

LR Item 3
Project Description

246 Spring Street
Open Air Cafe Certification

May 21, 2024

1. Introduction

This is an application on behalf of 246 Spring Street (NY) LLC ("Applicant") for 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 cafe ("Cafe") of 472 square feet to be located within an existing public plaza ("Plaza").

2. Background

A design for an Urban Plaza on the site was approved on May 31, 2005 (N 050341 ZCM) but was not developed. The Plaza, which totals 8,616 square feet, was developed pursuant to a second certification of compliance with the then-applicable urban plaza requirements contained within Section 37-04 (now contained within Appendix E) of the Zoning Resolution; it received the Chair's certification of compliance on August 31, 2006 (N 070038 ZCM). On April 16, 2012, the site received Chair certifications for design changes to the plaza and for an open air cafe (N 110273 ZCM and N 110274 ZCM). The open air cafe lapsed by operation of law on April 16, 2015. A Second Chair certification for an open air cafe was approved on April 26, 2021 (N 200170 ZCM and N 200325 LDM). The second open air cafe lapsed by operation of law on April 26, 2024. The proposed Cafe will be the same size and configuration as the most recently approved open air cafe.

3. Description of Surrounding Area

The Development Site ("Development Site") is located in the Hudson Square area of SoHo. Although this area has historically been industrial in character, the past two decades have seen an increase in commercial and residential uses in the neighborhood.

Varick Street, as well as the portion of Spring and Dominick Streets between Hudson Street and Sixth Avenue, is primarily comprised of loft-style buildings constructed in the early 20th century and rising up to 15 stories in height. Dominick Street, on the block to the south of the Development Site, also includes a parking lot and public high school, as well as, one block to the west, a row of three adjacent early 19th-century townhomes that are New York City individual landmarks. The built character becomes increasingly mixed further south, on Broome and Watts Streets, where low-rise 19th-century tenements are interspersed with 20th-century office buildings and high-rise residential buildings, up to 25 stories, constructed within the past eight years. The block

west of Varick Street, between Broome and Watts Streets, is comprised entirely of entrances to the Holland Tunnel and public open space.

The area to the north of the Development Site, along and to the west of Varick Street, is, like the blocks immediately to the east, west, and south of the Development Site, characterized by early-20th century loft buildings developed on large lofts. A new 22-story, 1.2 million square foot office development occupying the full block bound by Varick, Spring, Hudson and Vandam Streets is currently under construction. The new office development will serve as the New York headquarters for the Walt Disney Company. The Charlton-King-Vandam Historic District, which is comprised of Federal-style townhouses built in the 1820s, is located farther north of the Development Site, between Varick Street and Sixth Avenue.

East of Sixth Avenue, the character of Spring Street, along with Sullivan Street, is defined by three- to six-story 19th-century tenement buildings and Federal-style rowhouses, which contribute to the Thompson-Sullivan Historic District.

Varick Street is a major vehicular transportation route to the Holland Tunnel and Sixth Avenue is a major northbound thoroughfare. The Development Site is served by the C and E subway lines at the Spring Street Station on Sixth Avenue, and the 1 Subway line at the Canal Street Station on Varick Street.

Greenspace in the area includes a park at the Holland Tunnel entrance on Varick Street between Broome and Watts Streets; Spring Street Park, a triangular median in Sixth Avenue between Spring and Broome Streets that features large shade trees and seating areas; Vesuvio playground, located on the block bounded by Spring, Sullivan, Thompson, and Prince Streets; and Father Fagin Park, located on the east side of Sixth Avenue between Vandam and Prince Streets. There are no other public plazas within the Surrounding Area.

