

**188-15-BZ**

**CEQR #16-BSA-018M**

APPLICANT – Sheldon Lobel, P.C., for 100 West 72<sup>nd</sup> Street Associates, LLC, c/o Robert C. Quinlan, owner. SUBJECT – Application August 17, 2015 – Special Permit (§73-36) to permit a Physical Culture Establishment (*Miccass/Momemtum Fitness*) in the cellar level of the premises. C4-6A zoning district. PREMISES AFFECTED – 100 West 72<sup>nd</sup> Street, southwest corner of West 72<sup>nd</sup> Street and Columbus Avenue, Block 1143, Lot 7503, Borough of Manhattan.

**COMMUNITY BOARD #7M**

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

**THE VOTE TO GRANT –**

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....	5
Negative:.....	0

**THE RESOLUTION –**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 6, 2016, acting on Department of Buildings Application No. 122459437, reads in pertinent part:

“Proposed ‘Physical Culture Establishment’ is not permitted As-Of-Right as per section ZR 32-10 and a special permit by the Board of Standards and Appeals (BSA) is required to comply with ZR 32-10”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03 to permit, on a site located in a C4-6A zoning district, the operation of a physical culture establishment (PCE) contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on April 26, 2016, after due notice by publication in *The City Record*, and then to decision on May 3, 2016; and

WHEREAS, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 7, Manhattan, recommended approval of this application; and

WHEREAS, the subject site is located at the corner of West 72nd Street and Columbus Avenue, in a C4-6A zoning district, in the Upper West Side/Central Park West Historic District, in Manhattan; and

WHEREAS, the site has approximately 50 feet of frontage along West 72nd Street, 102 feet of frontage along Columbus Avenue, 5,109 sq. ft. of lot area, and is improved upon with a seven-story mixed-use residential and commercial building; and

WHEREAS, the PCE will occupy 6,485 sq. ft. of floor area in the cellar level of the building and be accessible by elevator and stairway from the ground floor entrance to the building on Columbus Avenue; and

WHEREAS, the building otherwise contains

commercial tenants on the ground floor and residential units on floors two through seven; and

WHEREAS, the subject PCE space will be operated by both Miccass Physical Therapy, PC and Momentum Fitness, LLC, with Miccass Physical Therapy, PC sub-leasing a portion of the space to Momentum Fitness, LLC; and

WHEREAS, the space will provide fitness rehabilitation to physical therapy patients as well as space for personal training and include areas for small group fitness classes, aerobics, weight lifting, and cardiovascular exercises; and

WHEREAS, the space will additionally include areas for reception, assessment, a staff lounge and massages; and

WHEREAS, the proposed hours of operation are Monday through Friday 8:00 a.m. to 8:00 p.m., Saturday 8:00 a.m. to 3:00 p.m. and Sunday 8:00 a.m. to 2:00 p.m.; and

WHEREAS, with regards to sound attenuation measures, the applicant represents that 7.5mm-thick rubber flooring will be installed within the areas designated for circuit and cardiovascular training and 22.5mm-thick rubber flooring will be installed within the area designated for free weight uses; and

WHEREAS, the applicant further represents that amplified music will not be utilized in the group exercise space, which will be used for yoga and Pilates classes; 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 deemed to be satisfactory; and

WHEREAS, by letter dated April 14, 2016, the Fire Department states that it has no objections to the subject application; and

WHEREAS, the Landmarks Preservation Commission (“LPC”) issued a Certificate of No Effect to the subject property, expiring January 21, 2020, indicating approval of certain alterations to the premises related to the subject application and finding that the work will have no effect on significant protected features of the building; and

WHEREAS, the applicant represents that the premises is located in a heavily trafficked commercial area comprised of buildings with commercial retail uses on the ground floor and residential uses on upper floors and, as the location is within walking distance of three subways stations, the use is not anticipated to create additional vehicular traffic; and

WHEREAS, additionally, the applicant represents that the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither alter the essential character of the

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surrounding neighborhood, impair the use or development of adjacent properties, nor be detrimental to the public welfare; 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 a Type II action pursuant to 6 NYCRR, Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 16BSA018M, dated August 14, 2015; and

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination 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 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 located in a C4-6A zoning district, the operation of a physical culture establishment contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 2, 2016"—Six (6) sheets; and *on further condition*:

THAT the term of the PCE grant is ten years, expiring on May 3, 2026;

THAT the hours of the PCE shall be limited to Monday through Friday 8:00 a.m. to 8:00 p.m., Saturday 8:00 a.m. to 3:00 p.m. and Sunday 8:00 a.m. to 2:00 p.m.;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT minimum 3'-0" wide exit pathways shall be provided leading to the required exits and such pathways shall always be maintained unobstructed, including from any gymnasium equipment;

THAT an approved interior fire alarm—including manual pull stations at each required exit, local audible and visual alarms, area smoke detector and a connection to an FDNY-approved central station—shall

**A true copy of resolution adopted by the Board of Standards and Appeals, May 3, 2016.  
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**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

be installed in the entire PCE space;

THAT all interior partitions and exists shall be as approved by DOB;

THAT Local Law 58/87 shall be complied with as approved by DOB;

THAT 7.5mm-thick rubber flooring shall be installed within the areas designated for circuit and cardiovascular training;

THAT 22.5mm-thick rubber flooring shall be installed within the area designated for free weight uses;

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by May 3, 2021;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB 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 3, 2016.

