NO	YES

BUILDING DESIGN

State the name and type of business previously located in the space.	RESTAURANTS - BACI DA ROMA, NAPOLI TRATTORIA, CARBONE		
Has a liquor-licensed establishment previously occupied this space at any time? If yes, please provide the name of the business.	YES	NO	BACI DA ROMA
Do you plan any changes to the existing façade? If yes, please describe.	YES	NO	no
Has the applicant/owner(s) read MCB 4 ADA Guidelines Memo?	YES	NO	YES
Is the entrance ADA Compliant?	YES	NO	YES
Do you plan any changes to the existing façade? If yes, please describe.	YES	NO	no
Will applicant have a vestibule within the establishment?	YES	NO	NO
Will applicant use a storm enclosure?	YES	NO	NO
Does applicant agree to keep the sidewalk clear of all items or obstructions, such as sandwich boards, sidewalk signs, freestanding menus and plants, as per the law?	YES	NO	YES
Will applicant comply with the NYC noise code?	YES	NO	YES
Will the establishment have any of the following: (circle all that apply) NONE	FRENCH DOORS		GARAGE DOORS
			WINDOWS THAT CAN BE OPENED
Will applicant close all windows, French doors, garage doors when any music or amplified sound (including televisions) is played inside the establishment?	YES	NO	N/A
Will applicant close all windows, French doors, garage doors by 11 PM Friday and Saturday and 10 PM on all other days even if no music or amplified sound is played inside the establishment?	YES	NO	N/A
Has applicant obtained an acoustical report from a certified sound engineer to assess potential noise disturbance to the neighboring residents and buildings?	YES	NO	(PENDING)
Will applicant follow the recommendations of a certified sound engineer to mitigate potential noise disturbance to the neighboring residents and buildings, including placing speakers on the floor of the establishment?	YES	NO	YES
Will the kitchen exhaust system extend to the roof?	YES	NO	YES
Will the establishment have an illuminated sign?	YES	NO	NO
Will the establishment have a canopy extending over the sidewalk?	YES	NO	NO
Where will the air conditioner be located? What type is it?	REAR YARD, GROUND LEVEL, SPLIT UNIT		
When was the air conditioner installed?	NOT SURE		

OUTDOOR ITEMS - OTHER THAN SIDEWALK CAFÉ

Has the applicant/owner(s) read MCB 4 Rear Yard Rooftop Policy?	YES	NO	YES
Will applicant use any outdoor spaces: rooftop, rear yard, patio, porch, balcony, pavilion, tents, deck, gazebo or open dining in the parking lane? If yes, which one(s)?	YES	NO	NO
Are the floorplans for the outdoor space(s) included?	YES	NO	N/A
Will applicant close and vacate the outdoor space(s) by 11PM on Friday & Saturday and 10 PM on all other days?	YES	NO	N/A
Will the service and consumption of alcohol in any outdoor space only be via seated food service?	YES	NO	N/A
Will applicant not allow standing space for patrons to drink or smoke in any outdoor space(s) or on the sidewalk?	YES	NO	N/A
Will there be no amplified music, as per the law?	YES	NO	N/A
If amplified sound is played inside the establishment, will windows and doors be closed?	YES	NO	N/A
Will applicant agree to post signs outside asking customers to respect the neighbors'?	YES	NO	N/A
Will applicant agree to train staff to encourage a peaceful environment?	YES	NO	N/A
Will applicant provide effective sound control (landscaping enclosure, soundproofing tenants apartments)	YES	NO	N/A
Will there be a lighting plan that allows safe usage of the outdoor space without disrupting neighbors?	YES	NO	N/A
If open dining in the parking lane, will applicant agree to leave the sidewalk free of any furniture?	YES	NO	N/A
If open dining, will you comply with all NYC DOT guidelines?	YES	NO	N/A
If open dining, will the installation be year-round?	YES	NO	N/A

DCA APPROVED UNENCLOSED SIDEWALK CAFÉ

Has the applicant/owner(s) read MCB4 Sidewalk Café Policy?	YES	NO	YES
Will applicant be applying for a sidewalk café now or in the future?	YES	NO	NO
Is applicant in this application seeking to include a sidewalk café in its liquor license?	YES	NO	NO
If yes, has applicant submitted an application and plans to NYC Dept. of Consumer Affairs? Please attach application and plans.	YES	NO	N/A
Will applicant close and vacate the sidewalk café by 11 PM on Friday & Saturday and 10 PM on all other days?	YES	NO	N/A
Will applicant be serving alcohol in the sidewalk café? If so, will you have waiter service?	YES	NO	N/A
Will the café have a 3 ft. wide serving aisle running the entire length of the sidewalk café?	YES	NO	N/A
Will applicant mark the perimeter of the café on the sidewalk?	YES	NO	N/A
Will the service and consumption of alcohol in the sidewalk café only be via seated food service?	YES	NO	N/A
Will the sidewalk café not provide standing space for drinking or smoking?	YES	NO	N/A
Will applicant use any portable natural gas heaters? If so, do you have the requisite approvals from DOB & the Fire Department?	YES	NO	N/A
Will applicant have a lighting plan that will allow safe usage of the outdoor space without disrupting neighbors?	YES	NO	N/A
Will all furniture, plants and barricades be stored inside between the evening closing hours and the morning opening hours?	YES	NO	N/A
Will all furniture be stored inside between December 21 st and March 21 st , and any other day when it rains or snows?	YES	NO	N/A
Will applicant use umbrellas?	YES	NO	N/A
If construction or construction protection has reduced the sidewalk width, will applicant always maintain an 8 foot clear path of sidewalk between the perimeter of the café and the closest obstruction including construction barricades?	YES	NO	N/A
If open dining is in the parking lane, will applicant agree to remove its sidewalk café?	YES	NO	N/A

