

Board Meeting

Thursday, May 14, 2015

AGENDA



We Bring the World to New Jersey

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY
AGENDA REGULAR SESSION

Thursday, May 14, 2015 -10:00 a.m.
Two DeKorte Park Plaza, Lyndhurst, NJ

I. **APPROVAL OF MINUTES** - (Action)

- Approval of Regular Session Meeting Minutes of April 16, 2015.

II. **PUBLIC PARTICIPATION ON RESOLUTIONS**

III. **APPROVALS** – (Action)

- Approval and/or Ratification of Cash Disbursements over \$100,000 for the month of April 2015.

Resolution 2015-22 Consideration of a Resolution approving an amendment to the Solid Waste Management Plan

Resolution 2015-23 Consideration of a Resolution Regarding an Application for Two Bulk Variances for Jaret LLC (File No. 14-640, Jaret LLC/Technical Major Subdivision & Variance)

Resolution 2015-24 Consideration of a Resolution Concerning a Site Suitability Recommendation for a Non-Residential Development on Block 451.05, Lot 14.011, in North Bergen, and Block 155, Lots 1.03, 1.04 and 6, in Secaucus (File No. 15-100 MEPT Lincoln Crossing/ 2701 Rt. 3 East-New Bldg. & Variance)

Resolution 2015-25 Consideration of a Resolution Concerning a Site Suitability Recommendation for a Residential Development on Block 231, Lot 2, in Lyndhurst (File No. 14-588 120 Chubb LLC / New Residential Development & Variance)

IV. **AWARDS AND CONTRACTS** (Action)

Resolution 2015-26 Consideration of a resolution authorizing the President and CEO of the New Jersey Sports and Exposition Authority to enter into a contract for the Visitor's Center Walkway, Gazebo and Balcony reconstruction.

V. **CHIEF EXECUTIVE OFFICER'S REPORT**

VI. **PUBLIC COMMENTS**

VII. **EXECUTIVE SESSION**

Resolution 2015-27 Resolution authorizing the New Jersey Sports and Exposition Authority to conduct a meeting, to which the general public shall not be admitted.

PLEASE CONTACT THE NJSEA OFFICE (201-460-1700) PRIOR TO MEETING IF SPECIAL REQUIREMENTS ARE NEEDED UNDER ADA

MINUTES



REGULAR SESSION BOARD MEETING
Thursday, April 16, 2015

DATE: Thursday, April 16, 2015
TIME: 10:0 a.m.
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ
RE: REGULAR SESSION MEETING MINUTES

Members in Attendance:

Michael Ferguson, Chairman
Joseph Buckelew, Vice Chairman
Wayne Hasenbalg, Esq., President and Chief Executive Officer
Robert Romano, NJ State Treasurer's Representative
Armando Fontoura, Member
Michael H. Gluck, Esq., Member
Anthony Scardino, Member
Robert Yudin, Member
John Ballantyne, Member
LeRoy Jones, Member (arrived late)

Members Absent:

Steven Plofker, Member
Andrew Scala, Member
George Kolber, Member

Also Attending:

Giuseppina Copa, Vice President IT
John Duffy, Vice President Engineering, Construction and Regulatory Affairs
Amy Herbold, Assistant Counsel, Governor's Authorities Unit
Ralph J. Marra, Jr., Esq. Sr. Vice President Legal and Governmental Affairs
Jim Minish, Executive Vice President Facilities
Lennon Register, Sr. Vice President Finance, CFO
Helen Strus, Sr. Vice President Sales and Marketing
George Zahn, Vice President Purchasing and Risk Management
Marcia Karrow, Executive Director
Christine Sanz, Chief Operating Officer/Chief Counsel
Adam Levy, Director of Legal Affairs
Thomas Marturano, Director
Sara Sundell, Director, Land Use Management
Francisco Artigas, Director of MERI
Edward Bulmer, Director of Finance/Chief Financial Officer Fred Dressel, HMMC

Chairman Ferguson called the meeting to order.

Chairman Ferguson stated that the New Jersey Sports and Exposition Authority gave notice of the time, place, and date of this meeting by providing such notice to the Secretary

of State for the State of New Jersey, The Star-Ledger, The Record, and other newspapers and by posting the notice at the offices of the Authority.

I. APPROVAL OF MINUTES

Chairman Ferguson presented the minutes of the Board Meeting held on March 12, 2015.

Upon motion made by Commissioner Yudin and seconded by Commissioner Scardino, the minutes of the Board Meeting held on March 12, 2015, were unanimously approved by a vote of 9-0.

