

241-14-BZ

CEQR #15-BSA-081M

APPLICANT – Warshaw Burstein, LLP, for Tiago Holdings, LLC, owner; East River Plaza Fitness Group, LLC, lessee.

SUBJECT – Application October 3, 2014 – Special Permit (§73-36) to allow the operation of physical culture establishment (*Planet Fitness*) on a portion of the third floor of the existing large scale development. C4-4 zoning district.

PREMISES AFFECTED – 517 East 117th Street, located within a large scale development located along FDR Drive between East 116th Street and 119th Streets, Block 1715, Lot(s) 22, 8, Borough of Manhattan.

COMMUNITY BOARD #11M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 30, 2014, acting on DOB Application No. 104161835, reads, in pertinent part:

Physical Culture Establishment is not permitted as-of-right in C4-4 district (ZR 32-10); and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C4-4 zoning district, the operation of a physical culture establishment (the “PCE”) in a portion of the third story of a six-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 10, 2015 after due notice by publication in the *City Record*, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Vice-Chair Hinkson; and

WHEREAS, Community Board 11, Manhattan, recommends approval of this application; and

WHEREAS, the subject site spans Blocks 1715 and 1716, with frontages along Franklin Delano Roosevelt Drive, East 117th Street, East 118th Street, and East 119th Street and 176,074 sq. ft. of lot area; it is known as the East River Plaza; and

WHEREAS, the site was developed pursuant to a 2007 City Planning Commission Special Permit (Lead ULURP Appl. No. C990098 ZMM) that rezoned the site from M2-2 and R7-2 to C4-4; and

WHEREAS, the site is occupied by two six-story commercial buildings (a retail and wholesale shopping center and a public parking garage) connected by a

footbridge; the site has a total of 507,265 sq. ft. of floor area and 1,248 parking spaces; and

WHEREAS, the PCE occupies 14,477 sq. ft. on the third story of the retail and wholesale building; and

WHEREAS, the PCE operates as Planet Fitness; and

WHEREAS, the hours of operation for the PCE will be seven days a week, 24 hours per 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 will not interfere with any pending public improvement project; and

WHEREAS, at hearing, the Board directed the applicant to: (1) confirm that a fire alarm and sprinkler systems have been installed within the PCE and are operational; and (2) amend the proposed drawings to reflect the proposed sound attenuation measures; and

WHEREAS, in response, the applicant confirmed that the fire alarm and sprinkler systems have been installed and are operational; in addition, the applicant submitted amended drawings that reflect the proposed sound attenuation measures; 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, the Board notes that the term of the grant has been reduced to reflect the operation of the PCE without the special permit; 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. 15-BSA-081M, dated October 3, 2014; 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

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legalize, on a site within a C4-4 zoning district, the operation of a physical culture establishment (the "PCE") in a portion of the third story of a six-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "March 26, 2015"- Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on January 1, 2025;

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

THAT accessibility 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 the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 31, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited 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 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, March 31, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, March 31, 2015.

Printed in Bulletin No. 15, Vol. 100.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

