

**RESOLUTION OF THE ZONING BOARD OF THE CITY OF JERSEY CITY APPROVING  
AN EXTENSION OF FINAL MAJOR SITE PLAN APPROVAL**

**APPLICANT: 35 ORCHARD STREET, LLC**

**FOR: EXTENSION OF FINAL MAJOR SITE PLAN APPROVAL WITH "C"  
AND "D" VARIANCES  
35 ORCHARD STREET  
BLOCK 15201, LOT 34.01**

**CASE NO.: Z21-077**

**WHEREAS**, the Applicant, **35 Orchard Street, LLC (the "Applicant")**, per **Connell Foley, LLC**, (Thomas P. Leane, Esq., appearing) made application to the Zoning Board of the City of Jersey City, County of Hudson and State of New Jersey, for a one-year extension of its protections pursuant to N.J.S.A. 40:55D-52.a of its Final Major Site Plan Approval with variance pursuant to variances pursuant to N.J.S.A. 40:55D-70(d)(1) and (6) (use, height) and N.J.S.A. 40:55D-70(c)(2) (minimum parking space dimension width), approved under Case No. Z17-080 and as amended under Case Z18-087 consisting of a nine (9) story building containing thirty-five (35) dwelling units, eight (8) parking spaces and ground floor retail (the "Project") with regard to the property located at 35 Orchard Street and described on the Official Tax Map of the City of Jersey City as Block 15201, Lot 34.01 (the "Property"), which is located within the R-1 One and Two Family Housing District and is governed by the regulations found within the Jersey City Land Development Ordinance; and

**WHEREAS**, the Jersey City Zoning Board granted Minor Site Plan approval with a "d" variance for the Project under Case No. Z17-080 on February 8, 2018 and memorialized by way of resolution on February 22, 2018. An amendment to the application was obtained under Case No. Z18-087 on December 6, 2018 and memorialized on December 20, 2018; and

**WHEREAS**, under the Municipal Land Use Law (the "MLUL") the vesting period for the Amended Final Major Site Plan Approval remained in effect until December 20, 2020; and

**WHEREAS**, due to the state of emergency caused by the COVID-19 pandemic the Project applied for and received protection under the Permit Extension Act of 2020 extending the approval protection until December 4, 2021;

**WHEREAS**, Section 52(a) of the MLUL (N.J.S.A. 40:55D-52.a) and Section 345-24(E)(1) of the Jersey City Land Development Ordinance authorizes the Zoning Board to up to three (3) discretionary one-year extensions; and

**WHEREAS**, Pursuant to N.J.S.A. 40:55D-52(c) an application may be made for extension after the initial two (2) year period has ended, but in that event the date from which the extensions shall run will be the date on which the initial two (2) year period expired; and

**WHEREAS**, Applicant has requested a one-year extension for the Amended Final Major Site Plan approval obtained under Case Z17-080 and as amended by Case No Z18-087, extending the statutory protection until December 4, 2022; and

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

**WHEREAS**, it appears that due notice of a hearing on the above said application before the Zoning Board of the City of Jersey City, on October 14, 2021 at 6:30 p.m., was duly published as prescribed in the Jersey City Land Development Ordinance, the Senator Byron M. Baer Open Public Meetings Act and the Municipal Land Use Law ("MLUL"); and

**WHEREAS**, the Board has heard and considered the evidence presented by Applicant in support of the within application including a letter from Applicant to the Division of City Planning dated September 7, 2021 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, the Zoning Board of the City of Jersey City hereby makes the following findings of fact and conclusions therein:

#### **FINDINGS OF FACT**

1. All the Recitals hereinabove set forth are incorporated herein by reference and all the exhibits, drawings and documents, including the Applicant's letter dated September 7,

2021 outlining Applicant's request for an extension and the City planner's testimony and reports, if any, are hereby incorporated by reference.

2. The Property is located within the R-1 One and Two Family Housing District and is governed by the regulations found within the Jersey City Land Development Ordinance (the "JC LDO").

3. The Project in summary, was for a mixed-use, eight (8) story building containing thirty-five (35) dwelling units, ground floor commercial and six (6) parking spaces. Variances granted related to use and height and minimum parking space dimension width. The Project was thereafter amended to increase the height to nine (9) stories and add two (2) additional parking spaces thus increasing the intensity of the variances (jointly, the "Approval").

4. The Approval was obtained for the above-referenced property on February 8, 2018 and memorialized by way of resolution on February 22, 2018 (see enclosed resolution). The Project was amended by way of an amendment to the Approval on December 6, 2018 which was memorialized on December 20, 2018 (please see amendment resolution). Effectively, the statutory protection afforded to the approval will expire on December 20, 2020.

5. Due to the state of emergency declared by Governor Murphy, Applicant applied for the Approval to be extended by the Permit Extension Act of 2020. The Permit Extension Act of 2020 protected all eligible approval through the state of emergency and up to 6 months after it has ended. As the State of Emergency Ended on June 4, 2021, the Approval is protected until December 4, 2021.

6. By way of letter dated September 7, 2021, Applicant requested that statutory protections for the Approval be extended for from December 4, 2021 to December 4, 2022 pursuant to N.J.S.A. 40:55D-52(a) and Section 345-24(E)(1) of the Jersey City Land Development Ordinance.

7. The statutory protections land use approvals for this project will expire on December 4, 2021. The Applicant is obtaining financing and will require the approval to be valid while they finalize permitting.

8. Section 52(a) of the MLUL (N.J.S.A. 40:55D-52.a) and Section 345-24(E)(1) of the JC LDO authorizes the Zoning Board to grant up to three (3) discretionary one (1) year extensions of the protections.

9. Pursuant to N.J.S.A. 40:55D-52(c) an application may be made for extension after the initial two-year period has ended, but in that event the date from which the extensions shall be the date on which the initial two-year period expired.

10. 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, the Plan and the Municipal Land Use Law for extension of a Final Major Site Plan approval.

**NOW, THEREFORE, BE IT RESOLVED** that the Zoning Board 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, hereby extends the statutory protections for the Final Major Site Plan Approval obtained under Case Z17-080 and as amended by Case No Z18-087 pursuant to N.J.S.A. 40:55D-52(a) and Section 345-24(E)(1) of the Ordinance for a period of one (1) years until December 4, 2022 subject to any conditions as stated on the record.


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**VOTE:** 6-0

COMMISSIONER:	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Joshua Jacobs, Chairman	X			
Kate Donnelly, Vice-Chairwoman	X			
Richard McCormack, Commissioner	X			
Ahmed Shedeed, Commissioner	X			
Lenora Brown, Commissioner	X			
Kim B. Greene, Commissioner	X			

  
Josh Jacobs (Oct 29, 2021 13:15 EDT)  
 JOSHUA JACOBS, CHAIRMAN  
 JERSEY CITY ZONING BOARD

*Lindsey Sigmund*  
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 LINDSEY SIGMUND, SECRETARY  
 JERSEY CITY ZONING BOARD

APPROVED AS TO LEGAL FORM:

  
Vincent LaPaglia (Oct 29, 2021 12:57 EDT)  
 VINCENT LaPAGLIA, ESQ.

DATE OF HEARING: October 14, 2021  
 DATE OF MEMORIALIZATION: October 28, 2021