



THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 3

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Alysha Lewis-Coleman, Board Chair

Susan Stetzer, District Manager

September 2018 Vote Sheet

Executive Committee

no vote necessary

Land Use, Zoning, Public & Private Housing Committee

1. Approval of previous month's minutes approved by committee
2. Borough President / Councilmember: Presentation on Text Amendment requiring Special Permit to modify Two Bridges LSRD

VOTE: TITLE: Support for Council Member Chin and Manhattan Borough President Brewer's Text Amendment requiring a special permit to modify the Two Bridges Large Scale Residential Development (LSRD)

WHEREAS, Council Member Margaret Chin and Manhattan Borough President Gale Brewer have filed an amendment to the New York City Zoning Resolution concerning Article VII, Chapter 8 (Special Regulations Applying to Large-Scale Residential Developments); and

WHEREAS, the proposed zoning text amendment includes a provision requiring a special permit for modifications to the existing Two Bridges LSRD in Manhattan Community District 3; and

WHEREAS, the requirement of a special permit for modifications to the Two Bridges LSRD would ensure that proposed changes to the underlying site planning and zoning controls that govern the LSRD would go through Uniform Land Use Review Procedures (ULURP), and be subject to review by the public, Community Board 3, the Manhattan Borough President, as well as review and approval by the New York City Council; and

WHEREAS, at this time, current proposals to modify the Two Bridges LSRD are being reviewed which would facilitate an unprecedented scale of construction and introduce a large volume of market-rate residential units, with the potential for adverse impacts that would alter the LSRD and surrounding areas permanently; and

WHEREAS, these proposals have required only one public hearing and are not subject to mandated review by the local elected officials who represent the area; and

WHEREAS, the historical objectives of the land use controls in the area, including the Two Bridges Urban Renewal Plan (TBURP) and the Two Bridges LSRD, have facilitated and ensured residential affordability and diversity in the area, as well as access to public open space, light, and air; and

WHEREAS, the Council Member and Borough President's proposed text amendment would not only ensure robust public review of modifications to the Two Bridges LSRD, but would also require developments and enlargements within the LSRD to comply with Mandatory Inclusionary Housing (MIH) affordability provisions and provide on-site public amenities that benefit the local community;

THEREFORE BE IT RESOLVED, Community Board 3 supports the zoning text amendment being proposed by Council Member Chin and Borough President Brewer; and

THEREFORE BE IT FURTHER RESOLVED, Community Board 3 urges the Department of City Planning to consider this land use application in a timely manner.

3. CB 3 response to Two Bridges LSRD Minor Modifications

VOTE: TITLE: Deny Approval of the Proposed Minor Modifications to the Two Bridges Large Scale Residential Development (ULURP Nos: M 180507 C ZSM; M 180505 A ZSM; M 180506 B ZSM; N180498 ZCM)

WHEREAS, on June 25, 2018, three separate land use applications seeking minor modifications to the Two Bridges Large Scale Residential Development (LSRD) were referred to Community Board 3 Manhattan for review; and

WHEREAS, the land use applications for proposed actions at 247 Cherry Street, 259 Cherry Street, and 260 South Street were filed separately by applicants Cherry Street Owner LLC, LE1SUB LLC, and Two Bridges Associates, LP, respectively, but are being considered together for the purposes of both environmental review and community board review, as all three project sites are located within the Two Bridges LSRD and would be developed during the same construction period, and thus are considered to have cumulative impacts; and

WHEREAS, the proposed actions would facilitate the construction of four towers across three separate buildings with heights of 1,008 feet (80-stories), 798 feet (69-stories), 748 feet (62-stories), and 730 feet (62-stories); and

WHEREAS, the proposed projects would contain 2,527,727 gross square feet (gsf) of residential space spread across 2,775 new residential dwelling units (DUs); 10,858 gsf of retail space; 17,028 gsf of community facility space; and would introduce, conservatively, more than 5,800 new residents to the project area; and

WHEREAS, the proposed projects are extremely out of scale with the surrounding neighborhood and conflict with the objectives of the Two Bridges LSRD to insure better site planning and urban design that does not unduly increase bulk and density, alter open space access, adversely affect access to light and air, or create traffic congestion to the detriment of residents; and

WHEREAS, the proposal for a mere 25 percent affordable units does not sufficiently advance the projects' stated goal and purpose, and the introduction of an additional 2,081 market rate units and the substantial environmental impacts associated with these proposed actions would place such a burden on the community as to produce more severe and acute district needs, particularly in regard to residential affordability and heightened residential displacement pressure; and

WHEREAS, despite the scale and nearly unprecedented nature of these proposals, the applications have been designated as minor modifications to the underlying LSRD controls pursuant to a determination by then City Planning Commission (CPC) Chair Carl Weisbrod, in a letter dated August 11, 2016; and

WHEREAS, Community Board 3 previously and explicitly requested that the CPC better explain and justify its decision on how the minor modification determination was made, both in a letter to the Department of City Planning dated May 25, 2017 and at the public scoping meeting for the Two Bridges LSRD Environmental Impact Statement (EIS), held on May 25, 2017, and has yet to receive an adequate explanation; and

WHEREAS, without further explanation, and given the massive scale of development and potential for significant adverse impacts that the proposed modifications to the Two Bridges LSRD site plan would facilitate, it would appear that the proposed actions should in fact warrant a Special Permit, which would ensure that the project would be subject to Uniform Land Use Review Procedure (ULURP) and provide the public with additional opportunity to review the proposed actions, as well as allow local elected officials to review them further and appropriately represent the interests of their constituents in the land use review process; and

WHEREAS, in a letter to Director of City Planning Marisa Lago dated June 21, 2018, Community Board 3 expressed concern with the project application process and public review timelines, as more than one year had passed between the close of the public scoping period for the Two Bridges LSRD EIS and the unexpected referral of project applications to the Community Board on June 25, 2018; and

WHEREAS, these unexpected referrals triggered a 60-day review period that coincided with the well-known community board recess that occurs annually in August, making sufficient community board and public review extremely challenging; and

WHEREAS, the CPC and Department of City Planning (DCP) ultimately acknowledged this issue and extended the review period through October 2018, this revised timeline nonetheless

presented challenges for Community Board 3 and the public, as the review must take into consideration three separate land use applications and an unprecedented joint EIS of considerable size and technical detail; and

WHEREAS, as non-ULURP actions, these applications are not subject to robust public review and are required to have only one public hearing, despite representing the largest scale development the Two Bridges LSRD and surrounding area has seen in nearly half a century; and

WHEREAS, due to the limited opportunities for public review, Community Board 3 voluntarily hosted a public hearing on August 14, 2018 to allow members of the community to voice their opinions on the proposed actions; and

WHEREAS, at this public hearing, more than 100 members of the public attended and more than 60 members of the public provided testimony opposing the land use applications, with only a single member of the public providing testimony in support of the project applications; and

WHEREAS, the Two Bridges LSRD Draft Environmental Impact Statement (DEIS) was issued on June 22, 2018 and includes analysis, findings, and proposed mitigations that Community Board 3 considers inadequate; and

WHEREAS, a number of Community Board 3 requests made during the Two Bridges LSRD EIS Public Scoping period were left wholly unaddressed or insufficiently resolved upon issuance of the DEIS; and

WHEREAS, due to the inadequacy of the *City Environmental Quality Review (CEQR) Technical Manual* guidelines, a number of significant environmental impacts are under-measured in the DEIS; and

WHEREAS, even in instances where significant adverse impacts are identified in the DEIS, a number of these impacts are inexplicably left unmitigated; and

WHEREAS, several proposed mitigations that have been identified thus far nonetheless appear insufficient in being able to offset the significant adverse impacts the proposed actions would generate; and

WHEREAS, a number of potential additional mitigations that are being considered are having details withheld until the completion of the Final Environmental Impact Statement (FEIS), barring them from sufficient public review; and

WHEREAS, under the terms of the now-expired Two Bridges Urban Renewal Plan (TBURP) and the active Two Bridges LSRD, the area has been, since 1961, governed by regulations requiring the provision of low- and middle-income housing and site planning to facilitate the best possible housing environment, requiring the distribution of bulk and open space to create a better design for the LSRD and surrounding neighborhood than would otherwise be possible; and

WHEREAS, the project applications would likely facilitate the construction of up to 694 affordable residential dwelling units (DUs), it remains unknown at what affordability levels these DUs will be made available and how long the terms of their affordability will remain in place for; and

WHEREAS, the affordability program that would likely be applied to these projects, 421-a Tax Exemption - Option E, would set affordability levels at income thresholds that are higher than the existing median household income in the Two Bridges area, which is currently \$30,771 for a household of three, or roughly 30% of the Area Median Income (AMI) for the New York City region, making even the affordable units the proposed actions would generate inaccessible for the majority of current area residents; and

WHEREAS, despite the introduction of 694 "affordable" units to the Two Bridges LSRD, the proposed actions would likely be unable to meet the growing local need for deeply affordable, high-quality housing, and would also introduce 2,081 DUs of market-rate housing to an area that has historically consisted of primarily rent regulated housing; and

WHEREAS, Community District 3 already has the second highest income disparity—the gap between our lowest income and highest income residents—of all Community Districts in New York City; and

WHEREAS, given that both the affordable and market-rate units the proposed actions would generate would be unaffordable for the majority of current area residents, it is likely that the proposed actions would heighten the risk for residential displacement; and

WHEREAS, for both fiscal years 2019 and 2020, Community Board 3 identified the need for affordable housing and the growing risk of residential displacement as issues of premier importance in Community District 3 when creating annual District Needs Statements; and

WHEREAS, local not-for-profit Henry Street Settlement, after conducting a number of focus groups and hosting an annual town hall meeting in October 2017 to identify Lower East Side residents' primary concerns, similarly found that residents "fear being displaced from the neighborhood due to rising rents, insufficient affordable housing, and a rising cost of living" and that "new developments are extremely expensive and cater to wealthy newcomers," with affordable units being "too few—and too costly"¹; and

WHEREAS, the changing demographics generated by the proposed actions are likely to affect retail and small businesses in the area that currently respond to local residents' needs, including culturally and linguistically appropriate businesses that cater to linguistically isolated populations nearby; and

WHEREAS, the neighborhood previously lost an important local food resource with the closure and demolition of Pathmark in 2012 to facilitate the construction of One Manhattan Square, and will temporarily lose access to an important remaining food resource in the Stop 1 Food Market during the proposed construction period; and

WHEREAS, any adverse impacts generated by the proposed projects would have a disproportionate impact on a number of minority groups in the area immediately surrounding the proposed project sites, as:

- 1) 82 percent of residents overall are people of color;
- 2) 22 percent of residents in the area are 65 and older—and half of that senior population is living with a disability; and
- 3) 18 percent of all residents in the area are living with a disability; and

WHEREAS, the neighborhood where the proposed actions would be implemented is an important ethnic enclave, as:

- 1) 47.5 percent of residents in the area are Chinese and 23 percent are Hispanic/Latino;
- 2) 46 percent of residents are foreign born; and
- 3) 41 percent of residents have limited English proficiency; and

WHEREAS, nearly 30 percent of area residents live below the poverty line and the median household income for a family of three is just \$30,771; and

WHEREAS, all of these rates are considerably higher than the rest of Manhattan; and

WHEREAS, the proposed actions would involve the relocation of 19 senior residents of 80 Rutgers Slip during the construction period, pursuant to a regulatory agreement and relocation plan administered by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the regulatory agreement and relocation plan has not yet been disclosed to Community Board 3 or other local elected officials, and potentially includes the current warehousing of affordable senior units despite substantial need in the community and long wait lists; and

¹ Henry Street Settlement. (April 2018). *Community Engagement, Public Policy, and Advocacy Findings from Focus Groups and the Community Town Hall*. <<https://www.henrystreet.org/wp-content/uploads/2018/04/Red-Book-2017.pdf>>

WHEREAS, the proposed projects are likely to have a significant adverse impact on public school utilization rates and no mitigations for this impact has been identified at this time; and

WHEREAS, the proposed projects would all be sited within the 2015 FEMA-identified floodplain, and despite some proposed resiliency elements attached to the projects, little analysis has been done to evaluate the potential impacts these measures would have on areas immediately surrounding the proposed projects in a flood scenario; and

WHEREAS, the proposed projects would decrease the already limited open space ratio in the surrounding area from 0.897 acres per 1,000 residents to just 0.831 acres per 1,000 residents, both below the City goal of 2.5 acres per 1,000 residents and the citywide median of 1.5 acres per 1,000 residents and does not facilitate the addition of any new open space in the area; and

WHEREAS, proposed mitigations to the accessibility and circulation at the F-line East Broadway station are not likely to be sufficient in offsetting the impacts that more than 5,800 new residents would have on subway line service, station accessibility, and pedestrian circulation; and

WHEREAS, Community Board 3 has previously resolved to support land use actions in the proposed project area that these applications would be incompatible with, and which represent a vision for the Two Bridges waterfront area that the proposed actions would be in direct conflict with; and

WHEREAS, Community Board 3 believes the proposed actions would represent a significant change to the underlying Two Bridges LSRD site plan and zoning controls and would have impacts that are inconsistent with the LSRD objectives, and therefore do not constitute minor modifications; and

WHEREAS, this change brings into question every Large Scale special permit issued since the establishment of the Two Bridges LSRD, as the Community Board 3 is not likely to have made the same decisions regarding prior special permits and modifications if they understood that they would not have an opportunity for review and negotiation through ULURP when future significant amendments were being proposed; and

THEREFORE BE IT RESOLVED that Community Board 3 recommends to deny the approval of the proposed modifications to the Two Bridges LSRD; and

THEREFORE BE IT FURTHER RESOLVED that Community Board 3 asks that CPC find the proposed amendments to the Two Bridges LSRD to be so significant as to require review pursuant to ULURP.

4. CB 3 response for Two Bridges Draft Environmental Impact Statement
[see attached, below at the end of the vote sheet](#)
5. Update on Two Bridges Rezoning Application
no vote necessary
6. Vote to adjourn
approved by committee

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Economic Development Committee

1. Approval of previous month's minutes
approved by committee
2. Renaissance Economic Development Corp: Introduction and Services
no vote necessary
3. Continued discussion regarding priority policies from December 2017 City Council Report, "*Planning for Retail Diversity: Supporting NYC's Neighborhood Businesses*": Consider Expanding overlays to NYCHA superblocks fronting commercial corridors; Designate SBS to manage planning and policy for retail storefronts; SBS should collect and analyze storefront retail data in each community district as part of a citywide Commercial District Needs Assessment; Require Storefront Vacancy Reporting; Study the impact of the growth of internet commerce on brick and mortar retail sector and develop additional policies and programs to help small businesses adapt; Study a zoning bonus for affordable retail space; Strengthen and expand the FRESH program; Prioritize affordable local retail space in

city-sponsored developments; Eliminate special permit requirements in gyms and health clubs; Help local non-profits develop affordable commercial spaces in underserved neighborhoods; Create a new program to help graduates of incubators and entrepreneurship programs to find retail space; Strengthen Chamber on the Go

no vote necessary

4. Vote to adjourn

approved by committee

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Health, Seniors, & Human Services / Youth, Education, & Human Rights Committee

no meeting scheduled

SLA & DCA Licensing Committee (August)

1. Approval of previous month's minutes

approved by committee

Alterations

2. Villa Cemita (Villa Cemita Inc), 50 Ave A btwn E 2nd & E 3rd Sts (alt/wb/move bar, change seating orientation)

VOTE: TITLE: Community Board #3 Recommendation To Deny

WHEREAS, Villa Cemita Inc. is again applying for an alteration of its wine beer license for its restaurant, doing business as Villa Cemita, at the premises located at 50 Avenue B, between East 3rd Street and East 4th Street, to wit legalizing renovations which include relocating and enlarging its stand up bar and reconfiguring its seating; and

WHEREAS, this applicant is also seeking to reduce its daytime hours of operation, add happy hours, add DJs, add televisions, add promoted events and or private parties and open its facade; and

WHEREAS, this applicant was denied a wine beer license by Community Board #3 in December of 2014 unless is agreed to make as conditions of its stipulation that it would 1) operate as a full-service restaurant, with a kitchen open and serving food during all hours of operation, 2) have hours of operation of 7:00 A.M. to 12:00 A.M. all days, 3) not commercially use any outdoor space, 4) install soundproofing, 5) close any façade doors and windows at 10:00 P.M. every night or during any amplified performances, including but not limited to DJs, live music and live nonmusical performances, 6) play recorded background music and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged, 7) not apply for an alteration without first appearing before Community Board #3, 8) not seek a change in class of its liquor license to a full on-premises liquor license without first obtaining the approval of Community Board #3, 9) not host pub crawls or party buses, 10) not have happy hours, 11) not have wait lines outside, 12) conspicuously post its stipulation beside its licenses inside its business, and 13) provide contact information for resident complaints and immediately respond to any resident complaints; and