ADDITIONAL STIPULATIONS: (Office Use Only)

- Applicant will provide one State - Certified Security person on-site from 10pm to closing on Thursdays to Saturdays
- Security person will monitor sidewalk to ensure patrons are not congregating outside
- There will be no french doors, there will be on regular door only, which will be keep closed when not used for entering and exiting

To the extent any additional stipulation on pages 7 and 8 of this application conflicts with any response on pages 1 – 6 of this application, the stipulations on pages 7 and 8 control.


ADDITIONAL STIPULATIONS: (Office Use Only), *Continued*

To the extent any additional stipulation on pages 7 and 8 of this application conflicts with any response on pages 1 – 6 of this application, the stipulations on pages 7 and 8 control.

Manhattan Community Board 4 (MCB4) recommends:
(MCB4's recommendation is based on a vote taken at its
April 4, 2023 full board meeting, with 36 members voting in favor
of the recommendation, 0 members opposed, 0 members
abstaining and 0 present but not eligible)

Denial unless all stipulations agreed to by applicant/owner are part of the method of operation
 Denial Approval

CB4 REPRESENTATIVES

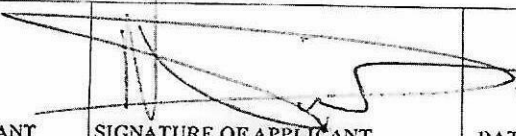

Nelly Gonzalez
CB4 Assistant District Manager


Frank Holozubiec
CB4 BLP Committee Co-Chair


Burt Lazarin
CB4 BLP Committee Co-Chair

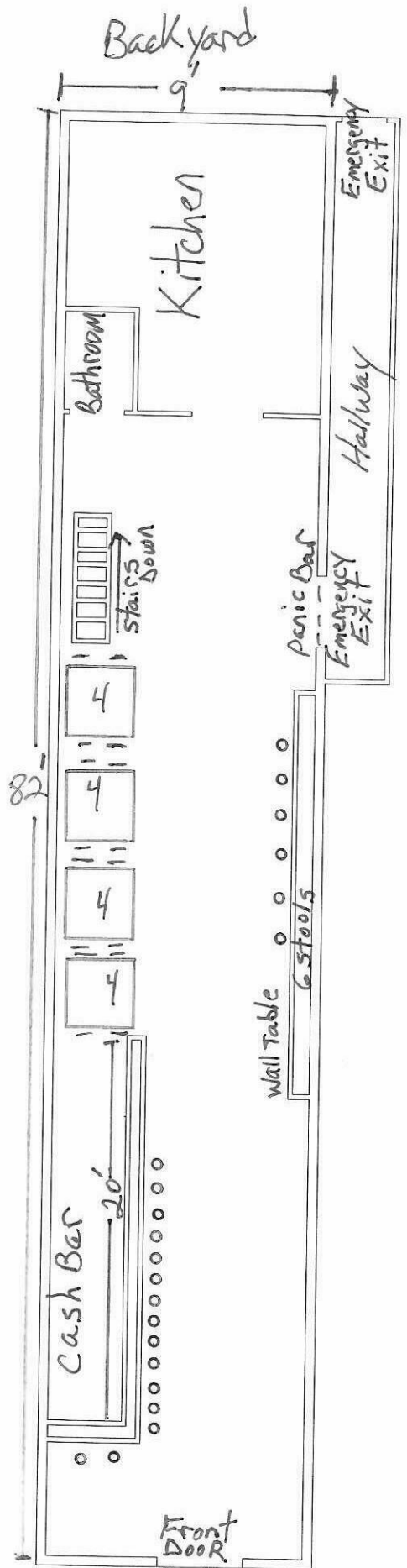
APPLICANT AGREEMENT WITH THE COMMUNITY

Applicant agrees to these stipulations as the basis for the community support of this application and acknowledges that all of these stipulations are essential prerequisites to the MCB4 recommendation regarding this application. Applicant agrees to have these stipulations incorporated in the method of operation of its liquor license. The stipulations in this application constitute the entire agreement between MCB4 and applicant and may only be altered in writing signed by MCB4 and applicant. These stipulations supersede any oral statements or representations in connection with this application.

