

CORRECTIVE RESOLUTION

RESOLUTION OF THE PLANNING BOARD OF THE CITY OF JERSEY CITY

APPLICANT: **96-110 TONNELLE AVENUE REALTY GROUP**

FOR: **PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL
WITH DEVIATIONS
96-110 TONNELE AVENUE, NEW JERSEY
BLOCK 9405, LOTS 11 AND 12**

CASE NO.: **P19-172**

WHEREAS, the Applicant, **96-110 TONNELLE AVENUE REALTY GROUP (the Applicant)**, per **Connell Foley, LLC**, (Charles J. Harrington, III, Esq., appearing) made an application to the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey for Preliminary and Final Major Site Plan approval with deviations pursuant to N.J.S.A. 40:55D-70(c) (rear yard setback; maximum heights of the first floor floor-to-ceiling heights), to wit: Calendar No. P19-172, to permit the development of a twelve (12) story mixed use building with two hundred-two (202) residential units (with 20% of the units on floors 9 through 12 being moderate income affordable housing units for a term of 30 years from the first certificate of occupancy for the Project; 14 in this instance), ground floor retail, and ten (10) parking spaces ("Project"), with regard to the property located at 96-110 Tonnele Avenue, Jersey City, New Jersey, also known on the Jersey City Tax Maps as Block 9405, Lots 11 and 12; and

WHEREAS, it appears that due notice of a hearing on the above said application before the Planning Board of the City of Jersey City, on January 7, 2020, at 5:30 p.m., was duly published as prescribed in the Jersey City Land Development Ordinance ("JC LDO") and the Municipal Land Use Law; and

WHEREAS, the resolution approving this application was adopted by the Zoning Board of Adjustment at the hearing on January 7, 2020 ("Approving Resolution"; Exhibit A), and notice of the adoption of the resolution was duly published; and

WHEREAS, the Corner Lot Bonus provisions incorporated into this Project require that the developer enter into a developer's agreement with the City of Jersey City to memorialize the affordable housing requirement as part of any development approval; and

WHEREAS, the Approving Resolution required that the developer be designated as the redeveloper by the Jersey City Redevelopment Agency ("JCRA") for the Project and enter into a redevelopment agreement with the JCRA to memorialize the affordable housing requirements and to satisfy the "developer agreement" requirements (Condition of Approval #3); and

WHEREAS, the City of Jersey City subsequently created the Division of Affordable Housing, which is responsible for overseeing the administration of affordable housing units throughout Jersey City; and

WHEREAS, the City of Jersey City, the Division of Planning, and the Planning Board acknowledge that the Division of Affordable Housing is the municipal department that the developer is required to enter into a developer's agreement with regard to its affordable housing obligations as part of this Project and the Approving Resolution; and

WHEREAS, the Corner Lot Bonus permits the required Affordable Housing Units ("AHU") to be disbursed throughout the Project, and requires that the AHU are representative of the Project unit mix, and that the AHU are required to be built with the same construction materials as the market rate units; and

WHEREAS, this resolution is being adopted to correct the municipal department that the developer is required to enter into a developer's agreement with regard to the AHU, and to clarify the placement of the AHU throughout the Project, the unit type of the affordable units, and the workmanship related to the AHU; and

WHEREAS, the Applicant has submitted proof that it has complied with the applicable procedural requirements including the payment of fees and public notices; and

WHEREAS, the Applicant and its witnesses first having been sworn and all testimony having been formally heard for this application; and

WHEREAS, after consideration of the application and the testimony presented at the meeting, the Planning Board has made the following findings of fact:

FINDINGS OF FACT

1. The Applicant, 96-110 Tonnelle Avenue Realty Group, filed an application for Preliminary and Final Major Site Plan approval with deviations to construct a twelve (12) story mixed use building with two hundred two (202) residential units, and ten (10) parking spaces ("Project") in connection with the property located at 96-110 Tonnele Avenue, Jersey City, New Jersey, also known on the Jersey City Tax Maps as Block 9405, Lots 11 and 12 ("Property").
2. The property is located in the Journal Square 2060 Redevelopment Plan Area ("Redevelopment Plan") within Zone 4 (Neighborhood Mixed Use), and is a corner lot bonus property-A (located at the corner of Tonnele Avenue and Van Reipen Avenue intersected by Broadway Avenue).
3. The Corner Lot Bonus A requirements for this Project require that the Project includes moderate Affordable Housing Units ("AHU") being part of the Project, and requires that the AHU are distributed throughout the Project, and requires that the number of the AHU are equivalent to 20% of the total number units provided on the additional Corner Lot Bonus floors 9 through 12 for a term of 30 years from the first certificate of occupancy for the Project. In this project this equates to fourteen (14) AHU. The AHU are required to be disbursed throughout the Project, and the AHU are required to be representative of the Project unit mix, and the AHU are required to be built with the same construction materials as the market rate units.
4. The Corner Lot Bonus A requirements for this property also requires that the developer make improvements to Brett Triangle Park, which is approved as part of this application. The developer is also required to maintain Brett Triangle Park and the improvements for a term of thirty (30) years from the initial certificate of occupancy for the project.
5. The Property was approved for a prior site plan approval by the Planning Board with the same deviation relief for an eight (8) story building with one hundred thirty (130) residential units, ground floor retail, and ten (10) parking spaces ("Prior Approval"). The Prior Approval was approved by the Planning Board at its meeting on November 10, 2015, and the resolution was memorialized on December 1, 2015. This application is deemed a new application, and not an amendment to the Prior Approval,

