

MEETING OF: November 8, 2018
CALENDAR NO.: 2018-101-BZ
PREMISES: 21 West End Avenue, Manhattan
Block 1171, Lot 164
BIN No. 1088870

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

**Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown,
Commissioner Sheta and Commissioner Scibetta.....5**
Negative:0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 7, 2017, acting on DOB Application No. 121324717, reads in pertinent part:

Proposed physical culture or health establishment in zoning district C4-7 is not permitted as of right. A special permit is required from the Board of Standards and Appeals as per ZR 32-10, ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03 to legalize, on a site located within a C4-7 zoning district, a physical culture establishment (“PCE”) on portions of the cellar level and first floor of an existing 45-story plus cellar and mezzanine mixed-use residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 8, 2018, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the Board was in receipt of one letter in support of this application; and

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, Commissioner Ottley-Brown performed an inspection of the subject site and surrounding neighborhood; and

WHEREAS, the subject site is located on the southwest corner of West End Avenue and West 61st Street, within a C4-7 zoning district, in Manhattan; and

WHEREAS, the site has approximately 260 feet of frontage along West End Avenue, 308 feet of frontage along West 61st Street, and is occupied by a 45-story plus cellar and mezzanine mixed-use residential and commercial building, in which the subject PCE is located; and

WHEREAS, ZR § 73-36(a) provides that 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 may permit physical culture or health establishments as defined in Section 12-10 for a term not to exceed ten years, provided that the following findings are made:

- (1) that such *use*¹ 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 [*sic*] 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

¹ Words in *italics* are defined in Section 12-10 of the Zoning Resolution.

- (iv) facilities for practice of massage by New York State licensed masseurs or masseuses.

Therapeutic or relaxation services may be provided only as accessory to programmed facilities as described in paragraphs (a)(2)(i) through (a)(2)(iv) of this Section.; and

WHEREAS, ZR § 73-36(b) sets forth additional findings that must be made where a physical culture or health establishment is located on the roof of a commercial building or the commercial portion of a mixed building in certain commercial districts; and

WHEREAS, the applicant represents that, because no portion of the subject PCE is located on the roof of a commercial building or the commercial portion of a mixed building, the additional findings set forth in ZR § 73-36(b) need not be made or addressed; and

WHEREAS, ZR § 73-36(c) provides that no special permit shall be issued unless:

- (1) the Board shall have referred the application to the Department of Investigation for a background check of the owner, operator and all principals having an interest in any application filed under a partnership or corporate name and shall have received a report from the Department of Investigation which the Board shall determine to be satisfactory; and
- (2) the Board, in any resolution granting a special permit, shall have specified how each of the findings required by this Section are made.; and

WHEREAS, the Board notes that in addition to the foregoing, its determination is also subject to and guided by ZR § 73-03; and

WHEREAS, the Board notes that pursuant to ZR § 73-04, it has prescribed certain conditions and safeguards to the subject special permit in order to minimize the adverse effects of the special permit upon other property and community at large; the Board notes further that such conditions and safeguards shall be incorporated in the building permit and certificate of occupancy of the subject building, and that failure to comply with such conditions or restrictions shall constitute a violation of the Zoning Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant submitted evidence that the subject PCE occupies 1,157 square feet of floor area on the first floor with a reception area, and 9,243 square feet of floor space on the cellar level with a climbing gymnasium area, fitness area, restrooms, changing area, and mechanical areas; and

WHEREAS, the applicant represents that the PCE has been in operation since August 18, 2018, as “Central Rock Gym” with the following hours of operation: Monday through Friday, 6:00 a.m. to 11:00 p.m.; and, Saturday and Sunday, 8:00 a.m. to 9:00 p.m.; and

WHEREAS, the applicant represents that the PCE use will neither impair the essential character nor the future use or development of the surrounding area because the PCE has a minimal presence on the ground floor of the subject building, with a majority of its operations occurring in the cellar, many tenants in the building are members of the PCE, and the PCE expects to draw its patrons from the subject building and surrounding area; and

WHEREAS, the applicant represents that the PCE is located five (5) floors below the closest residential unit, does not utilize weights or exercise equipment, plays music at ambient noise levels, and provides 16-inch-thick “crash” mats in areas where climbers are not rope-assisted; and

WHEREAS, accordingly, the Board finds that the PCE is so located as to not impair the essential character or future use or development of the surrounding area; and