WHEREAS, prior to being approved by Community Board #3 in December of 2014, neighborhood residents met with this applicant to insure that it would operate consistent with its proposed method of operation as a family restaurant with a small rear bar and agreed to support its application for a wine beer license with the above stipulations; and

WHEREAS, prior to November of 2015, neighboring residents complained that this applicant had installed a larger bar in the front of its business without notice to the community inconsistent with its stipulations and contrary to the diagrams it showed residents when it first met with residents; and

WHEREAS, there had been no notice of alteration to Community Board #3 for an alteration of the standup bar in this business prior to its installation by the applicant in the front of its business; and

WHEREAS, the applicant was notified of this illegal alteration by Community Board #3 and submitted a notice of alteration, which also included an intention to add a happy hour and to open later than its original stipulations reflected; and

WHEREAS, this applicant was then heard for an application to alter its bar in both November and December of 2015; and

WHEREAS, Community Board #3 denied the alteration because neighboring residents had complained that the applicant was operating contrary to its agreed upon stipulations and the conditions of its license, in that this applicant 1) altered its premise without first appearing before Community Board #3, 2) operated later than 12:00 A.M., 3) left its façade open later than 10:00 P.M., 4) played loud entertainment level music heard by neighboring residents, 5) did not post its stipulations, and 6) advertised drink specials and promotions contrary to its method of operation as a family restaurant and, further, there was evidence that this applicant had been violating the Alcohol Beverage Control Law, in that it advertised and sold alcohol and mixed drinks containing alcohol, although it has only a wine beer license; and

WHEREAS, consistent with its community board hearing in December of 2015, the applicant entered a conditional no contest plea before the SLA on March 2, 2017, for failure to conform to its application, failure to comply, the sale of alcohol without a license, unauthorized alteration, prohibited sales and false material statements from November 12, 2015; and

WHEREAS, although the applicant furnished three (3) letters from area residents and petition signatures, forty-eight (48) of which were from area residents, in support of its application, the district manager of the community board appeared on behalf of herself and residents of her building, 141 East 3rd Street, which is across the street from this location, to complain that the business has 1) operated inconsistent from its stipulations and without notice to the community and the community board altered its business by enlarging its bar and moving it to the front of the business, altering its façade, first by installing windows that open half the façade and then by creating the ability to open the entire façade, and adding happy hours, 2) not operated as the family friendly business that the applicant has represented by hosting loud patrons and events, allowing loud patrons to congregate on the sidewalk, installing three (3) televisions to televise sport events, advertising drink specials all hours and offering "boozy brunches," 3) operated contrary to the law by serving alcohol without a license and lied to the community board when confronted about its illegal sale of alcohol after which it was issued a violation by the SLA and ultimately pled no contest to selling alcohol without a license, and 4) had two (2) alleged assaults in the business, one in 2016 and one on May 1, 2018, for which police responded; and

WHEREAS, there were letters from two (2) area residents submitted in opposition to this application, as well as a letter from the cooperative board of the building in which the business is housed, stating that it was opposed to this alteration application because 1) the building did not contract with the applicant to have an alcohol-oriented business which hosts boozy brunches, 2) its alteration was illegally done without notice to the building, the SLA or the community board, 3) employees enter the residential portion of the building which has created a safety issue for building residents and there were assaults in the business in 2016 and May of 2018, the most recent of which required that police enter and canvas the residential part of the building, and 4) the business has illegally sold alcohol; and

WHEREAS, a community board member also noted that the business had advertised and hosted at least one pub crawl in April of 2008, although the applicant stated that it was not aware that it had; and

WHEREAS, although the attorney for the applicant stated that the applicant would agree to enter into new stipulations governing its happy hours, façade, music and events, he stated that the applicant would not eliminate its "boozy brunches;" and

WHEREAS, given that the applicant has made multiple alterations to its business, to wit enlarging and moving its bar, opening its façade, reducing its daytime hours of operation, adding drink specials, including "boozy brunches," and hosting loud events, including sports events, without notice to the SLA, the community or the community board and contrary to its agreement with residents to obtain approval for its wine beer license, and given that it continues to operate inconsistent from its stipulations which are conditions of its license by continuing to have reduced daytime hours of operation, happy hours, unlimited drink specials and pub crawls, Community Board #3 will not now approve these alterations; now

THEREFORE, BE IT RESOLVED that Community Board #3 again moves to deny the application for an alteration of the wine beer license for Villa Cemita Inc, doing business as Villa Cemita,

for the premises located at 50 Avenue A, between East 3rd Street and East 4th Street, to wit legalizing the already installed stand-up bar and changing seating, as well as other stated alterations of its business.

3. Home Sweet Home and Fig 19 (TLS Chrystie LLC), 131 Chrystie St (op/alt/enlarge bar size, add DJ booth)
withdrawn
4. Chinese Tuxedo (8 Tuxedos Inc), 5 Doyers St btwn Pell St & Bowery (alt/op/ convert ground floor service bar to a stand-up bar, adding a DBA)

VOTE: TITLE: Community Board #3 Recommendation To Deny

WHEREAS, 8 Tuxedos Inc., doing business as Chinese Tuxedo, is seeking an alteration of its full on-premises liquor license for its restaurant located at 5 Doyers Street a/k/a 5-7 Doyers Street, between Pell Street and Bowery, to wit converting the ground floor service bar to a stand up bar and adding a business name to the now operating bar in the basement; and

WHEREAS, this applicant is also seeking to use the basement as a regularly operated bar; and

WHEREAS, the applicant has previously stated that its basement is used only for private events and the bar-like structure with nineteen (19) stools in the basement is actually a counter only used for sitting and dining; and

WHEREAS, the applicant has now stated that its first attorney had mistakenly applied for the ground floor bar in the restaurant to be a service bar and the basement counter to be a stand up bar when the original plan had been to have a standup bar on the ground floor and a service bar in the basement and, once the applicant had learned of this error, it stopped serving alcohol from the ground floor bar and decided to operate the basement as a bar doing business as Peachy's; and

WHEREAS, this is an application with no listed certificate of occupancy although its previous applications represented that the certificate of occupancy is at least two hundred (200) people, twenty-seven (27) tables and one hundred eighteen (118) seats on the ground floor and seven (7) tables and fifty-three (53) seats in the basement although the diagram submitted of the basement depicts a different amount of tables and seats, a twenty-five (25) foot bar with ten (10) stools one the ground floor and a forty (40) foot bar with nineteen (19) stools in the basement, hours of operation of 6:00 P.M. to 1:00 A.M. all days, a kitchen open all hours, a closed facade, no televisions, recorded background music and no wait lines outside; and

WHEREAS, this applicant was denied a full on-premises license by Community Board #3 in April of 2015, because 1) the location had never housed a licensed business, 2) Doyers Street is a horseshoe one-lane alley with a street bed that is fourteen (feet) wide and a sidewalk that is only five (5) feet wide at its widest point and which is no more than one hundred (100) feet long from Pell Street to Bowery, 3) the street already had three (3) licensed businesses, with two (2) full on-premises liquor licenses and one (1) wine beer license, and was already overrun with patrons loitering on the sidewalk and cars idling in the street, honking horns and blocking through traffic most nights, 3) there were five (5) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant, 4) neither principal had any experience operating a licensed business in the area, 5) the applicant failed to furnish any vehicle or pedestrian traffic plan to address the addition of its patrons to this street, 6) there was community opposition to the approval of this license, and 7) there was no apparent public benefit to the approval of a Cantonese restaurant in an area with similar restaurants with no or only wine beer licenses; and

WHEREAS, the applicant then applied for a wine beer license to the SLA without notice to the community board and the SLA sent the applicant back to the community board for review of its wine beer application; and

WHEREAS, the applicant was then denied a wine beer license by Community Board #3 in October of 2015, unless the applicant agreed to make as conditions of its license stipulations to 1) operate a full-service Melbournian Chinese and Cantonese restaurant, with a kitchen open and serving food during all hours of operation, 2) have hours of operation of 10:00 A.M. to 1:00 A.M. all days, 3) not commercially operate any outdoor areas, 4) install soundproofing consistent with the recommendations of an acoustic engineer, 5) close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing,

including but not limited to DJs, live music and live nonmusical performances, 6) play recorded background music and not have DJs, live music, promoted events, scheduled performances or any events at which a cover fee would be charged, 7) not apply for an alteration without first appearing before Community Board #3, 8) not seek a change in class of its liquor license to a full on-premises liquor license without first obtaining the approval of Community Board #3 and not appear before Community Board #3 for such an application until it had been operating its business at least eighteen (18) months, 9) not have happy hours, 10) not host pub crawls or party buses, and 11) insure that there were no wait lines and designate an employee responsible to oversee patrons and noise on the sidewalk, 12) conspicuously post this stipulation form beside its liquor license inside of its business, and 13) provide a telephone number for residents to call with complaints and immediately address any resident complaints; and

WHEREAS, the wine beer license was issued by the SLA on November 2, 2016; and

WHEREAS, the applicant was denied a full on-premises liquor license by Community Board #3 in October of 2017, unless the applicant agreed to make as conditions of its license its existing stipulations; and

WHEREAS, the full on-premises liquor license was issued by the SLA on December 29, 2017; and

WHEREAS, a representative of the Chinatown Core Block Association spoke in opposition to this application because 1) the applicant stated to the community board and the block association when it first applied for a liquor license that it would not be using the basement as part of its regular business operations but rather only for private parties and then it altered its method of operation contrary to its agreed stipulations without notice to the community or the community board, and 2) the basement is now being operated as a bar with its own business name and entrance, fifty (50) seats but room for eighty (80) people, its own menu of appetizers and hours of operation of 6:00 P.M. to 1:00 A.M. Wednesdays through Saturdays; and

WHEREAS, Community Board #3 has found that 1) the business website for Chinese Tuxedo advertises Peachy's as a separate venue and directs interested parties to the Peachy's webpage, 2) YELP comments for the bar from August 12, 2018 include observation of a DJ in the business, and 3) an article in Eater dated April 26, 2018, in which the applicant had been interviewed, represented that the bar had fifty (50) seats, room for eighty (80) people, its own menu featuring Pan Asian snacks and hours of operation of 6:00 P.M. to 1:00 A.M. Wednesdays through Saturdays; and

WHEREAS, contrary to its stipulations which are conditions of its license, the applicant conceded that it had altered its premises and had been hosting DJs in the basement bar since its opening in May of 2018, but stated that it had ceased having DJs two weeks before it appeared before Community Board #3; and

WHEREAS, notwithstanding that the applicant furnished petition signatures, twenty-five (25) of which were from area residents, in support of its application, given that the applicant has not been abiding by the conditions of its liquor license by hosting DJs and has altered its method of operation to its basement without notice to the SLA or the community board by changing its method of operation from an area for private events with no bar to a regularly operated bar with its own business name and entrance and a forty (40) foot standup bar; now

THEREFORE, BE IT RESOLVED that Community Board #3 moves to deny the application for 8 Tuxedos Inc., doing business as Chinese Tuxedo, for an alteration of its full on-premises liquor license for the premises located at 5 Doyers Street a/k/a 5-7 Doyers Street, between Pell Street and Bowery, to wit converting the ground floor service bar to a stand up bar and adding a business name to the now operating bar in the basement.

5. Boris & Horton (Boris & Horton East Village NYC), 195 Ave A btwn E 12th & E 13th Sts (alt/wb/expand to next door space, increase seating)

VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To— Stipulations Attached

To deny the application for an alteration of the wine beer license for Boris and Horton East Village NYC, doing business as Boris & Horton, for the premises located at 195 Avenue A,

between East 12th Street and East 13th Street, to wit expanding the retail portion of the business into the adjacent storefront and adding seating, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a café a retail store selling dog merchandise, with a kitchen open and serving food during all hours of operation on the cafe side of the business,
- 2) its hours of operation will be 7:00 A.M. to 12:00 A.M. all days,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade entrance doors on the café side of the business at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances and it will have a closed fixed facade with no open doors or windows on the retail store side of the business,
- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged except that it may have promoted and ticketed events for dog adoptions,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not seek a change in class of its liquor license to a full on-premises liquor license without first obtaining the approval of Community Board #3,
- 8) it may have "happy hours" to 7:00 P.M. each night,
- 9) it will not host pub crawls or party buses,
- 10) it will not have unlimited drink specials with food,
- 11) it will designate an employee to oversee patrons and noise on the sidewalk and noise from any dogs within and outside of the business,
- 12) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 13) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

Removal Applications

6. Essex (120 Essex Market LLC), 120 Essex St @ Rivington St (op) (removal - 120 Essex St, moving to 124 Rivington St, btwn Essex & Norfolk Sts)

VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To— Stipulations Attached

WHEREAS, 120 Essex Market LLC, is seeking the removal of its full on-premises liquor license for its restaurant located at 120 Essex Street a/k/a 19 Rivington Street, at the corner of Essex Street and Rivington Street, New York, New York, to 124 Rivington Street, ground floor and mezzanine, between Essex Street and Norfolk Street; and

WHEREAS, this is an application for a new American restaurant with a proposed certificate of occupancy of one hundred seventy-five (175) people on the ground floor and mezzanine, forty-two (42) tables and one hundred fifty-five (155) seats, a twenty-three (23) foot bar with thirteen (13) stools on the ground floor and an eight (8) foot serving bar on the mezzanine, hours of 10:00 A.M. to 12:00 A.M. Sundays, 5:00 P.M. to 12:00 A.M. Mondays through Wednesdays, 5:00 P.M. to 1:00 A.M. Thursdays, 5:00 P.M. to 3:00 A.M. Fridays and 10:00 A.M. to 3:00 A.M. Saturdays, a kitchen open to within one (1) hour of closing, windows closing at 10:00 P.M., two (2) televisions, recorded background music, no promoted events scheduled performances or events with cover fees, one (1) security guard Friday and Saturday nights and two (2) security guards during Saturday and Sunday brunch hours, an intent to install soundproofing, happy hours to 10:00 P.M. Sundays, 8:00 P.M. Mondays through Wednesdays and Fridays and 11:00 P.M. Thursdays and no wait lines outside; and

WHEREAS, there are either twenty (20) or thirty-one (31) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant but forty-two (42) full on-premises liquor licenses, including that of the applicant, and three (3) pending full on-premises liquor licenses within five hundred (500) feet of this location per the SLA LAMP map; and

WHEREAS, although the ground floor and mezzanine of the subject location have never housed a licensed business, the applicant is moving to it from a location directly across the street where it has operated a restaurant in good standing for eighteen (18) years and which it is vacating because of demolition of the building for a new large-scale mixed-use development; and

WHEREAS, the applicant was issued a full on-premises liquor license by the SLA on July 26, 2000; and

WHEREAS, the applicant has stated that it will continue to operate its existing business but will have a larger kitchen and menu at the new location; and

WHEREAS, given that the basement level of the subject location houses an existing licensed business, to wit 122-124 Rivington Corp., doing business as La Caverna Ristorante, that has been operating inconsistent with its method of operation and to the detriment of the community, the applicant has agreed that it will have no wait lines outside, an employee responsible for overseeing patrons and noise on the sidewalk, an interior waiting area for patrons and a reservation system; and

WHEREAS, there was substantial support for this applicant, in that the applicant furnished petition signatures, seventy (70) of which were from area residents, in support of its application, and three (3) community residents who are active in community organizations and concerns appeared on behalf of the applicant, each stating that this is a well-run, family and neighborhood friendly business that he or she has patronized since its opening; and

WHEREAS, notwithstanding the number of licensed businesses within close proximity to this location and previously unlicensed character of the location the applicant is seeking to occupy, Community Board #3 would support a full on-premises liquor license for this applicant with stipulations governing its method operation, including its existing hours of operation, because the applicant is not seeking to add a full on-premises liquor license to this area and has operated a longstanding neighborhood restaurant; now

THEREFORE, BE IT RESOLVED that Community Board #3 moves to deny the application for the removal of a full on-premises liquor license for 120 Essex Market LLC from 120 Essex Street a/k/a 19 Rivington Street, at the corner of Essex Street and Rivington Street, to 124 Rivington Street, ground floor and mezzanine, between Essex Street and Norfolk Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service new American restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 10:00 A.M. to 12:00 A.M. Sundays, 5:00 P.M. to 12:00 A.M. Mondays through Wednesdays, 5:00 P.M. to 1:00 A.M. Thursdays, 5:00 P.M. to 3:00 A.M. Fridays and 10:00 A.M. to 3:00 A.M. Saturdays,
- 3) it will not commercially operate any outdoor areas,
- 4) it will install soundproofing,
- 5) it will close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances,
- 6) it will play ambient background music only, consisting of recorded music, and will not have DJs, live music, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 7) it will not apply for any alteration in its method of operation or for any physical alterations without first appearing before Community Board #3,
- 8) it will employ at least one (1) security guard Friday and Saturday nights and two (2) security guards during Saturday and Sunday brunch hours,
- 9) it may have "happy hours" to 10:00 P.M. Sundays, 8:00 P.M. Mondays through Wednesdays and Fridays and 11:00 P.M. Thursdays,
- 10) it will not host pub crawls or party buses,
- 11) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 12) it will create an interior waiting area for patrons and maintain a reservation system,
- 13) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 14) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

Sidewalk Cafe Applications

7. Ainsworth (Ainsph LLC), 64 3rd Ave @ E 11th St

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Change Order Agreed To—
Change Order Attached**

To approve the application for an unenclosed sidewalk café permit for three (3) tables and twelve (12) seats for AINSPH LLC, doing business as The Ainsworth, for the premises located at 64 Third Avenue, at the corner of East 11th Street and Third Avenue, because the applicant has signed a change agreement which will become part of its DCA license that

- 1) its café will consist of three (3) tables and twelve (12) seats located flush against the façade of the building on the Third Avenue side of the business,
- 2) its hours of operation will be 11:00 A.M. to 10:00 P.M. Sundays through Wednesdays and 11:00 A.M. to 11:00 P.M. Thursdays through Saturdays, and
- 3) it will have an awning extended over its business during its hours of operation.

