

**RESOLUTION
City of Jersey City
In the Matter of JUD, LLC**

**34-36 Jones Street
Block 10704 Lot 36**

**P18-019
Decided June 5, 2018
Memorialized on July 10, 2018
Application for Preliminary and Final Major Site Plan with Deviations**

WHEREAS, on February 16, 2018, JUD, LLC (“Applicant”) made application to the Jersey City Planning Board (“Planning Board”) for preliminary and final major site plan with deviations to construct a 5-story 10-unit building with ground floor retail space on property located at 34-36 Jones Street and designated as Block 10704, Lot 36 on the Tax Map of the City of Jersey City (“Property”); and

WHEREAS, the Property is located in a redevelopment area and its zoning is governed by the Journal Square 2060 Redevelopment Plan, which was first adopted on August 25, 2010 and amended periodically through the years (“Redevelopment Plan”); and

WHEREAS, a public hearing was held on the subject application for preliminary and final major site plan with deviations before the Planning Board on June 5, 2018; and

WHEREAS, the Applicant was represented at the hearing by Michael J. Oliveira, Esq. of the law firm Chiesa Shahinian & Giantomasi, PC; and

WHEREAS, it is noted that notice of the public hearing was provided in accordance with N.J.S.A. 40:55D-12 and City Code Section 345-19; and

WHEREAS, the Applicant requested several deviations and design waivers pursuant to the Redevelopment Plan and the City Code, as follows:

- Relief to permit a deviation from the requirement of the Redevelopment Plan that the front yard setback provide a minimum sidewalk width of 15 feet;
- Relief to permit a deviation from the required side yard setback to allow a 0' side yard setback on the South side of the proposed building;
- Relief to permit a deviation from the required rear yard setback to allow a setback of 72.7 feet on one side of the proposed building for the second through fifth floors;
- A design waiver to permit an elevator in the proposed building where two ground floor residential units and a cellar are proposed as part of the project;
- Relief to permit front balconies extending three feet on the North side of the building and five feet on the south side of the building, whereas front balconies are permitted to extend a maximum of one foot from the façade where located within 45 feet from grade;
- Relief to permit a cellar that is less than 50 percent of the ground floor area as required per the Redevelopment Plan; and

WHEREAS, the Planning Board has reviewed all supporting materials submitted by the Applicant in advance of the public hearing, including but not limited to, the following that are incorporated herein by reference along with all other application materials and submissions filed by the Applicant:

- a. City of Jersey City General Development Application and attachment.
- b. 10% Disclosure Statement.
- c. Affidavit of Ownership.
- d. Site Plan Checklist.
- e. Certification of Payment of Taxes.

- f. Preliminary/Final Site Plan for the Property prepared by Dresdner Robin, consisting of 7 sheets, dated February 16, 2018.
- g. Architectural Plans for the Property prepared by Studio ST Architects, P.C., consisting of 14 sheets, dated February 16, 2018.

WHEREAS, the Planning Board has also heard and considered the sworn testimony of the Applicant's witnesses who were accepted as experts in their respective fields by the Planning Board:

- a. Joseph Mele, P.E., Dresdner Robin.
- b. Esther Sperber, Studio ST Architects, P.C.¹
- c. Charles Heydt, PP, AICP, LEED AP ND, Dresdner Robin.

WHEREAS, the Planning Board further considered the evidence presented by the Applicant and accepted into evidence as follows:

- a. Exhibit A-1: Proof that notice of the hearing was duly published and mailed in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. ("MLUL")
- b. Exhibit A-2: Site vicinity map
- c. Exhibit A-3: Handout entitled 36 Jones Street, prepared by Studio ST Architects and Jorge Mastropietro Architects Atelier.

NOW, THEREFORE, the Planning Board makes the following findings of fact based upon the filed materials as well as the evidence and testimony presented at the aforesaid public hearing:

¹ Ms. Sperber is not a licensed architect in the State of New Jersey, but is a licensed architect in the State of New York. At the hearing, Applicant introduced Ahmed Emara of Architects Atelier, the Architect of Record. Mr. Emara, a licensed architect in the State of New Jersey, testified that he directly supervised Ms. Sperber in the preparation of the architectural plans and he affirmed that Ms. Sperber possessed the knowledge required in order to testify regarding the plans. Following that testimony, the Planning Board accepted Ms. Sperber as an expert.

