

**RESOLUTION OF THE CITY OF JERSEY CITY ZONING BOARD OF ADJUSTMENT  
APPROVING PRELIMINARY AND FINAL MAJOR SITE PLAN WITH VARIANCES**

**APPLICANT:** 400 NEWARK REALTY, LLC

**FOR:** APPROVAL OF PRELIMINARY AND FINAL MAJOR SITE PLAN  
WITH VARIANCES

**PROPERTY:** 400 Newark Avenue  
Block 9806, Lots 2 & 3

**CASE NO.** Z17-033

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**WHEREAS**, application has been made by 400 Newark Realty, LLC (hereinafter, the “Applicant”) to the Zoning Board of Adjustment of the City of Jersey City, County of Hudson and State of New Jersey by Genova Burns LLC (Eugene T. Paolino, Esq. appearing) for approval of an Preliminary and Final Major Site Plan with variances filed under case no. Z17-033 for Applicant’s premises located at 400 Newark Avenue, designated as Block 9806, Lots 2 & 3 on the official Tax Map of the City of Jersey City, County of Hudson, State of New Jersey (the “Property”); and

**WHEREAS**, the Property is located within the Neighborhood Commercial (NC) Zoning District and governed by Jersey City Land Ordinance 345-45, et. seq. (the “Ordinance”); and

**WHEREAS**, the Applicant proposes to construct to construct a seven (7) story residential structure containing twenty-seven (27) dwelling units, amenity space on the seventh floor, and ground floor retail.

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

**WHEREAS**, due notice of the Tuesday, November 2, 2017, hearing for the above-described Application was provided in accordance with the Municipal Land Use Law and as prescribed in the zoning ordinance of the City of Jersey City ("Ordinance"); and

**WHEREAS**, the Board has formally heard and considered the evidence presented by Applicant in support of the within application including the sworn testimony of its two (2) expert witnesses, John C. Inglese of Inglese Architecture & Engineering (architecture and civil engineering) and Edward Kolling of Dresdner Robin (planning), the comments of the public and the comments and recommendations of Planning Staff; and

**WHEREAS**, having considered the within application, all supporting documents, the sworn testimony in support of the application, and the comments and recommendations of Planning Staff, and having heard public comment, the Zoning Board of Adjustment of the City of Jersey City hereby makes the following findings of fact and conclusions thereon:

#### FINDINGS OF FACT

1. All the Recitals hereinabove set forth are incorporated herein by reference and all exhibits, drawings and documents, including Applicant's General Development Application and Supporting Documents and City planner's testimony and reports, if any, are hereby incorporated by reference.

2. The Applicant is the current Owner of the Property.

3. The Property consists of two (2) lots, one being a vacant lot formerly used as an auto-body shop and the other lot containing a two (2) story dwelling structure both of which are located within the Neighborhood Commercial Zoning district of the City of Jersey City.

4. The proposed Project furthers the purpose of the Zone and the City's Master Plan for the redevelopment of real property within the Zone.

5. Mr. Inglese, both the architect and civil engineer of record first testified regarding the civil engineering aspects of the Project.

6. Mr. Inglese testified that the Property is a through-lot that is irregularly shaped extending through Newark Avenue to Seventh Street. The Property is immediately adjacent to the New Jersey Turnpike overpass and essentially the first building on the block when coming down the hill from the Journal Square section of Jersey City on Newark Avenue.

7. In terms of the site plan, Mr. Inglese testified that the curb and sidewalk will be replaced, and street trees will be planted on both Newark Avenue and Seventh Street.

8. After meeting with the City of Jersey City Engineering Department the size of the tree pits to be installed will be ten (10) feet long by four (4) feet wide.

9. Regarding the architectural aspects of the Project, Mr. Inglese testified the ground floor of the building will contain retail space fronting on Newark Avenue at sidewalk level and will be wet flood-proofed in accordance with the Department of Environmental Protection ("DEP") requirements. The frontage along Newark Avenue will also contain a single egress from the interior core of the building for the residents to enter onto Newark Avenue.

10. In addition to the retail space on the ground floor, Mr. Inglese testified that the residential lobby, mechanical room, elevator, compactor room, bicycle storage room containing twenty-eight (28) spaces and two (2) one (1) bedroom apartments will also occupy the first floor, which has been raised to one (1) foot above the flood level or Elevation 12.