WHEREAS, the applicant represents that the PCE contains facilities for the provision of

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physical improvement through rope-assisted climbing, bouldering, and workouts utilizing pull-up bars and hangboards; and

WHEREAS, accordingly, the Board finds that the subject PCE use is consistent with those eligible pursuant to ZR § 73-36(a)(2) for the issuance of the special permit; 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 deemed to be satisfactory; and

WHEREAS, the applicant demonstrated that wet sprinkler system and a fire alarm system—including area smoke detectors, manual pull stations at each required exit, local audible and visual alarms and a connection of the building’s interior fire alarm to an FDNY-approved central station—are installed throughout the PCE space; and

WHEREAS, by letter dated November 7, 2018, the Fire Department stated no objection to the application and confirmed that an application for a place of assembly permit has been filed and approved, but no operating permit issued; the fire alarm application is currently disapproved, pending a decision from the Board to permit the PCE; the building fire suppression system for the residential building has been inspected and was found to be satisfactory; there is currently one (1) fire alarm system for the residential building that has been inspected by the Department and a sign-off is pending; the PCE space will be required to have a fire alarm system for their space, which has to be tied back into the residential building fire alarm system; the Bureau of Fire Prevention recommends that the Board, in granting a special permit, add as a condition that the applicant obtains an operating permit for the PA space, as well as an approval and sign-off for the fire alarm system; and that an inspector from the Licensed Public Place of Assembly unit will be visiting the space and will issue violation orders accordingly;

WHEREAS, pursuant to ZR § 73-03, the Board finds that, under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of the PCE use are outweighed by the advantages to be derived by the community; and

WHEREAS, the applicant represents that the PCE will not impact the privacy, quiet, light and air of the neighborhood on account of its location in the cellar level of the building and because it is operated to minimize any potential noise impacts; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings for the special permit pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE has operated at the premises without the special permit; 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. 18-BSA-145M, dated August 2, 2018; and

WHEREAS, based upon its review of the record, the Board finds that the requested special permit, legalizing the PCE on the cellar level and first floor, is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 and 617.3, §§ 5-02(a) and 5-02(b)(2) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to legalize, on a site located within a C4-7 zoning district, the operation of a physical culture establishment in portions of the cellar level and first floor of an existing 45-story plus cellar and mezzanine mixed-use 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 August 2, 2018”—Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on August 18, 2028;

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 under Local Law 58/87 shall be as reviewed and approved by DOB;

THAT the existing fire alarm and sprinkler systems shall be maintained as indicated on

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the Board-approved plans;

THAT minimum 3 foot wide exit pathways shall be provided leading to the required exits and such pathways shall always be maintained unobstructed, including from any equipment;

THAT the PCE's fire alarm system shall be approved and signed-off prior to the issuance of the certificate of occupancy;

THAT a public assembly permit shall be obtained prior to the issuance of the certificate of occupancy;

THAT the above conditions shall appear on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained within one (1) year, by November 8, 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, November 8, 2018.

CERTIFICATION

***This copy of the Resolution
dated November 8 2018
is hereby filed by
the Board of Standards and Appeals
dated November 30, 2018***