1. The Applicant seeks preliminary and final site plan approval with deviations to construct a 5-story, 10-unit building with retail space on the ground floor of the Property. The proposed uses are permitted on the Property pursuant to the terms of the Redevelopment Plan.
2. The Applicant's witness, Joseph Mele, a licensed civil engineer in the State of New Jersey, who was qualified and sworn as an expert in engineering, testified with respect to the site location and characteristics, including its size and location within Zone 4 of the Journal Square Redevelopment Area and surrounding neighborhood attributes.
3. Mr. Mele also testified with respect to the proposed improvements, including the proposed 0 foot side yard setbacks (which are being proposed given the Property's location in the context of very closely knit buildings), the proposed sidewalk which will vary in width from 15.68 feet to 10.5 feet (with the 10.5 foot-wide portion to be consistent with the sidewalk located at the neighboring apartment building), the street scape improvements, utility connections, and outdoor space and patio areas being provided for recreation.
4. Mr. Mele explained that because the building is irregularly shaped, the rear portion of the building on the South side extends about 72.7 feet from the front lot line (whereas 70 feet is permitted pursuant to the Redevelopment Plan). On the North side, the rear portion of the building extends 67.7 feet from the front lot line.
5. Mr. Mele also testified that the Applicant would comply with all of the comments set forth in the Jersey City Division of Engineering's and Jersey City Municipal Utilities Authority's review letters.

6. The Applicant's next witness, Esther Sperber, who was qualified and sworn as an expert in architecture testified regarding the proposed project, including neighborhood characteristics, the layout of the proposed building, including the the proposed 870 sf of commercial space and two one-bedroom units on the ground floor and the three bedroom apartments to be located on the second through fifth floors of the building.
7. Ms. Sperber also testified regarding the amenities proposed for the building including: the proposed balconies and terraces; the proposed roof with plantings, outdoor space, and indoor space with a small gym, kitchenette and bathroom; the inclusion of an elevator; and bicycle parking spaces. Additionally, Ms. Sperber testified as to the exterior design of the proposed building including its articulation and proposed façade and balcony materials.
8. The Applicant's witness, Charles Heydt, a licensed professional planner in the State of New Jersey, who was sworn and qualified as an expert in planning testified in support of the six technical deviations that the Applicant was seeking from the terms of the Redevelopment Plan.
9. Specifically, Mr. Heydt testified that the deviation relating to the proposed balconies extending greater than 12 inches would add to the aesthetics of the building and would provide additional amenity space for tenants.
10. Mr. Heydt testified that the deviation to allow for an elevator where ground floor residential was proposed would allow the Applicant to utilize the space behind the proposed commercial space efficiently to meet ADA requirements for ground floor

accessible space and would result in additional ADA-compliant units (which could be converted to ADA-approved units) in the City on the second through fifth floors.

11. With regard to the front yard setback, Mr. Heydt explained that the Applicant's design attempted to transition the sidewalk along the Property to comply with the varying sidewalk widths on the lots neighboring the Property. Mr. Heydt testified that this deviation would have a minor impact inasmuch as there were no commercial properties (other than this property) proposed along this portion of Jones Street, and the space will likely not be a high pedestrian traffic generator along this stretch of Jones Street.
12. As to rear yard setbacks, Mr. Heydt explained that a deviation to allow the South side of the building to extend greater than 70 feet from the front yard right of way was required as a result of the irregular, parallelogram-shape of the Property. Mr. Heydt testified that because the North side of the property extended 67.7 feet from the front lot line, the average extension of the second through fifth floors from the front lot line was about 70 feet.
13. As to side yard setbacks, Mr. Heydt testified that the neighboring building on the North side of the Property has a cutout that also serves as fire access and has a fire escape on the building. Accordingly, fire access is still provided to the building to the North, which satisfies the intent for the side yard setback. As to the South side of the Property, a 0 foot side yard setback was proposed, because Applicant understands that the neighboring property, 32 Jones Street, will be demolished, and Applicant was accounting for a potential building that will also have a 0 side yard setback in the future.

14. Finally, Mr. Heydt testified that the Applicant's was seeking a deviation to permit a cellar of approximately 1,500 sf where approximately 2,000 would be required pursuant to the Redevelopment Plan. Mr. Heydt testified that the Applicant's proposal met the intent of utilizing the cellar space to provide for the retail storage, residential storage, and bicycle parking.
15. Mr. Heydt testified that the project furthered the purposes of the Municipal Land Use Law with providing for appropriate population densities and a desirable visual environment. Additionally, Mr. Heydt testified that allowing the deviations would not result in a substantial detriment to the public welfare, as it meets the intents and permitted uses within the Mixed-Use Neighborhood Zone within the Redevelopment area. Additionally, Mr. Heydt testified that there would be no impairment to the zone plan, and that it was his opinion as the project furthers the Redevelopment Plan and addressed compliance with ADA requirements within the building.
16. Following Mr. Heydt's testimony, the hearing was opened to the public and no members of the public appeared to comment on the subject application.
17. The City's Principal Planner, Tanya Marione, P.P., AICP testified that the application complies with the intent of the regulations pertaining to Zone 4 of the Journal Square 2060 Redevelopment Plan of the City and recommended approval of the application by the Planning Board, subject to the conditions set forth below.

