



## CITY PLANNING COMMISSION

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February 8, 2006/Calendar No. 18

N 050348 ZRM

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**IN THE MATTER OF** an application submitted by Barbizon Hotel Associates, L.P. pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York relating to Article III, Chapter 2 and Article VII Chapter 3, concerning Sections 32-31 (By the Board of Standards and Appeals) and 73-36 (Physical Culture or Health Establishments) to allow Physical Culture or Health Establishments by BSA special permit in C1-8X districts, Community Districts 8 and 11, Borough of Manhattan.

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The application for an amendment of the Zoning Resolution was filed by Barbizon Hotel Associates on March 10, 2005. The zoning text amendment would allow Physical Culture or Health Establishments in C1-8X districts by special permit of the Board of Standards and Appeals.

### **BACKGROUND**

Physical Culture or Health Establishments (PCHes) are meant to improve or affect a person's physical condition by exercise or massage. They are permitted only by special permit of the Board of Standards and Appeals (BSA) pursuant to Section 73-36. Section 73-36 was adopted in 1978 to allow the BSA to approve special permits for PCHes in C2, C4, C5, C6, C8, M1, M2 and M3 districts. In 1998, the text was amended to add C1-9 districts to this list (N 970290 ZRM).

C1-8X districts were created in 1984 and are currently mapped only along Lexington Avenue between East 61<sup>st</sup> and East 98<sup>th</sup> streets on the Upper East Side of Manhattan. The district was created to provide a contextual local commercial district equivalent in scale to R9X residential districts. The provisions of Section 73-36 are not applicable in C1-8X districts.

The proposed zoning text would add C1-8X districts to the list of zoning districts where PCHEs are permitted by BSA special permit. In order to grant the special permit, the BSA is required to make two findings:

1. That such use is so located as not to impair the essential character or the future use or development of the surrounding area; and
2. That such use contains:
  - (i) one or more of the following regulation size sports facilities: handball courts, basketball courts, squash courts, paddleball courts, racketball courts, tennis courts; or
  - (ii) a swimming pool of a minimum 1,500 square feet; or
  - (iii) facilities for classes, instruction and programs for physical improvement, body building, weight reduction, aerobics or martial arts; or
  - (iv) facilities for the practice of massage by New York State licensed masseurs or masseuses.

The proposed text would allow the applicant to apply for a special permit from the BSA to permit the continued operation of an Equinox health club located in the Barbizon Hotel at Lexington Avenue and East 63<sup>rd</sup> Street (Block 1397, Lot 49), in a C1-8X district. The structure is undergoing an as-of-right conversion from hotel to residential use. The health club would then cease to be an accessory use, and a special permit pursuant to the proposed text would allow the facility to continue operating as a primary use.

## **ENVIRONMENTAL REVIEW**

This application (N 050348 ZRM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 05DCP065M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on October 17, 2005.

## **PUBLIC REVIEW**

On October 17, 2005, this text amendment was duly referred to Community Board 8, Community Board 11, the Manhattan Borough President and the Borough Board for information and review in accordance with the procedure for referring non-ULURP matters.

### **Community Board Review**

Community Board 8 held a public hearing on this application on November 9, 2005, and on that date, by a vote of 25 in favor, 0 opposed with 0 abstentions, adopted a resolution recommending approval of the application.

Community Board 11 held a public hearing on this application on November 14, 2005, and on that date, by a vote of 15 in favor, 10 opposed with 2 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

The Borough President did not issue a recommendation concerning the application.

### **Borough Board Recommendation**

The Borough Board did not issue a recommendation concerning the application.

### **City Planning Commission Public Hearing**

On December 7, 2005 (Calendar No. 4), the City Planning Commission scheduled December 21, 2005, for a public hearing to consider the zoning text amendment (N 050348 ZRM). On December 21, 2005 (Calendar No. 34), the hearing was continued to January 11, 2006 (Calendar No. 31). There was one speaker in favor of the application and none in opposition.

The applicant's representative appeared in favor of the application.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes the proposed text amendment is appropriate.

Although C1-8X districts do not currently allow PCHEs, the Commission believes PCHEs are appropriate uses for densely populated residential neighborhoods like Manhattan's Upper East Side. The Commission notes that the zoning districts along First, Second, Third and Madison avenues in the Upper East Side already permit PCHEs by BSA special permit. The Commission believes it is appropriate to allow PCHEs along the commercially-zoned avenues of the Upper

East Side to provide such facilities for residents and workers. The Commission notes that many health clubs, including the Equinox facility, are located on the ground or second floors and provide visibility to and from the street, enhancing the pedestrian environment.

Because the text amendment would continue to require the BSA to find that proposed PCHEs do not adversely affect the character, use or development of the surrounding area, the Commission believes there to be adequate safeguards to ensure that PCHEs would be appropriate for C1-8X districts.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter in *italics* is defined in the Zoning Resolution;

\*\*\* indicates where unchanged text appears in the Zoning Resolution.

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**73-36** (xx/xx/05)

**Physical Culture or Health Establishments**

(a) In **C1-8X**, C1-9, C2, C4, C5, C6, C8, M1, M2 or M3 Districts, and in certain special districts as specified in the provisions of such special district, the Board of Standards and Appeals may permit *physical culture or health establishments* as defined in Section 12-10, including gymnasiums (not permitted under Use Group 9), massage establishments other than *adult physical culture establishments*, for a term not to exceed ten years, provided the following findings are made:

\* \* \*

The Board may prescribe appropriate conditions and safeguards including location of signs and limitations on the manner and/or hours of operation in order to minimize adverse effects on the character of the surrounding community.

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**32-30** (12/15/61)

**USES PERMITTED BY SPECIAL PERMIT**

**32-31** (xx/xx/05)

**By The Board of Standards and Appeals**

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<b><u>C1-8X</u></b>	<b>C1-9</b>	<b>C2</b>	<b>C4</b>	<b>C5</b>	<b>C6</b>	<b>C8</b>
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Physical culture or health establishments, including gymnasiums (not permitted under Use Group 9), massage establishments [PRC-B]

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The above resolution (N 050348 ZRM), duly adopted by the City Planning Commission on February 8, 2006 (Calendar No. 18), is filed with the Office of the Speaker, City Council, and the

Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, AICP, Chair**

**KENNETH J. KNUCKLES, Esq., Vice Chairman**

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,**

**ALFRED C. CERULLO, III, RICHARD W. EADDY, JANE D. GOL, LISA A. GOMEZ,**

**CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS,**

Commissioners