

CITY OF JERSEY CITY

Department of Housing, Economic Development & Commerce
Division of City Planning



Memorandum

DATE: January 28, 2024

TO: Planning Board Commissioners

FROM: Matt Ward, AICP, PP, Supervising Planner

RE: Case P2023-0012
3 Second Street and 242 Hudson Street aka 5 Second St
Block 11603, Lots 18.02, 18.03, 22 and 27
Preliminary and Final Major Site Plan with Deviations
Staff Comments

APPLICATION SUMMARY

The site is located at 242 Hudson Street and 3 Second Street also known on the Jersey City tax map as Block 11603 Lots 18.02, 18.03, 22 and 27. The site has three frontages: Second Street, Hudson Street (private), and a new private street yet to be named which encircles the Plaza 9 site. The site is located adjacent to the water in close proximity to the Exchange Place PATH station and the Harborside Light Rail Station. This site is within the East-Waterfront District of the Harsimus Cove Station Redevelopment Plan formerly known as Hudson Exchange Redevelopment Plan. The buildout of this site is restricted by setback standards, a floor area ratio, and maximum permitted density. Multiple 'c' variances are requested as part of this application. No 'd' variances are proposed.

This application triggers the Inclusionary Zoning Ordinance and requires 15% onsite affordable housing.

The applicant is proposing the development of a 57-story (611 feet) mixed use building containing 579 residential units (of which 87 units are income restricted affordable housing due to IZO), 14,840 sf of commercial space, and 555 parking spaces in an enclosed garage (300 of the parking spaces are for the use of Plaza X at 3 Second Street).

The proposal no longer is requesting extension of an interim use – aka the biergarten.

This application is proposed at the Plaza 8/9/10 Harborside master site ("Master Site"), which contains a bit of history that is pertinent to this application and any future development of Plaza 8 and Plaza 9. This Master Site was first redeveloped on an interim basis as a surface parking lot in connection to a ferry transportation use. The Master Site began permanent redevelopment around 2002 with a commercial office building known as Plaza 10 (also known as 3 Second Street or tax block 11603 lot 23) along with public open space (tax lot 22), and a large surface parking lot (tax lot 27). The bulk, height, setbacks and floor area ratio for the remainder of the site, Plaza 8 and 9 respectively, have not changed since the construction of Plaza 10. Past approvals for Plaza 10 created a view corridor easement as a visual extension of First Street. The arrangement of Plaza 10 on the master site necessitated relief from the same setbacks (aka Yard Factor) standard as requested in this application. The applicant wishes to utilize permitted residential density and floor area afforded under the zoning to the NORTH of the view corridor easement aka Plaza 9 site, continuing a pattern of development anticipated by city planners in 2000 that is defined today by covenants and conditions of approval still in effect. The area south of the view corridor easement or new access road (which is roughly aligned with First Street to the west) is to be redeveloped as a mixed used tower as well, aka Plaza 8 site, and received approval in 2020.



Aerial: showing Plaza 8/9/10 and open space aka Master Site.

REQUIRED “c” VARIANCES/DEVIATIONS

The applicant is requesting relief from the following requirements:

#	REQUIREMENT	PROPOSED
1	Parking to be wrapped by principal use	Does not comply – Accessory parking use visible from ROW
6	Minimum Yard Factor	Does not comply – 123.59’ required on 2 sides Proposed yards: North = 12.83’ East = 32.35’ West = 12.82’
3	More than on principal structure on a lot	Multiple principal structures

STAFF COMMENTS:

- 1) Applicant shall provide testimony regarding the criteria for the variances/deviations sought.
- 2) Regarding the deviation as it relates to the Minimum Yard Factor -
 - a) Staff has prepared a table below showing the history of Yard Factor deviations granted by the Planning Board since 1994. Any deviation from the Yard Factor table has and is considered a 'c' variance. The table under b) below is a summary of applications in this district, most of which needed a deviation from the Yard Factor table.
 - b) East-Waterfront District Minimum Yard Factor History:

ADDRESS	YEAR OF APPROVAL	BUILDING HEIGHT FEET	SETBACK REQUIRED	SETBACKS APPROVED
444 Washington P94-16 Avalon Cove	1994	50'	33.7' on 3 sides	144', 85', 76', 25'
2 Second Street P97-49	1997	245'	78' on 3 sides	North=25' South=145' East=10' West=50'
20 2nd Street P97-04 / P97-03	1999	231'	76' on 3 sides	Front Yard=72.19' Side Yard=252/184.2 Rear=60
Harborside Plaza 10	2000	292'6"	83' on 3 sides	East=50' North=8'
455 Washington Blvd Doubletree	2001	180'8"	58.2' on 3 sides	56.5' minimum
Candlewood Hotel	2001	91'	38.2' on 3 Sides	4.2', 74.5', 70.22', & 46.65'
425 Washington Blvd Marbella 1 (98-31)	2002	428' 2"	103.46' on 3 sides	North=40'5" South=262'3" East=15'10" West=11'3"
94 FIRST ST Athena "A"	2004	325'	90' on 3 sides	Front Yard=0' Rear yard=80'6"
65 Second Street Portofino P07-097	2004	245'	78' on 3 sides	North=28', South=125', East=10', and West=35'
465-475 WASHINGTON BLVD P06 Monaco I & II	2006	455' est.	104' on 3 sides	<i>Deviation requested/approved</i>
425 Washington Blvd. Marbella 2	2012	415'6"	101.92' On 3 Sides	N=0, S=25', E=15'5", and W=9'9"
Candlewood Hotel Addition (never built)	mid 2000-2010	158'7"	38' on 3 sides	Front=55.75, Side=59.9 and 239.4, Rear=32.25
Avalon Cove Tower 444 Washington Blvd	2019	718'	134' on 3 sides	West = 5' North = 10'
Plaza 8 3 Second Street Phase 2	2020	708.56'	133' required on 3 sides	North = 272.69' East = 33.91' South = 16.87' West = 25.5'

- 3) Applicant shall provide testimony regarding the existing site, more specifically:
 - a) Status of the waterfront development permit and any update thereto.
 - b) Open space provisions.
 - c) Past approvals and compliance with conditions of approval.
 - d) Existing circulation, access, site design and development.
 - e) Status and timeline of Plaza 8 development

- 4) The applicant shall provide testimony regarding the proposed application including but not limited to: traffic, design, facades, vehicular circulation, signage, yards, heights, parking, pedestrian access, landscaping. In addition, the following shall be addressed:
 - a) The proposed open space and the allocation and proposed use of public versus private open space.
 - b) The amenities and landscape design proposed in the public open spaces.
 - c) Applicant shall provide testimony regarding parking garage access for Plaza 10 workers and visitors.
 - d) The applicant shall provide testimony regarding the existing, proposed and remaining balance of permitted floor area and density onsite.

APPROVAL HISTORY

The following are list is meant to summarize applications that received approval over the years at the master site known as Plaza 8, 9 and 10:

#. Case number – Address/Location – Application Type – Summary notes.

1. P97-28 – Interim Use Site Plan – interim use as a surface parking lot for ferry passengers. 764 parking spaces. 10 year approval for interim use. Deviation for size of parking spaces granted.
2. P97-9 - Minor Subdivision – To subdivide one lot (Said Master Site) into two parcels. Subdivision was carried out in anticipation of a 24-story 700,000 sf office building that was never built.
3. P97-28.1 (2000) – Second Street and Hudson Street – Interim Use / Site Plan Amendment – Construction of sidewalk along Hudson Street and North Pier Access Road and associated landscaping. Circulation changes included as well. *No resolution in file.*
4. P99-40 – Preliminary Site Plan – Ferry trailer relocation. *No resolution in file.*
5. P99-41– Preliminary Site Plan – North Pier Access road. *Application was withdrawn.*
6. **P00-59 (2000) – Preliminary Site Plan with deviations** – For the construction of a 19-story, 532,000 square foot office and 378 surface parking spaces with associated open space, circulation and public. Yard Factor deviation and parking stall size deviation granted. At the completion of the project the parking being used in connection with the ferry will be dedicated to the new building. As a condition of approval, the location and siting of the building has been chosen to maintain view corridors to the west.
7. P00-59.1 (2001) – Preliminary Site Plan Amendment – minor changes include alterations to façades, landscaping, site plan and pedestrian circulation.
8. **P00-59 (2002) – Final Major Site Plan with Deviations** – final approval of a 19-story, 532,000 square foot office building to address conditions of approval applicable to the preliminary site plan an as it relates to Plaza 10.
9. P00-59.2 (2003) – Site Plan Amendment – proposed alterations to signage related to tenant signs and building identification signs.
10. P00-95 – Preliminary and Final Major Subdivision – Subdivision to create easements regarding north pier access road as well as create lots for Plaza 10, public open space/park (directly south of Plaza 10), and a

lot comprised of the surface parking lot aka Plaza 8 and 9. This application was required as a condition of approval related to P00-59 (Plaza 10 site plan) and P00-36 (North Pier Apartment Project – 3rd party).