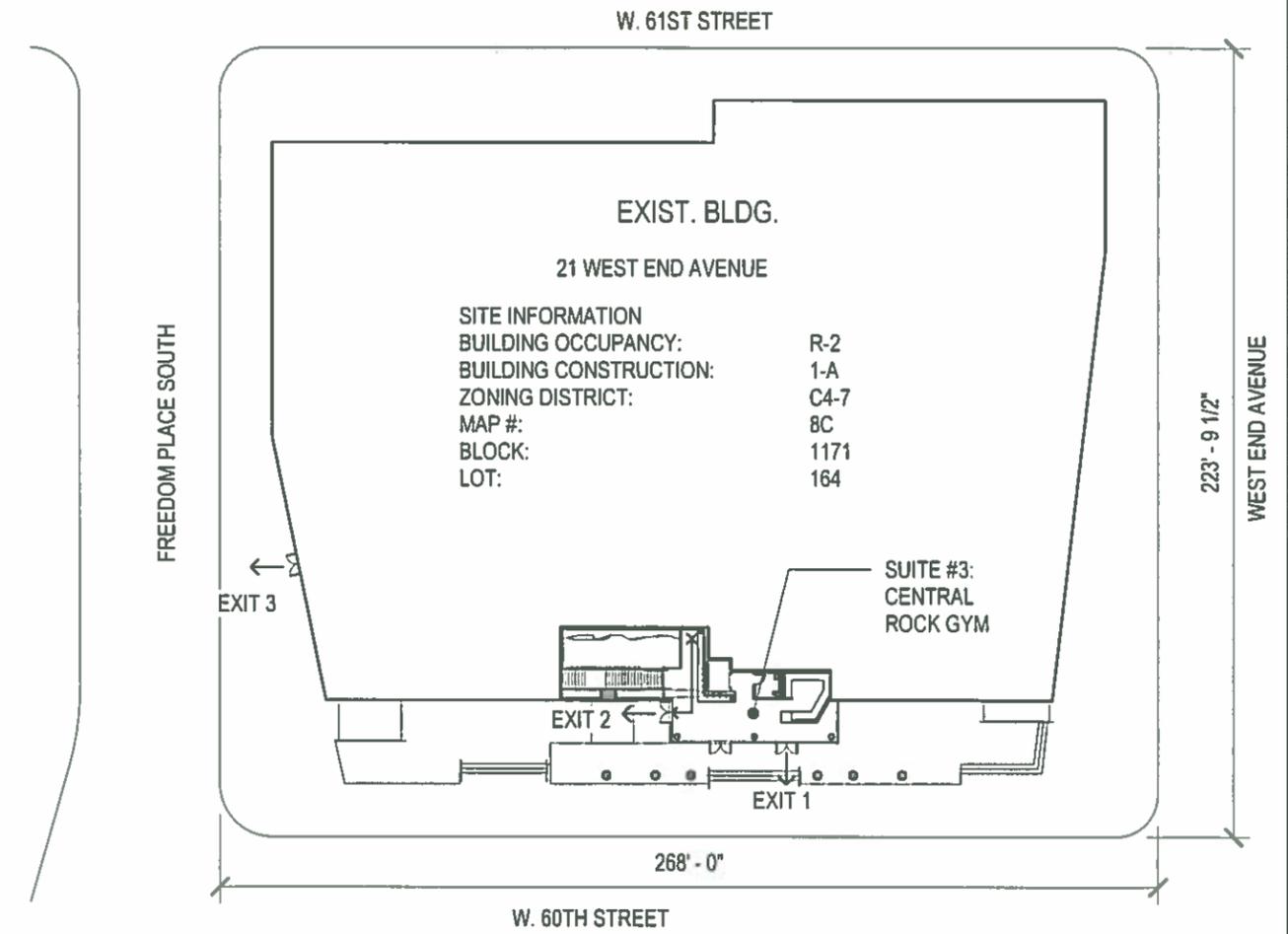


***Carlo Costanza
Executive Director***

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CODE ANALYSIS - SUMMARY	
PROJECT DESCRIPTION	TENANT FIT-OUT OF AN EXISTING SPACE FOR A 2-STORY ROCK CLIMBING GYM
BUILDING DATA	
PROJECT NAME:	CENTRAL ROCK CLIMBING GYM
ADDRESS:	21 WEST END AVENUE, NEW YORK, NY 10023
APPLICABLE CODES:	BUILDING: The New York City Building Code (NYCBC), 2014 Edition
	ACCESSIBILITY: ICC/ANSI A117.1-2009, and the 2010 American with Disabilities Act (ADA) Standards for Accessible Design
	FIRE PREVENTION: The New York City Fire Code (NYCFC), 2014 Edition
	OTHER: National Fire Protection Association (NFPA) Standards, as referenced by the NYCBC and the NYCFC
OCCUPANCY:	A-3 ASSEMBLY
CONSTRUCTION TYPE:	1-B
EXISTING FLOOR AREA:	10,768 SF
OCCUPANCY LOAD CALCULATION:	193
ALT-2 NUMBER	123278826
ALL SPACES TO HAVE FINISHES MEETING CLASS B FLAME SPREAD PER NYBC 27-348 TABLE 5-4	

ZONING AREA & OCCUPANCIES			
Area	Area	Occupant Load	Occupancy
CELLAR			
CLIMBING GYM	8650 SF	50 SF	174
ELEV./MECH.	169 SF	300 SF	1
RESTROOMS	307 SF	100 SF	4
CHANGING	80 SF	100 SF	1
MECH	37 SF	300 SF	1
LEVEL 1			
RECEPTION	1157 SF	100 SF	12
Total:	10400 SF		193



1 PLOT PLAN
1" = 50'-0"



**APPROVED PLANS
BOARD OF STANDARDS AND APPEALS**

The approval of these plans is limited solely to the relief granted by the BSA. All plans are subject to Department of Buildings review for compliance with all other applicable laws rules and regulations.

