

**RESOLUTION OF THE PLANNING BOARD OF THE CITY OF JERSEY CITY**

**APPLICANT: LEONTARAKIS JC-440 REAL ESTATE, LLC**

**FOR: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL  
WITH "C" VARIANCES  
405 ROUTE 440, JERSEY CITY, NEW JERSEY  
BLOCK 24602, LOT 1**

**CASE NO.: P20-022**

**WHEREAS**, the Applicant, **LEONTARAKIS JC-440 REAL ESTATE, LLC** (the "Applicant"), per **CONNELL FOLEY, LLC**, (Heather Kumer, Esq., appearing) made application to the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey for a Preliminary and Final Major Site Plan Approval with "c" variances pursuant to N.J.S.A. 40:55D-70(c) (minimum rooftop appurtenance setback; maximum floor to ceiling height for a parking level and any residential unit located on the same level), to wit: Calendar No. 20-022, to develop an eight (8) story multi-family mid-rise building with one hundred and fifty-eight (158) units and one hundred and eight (108) on-site car parking spaces with regard to the property located at 405 Route 440, Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 24602, Lot 1 ("Property"), and which is located within the Waterfront Planned Development Zoning District ("WPD District"); and

**WHEREAS**, it appears that due notice of a Virtual Public Zoom hearing on the above said application before the Planning Board of the City of Jersey City, on September 22, 2020 and October 13, 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 ("MLUL"); and

**WHEREAS**, the public was provided the necessary information to view and participate in the meeting via Zoom or telephonically, and to access and view the Applicant's plans and application documents; 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, Leontarakis JC-440 Real Estate, LLC has made an application with the City of Jersey City Planning Board for Preliminary and Final Major Site Plan Approval with “c” variances pursuant to N.J.S.A. 40:55D-70(c) (minimum rooftop appurtenance setback; maximum floor to ceiling height for a parking level and any residential unit located on the same level) with regard to the property located at 405 Route 440, Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 24602, Lot 1 (“Property”).

2. The Property is currently a 47,422 square foot “island lot” large surface parking lot, which has a vacant one-story restaurant on the lot located within the Waterfront Planned Development Zoning District (“WPD District”) bordered by Route 440 South, Kellogg Street, and a two-way round-about ramp providing access to Route 440 North. The WPD District allows multi-family as a permitted use with bulk and parking standards to be developed according to the R-3 Multi-Family Mid-Rise Zoning District standards.

3. The purpose of the application is to develop an eight (8) story multi-family mid-rise building with one hundred and fifty-eight (158) units and one hundred and eight (108) on-site car parking spaces (“Project”). The Project is set back sixty (60’) feet from the Route 440 South R.O.W. in accordance with NJ LDO requirements for future Route 440 expansion and widening. As part of the proposed Route 440 setback, the Applicant is proposing temporary landscaping, pedestrian access and a temporary enclosed dog run for this area in the interim.

4. As part of the application, the Applicant is requesting the following variances, exceptions and/or waivers from the Jersey City Land Development Ordinance in connection with this application:

1. The Applicant is requesting a variance to permit relief from minimum rooftop appurtenance setback.

2. The Applicant is requesting a variance to permit relief from the maximum floor to ceiling height for a parking level and any residential unit located on the same level as parking.
3. The Applicant is requesting any other variances, exceptions and/or waivers that the Jersey City Planning Board shall deem necessary in connection with this application.
5. The purpose of the Waterfront Planned Development District (“WPD District”) is to identify areas where the redevelopment of water oriented commercial, residential and recreational uses has occurred or has the potential to occur including high cube warehousing uses in designated areas. The intent of the District is to accurately reflect existing conditions, endorse ongoing redevelopment activity, accommodate a broad range of new uses, promote the creative reuse of large tracts of land and to continue to provide public access to an enhanced waterfront.
6. The WPD District allows multi-family as a permitted use with bulk and parking standards to be developed according to the R-3 Multi-Family Mid-rise Zoning District (“R-3 District”) standards. The Property encompasses an entire block, totaling 47,422 square feet and is an oversized for the R-3 District, where the minimum lot size for mid-rise apartments is six thousand (6,000’) square feet. Since the Property is essentially an island surrounded by streets, there are two (2) front primary façades and two front (2) secondary façades.
7. The Applicant requests a variance to permit the relief from the maximum floor to ceiling height for a parking level and any residential unit located on the same level as park. Under the R-3 District, a minimum floor to ceiling height of nine (9) feet for all residential floors, and a maximum floor to ceiling height of eight (8) feet for a parking level and any residential unit located on the same level as parking. The Project has three (3) floors, which have parking on the same level as residential units. The residential units above the parking levels are the permitted minimum floor to ceiling height of nine (9) feet. To keep consistency as well as provide enough space for emergency access and utility equipment, the residential floors with parking exceeds the maximum eight (8’) feet floor to ceiling height. However, the proposed building is still compliant with the overall permitted height. There is no substantial detriment from exceeding the maximum floor to ceiling height for residential units wrapping a parking level, as a higher floor to ceiling height on the ground floor is typical and representative of a mixed-use environment found throughout Jersey City. Additionally, the lot is adjacent to the Bayfront Redevelopment Area, which is planned to be mixed use in nature, and will have similar floor-to-ceiling heights on lower floors. Thus, granting the variance will not impact the intent of the zone plan nor the scale and character of adjacent development. Therefore, the benefits outweigh any substantial detriments and the variance can be granted accordingly.

