

41-07-BZ**CEQR #07-BSA-058M**

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for 17th and 10th Associates, LLC, owner; Equinox 17th Street, Inc., lessee.

SUBJECT – Application February 5, 2007 – Special Permit (§73-36) to permit the proposed PCE on the cellar, ground, and mezzanine levels of a 24-story building under construction. The Premises is located in a C6-3 zoning district and Sub Area 1 of the Special West Chelsea District. The proposal is contrary to §22-00.

PREMISES AFFECTED – 450 West 17th Street, a/k/a 100 Tenth Avenue, east side of Tenth Avenue between West 16th and West 17th Streets, Block 714, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M**APPEARANCES –**

For Applicant: Ellen Hay.

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 January 31, 2007, acting on Department of Buildings Application No. 104318908, reads in pertinent part:

“Proposed use of physical culture establishment is not permitted as of right in C6-3 zoning district and within the Special West Chelsea District under section 98-02 ZR.

This use is contrary to section 32-10 ZR and requires a special permit from the BSA under section 73-36 ZR.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-3 zoning district, within Sub Area I of the Special West Chelsea District, the establishment of a physical culture establishment (PCE) on portions of the cellar, first floor, and mezzanine levels of a proposed 24-story mixed-use residential/commercial building, contrary to ZR §§ 32-10 and 98-02; 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 4, Manhattan, recommends approval of this application, on the condition that a special discount be offered to residents occupying the building’s affordable units; and

WHEREAS, the subject site is located on the east side of Tenth Avenue, between West 16th Street and West 17th Street; the western portion of the site is traversed by the High Line elevated rail line; and

WHEREAS, the site is currently under construction and will be occupied by a 24-story mixed-use residential/commercial building; and

WHEREAS, the PCE will occupy 21,676 sq. ft. of floor space in the cellar, 8,332 sq. ft. of floor area on the first floor and 2,749 sq. ft. of floor area on the first floor mezzanine; and

WHEREAS, the PCE, will be operated as an Equinox fitness club; and

WHEREAS, the applicant represents that the PCE will offer fitness classes, instruction and programs for physical improvement, bodybuilding, weight reduction, aerobics, and massage treatments; and

WHEREAS, the proposed hours of operation are: Monday through Thursday, 5:30 a.m. to 11:00 p.m.; Friday 5:30 a.m. to 10:00 p.m.; and Saturday and Sunday, 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Board has reviewed the Community Board’s recommendation, however it notes that the PCE’s fee schedule is not relevant to the required findings; 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. 07BSA058M, dated February 5, 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

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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 Type I 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 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 C6-3 zoning district, within Sub Area I of the Special West Chelsea District, the establishment of a physical culture establishment on portions of the cellar, first floor, and mezzanine levels of a proposed 24-story mixed-use residential/commercial building, contrary to ZR §§ 32-10 and 98-02; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 16, 2007"-(2) sheets and "April 9, 2007"-(4) sheets; and *on further condition*:

THAT the term of this grant shall expire on May 8, 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 Thursday, 5:30 a.m. to 11:00 p.m.; Friday 5:30 a.m. to 10:00 p.m.; and Saturday and Sunday, 7:00 a.m. to 9:00 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;

**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.

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.