II. PUBLIC PARTICIPATING ON RESOLUTIONS - None

III. APPROVALS

- Approval of Cash Disbursements Over \$100,000 and Professional Invoices

Chairman Ferguson presented the report of cash disbursements over \$100,000 and Professional Invoices for the month of March 2015

Upon motion by Commissioner Buckelew and seconded by Commissioner Fontoura, the cash disbursements over \$100,000 for the month of March 2015, were approved subject to the following recusals:

<u>Member</u>	<u>Recused as to</u>
Commissioner Fontoura	Connell Foley
Commissioner Jones	PSE&G
Chairman Ferguson	PSE&G
Commissioner Buckelew	Borough of Oceanport

Resolution 2015-12 Resolution certifying a revised CY2015 Intermunicipal Tax Sharing Adjustment Payment Schedule.

Mr. Bulmer explained Resolution 2015-12 to the commissioners.

Chairman Ferguson presented Resolution 2015-12. Upon motion by Commissioner Yudin and seconded by Commissioner Scardino, proposed resolution 2015-12 was approved by a vote of 9-0.

Resolution 2015-13 Resolution issuing a decision on the Bulk Variance application submitted as part of File No.14-233 Bucciarelli/Bylada Foods – 2nd Fl. Office Addition – Block 60, Lot 8 in Moonachie.

Ms. Sundell explained Resolution 2015-13 to the commissioners.

Chairman Ferguson presented Resolution 2015-13. Upon motion by Commissioner Scardino and seconded by Commissioner Ballantyne, proposed resolution 2015-13 was approved by a vote of 9-0.

Resolution 2015-14 Resolution issuing a decision on the Bulk Variance application submitted as part of File No. 14-401 996 Belleville/Excel-Truck Scale/Variations – Block 286, Lot 37.01, in Kearny.

Ms. Sundell explained Resolution 2015-14 to the commissioners.

Chairman Ferguson presented Resolution 2015-14. Upon motion by Commissioner Romano and seconded by Commissioner Hasenbalg, proposed resolution 2015-14 was approved by a vote of 9-0.

Resolution 2015-15 Resolution issuing a decision on the Bulk Variance application submitted as part of File No. 14-447 Vineland/220 Harrison Ave-Subdivision/Variations – Block 284, Lot 4.02 in Kearny.

Ms. Sundell explained Resolution 2015-15 to the commissioners.

Chairman Ferguson presented Resolution 2015-15. Upon motion by Commissioner Gluck and seconded by Commissioner Ballantyne, proposed resolution 2015-15 was approved by a vote of 9-0.

Resolution 2015-16 Resolution regarding Tideland's Application for Hudson County/Laurel Hill Park – Park Improvements File No. 15-062 – Block 5, Lot 2.01 in Secaucus.

Ms. Sundell explained Resolution 2015-16 to commissioners.

Chairman Ferguson presented Resolution 2015-16. Upon motion by Commissioner Yudin and seconded by Commissioner Fontoura, proposed resolution 2015-16 was approved by a vote of 9-0.

Resolution 2015-17 Resolution authorizing the publication of a Notice of Proposal and the holding of a Public Hearing regarding a petition for a Rezoning of Block 451, Lot 21 in North Bergen.

Ms. Sundell explained Resolution 2015-17 to commissioners.

Chairman Ferguson presented Resolution 2015-17. Upon motion by Commissioner Buckelew and seconded by Commissioner Scardino, proposed resolution 2015-17 was approved by a vote of 9-0.

Resolution 2015-18 Resolution authorizing changes in existing bank accounts.

Mr. Marra explained Resolution 2015-18 to commissioners.

Chairman Ferguson presented Resolution 2015-18. Upon motion by Commissioner Scardino and seconded by Commissioner Ballantyne, proposed resolution 2015-18 was approved by a vote of 9-0.

Resolution 2015-19 Resolution to approve the creation of a Land Use Committee.

Mr. Marra explained Resolution 2015-19 to commissioners.

Chairman Ferguson presented Resolution 2015-19. Upon motion by Commissioner Gluck and seconded by Commissioner Yudin, proposed resolution 2015-19 was approved by a vote of 9-0.

III. COMMITTEE REPORTS

Review of Engineering Projects at the Meadowlands Sports Complex and Monmouth Park Racetrack

Mr. Duffy reported to the commissioner the status of engineering projects regarding American Dream, Environmental Open Cases at the Sports Complex and Monmouth Park's fire protection and pump station.