8. Additionally, the Applicant requests a variance for relief from minimum rooftop appurtenance setback. According to the JC LDO, any rooftop structure or appurtenance covered by this section must be set back from any front facade (primary or secondary) by a distance of one foot one inch for every foot of rooftop structure or appurtenance height. As stated previously, the Property is surrounded by streets and has front facades on all sides. While the Project meets the rooftop appurtenance setback requirement for the amenity space, it cannot meet the required setback of 11'-11" for two (2) stair/elevator bulk heads along Kellogg Street. The proposed setback for the bulkheads is two feet (2'). Due to the design of the building and the irregular shaped island property, the Applicant cannot meet the required setback of a little over eleven (11') feet without negatively affecting the residential unit size. The adjacent property along Kellogg Street facing the bulkheads is a parking lot for a strip mall. Additionally, the Property as through lot has a secondary front facade on Route 440 and primary front façade on the parallel street line. The bulkhead along Kellogg Street is essentially a side yard, not a front yard, which does not require a setback. Furthermore, the Property is surrounded entirely by Route 440 R.O.W. and therefore inherently has substantial setbacks from adjacent development, thus, there is no detriment to granting the rooftop appurtenance setback variance. The appurtenances are well within the permitted height and will not create any additional shadow on adjacent development/properties, nor will the variance compromise public welfare and safety. Therefore, the benefits outweigh any substantial detriments and the variance can be granted accordingly.

9. The proposed and requested variances are appropriate for the development of the Property and will benefit the immediate neighborhood, promote the general welfare, promote the conservation of resources, promote appropriate population densities, and promote a desirable visual environment. 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 the character in the neighborhood, nor cause any substantial detriments. The proposed variances will not cause a substantial detriment to the public good, nor impairment to the intent and purpose of the Jersey City Master Plan and Zoning Ordinance, and can be granted accordingly.

**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 to the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey for a Preliminary and Final Major Site Plan Approval with "c" variances pursuant to N.J.S.A. 40:55D-70(c) (minimum rooftop appurtenance setback; maximum floor to ceiling height for a parking level and any residential unit located on the same level), to wit: Calendar No. 20-022, to develop an eight (8) story multi-family mid-rise building with one hundred and fifty-eight (158) units and

one hundred and eight (108) on-site car parking spaces with regard to the property located at 405 Route 440, Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 24602, Lot 1 ("Property"), and which is located within the Waterfront Planned Development Zoning District ("WPD District"); in accordance with the plans and testimony, submitted to the Jersey City Planning Board of the City of Jersey City, subject to the following conditions:

1. All materials and color selections shall be shown on Final Plans. 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 or NJ Department of Transportation shall be permitted without consultation with planning staff and approval by planning board.
2. All testimony given by the applicant and their expert witnesses shall be binding.
3. The Applicant is granted the necessary waiver from Jersey City Forestry Standards and shall be subject to a payment in lieu of planting where street trees cannot be implemented. The Applicant will work with City of Jersey City Planning Staff to install street trees and landscaping prior to issuance of a Certificate of Occupancy.
4. The Applicant shall provide an affidavit from the architect of record representing that the constructed project is consistent with final approved plans.
5. The Applicant shall provide a copy of the Hazard Flood Plain Elevation Certificate to City Planning prior to the issuance of a certificate of occupancy (CO) or a temporary certificate of occupancy (TCO)
6. The Applicant/owner will be responsible for their fair share of the installation of the new storm sewer main, per MUA comments.
7. The Applicant/property owner will be responsible for future sanitary sewer main connecting to the Bayfront Development, per MUA comments
8. The Applicant shall obtain a Highway Access Permit from NJDOT for the proposed access changes in the site plan under Case #P20-022. The Applicant shall provide City Planning with an affidavit of NJDOT approval prior to the issuance of construction permits.
9. The Applicant shall comply with all requested changes by JC Dept. Engineering, Traffic, and Transportation in their memo dated 07.02.2020 prior to signature plans, with the exception of comment 1.
10. The Applicant shall revise plans prior to signature sets to relocate an ADA compliant parking space to the upper level of the parking garage, as discussed with the Division of Engineering on 9.29.2020
11. The Applicant shall comply with all requested changes by JCMUA in their memo dated 05.08.2020 prior to signature plans
12. The Applicant shall provide a maintenance plan for all green infrastructure to City Planning prior to the issuance of a Certificate of Occupancy (CO) of a Temporary Certificate of Occupancy (TCO). In the event that any unit is vacant for a period of more than 30 days, the property owner shall be responsible for maintaining any green balconies accessed through that unit until occupancy by a new tenant.

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BLOCK 24602, LOT 1

**CASE NO.:** P20-022


**VOTE:** 9-0


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COMMISSIONER:	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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Christopher Langston, Chairman	X
Dr. Orlando V. Gonzalez, Vice Chairman	X
Vidya Gangadin, Commissioner	X
Dr. Vijay Desai, Commissioner	X
Harkesh Thakur, Commissioner	X
Eduardo Torres, Commissioner	X
Geoffrey Allen, Commissioner	X
Peter Horton, Commissioner	X
David Cruz, Commissioner	X

  
Christopher Langston (Oct 28, 2020 15:49 EDT)  
CHRISTOPHER LANGSTON, CHAIRMAN  
JERSEY CITY PLANNING BOARD

  
Erica Baptiste (Oct 28, 2020 13:11 EDT)  
MATT WARD, SECRETARY  
JERSEY CITY PLANNING BOARD

APPROVED AS TO LEGAL FORM:

  
Santo T. Alampi (Oct 28, 2020 13:14 EDT)  
SANTO ALAMPI, ESQ.

DATE OF HEARING:

September 22, 2020; October 13, 2020

DATE OF MEMORIALIZATION:

October 27, 2020