New Liquor License Applications

8. LES 106 RIV LLC, 106 Rivington St (op)
withdrawn
9. Entity to be formed by Stephen Ballinger, 50 Ave B (op)
withdrawn
10. TCA Restaurant LLC, 46-48 Bowery (op)
withdrawn
11. Calexico (Calexico Cinco LLC), 99 2nd Ave btwn E 5th & E 6th Sts (op)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a full on-premises liquor license for Calexico Cinco LLC, with a proposed business name of Calexico, for the premises located at 99 Second Avenue, between East 5th Street and East 6th Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service Mexican restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 11:00 A.M. to 12:00 A.M. Sundays through Thursdays and 11:00 A.M. to 1:00 A.M. Fridays and Saturdays,
- 3) it will close any front or rear façade doors and windows at 10:00 P.M. every night, when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances,
- 4) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events or any event at which a cover fee will be charged,
- 5) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 6) it will not host pub crawls or party buses,
- 7) it will not have unlimited drink specials with food,
- 8) it may have "happy hours" to 7:00 P.M. each night,
- 9) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 10) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 11) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints

Community Board #3 is approving this application for a full on-premises liquor license although this location is in an area with numerous full on-premises liquor licenses because 1) this is a sale of assets of an existing restaurant with a full on-premises liquor license, 2) this applicant has experience working in and operating similar businesses, to wit a licensed restaurant located at 149 Second Avenue, New York, New York, from 2016 to present, at 278B Fifth Avenue, New York, New York, from 2004 to present with a full on-premises liquor license issued October 1, 2014, at 122 Union Street, Brooklyn, New York, from 2010 to present with a full on-premises liquor license issued September 9, 2017, and at 645 Manhattan Avenue, Brooklyn, New York, from 2010 to present with a full on-premises liquor license issued December 7, 2010, 3) the applicant intends to operate this business with moderate hours, including daytime hours of operation, and 4) the applicant entered into a memorandum of understanding regarding its method of operation with the East Fifth Street Block Association.

12. Luthun LLC, 511 E 6th St (op)
withdrawn
13. Down and Out (Down and Out Brooklyn LLC), 197 E 3rd St (op)
withdrawn

Items not heard at Committee

14. Grand Seoul (PCPP Inc), 85 Christie St (wb)
no vote necessary
15. Dua Kafe Wine + Beer (Dua Kafe Inc), 520 E 14th St (wb)

- no vote necessary
- 16. Dillers Inc, 357 Grand St (wb)
 - no vote necessary
- 17. Tabetomo (Ays Noodle Company LLC), 131 Ave A (wb)
 - no vote necessary
- 18. The Fat Radish (Silkstone LLC), 17 Orchard St (op/corp change)
 - no vote necessary
- 19. Vote to adjourn
 - approved by committee

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED (excluding August SLA item 4)
36 YES 1 NO 0 ABS 0 PNV MOTION PASSED (August SLA item 4)

SLA & DCA Licensing Committee (September)

- 1. Approval of previous month's minutes
 - approved by committee

Alterations

- 2. Home Sweet Home and Fig 19 (TLS Chrystie LLC), 131 Chrystie St (op/alt/enlarge bar size, add DJ booth)
 - withdrawn
- 3. Casa Mezcal (Compas Group New York LLC), 86 Orchard St (op/alt/convert service bar to customer bar in basement, add additional customer bar on mezzanine level)
 - withdrawn

New Liquor License Applications

- 4. Down and Out (Down and Out Brooklyn LLC), 197 E 3rd St btwn Aves A & B (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny

WHEREAS, Down and Out Brooklyn LLC, with a proposed business name of Down and Out, is seeking a full on-premises liquor license for the premises located at 197 East 3rd Street, between Avenue A and Avenue B, New York, New York; and

WHEREAS, this is an application for a tavern lounge restaurant with no listed certificate of occupancy, nineteen (19) tables and thirty-two (32) seats, a nineteen (19) foot bar with seven (7) stools in the interior space and an eighteen (18) foot bar with seven (7) stools in a glass enclosure in the rear yard, hours of operation of 12:00 P.M. to 12:00 A.M. Sundays and 12:00 P.M. to 2:00 A.M. Mondays through Saturdays in the interior space and 5:00P.M to 12:00 A.M. Sundays and 5:00 P.M. to 2:00 A.M. Mondays through Saturdays in the glass enclosure in the rear yard, a prep area serving food to within one (1) hour of closing, windows, recorded background music, security and happy hours to 7:00 P.M.; and

WHEREAS, the applicant has stated that it is intending to create a high end destination location consisting of a literary-themed English pub in the interior space and a cocktail lounge and raw bar in the glass enclosure in the rear yard; and

WHEREAS, this is an unlicensed location on a residentially zoned street; and

WHEREAS, there are eleven (11) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant but fifteen (15) full on-premises liquor licenses and one (1) pending full on-premises liquor license within five hundred (500) feet of this location per the SLA LAMP map; and

WHEREAS, there is no apparent public benefit for the approval of a full on-premises liquor license for a two (2) themed bar and cocktail lounge given that the immediate area is well-served with taverns and cocktail lounges; and

WHEREAS, the applicant has operated an indoor outdoor beer garden with a full on-premises liquor license located at 272 Meserole Street Brooklyn, New York, since 2014; and

WHEREAS, 197 Artichoke Corp., the previous licensee at this location was heard for its original application for a full on-premises liquor license by Community Board #3 in May of 1997, and was approved after it represented that it would operate as a full-service restaurant, with hours of operation of 5:00 P.M. to 4:00 A.M. all days, no commercial use of any outdoor areas, a kitchen and a full menu; and

WHEREAS, the previous licensee was then heard by Community Board #3 for the renewal of its full on-premises liquor license in February of 2008, because there had been resident complaints of noise from patrons and music and lack of oversight and control of patrons in front of the business and in its backyard and it was approved provided it agreed to stipulations to 1) use an installed limiter, 2) employ licensed security guards Fridays and Saturdays and other days as needed to control noise and crowds outside, 3) maintain crowds and noise in the front of the business and in the backyard, and 4) immediately address resident complaints; and

WHEREAS, the previous licensee was then denied its renewal by Community Board #3 in December of 2015, and Community Board #3 asked that the SLA either revoke its full on-premises liquor license or enforce the method of operation as a restaurant with no commercial use or any outdoor areas that was approved by the SLA; and

WHEREAS, the district manager of Community Board #3, the Ninth Precinct and residents of East 3rd Street worked with the SLA regarding the complaints of noise from patrons and music, fighting amongst patrons, lack of control over the area in front of the business, failure to operate consistent with its method of operation, noise and use of the rear yard, the SLA then revoked the full on-premises liquor license of the previous licensee, the revocation was appealed after the death of the licensee and the SLA then cancelled the license; and

WHEREAS, the present applicant was first heard by Community Board #3 in July of 2018, and withdrew its application after the community board learned that the applicant was intending to construct a glass enclosure it was calling a "greenhouse" in the rear yard and attached to the building and the community board asked that the applicant provide information regarding the proposed structure, including a sound study and recommendations from a sound engineer and architectural plans for the structure, as well as engage in community outreach to residents impacted by use of the rear yard; and

WHEREAS, although the applicant has now provided a sound study and recommendations to mitigate sound in the proposed structure from an acoustical engineer, the applicant has failed to produce architectural plans or any plans or diagrams for the proposed rear yard structure for Community Board #3 to review, the applicant has stated that given the recommendations of the sound engineer, its plans for constructing this addition have changed, the structure will not be attached to building and patrons will have to walk into the yard to access the structure and without the rear yard structure the applicant will not go forward with this business venture; and

WHEREAS, two (2) longtime residents of the street appeared to oppose this application because 1) their experiences with late night noise from in front of the previous business and from the rear yard and uncontrolled patrons on the street in front of the business that existed during its fifteen (15) year history of operation has led them to conclude that a tavern lounge with late night hours is incompatible with this location and this street, and 2) there is no benefit in the addition of this business given that there are already other bars and cocktail lounges in this neighborhood to serve the community; and

WHEREAS, notwithstanding that the applicant has experience operating a licensed business, the applicant has no experience operating a licensed business or any business in Community Board #3; and

WHEREAS, notwithstanding that the applicant submitted petition signatures, one hundred sixteen (116) of which were from area residents, in support of its application, the petitions failed to include commercial use of the backyard; and

WHEREAS, given the history of violations, operation inconsistent from its approved method of operation, noise complaints, unsafe and illegal conduct of the previous business and lack of public benefit in opening a bar cocktail lounge in an area well-serve with similar businesses; now

THEREFORE, BE IT RESOLVED that Community Board #3 moves to deny the full on-premises liquor license for Down and Out Brooklyn LLC, with a proposed business name of Down and Out, for the premises located at 197 East 3rd Street, between Avenue A and Avenue B, New York, New York.

5. LESFLO Enterprise, 112 Rivington St btwn Ludlow & Essex Sts (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny

WHEREAS, LESFLO Enterprise is seeking a full on-premises liquor license for the premises located at 112 Rivington Street, between Ludlow Street and Essex Street, New York, New York; and

WHEREAS, this is an application for a tavern café with a certificate of occupancy of two hundred seventy-two (272) people on the ground floor and basement, twenty-one tables and eighty (80) seats on both floors, a twenty (20) foot bar with ten (10) stools on the ground floor, hours of operation of 9:00 A.M. to 4:00 A.M. all days, an electric kitchen open to 11:00 P.M. each day, French doors, five (5) televisions, live and recorded music and DJs at background and entertainment levels, promoted events, private parties, two (2) to four (4) security guards Mondays through Thursdays and seven (7) to nine (9) security guards Fridays and Saturdays and happy hours to 9:00 P.M.; and

WHEREAS, this is an unlicensed location; and

WHEREAS, there are thirty-four (34) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant but forty-one (41) full on-premises liquor licenses and six (6) pending full on-premises liquor licenses within five hundred (500) feet of this location per the SLA LAMP map; and

WHEREAS, the applicant has stated that the public benefit of its proposed venue is that it will be a "global" tavern café with "community outreach and programming" consisting of educational talks for area youth and presentations for small businesses and networking; and

WHEREAS, the applicant submitted petition signatures, forty-seven (47) of which were from area residents, in support of its application and five (5) area residents and community members appeared on behalf of the applicant to attest to its character and longtime civic responsibility within the community; and

WHEREAS, Community Board #3 denied a full on-premises liquor license for the previous licensee in February of 2005, because it failed to appear and denied an alteration to add a stand up bar to its business in September of 2005 because it had not yet opened; and

WHEREAS, the previous licensee was issued a full on-premises liquor license by the SLA on October 19, 2005, for a method of operation as a lounge with food service and DJs but no live music, scheduled performances, events with cover fees or dancing; and

WHEREAS, Community Board #3 then asked the SLA in October of 2015 to deny the renewal of and either revoke the full on-premises liquor license for the previous licensee or enforce its approved method of operation because the business 1) had not been operating consistent with its method of operation by hosting scheduled performances, dancing without a cabaret license, events with ticket sales and cover fees and not serving food, 2) had been illegally using a mezzanine and exceeding its maximum occupancy, 3) had an emergency egress which illegally and unsafely led into the hallway of the residential portion of 112 Rivington Street where the licensee had ejected unruly drunk patrons who would then pass out, fight and or vomit in the residential hallways, 4) had blocked access to the building water boiler which had resulted in the landlord being unable to access the boiler for repairs without the licensee, thereby resulting in a loss of hot water for residential tenants because the licensee had not been responsive when the boiler needed repairs, 5) had commandeered use of the residential garbage area for its own use, and 6) had received numerous complaints of late night noise from live performances, patrons on the sidewalk and an air horn from residents of surrounding buildings; and

WHEREAS, consistent with the complaints against it, the previous licensee had Environmental Control Board violations from 2009 and 2013, for exceeding maximum occupancy, illegal cabaret and stage, as well as an improper emergency exit, all of which were still open when the business closed and had also entered into a no contest plea before the SLA on May 4, 2007, for improper conduct and an unauthorized bar on December 4, 2005, a no contest plea on April 10, 2010, for failure to conform and unauthorized trade name on January 17, 2009, a no contest plea on August 14, 2009, for unlicensed cabaret on January 17, 2009, a no contest plea on March 28, 2012, for failure to supervise on June 26, 2011, and a no contest plea on May 17, 2013, for exceeding maximum occupancy and a sale to a minor; and

WHEREAS, the previous license for this location was ultimately cancelled by the SLA; and

WHEREAS, although the applicant was repeatedly asked by members of Community Board #3 to provide details of its proposed method of operation, it did not expand on the specifics of its application, including failing to explain why its application stated that this business would be a "media-focused" venue providing "continuous entertainment," and its application materials, while containing statements about its overall vision, lacked specific details about the proposed method of operation and did not include architectural plans or any plans or diagrams demonstrating how this two-story venue will be used; and

WHEREAS, three (3) residents of the street and immediate area appeared in opposition to this application, stating that the size and scale of the proposed business and late night hours of operation are incompatible with this applicant who no experience operating a licensed business or a business of this size and with this location which has had a long history of violations and community complaints with a similar method of operation; and

WHEREAS, the LES Dwellers, a local residents organization, submitted a letter in opposition to this application, which included sixty-one (61) letters from residents and six (6) petition signatures, and appeared in opposition to this application, stating that 1) there is conflicting information in the application, including whether or not it will have live music and promoted events, 2) it is concerned that the business will operate as a club given its 4:00 A.M. closings all days, DJs and live music, entertainment level music, limited food service hours, numerous security guards and three (3) promoted events and or private parties per month, 3) the open façade and late nights hours of this proposed business are untenable because the street is already overburdened with late night noise, 4) this street and the surrounding area are overburdened with licensed venues, including the hotel across the street with three (3) public venues, all of which has resulted in noise from crowds of people and horn honking on the street, the street and bike lane being blocked and a lack of parking from lines of taxis, party buses and limousines, as well as daytime noise and congestion and lane blockages from trucks making deliveries to the businesses on this street, 5) the previous business had a long history of violations, operating inconsistent from its method of operation and operating in a manner that created unsafe conditions for building residents and its license was ultimately cancelled, 6) the area has more crime than it did last year and there is more crime and a disproportionate number of arrests in Hell Square than other areas of the precinct, and 7) the relevant experience of the applicant is limited to its experience as a promoter; and

WHEREAS, the 112 Rivington Street Condominium Board submitted a letter in opposition to this application and a resident of 112 Rivington Street appeared in opposition to this application, submitted petition signatures from eight (8) of the ten (10) residents of the building and stated that 1) there were discrepancies in the application, such as that it proposes to be a tavern café, but there are only eighty (80) seats while the occupancy is for almost three hundred (300) people and it is seeking to have DJs, live music and food service that ends at 11:00 P.M. when the business will be open until 4:00 A.M., 2) living conditions in the building had been awful when the previous business was open because the previous licensee never corrected its violations, made the building unsafe because it allowed patrons into the residential portion of the building where they would pass out, fight and vomit, thereby creating unsafe and unsanitary conditions for residents, had taken away access to the garbage area although it was required by law to maintain its trash within its business to within one (1) hour of pickup by a commercial carter and had prevented access to the water boiler which resulted in an inability of the landlord to access the boiler for repairs without the licensee, thereby resulting in a loss of hot water for residential tenants because the licensee has not been responsive when the boiler has needed repairs, a condition which remains uncorrected; and

WHEREAS, Community Board #3 is unpersuaded by the stated public benefit for the approval of a full on-premises liquor license given the contradictory nature of this application, in that the applicant has represented that it intends to open a community-focused venue with daytime hours of operation, yet the proposed business plan also includes late night hours, multiple types of entertainment, entertainment level music, limited food service hours, numerous security guards, promoted events and or private parties and limited seating in a space that could accommodate up to two hundred seventy-two (272) people; and

WHEREAS, notwithstanding the apparent strong community roots of the applicant, Community Board #3 cannot support this application because its community ties are far outweighed by the lack of the experience of the applicant in operating a licensed business and incompleteness of the application, the proposed size, scope and hours of operation of the proposed business, building and community opposition to this application, the history of this location which confirms it that it is inappropriate for a nightlife venue and includes violations, operation inconsistent from its approved method of operation, noise complaints and unsafe and illegal conduct by the previous licensee and the lack of public benefit in opening a tavern café with late night hours of operation and a full on-premises liquor license in an area well-served with late night businesses with full on-premises liquor licenses; now

THEREFORE BE IT RESOLVED that Community Board #3 moves to deny the application for a full on-premises liquor license for LESFLO Enterprise, for the premises located at 112 Rivington Street, between Ludlow Street and Essex Street, New York, New York.

