

**1-14-BZ**

**CEQR #14-BSA-094M**

APPLICANT – Law Office of Fredrick A Becker, for CPT 520 W 43 Owner LLC c/o Rose Associates, owner; Ewing Massage Entprise,LLC dba Massage Envoy, lessee.

SUBJECT – Application January 6, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Massage Envoy*). C6-4 zoning district.

PREMISES AFFECTED – 525 West 42nd Street, Northerly side of West 42nd Street 325 feet easterly of Tenth Avenue. Block 1071, Lot 42. Borough of Manhattan.

**COMMUNITY BOARD #4M**

**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

Absent: Commissioner Montanez .....1

**THE RESOLUTION** –

WHEREAS, the decision of the Executive Zoning Specialist of the Department of Buildings (“DOB”), dated December 9, 2013, acting on DOB Application No. 121236652, reads, in pertinent part:

Proposed physical culture establishment is not an as-of-right use; contrary to ZR 32-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4 zoning district, within the Special Clinton District, the operation of a physical culture establishment (“PCE”) in a portion of the first story of a 33-story mixed residential and commercial building, contrary to ZR § 32-31; and

WHEREAS, a public hearing was held on this application on April 29, 2014, after due notice by publication in the *City Record*, and then to decision on May 20, 2014; and

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

WHEREAS, Community Board 4, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is an interior lot with through-lot portions located on the north side of West 42nd Street and the south side of West 43rd Street between 10th Avenue and 11th Avenue, within a C6-4 zoning district, within the Special Clinton District; and

WHEREAS, the site has approximately 167 feet of frontage along West 43rd Street, 75 feet of frontage along West 42nd Street, and 24,269 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 33-story mixed residential and commercial building; the building has two segments: a 33-story portion with frontage along

West 43rd Street and a two-story portion with frontage along West 42nd Street; and

WHEREAS, the proposed PCE will be located on the ground floor of the two-story building segment and will occupy 3,600 sq. ft. of floor area; the applicant represents that the second story of the two-story building segment will contain a gym and other accessory uses and amenities for the residences of the subject building; and

WHEREAS, the PCE will be operated as Massage Envoy; and

WHEREAS, the applicant represents that the services at the PCE include spa services and massage by New York State-licensed masseurs and masseuses; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 7:00 a.m. to 12:00 a.m. and Sunday, from 7:00 a.m. to 10:00 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 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, 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 discussed in the Environmental Assessment Statement, CEQR No. 14BSA094M dated December 30, 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.

*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 within a C6-4 zoning district, within the Special Clinton District, the operation of a PCE in a portion of the first story of a 33-story mixed residential and commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 7, 2014" – Three (3) sheets and "Received April 30, 2014" – One (1) sheet; and *on further condition*:

THAT the term of the PCE grant will expire on May 20, 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 all massages must be performed by New York State licensed massage therapists;

THAT the hours of operation for the PCE will be limited to Monday through Saturday, from 7:00 a.m. to 12:00 a.m. and Sunday, from 7:00 a.m. to 10:00 p.m.;

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 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, May 20, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, May 20, 2014.**

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

