

**14-07-BZ**

**CEQR #07-BSA-053M**

APPLICANT – Ivan Khoury, Esq., for Green Tea Inc., owner; Da Spa, LLC, dba Delluva Day Spa, lessee.

SUBJECT – Application January 11, 2007 – Special Permit (§73-36) to legalize a PCE (spa) located in the Tribeca West Historic District and a M1-5 zoning district. The proposal is contrary to §42-10.

PREMISES AFFECTED – 152 Franklin Street, 150.33’ east of the intersection of Franklin and Hudson Streets, Block 189, Lot 7506, Borough of Manhattan.

**COMMUNITY BOARD #1M**

APPEARANCES – None.

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT –**

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4  
Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 12, 2006, acting on Department of Buildings Application No. 104556464, reads in pertinent part:

“Proposed use of physical cultural establishment in Manufacturing district M1-5 at first floor is contrary to ZR 42-10- (uses permitted as of right).”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5 zoning district, within the Special Tribeca Mixed Use District, the legalization of a physical culture establishment (PCE) on the first floor and a portion of the cellar level of an existing seven-story mixed-use residential/commercial building, contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on April 10, 2007 after due notice by publication in *The City Record*, and then to decision on May 8, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Franklin Street, between Varick Street and Hudson Street; and

WHEREAS, the site is occupied by a seven-story mixed-use residential/commercial building; and

WHEREAS, the PCE occupies 2,369 sq. ft. of floor area on the first floor and 1,285 sq. ft. of floor space in the cellar; and

WHEREAS, the PCE, which is operated under the name Delluva Day Spa, began operations at the site on January 26, 2007; and

WHEREAS, the applicant represents that the PCE offers spa treatments including facial massages, hydrotherapy, and other beauty and skin care services; and

WHEREAS, the proposed hours of operation are: Monday through Wednesday, 9:00 a.m. to 7:00 p.m.; Thursday 8:00 a.m. to 8:00 p.m.; Friday and Saturday, 8:00 a.m. to 9:00 p.m.; and Sunday, 10:00 a.m. to 6:00 p.m.; and

WHEREAS, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 07BSA053M, dated March 24, 2007; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the Board has determined that the operation of the PCE will not have a significant adverse impact on the environment.

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City

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Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5 zoning district, within the Special Tribeca Mixed Use District, the legalization of a physical culture establishment on the first floor and a portion of the cellar level of an existing seven-story mixed-use residential/commercial building, contrary to ZR § 42-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 27, 2007"- (3) sheets and *on further condition*:

THAT the term of this grant shall expire on January 26, 2017;

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the hours of operation shall be limited to: Monday through Wednesday, 9:00 a.m. to 7:00 p.m.; Thursday 8:00 a.m. to 8:00 p.m.; Friday and Saturday, 8:00 a.m. to 9:00 p.m.; and Sunday, 10:00 a.m. to 6:00 p.m.;

THAT all massages shall be performed by New York State licensed massage therapists;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 8, 2007.

**A true copy of resolution adopted by the Board of Standards and Appeals, May 8, 2007.  
Printed in Bulletin No. 18-19, Vol. 92.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**