6. 12th St Ale House LLC, 192 2nd a/k/a 192-196 2nd Ave @ E 12th St (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To— Stipulations Attached

To deny the application for a full on-premises liquor license for 12th St Ale House LLC, for the premises located at 192 Second Avenue a/k/a 192-196 Second Avenue, at the corner of East 12th Street and Second Avenue, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a tavern, with a prep area serving food during all hours of operation,
- 2) its hours of operation will be 3:00 P.M. to 4:00 A.M. Mondays through Fridays and 1:00 P.M. to 4:00 A.M. Saturdays and Sundays,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade entrance doors at 10:00 P.M. every night or when amplified sound is playing and will otherwise have a closed fixed facade with no open doors or windows,
- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events or any event at which a cover fee will be charged,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it may have "happy hours" to 8:00 P.M. each night,
- 10) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints

Community Board #3 is approving this application for a full on-premises liquor license although this location is in an area with numerous full on-premises liquor licenses because 1) this is a sale of assets of an existing tavern with a full on-premises liquor license, 2) the applicant consists of principles with collective experience working in and operating similar businesses, including a principle who has operated a licensed business located at 407 Amsterdam Avenue since December of 2017, which has a full on-premises liquor license that was issued by the SLA on December 26, 2017, and at 558 Hudson Street since November of 2008, which has a full on-premises liquor license that was issued by the SLA on March 4, 2009, and another principle who has operated a licensed business located at 14 Avenue A since 2006, as well as having other licensed businesses outside of New York, 3) the applicant intends to operate this business with the same method of operation and business name as the previous business, and 4) the applicant demonstrated support for its application, in that it furnished petition signatures, sixty (60) of which were from area residents including many building residents, in support of its application, and there was no community opposition to this application.

7. Cherrua (Bistro Uruguay Inc), 131 Essex St btwn Stanton & Rivington Sts (upgrade to op)

VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To— Stipulations Attached

To deny the application for a change in class of the wine beer license to a full on-premises liquor license for Bistro Uruguay Inc., doing business as Charrua, for the premises located at 131 Essex Street, between Stanton Street and Rivington Street, unless the applicant agrees

before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service Uruguayan restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 12:00 P.M. to 10:00 P.M. Sundays, 5:00 P.M. to 11:00 P.M. Mondays through Wednesdays, 5:00 P.M. to 12:00 A.M. Thursdays and Fridays and 12:00 P.M. to 12:00 A.M. Saturdays,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances,
- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events or any event at which a cover fee will be charged and may have up to four (4) private parties per year,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it may have "happy hours" to 7:00 P.M. each night,
- 10) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints

Community Board #3 is approving this application for a change in class to a full on-premises liquor license for this applicant although this location is in an area with numerous full on-premises liquor licenses because 1) this restaurant has operated with moderate hours since 2014, 2) the applicant has managed this business during its history of operation and has been the owner of this business for the past year, and 3) the applicant demonstrated support for its application, in that it furnished petition signatures, thirty-four (34) of which were from area residents, in support of its application, and there was no community opposition to this application.

8. Entity to be formed by J Evans, 65 Rivington St btwn Eldridge & Allen Sts (op)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a full on-premises liquor license for Banter Nolita LLC, for the premises located at 65 Rivington Street, between Eldridge Street and Allen Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service Australian restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 8:00 A.M. to 12:00 A.M. Sundays through Thursdays and 8:00 A.M. to 1:00 A.M. Fridays and Saturdays,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade doors and windows at 10:00 P.M. every night or when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances,
- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events or any event at which a cover fee will be charged,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it may have "happy hours" to 7:00 P.M. each night,
- 10) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints

Community Board #3 is approving this application for a full on-premises liquor license although this location is in an area with numerous full on-premises liquor licenses because 1)

this is a sale of assets of an existing restaurant with a full on-premises liquor license, 2) the applicant has operated a similar business located at 169 Sullivan Street, New York, New York, since February 8, 2017, which has a full on-premises liquor license that was issued by the SLA on April 3, 2017, and has similar hours of operation, and 4) the applicant demonstrated support for its application, in that it furnished petition signatures, thirty (30) of which were from area residents, in support of its application, and there was no community opposition to this application.

9. Cozy Cafe (Cozy Cafe Corp), 43 E 1st St btwn 1st & 2nd Aves (upgrade to op)
no vote necessary

10. 269 Bar Partners LLC, 269 E Houston St @ Suffolk St (op)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a full on-premises liquor license for 269 Bar Partners LLC, for the premises located at 269 East Houston Street, at the corner of Suffolk Street and East Houston Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service American bistro restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 4:00 P.M. to 4:00 A.M. Mondays through Fridays, 12:00 P.M. to 4:00 A.M. Saturdays and 9:00 A.M. to 4:00 A.M. Sundays,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade doors and windows at 10:00 P.M. every night or, when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances,
- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events or any event at which a cover fee will be charged and may have up to ten (10) private parties per year,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it may have "happy hours" to 7:00 P.M. each night,
- 10) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints

Community Board #3 is approving this application for a full on-premises liquor license although this location is in an area with numerous full on-premises liquor licenses because 1) this is a sale of assets of an existing restaurant with a full on-premises liquor license, 2) this location has been continuously licensed since 1937, 3) the applicant consists of three principles with collective experience working in and operating similar businesses, including a principle who was the previous licensee and will continue to operate the business as the manager, 4) the applicant intends to operate this business with the same method of operation as the previous business but will change the business name, and 5) the applicant demonstrated support for its application, in that it furnished petition signatures, forty-six (46) of which were from area residents including many building residents, in support of its application, and there was no community opposition to this application.

11. Entity to be formed by B Krawitz, 213 2nd Ave (op)
withdrawn
12. Sanpou USA LLC, 92 2nd Ave (op)
withdrawn
13. Entity to be formed by ICP Operators, 242 Broome St (op)
withdrawn
14. Grand Delancey LLC, 115 Delancey St (op)
withdrawn

Hotel Applications

15. Allen Hotel (Allen Street Hospitality LLC), 140 Allen St @ Rivington St (op)
no vote necessary
16. Orchard Street Hotel Management LLC, 9 Orchard St (op)
withdrawn

New Liquor License Applications

17. Orchard Street Restaurant Management Inc, 9 Orchard St (op)
withdrawn

Items not heard at Committee

18. Bar Taco Bar & Grill (TBI Manhattan Corp), 185 Ave C (op/corp change)
no vote necessary

19. Entity to be formed by Annika Sunovik, 88 Essex St (wb)
no vote necessary

20. Heng Xing Group Inc, 50 3rd Ave (wb)
no vote necessary

21. Niche (Nakamura Inc), 172 Delancey St (wb)
no vote necessary

22. Joey Bats Cafe NYC LLC, 129 Allen St (wb)
no vote necessary

23. Madame Vo BBQ (Megalit Restaurant Corp), 104 2nd Ave (wb)
no vote necessary

24. Shimiaodao Yunnan Rice Noodle (Chumi Group Corporation), 33 St Marks Pl (wb)
no vote necessary

25. Vote to adjourn
approved by committee

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Transportation, Public Safety, & Environment Committee

1. Approval of previous month's minutes
approved by committee

Joint Meeting with Land Use Committee

2. CB 3 comments on Draft Scope of Work for proposed Manhattan Detention Center

VOTE: TITLE: CB 3 Comments on Draft Scope of Work for Proposed Borough-Based Jail System and Manhattan Detention Facility

WHEREAS, CB 3 believes that the closure of Rikers Island and corresponding criminal justice reform is necessary; and

WHEREAS, the City of New York through the Department of Corrections (DOC) is proposing to implement a borough-based jail system as part of a larger commitment to close the jails at the Rikers Island Correctional Facility and create a modern and humane justice system; and

WHEREAS, part of this plan includes the development of a new detention facility for the borough of Manhattan at 80 Centre Street, located in Manhattan Community District 1 and just adjacent to Manhattan Community District 3; and

WHEREAS, the proposed Manhattan detention facility would require a number of actions that are subject to the City's Uniform Land Use Review Procedures (ULURP) and has the potential to result in significant adverse environmental impacts that will be disclosed in a forthcoming Draft Environmental Impact Statement (DEIS); and

WHEREAS, the scope of that environmental review is being determined at this time, and Community Boards 1 and 3 conducted a joint meeting to consider this issue on September 6, 2018; and

WHEREAS, at this meeting, the City of New York presented the details of the draft scope of work for the proposed Manhattan detention facility, and comments were heard from members of the public;

THEREFORE BE IT RESOLVED, Community Board 3 believes the following should be considered in the Final Scope of Work and Draft Environmental Impact Statement for the New York City Borough-Based Jail System:

- Evaluate a scenario where the anticipated decrease in crime and jail population does not occur, or the opposite occurs and New York City jail population increases.
- Address why the proposed four facilities would undergo one ULURP rather than individual review processes than could more thoroughly study local impacts.

- Evaluate a scenario where there is a continued decrease in need for beds and beds can be taken off line and replaced with services.
- Evaluate a scenario in which jail population is not evenly distributed with 1500-bed facilities at each borough site, including scenarios with fewer beds at the proposed Manhattan facility (such as an 1100-bed facility).
- Address the absence of a Staten Island facility and evaluate alternative scenarios that include detention facilities in all five boroughs.
- Evaluate public policy and any other criminal justice reform tools that could contribute to the closure of the Rikers Island Detention Facility without requiring all or part of the proposed actions in lower Manhattan.
- There is approximately 20,000 gross square feet (gsf) of community facility space being proposed for the Manhattan detention facility. Please address how this number was determined and why this cannot be a larger figure, and why additional use groups that would provide community benefit, such as affordable and senior housing, were not included.
- The proposed action would locate one level of parking below the new Manhattan detention facility. Please address why this cannot be two or more levels, including confirmation of residents reports of a subterranean river at the proposed site and any inspection and environmental review that would be included if there is a waterway at this location.
- Address how the land on Rikers Island and the decommissioned Rikers Island Correctional Facility will be maintained for public use and identify a method to make this commitment.
- Investigate and address any safety issues in the project study area that have occurred in past ten years due to the existing Manhattan Detention Complex at 124 White Street and 125 White Street, and address how any increased safety concerns as a result of doubling the number of beds and jail population in the area will be mitigated.
- Address how a doubling of staff needed for the proposed new Manhattan detention facility will impact parking and traffic problems, including the identification of mitigations.
- Address how parking concerns will be mitigated, including excessive placard parking from court employees in the study area currently.
- Study the impacts of traffic patterns that would be generated by the demapping of Hogan Place, particularly on the streets surrounding Columbus Park.
- Address how retaining the current façade at 80 Centre St to mitigate historical significance will impact programming by restricting design and how it will impact creation of one or two levels of underground parking.
- Study the impact that façade preservation or other historic preservation would have on the potential future uses of 80 Centre Street.
- Evaluate scenarios that will link the Manhattan detention facility to the community such as changing the staff lunch periods to one hour instead of a half hour so that they could patronize local businesses.
- The study area is limited to 400 feet around the proposed facility. It is certain that some of relocation and environmental impacts will occur outside of the 400 feet study radius, therefore, please expand the study area radius to an appropriate distance and address why the proposed study area is not wider.
- Evaluate any and all reasonable alternative sites within ¼ quarter mile of the current court complex.
- Address why 125 White Street was no longer included in the re-design plans.

- Evaluate an alternative scenario where the detention facility is located within a renovated and reconstructed 125 White Street complex.
- Address specifically how any identified construction impacts will be mitigated and commit to interagency coordination, including area stakeholders, as well as mitigation that will incorporate a multi-agency command center.
- Address how construction staging on Worth Street will impact three funeral homes and any other local businesses, and identify how these impacts will be mitigated.
- Address the historic and cultural significance of 80 Centre Street in the context of its eligibility for National Register of Historic Places and any eligibility for New York City landmark designation, as well as any eligible sites in the designated study area, including preservation considerations.
- Address the impact of the proposed design-build process, including the role and opportunity for community engagement, public review, and participation in the entire process including RFP, design, construction and initial operations.
- Address the impact of a proposed building that would be 40-stories, and evaluate alternative scenarios with shorter building proposals.
- Address the impacts on small businesses after build out as well as during the construction period.
- Address the impacts the proposed actions would have on the function and use of government offices and facilities, including the impacts on the Manhattan District Attorney's Office cybercrime lab and informational technology infrastructure and tourism associated with the New York City Marriage Bureau, as well as the impacts of the displacement of these government offices on the surrounding community and local economy.

THEREFORE BE IT FURTHER RESOLVED, Community Board 3 requests that related developments that the proposed actions would facilitate also be considered at this time, including any and all related community benefits and the potential redevelopment of vacated sites for community uses, including a commitment to using community and stakeholder input provided from a process of engagement for any visioning and planning for the future of these sites, and a timeline be provided for the earliest possible implementation of the process.

