

218-13-BZ

CEQR #14-BSA-011M

APPLICANT – Warshaw Burstein, LLP, for 37 W Owner LLC; Ultrafit LLC, lessee.

SUBJECT – Application July 19, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Ultrafit*). C6-3A zoning district. PREMISES AFFECTED – 136 Church Street, southwest corner of the intersection formed by Warren and Church Streets in Tribeca, Block 133, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #1M

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 16, 2013, acting on Department of Buildings (“DOB”) Application No. 103703789, reads in pertinent part:

Proposed change of use to a physical culture establishment, as defined by ZR 12-10, is not permitted as-of-right in a C6-3A zoning district pursuant to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C6-3A zoning district, the operation of a physical culture establishment (“PCE”) on portions of the cellar and ground floor levels of an 11-story mixed residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 10, 2013 after due notice by publication in *The City Record*, and then to decision on January 28, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located at the southwest corner of the intersection of Church Street and Warren Street, within a C6-3A zoning district within the Special Tribeca Mixed Use District; and

WHEREAS, the site has approximately 100 feet of frontage along Church Street, approximately 50 feet of frontage along Warren Street, and 5,029 sq. ft. of lot area; and

WHEREAS, the site is occupied by an 11-story mixed residential and commercial building; and

WHEREAS, the PCE is proposed to occupy approximately 2,686 sq. ft. of floor area on the ground floor of the building and 1,188 sq. ft. of floor space in the

cellar, for a total PCE floor space of 3,784 sq. ft.; and

WHEREAS, the PCE will be operated as Ultrafit, LLC; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE will be seven days per week, from 5:00 a.m. to 11:00 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 determined to be satisfactory; 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, at hearing, the Board directed the applicant to clarify the sound attenuation measures that will be provided, given that the building will contain residences; and

WHEREAS, in response, the applicant submitted a report from its acoustical consultant, which detailed the noise attenuation measures that will be provided; in addition, the plans have been amended to reflect that such noise attenuation measures that will be provided; 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 Unlisted pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA011M dated July 18, 2013; 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

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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 issued 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 in a C6-3A zoning district, the operation of a PCE on portions of the cellar and ground floor levels of an 11-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received January 24, 2014" – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on January 28, 2024;

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

THAT any massages will be performed only by New York State licensed massage professionals;

THAT Local Law 58/87 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 that the hours of operation of the PCE will be limited to daily, from 5:00 a.m. to 11:00 p.m.;

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

THAT substantial construction will be completed in accordance with ZR § 73-70;

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 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, January 28, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, January 28, 2014.
Printed in Bulletin Nos. 4-5, Vol. 99.

Copies Sent
To Applicant
Fire Com'r.
Borough Com'r.

