

**249-14-BZ**

**CEQR #15-BSA-089X**

APPLICANT – Akerman LLP, for Sam Shalem, owner; Capital fitness-"Bay Plaza LLC, lessee.

SUBJECT – Application October 15, 2014 – Special Permit (§73-36) to obtain a special permit to operate a physical culture establishment (*X Sport Fitness*) within an existing commercial building. (C4-3) zoning district. PREMISES AFFECTED – 200 Baychester Avenue, Hutchinson River Parkway and Baychester Avenue, Block 5141, Lot 6, Borough of Bronx.

**COMMUNITY BOARD #10BX**

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

**THE VOTE TO GRANT –**

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

**THE RESOLUTION –**

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 11, 2014, acting on DOB Application No. 220140274, reads, in pertinent part:

Proposed Physical Culture Establishment in a C4-3 zoning district is contrary to Section 42-10 Zoning Resolution [SIC]...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit the operation, on a site within a C4-3 zoning district, of a physical culture establishment (“PCE”) on the third and fourth floors of a four-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 10, 2015, after due notice by publication in the *City Record*, and then to decision on the same date; and

WHEREAS, Community Board 10, Bronx, recommends approval of this application; and

WHEREAS, the subject site is located within a C4-3 zoning district and is part of the Mall at Bay Plaza, which is comprised of lots 1, 3, 6, 8, 9, 11, 12, 15, and 17 on block 5141, in the Bronx; and

WHEREAS, the site has approximately 581.5 feet of frontage along the Hutchinson River Parkway, is located north of Baychester Avenue and south of Bartow Avenue, and consists of 201,720 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story commercial building; and

WHEREAS, the PCE shall operate as Capital Fitness – Bay Plaza, LLC d/b/a Export Fitness, and shall occupy 18,366sq. ft. of floor area on the third floor of the subject building and 19,222 sq. ft. of floor area on the fourth floor of the subject building, for a total floor area of 37,588 sq. ft.; and

WHEREAS, the PCE shall operate seven days a week, 24 hours a day; 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 Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does 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 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 (EAS) CEQR No.15-BSA-089X, dated October 15, 2014 ; and

WHEREAS, the EAS documents that the project as proposed 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; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; 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; and

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Negative Declaration 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 within a C4-3 zoning district, the operation of a PCE on the third and fourth floors of a four-story commercial building, contrary to ZR §32-10; *on condition* that all work will

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substantially conform to drawings filed with this application marked "Received December 23, 2014"-(6) sheets; *on further condition:*

THAT the term of the PCE grant will expire on February 10, 2025;

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

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

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

THAT accessibility compliance 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 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 February 10, 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, February 10, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, February 10, 2015.**

**Printed in Bulletin No. 8, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