IV. Awards and Contracts - None

V. CEO REPORT

President Hasenbalg recognized Lennon Register and Melissa Nicholas for their dedicated years of service and wished them well in their future endeavors. Chairman Ferguson and Commissioner Buckelew also thanked them both for their services.

President Hasenbalg explained that regarding the merger we continue to work to integrate and consolidate into having everyone under one umbrella. President Hasenbalg stated that we are hopeful that by the next meeting we will have the final plan for integrating both agencies under one roof. Staff from both agencies has been working closely together and it has gone very well.

V. PUBLIC COMMENTS

- Don Evanson, resident of Secaucus spoke regarding tax sharing
- Don Smith, resident of Little Ferry – spoke regarding history of the meadowlands
- Fred Dressel, HMMC – spoke regarding retirement of Bernard Nangle

Chairman Ferguson recognized the arrival of Commissioner Jones.

VI. EXECUTIVE SESSION

Resolution Authorizing the New Jersey Sports and Exposition Authority to Conduct a Meeting to Which the General Public Shall Not Be Admitted

Chairman Ferguson stated a need for the Board to enter into Executive Session to discuss contractual matters and litigation matters.

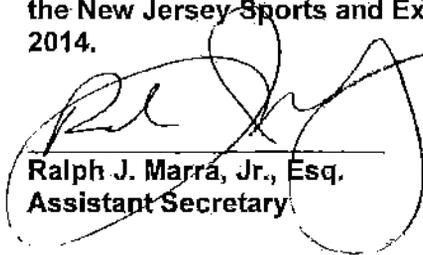
Resolution 2015-20 - Resolution authorizing the NJSEA to enter into a meeting to which the general public shall not be admitted.

Upon motion made by Commissioner Romano, and seconded by Commissioner Scardino, Resolution 2015-20 was approved by a vote of 10-0.

Executive Session commenced at 10:30
Public Session resumed at 11:00 a.m.

Chairman Ferguson requested a motion to conclude the meeting. Upon motion made by Commissioner Scardino and seconded by Commissioner Yudin, the public meeting was adjourned by a vote of 10-0 at 11:01 a.m.

I certify that this is a true and accurate transcript of the Regular Session Minutes of the New Jersey Sports and Exposition Authority Board meeting of November 20, 2014.



Ralph J. Marra, Jr., Esq.
Assistant Secretary

APPROVALS



CASH DISBURSEMENTS
 \$100,000 OR MORE
 APRIL 2015

SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
ADP/MANAGISTICS	122,246.05	B	PAYROLL TAXES: APR 2015
NEW JERSEY STATE POLICE	119,151.08	A	OVERTIME CHARGES: DEC 2014 - JAN 2015
NRG BUSINESS SOLUTIONS	573,836.10	A	ELECTRICITY CHARGES: FEB 2015
PUBLIC SERVICE ELECTRIC & GAS	322,456.70	A	ELECTRIC TRANSMISSION: FEB 2015 - MAR 2015
SPORTS ARENA EMPLOYEES RETIREMENT FUND LOCAL 137	234,185.01	A	PENSION WITHDRAWAL LIABILITY PAYMENT: 2ND QTR 2015
SPORTS COMPLEX TOTAL	<u>1,371,874.94</u>		

SPORTS COMPLEX PAYMENT IN LIEU OF TAXES

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF EAST RUTHERFORD	1,853,719.48	A	PAYMENT IN LIEU OF TAXES: 2ND QUARTER 2015
SC TAXES TOTAL	<u>1,853,719.48</u>		

MONMOUTH PARK RACETRACK MAINTENANCE RESERVE/CAPITAL

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
McCAULEY CONSTRUCTION CO., INC.	351,911.40	A	FIRE CODE RETROFIT PHASE III PROJECT
MPR MAINTENANCE TOTAL	<u>351,911.40</u>		

MONMOUTH PARK RACETRACK PAYMENT IN LIEU OF TAXES

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	461,551.37	A	PAYMENT IN LIEU OF TAXES: 2ND QUARTER 2015
MP PILOT TOTAL	<u>461,551.37</u>		



OUTSTANDING PROFESSIONAL SERVICES
APRIL 2015

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>DESCRIPTION</u>
<u>SPORTS COMPLEX</u>		
CONNELL FOLEY, LLP	\$14,032.13	LEGAL SERVICES: GENERAL COUNSEL - MARCH 2015
GIBBONS P.C.	295,442.97	LEGAL SERVICES: GENERAL COUNSEL - APR 2015 <i>(With additional February and March billings)</i>
SPORTS COMPLEX TOTAL	<u>\$309,475.10</u>	