11. Mr. Inglese testified initially the first floor was going to contain a parking garage however after meeting with City Planning there was a concern about the traffic corridor coming onto Seventh Avenue from Newark Avenue and the preference of the City was not to have a curb

cut and cars entering and leaving right on that first block of Seventh Street therefore the ground floor retail replaced the parking garage.

12. Mr. Inglese testified that floors 2 through 6 are essentially the same. Each floor contains three (3) one-bedroom apartments and two (2) two-bedroom apartments ranging from 732 square feet for the smallest one-bedroom to 1,343 square feet for the largest two-bedroom apartment. The entire Project will contain a total of twenty-seven (27) dwelling units composed of seventeen (17) one-bedroom and ten (10) two-bedroom units.

13. Each of the units have either exposure to the inner yard of Seventh Street to Newark Avenue and to the east across the New Jersey Turnpike which is a right of way just as Newark Avenue is a right of way.

14. Next, Mr. Inglese testified as to the seventh floor or the penthouse. Mr. Inglese indicated that this area is to be used for residential amenities, this interior space will include a recreation space, lounge and library, and access onto a smaller exterior roof deck for a grill. In addition to the common rooftop space, the exterior will also include building mechanical equipment and planted green roof area. The rooftop will contain a full parapet surrounding all sides of the building.

15. Regarding materials, Mr. Inglese testified a cast stone base which will be used on the first floor. The upper portion of the building will be a darker brown, Ironspot brick. At the top floor and going down through the middle of the western façade is a scored vertical metal panel.

16. Additionally, there are metal panel accents between the windows and there are also two (2) bay elements one projected bay on Newark Avenue and a larger projected bay in the center of Seventh Street that are both completely clad in two (2) tones of metal panel. The windows are aluminum clad wood in a similar color to the metal panel on the bay.

17. Mr. Edward Kolling testified the Applicant was seeking the following variances:

- A. Section 345-45(D)(9) of the Land Development Ordinance regarding building height where five (5) stories is the maximum height permitted and seven (7) stories is proposed;
- B. Section 345-45(E)(2) of the Land Development Ordinance regarding the number of required parking spaces where twenty-five (25) parking spaces are required and none are proposed.

18. Mr. Kolling testified that the intent and purpose of the Neighborhood-Commercial District is to recognize the importance of business districts and to promote the continued efforts to strengthen and revitalize them.

19. Mr. Kolling concluded that this Project does further the intent and purpose of the zone as it promotes the general welfare and public good.

20. With regard to the request to increase the maximum height of the building, Mr. Kolling testified the height of the building being requested is consistent with buildings that are under construction or have just been completed in the area.

21. He further testified that the height would not be a substantial detriment to the intent and purpose of the zone insofar as the way the property is situated, the size of the property and the look of the property it is clear it can accommodate the added height.

22. The property is a through-lot and larger than the typical neighborhood-commercial lot—its adjacent to rights of way on three (3) sides: Seventh Street, Newark Avenue, and the New Jersey Turnpike right of way. The requested height is further mitigated because of the proximity to the New Jersey Turnpike overpass which is approximately ninety feet (90') in the air.

23. Mr. Kolling concluded that the building with the increased height will present a positive view and improvement to the area and the height variance should be granted because the building can accommodate the added height without any adverse impacts. The building is

consistent with the character of the area and will not result in a substantial detriment to the intent of the zone and will further promote the intent of the zone because it is providing the residents who frequent the business district as well as additional commercial space to revitalize and make more vibrant the street and streetscape.

24. Regarding the parking variance, Mr. Kolling testified that originally the plan was to provide twelve (12) to fourteen (14) parking spaces in a first-floor parking garage; however, because this area is a primary pedestrian pathway, the Applicant agreed with City Planning's recommendation that providing parking under the building would create conflicts with both pedestrian travel and conflict with vehicles coming down Seventh Street and therefore the parking garage was eliminated.

25. Mr. Kolling concluded that the benefits of not having the parking garage outweigh the detriments in being required to provide the parking garage. The benefit of reducing the conflicts of traffic congestion on Seventh Street as well as creating a safer pedestrian area outweighs the detriment of not providing the parking garage.

26. In looking at the negative criteria, any impacts are mitigated by the Property's location on Newark Avenue. There are three (3) New Jersey Transit bus lines that run in front of the site which all travel to Grove Street and it is six tenths of a mile walk to the Grove Street Path Station.

27. In conclusion, Mr. Kolling opined the lack of parking should not be a substantial detriment either to the intent of the zone plan or to the general welfare and under the C-2 criteria the parking variance should be granted.