11. P00-95.1 aka P00-95A – Preliminary and Final Major Subdivision with deviations – Revisiting subdivision to expressly address the reduction of the southern 83-foot setback because of the subdivision significantly reduced the setback as measure to the new lot line. Also clarified the eventual removal of the temporary ferry trailers/ticket booths.
12. P03-055 – Minor Subdivision Approval – To relocate lot lines that delineate an access easement to the “North Pier” now known at Harborside Place.
13. P17-020 – Interim Use / Preliminary and Major Site Plan – only lots 22 and 27, Block 11603. Application for temporary structures to activate privately owned, but publicly accessible open space. Minor alterations to circulation in the surface parking lot.
14. P18-035 – Interim Use 1-year extension / Site Plan Amendment – 1 year extension and amendments to include removal of stage, limits to hours of music. No other changes to the temporary structures or improvements.
15. **P19-153 – Plaza 8**, Preliminary and Final Major Site Plan with Deviations and Interim Use to develop a mixed-use, high-rise building (68 stories, 708.56 feet high) containing 680 residential units, 18,662 square feet of commercial space, structured garage and interim surface parking for 505 parking spaces and 3 loading spaces, new access road, public open space including waterfront walkways, updated landscaping, playground, water feature and integrated commercial stall structures (fka Lutze Biergarten).
16. **P2024-0078 – Extension of Interim Use – related to biergarten.**

Emphasis added to list above for ease of use.

ZONING REGULATIONS AND REQUIREMENTS

The following regulations and requirements from the Harsimus Cove Station Redevelopment plan are cited below for easy reference (*excerpts shown in italics*):

Section I: Comprehensive Requirements & Policy Statements

A. POLICY STATEMENTS

3. Provide a variety of market value housing types and commercial establishments through new construction of low rise, mid-rise and high rise structures.

7. Provide a layout of streets and open spaces that encourage bicycle & pedestrian interconnections to the light rail stations, civic buildings, and commercial uses all within a 3-5 minute walk from residential dwellings.

8. Establish a street and path network which accommodates an integrated multi-modal transportation system with the intent of providing safe pedestrian connections as outlined above.

9. Establish an integrated healthy, vibrant, livable neighborhood, incorporating the traditional city block development and rejecting the modern, homogeneous, sprawled zoning alternatives.

10. Provide a clearly articulated and rationally designed open space system which consists of both integrated and peripheral active and passive parks.

11. Provide for a more efficient use of land and public services by directing development into a pattern that resembles traditional blocks of mixed and multiple-use buildings.

12. Facilitate the construction of roads, infrastructure, open space and other public improvements which benefit more than one development site or property owner, and benefit the residents of Jersey City and this new neighborhood as a whole.

D. PARKING AND LOADING REQUIREMENTS Parking shall be reviewed by the Planning Board at the time of Site Plan application.

1. Maximum Parking Requirements

East District

Maximum Parking Requirements

a. Residential uses

a. 0.5 space for each dwelling unit with 0 or 1 bedroom

b. 1 space for each dwelling unit with 2 bedrooms

c. 1.5 spaces for each dwelling unit with 3 or more bedrooms

b. Hotels

a. 1.0 space per guest room for the first 100 rooms.

b. 0.5 space per guest room for the next 100 rooms.

c. 0.33 space per room for all over 200

c. Retail, Restaurants, Health Clubs, Nightclubs

1.0 space per 1,000 square feet excluding first 5,000 square feet

d. Theaters- 1.0 space per 6 seats

e. Schools - 2.0 spaces per classroom

f. Houses of Worship

1.0 space per seat as per Jersey City Zoning Ordinance.

g. Marinas - 0.5 spaces per berth

h. Office, public & semi-public uses

0.9 space per 1,000 square feet gross floor area

2. Valet parking is permitted provided a striping and parking plan is approved by the Planning Board to reflect the valet alternative layout, drop off/pick-up location, etc.

3. All parking shall be provided in structures and wrapped by the principal uses that it serves. All parking structures shall be topped with green roofs containing landscaping and/or recreation areas to screen the parking structure from above.

7. The developer shall demonstrate and the Planning Board shall be satisfied that sufficient loading areas shall be provided to accommodate the needs of the particular uses proposed, including trash and recycling pick-up and storage, commercial services such as package or food delivery services, and retail stocking and residential tenant moving.

8. These service areas shall be separate from one another so that a tenant move is not competing for a loading space with a retail loading.

I. OPEN SPACE REQUIREMENTS

3. This paragraph is applicable to the East – Waterfront District Only: All new construction must provide a minimum equal to six percent (6%) of gross floor area as improved open space as provided above. Any rehabilitation structure must provide a minimum of one percent (1%) of the gross floor area so

rehabilitated as improved open space as provided above. Any additional floor area constructed as an adjunct to rehabilitation activities must provide improved open space equal to three percent (3%) of the total additional floor area. Landscaped portions of parking areas may not be computed in satisfying the above landscape requirements.

4. Development occurring on piers constructed over the Hudson River shall be exempt from the minimum requirements listed in subsection 3 above.