Refer to the Certified Resolution language for the scope and specific description of the BSA approval.



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CENTRAL ROCK GYM
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Project No. 17022

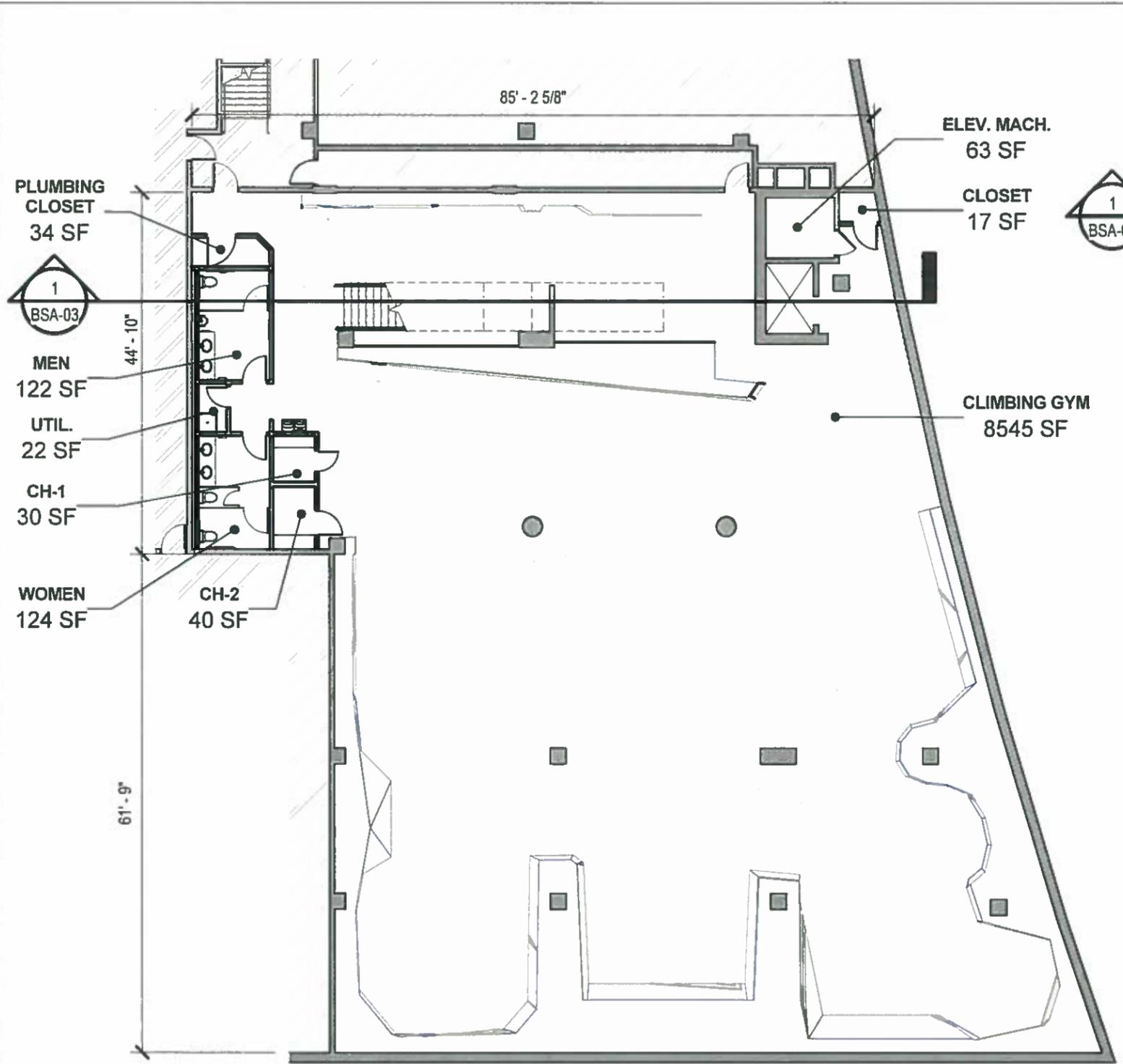
PLOT PLAN / CODE INFORMATION