<p>SIGN HERE →</p>	<p>ULISES PICHARDO PRINT NAME OF APPLICANT</p>	 SIGNATURE OF APPLICANT	<p>3/7/2023 DATE</p>
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THEORY LOUNGE LLC
331 W 38TH STREET
NEW YORK, NY 10018

Ground FL



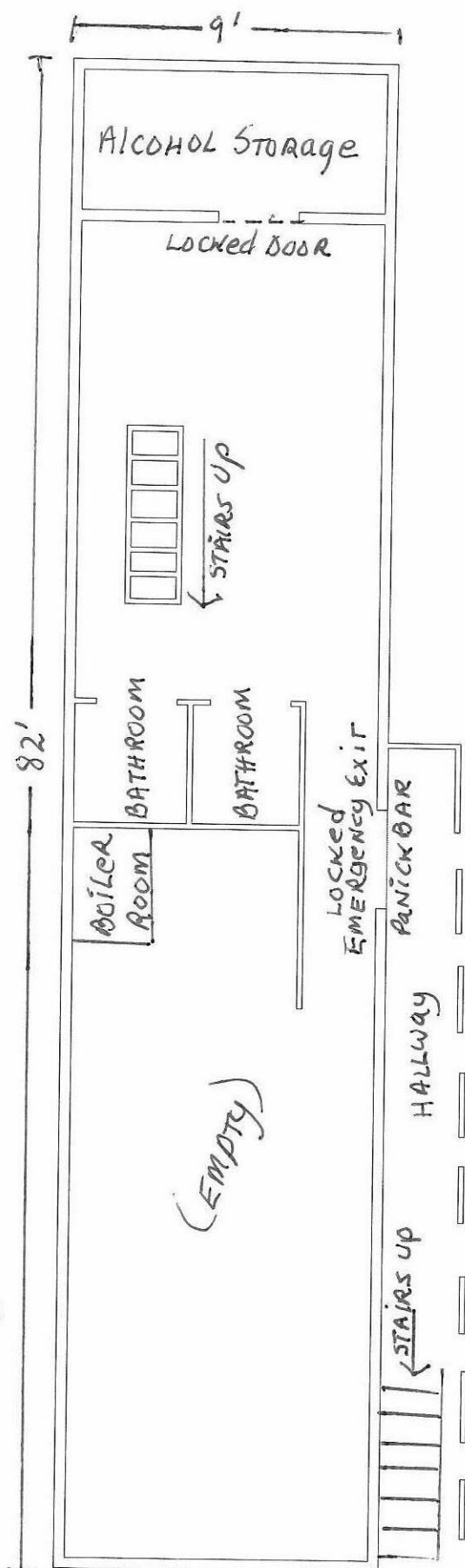
W

38st.

E

THEORY LOUNGE LLC
331 W 38TH STREET
NEW YORK, NY 10018

BASEMENT



W ← 38th STREET → E

Theory Lounge

Food Menu

Organic Greens \$13

Dried Cranberries, Cucumber, Tomato, House Dressing

Classic Shrimp Cocktail \$18

Lemon & Tangy Cocktail Sauce

NYC Pretzel Rods \$10

Served with Yellow Mustard

Fire Spiced Wings \$18

Served with Hot Sauce, Celery, Ranch Dressing

Charcuterie Board \$18

Selection of Cured Meats and Local Cheeses, crackers

Westside Club \$18

Roasted Turkey, Lettuce, Tomato, Smoked Bacon, Artisanal Bread

Theory Burger \$13

Lettuce, tomato, onion, pickle, Add: Cheese \$1.00

Hell's Kitchen Italian \$18

Salami, Mortadella, Ham, Provolone, lettuce, tomato

Chicken Paillard \$18

Grilled Chicken, Sundried Tomatoes, Pesto, Provolone

The Flat Bread \$15

Shiitake mushrooms, Mozzarella, Marinara, Basil

Empanadas de Lissette \$8.00

beef, chicken, or cheese – combo dish special 2 empanadas add \$5.00
top with tajin honey, pepper honey, add salsa?

Theory Burrito \$14.00

beef, chicken or shrimp

a burrito stuffed with rice, corn & black beans

Sopa de Dia \$8.00

A revolving soup selection usually with a Mexican flare

Elote \$6.00

Large grilled corn on the cob

Air Fried Yuca \$8.00

Try it in place of French fries!

Momo \$14.00

10 chicken stuffed dumplings drizzled with yellow sesame sauce, with a red ginger pickle on the side

Sukuti \$12.00

Fried dried beef (jerky) mixed with cooked onion & peppers & scallion

Papadam \$3.00

Indian style lentil flour bread, goes great with Sukuti

Hummus Plate (roasted garlic) \$10.00**Lincoln Tunnel Dawg \$12.00**

an 8oz Angus beef hot dog on hero bread stuffed with cheddar cheese, coleslaw, Relish, fried onion & creamy honey mustard (long crowded & dirty, just like the Tunnel)

P B & J \$7.00

Classic peanut butter & jelly sandwich
choose smooth or crunchy, grape, strawberry, raspberry, blackberry & bread?

Personal Pizza \$11.00

an 8-inch satisfying meal, pepperoni or plain?