5. A waterfront walkway, consistent with State requirements, if any, shall be provided. Such walkway must be freely accessible to the public.

6. Piers, or pier areas, parks and waterfront walkways freely accessible to the public shall be computed at 1.5 times their actual acreage.

Section II: SPECIAL DISTRICT REQUIREMENTS

EAST-WATERFRONT DISTRICT

B. SPECIFIC REGULATIONS

1. Maximum Height

Height shall be regulated by yard requirements. A minimum yard equal to the square root of the height of the structure multiplied by the appropriate yard factor shall be maintained for the number or percent of sides as indicated below. The following are the factors to be used in calculating yard requirements.

<i>Height in Feet</i>	<i>Yard Factors</i>	<i>Sides</i>	<i>Percent</i>
<i>0-45</i>	<i>3</i>	<i>2</i>	<i>50%</i>
<i>46-100</i>	<i>4</i>	<i>3</i>	<i>75%</i>
<i>101 or more</i>	<i>5</i>	<i>3</i>	<i>75%</i>

2. Intensity of Development

Floor Area Ratio (F.A.R.), defined as the gross floor area to parcel acreage shall not exceed 8:1. Parking decks and areas used for heating and utility rooms shall be excluded from gross floor area. The maximum number of units per acre shall not exceed 300 dwelling units per acre.

STAFF RECOMMENDED CONDITIONS

In the event a motion is made to approve this application, staff recommends the following seven conditions:

1. All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding.
2. No change to the facade and site design, including materials as well as any changes that may be required by the Office of Construction Code shall be permitted without consultation with and approval by planning staff.
3. All street trees and landscaping shall be installed in accordance with 345-66 and/or the Site plan, prior to an issuance of a Certificate of Occupancy.
4. The applicant shall comply with all review agent comments by the JCMUA and JC Division of Engineering.
5. The applicant shall forward copies of any waterfront development permits associated with this development application.
6. The applicant shall comply with the rules and regulations of Jersey City Municipal Code, Chapter 187 – Inclusionary Zoning and Chapter 188 – Housing Accommodations and Affordable Housing Compliance.

7. An Affordable Housing Agreement shall be executed and received all necessary city approval prior to any Certificate of Occupancy for this project.
8. Prior to the issuance of any Certificate of Occupancy, the applicant agrees to enter into an agreement or amend any agreement with the City regarding the onsite public access and public open spaces.
9. Applicant and owners shall comply with all conditions of approval set forth on the record by the planning board and/or the Division of City Planning staff.
10. All conditions of past approvals shall remain in full force and effect.

FINDINGS NEEDED FOR “c” VARIANCE RELIEF

The following findings are required for “c” Variance Relief:

- 1) Hardship “C1” Variance Standard under N.J.S.A. 40:55(D)-70(c)(1):
 - a. Pertinent information: Exceptional narrowness, shallowness, or shape of the property, exceptional topographical conditions, and/or other exceptional situations.
 - b. Based on this information, the strict application of the Ordinance would result in exceptional difficulties to, and undue hardships upon, the developer of such property.
 - c. The conditions causing hardship are peculiar to the subject property, and do not apply generally to other properties in the same district.
 - d. Other means to cure the deficiency (such as purchase or sale of property) do not exist, or are unreasonable or impracticable.
 - e. The variance requested is the reasonable minimum needed.
- 2) Flexible “C2” Variance Standard under N.J.S.A. 40:55D-70(c)(2):
 - a. The justifications must relate to a specific piece of property;
 - b. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement;
 - c. The variance can be granted without substantial detriment to the public good;
 - d. The community benefits of the deviation would substantially outweigh any detriment and;
 - e. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

NEGATIVE CRITERIA

The language for negative criteria is first introduced in 1948 through a legislative amendment to the state land use laws.

“...provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.”

No relief may ever be granted unless it can be done WITHOUT:

- 1) Substantial detriment to the public good – Balancing Requirement.

The focus of this first prong of the negative criteria is on the variance’s effect on the surrounding properties. The board must weigh the zoning benefits from the variance against the zoning harms. In many instances, conditions of approval address the negative criteria standard and help

to mitigate the impact of the variance.

In *North Bergen Action Group v. Planning Board (1991)*, the Court noted:

"the greater the disparity between the variance granted and the ordinance's restriction, the more compelling and specific the proofs must be that the grant of the variance"

"Because zoning restrictions are enacted to further municipal planning and zoning objectives, it is fundamental that resolutions granting variances undertake to reconcile the deviation authorized by the Board with the municipality's objectives in establishing the restriction."

2) Substantial impairment to the intent and purpose of the zone plan and ordinance.

The focus of this second prong of the negative criteria is on the power to zone based on ordinance and not variance