Date 05/07/18
Scale: As indicated
Drawn By: PTJ Checked By: SS

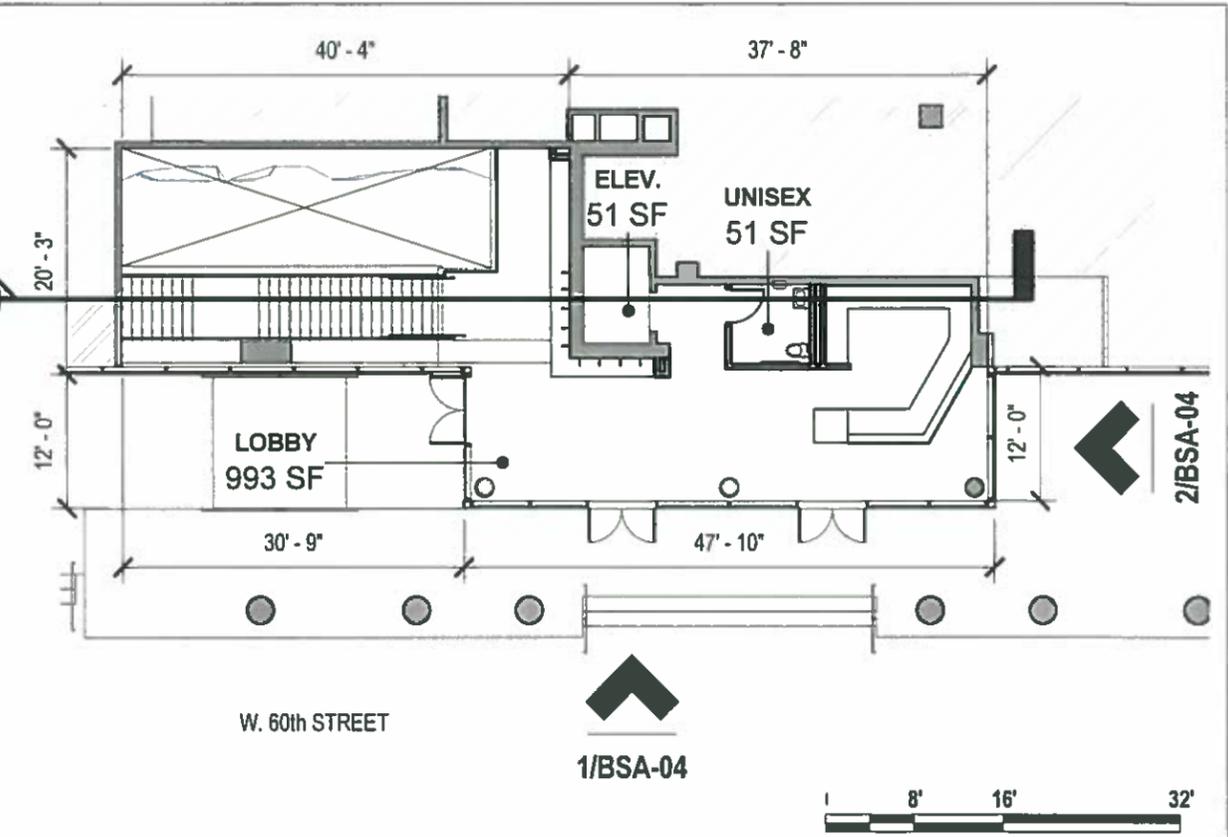
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1 CELLAR PLAN
1/16" = 1'-0"



2 LEVEL 1 PLAN
1/16" = 1'-0"



APPROVED PLANS AND APPEALS
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GENERAL NOTES