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED (excluding September SLA item 8)

36 YES 1 NO 0 ABS 0 PNV MOTION PASSED (September SLA item 8)

Transportation Committee

3. NY City Transit: presentation on work to construct emergency ventilation plant on Forysth btwn Delancey / Rivington St

no vote necessary

4. Bike Corral for 218 E 10th St (Rai Rai Ken)

VOTE: TITLE: Installing a Bike Corral for 218 E 10th St (Rai Rai Ken)

WHEREAS, Rai Rai Ken has applied to NYC Department of Transportation for an on-street bike parking corral in front of their restaurant; and

WHEREAS, there are currently no bicycle parking racks on that block, leading to a chronic problem of bikes being chained to scaffolding, sign posts, and bus stops, interfering with the flow of pedestrians; and

WHEREAS, the proposed location for this bike corral meets DOT's siting requirements, namely that the curbside lane in front of the applicant's business is never used for through traffic; the corral is not within 15 feet of a hydrant; and the racks will be located so as not to obstruct any utility covers, crosswalks, or driveways; and

WHEREAS, this bike corral will provide parking for eight bicycles replacing one car parking space, helping to free the sidewalks of clutter caused by illegally parked bikes on private building's fences; and

WHEREAS, Rai Rai Ken has agreed to maintain the corral by keeping it clear of debris and snow, maintaining the planters, and reporting abandoned bikes; and

THEREFORE BE IT RESOLVED that CB3 supports the proposal for a bike parking corral in front of Rai Rai Ken at 218 E 10th Street

5. Vote to adjourn
approved by committee

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Parks, Recreation, Cultural Affairs, & Waterfront Committee

1. Approval of previous month's minutes
approved by committee
2. Parks Dept Presentation: Proposed mural for the Playground One basketball courts
no vote necessary
3. Basketball City: update on community benefits
no vote necessary
4. DSNY: Use of portion of Pier 36 for CB 6 DSNY equipment and reactivation of Section Station at 155-157 First Ave, all due to DSNY eviction from CB 6 garage
no vote necessary
5. Riverkeeper: Presentation on proposed storm surge barriers for New York Harbor
no vote necessary
6. Parks manager update
no vote necessary
7. Vote to adjourn
approved by committee

37 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Landmarks Committee

meeting was canceled

CB 3 response for Two Bridges Draft Environmental Impact Statement

TITLE: CB 3 Response to the Two Bridges LSRD Draft Environmental Impact Statement

WHEREAS, the proposed actions considered in the Draft Environmental Impact Statement (DEIS) include modifications to the existing Two Bridges Large Scale Residential Development (LSRD) to facilitate the development of three new mixed-use buildings within the Two Bridges LSRD; and

WHEREAS, the proposed actions have separate developers, approvals, and financing, but are being considered together for the purposes of environmental review since all three project sites are located within the Two Bridges LSRD and would be developed during the same construction period, and thus are considered to have cumulative environmental impacts; and

WHEREAS, under the terms of the now-expired Two Bridges Urban Renewal Plan (TBURP) and the active Two Bridges LSRD, the area has been, since 1961, governed by regulations requiring the provision of low- and middle-income housing and site planning to facilitate the best possible housing environment, and requiring the distribution of bulk and open space to create a better design for the lots and surrounding neighborhood than would otherwise be possible; and

WHEREAS, the proposed actions would facilitate the construction of four towers across three separate buildings with heights of 1,008 feet (80-stories), 798 feet (69-stories), 748 feet (62-stories), and 730 feet (62-stories); and

WHEREAS, the proposed projects would contain 2,527,727 gross square feet (gsf) of residential space spread across 2,775 new residential dwelling units (DUs), 10,858 gsf of retail space, 17,028 gsf of community facility space, and would introduce, conservatively, more than 5,800 new residents to the project area; and

WHEREAS, the Two Bridges LSRD Draft Environmental Impact Statement (DEIS) was issued on June 22, 2018 and includes analysis, findings, and proposed mitigations that Community Board 3 considers inadequate;

THEREFORE, BE IT RESOLVED that Community Board 3 requests that the Lead Agency respond to, study further, and clarify the following:

WHEREAS, the identified purpose and need of the proposed actions hinges upon the advancement, through the creation of 694 affordable residential units, of a City-wide initiative to build and preserve 200,000 affordable residential units;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 does not find that the proposal for a mere 25 percent affordable units sufficiently advances this stated goal and purpose, and further finds that the introduction of an additional 2,081 market rate units and the substantial environmental impacts associated with these proposed actions place such a burden on the study area and Community District as to render the purpose null and in fact produce more severe and acute district needs; and

WHEREAS, the DEIS "Project Description" is insufficient in providing details of the specific minor modifications to the Two Bridges LSRD sites (Site 4A/4B, Site 5 and Site 6A) that constitute the proposed actions and exactly how they would enable the proposed developments to occur; and

WHEREAS, the DEIS only states that the minor modifications to the LSRD would "modify the approved site plans to enable the proposed developments to be constructed utilizing unused existing floor area," and it remains unclear what the unused existing floor area is and how it is being calculated;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests the Lead Agency expand the description of the specific minor modifications being proposed and sufficiently detail the proposed modifications to the underlying Two Bridges LSRD site plan and zoning controls when describing the proposed actions; and

WHEREAS, the proposed actions to facilitate the developments are a deviation from previously approved Two Bridges LSRD plans and modifications, yet are being considered as minor modifications to the underlying LSRD controls pursuant to a determination by then City Planning Commission (CPC) Chair Carl Weisbrod, in a letter dated August 11, 2016, stating that the proposed modifications would not require new waivers and would not increase the extent of previously granted waivers due to compliance with governing criteria codified in Section 2-(6)(g)(5)(ii) of the Rule of the City of New York (RCNY); and

WHEREAS, despite this determination, in the same letter, CPC states in writing that "the development contemplated here is significant"; and

WHEREAS, Community Board 3 previously and explicitly requested that the CPC better explain and justify its decision on how the minor modification determination was made, both in a letter to the Department of City Planning (DCP) dated May 25, 2017 and at the public scoping meeting for the Two Bridges LSRD Environmental Impact Statement (EIS), held on May 25, 2017; and

WHEREAS, it remains unclear to Community Board 3 why guidelines in the RCNY for City Council Modifications would govern LSRD site planning and modifications proposed by private applicants; and

WHEREAS, there is nothing explicit in the RCNY, New York City Charter or the New York City Zoning Resolution (ZR) that requires the CPC to find that these proposed changes are minor modifications; and

WHEREAS, a number of prior Two Bridges LSRD site plan alterations made in years past, which constituted smaller changes, were not found to be minor modifications and instead required the granting of special permits and authorizations; and

WHEREAS, in the absence of further explanation, these findings appear to be arbitrary and capricious as well as precedent setting for City policy regarding special large scale development zoning provisions;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 again requests that the City clarify and explain in detail the aforementioned determination that the proposed actions constitute minor modifications to the Two Bridges LSRD; and

WHEREAS, it is unclear how the proposed actions, even if understood to be minor modifications, would comply with the ZR, particularly ZR § 78-313, outlining requirements for the authorization of minor modifications and requiring a number of prerequisite conditions for modification approval, including:

- 1) § 78-313 (a), which states that modifications should aid in achieving the general purposes and intent of the LSRD, including the facilitation of better site planning and the enabling of open space to be arranged to best serve active and passive recreation needs;

- 2) § 78-313 (b), which states that the distribution of floor area and dwelling units facilitated by a modification must not unduly increase the bulk of buildings, density of population, or intensity of use to the detriment of residents;
- 3) § 78-313 (d), which states that modifications to the distribution and location of floor area must not adversely affect access to light and air outside the LSRD or create traffic congestion; and
- 4) § 78-313 (g), which states that modifications of height and setback must not impair the essential character of the surrounding area and must not have adverse effects upon access to light, air and privacy of adjacent properties;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that the City clarify and expressly define how the proposed actions comply with these prerequisite conditions; and

WHEREAS, a number of Community Board 3 requests during the Two Bridges LSRD EIS Public Scoping period were left wholly unaddressed or insufficiently resolved upon issuance of the DEIS, including:

- 1) The request for an irregular study area shape for all analyses that extends further inland than a quarter-mile radius around the project sites, extending to Grand Street and following Bowery to Oliver Street and the East River shoreline;
- 2) The request for detailed explanation of the purpose and need of the proposed actions to justify the unprecedented scale of change being proposed in this specific area;
- 3) The request to disclose relocation plans for senior residents of the ten units at 80 Rutgers Slip, including how relocation costs will be addressed for those residents, the duration of time they will be relocated, where they will be housed and under what conditions, and what costs will be incurred and by whom. The Two Bridges LSRD Final Scope of Work for Preparation of a Draft Environmental Impact Statement stated that the EIS would include a description of relocation plans for residents of 80 Rutgers Slip, yet the DEIS only indicates the applicant's intentions and does not disclose the details of the applicant's regulatory agreement with the U.S. Department of Housing and Urban Development (HUD), the details of which are necessary to understand the senior relocation plans;
- 4) The request to evaluate student generation for community facilities impacts more accurately, without lumping the entire borough of Manhattan together, and to instead be broken down by Community District or other sub-borough level of analysis to better reflect real-life conditions;
- 5) The request to study not only the size of businesses, but the populations that they serve and the choices those populations have if these businesses were to be displaced when analyzing indirect business displacement. As this analysis focuses on businesses that are "essential to the local economy," it must consider services for the linguistically isolated populations in this area;
- 6) The request to consider the unique impact of ride-hailing operations such as Uber when considering traffic impacts and determining the mode split for new residents, as they will likely not follow typical Manhattan patterns due to the proposed projects' distance from the subway and the projected median income of new residents;

- 7) The request to examine the adverse impacts that gentrification driven over-policing would have on existing low-income communities of color, particularly youth in the study area;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 reiterates these concerns and, again, requests they be addressed; and

WHEREAS, regarding public policy, there has been limited explanation as to how the CPC determined that the proposed actions constitute a minor modification to the existing LSRD, and without disclosure of when and how this policy was promulgated, it is assumed that the proposed actions themselves represent a significant material change to existing regulations and policy governing any and all future modifications to LSRDs, indicating that all future modifications will be considered to be "minor" if they do not need additional waivers; and

WHEREAS, if it is now in fact the CPC's position that all modifications to Large Scale special permits (including Large Scale Residential Developments, Large Scale General Developments, and Large Scale Community Facility Developments) in New York City may now be considered as "minor," without requiring Uniform Land Use Review Procedure (ULURP) if changes to the plan do not require further waivers, than that constitutes a significant change to the City's land use policy that needs to be evaluated; and

WHEREAS, the DEIS includes a questionable determination that the proposed actions are consistent with the overall development objectives of the Two Bridges LSRD; and

WHEREAS, the DEIS does not detail how long the regulatory agreements for the existing affordable units in the Two Bridges LSRD are for, nor does it disclose the terms of affordability, unit-type mix, and a definitive total number of new affordable units that would result from the proposed actions in the analysis of impacts on *Housing New York: A Five-Borough, Ten-Year Plan*, despite determining that the proposed actions would affirmatively advance this plan; and

WHEREAS, the DEIS does not consider impacts on the *NextGeneration NYCHA* plan, which includes development proposals for New York City Housing Authority (NYCHA) complexes within the ½-mile radius study area, including La Guardia Houses, where infill is being proposed, and Smith Houses, where development has previously been considered;

WHEREAS, the DEIS does not consider impacts on and compliance with the Lower Manhattan Coastal Resiliency Project (LMCR) as prioritized in *One New York: The Plan for a Strong and Just City* despite the proposed projects proximity to the East River waterfront and location within the LMCR resiliency projects and waterfront improvement areas;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the analysis of applicable public policies insufficient and requests an expanded analysis that includes consideration of policy governing land use actions in LSRDs, more detailed consideration of consistency with *Housing New York: A Five-Borough, Ten-Year Plan*, and the addition of analysis of *NextGeneration NYCHA* and the LMCR Project; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests a commitment to regular coordinating meetings with all appropriate agencies and stakeholders as an additional and necessary mitigation if non-compliance and adverse impacts related to the LMCR Project are identified; and

WHEREAS, regarding public policy, the DEIS does not sufficiently address the proposed actions consistency with a number of policies outlined in the City's *Waterfront Revitalization Program*, including:

- 1) Policy 1.2, requiring use and design features that enliven the waterfront and attract the public, as the DEIS identifies a number of private (not public) open spaces as examples of actions that will attract the public, as well as walkway improvements connecting to the waterfront adjacent to Site 5 without identifying if they will be publically accessible;
- 2) Policy 1.3, requiring adequate public facilities and infrastructure in coastal redevelopment, as the DEIS identifies that the proposed actions will produce unmitigated significant adverse impacts on community facilities, transportation and open space, resulting in inadequate public facilities and infrastructure, yet determines with little support that "With appropriate mitigation measures in place, it is assumed that public facilities and infrastructure would be adequate in the future With Action condition";
- 3) Policy 1.5, requiring the integration of climate change and sea level rise considerations into the planning of the proposed actions, as the DEIS identifies only protections against future flooding on the project sites, but does not disclose the proposed resiliency measures potential effects on the surrounding area, nor does the narrative even address climate change or sea level rise explicitly. In addition, such measures are not necessarily consistent with Policy 6, which requires that projects "minimize loss of life, structures, infrastructure, and natural resources caused by flooding." Policy 6 refers to not only the proposed project, but also the neighboring area. The DEIS discloses that the proposal includes, "structural considerations for stand-alone flood barriers or façades designed to be structurally resistant to flooding." These measures may protect this project, but could move flood waters from this area to other areas that are both less protected and which have structures that are less resilient than those proposed;
- 4) Policy 3.2, requiring the support and encouragement of recreational education and commercial boating, as the DEIS determines that the proposed actions are consistent with this policy only because they do not interfere with these potential activities, without identifying a proactive measure that encourages and supports such activities. This narrative is self-serving and technically incorrect, as the project is not consistent with this policy—it is simply not applicable;
- 5) Policy 4.8, requiring the maintenance and protection of living aquatic resources, as the DEIS does not consider the impacts on the fish and benthic community in the waters that will be shaded by the proposed developments;
- 6) Policy 6.1, requiring development to minimize losses from flood and erosion, as the DEIS does not explain how the proposed actions will address and minimize the potential for losses from flooding and coastal hazards in the surrounding area;
- 7) Policy 6.2 (d), requiring the identification of adaptive strategies to minimize losses from flood and erosion and requiring a description of how the project would affect the flood protection of adjacent sites, the DEIS does not at all explain how the proposed actions will address losses from flooding and coastal hazards in the surrounding area nor does it include any analysis in this determination, and simply states that "the proposed projects would not affect the flood

protection of adjacent sites and would not conflict with other resilience projects currently under consideration in the area";

- 8) Policy 8.2, which requires the proactive incorporation of public access into new public and private development, as the DEIS does not identify how the proposed actions incorporate public access to the waterfront, only that they do not hinder it; and
- 9) Policy 9, requiring the protection of scenic resources that contribute to the visual quality of the New York City coastal area, as the DEIS determines that "the proposed projects would not obstruct views to the waterfront and the East River," yet does not include sufficient explanation, nor renderings and 3D drawings from areas upland of the development sites, from existing buildings in the LSRD, or from Brooklyn which clearly identify that the proposed actions would not obstruct views to prominent features such as the Manhattan Bridge and other bridges, the East River, and the Brooklyn waterfront;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the analysis of consistency with the *Waterfront Revitalization Program* in the DEIS to be insufficient and inaccurate, and requests detailed clarification of the aforementioned concerns; and

WHEREAS, regarding public policy, the DEIS does not consider a number of recent public policy initiatives, including but not limited to relevant policy on:

1) Fair Housing

On March 9th 2018, New York City Housing Preservation and Development (HPD) announced *Where We Live NYC*, a comprehensive fair housing planning process to study, understand, and address patterns of residential segregation. The DEIS does not include a discussion of fair housing in general nor how the proposed actions are consistent with the policy objectives of *Where We Live NYC*, or how any inconsistencies would be mitigated;

2) Interbuilding Voids and Zoning

In January 2018, Mayor de Blasio announced at a Town Hall on the Upper East Side that the City is developing policies that will address what are now known as "interbuilding voids." This was reiterated by the Mayor at a June 2018 Town Hall on the Upper West Side. An interbuilding void is a space in a building that may be nominally used for mechanicals or egress but which is largely empty space, devoid of residential, commercial or community facility floor area. One of the developments the proposed actions would facilitate (Site 4) has a large interbuilding void at the base that allows the building to rise over an existing neighboring building. The DEIS does not discuss how this building will be consistent with DCP's changing policy on interbuilding voids or identify modifications or mitigations to ensure consistency with this policy. DCP's Manhattan Office has formed a working group that is developing policies that will prevent this building technique, and while these policies are not yet finalized, considering that DCP is the Lead Agency, the EIS should acknowledge the policy and how this building will be consistent with DCP's policy efforts; and

3) Interbuilding Voids and Fire Safety and Operations

On May 3, 2018, the Fire Department of the City of New York's (FDNY) Bureau of Operations cited both general and specific operational and safety concerns regarding a building planned with a 150-foot interbuilding void. One of the developments the proposed actions would facilitate has an interbuilding void that is larger than the one that caused the FDNY to express

concern. It is therefore likely that they would have the same concerns with this proposed interbuilding void.² The DEIS does not analyze how this building will address the concerns the FDNY outlined as policy, despite §28-103.8 of the Building Code that allows the Commissioner of Buildings to deny a building permit based on such safety concerns;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the DEIS to be insufficient as the time between the close of the public scoping period and the issuance of the DEIS was excessive, lasting more than 12 months, and effectively limited the opportunity to incorporate any new policies promulgated in that period into the analysis scope; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the analysis of applicable public policies insufficient and requests an expanded analysis that includes consideration of City policy that was promulgated in the period between the public scoping comment period and the issuance of the DEIS; and

WHEREAS, regarding the analysis of socioeconomic conditions that looks at indirect business displacement, the DEIS concludes that the project would not result in significant indirect business displacement, yet it is reasonable that changing demographics in the study area could have a significant impact on local retail as new residents in the 2,081 private market DUs will have significantly higher incomes than current residents in the study area; and

WHEREAS, the DEIS identifies that in the past many predominantly Chinese businesses were in operation in the area (**Table 3-15**), with 20 out of 25 sites analyzed previously being the location of a predominately Chinese business, and with major turnover having occurred at eight sites, and medium turnover having occurred at six sites, the former and current retail in the area may uniquely serve a particular linguistically isolated population, and these retail businesses are particularly vulnerable to displacement despite the determination of no impact;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the analysis of indirect business displacement and the determination of no significant adverse impacts to be insufficient and inaccurate and requests revised analysis, as well as the identification of adequate and detailed mitigation strategies if further significant adverse impacts are identified; and

WHEREAS, regarding the DEIS analysis of socioeconomic conditions that looks at indirect residential displacement, the definition of "vulnerable population" outlined in the *City Environmental Quality Review (CEQR) Technical Manual* limits the analysis to "privately held units unprotected by rent control, rent stabilization, or other government regulations restricting rent," while excluding analysis of the market pressures on rent regulated units; and

² The concerns the FDNY express are as follows:

- "Access for FDNY to blind elevator shafts... will there be access doors from the fire stairs.
- Ability of FDNY personnel and occupants to cross over from one egress stair to another within the shaft in the event that one of the stairs becomes untenable.
- Will the void space be protected by a sprinkler as a "concealed space."
- Will there be provisions for smoke control/smoke exhaust within the void space.
- Void space that contain mechanical equipment... how would FDNY access those areas for operations."