because the proposed height of the building and the proposed number of residential units are both exceeding the Prior Approval by twenty percent (20%) or more.

6. The subject property is a sloping 20,025 square foot corner lot located at the corner of Van Reipen Avenue and Tonnele Avenue, and the purpose of the application is to construct a twelve (12) story mixed use building with two hundred-two (202) residential units, ground floor retail, and ten (10) parking spaces ("Project").

7. The current zoning permits residential units, retail sales of goods and services, offices, art galleries, as well as other uses. The maximum height for this lot, with the corner lot bonus, is up to twelve (12) stories (130').

8. As set forth in the Redevelopment Plan, the purpose of this zone is to provide for new housing, office space and other uses on parcels within a ten (10) minute walk of the Journal Square transportation center. This zone continues the existing pattern of mixed land uses and building types while providing for increased height limits.

9. Similar to the Prior Approval, the Applicant is requesting deviations from the Redevelopment Plan and the Jersey City Land Development Ordinance to permit relief from the rear yard setback requirements.

10. The Applicant is requesting relief from the maximum permitted building depth from the street above the ground floor (70' maximum building depth permitted from the right-of-way required; 190'-1" +/- building depth proposed along Tonnele Avenue and 96'-4" +/- building depth proposed along Van Reipen Avenue). The ground floor of a building within Zone 4 is permitted to cover 100% of the Lot; stepbacks for upper floors are governed by side and front yard setbacks as well as the depth from the road. Floors above the ground floor are restricted for a depth of no greater than 70 feet from any street. These requirements are unique when applied to corner lots and create results inconsistent with the zone plan. In this instance, the building along the Tonnele Avenue frontage extends to a depth beyond 70 feet, but it is noted that the front of the building is being set back to provide for larger sidewalks along Tonnele Avenue, and to respect the existing smaller building setbacks along the street. The Project is also providing for an open area at the ground floor level at the rear of the building in lieu of enclosing that parking area. The project is consistent with the intent of the regulation to provide for an open area at the back corner of the property similar to the area being proposed.

11. As it relates to Van Reipen Avenue side of the building, the building also exceeds the 70 feet, but the building is adjacent to vacant yards to the east, all of which is within Zone 4, and could be further developed with larger buildings. The intent of the restrictions within Section X.D.6.c.ii and iii is to provide light and air, as well as yards, specifically for deep midblock properties, which would otherwise impede on the rear lot lines of properties fronting on parallel streets. By limiting the depth of the buildings, light-wells are created in the center of tax blocks. The Property itself is unique in that it is a very long lot (196' deep), and accordingly not the typical corner lot in depth. Compliance would be impossible as the resultant building would be constructed with an over 100' opening along Tonnele Avenue. It is noted that the entire building has been set back to accommodate the larger sidewalks along Tonnele Avenue (12 foot sidewalks are being provided, where prevailing width or 8 foot minimum sidewalks are required). Accordingly, the benefits of the larger sidewalk areas by setting the building back, and the open ground floor area are benefits that outweigh any substantial detriments, and the layout of the building meets the intent of the zoning, and the requested relief can be granted.

12. A deviation is also being requested for relief regarding the minimum ground floor floor-to-ceiling height of a building for a non-residential uses within 30 feet of the rear lot line in a building 7 to 12 stories in height. In this instance, the ground floor is a mix of the residential lobby and retail/commercial uses, which meet the intent of the Redevelopment Plan. The maximum permitted first floor height for non-residential uses twenty (20') feet for buildings that are 7 to 12 stories. The Project is proposing approximately 20' in height from the average grade. The mix of the uses creates a conflict in appropriate floor to ceiling heights, and the proposed height is an appropriate height for all of the uses. There are no substantial detriments because the ceiling heights are appropriate for the uses interior to the Project. Accordingly, the benefits of the proposed heights outweigh any substantial detriments as the proposed height is consistent with the intent of the regulations, and an appropriate height for all of the ground floor uses. The Applicant is requesting a deviation from the maximum permitted "floor to ceiling" height of 12' for non-residential uses within thirty (30') feet of the rear lot line. The Property slopes and the proposed first floor "floor to ceiling" height is approximately 20' from the average grade. The slope of the Property creates a hardship and this standard is inappropriate to apply to this Project as it would create a very awkward development scheme internally (a floor to ceiling height dropping to 12' at the rear of the Project) and disrupt the internal flow of the Project. The varying floor to ceiling heights as part of the first floor level would also adversely affect the uses. Therefore, the hardship of the sloped Property and the benefits of granting relief from the standard outweigh any substantial detriments, and the deviation can be granted.