The Development Site and Surrounding Area are located within the Special Hudson Square District, established in 2013 and generally bounded by Avenue of the Americas and Greenwich, Houston, and Canal Streets (120381A ZRM and 120380 ZMM, approved January 23, 2013). The goal of the Special District is to foster new office and residential development, including affordable housing that in tandem with the urban design guidelines introduced as a part of the Special District, would continue the transformation of an area historically dominated by manufacturing uses into a vibrant, mixed-use community with an active street life. The Special District allows residential development as-of-right at a base FAR of 9.0, bonusable to 12.0 FAR with Inclusionary Housing. Building form is controlled by contextual bulk regulations with additional requirements for ground floor retail uses and transparency. As the area is well-served by transit and surrounded by neighborhoods that have experienced significant residential growth and mixed-use development in recent years, the Special Hudson Square District was expected to attract both affordable and market-rate housing development, businesses seeking affordable office space, and neighborhood retail uses that would enliven the area, while maintaining the built character of the neighborhood.

The Surrounding Area, west of Sixth Avenue, is mapped with an M1-6 zone. M1 districts are designed to serve as buffer areas between heavier industrial uses and adjacent residential or commercial districts. These districts typically include light industrial uses, such as artisans' workshops and storage and warehouse facilities, as well as office, retail, and hotel uses. Other industrial uses may be permitted if they meet the M1 district performance standards. Another M1 district (M1-5B) is mapped east of Sixth Avenue, south of Spring Street.

To the north of this district there is an R7-2 District, with commercial overlays mapped along Sixth Avenue and Spring Street. Another residential district, R6, is mapped to the north of Vandam Street, between Varick Street and Sixth Avenue. These are both non-contextual, medium-density districts that permit FARs of up to 3.0 and 4.0, respectively, when Quality Housing regulations are utilized.

4. Description of the Proposed Development Site

The Plaza is part of the Dominick Hotel development ("Hotel"), located on the western portion of the block bounded by Spring Street to the north, Avenue of the Americas to the east, Dominick Street to the south and Varick Street to the west. The lot area of the Development Site is 24,727 square feet. The Development Site is part of a larger zoning lot ("Zoning Lot") that contains Lots 1101-1131 (former Lot 50); the total area of the Zoning Lot is 34,102 square feet. The Plaza is entirely located on former Lot 36.

The Plaza is 8,616 square feet in area and is located to the east of the Hotel. The Plaza's western edge is located approximately 92 feet east of the Varick Street property line. The Spring Street frontage is 48 feet 9 inches in width, and its Dominick Street frontage is 50 feet 7 inches in width. The length of the Plaza is approximately 175 feet. The entire Plaza was comprised of what was defined in 37-04 of the Zoning Resolution as major space. Aside from the planting beds, all areas of the plaza are open and physically and visually accessible to the public. A 15-foot-wide diagonal circulation path extends from Spring Street to Dominick Street. The circulation path is illuminated by a row of light standards placed to the east of the path.

5. Description of the Proposed Development

The Applicant proposes to locate an approximately 472-square foot Cafe in the northwestern portion of the Plaza, adjacent to the Hotel's restaurant space. Its northern boundary would be 26 feet south of the street line. It would therefore not occupy any of the Plaza's street frontage. The restaurant located in the Hotel would operate the proposed Cafe, and access to the Cafe would be from within the restaurant.

The Cafe would extend approximately nine and a half feet from the eastern façade of the Hotel at its widest point, along the northern boundary of the Cafe. It would narrow to five feet wide at its southern boundary. In addition to café tables and chairs, the Cafe would include one litter receptacle. In the off-season, the Cafe tables and chairs would be removed and the Cafe space would be unobstructed. The total

size, configuration, and number of tables and chairs of the Cafe will remain as previously approved in 2021.

The Cafe will activate the Plaza by offering an amenity for nearby residents and workers and enhancing the visual interest of the Plaza, thereby drawing additional users to the public space.

6. Actions Necessary to Facilitate Project

This application is for a certification by the Chair of the City Planning Commission pursuant to Section 37-73 (Kiosks and Open Air Cafes) of the Zoning Resolution for an open air cafe to be located in a Plaza at the Development Site. Pursuant to ZR Section 37-73(c), an open air cafe located in a public area must obtain a certification from the Chair of the CPC that the cafe meets the requirements of ZR Section 37-73. As shown on the attached drawings, the Cafe will promote the public enjoyment of the Plaza and will comply with all regulations of ZR Section 37-73.

