

RESOLUTION

Of the

PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE AUTHORIZING SETTLEMENT BETWEEN THE PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE AND 410 MAIN STREET HOLDINGS, LLC CONCERNING PROPERTY LOCATED AT 410 MAIN STREET, AUTHORIZING THE CHAIRMAN OF THE PLANNING BOARD TO EXECUTE THE SETTLEMENT AGREEMENT

Adopted: September 9, 2026

WHEREAS, 410 Main Street Holdings, LLC (hereinafter “Plaintiff”) is the owner of property located at 410 Main Street, Block 113, Lots 262, 264 and 308 (hereinafter “the property”) in the Township of West Orange; and

WHEREAS, the Planning Board of the Township of West Orange (hereinafter “the Board”) is a duly authorized Board performing the duties and powers of a planning board pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. (the “MLUL”); and

WEHREAS, the Plaintiff filed an application to develop the property with a three (3)-story mixed-mixed use development consisting of an approximately 900 sq. ft. commercial unit, 12 residential units (with two units set aside as affordable housing), and 14 indoor parking spaces requiring bulk variances for front yard setbacks, side yard setback and rear yard setback, number of stories greater than permitted, building coverage greater than permitted, lot coverage greater than permitted and number of parking spaces less than required and site plan approval; and

WHEREAS, the Board held public hearings on the Plaintiff’s application for development of the property over six dates and ultimately determined that the Plaintiff failed to establish the criteria required under the MLUL for variance relief and therefore denied Plaintiff’s

application for development which was memorialized in a resolution adopted by the Board on January 8, 2025; and

WHEREAS, Plaintiff having filed a complaint in lieu of prerogative writs on February 28, 2025 bearing Docket No. ESX-L-1637-25, seeking judgment from the Superior Court of New Jersey that the Board's denial of the Application was arbitrary, capricious and unreasonable and contrary to the MLUL, and seeking relief from the Court granting Plaintiff preliminary and final major site plan and conditional use approval and bulk variance relief; and

WHEREAS, Plaintiff also filed an action for builder's remedy and exclusionary zoning action against the Township and the Board on March 4, 2026, bearing Docket No.: ESX-L-1824-26 (together with the prerogative writs action collectively the "410 Main Actions"); and

WHEREAS, the Township, the Board and 410 Main, through their respective counsel and professionals, have engaged in extensive negotiations to resolve the 410 Main Actions and provide inclusionary affordable housing development on the Property; and

WHEREAS, the Township, the Board and 410 Main have negotiated an Affordable Housing Settlement Agreement ("Settlement Agreement"), in a substantially similar form as attached hereto as **Exhibit A** and incorporated herein by reference; and

WHEREAS, the Settlement Agreement remains subject to approval by the Superior Court following any fairness hearing or other proceeding required by the Court; and

WHEREAS, the Settlement Agreement contemplates, among other things, development of the Property with an inclusionary rental residential project containing up to twelve (12) residential units with no commercial component at a twenty percent (20%) affordable housing set aside, and nineteen on-site parking spaces in accordance with the

Settlement Agreement in exchange for dismissal with prejudice of the 410 Main Actions upon satisfaction of the conditions set forth in the Settlement Agreement; and

WHEREAS, it is understood that the site-specific implementing zoning ordinance contemplated by the Settlement Agreement is subject to separate introduction, public hearing and final consideration in accordance with applicable law; and

WHEREAS, the Board has reviewed the material terms of the Settlement Agreement and finds that resolution of the 410 Main Street Actions on the terms set forth therein will avoid the expense, delay, and uncertainty of continued litigation, advance the Township's Fourth affordable housing compliance, and serve the best interests of the Township and its residents; and

WHEREAS, the Board desires to approve the Settlement Agreement and authorize the Chairman of the Board, the Board Secretary and Board counsel, and appropriate Board officials and professionals to take the actions reasonably necessary to effectuate the settlement.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange, that the Affordable Housing Settlement Agreement between the Board and 410 Main Street Holdings, LLC, is hereby approved, and shall be executed by the Board Chairman, attested to by the Board Secretary in the same or substantially similar form as attached hereto as **Exhibit A**, together with any certificates, applications, acknowledgements, or related documents reasonably necessary to effectuate the Settlement Agreement; and

BE IT FURTHER RESOLVED, that the Board, the appropriate Board officials and Board professionals are hereby authorized to take any and all required actions to carry out this Settlement Agreement, as set forth herein; and

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately upon adoption and a copy of this Resolution shall be made available in the Office of the Planning Department and the Township Clerk's office in accordance with applicable law.

ADOPTED:

Jamilet Baquerizo Vite
Planning Board Secretary

Vote on Resolution on September 9, 2026:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper						
J. Guarino						
L. Klein						---
S. McCartney						
C. Morgan					---	
F. Noborine						
W. Wilkes					---	
S, Scarpa						
J. Cardoza						
L. Kapferer						
R. Bagoff						