1. ALL PARTITIONS AND EXITS TO BE APPROVED BY THE D.O.B.
2. A FULL SPRINKLER SYSTEM TO BE INSTALLED THROUGHOUT THE ENTIRE SPACE
3. MINIMUM 3'-0" WIDE EXIT PATHWAYS SHALL BE PROVIDED LEADING TO THE REQUIRED EXITS. PATHWAY SHALL ALWAYS BE MAINTAINED UNOBSTRUCTED, INCLUDING FROM ANY GYMNASIUM EQUIPMENT
4. LOCAL LAW 58/87 SHALL BE COMPLIED WITH AS APPROVED BY THE D.O.B.
5. AN APPROVED INTERIOR FIRE ALARM SYSTEM SHALL BE INSTALLED IN THE ENTIRE PCE SPACE. THE SYTSTEM WILL INCLUDE THE FOLLWING ITEMS:
 - A. AREA SMOKE DETECTORS
 - B. MANUAL PULL STATIONS AT EACH REQUIRED EXIT
 - C. LOCAL ADIBLE AND VISIBLE ALARMS
 - D. CONNECTION OF THE INTERIOR FIRE ALARM, PROJECT NORTH, TRUE NORTH, FDNY APPROVED CENTRAL STATION



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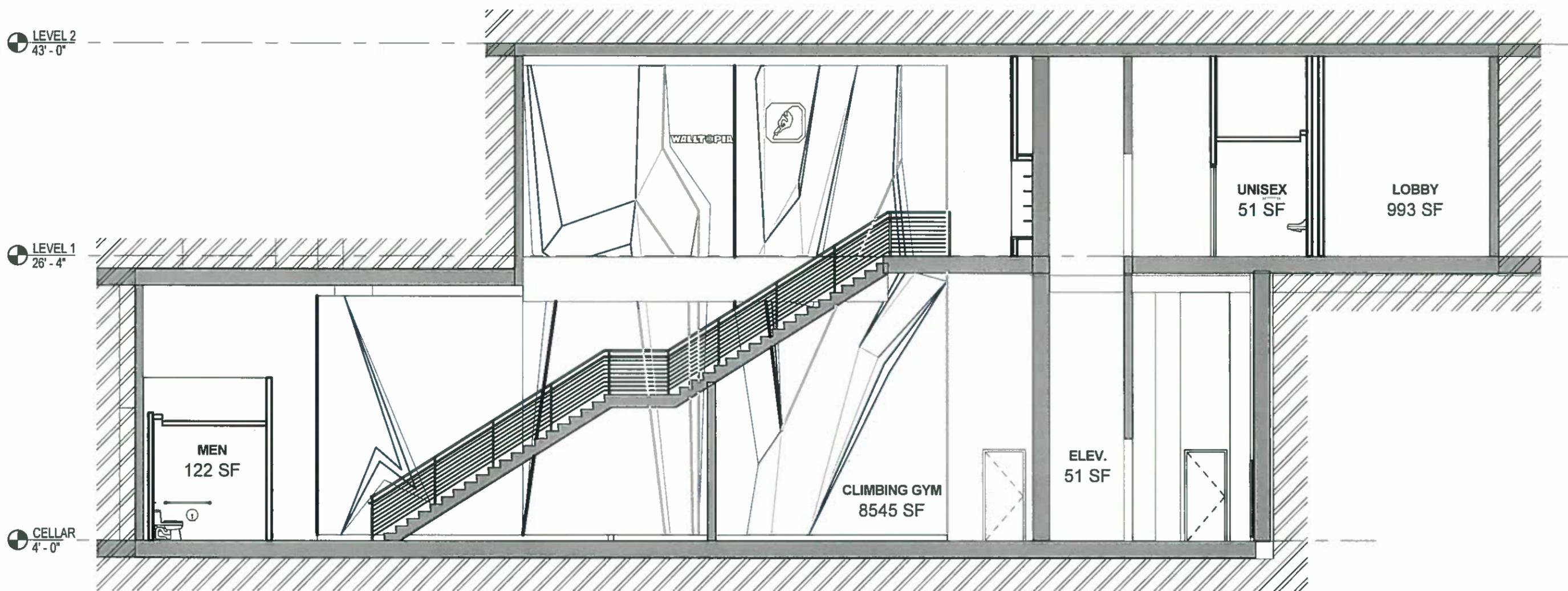
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FLOOR PLANS

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Checked By:	SS

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1 Section 23
1/8" = 1'-0"

