

[**<< BACK**](#)

Land Use, Housing & Zoning

March 2023, Land Use, Housing & Zoning Committee

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1185 Broadway, an application to allow an open air café within an existing plaza at West 28th Street and Broadway

At the regularly scheduled monthly Community Board Five meeting on Thursday, March 09, 2023, the following resolution passed with a vote of 33 in favor; 0 opposed; 1 abstaining:

WHEREAS, RP1185 LLC (the "Applicant"), seeks certification by the Chair of the City Planning Commission pursuant to Section 37-73(c) of the Zoning Resolution ("ZR") to allow an open air café (the "Café") to be located within a public plaza (the "Plaza"); and

WHEREAS, The Applicant owns Block 830, Tax Lot 24, which is located at the northwest corner of West 28th Street and Broadway ("Subject Premises"); and

WHEREAS, The Subject Premises is merged with Tax Lots 12, 13, 14, 62, 67, and 69 to form one zoning lot ("Development Site"); and

WHEREAS, The Applicant recently completed the construction of a commercial building (the "Building") with hotel and retail uses on the Subject Premises; and

WHEREAS, The Applicant also recently completed the construction of a Plaza fronting on West 28th Street totaling 4,367 square feet in size; and

WHEREAS, The proposed development is an open air café totaling 241 square feet, or 5.5% of the total area of the Plaza; and

WHEREAS, The Café will extend approximately 42 feet along the northern edge of the Plaza, with a depth of six feet, nine inches; and

WHEREAS, The Café will be operated seasonally and contain 12 tables and 24 chairs, arranged in two abutting rows that will run parallel and adjacent to this northern façade; and

WHEREAS, None of the current Plaza amenities are located within the proposed Café area; and

WHEREAS, All furnishings will be removed from the Café when it is seasonally not open; and

WHEREAS, The Café will not be demarcated by any temporary or permanent barrier; and

WHEREAS, Community Board Five is concerned that the café may have negative impact to the neighborhood, including but not limited to, outdoor cafes playing loud music and attracting crowds, impacting the residential area adjacent to the Building; and

WHEREAS, The applicant was not able to make a firm commitment against these potential negative impacts; and

WHEREAS, CB5 believes that open air café seating in a privately owned public space may be a public benefit only when seating and tables can be used by the public without a need for purchase of food or beverage; and

WHEREAS, The Café will not be open to the public; and

WHEREAS, The Café will not commit to allowing public bathroom access; and

WHEREAS, CB5 believes the resistance put forth by the Applicant to public bathroom access and opening seating to the public provides ample reason not to recommend approval; therefore, be it

RESOLVED, Community Board Five **recommends denial** of the application for an open-air café at 1185 Broadway, and further be it

RESOLVED, Community Board Five requests that the Director of the City Planning Commission requires that open-air café operator at 1185 Broadway provides access to the bathrooms inside the Building.



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