WHEREAS, 88% of rental units in the study area are located in buildings that have received some form of government subsidy or have at least one unit protected by rent control, rent stabilization, or other government regulations; and

WHEREAS, this by no means indicates that 88% of all rental units in the study are protected—merely that they are located in a building where at least one unit is rent protected, yet the DEIS proceeds with this faulty assumption and excludes all residents of these buildings from consideration as a vulnerable population; and

WHEREAS, many actual rent regulated households in the study area have already experienced indirect displacement pressures and there has been a loss of 950 rent regulated units between 2007 and 2016 in the study area³; and

WHEREAS, recent research has documented a direct correlation between heightened housing market pressures and the loss of rent regulated units⁴, and the Legal Aid Society's recent lawsuits against the City regarding the Bedford Union Armory and the East Harlem Neighborhood Rezoning have further documented this correlation; and

WHEREAS, despite the presence of rent regulated units, there were over 300 eviction cases filed in the study between January 2013 and June 2015, including 135 at 82 Rutgers Slip alone⁵; and

WHEREAS, the City has in fact acknowledged the reality that residents of rent regulated buildings can constitute a vulnerable population by launching the pilot program *Partners in Preservation*, with \$500,000 in funding, to specifically protect rent-stabilized tenants from pressures generated by changes in market conditions; and

WHEREAS, without an analysis that includes an expanded vulnerable population which includes rent regulated tenants, as well as an accounting of government-subsidized buildings that are nearing the end of their regulated term agreements, and a consideration of the effect of proposed federal budget cuts on this regulated housing stock, then the City is continuing a trend of inadequate analysis and planning that undercounts the socioeconomic impacts of the proposed actions and all future actions; and

WHEREAS, the DEIS determines that the study area has already experienced a readily observable trend toward increasing house prices and changing characteristics of new residential development, and states that the proposed actions would not alter this trend, yet is not compelled by *CEQR Technical Manual* guidelines to conduct further analysis or identify mitigations;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the analysis of socioeconomic impacts and the determination of no significant adverse impacts, as informed by *CEQR Technical Manual* guidelines, to be insufficient and inaccurate; and

THEREFORE, BE IT FURTHER RESOLVED that the Lead Agency and the City has a responsibility to the public to use the best reasonable methods for analyzing and mitigating impacts and disclosing those impacts and mitigation measures in an EIS; and

³ As documented by data provided here: taxbills.nyc

⁴ As documented by the data provided here: <http://blog.johnkrauss.com/where-is-decontrol/>

⁵ As documented by data provided here: <https://projects.propublica.org/evictions/#15.99/40.7121/-73.9909>

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests an expanded, detailed analysis of indirect residential displacement that considers market pressures on regulated units in the study area, including disclosure and analysis of eviction rates in the study area; disclosure and analysis of the amount of government-subsidized DUs in the area, including identification of those that are nearing the end of their regulatory agreements; and, if the revised data continues to show impacts, identify appropriate, adequate, and detailed mitigation measures; and

WHEREAS, regarding community facilities and services, a number of publicly-known projects are anticipated to be completed prior to and just after the proposed actions anticipated build year of 2021, including One Manhattan Square, which will add 1,020 new residential DUs to the study area; *NextGeneration NYCHA* residential infill at the La Guardia Houses campus, potentially including as many as 300 new residential units; Essex Crossing, which is will add 1,000 new DUs, 750 of which will be completed by 2021; and the proposed Grand Street Guild development which will add 400 new DUs at 151 Broome Street; and

WHEREAS, these developments are included in the analysis of public libraries but not in all analysis frameworks or proposed future scenarios considering impacts on community facilities and services;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds that without the inclusion of these publicly-known developments, the analysis framework for community facilities and services is insufficient and needs to be revised; and

WHEREAS, the DEIS examines the enrollment, capacity, available seats and utilization rates of public schools in both Community School District 1 (CSD1) and Sub-District 1 of CSD1, it is still uncertain the impact that the aforementioned additional DUs from other publically-known developments will have on public schools in the neighborhood; and

WHEREAS, the multipliers for student generation used to analyze impacts on public schools, as defined in the *CEQR Technical Manual*, are out-of-date and incorrect, drawing from the 2000 Census Public Use Microdata Sample (PUMS) file, data that is 18 years old; and

WHEREAS, this method is shockingly coarse, lumping together both neighborhoods within boroughs and unit types—suggesting for example, that a market-rate project with 300 studio apartments in Midtown would generate the exact same number of school children as a 100% affordable project with 300 3-bedroom units on Avenue D; and

WHEREAS, the conservative analysis scenario which does not include projected housing exclusively for use by seniors does represent the limitations of the proposed project accurately, as none of this senior housing is at this time guaranteed, and therefore does not reflect the full extent of child care and student impacts as the proposed actions are currently defined, and even with senior units excluded, the increase in utilization rises by more than 20% and the Sub-district would be at over 100% overutilization; and

WHEREAS, despite the inaccuracy of the analysis framework and student projection methodology, the DEIS still finds that the proposed actions would result in a significant adverse impact on public schools and publically funded child care facilities, for which no mitigations have yet been identified;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests an assessment of community facilities impacts using the most current and accurate data available, including multipliers generated from the most current American Community Survey data; the most recent school enrollment data (e.g. 2016-2017 data should be replaced with 2017-2018 data for the sub-borough area); assess overutilization within the Sub-District rather than on a District-wide level; eliminate the conservative analysis scenario which excludes housing exclusively for use by seniors, as it does not accurately describe the proposed projects' current unit mix; and, if the revised analysis continues to show impacts, provide appropriate, adequate, and detailed mitigation measures for overutilization in the Sub-District; and

WHEREAS, regarding shadows, the DEIS finds that out of 34 resources that will be affected by shadows, two—Cherry Clinton Playground and Lillian D. Walk Playground—would experience significant adverse shadow impacts; and

WHEREAS, the DEIS finds that the Cherry Clinton Playground will incur incremental shadows for more than two hours every day and for more than three hours in the summer months, and the health of the trees and playground property would be significantly affected by the shadows; Lillian D. Wald Playground will incur incremental shadow in the mid-afternoon for roughly two hours; Little Flower Playground will incur approximately five hours of incremental shadow; and Coleman Playground will incur more than two hours of incremental shadows in the morning in the summer months and nearly an hour in the spring and fall; and

WHEREAS, despite these significant adverse shadow impacts on crucial open space resources, the DEIS states only that mitigation measures for shadow impacts are being explored by the applicants and will be refined prior to the issuance of the FEIS; and

WHEREAS, the only mitigation measure identified thus far includes dedicated funding for enhanced maintenance at two playground sites;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that "dedicated funding for enhanced maintenance" be explicitly defined, including a detailed explanation of the amount of funding and length of time the dedicated funding will be provided, the regulatory agreement or restrictive declaration these funds will be secured through, and an explanation of how said funds will be used to mitigate the impact of irreversible shadow generation—including how "enhanced maintenance" will mitigate the irreversible loss of sunlight for vegetation, including cherry trees, and playground users; and

WHEREAS, the Greenstreet analysis is deficient in that it identifies "shade-tolerant and hardy plantings" without identifying what those plantings are;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests an inventory and identification of specific species, including a discussion and analysis of how much sunlight they need compared to how much sunlight they will receive under the proposed With Action conditions, with an evaluation of impacts based on this accurate and detailed inventory, as well as the identification of adequate and detailed mitigation strategies if further significant adverse impacts are then found; and

WHEREAS, there are significant omissions of many "sunlight sensitive resources" in the analysis. The following (**Figure 1**) is a reproduction of the map of the Tier 1 and 2 Assessment. The legend shows that the green areas are "Publicly Accessible Open Space" (as identified in DEIS Figure 6.1)



Figure 1 - Reproduction of DEIS Figure 6.1

In fact, when the areas shown in green are compared with New York City's Geographic Information System (GIS), they align perfectly with the layer labeled "Parks." Unfortunately, this layer does not contain all "publicly accessible open spaces" that will be impacted by the project. This layer omits many non-park publicly accessible open spaces, all of which are sunlight sensitive resources according to the definition in the *CEQR Technical Manual*; and

WHEREAS, the Two Bridges area was remade during urban renewal and not only contains many New York City parks, but also many additional publicly accessible open spaces that have the potential to be adversely impacted by shadows; and

WHEREAS, the following image (**Figure 2**) shows the magnitude of this difference by showing all the publicly accessible open space identified in New York City GIS's Open Space layer, on top of the DEIS's Tier 1 and 2 Assessment map. The areas identified by the GIS as non-park open space are shown in dark green below:



Figure 2 - Reproduction of DEIS Figure 6.1 altered to show NYC identified publicly accessible open spaces in dark green

The elements in dark green that are not studied in the DEIS include ballfields, school yards and school playgrounds, including PS 2 Yard/Playground, Murry Bergrtraum Softball Field, Shuang Wen School Yard with Playground, Orchard Collegiate School Yard, a ball court at NYCHA La Guardia Houses, and tennis courts adjacent to the Cherry Clinton Playground; and

WHEREAS, this may not be all of the shadow sensitive resources as defined by the CEQR *Technical Manual*, as seen in the following (**Figure 3**), which reproduces altered DEIS Figure 6.1 and adds Community Gardens. The Community Garden data set is coarser, as it includes portions of lots that are not shadow sensitive, but this provides more evidence that even more receptors identified by the *CEQR Technical Manual* have been omitted from the analysis:

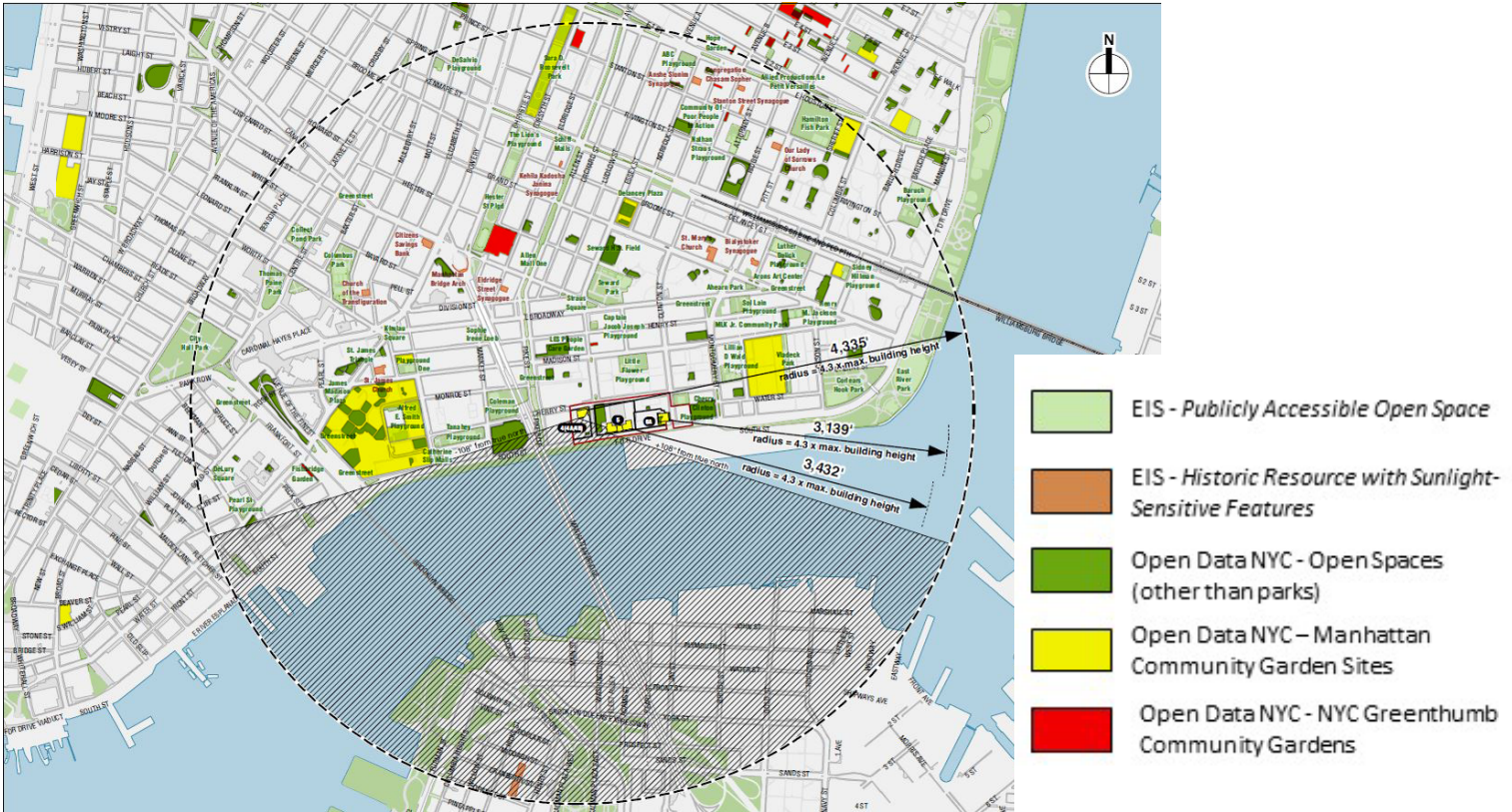


Figure 3 - Reproduction of DEIS Figure 6.1 altered to show publicly accessible open spaces and community gardens not studied in the DEIS

WHEREAS, taken together this data suggests that the DEIS could be missing as many as 41 sunlight sensitive resources in the study area: eight community gardens, and 33 publicly accessible open spaces. It is likely that not all of these sites are sunlight sensitive, but a quick review suggests that most of them are, and should have been included in the analysis; and

WHEREAS, it is likely that the above *still* underestimates the amount of publicly accessible open space that will have shadow impacts, as for example, most of the qualifying residential open space at the NYCHA La Guardia Houses *functions* as publicly accessible open space and has been functioning as publicly accessible open space for decades; and

WHEREAS, the *CEQR Technical Manual* instructs that sunlight sensitive resources include, "[a]ll public open space as identified in *Chapter 7, 'Open Space,'*" and *Chapter 7* instructs that 'Open Space' includes: "housing complex grounds, if publicly accessible,"; and

WHEREAS, the grounds at La Guardia Houses are open from the sidewalk and freedom of movement between the neighborhood and the open space is not impeded, and they are owned by a public authority, the areas used for recreation and green spaces should have been identified as a sunlight sensitive resource, as they are very large and are located directly to the north of the proposed project, thus experiencing some of the largest shadow impacts; and

WHEREAS, the DEIS does not evaluate shadow impacts on any NYCHA open spaces, and preliminary shadow analyses conducted by both the Municipal Art Society of New York (MAS) and George M. Janes & Associates have identified this significant shortcoming; and

WHEREAS, a demonstration of the magnitude of this omission prepared by George M. Janes and Associates is included as *Appendix A* to this document; and

WHEREAS, MAS has further identified that the proposed actions would generate shadow impacts on open spaces at:

- 1) The Rutgers Houses for approximately three hours daily during the May 6 and September 21 evaluation periods; and
- 2) The La Guardia Houses for approximately 7 hours daily during the May 6 and September 21 evaluation periods; and

WHEREAS, privately owned open spaces are exempt from shadow impact analysis under CEQR guidelines, yet the proposed actions inclusion of private open space to mitigate adverse impacts suggests that an evaluation of the shadow impacts on Rutgers Park would be appropriate, as again according to MAS analysis, it would also be impacted by shadows generated by the proposed actions for a significant portion of the day during both the May 6 and September 21 evaluation periods;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests expanded and corrected shadow analysis that includes all publically accessible open spaces, NYCHA open spaces, and private open spaces impacted in the study area, and the identification of adequate and detailed mitigation strategies if further significant adverse impacts are then found; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that mitigation measures be identified for all impacted sites; and