Certification Pursuant to ZR Section 37-73
Applicant's Statement of Findings

246 Spring Street

May 21, 2024

Section 37-73

Kiosks and Open Air Cafes

Kiosks and open air cafes may be placed within a #publicly accessible open area# upon certification, pursuant to this Section. Such features shall be treated as permitted obstructions. Only #uses# permitted by the applicable district regulations may occupy #publicly accessible open areas# or front on #publicly accessible open areas#.

* * * * *

(b) Open air cafes

Where an open air cafe is provided, it shall be a permanently unenclosed restaurant or eating or drinking place, permitted by applicable district regulations, which may have waiter or table service, and shall be open to the sky except that it may have umbrellas, temporary fabric roofs with no vertical supports in conformance with the Building Code, and removable heating lamps. Open air cafes shall occupy an aggregate area not more than 20 percent of the total area of the #publicly accessible open area#. #Publicly accessible open areas# less than 10 feet in width that are located between separate sections of the same open air cafe or between sections of an open air cafe and a kiosk that provides service for such cafe must be included in the calculation of the maximum aggregate area of the open air cafe. Open air cafes shall be located along the edge of the #publicly accessible open area#, except for open air cafes located within #publicly accessible open areas# greater than 30,000 square feet in area. Open air cafes may not occupy more than one third of any #street# frontage of the #publicly accessible open area# and may not contain any required circulation paths. An open air cafe must be accessible from all sides where there is a boundary with the remainder of the #publicly accessible open area#, except where there are planters or walls approved pursuant to a prior certification for an open air cafe. Subject to the foregoing exception, fences, planters, walls, fabric dividers or other barriers that separate open air cafe areas from the #publicly accessible open area# or sidewalk are prohibited. All furnishings of an open air cafe, including tables, chairs, bussing stations, and heating lamps, shall be completely removed from the #publicly accessible open area# when the open air cafe is not in active use, except that tables and chairs may remain in the #publicly accessible open area# if they are unsecured and may be used by the public without restriction. No kitchen equipment shall be installed within an open air cafe; kitchen equipment,

however, may be contained in a kiosk adjoining an open air cafe. An open air cafe qualifying as a permitted obstruction shall be excluded from the definition of #floor area#.

The exterior corners of the border of the space to be occupied by an open air cafe shall be marked on the ground by a line painted with white latex traffic or zone marking paint. The line shall be one inch wide and three inches in length on each side of the cafe border from the point where the borders intersect at an angled corner. In addition, a line one inch wide and three inches long shall be marked on the ground at intervals of no more than five feet starting from the end point of the line marking the cafe corners.

Open air cafes must be in operation and provide service a minimum of 225 days per year.

Open air cafes shall be located at the same elevation as an adjoining #public plaza# and sidewalk area, except for platforms that shall not exceed six inches in height.

The Open Air Cafe ("Cafe") will be unenclosed, with the exception of permitted umbrellas; will be permitted under the underlying district regulations; will be open to the sky except for the placement of umbrellas; will occupy a total of 472 square feet (5.5 percent of the total area of the 8,616 square foot plaza ("Plaza")), which is less than 20 percent of the total area of the Plaza; will be located on the western edge of the Plaza; will be set back 26 feet from Spring Street and therefore does not occupy any street frontage; does not contain any required pedestrian circulation; will be accessible from all sides where there is a boundary with the remainder of the Plaza; will not have any barriers separating the Cafe from the Plaza; will be located at the same elevation as the adjoining Plaza; will have furniture removed in the off-season; will not contain any kitchen equipment; and will be open a minimum of 225 days per year. In addition, the Cafe will have the border of the space marked as required by a line painted with white latex paint

(c) Certification

Kiosks and open air cafes that comply with the provisions of this Section may be placed within the area of a publicly accessible open area upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that:

- 1) such #use# promotes public use and enjoyment of the #publicly accessible open area#;*

The Cafe will activate the northwestern side of the Plaza by attracting a steady set of users to the space, thereby enhancing the vitality and attractiveness of the Plaza to additional users. The Cafe would provide for a greater diversity of uses and users within the Plaza, particularly in evenings and weekends when the neighborhood tends to be less populated and the Plaza less utilized.

