

***CORRECTION**

This resolution adopted on June 17, 2008, under Calendar No. 38-08-BZ and printed in Volume 93, Bulletin Nos. 24-25, is hereby corrected to read as follows:

38-08-BZ

CEQR #09-BSA-059M

APPLICANT – Jay A. Segal, Greenberg Traurig, LLP, for 40 Broad LLC, owner; 40 Broad Spa Owner LLC, lessee.

SUBJECT – Application February 22, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on the second and third floors of an existing 25-story commercial building. The proposal is contrary to §32-10. C5-5 within the Historic & Commercial Core Area of the Special Lower Manhattan District.

PREMISES AFFECTED – 40 Broad Street (a/k/a 34-40 New Street) lot fronting Broad Street and New Street, south of Exchange Place, north of Beaver Street, Block 24, Lot 32, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Sidney N. Hockens.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 23, 2008, acting on Department of Buildings Application No. 110069372, reads in pertinent part:

“A Physical Culture Establishment is not a permitted as of right use in a C5-5 district;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district within the Historic and Commercial Core Area of the Special Lower Manhattan District, the establishment of a physical culture establishment (PCE) on portions of the second and third floors of a 25-story mixed use residential/commercial office building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on May 13, 2008, after due notice by publication in *The City Record*, and then to decision on June 17, 2008; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Manhattan,

recommends approval of this application; and

WHEREAS, the subject site occupies a through lot located on the west side of Broad Street and the east side of New Street between Exchange Place and Beaver Street; and

WHEREAS, a 25-story mixed-use commercial/residential building is currently under construction at the site; and

WHEREAS, the PCE will occupy a total of approximately 8,320 sq. ft. of floor area on portions of the second and third floors; and

WHEREAS, the PCE will be operated as Setai Club Spa; and

WHEREAS, the applicant represents that the services at the PCE will include cardiovascular exercise machines, weight-training equipment, and individual and group instruction; and

WHEREAS, the building plans reflect that the PCE will be located at least four stories below the residential portions of the building; 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 617.2 ak); 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. 08BSA059M, dated February 22, 2008; 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

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and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action 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 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 within a C5-5 zoning district within the Historic and Commercial Core Area of the Special Lower Manhattan District, the establishment of a physical culture establishment on portions of the second and third floors of a 25-story mixed use residential/commercial office building, contrary to ZR § 32-10, *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 18, 2008"- (2) sheets and "Received February 22, 2008"- (1) sheet; and *on further condition*:

THAT the term of this grant shall expire on June 17, 2018;

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 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 prior to the issuance of any permits, DOB shall review the floor area and location of the PCE for compliance with all relevant commercial use regulations;

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

A true copy of resolution adopted by the Board of Standards and Appeals, June 17, 2008.

Printed in Bulletin No. 24-25, Vol. 93.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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, June 17, 2008.

***The resolution has been corrected to reflect the change of name in the lessee which read. "40 Broad Commercial LLC," now reads: "40 Broad Spa Owner LLC". Corrected in Bulletin No. 7, Vol. 96, dated February 16, 2011.**