WHEREAS, regarding urban design and visual resources, the overall analysis framework for urban design is insufficient and requires a more robust level of analysis; and

WHEREAS, a number of view corridors and visual resources will be irreparably changed under the proposed With Action conditions, yet the DEIS does not identify changes to these resources that would trigger a determination of significant adverse impact; and

WHEREAS, a number of the With Action/No Action visual comparisons are not presented from the same vantage point and do not present buildings with enough contrast to disclose actual impacts, including DEIS images 50a and 50b, images 51a and 51b, 53a and 53b, and 56a and 56b; and

WHEREAS, a number of comparative photosimulations between existing conditions and proposed conditions show a different aspect ratio, shading, and colors of building and sky; and

WHEREAS, the proposed conditions will not change the color of the sky, remove shadows from the street, or lighten the color of the facades of existing buildings, making these images misleading and contrary to best practices in the production of photosimulations for environmental review; and

WHEREAS, conclusions in the urban design and visual resources analysis minimize visual impacts and justify determinations based primarily on comparisons and consistency with a single building, One Manhattan Square, without comprehensively assessing the totality of cumulative impacts the proposed actions will have on the study areas; and

WHEREAS, the DEIS claims that the project will "not eliminate any significant publicly accessible view corridors or completely block public views to any visual resources,"

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests revised With Action/No Action visual comparisons that accurately presents visualizations from the same perspective; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests a revised analysis with a threshold for findings of significance that uses *impairment* of the quality of a viewpoint, rather than the *complete blockage* threshold to identify significant adverse impacts on visual resources; and requests the identification of adequate and detailed mitigation strategies if further significant adverse impacts are then found; and

WHEREAS, the DEIS makes assertions about wind conditions without presenting any data to support those assertions, stating that a study was performed that found the conditions the proposed projects would create would be "similar to those at comparable locations in the City,"

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests full disclosure of this study, including the identification of comparable locations in the City, the safety of wind conditions for pedestrians, the comfort of wind conditions for pedestrians, and if significant adverse impacts are found, the identification of adequate mitigation measures, including the potential placement and number of marcescent trees that would be needed, and how effective such mitigation measures would be; and

WHEREAS, regarding natural resources, the DEIS describes how nighttime migratory bird collisions are more likely to occur on buildings above 656 feet; and

WHEREAS, despite the fact that the proposed developments are between 730 feet and 1,008 feet tall, and despite the fact that the DEIS clearly identifies that the buildings would intersect the strata of airspace in which migrating birds most commonly fly—increasing the risk of bird collision—the DEIS ultimately downplays the impacts of the proposed development on bird collisions; and

WHEREAS, the DEIS describes methods (patterned or fritted glass) by which the proposed developments could reduce bird collisions which are being considered by the applicants, it does not indicate that any of these methods will be implemented;

THEREFORE, BE IT RESOLVED that Community Board 3 requests full disclosure of the design features being considered as well as their intended impacts and confirmation of the applicants' commitment to implementation; and

WHEREAS, regarding water and sewer infrastructure, the DEIS concludes there will not be an impact on either the City's water supply or sewage treatment systems, yet the DEIS does identify impacts on the drainage system during heavy rain events; and

WHEREAS, the DEIS identifies that the volume of sanitary sewage sent to combined sewer systems will more than double in the With Action scenario, with up to an additional 588,000 gallons flowing into the combined sewer system in the heaviest rainfall scenarios, and indicates that storm water Best Management Practices (BMPs) would be required as part of the New York City Department of Environmental Protection (DEP) site connection approval process, the DEIS does not identify any concrete mitigation measures; and

WHEREAS, the project sites are within a combined sewer drainage area, where regulators permit up to a certain amount of "allowable flow" that the system can handle to go to large interceptor sewers that direct the combined wastewater to a wastewater treatment plant, and where, to avoid overloading a Waste Water Treatment Plant (WWTP) when the system contains more than the allowable flow, coastal outfalls can discharge the excess amount into local waterways rather than directing them to the WWTP; and

WHEREAS, given the realities of climate change and the estimation by DEP that New York City could potentially experience as much as 3.0 inches/hour of rainfall by 2065, and the fact that DEP already identified the spillage of more than 18 million gallons of raw sewage across 26 CSO events in 2016 at the outfall serving the combined sewer system in question; and

WHEREAS, during a high tide or storm surge event, river water can quickly enter the wrong end of an outfall with great force and fill nearby sewers to capacity, causing flooding that is difficult to mitigate and which could render the local drainage system useless, potentially causing the precipitation and sanitary sewage in the local drainage system to backup and surcharge into streets and properties; and

WHEREAS, the project sites and the local combined sewage drainage area are naturally vulnerable to many types of flooding as they are low lying and next to the coast, and during a storm event the drainage areas low lying points may need to simultaneously manage the compounded impacts of tidal flooding, extreme rainfall, sanitary sewage generation, and storm surge, resulting in a heightened and disastrous flood risk; and

WHEREAS, the proposed actions would result in total on-site sewage generation of 820,429 gallons per day (gpd), 3.30 times the volume of current sanitary sewage generation, resulting in that much less space for the local drainage area to simultaneously manage storm water during flash or tidal flooding, or a coastal storm event;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that to most clearly show the impacts of the anticipated increase in sanitary sewage on the local combined sewer drainage area, the principal conclusions in this analysis should include and represent these incremental increases as percentage values to illustrate the relative change in volume as measured in **Table 11-5**; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests the analysis of scenarios that would be considered flash flooding or greater by the National Weather Service (NWS) (identified as rainfall of at least *1.0 to 1.5 in over 1 hour*) in order to accurately assess and disclose the capacity of drainage systems during heavy rain and coastal flooding events which the area is naturally predisposed to; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests further revised analysis of infrastructural capacity and the identification of adequate and detailed mitigation strategies if further significant adverse impacts are identified; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests identification and disclosure of the BMPs that would be included in the proposed actions; and

WHEREAS, regarding transportation, 15 intersections are identified in the DEIS as having potential for significant adverse impacts under the proposed actions and a number of these have no proposed mitigation measures, including the intersections of South Street and Montgomery Street, and Chatham Square and Worth Street/Oliver Street; and

WHEREAS, the signal timing changes and lane restriping that is being proposed to mitigate impacts at the remaining 13 intersections are subject to New York City Department of Transportation (DOT) approval and the potential for unmitigated traffic impacts at these locations remains;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests full mitigation of all identified traffic impacts, as well as disclosure of proposed signal timing changes and lane restriping plans with approval from DOT; and

WHEREAS, the DEIS estimates that only 1,069 vehicle trips to and from the area will be generated as a result of development despite the anticipated addition of over 2,000 market-rate residential DUs; and

WHEREAS, the DEIS does not disclose any substantial explanation of the methodology for calculating the impacts of the growing ride-hailing industry or the impacts of online-based vendor deliveries to the area, both of which may have an elevated impact in the study area under the proposed With Action conditions due to the higher anticipated income of new residents; and

WHEREAS, for travel demand assumptions, data was drawn from the Seward Park Mixed Use Development Project, which included a unique housing model with 50% of DUs set-aside as permanently affordable; and

WHEREAS, the study area has fewer mass transit options than are available in the Seward Park Mixed Use Development Project area; and

WHEREAS, due to these differences, assumptions from the Seward Park Mixed Use Development Project should not be applied to the proposed actions, as it can safely be assumed that higher income residents will have higher rates of car ownership and limited access to public transit will generate more automobile trips;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests a revised estimation of vehicle trips generated with these potentially elevated impacts and ride-hailing impacts included; and

WHEREAS, the DEIS finds that the addition of more than 5,800 new residents to the area, with limited subway access, would not generate incremental bus trips at a level requiring detailed bus line-haul analysis and determines that the proposed actions would not significantly impact bus line-haul;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that a detailed bus line-haul analysis be conducted to address the unique conditions in the study area, including limited access to subway lines, that would differ from the standard Travel Demand Assumptions outlined in the *CEQR Technical Manual* regarding modal splits; and

WHEREAS, the DEIS finds that the addition of more than 5,800 new residents to the area as a result of the proposed actions would not significantly impact subway line service; and

WHEREAS, the DEIS analysis assigned only 5% of trips to the B-line and D-line Grand Street subway station and 95% of trips to the F-line East Broadway subway station, with limited explanation of the methodological decision; and

WHEREAS, anticipated MTA New York City Transit repairs to the Rutgers Tube slated for 2022 are expected to limit F-line service at the East Broadway subway station just after the proposed actions projected build year; and

WHEREAS, the only significant adverse impacts identified are for the F-line East Broadway subway station S1 stairway during weekday AM and PM peak hours, and the P3 stairway for the weekday AM peak hour, and therefore the only mitigations proposed are station accessibility and circulation-based; and

WHEREAS, the conceptual engineering studies for these mitigations have at this time been performed and are described as feasible in the DEIS, yet the details of these studies have not been disclosed and the potential for these adverse impacts to be unmitigated remains;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that subway line haul methodology and trip generation methodology be refined to more accurately reflect use patterns the proposed actions will influence, as well as reflect publically-known service interruptions that are expected to impact transit in the study area; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests any conceptual engineering and feasibility studies for mitigation measures be disclosed; and

WHEREAS, the following intersections were highlighted in the DEIS as having been the site of ten or more injuries during the study period between November 1, 2013 and October 31, 2016, including:

- Allen Street and Canal Street - 16
- Allen Street and Delancey Street - 37
- Allen Street and Division Street - 10 (1 fatality)
- The Bowery and Canal Street/Manhattan Bridge - 81
- Chatham Square/Park Row and Worth Street/Mott Street - 10
- Pike Street and East Broadway - 13
- Pike Street and Madison Street - 12
- Rutgers Slip and South Street - 11 (1 fatality); and

WHEREAS, the DEIS indicates that none of these intersections were found to have design deficiencies, yet a number of the intersections, such as Chatham Square/Park Row and Worth Street/Mott Street are

very difficult to navigate and involve several turning movements and pedestrian crossings, which belies the relatively low number of accidents (10); and

WHEREAS, the DEIS determined that traffic impacts at Chatham Square/Park Row and Worth Street/Mott Street, as well as at the intersection of South Street and Montgomery Street, could not be mitigated;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests further study of these intersections and requests a proposal for redesign as a necessary mitigation of the anticipated adverse impact; and

WHEREAS, the DEIS has identified significant parking shortfalls that will result from the proposed actions, yet the *CEQR Technical Manual* does not designate parking shortfalls in the borough of Manhattan as constituting a significant adverse impact due to the magnitude of available alternative modes of transportation; and

WHEREAS, the study area in fact lacks a significant magnitude of alternative modes of transportation as exemplified by the transit analysis trip generation methodology that identifies 95 percent of residents in the study area are likely to use a single subway station and line, the F-line at the East Broadway subway station;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests further study of these parking shortfalls and a reconsideration of the mitigation standards typically applied to Manhattan actions due to the unique circumstances of limited public transit access in the study area; and

WHEREAS, regarding the analysis of neighborhood character, half the study area is in the East River, which does not make a reasonable study area for neighborhood character; and

WHEREAS, the analysis of neighborhood character is self-serving and could be much more easily argued from the opposite position, as the reduction in open space ratio, the major increase to private open space usage, shadows, visual resources, land use/zoning policy, and changes in the socioeconomic conditions the proposed actions would facilitate, would create significant changes in neighborhood character; and

WHEREAS, the DEIS states that "the proposed actions would not result in significant adverse impacts associated with neighborhood character," the proposed actions will certainly *change* neighborhood character;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests full disclosure of changes in neighborhood character, and a detailed and specific explanation of how these changes in neighborhood character do not constitute significant adverse impacts; and

WHEREAS, regarding construction impacts, a large number of significant adverse construction-period traffic impacts, parking shortfalls during peak construction, and construction-period noise impacts will remain unmitigated; and

WHEREAS, study area residents have already endured unmitigated construction impacts during the construction period of the adjacent One Manhattan Square project; and

WHEREAS, the DEIS does not provide sufficient details about the mitigation measures to be employed during the projects' stated 30- to 36-month construction period;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests a full disclosure of all mitigation plans and a detailed explanation of:

- 1) The process by which communication with the community would occur, including procedure for delivering construction updates and disclosure of dedicated hotline information;
- 2) Maintenance and Protection of Traffic (MPT) plans for temporary sidewalks, street closures, etc. during the entire construction period;
- 3) Pest management strategies that would be employed at the project sites during the construction period;
- 4) Emissions reduction strategies and best practices that would be employed during the construction period;
- 5) Specific noise control measures being proposed; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests a commitment to regular coordinating meetings with all appropriate agencies and stakeholders as an additional and necessary mitigation; and

WHEREAS, during the construction period, 10 DUs in 80 Rutgers Slip would be removed and replaced in the new Site 4 (4A/4B) building, and an additional nine DUs in 80 Rutgers Slip would be renovated, resulting in the relocation of approximately 19 senior residents of 80 Rutgers Slip during the construction period; and

WHEREAS, approval for this relocation plan must be granted by HUD, and has thus far not included any consultation with the Community Board or local elected officials, nor has the regulatory agreement or relocation plan been disclosed in the DEIS;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests full disclosure of any regulatory agreements and relocation plans for the approximately 19 senior residents at 80 Rutgers Slip; and

WHEREAS, the only alternatives to the proposed actions that are considered in the DEIS are the required No Action Alternative and a No Unmitigated Significant Adverse Impacts Alternative; and

WHEREAS, a Lesser Density Alternative was considered but ultimately excluded, citing that the reduction in density would significantly reduce the amount of permanently affordable housing delivered by the proposed actions and thus compromise the project description and objectives; and

WHEREAS, despite these findings, the total number of affordable units is not inherently contingent on project density or mitigation of environmental impacts;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests a full consideration of at minimum, a Lesser Density Alternative, as well as any other reasonable alternatives that could reduce adverse environmental impacts; and

WHEREAS, the *CEQR Technical Manual*, and specifically the guidelines for the analysis of indirect residential displacement, are so insufficient and flawed that to evaluate and propose specific mitigations based on these findings would be inadequate and represent a dangerous level of irresponsible planning; and

WHEREAS, despite the flawed analysis of indirect residential displacement impacts, it is clear that in reality the proposed actions represent a type of large-scale, majority market rate waterfront development that has been documented to result in widespread residential and commercial displacement in other neighborhoods such as Greenpoint-Williamsburg; and

WHEREAS, the proposed actions introduction of a limited amount of regulated units at rental levels that far exceed real affordability for the majority of area residents, and over 2,000 market rate units will likely generate similar widespread indirect residential displacement in the absence of substantial changes to the proposed actions or comprehensive mitigations; and

WHEREAS, the provision of a limited number of rent regulated apartments at rental levels that far exceed real affordability for the majority of area residents does not in itself begin to appropriately mitigate this anticipated indirect residential displacement;

THEREFORE, BE IT RESOLVED that Community Board 3 requests a meaningful and accurate analysis of indirect residential displacement and the full and appropriate mitigation of all accurately identified impacts; and

WHEREAS, in addition, the proposed actions would likely result in significant adverse impacts to publically funded child care facilities, open space, shadows, traffic, transit, pedestrians, and noise during the construction period; and

WHEREAS, a number of these impacts, including shadows at Cherry Clinton Playground and Lillian D. Wald Playground; traffic impacts at the intersection of South Street and Montgomery Street and the intersection of Chatham Square and Worth Street/Oliver Street; and construction-period noise, would go unmitigated; and

WHEREAS, a number of mitigations are either wholly unidentified or lacking in substantive detail, and are anticipated to be defined between the current time and the completion of the FEIS, including mitigation measures for significant adverse impacts on public elementary school utilization rates and publicly funded child care facilities;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that all significant adverse impacts be fully mitigated and that no impacts be left unmitigated in the FEIS; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the proposal to define mitigations during the period between the issuance of the DEIS and the completion of the FEIS to be insufficient, as it denies the Community Board and the public an opportunity to fully review, vet, and comment on significant and necessary mitigation proposals prior to the CPC vote on the project applications; and

WHEREAS, the currently proposed square footage for community facilities outlined in the DEIS project description would not be adequate to accommodate the necessary mitigations for public school or child care facility impacts and no off-site locations have yet been identified; and

WHEREAS, the DEIS states that Restrictive Declarations for the proposed projects will be adopted requiring consultation with the New York City Administration for Children's Services (ACS) to mitigate publically funded child care facilities impacts, but no such Restrictive Declaration has been disclosed;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests the identification of sites for the proposed public school and child care facility mitigations prior to the issuance of the FEIS; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests the disclosure of written commitments and/or Restrictive Declarations for any mitigations of publically funded child care facilities; and