Eggs Eggs & Eggs

2 eggs \$10 3 eggs \$12, omelet \$14
Fry em, scramble em, boil em, omelet name your stuffing

Avocado Toast \$12.00

Choose a topping - onion, tomato, basil, arugula, olive oil & balsamic glaze

Check the chalk board for our Daily Specials

Coffees & Teas

Starbucks branded coffee selection
American \$4.00
Espresso \$4.00
Cappuccino \$6.00
Black Tea (Lipton) \$3.00
Variety of Herbal Teas \$4.00

Sides

Wedge Fries \$8
Homemade Onion Rings \$9
Side Salad \$9
Black & White Cookie \$8

Theory Lounge LLC
331 W 38th Street
New York, NY 10018

MAPPING

The attached map shows 13 of the closest full OP liquor establishments in relation to 331 W 38th Street. The majority being restaurants then hotels & then bars.

There is only 1 full OP license on 38th St between 8th & 9th Ave. (Arlo Hotel)

The other 12 locations are located predominantly on 39th St, and then on 8th & 9th Ave & 37th St.

It is 400' distant walk to the corners of 8th & 9th Ave's from 331 W 38th St.

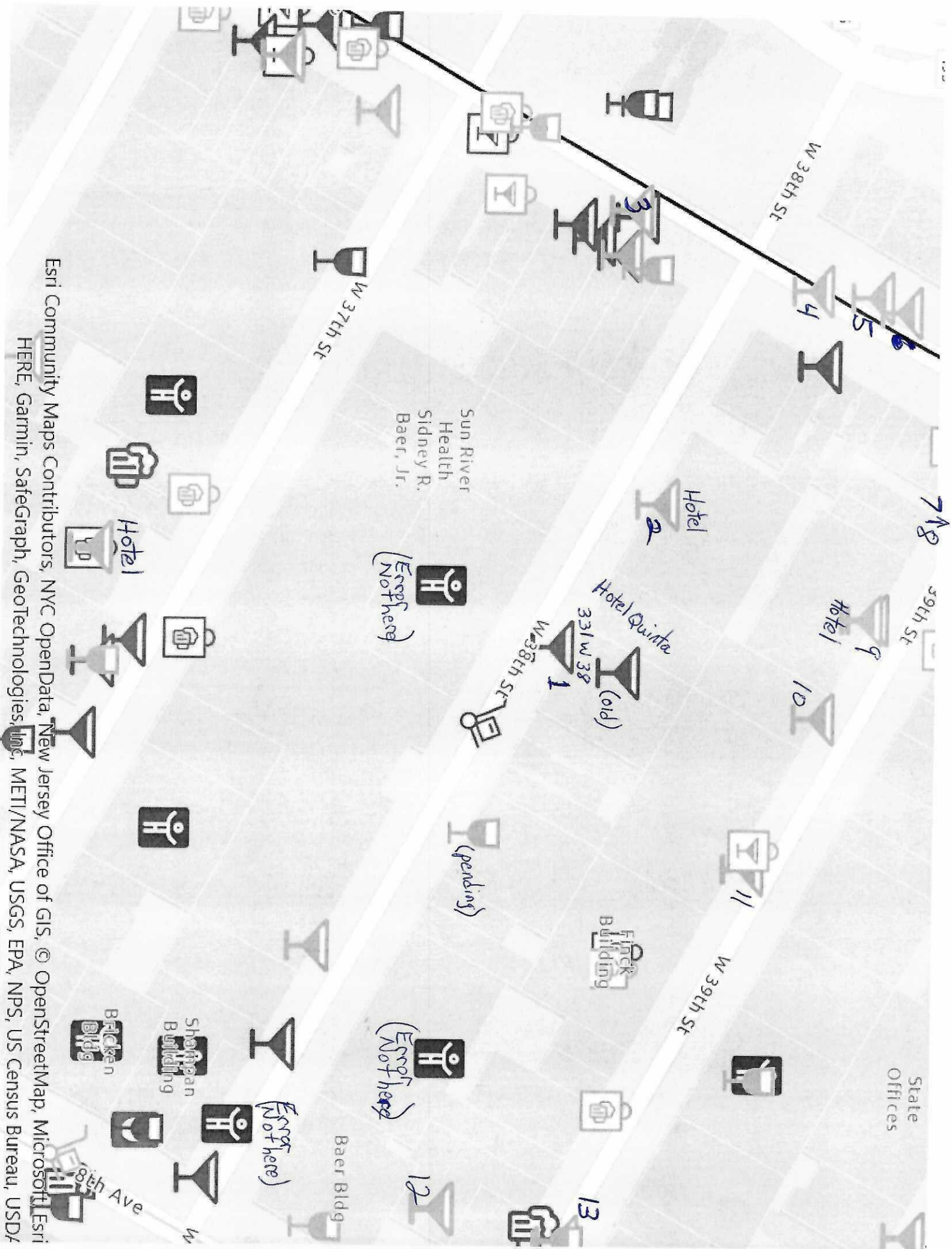
There are 9 major hotels within 500' of 331 W 38th St.

