

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

ORDINANCE NO. 2024-20

**AN ORDINANCE AUTHORIZING ACCEPTANCE OF A CROSS-ACCESS AND
UTILITY EASEMENT IN CONNECTION WITH LAND USE APPROVALS GRANTED
TO RAY RAP REALTY.COM, INC. FOR A DEVELOPMENT PROJECT LOCATED AT
HARDING ROAD / HUDSON AVENUE / CLAY STREET**

WHEREAS, the Borough of Red Bank is a duly organized Municipal Corporation of the State of New Jersey; and

WHEREAS, Ray Rap Realty.com, Inc., (and other Agents thereof) previously submitted a Development Application to the Borough of Red Bank; and

WHEREAS, the said Application involved the property located at Harding Road / Hudson Avenue / Clay Street, Red Bank, NJ, and more formally identified as Block 58, Lots 1, 2, 3, 4, 5, and 6 (to ultimately be known as Block 58, Lots 6.01 – 6.17); and

WHEREAS, the said Application, as ultimately amended, sought Major Subdivision Approval, Site Plan Approval, Variance Relief, and Design Waiver Relief associated with the request to effectuate the following:

- Subdivision of the subject existing Lots;
- Construction of 14 Townhouse Units;
- Construction of 2 detached stand-alone Affordable Housing Units / Cottages;
- Creation of a common landscaped Garden Lot;
- Construction / installation of various other site improvements; and

WHEREAS, because of the nature of the Variance Relief needed, the Application was forwarded to the Red Bank Zoning Board of Adjustment; and

WHEREAS, on or about April 20, 2023, the most recently amended version of the Application was conditionally approved by the Zoning Board; and

WHEREAS, the Zoning Board of Adjustment adopted a memorializing Resolution of Conditional Approval; and

WHEREAS, the memorializing Resolution of Conditional Approval is incorporated herein at length; and

WHEREAS, among other things, the Zoning Board of Adjustment Approval was conditioned upon a number of things, including, the following:

- Compliance with all promises, commitments, and representations the Applicant's Development Team made throughout the Public Hearing process; and
- Compliance with the terms and conditions of the Review Memorandum from the Board Engineer; and

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WHEREAS, in furtherance thereof, the Applicant's representatives recently submitted a Cross Access and Utility Easement, for the benefit of the Borough of Red Bank (and others); and

WHEREAS, the said Easement Document will allow the various Owners in the Complex, the Borough of Red Bank, the Borough's Contractors, and Utility Companies to freely crossover / access the various Lots in the approved Development Complex; and

WHEREAS, in the absence of such a formal Easement Agreement, Unit Owners might not be legally entitled / authorized to appropriately access / crossover other Lots in the Development Complex; and

WHEREAS, in the absence of such a formal Easement Agreement, Borough Personnel, Borough Contractors, and / or Utility Company Representatives might not be legally entitled / authorized to appropriately access the various Lots in the Complex so as to ensure the proper installation / improvement / maintenance / repair / replacement of various utility lines, when necessary; and

WHEREAS, as referenced, the Applicant's Representatives have prepared a Cross Access and Utility Easement; and

WHEREAS, the proposed Cross Access and Utility Easement is attached hereto as Exhibit A; and

WHEREAS, execution and acceptance of the said Easement will advance the public interest; and

WHEREAS, execution and acceptance of the said Easement will advance the interests of the Borough of Red Bank; and

WHEREAS, pursuant to Prevailing Provisions of New Jersey Law, any interest in property conveyed to a Municipality (including an interest conveyed via an Easement) shall be officially accepted by adoption of an authorizing Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Red Bank as follows:

1. That the Borough of Red Bank is hereby authorized to accept the aforesaid Cross Access and Utility Easement, according to the terms and conditions set forth in said Easement, which is attached hereto as Exhibit A.
2. That, if necessary, the Mayor, Borough Manager, Borough Clerk, and other Borough Representatives are hereby authorized to sign any and all documents necessary to effectuate the Cross Access and Utility Easement.

