



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

JOHN WEIS
Chair

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

November 23, 2009

Amanda Burden
Commissioner
City Planning Commission
22 Reade Street
New York, NY 10007

**Re: Enclosed Sidewalk Cafes in the Special Clinton District
Second Request for Amendment of Zoning Resolution Section 14-44**

Dear Commissioner Burden:

Recently, the Clinton/Hell's Kitchen Land Use Committee for Manhattan Community Board 4 was presented with yet another application for an enclosed sidewalk café within the Special Clinton District (SCD), on W. 48th Street. As you may already know, five local block associations and many community members have asked us to "just say no" to any applications for enclosed sidewalk cafés, but we know we can't do that without good cause. As we stated in our letter to you, dated November 13, 2007, we continue to believe the better approach is to request an amendment of the zoning text.

Section 14-40 of the Zoning Resolution says that "in all special zoning districts, enclosed . . . sidewalk cafes . . . shall not be permitted, except as indicated in Section 14-44." Section 14-44 lists the Special Clinton District ("SCD") 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 SCD should be so listed.

When the SCD was created in 1974, the district was a very different place and sidewalk dining held very little appeal. Thirty-five years later, the economy has turned and the drug dealers and prostitutes are gone. More people now visit the avenues of Clinton/Hell's Kitchen than ever before and the number of people living here has increased. As a result, the sidewalks have grown increasingly crowded. Stretches of the avenues are also prone to encroachment by several types of sidewalk obstructions—unenclosed sidewalk cafes, street signs, bus stops, phone booths, store loading crates, to name a few—making sidewalk passage difficult, particularly for the disabled.

This increase in pedestrian activity is welcomed by many. Local businesses have reaped the benefits of the upsurge in street use by expanding their operations into the sidewalk

via the Department of Consumer Affairs' Sidewalk Café licensing program through unenclosed sidewalk cafes.

Unenclosed sidewalk cafes typically add to community ambiance and create more vibrant business districts. Plus, we can work with restaurants on the limits of an unenclosed sidewalk cafe. The erection of an enclosed sidewalk café is a totally different animal. It is – for the pedestrian and resident – a permanent structure, separating diners from sidewalk activity. It will be there all year round and leaves merely eight feet between the street and the establishments for the thousands of pedestrians who walk through the SCD each day of the week. Eight feet is simply not enough for this neighborhood any more. Moreover, under the Department of Consumer Affairs' ("DCA") 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. We ask that the Zoning Resolution be consistent with DCA's regulations for built structures on public sidewalks.

The residents of Clinton/Hell's Kitchen are beginning to feel the squeeze as more and more sidewalk space is dedicated to restaurant use. To further – and permanently - decrease the pedestrian space for enclosed sidewalk cafes means a loss to the underlying purpose of the SCD.

In conclusion, Manhattan Community Board Four requests a text amendment to the NYC Zoning Resolution, Article 1, Chapter 4, Section 14-44 that would prohibit the installation of enclosed sidewalk cafes in the Special Clinton District for the reasons discussed above.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: NYC Council Speaker Christine Quinn
NYC Council Speaker Quinn's Office – Kate Seeley-Kirk, Melanie Larocca
NYC Council Land Use Division – Danielle DeCerbo
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
MBPO – Anthony Borelli, Deborah Morris