Theory Lounge will be marketing themselves to the hotel guests as the quieter, smaller neighborhood lounge where they can be at peace while enjoying a delicious meal accompanied by a very affordable cocktail, beer or wine.

The lounge will also market themselves as a "lunch & midday meal location" to the many garment businesses and offices located on 38th St.

The Lounge will not have front sidewalk seating and no backyard seating, there will be no French style doors and no open windows and only low volume recorded music will be played.

For these reasons along with 2 security conscience owners the Lounge will not become a nuisance business to its residential neighbors.



Esri Community Maps Contributors, NYC OpenData, New Jersey Office of GIS, © OpenStreetMap, Microsoft, Esri
HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDf

W 38th St

W 37th St

78

39th St

Sun River Health
Sidney R. Baer, Jr.

Hotel 2

Hotel Quinta

33 W 38 (old)

Hotel 9

10

(Not here)

(pending)

Finck Building

W 39th St

State Offices

Bridgman Bldg

Shapiro Building

(Not here)

(Not here)

Baer Bldg

12

13

W 38th Ave

Churches within 500 feet	
Name	Distance
The Word Center	376 ft
Harvest Christian Fellowship	394 ft
Baha'i Faith	405 ft
Lavender Light The Black People of All Colors Lesbian & Gay Go	405 ft

Pending On Premises Liquor Licenses within 750 feet		
Name	Address	Distance
GAC RESTAURANT CORP Ser #: 1353323	310 W 38TH ST NEW YORK, NY 10018	229 ft
NY 39TH ST LLC, NY 39TH ST OPRTG TENANT LLC&TB2-39 Ser #: 1345014	350 W 39TH ST NEW YORK, NY 10018	295 ft
SB TAVERN LLC Ser #: 1350080	496 9TH AVE NEW YORK, NY 10018	400 ft
FLAT TOP MIDTOWN LLC Ser #: 1348865	320 W 36TH ST NEW YORK, NY 10018	593 ft

map



#11

#2

#10

9

12

13

4

3

8

5

6

Active On Premises Liquor Licenses within 750 feet		
Name	Address	Distance
#1 Theory Lounge LLC 331 W 38st.		
TAMBURI TRATTORIA LTD mercato Ser #: 1226604	352 W 39TH STREET 8TH & 9TH AVE NEW YORK, NY 10018	199 ft
QUADRUN 38 F&B LLC & GG W38 LLC Arlo Ser #: 1327317	351 W 38TH ST NEW YORK, NY 10018	223 ft
JPO CONCEPTS INC Ser #: 1334988	338 W 39TH ST NEW YORK, NY 10018	234 ft
TB2 39 LLC & LOPM 39 DE LLC Hyattplace NY Ser #: 1320365	350 W 39TH ST NEW YORK, NY 10018	290 ft
EDJD PROPERTIES INC Ser #: 1285744	585 8TH AVE NEW YORK, NY 10018	369 ft
SNRP WEST 37 LLC & BALLINTEER CORP Hilton Ser #: 1302818	326 330 W 37TH ST NEW YORK, NY 10018	376 ft
TNN ENTERPRISES LLC Joyce public House Ser #: 1260730	315 W 39TH ST NEW YORK, NY 10018	391 ft
WALKINSTOWN INC Scallywags Ser #: 1265095	508 9TH AVE NEW YORK, NY 10018	432 ft
CHI RESTAURANT & BAR INC Ser #: 1345007	492 494 9TH AVE NEW YORK, NY 10018	436 ft
OTANI INC Aquihito Ser #: 1316493	359 W 39TH ST NEW YORK, NY 10018	441 ft
NYHK W 40 LLC/346 W 40TH ST RESTAURANT LLC & B HO Hilton Ser #: 1298089	346 354 W 40TH ST NEW YORK, NY 10018	453 ft
IL PUNTO RISTORANTE LLC Ser #: 1156801	507 509 9TH AVE NEW YORK, NY 10018	456 ft
365 MANAGEMENT COMPANY LLC Courtyard Ser #: 1270108	307 W 37TH ST NEW YORK, NY 10018	457 ft
511 9TH COMMERCIAL LLC Tempura Ser #: 1297390	511 9TH AVE NEW YORK, NY 10018	461 ft