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BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Red Bank that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Red Bank that if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Red Bank that this Ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

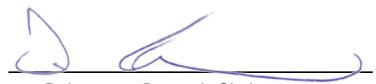
INTRODUCTION						COUNCILMEMBER	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
	X	X				KRISTINA BONATAKIS	X		X			
X		X				DAVID CASSIDY		X	X			
		X				NANCY FACEY-BLACKWOOD			X			
		X				BEN FOREST			X			
		X				LAURA JANNONE			X			
		X				KATE TRIGGIANO			X			
		X				MAYOR WILLIAM PORTMAN			X			
Introduced: April 25, 2024			I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Red Bank, County of Monmouth, State of New Jersey on the aforementioned date.									
Final Adoption: May 9, 2024			 Laura Reinertsen, Borough Clerk									

EXHIBIT A

Prepared By:
Edward J. McKenna, Jr., Esq.

CROSS ACCESS AND UTILITY EASEMENT

This Agreement made this ____ day of _____, 2024, by and between RAY RAP REALTY.COM, INC., P. O. Box 584, Rumson, New Jersey 07760; VICTORIAN APARTMENTS, LLC, P. O. Box 584, Rumson, New Jersey 07760; RAYMOND RAPCAVAGE, P. O. Box 584, Rumson, New Jersey 07760 and RAY RAPCAVAGE, P. O. Box 584, Rumson, New Jersey 07760 (Grantor) and RAY RAP REALTY.COM, INC., P. O. Box 584, Rumson, New Jersey 07760; VICTORIAN APARTMENTS, LLC, P. O. Box 584, Rumson, New Jersey 07760; RAYMOND RAPCAVAGE, P. O. Box 584, Rumson, New Jersey 07760 and RAY RAPCAVAGE, P. O. Box 584, Rumson, New Jersey 07760 (Grantee);

WHEREAS, Ray Rap Realty.Com, Inc., Victorian Apartments, LLC, Raymond Rapcavage and Ray Rapcavage are the owners those certain lands and premises located in the Borough of Red Bank, County of Monmouth and State of New Jersey formerly known and designated as Block 58, Lots 1, 2, 3, 4, 5 and 6 and now currently known and designated as or to be known and designated as Block 58, Lots 6.01 through 6.17 on the Tax Map of the Borough of Red Bank, County of Monmouth, State of New Jersey.

WHEREAS, by Resolution 2023-11 dated June 15, 2023, the Red Bank Zoning Board granted Amended Major Subdivision Approval, Amended Site Plan Approval, Amended Variance Relief and Amended Design Waiver Relief for the property formerly known and designated as Block 58, Lots 1, 2, 3, 4, 5 and 6 and now currently known and designated or as to be known and designated as Block 58, Lots 6.01 through 6.17 as shown on the Tax Map of the Borough of Red Bank; and

WHEREAS, pursuant to the aforementioned approval, cross access and utility easements are required across all lots subject to the Zoning Board approval, owned by Grantor RAY RAP REALTY.COM, INC., VICTORIAN APARTMENTS, LLC, RAYMOND RAPCAVAGE AND RAY RAPCAVAGE and formerly known and designated as Block 58, Lots 1, 2, 3, 4, 5 and 6 and now currently known and designated as or to be known as Block 58, Lots 6.01 through 6.17 on the Tax Map of the Borough of Red Bank; and

WHEREAS, the within Easement conveys unto the Grantee and all Owners / Occupants in the subject Complex a perpetual and non-exclusive Right-of-Way/ Access Easement for ingress and egress over, above, on and across the property identified on the attached Schedule A; and

WHEREAS, the within Easement was granted for the sum of \$1.00 (ONE DOLLAR AND 00/100) and other good and valuable consideration; and

WHEREAS, the within Easement conveys unto the Grantee and all Owners / Occupants in the subject Complex a perpetual and non-exclusive Right-of-Way and Easement on/ over/ across above the area identified on the attached Schedule A for the purpose of installing, laying, operating, maintaining, inspecting, removing, repairing and replacing utilities, and adding to, from time to time, any pipes, together with the necessary fittings, appurtenances, and attaching facilities (including laterals and connections) for the purpose of providing necessary utility services as more particularly described herein; and

WHEREAS, together with the right of Utility Companies, and, if necessary, Municipal Inspectors / Contractors, and their successors and assigns, to enter in and upon the premises described herein, with workers and machinery, vehicles, and material at any time, and at all times, for the purpose of inspecting, replacing, maintaining, repairing, renewing, or adding to

the aforesaid utility lines and appurtenances, and for doing anything reasonably necessary,

useful, or convenient for the enjoyment of the Easement Rights granted herein; and