28. Following Applicant's testimony, public comment was taken, and the staff report of the Planning Division of the City of Jersey City was elicited. On behalf of the City, Tanya

Marione, Principal Planner testified the Applicant had worked with her specifically with regards to the elimination of the parking, which she testified was made at her request and recommended the Project be approved.

29. The Board finds that the Project and its proposed improvements will benefit the community through the promotion of the intent and purpose the Municipal Land Use Law. Specifically, the proposed Project meets the intent of the Plan, and, therefore, the granting of the deviations and variances will guide the appropriate use and development of this site in a manner that will promote the general welfare consistent with N.J.S.A. 40:55D-2a. The Project meets the Ordinance and thus provides adequate light, air and open space pursuant to N.J.S.A. 40:55D-2c. Finally, the Project will promote a desirable visual environment through creative development techniques and good civic design and arrangement, consistent with N.J.S.A. 40:55D-2i.

30. The Board finds that the proposed improvements will benefit the community through the promotion of the intent and purpose of the Ordinance in that the Property will be developed as a residential mixed-use area with ground floor commercial uses.

31. The Board finds that granting the variances will not result in a detriment to the public good. The Project is consistent with the purpose and intent of the Ordinance and the City's Master Plan and will develop a vacant lot to advance the purposes and intent of the Ordinance. The granting of the requested deviations and variances will not substantially impair the intent and purpose of the Ordinance. Accordingly, the requested deviations and variances can be granted in that the positive and negative criteria of the Municipal Land Use Law have been satisfied. Moreover, the benefits of granting the requested variances would substantially outweigh any detriments.

32. The Board hereby grants relief and deviations from the following sections of the Plan as to the proposed Project:

- a. Section 345-45(D)(9) of the Land Development Ordinance regarding building height where five (5) stories is the maximum height permitted and seven (7) stories is proposed;
- b. Section 345-45(E)(2) of the Land Development Ordinance regarding the number of required parking spaces where twenty-five (25) parking spaces are required and none are proposed.

33. The Applicant has met the procedural requirements of the Ordinance, including the payment of fees, and in all other respects the application conforms to the requirements of the Ordinance and the Plan for approval of the preliminary and final major site plan application with variances in the City of Jersey City.

**NOW, THEREFORE, BE IT RESOLVED** that the Zoning Board of Adjustment of the City of Jersey City, County of Hudson and State of New Jersey, for the foregoing reasons, as well as those reasons stated on the record herein, which reasons are incorporated herein by reference, having heard Applicant's testimony, public comment and the report of the staff of the Jersey City Planning Division, approves the within application, Case Z17-033, for Preliminary and Final Major Site Plan with variances to construct a seven (7) story residential structure containing twenty-seven (27) dwelling units, amenity space on the seventh floor, and ground floor retail, subject to the following conditions:

1. All proposed street trees shall be installed in accordance with 345-66. All street trees shall be installed prior to any issuance of a Certificate of Occupancy.
2. All materials and color selection shall be shown on Final Plans. No change to the 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. A site plan amendment or new application may be required.



3. A copy of the memorialized resolution with amended deed shall be filed with the Hudson County Register's Office with proof of such filing to be submitted to the Division of City Planning prior to application for construction permits
4. All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding.
5. Architect of record shall be retained throughout construction.
6. Applicant shall provide an affidavit from the architect of record representing that everything is consistent with final approved plans prior to issuance of Certificate of Occupancy.

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**PROPERTY:** 400 Newark Avenue  
Block 9806, Lots 2 & 3


**CASE NO.** Z17-033


**DATE OF HEARING:** November 2, 2017

**VOTE:** 6-0

**VOTING IN FAVOR:  
COMMISSIONERS**

1. Chairman Joshua Jacobs
2. Commissioner Ahmed Shedeed
3. Commissioner Luz Mercedes Guzman
4. Commissioner Chester M. Rothman
5. Commissioner Ashley Christmas
6. Commissioner Thomas Jennings

  
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JOSHUA JACOBS, Chairman  
JERSEY CITY ZONING BOARD  
ZONING OF ADJUSTMENT

  
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TANYA MARIONE, Secretary  
JERSEY CITY ZONING BOARD OF  
ADJUSTMENT

**APPROVED AS TO LEGAL FORM:**

  
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VINCENT LaPAGLIA, ESQ.  
JERSEY CITY ZONING BOARD OF  
ADJUSTMENT

**DATE OF MEMORIALIZATION:**

January 11, 2018