Active On Premises Liquor Licenses within 750 feet

Name	Address	Distance
7 542 TACO LLC Ser #: 1292055 <i>Taqueria Diana</i>	524 9TH AVE NEW YORK, NY 10018	462 ft
342 PROPERTY LLC BY STEPHEN F ELLMAN AS TEMPORARY Ser #: 1224867	342 W 40TH ST 8TH & 9TH AVENUES NEW YORK, NY 10018	463 ft
334 340 HOTEL MANAGEMENT LLC Ser #: 1235333	334 340 W 40TH STREET 8TH AVENUE AND 9TH AVENUE NEW YORK, NY 10018	467 ft
SKY BAR TIMES SQUARE INC & PM HOSPITALITY Ser #: 1229588	330 W 40TH ST 33RD FLOOR 8TH & 9TH AVENUE NEW YORK, NY 10018	492 ft
TIMES SQUARE HOSPITALITY II LLC Ser #: 1223090	330 W 40TH STREET NEW YORK, NY 10018	492 ft
BARRYDALE SM LLC, BARRYDALE TRS LLC CM 36 MGMT LLC Ser #: 1257365	341 343 W 36TH STREET NEW YORK, NY 10018	502 ft
TIMES SQUARE HOSPITALITY I LLC Ser #: 1253729	326 W 40TH ST NEW YORK, NY 10018	506 ft
CHIPOTLE MEXICAN GRILL OF COLORADO LLC Ser #: 1312878	601 8TH AVE SUITE #3 NEW YORK, NY 10018	509 ft
AIYARA THAI INC Ser #: 1315875	480 9TH AVE NEW YORK, NY 10018	518 ft
PISCES BAR & TAVERN INC Ser #: 1026133	543 8TH AVE NEW YORK, NY 10018	518 ft
CAA 536 9TH AVENUE CORP Ser #: 1307047	536 9TH AVE NORTH STORE NORTH STORE NEW YORK, NY 10018	532 ft
TABERNACLE LLC Ser #: 1329854	315 W 36TH ST NEW YORK, NY 10018	543 ft
NITTI GROUP INC, THE Ser #: 1312915	523 9TH AVE NEW YORK, NY 10018	553 ft
CAMAPA LTD Ser #: 1323797	474 9TH AVE NEW YORK, NY 10018	580 ft
310 GROUP LLC, ALIZ GROUP LLC & DEAR HUDSON LLC Ser #: 1305044	310 W 40TH ST NEW YORK, NY 10018	581 ft
NY 36TH ST MGR V LLC NY 36TH ST OPERATING V LLC NY Ser #: 1317154	338 W 36TH ST NEW YORK, NY 10018	589 ft
TB1-8 LLC LSCH 8TH AVE LLC & NY 8TH AVE Ser #: 1342388	525 8TH AVE NEW YORK, NY 10018	599 ft
TGANYC LLC Ser #: 1305186	320 W 36TH ST NEW YORK, NY 10018	599 ft
BEER AUTHORITY INC Ser #: 1261533	613 8TH AVE NEW YORK, NY 10018	621 ft
BLUE RUIN INC Ser #: 1214794	538 9TH AVENUE 39TH & 40TH STREETS NEW YORK, NY 10036	622 ft
WOLF WESTSIDE LLC Ser #: 1257890	620 8TH AVE RETAIL SPACE C NEW YORK, NY 10018	672 ft
BIG BOWL LLC Ser #: 1147503	625 8TH AVE 2ND FLOOR NEW YORK, NY 10018	699 ft
EIGHTH AVE ENTERPRISES LTD Ser #: 1128483	625 8TH AVENUE PORT AUTHORITY BUS TERM 625 NEW YORK, NY 10018	712 ft



KATHY HOCHUL
Governor

LILY M. FAN
Commissioner

VINCENT G. BRADLEY
Chairman

GREELEY FORD
Commissioner

**PUBLIC INTEREST QUESTIONNAIRE
(FOR APPLICATIONS SUBJECT TO THE 500 FOOT LAW)
(revised 12/31/21)**

Applicant's Name: THEORY LOUNGE LLC

Applicant's DBA/trade name: N/A

Applicant's Serial Number: PENDING

Address of Applicant's Premises

Street Number & Name: 331 W 38th STREET

City: NEW YORK
Zip Code: 10018

PLEASE READ THE FOLLOWING CAREFULLY BEFORE COMPLETING THE QUESTIONNAIRE.

- This questionnaire must be submitted. Do not use any version other than the 12/31/21 revised form. No other document that an applicant submits will be accepted as a substitute. If needed, the applicant can attach supplemental pages to the questionnaire. Additional pages should be signed and dated by the person submitting the questionnaire.
- The information provided in this questionnaire must be consistent with the information provided in the application. If upon review the Authority determines that the applicant submitted conflicting or contrary information, the application will be subject to disapproval or, if the license has already been issued, the licensee will be subject to disciplinary action.
- The information provided in this questionnaire, as well as the information provided in the application, must also be consistent with the information provided in the notice that must be sent to the municipality 30 days before the application is filed. If the information sent to the municipality differs in any way from what was provided by the applicant, the applicant must identify those differences when completing this questionnaire.
- The Administrative Law Judge assigned to the application will not have a copy of the application as part of the record. The Administrative Law Judge will only have the material received by the deadline for submissions. Applicants should, therefore, answer the questionnaire as completely and thoroughly as possible.

Questions

General location of proposed licensed premises

1. In what city, town or village is the proposed licensed premises located? (For the City of New York, please identify the Community Board)

City/ Town/ Village/ Community Board: MANHATTAN CB4
County: NEW YORK

2. How many establishments with On-Premises Liquor licenses are located within a 500- foot radius of the proposed licensed premises?

