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**Land Use, Housing & Zoning**

July 2023, Land Use, Housing & Zoning Committee

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**1700 Broadway, between West 53rd and 54th Street, application requesting a certification under 37-73 (c) to facilitate an open air café renewal currently expiring 7/28/2023.**

At the regularly scheduled monthly Community Board Five meeting on Thursday, July 13, 2023, the following resolution passed with a vote of 31 in favor; 6 opposed; 1 abstaining:

WHEREAS, 1700 Broadway Owner LLC (the "Applicant") seeks approval of an application pursuant to Section 37-73 of the Zoning Resolution of the City of New York ("Zoning Resolution" or "ZR") for a certification by the Chairperson to permit a 1,400 square foot open air café (the "Café") to continue operating within an existing public plaza (the "Plaza"), as allowed by ZR Section 37-73(b) (the "Certification"), located at 1700 Broadway (Manhattan Block 1025, Lot 25) (the "Development Site"), in Manhattan Community Board 5; and

WHEREAS, The Development Site is improved with a 41-story commercial building, including ground floor restaurant use (the "Building"), originally constructed in the late 1960s with an 82,800-square foot bonus attributable to the Plaza; and

WHEREAS, The Plaza received certifications for design modifications and an open air café from the City Planning Commission ("CPC") on June 23, 2010 and July 1, 2010, respectively; and

WHEREAS, On June 21, 2013, the then-operator of the Café applied for a renewal of the Café Certification, which was granted by the CPC Chair on September 24, 2013, for a term of three years, which lapsed on September 24, 2016; and

WHEREAS, The Applicant purchased the Building in January 2018 and applied for a new Café Certification, which was granted by the CPC Chair on July 28, 2020 for a new café tenant/operator (Shake Shack); and

WHEREAS, The Café is currently operating under a Chairperson's Certification expiring July 28th, 2023; and

WHEREAS, No changes to the Café are proposed from the plans approved in connection with the last Café Certification; and

WHEREAS, The Café would continue to have 25 tables and 60 chairs; and

WHEREAS, The Café's area of 1,400 square feet or 16.9% of the Plaza's area, would continue to comply with the 20% maximum allowed for an open air café per ZR 37-73(b); and

WHEREAS, The Café would continue to be serviced from the restaurant space on the ground floor of the Building, which would allow for servicing of the Café without having any wait-staff cross the portion of the Plaza fronting West 53rd Street; and

WHEREAS, The Café will allow anybody to sit at the tables in the Plaza while adding signage that denotes the seating is open to the public; and

WHEREAS, The Café will not allow public bathroom access; and

WHEREAS, Members of the public discussed various issues with this Plaza, including but not limited to, trash overflow, loitering and drug use, noise, and traffic from food delivery; and

WHEREAS, The Applicant has agreed to speak with their delivery partner ("PFG") about the noise disturbances and traffic issues; and

WHEREAS, The Applicant has agreed to add more trash containers in the open space to encourage customers to dispose of their trash in the proper receptacles, and remove waste from full City trash containers; and

WHEREAS, The Applicant has agreed to add signage prohibiting loitering, and will continue to work with residents on how to best balance public use of the outdoor seating while ensuring the space is used appropriately; and

WHEREAS, The Applicant has agreed to meet with residents in the vicinity of the Plaza at a later date to solidify their plans in addressing these issues; and

WHEREAS, CB5 requests that this meeting be scheduled in advance of the next Full Board meeting; and

**RESOLVED**, Community Board Five **recommends denial** of the application for the continued operation of an open air café despite the Applicant addressing the concerns brought up surrounding littering and trash, loitering, and food delivery loading, given that a meeting with local residents was not scheduled in advance of the Full Board meeting.



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