WHEREAS, the Borough of Red Bank, and Agents *I* Representatives / Employees / Contractors thereof (to be liberally construed) shall have the right, but not the obligation, to enter upon/ over/ on/ through Schedule A Easement Area, with workers and machinery, if necessary, for the purposes of accessing the site and/ or advancing utility purposes or other purposes more particularly described herein; and

WHEREAS, the Borough of Red Bank (and agents / representatives / contractors thereof) are not required to restore the easement area to its pre-disturbed condition; and

WHEREAS, the Grantor *I* Grantee and successor owners shall release, defend and hold the Borough of Red Bank, the Red Bank Zoning Board, and their agents, representatives, contractors, employees, and Professionals harmless from and against any and all losses/ liabilities/ damages (including reasonable attorney fees) associated with the easement rights granted hereunder; and

WHEREAS, no notice is required for individuals to avail themselves to the cross access/ utility rights granted herein; and

WHEREAS, Resolution 2023-11 of the Red Bank Zoning Board of Adjustment dated June 15, 2023 is incorporated herein at length; and

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. Grantor, RAY RAP REALTY.COM, INC., VICTORIAN APARTMENTS, LLC, RAYMOND RAPCA VAGE AND RAY RAPCA VAGE, hereby grants a right of access through, over, upon, in and across certain lands and premises located in the Borough of Red Bank, County of Monmouth, State of New Jersey, formerly known and designated as Block 58, Lots 1, 2, 3, 4, 5 and 6 and now currently known and designated as or to be known and designated as Block 58,

Lots 6.01 through 6.17 on the Tax Map of the Borough of Red Bank for purposes of cross access, ingress, egress and utilities across certain lands and premises located in the Borough of Red Bank, County of Monmouth, State of New Jersey, formerly known and designated as Block 58, Lots 1, 2, 3, 4, 5 and 6 and now currently known and designated as or to be known and designated as Block 58, Lots 6.01 through 6.17 on the Tax Map of the Borough of Red Bank as set forth on the approved Preliminary and Final Major Subdivision Plan, prepared by French and Parrello Associates dated February 9, 2018, last revised May 9, 2023 shown on Schedule A.

2. This easement shall inure to the benefit of certain lands and premises located in the Borough of Red Bank, County of Monmouth, State of New Jersey, formerly known and designated as Block 58, Lots 1, 2, 3, 4, 5 and 6 and now currently known and designated as or to be known and designated as Block 58, Lots 6.01 through 6.17 on the Tax Map of the Borough of Red Bank, the owners thereof and their successors and assigns.

THIS EASEMENT shall run with the land and shall be binding upon the heirs, successors and assigns of the parties hereto.

IN WITNESS HEREOF, the parties hereto have set their hand and seal on the effective date of the Agreement.

RAY RAP REALTY.COM, INC.

WITNESS _____
By: _____
RAYMOND RAPCA VAGE, Grantor

VICTORIAN APARTMENTS, LLC

WITNESS _____
By: _____
RAYMOND RAPCA VAGE, Grantor

W
J
N
W
Q
0
0
Cf

DETAIL "A"

DETAIL "B"



Sight Triangle - Line Table [ST-1]

HUDSON AVENUE

[SH]-1
[SH]-2

L.91.11

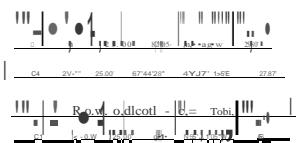
(ST-1)-J

Sight Triangle - Line Table [ST-2]

[ST-2]-1
[ST-2]-2
[ST-2]-3
[ST-2]-4

25.17

Sight Triangle Easement - Curve Table



C. JZ 2.00' 67.84x2.00' 4Y.JZ-1a8E 27.87'

LEGEND:

-- DJNACENIT

○ All Acreage
⑨ S. T. YSEYERMAN HOLE
□ TILLYON-ONEM-KIE

PROPERTY AREA SUMMARY:

TOTAL AREA OF DETAIL "A" R.O.W. DEDICATION
TOTAL AREA OF DETAIL "B" R.O.W. DEDICATION

BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY BULK

ZONING REQUIREMENT CCD-1
ZONE (CENTRAL COMMERCIAL DISTRICT-1)
PERMITTED ZONING - CCD-1 ZONE (CCE BULK COMMERCIAL DISTRICT-1)