WHEREAS, a number of identified mitigations are expected to be further refined between the current time and the completion of the FEIS, including proposals for the dedication of publically accessible open space at Rutgers Slip, and the renovation of existing open spaces at Coleman Playground, Captain Jacob Joseph Playground, and Little Flower Playground; funding enhanced maintenance at Cherry Clinton Playground and Lillian D. Wald Playground; signal timing changes and lane restriping at 13 intersections; the installation of a new subway entrance, platform widening, and the installation of ADA-compliant elevators at the F-line East Broadway subway station; and timing changes and crosswalk widening at several intersections;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 finds the proposal for refinement of any identified mitigations during the period between the issuance of the DEIS and the completion of the FEIS to be insufficient, as it denies the Community Board and the public an opportunity to fully review, vet, and comment on significant and necessary mitigation proposals prior to the CPC vote on the project applications; and

WHEREAS, in each case where mitigations were identified, they may include significant public actions and costs, and are contingent on consultations with a number of City agencies as well as the findings of conceptual engineering and feasibility studies that have either not yet been conducted or are not included in the DEIS, and therefore there is a real potential for no mitigation of any identified adverse impacts; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests the disclosure of written commitments and/or Restrictive Declarations for any major capital improvements to transportation infrastructure that are being proposed as mitigations; and

WHEREAS, the ratio of open space acres per 1,000 residents in the already underserved study area would decrease from 0.897 under the No Action condition to 0.831 under the With Action condition; and

WHEREAS, the proposed mitigations for the loss of open space include the dedication of publically accessible but private open space at Rutgers Slip; the renovation of existing open spaces at Coleman

Playground, Captain Jacob Joseph Playground, and Little Flower Playground; and funding enhanced maintenance at Cherry Clinton Playground and Lillian D. Wald Playground; and

WHEREAS, the proposed public space at Rutgers Slip is actually private space which serves as the entrance way to the residential building at 82 Rutgers Slip and the residents have expressed serious safety concerns with converting this into a public plaza;; and

WHEREAS, funding for existing open space renovations is not a sufficient mitigation for the loss of open space or the impact of shadows on vegetation and playground use; and

WHEREAS, despite the significant shadow impacts on crucial open space resources, the DEIS states only that mitigation measures for shadow impacts are being explored by the applicants and will be refined prior to the issuance of the FEIS; and

WHEREAS, there has been no disclosure of how these specific playgrounds have been selected for mitigation;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests assurances that proposed open space mitigations would be completed, including written commitments and/or Restrictive Declarations for any major capital improvements; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests further explanation of the justification, decision-making, public outreach, and agency consultations that went into the selection of proposed open space and shadow mitigation locations; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests full disclosure of the details, including amount and length of commitment, for the funding of enhanced maintenance that is proposed as a shadow impact mitigation; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests further explanation of the rationale behind enhanced funding being able to functionally mitigate the permanent imposition of shadows on vegetation and playground use; and

WHEREAS, there is no timetable or cost estimate provided for the F-line East Broadway subway station mitigation proposals, nor is there any evaluation of the impacts on subway line-service, traffic, and pedestrian circulation during the construction period; and

WHEREAS, there is no timetable or cost estimate for proposed parks renovations, nor disclosure of proposed temporary park closures and the temporary impact on open space ratio during that would occur during any renovation construction period;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests further analysis of the construction impacts that an East Broadway subway station renovation would have on subway-line service, traffic, and pedestrian circulation during the construction period; and

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests the disclosure of project timelines and cost-estimates for all proposed mitigations identified in the DEIS and FEIS; and

WHEREAS, regarding growth-inducing aspects of the proposed actions, the DEIS finds that the proposed projects are not expected to induce any significant additional growth beyond that identified in the project description and analyzed throughout the EIS; and

WHEREAS, the proposed actions are anticipated to introduce more than 5,800 new residents and 2,081 market-rate DUs to the primarily low- and middle-income, and predominantly rent-regulated Two Bridges LSRD; and

WHEREAS, development in general, and the introduction of unregulated DUs, has never previously occurred on this scale in the Two Bridges LSRD; and

WHEREAS, a number of soft-sites would remain in the Two Bridges LSRD after the completion of the proposed actions, including significant unused floor area ratio (FAR) at Site 6B and Site 7, including parking lots and open spaces, as well as in the immediate adjacent area, including the Con Edison site at 220 South Street and open spaces on NYCHA properties at the La Guardia Houses, Rutgers Houses, and Smith Houses;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 questions the determination that the proposed projects are not expected to induce any additional growth and requests further and refined analysis of the growth-inducing aspects of the proposed actions;

WHEREAS, regarding irreversible and irretrievable commitments of resources, the DEIS does not evaluate and disclose the irreversible and irretrievable loss of visual resources from the proposed action sites as well as visual resources from upland and from Brooklyn; and

WHEREAS, the DEIS identifies additional resiliency measures the proposed actions would contribute to the area, it does not consider the irreversible and irretrievable loss of permeable surfaces, as well as the loss of trees and other vegetation from shadow impacts, that can function to absorb rain and flood waters;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests further detailed analysis and disclosure of these additional irreversible and irretrievable commitments of resources; and

WHEREAS, overall, the DEIS displayed a lack of responsiveness to Community Board 3's comments on the Draft Scope of Work; and

WHEREAS, given the potential change in CPC policy regarding the approval process for modifications to Large Scale special permits that the proposed actions represents, in which ULURP is not triggered as long as proposals do not require further waivers; and

WHEREAS, recommendations by community boards for Large Scale developments and special permits granted by the CPC and City Council during ULURP are typically made with the understanding that even though a project may receive zoning waivers, other "trade-offs" can make those waivers more acceptable, which is fundamental to the land use decision-making process in New York City, especially at the community board level; and

WHEREAS, the CPC's determination that the proposed significant development should be classified as a minor modification to the Two Bridges LSRD plan, suggests that applicants can always come back after

special permits and waivers have been granted and build out projects with no community board review, as long as no additional waivers are sought; and

WHEREAS, this change brings into question every Large Scale special permit issued since 1961, as participants in the ULURP process, including community boards, are not likely to have made the same decisions regarding all Large Scale special permits if they understood that they would not have an opportunity to review the plans again even when significant amendments were being made; and

WHEREAS, there is no evidence that buildings even close to the scale proposed were discussed during any hearings or deliberations made by Community Board 3 prior to making recommendation on the granting of previous special permits for Large Scale Residential Development in Two Bridges;

THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that the minor modification determination be reconsidered and the proposed actions be subject to ULURP, as anything less undermines established community planning precedent and the role of community boards in the land use planning process in New York City; and

WHEREAS, the methodology guiding the DEIS analysis as outlined in the *CEQR Technical Manual* is inherently flawed and appears to have a strong bias against any finding of significant impact, regularly producing analysis across numerous study areas that is both inadequate and does not begin to capture the actual impact on the environment as required under State law; and

WHEREAS, the DEIS, as currently constituted, includes a large number of serious omissions, misrepresentations and errors, and ultimately does not fully disclose all the proposed actions' significant impacts; and

WHEREAS, given the methodological shortcomings and the large number of serious omissions, misrepresentations, and errors, the Lead Agency should not have accepted this DEIS as complete;

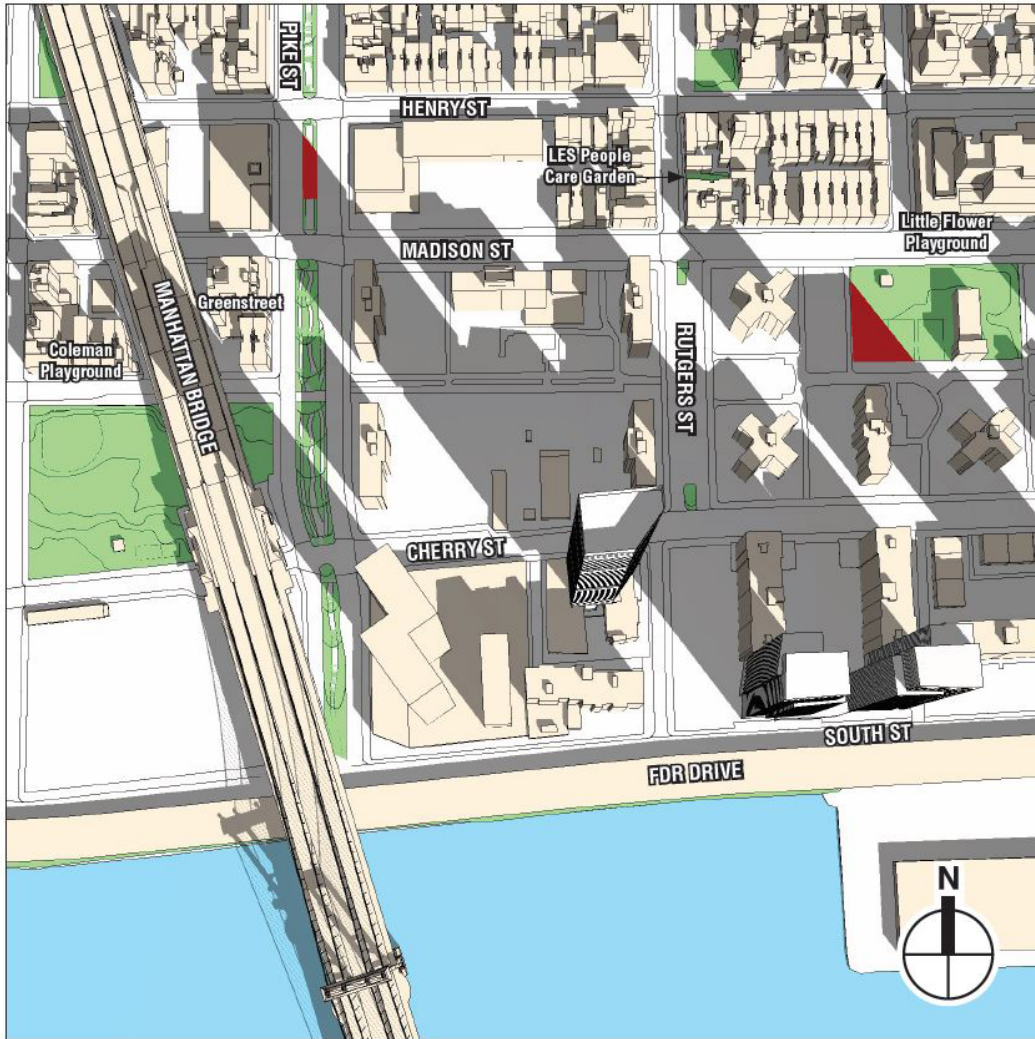
THEREFORE, BE IT FURTHER RESOLVED that Community Board 3 requests that the omissions, misrepresentations and errors outlined here be corrected in a Supplemental DEIS which includes appropriate, adequate, and detailed mitigation measures for all identified impacts; and

THEREFORE, BE IT FURTHER RESOLVED that if a Supplemental DEIS is not issued, than Community Board 3 requests that all the aforementioned requests for the correction of omissions, misrepresentations and errors be included in the FEIS.

APPENDIX A

Prepared for Manhattan Community Board 3 by George M. Janes & Associates

To demonstrate the magnitude of the omissions in the sunlight sensitive resources, we have prepared a series of images starting with the March 21, 10am shadow rendering that appears in the DEIS (**Figure 4**). The two areas marked in red are incremental shadows on shadow sensitive resources as identified in the DEIS:



10:00 AM

Figure 4 - Reproduction of March 21, 10am shadow rendering

The above omits several sunlight sensitive resources. The following is a plan for this area showing both the resources identified in the DEIS and publicly accessible open spaces added from New York City's GIS (**Figure 5**). The resources in the DEIS are in light green and the resources added are in dark green:

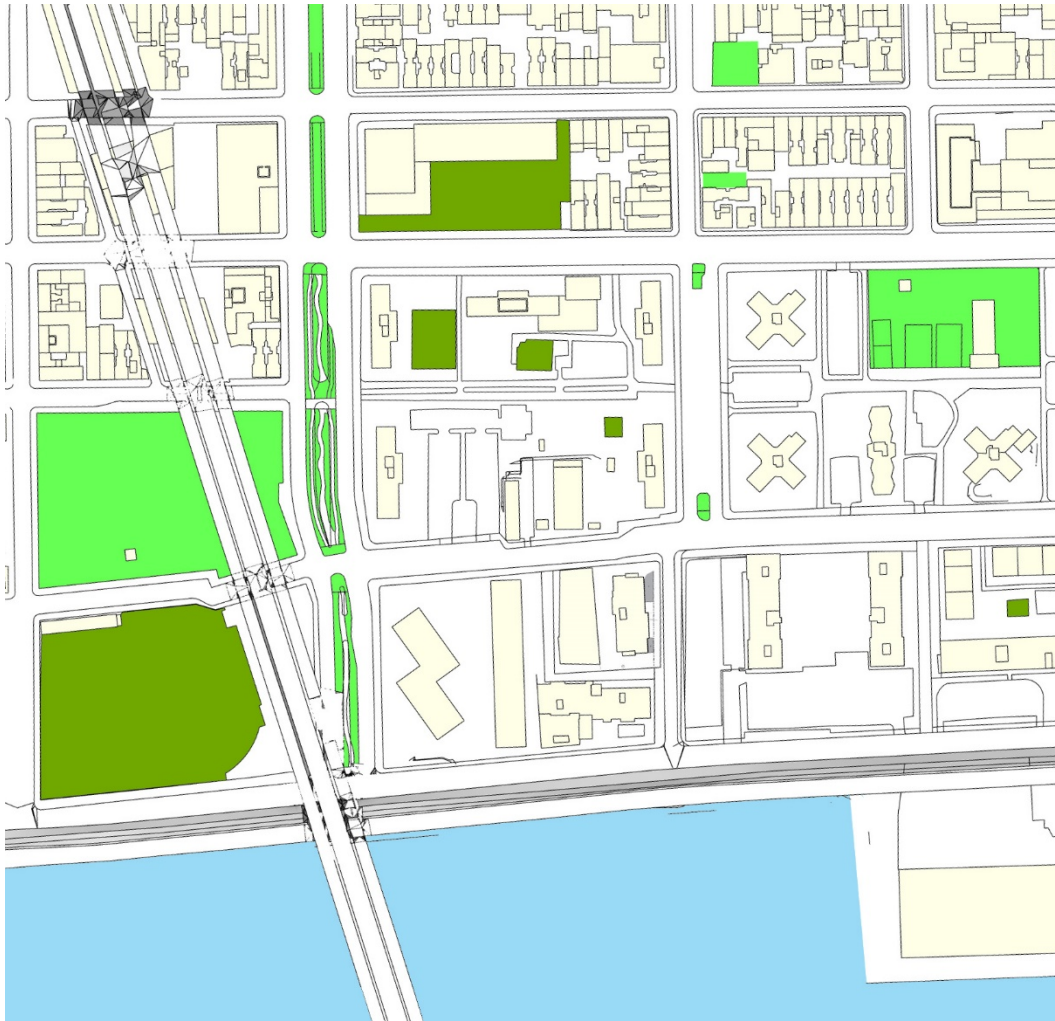


Figure 5 - Plan showing both identified sunlight sensitive resources (light green) and publicly accessible open spaces omitted (dark green)

To reexamine incremental shadow impact, we have taken models for the proposed building and rendered our own shadows for the day and time (**Figure 6**). There are trivial differences in the shadows that appear in the DEIS and the following renderings due to the differences in the 3D models used to render the shadows. The incremental shadow impacts identified in the DEIS are marked in red, while the incremental shadow impacts missing from the DEIS are shown in orange.



Figure 6 - March 21, 10am shadow rendering showing incremental shadow impact on parks identified in the DEIS (in red), and incremental shadow impact on publicly accessible open spaces not identified in the DEIS (in orange)

To be clear, this only marks the publicly accessible open spaces and community gardens identified in the New York City Open Space GIS layer, and does not include qualified residential open space on La Guardia Houses which is functional used as publicly accessible open space, but not identified as such. If that space is included, the incremental shadow impact is much larger (**Figure 7**).



Figure 7 - March 21, 10am shadow rendering showing incremental shadow impact on parks identified in the DEIS (in red), incremental shadow impact on publicly accessible open spaces not identified in the DEIS (in orange), and incremental shadow impact on residential open space that functions as publicly accessible open space (in yellow)

With or without the open space impacts on La Guardia Houses, the DEIS understates sunlight sensitive resources that have a potential to be impacted. The omission is so large that the entire chapter needs to be redone in a supplemental DEIS.