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SECTION

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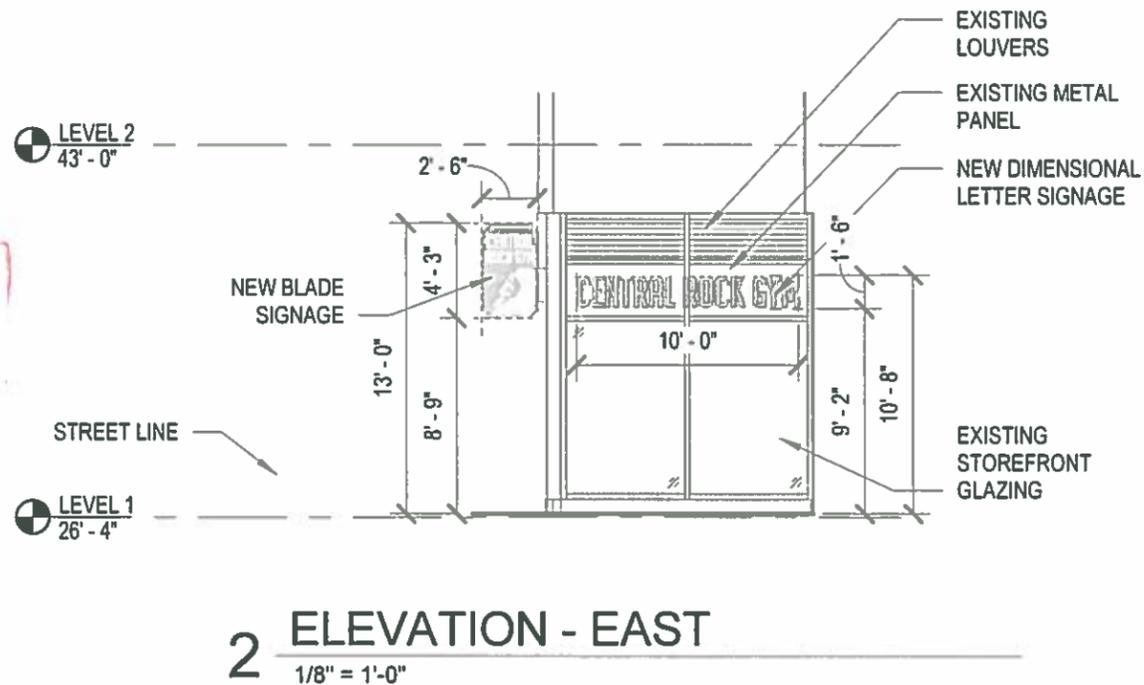
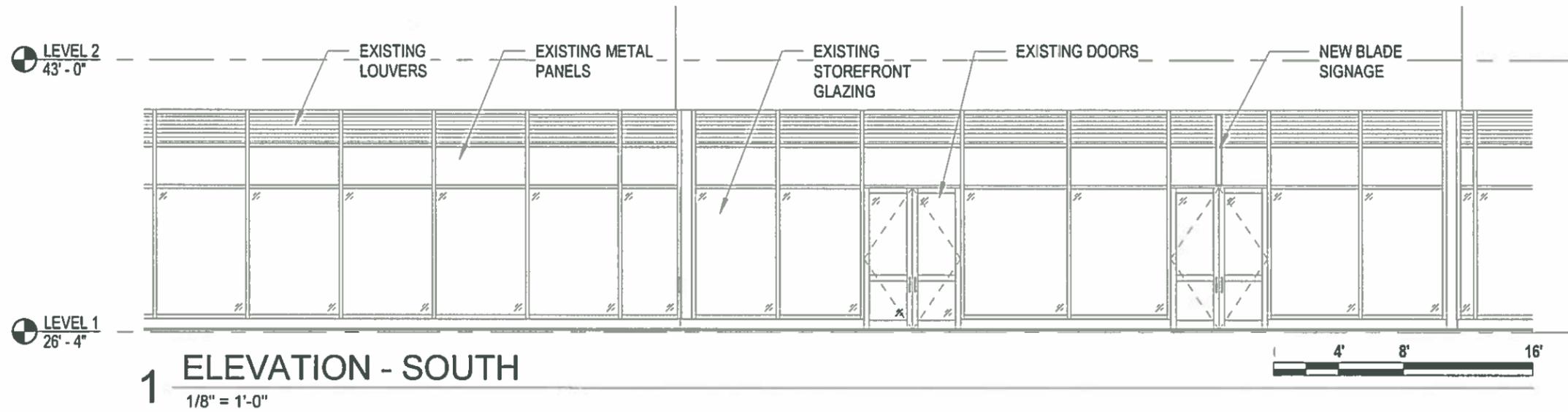


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**APPROVED PLANS
BOARD OF STANDARDS AND APPEALS**

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EXTERIOR ELEVATIONS

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