18

3. Of those establishments, how many can best be described as:

- Restaurant? 8
- Tavern/bar? 1
- Hotel? 9
- Catering hall? 0
- Nightclub? 0
- Adult entertainment venue? 0
- Other? 0

4. The area surrounding the proposed licensed premises is best described as (check only one):

- Residential? _____
- Commercial? _____
- Mixed residential/commercial X

Description of proposed licensed premises and method of operation

5. What type of business (restaurant, tavern/bar, nightclub, catering hall, etc.) will the applicant be operating?

TAVERN WITH KITCHEN & FULL FOOD MENU

6. In what type of building (single occupant, multi-unit, mixed-use, etc.) will the proposed licensed premises be located and how many floors does the building have?

6 LEVEL ATTACHED BRICK MASONARY, MIXED USE WITH A COMMERCIAL STORE ON THE GROUND LEVEL AND BASEMENT

7. Are there residents living above, below, or adjacent to the proposed licensed premises? If so, have they been contacted by the applicant, and is the applicant aware of whether they support or oppose this application?

4 LEVELS OF RESIDENTIAL UNITS ABOVE, THE OTHER BUILDINGS ON THE BLOCK ARE MIXED USE WITH COMMERCIAL UNITS ON GROUND LEVEL WITH APTS ABOVE OR ARE 100% COMMERCIAL. THE APPLICANT HAS LEFT FLYERS AT ALL RESIDENTIAL BUILDINGS ON THE STREET

8. How many floors will the proposed licensed premises occupy?

2 LEVELS, GROUND FL & BASEMENT

9. What is the maximum occupancy of the proposed licensed premises (interior space only)?

42 PERSONS

10. How large (in square feet) is the proposed licensed premises (interior space only)?

1,100 sq ft

11. How many tables (for patrons) will be in the proposed licensed premises (interior space only)?

5

12. How many seats (total) will be at the tables (interior space only)?

22

13. How many customer bars will be in the proposed licensed premises (interior space only)?

(1) 20' LONG

14. How many seats will be at the customer bars (interior space only)?

15

15. Will the proposed licensed premises have a full restaurant menu or a limited tavern menu?

FULL MENU

16. Will the applicant have security and, if so, how many security personnel will be used

IT IS ANTICIPATED THAT NO SECURITY WILL BE REQUIRED

17. Will the applicant have recorded (background, no DJs or Juke Box) music?

RECORDED BACKGROUND MUSIC

18. Will the applicant have live music?

NO

19. Will the applicant have DJs?

NO

20. Will the applicant have a Juke Box?

NO

21. Will the applicant have karaoke?

NO

22. If the applicant will have music, how will it control the noise volume?

THE OWNER/MANAGER WILL MONITOR THE DECIBEL LEVEL AND WILL KEEP THE LEVEL BELOW 75 DECIBLES AND NO ATTACHED DWELLING WILL EXPERIENCE A NOISE LEVEL EXCEEDING 42 DECIBLES

23. Will the applicant allow patron dancing?

NO

24. Will the applicant have employee/staff dancing and, if there is dancing will it include topless or exotic dancing (such as pole or lap dancing)?

NO DANCING, REGULAR OR EXOTIC

25. Will the applicant use the services of a promoter?

NO

26. Will the applicant rent out part, or all, of the premises for private events (Not applicable to catering establishments)? If so, how many times a year will the premises be rented out?

NO PRIVATE PARTIES

27. Does the applicant have an agreement in place with its municipality regarding the operation of the proposed licensed premises? If so, a copy of the agreement must be provided with this questionnaire.

YET TO BE DISCUSSED, A MANHATTAN CB4 MEETING IS SCHEDULED FOR 3/14/2023

28. If there is no agreement in place, has the applicant met with the municipality and is the applicant aware of the municipality's position regarding this application?

A MANHATTAN CB4 MEETING IS SCHEDULED FOR 3/14/2023

29. What are the applicant's hours of operation?

PROPOSED HOURS, SUN-WED 12PM-2AM, THUR-SAT 12PM-4AM

30. Will the applicant be using any outside areas (including but not limited to sidewalk cafes, patios, decks, yards, etc.)? If so, please describe, including where the area is and the square footage, number of tables/ seats/ customer bars, hours of operation for outside service, etc.

NO OUTSIDE AREAS WILL BE USED

31. Does the applicant intend to operate with any doors or windows kept open? If so, please describe and indicate the hours that the doors or windows will be kept open.

NO DOORS OR WINDOWS WILL BE OPEN DURING BUSINESS HOURS

32. Is the applicant currently operating under a temporary retail permit?

NO

33. Other than the liquor license, are there any required government approvals, permits, etc., that have not yet been obtained by the applicant to operate the proposed licensed premises?

NO

34. Was the proposed licensed premises licensed in the past? If so, please identify the prior licensee and disclose any adverse disciplinary history, if known.

THE LOCATION HAS ALWAYS BEEN LEASED FOR RESTAURANT USAGE, 1 KNOWN PRIOR OP LICENSE FOR BACI DA ROMA LLC 1197771, VIOLATION PAID ON 01/13/2017, Case No: 111081

35. Is the proposed licensed premises currently licensed? If so, please identify the current licensee and disclose any adverse disciplinary history, if known.