13. The Project is an appropriate development of the property that will benefit the immediate neighborhood and will promote the general welfare, promote appropriate population densities, and a desirable visual environment. The development will promote a desirable visual environment by redeveloping the property, and it will provide more appropriate density and residential use for the Journal Square area. The proposed use and the bulk of the project is an appropriate use of the land and an appropriate build out of the land, and the proposed project will not affect any permitted uses in the neighborhood.

14. The proposed use and the bulk of the Project is an appropriate use of the land and an appropriate build out of the land, and the Project will not affect any permitted uses in the neighborhood.

15. The proposed deviations will not cause any substantial detriments to the public good, nor will they be impairment to the intent and purpose of the Jersey City Zone Plan, the JC LDO or the Redevelopment Plan.

16. The Project will promote the general welfare by creating commercial uses and additional housing within walking distance to the Journal Square transportation center. The unit sizes are appropriate sized units for the building and the neighborhood, which will also help to promote the appropriate population densities and concentration that will contribute to the well-being of persons, the neighborhood and local community.

17. Accordingly, the Project is an appropriate development of the property that will benefit the immediate neighborhood and will promote the general welfare, promote appropriate population densities, and a desirable visual environment, and the benefits of granting the requested deviation relief outweighs any substantial detriments, and the relief can be granted.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey, for the foregoing reasons, approves the within application for Preliminary and Final Major Site Plan approval with deviations (rear yard setback; maximum heights of the first floor), to wit: Calendar No. P19-172, to construct a twelve (12) story mixed use building with two hundred-two (202) residential units (with moderate affordable housing units being part of the Project, and distributed throughout the Project, and the number of units being equivalent to 20% of the total number units provided on the additional Corner Lot Bonus floors 9 through 12 for a term

of 30 years from the first certificate of occupancy for the Project; 14 AHU in this instance), ground floor retail, and ten (10) parking spaces, with regard to the property located at 96-110 Tonnele Avenue, Jersey City, New Jersey, also known on the Jersey City Tax Maps as Block 9405, Lots 11 and 12, in accordance with the submitted plans and testimony submitted to the Planning Board of the City of Jersey City, subject to the following conditions:

1. The Developer shall comply with all conditions of approval set forth on the record.
2. The Developer shall comply with the requirements of the Redevelopment Plan for the Corner Lot A bonus for the Property and Project.
3. The Developer shall enter into an agreement with the Division of Affordable Housing with regard to the AHU prior to the commencement of construction of the Project.
4. The Applicant shall address and comply with all comments and recommendations of municipal review agents and will submit revised plans to the Division of City Planning.
5. The Applicant shall address and comply with all comments provided in the report from the Jersey City Division of Engineering and will submit revised plans reflecting the comments of the engineering review to the Division of Planning prior to applying for permits.
6. All materials and color selections shall be shown on Final Plans. No change to the façade 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 and approval by planning staff.
7. All testimony given by the Applicant and their expert witnesses shall be binding.
8. The Architect of record, shall submit a signed and sealed affidavit confirming that the building was constructed as approved, prior to the issuance of the Certificate of Occupancy.

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VOTE: **6-0**

COMMISSIONER:	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Christopher Langston, Chairman	X			
Dr. Orlando Gonzalez, Commissioner	X			
Harkesh Thakur, Commissioner				
Edwardo Torres, Commissioner				
Dr. Vijay Desai, Commissioner	X			
Arnold Bettinger, Commissioner				
David Cruz, Commissioner	X			
Allison Solowsky, Commissioner				
Vidya Gangadin, Commissioner	X			
Councilwoman Joyce Watterman, Commissioner				
John Seborowski, Commissioner	X			

CHRISTOPHER LANGSTON, CHAIRMAN
JERSEY CITY PLANNING BOARD

ERICA BAPTISTE, SECRETARY
JERSEY CITY PLANNING BOARD

APPROVED AS TO LEGAL FORM:

SANTO ALAMPI, ESQ.

DATE OF HEARING:
DATE OF MEMORIALIZATION:
DATE OF CORRECTIVE RESOLUTION

January 7, 2020
January 7, 2020
January 19, 2021