

53-15-BZ

CEQR #15-BSA-172M

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 10 E53rd Street Owner LLC c/o SL Green Realty Co., owner; Equinox East 53rd Street, Inc., lessee. SUBJECT – Application March 12, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Equinox*) within an existing building. C5-2.5(MID) + C.3MID)(F) zoning district.

PREMISES AFFECTED – 10 East 53rd Street, south side of east 53rd Street, 125' west of intersection of East 53rd Street and 5th Avenue, Block 01288, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....	4
Negative:.....	0
Absent: Vice-Chair Hinkson.....	1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 2, 2015 and as revised March 6, 2015, acting on Department of Buildings Application No. 122252631, reads in pertinent part:

“Proposed ‘Physical Culture Establishment’ is not permitted As-Of-Right as per section ZR 32-31 and a special permit by the Board of Standards and Appeals (BSA) is required to comply with ZR 73-36”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located partially within a C5-2.5 zoning district and partially within a C5-3 zoning district and in the Special Midtown District, the operation of a physical culture establishment (PCE) in a thirty-eight (38) story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 24, 2015 after due notice by publication in *The City Record*, and then to decision on December 15, 2015; and

WHEREAS, Community Board 5, Manhattan, waived the holding of a public hearing with regards to this application; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is an irregular through-lot located on the south side of East 53rd Street, between Fifth Avenue and Madison Avenue; and

WHEREAS, the site has approximately 100 feet of frontage along East 53rd Street, 79 feet of frontage along East 52nd Street, 17,071 sq. ft. of lot area, and is occupied by a thirty-eight (38) story commercial building; and

WHEREAS, the proposed PCE will occupy

approximately 582 sq. ft. on the sub-cellular level, 6,829 sq. ft. on the cellar level, 1,652 sq. ft. on the first floor, 1,099 sq. ft. on the mezzanine level, 9,606 sq. ft. on the second floor, and 11,552 sq. ft. on the third floor, for a total of 23,909 sq. ft. of zoning floor area and 31,320 sq. ft. including the exempt floor area located in the cellar and sub-cellular levels; and

WHEREAS, the majority of the proposed PCE will be located in portions of the building located in a C5-2.5 zoning district, but a portion of the space on the cellar and third floor levels will be located in the northern portion of the subject building that extends into a C5-3 zoning district; and

WHEREAS, no parking is required in connection with the proposed PCE in a C5 zoning district pursuant to ZR § 36-21; and

WHEREAS, the PCE will be operated as Equinox; and

WHEREAS, the applicant represents that the PCE will contain facilities for group fitness classes as well as weight lifting and aerobic exercise equipment; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Friday, 5:00 a.m. to 11:30 p.m., and Saturday through Sunday, 7:00 a.m. to 9:00 p.m.; 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, the Fire Department, by letter dated November 20, 2015, states that it has no objections to the proposal; and

WHEREAS, the applicant represents that the proposed PCE will contain an approved interior fire alarm system with automatic wet sprinklers and connected to a Fire Department-approved central station; and

WHEREAS, the applicant further represents that sound attenuation measures, including cushioned mats in the weight lifting areas and independently-mounted speakers; and

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

WHEREAS, accordingly, 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 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

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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; 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. 15-BSA-172M, dated September 21, 2015; 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, 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 § 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 partially within a C5-2.5 zoning district and partially within a C5-3 zoning district and in the Special Midtown District, the operation of a PCE in the sub-cellars, cellar, first, mezzanine, second and third floor levels of an existing thirty-eight (38) story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received December 11, 2015"—Nineteen (19) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on December 15, 2025;

THAT there will be no change in ownership or

A true copy of resolution adopted by the Board of Standards and Appeals, December 15, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

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

THAT sound attenuation measures shall be implemented and/or maintained as shown on the Board-approved plans;

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 December 15, 2019;

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, December 15, 2015.