NOT CURRENTLY LICENSED

- 36. If the proposed licensed premises was, or is currently licensed, briefly describe the prior licensee's method of operation, if known. RESTAURANT USAGE, NO DANCING, NO LIVE MUSIC, NO DJ, NO KARAOKE
- 37. If the proposed licensed premises has an adverse, disciplinary history, what actions will the applicant take to prevent future violations?

THE OWNERS/MANAGERS WILL ALWAYS BE PRESENT DURING OPERATING HOURS, THEY WILL HAVE AN ID CHECKER MACHINE INSTALLED, THEY WILL MONITOR PATRONS FOR EXCESSIVE ALCOHOL CONSUMPTION AND WILL HAVE ALL ALCOHOL SERVERS TAKE AN ONLINE "ATAP" COURSE

- 38. Is the applicant currently operating at the proposed licensed premises without alcoholic beverage sales?

NO, THE LOCATION IS UNDER RENOVATIONS

- 39. Does the applicant have parking available for its patrons? Please describe the type of parking, if any.

PUBLIC STREET PARKING ONLY, THE APPLICANT IS ANTICIPATING THAT 95% OF THEIR PATRONS WILL ARRIVE BY FOOT OR PUBLIC TRANSPORTATION

Information concerning the applicant

- 40. Has the applicant, or any of its principals, or proposed managers, ever held, or currently hold, a license to sell alcoholic beverages? If so, please identify those licenses.

NO

- 41. Has the applicant, or any of its principals, or proposed managers, ever had a license cancelled or revoked by the Authority?

NO

- 42. Does the applicant, or any of its principals, or proposed managers, have any other adverse disciplinary history with the Authority?

NO

- 43. Does the applicant, or any of its principals, or proposed managers, have any other experience operating, supervising or working at a business licensed to sell alcoholic beverages? If so, please explain.

THE 2 OWNER/MANAGERS HAVE BOTH HELD SUPERVISOR POSITIONS AT LICENSED ESTABLISHMENTS. ULISES PICHARDO WORKED AS BAR MANAGER FOR THE NY GRAND HYATT HOTEL AND ARUN BASNYAT IS CURRENTLY EMPLOYED BY SALLYS BAR AT 129 Lexington Ave. NY NY AS AN ASSISTANT MANAGER

Additional information regarding Public Interest

44. Please explain the impact that the proposed licensed premises will have on vehicle and pedestrian traffic in the area.

SINCE 95% OF THE APPLICANT'S CLIENTEL WILL ARRIVE BY FOOT AND NO OUTSIDE AREA WILL BE USED FOR BUSINESS OPERATIONS, THEN THIS BUSINESS WILL NOT AFFECT THE AREAS PEDESTRIAN OR VEHICULAR TRAFFIC FLOW

45. Please explain the impact that the proposed licensed premises will have on the noise level in the area.

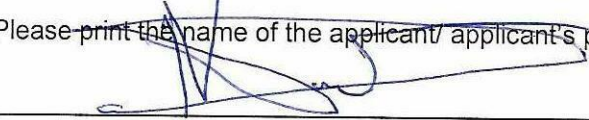
THE BUSINESS WILL ALWAYS OPERATE WITH ALL DOORS AND WINDOWS CLOSED, THIS BUSINESS WILL NOT CONTRIBUTE TO AN INCREASE IN THE AREAS CURRENT NOISE LEVEL

Are there any other reasons to support a finding that issuing this license is in the public interest? Please be as specific as possible.

"The Public interest will be served because there are 9 major hotels within 500' of the applicants location, they will be marketing themselves to the hotel guests as the quieter, smaller neighborhood lounge where they can be at peace while enjoying a delicious meal accompanied by a very affordable cocktail, beer or wine. For this reason, the applicant also expects to make the areas residents happy clients as well. And lastly the applicant will market themselves as a "lunch & midday meal location" to the many garment businesses and offices located on West 38th St."

The applicant acknowledges that the Authority will rely on the representations made in this questionnaire. By signing and submitting this questionnaire, the applicant acknowledges that any false statement or misrepresentation herein will constitute cause for the disapproval of the application or disciplinary action against the applicant's license if the application is approved, including the possibility of revocation or cancellation of the license.

Please print the name of the applicant/ applicant's principal signing this questionnaire:



3/5/2023
Date

Signature of applicant/ Ulises Pichardo Jr, Member

Frank Nalevaiko, Rep
Please print the name of applicant's representative



3/5/2023
Date

Signature of applicant's attorney/representative

RESTAURANT FOR LEASE

Andrew Ingber
212.468.5928 aingber@meridiancapital.com

MERIDIAN
RETAIL LEASING



EP-
CYCLING

38 EL

SALE &

331 W 38th



PLEASE DO NOT
BLOCK THE
WALKWAY
THANK YOU

PLEASE DO NOT
BLOCK THE
WALKWAY
THANK YOU



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aingber@meridiancapital.com

 **MERIDIAN**
RETAIL LEASING



CPR KIT IS AVAILABLE AT THE COUNTER. PLEASE SEE THE MANAGER. CALL 911 FOR EMERGENCY.

Man
C
FRANK
& T

