



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JOHN WEIS
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

January 11, 2010

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 #N 100068 ECM
DCA # 1299629
Merchants NY
112 Seventh Avenue, Borough of Manhattan

Dear Director Burden and Mr. Ben-Asher:

At the recommendation of its Chelsea Preservation and Planning Committee, Manhattan Community Board No. 4, having held a duly noticed public hearing on ULURP application number N 1000068 ECM, recommends denial of the application by Merchants NY for an enclosed sidewalk.

The Application is for an enclosed sidewalk café with six tables and twelve seats to be built at 112 Seventh Avenue, near West 17th Street, on an existing, permanent platform. Since the applicant has used this platform to operate an unenclosed sidewalk café, the proposal essentially is the conversion of an unenclosed café into an enclosed cafe. We have been unhappy with the obstacle created by the existing unenclosed café and would have welcomed the opportunity to ask questions of the applicant. Unfortunately, they did not appear before the committee¹.

We are fundamentally opposed to new enclosed sidewalk cafes. They sequester diners in a private extension of a restaurant permanently appropriated from the community at minimal expense to the owner. In contrast, unenclosed sidewalk cafes place diners in the midst of the street activity and can add to community ambiance by creating more vibrant streetscapes. They also can be removed easily should that ever be warranted.

¹ The Office of Manhattan Community Board 4 was unable to reach the applicant in time for the December 2009 committee meeting. However, the applicant did attend and speak at the required Public Hearing. He also stayed through the vote in case there were any questions.

Although the plans provided to CB4 appear to conform to the regulations governing sidewalk clearance, we note that the proposed structure would extend nearly ten feet from the lot line and would cover approximately 140 square feet of public sidewalk. Because of the steep grade of the sidewalk in this location, the proposed structure will be a significant visual obstacle covering half the sidewalk. It also will create a significant obstacle around which pedestrians must navigate.

We note two deficiencies in the application. First, since the height of the eastern end of the floor is more than the permitted seven inches above the sidewalk, ZR Section 14-121(c) requires certification by the City Planning Commission. We have not received notice of such certification. Second, while we believe that a landlord consent form must be included with the application, we have not received a copy of the consent or any indication that it has been received.

Although the proposed enclosed sidewalk café may fulfill the legal requirements, we believe it benefits the owner of the restaurant to the detriment of the community and represents a private taking of a public asset. We recommend denial of the application.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



J. Lee Compton, Co-Chair
Chelsea Preservation and Planning

[signed 1/11/10]
Corey Johnson, Co-Chair
Chelsea Preservation and Planning

cc: NYC Council Speaker Christine Quinn
NYC Council Land Use Division – Danielle DeCerbo
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
MBP Scott Stringer
MBPO – Anthony Borelli, Deborah Morris
Applicant – Abraham Merchant