NOW, THEREFORE BE IT RESOLVED by the Planning Board that it has reviewed all the evidence and testimony of the Applicant's witness, which it has deemed to be credible and reliable.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Applicant has met the requirements of the Municipal Land Use Law, case law and City Ordinances so as to grant the relief requested for preliminary and final major site plan approval with deviations from the terms of the Redevelopment Plan based on the reasons articulated and presented by the Applicant's professional planner and affirmed by the Planning Board's Principal Planner. Specifically, the Planning Board finds that the Applicant has satisfied its burden of proof and has demonstrated that relief from the Redevelopment Plan requirements related to setbacks, balconies, cellar space, and inclusion of the elevator are warranted.

Additionally, the Applicant has demonstrated that multiple purposes of the MLUL will be advanced by the deviations requested and the benefits of such deviations will substantially outweigh any detriment. Specifically, Applicant has demonstrated that the proposed project will promote the public welfare (see N.J.S.A. 40:55D-2(a)), will result in appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions (see N.J.S.A. 40:55D-2(e)), and will promote a desirable visual environment through creative development techniques (see N.J.S.A. 40:55D-2(i)), and that it will be an addition to the streetscape in the Journal Square neighborhood.

The Applicant has further demonstrated and the Planning Board finds that all of the deviations may be granted without causing substantial detriment to the public good and public welfare. The surrounding neighborhood will not be negatively affected by the development proposal. To the contrary, the proposal will enhance the neighborhood by providing rental units for families in Jersey City while addressing ADA requirements and providing valuable amenity space for tenants. Additionally, the project provides for ground floor space in an appropriate manner. Further, the deviations will not cause a substantial detriment to the intent and purposes

of the Redevelopment Plan or the Master Plan. The Applicant has demonstrated and the Planning Board finds that the intent and purposes of the Redevelopment Plan are advanced by this project.

NOW, THEREFORE BE IT RESOLVED by the Planning Board of the City of Jersey City that the application of JUD, LLC seeking for preliminary and final major site plan with deviations to construct a 5-story 10-unit building with ground floor retail space is approved subject to the following terms and conditions:

1. The plans shall be revised and submitted to the Division of City Planning revising the proposed street trees and street tree-pit to conform with Jersey City Forestry Standards, as required by Code Section 345-66. City Planning Staff will work with the Applicant with regard to the revisions of the plans and specifications of the street trees, without the need for further approval by the Planning Board.
2. All street trees must be planted prior to the issuance of a temporary certificate of occupancy.
3. An affidavit from the Applicant's Architect of Record must be submitted to the Division of City Planning certifying that the building was built as approved prior to the issuance of a temporary certificate of occupancy or a certificate of occupancy.

**RESOLUTION OF THE PLANNING BOARD OF THE CITY OF JERSEY CITY
APPROVING THE APPLICATION OF JUD, LLC FOR PRELIMINARY AND FINAL
MAJOR SITE PLAN APPROVAL WITH DEVIATIONS TO CONSTRUCT A 5-STORY,
10-UNIT BUILDING WITH GROUND FLOOR RETAIL SPACE ON PROPERTY
LOCATED AT 34-36 JONES STREET AND DESIGNATED AS BLOCK 10704, LOT 36**

FOR: Preliminary and Final Major Site Plan Approval with Deviations to Construct a 5-Story, 10-Unit Building With Ground Floor Retail Space on Property Located at 34-36 Jones Street and Designated as Block 10704, Lot 36

DATE OF HEARING: June 5, 2018

VOTE: June 5, 2018

VOTE: 7-0

Motion made by: Commissioner Fleming Motion Seconded by: Commissioner Torres

COMMISSIONER	YES	NO	ABSTAIN	ABSENT
Christopher Langston, Chairman	X			
Dr. Orlando V. Gonzalez, Vice-Chairman				
Edwardo Torres	X			
Michael Sims	X			
John Seborowski				
Joyce Watterman	X			
Allison Solowsky				
Dr. Vijaya Desai	X			
Eric Flemming	X			
Harkesh Thakur				
Arnold Bettinger	X			



CHRISTOPHER LANGSTON, Chairman
JERSEY CITY PLANNING BOARD

Orlando V. Gonzalez MD
Acting chair

APPROVED AS TO LEGAL FORM:



MATTHEW WARD, Secretary
JERSEY CITY PLANNING BOARD



SANTO ALAMPI, ESQ.
JERSEY CITY PLANNING BOARD

DATE OF MEMORIALIZATION:

July 10, 2018