



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.ManhattanCB4.org

JEAN-DANIEL NOLAND
Chair

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

November 8, 2007

Beverly Gotay
Assistant Director of Licensing
Department of Consumer Affairs
42 Broadway, 8th floor
New York, NY 10004

Re: Enclosed Sidewalk Café [NEW]

Applicant: Corner 47th Restaurant d/b/a Pietrasanta
Location: 683 Ninth Avenue @ 47th Street
DCA #: 1254831
ULURP#: N 050568 ECM
Type: New Application – Enclosed Sidewalk Café
Tables/Seats: 8 tables / 21 seats

Dear Ms. Gotay:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4 recommends disapproval of this application for an enclosed sidewalk café on 47th Street at Ninth Avenue. The vote was unanimous.

The application seeks to convert what has been a successful unenclosed sidewalk café for many years into what would be the only enclosed sidewalk café on Ninth or Tenth Avenue in the Special Clinton District – making permanent and part of the building what has been temporary and part of the sidewalk. Many members of the community have written and turned out to urge us to oppose this application. We do so for the following four reasons:

1. Pedestrian Flow – this sidewalk is just too crowded

Under the general purposes of the sidewalk café regulations in NYC Zoning Resolution, Article 1, Chapter 4, Section 14-00(a) pedestrian concern and safety is a primary concern.

The Board when considering the installation of an enclosed structure that takes space away from pedestrians is seriously concerned about adequate pedestrian space and any adverse effect on pedestrian traffic the taken space will cause.

Ninth Avenue in the Special Clinton District is heavily a used pedestrian thoroughfare, with an untold number of restaurants and small businesses heavily frequented by people on foot. Down 47th Street are two schools, a senior residence (three doors down on 47th Street), The enclosed café would be on 47th Street abutting Ninth Avenue. When walking past one will have limited space to move given the fire hydrant and the tree. (Note: although under the zoning resolution a tree “shall not count as obstructions” the pedestrian must take notice.) And in winter with the snow piled up, there won’t be enough room for school and residential pedestrians to pass.

2. Disability Accessibility

The drawings provided by the architect show accessibility into the enclosed café as required in Article 1, Chapter 4, Section 14-122 of the NYC Zoning Resolution. However, the establishment itself has no accessibility into the restaurant from the main entrance and no accessibility for restroom facilities. The applicant cites Local Law 58 for its present non-accessibility for the disabled and avers that there are no requirements beyond the enclosed café as per section 14-122. Although we acknowledge silence or a lack of affirmation on improving accessibility the Board believes strongly that it defies logic that one can have an accessible enclosed café but not an accessible establishment and/or facilities. Without full accessibility for persons with physical disabilities, the Board cannot recommend approval. To allow such a situation sends a message to the disabled and physically challenged community not to mention seniors with limited mobility that you can sit in the café but you better hope nature doesn’t call. This disparate treatment of the restaurant’s patrons violates the intent, if not the letter, of the law.

3. Distance from the fire hydrant

The distance between the fire hydrant and the enclosed street café is only eight (8) feet, not the ten (10) feet required in Title Six, Chapter 2, Subchapter F, section 2-46(c) of the Rules of the City of New York. The applicant’s architect avers that the requirement is actually eight (8) feet and that the rule has not been updated. The Board still insists on following the ten (10) foot rule. One of the specific purposes listed in the general purposes section of sidewalk café regulations is “[t]o ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes [Article 1, Chapter 4, Section 14-00(a) of the NYC Zoning Resolution]. Given the character of Ninth Avenue and 47th Street ten (10) feet is - at the very least - the only truly “adequate space” for a pedestrian.

4. Recess

Article 1, Chapter 4, section 14-11(a) of the NYC Zoning Resolution states: “[i]n no event may recesses in the #enclosed sidewalk café# frontage be used to satisfy [the] unobstructed width requirement . . .”. The drawings provided for this enclosed sidewalk café show that the enclosure will be recessed to clear a curbside fire hydrant. The applicant states that it is not an indentation or inlet and thus under previous DCP reviews it is not a recess. The Board believes it is a recess, prohibited by the Zoning Resolution. The area is surrounded by three sides and the waiting service would have to do an about face or spin like a top to go back the way they came.

Sincerely,



Jean-Daniel Noland
Chair
Manhattan Community Board 4



Anna Hayes Levin
Co-Chair
Clinton/Hell's Kitchen Land Use

cc: Applicant
Michael Ben Asher, DCA, License Issuance
Steve Cagliano, DCP, Technical Division
Ms. Gail Benjamin, City Council, Land Use Division
Electeds
West 47th/48th Streets Block Association
West 46th Street Block Association
West 44th Street Block Association
West 44th Street Block Association
Hell's Kitchen Neighborhood Association