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## Land Use, Housing & Zoning

May 2022, Land Use, Housing & Zoning Committee



### **280 Park Avenue, application on behalf of Fasano Restaurant New York LLC for certification by the Chair of the City Planning Commission pursuant to Section 37-73(c) of the Zoning Resolution to allow two open air cafes within an existing plaza**

WHEREAS, 280 Park Avenue ("Applicant") is a building within a C5-3 Zoning District; and

WHEREAS, The building comprises Block 1284, Lot 33; and

WHEREAS, Since 1968, this building has provided a public plaza of 17,603 square feet; and

WHEREAS, The plaza fully surrounds the building on its street sides, along East 48th Street, the west side of Park Avenue, and East 49th Street, with the space on Park Avenue bordered along the sidewalk by planters with trees, interrupted mid-block by six steps leading to an elevated, empty strip of space, with the only usable portion on East 48th Street; and

WHEREAS, The Applicant is requesting two open air cafes within the existing plaza;

WHEREAS, The proposed cafes would have 12 tables with 32 seats that would cover ~9% of the total plaza square footage, and 11.6% of the street frontage; and

WHEREAS, The proposed cafes will be serviced by the adjoining restaurant, with no kitchen equipment present in the cafes; and

WHEREAS, There had previously been two open air cafes in operation in the plaza that had a larger footprint, the permits for which expired on December 13, 2021; and

WHEREAS, Bathrooms that would be used by cafe patrons are on the second floor of the building; and

WHEREAS, The Applicant would not commit to granting the public access to the open air cafes and seating without the purchase of food, on economic grounds - even outside of operating hours or the direct footprint of the case; and

WHEREAS, The Applicant would not commit to provide extra seating to the public in the plaza outside of the cafe footprint; and

WHEREAS, The Applicant would not commit to giving the public access to the bathrooms; and

WHEREAS, Community Board Five (CB5) is concerned about both the pedestrian congestion on the sidewalks of midtown, and the safeguarding of public space that the general public is meant to enjoy; and

WHEREAS, CB5 believes that open air café seating in a privately owned public place 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, CB5 believes there is a severe shortage of public restrooms in New York City, especially within our district, and that whenever possible and feasible, we must push to expand access to restrooms when public space is concerned without requiring users to be patrons; and

WHEREAS, CB5 believes that if the public ends up unable to use the seating or restrooms without purchase of food or beverage, the public costs associated with some commercial activity in this public space would outweigh any other potential public benefit associated with these Open Air Cafés; and

WHEREAS, If the seating and restrooms end up being available for the public to use both with and without purchase, the proposed Open-Air Cafes could benefit; and therefore, be it

RESOLVED, Community Board Five **recommends denial** of the application requesting certification by the Chair of the City Planning Commission pursuant to Section 37-73(c) of the Zoning Resolution to allow two open air cafes within an existing plaza **UNLESS**:

(1) The Applicant provides additional seating for the public's use in the remaining public space footprint that does not include the cafe footprint; and

(2) The Applicant grants members of the public access to the restrooms to use both with and without purchase; and

(3) The Applicant grants the public access to the cafe tables outside of operating hours



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