- 2) *such #use# complements desirable #uses# in the surrounding area;*

The Cafe would complement the desirable uses in the area, which is a formerly industrial area with a growing residential and commercial presence. It will help to make the area more attractive on weekends and evenings and add to Hudson Square neighborhood's continued transformation into a vital mixed use community that is active 24/7, supporting businesses and residents.

- 3) *the owner of such #use# or the building owner shall be responsible for the maintenance of such kiosk or open air café, which shall be located within areas designated on building plans as available for occupancy by such uses and not encroachment by a kiosk or open air cafe outside an area so designated shall be permitted;*

The operator of the eating and drinking establishment, which will be located on the ground floor of the Hotel and will service the Cafe, will ensure that the Cafe is well-maintained and does not encroach beyond the permitted cafe zone, as shown on the included plans.

- 4) *such #uses# does not adversely impact visual and physical access to and throughout the #publicly accessible open area#;*

The Cafe will be 472 square feet in area. Pursuant to Section 37-726 (b) (Permitted obstructions), up to 50 percent of a public plaza that contains a Cafe may be obstructed. Approximately 29 percent of the Plaza area is currently obstructed. With the provision of the proposed Cafe and relocation of publicly accessible movable tables and chairs, only 31.03 percent of the Plaza area will be obstructed.

The proposed Cafe has been placed so as to ensure that it does not impact visual or physical access to and through the Plaza. The Cafe will be confined within a diagonal area abutting the Hotel façade, to the west of the designated circulation path and on the opposite side of the Plaza from the planted "outdoor room" seating areas. The Cafe will not impact or limit the public's ability to walk through or see into and through the Plaza. Physical access for the public to the Plaza will continue to be maintained by means of the circulation path to the east of the Cafe. Visual sight lines will be maintained through the Plaza by ensuring that the Cafe tables and chairs are low and do not obstruct views.

- 5) *such #use#, when located within a #public plaza#, is provided in accordance with all the requirements set forth in this Section;*

As required by Section 37-73(b), the cafe will be unenclosed and open to the sky, except for the use of umbrellas.

The area of the cafe will be 472 square feet, which represents 5.5 percent of the total area of the Plaza (8,616 square feet). This is significantly less than the 20% maximum specified in this Section for an open air cafe. The cafe will be located along the northern edge of the Plaza and will not occupy any street frontage or encompass any required plaza circulation paths. It will not be separated from the remainder of the Plaza by any planters or other barriers and it will be at the same elevation as the

remainder of the Plaza. White painted lines will demarcate the outer corners and edge of the permitted cafe zone.

The cafe is expected to be open seven days per week throughout the months of April 1 to November 15, including more than 225 days per year. Furniture associated with the café will be removed when the café is not in use. No kitchen equipment will be installed in the Plaza, as all kitchen functions will take place in the adjacent eating and drinking establishment.

- 6) *for kiosks and open air cafes located within an existing publicly accessible open area#, such #use# is proposed as part of a general improvement of the #publicly accessible open area# where necessary, including as much landscaping and public seating as is feasible, in accordance with the standards for #public plaza#;*

The existing Plaza was improved in 2012 and brought into greater accordance with current Plaza standards. The application seeks to renew the Cafe that was approved in 2021.

- 7) *a #sign# shall be provided in public view within the café area indicating the days and hours of operation of such café; and*

A clearly visible sign will be provided that will indicate the days and hours of operation of the Cafe.

- 8) *for kiosk that are in operation less than 225 days per year, an off-season plan has been submitted to the Chairperson showing that such kiosks will be completely removed from the #publicly accessible open area# when not in operation, that the area previously occupied by the kiosk is returned to public use and such area is in compliance with the applicable #publicly accessible open area# design standards.*

This is not applicable, as no kiosk proposed for the Plaza.