CASH DISBURSEMENTS
 \$100,000 OR MORE
 APRIL 2015

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NJ STATE HEALTH BENEFITS	\$173,424.92	D	APRIL 2015 HEALTH & PRESCRIPTION COVERAGE (EMPLOYEES)
	\$ 33,464.43	D	APRIL 2015 HEALTH & PRESCRIPTION COVERAGE (RETIREES)
	\$206,889.35		
WILLIS OF NEW JERSEY	\$123,300.00	A	EXCESS LIABILITY INSURANCE RENEWAL POLICY - 3/1/15 - 3/1/16
AVENTA SYSTEMS	\$390,843.00	A / L	RES# 13-26 MASSTR EXPANSION PROJECT (PULASKI SKYWAY) COMMUNICATION SYSTEM PAYMENT # 7 (REIMBURSABLE UNDER AGREEMENT WITH NJDOT)
WASTE MANAGEMENT OF NJ	\$343,382.21	A	OPERATIONS CONTRACT - KEEGAN LANDFILL - MARCH 2015
KEARNY, TOWN OF	\$195,855.21	A	HOST COMMUNITY PAYMENT - KEEGAN LANDFILL - 2015 1 ST QTR



CASH DISBURSEMENTS
\$100,000 OR MORE

<u>REFERENCE LETTER</u>	<u>TYPE</u>
A	CONTRACT ON FILE
B	PURCHASE AWARDS - APPROVED AT MONTHLY BOARD MEETING
C	STATE REQUIREMENT FOR RACING
D	STATE VENDOR
E	SOLE SOURCE
F	APPOINTED BY RACING COMMISSION
G	ADVERTISED BID
H	EXECUTIVE DIRECTOR APPROVAL
I	STATUTORY PAYMENT
K	LOWEST PROPOSAL
L	REIMBURSABLE
M	OUTSTANDING PROFESSIONAL INVOICES APPROVED AT MONTHLY BOARD MEETING
N	PURCHASES ON BASIS OF EXIGENCY
*	PURCHASES DIRECT FROM SOURCE
	EXPENDITURE TO BE CHARGED TO MAINTENANCE RESERVE FUND

RESOLUTION 2015-22

**RESOLUTION APPROVING AN AMENDMENT TO THE
SOLID WASTE MANAGEMENT PLAN**

WHEREAS, the District Solid Waste Management Plan was approved on July 31, 1980, with subsequent Plan updates approved on March 4, 1983, October 9, 1985, and April 10, 2007 and various Plan amendments since that time; and

WHEREAS, NY/NJ Recycling, LLC proposes a modification/expansion of the existing NY/NJ Recycling, LLC facility located at 800 Page Avenue, Block 235, Lot 23 in the Township of Lyndhurst, Bergen County, New Jersey from 100 to 200 tons per day of Class A materials, specifically handling only paper and cardboard products; and

WHEREAS, the applicant provided expert testimony through their attorney Joseph Ferrante, Jr., Esq., their engineer George Cascino, P.E. and their traffic engineer Hal. Simoff, P.E.; and

WHEREAS, there were no municipal representatives or other members of the public who provided testimony at the public hearing, and there were no written or oral communications received relative to this application. The proposed amendment was forwarded to the Township of Lyndhurst Mayor and Township Clerk, as well as the District Solid Waste Advisory Committee (the Mayors Committee), and a Public Notice was placed in The Record as required by law; and

WHEREAS, the Solid Waste Division has reviewed the available information and recommends the inclusion of the NY/NJ Recycling, LLC facility into the District Solid Waste Management Plan subject to the NJDEP approval; and

NOW, THEREFORE, BE IT RESOLVED that the President of the Sports Authority hereby recommends the adoption of the above Plan Amendment and directs that the Director of Solid Waste forward to the NJDEP all relevant information pursuant to the New Jersey Solid Waste Management Act and required procedures for Plan Amendments including this resolution and the attachments recommending adoption of this Plan Amendment.

Adopted: May 14, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg
From: Thomas Marturano *Date:* May 14, 2015
Subject: Van Keuren, LLC Solid Waste Plan Amendment

NY/NJ Recycling, LLC proposes a modification/expansion of their existing facility located at 800 Page Avenue, Block 235, Lot 23 in the Township of Lyndhurst, Bergen County, New Jersey from 100 to 200 tons per day. The proposed facility will be operated by NY/NJ Recycling, LLC and will be a modification/expansion of the existing Class B Recycling Facility on the property to a solely Class A Recycling Facility handling only paper and cardboard products. It is estimated that the facility will receive approximately 200 tons per day of Class A recyclables

The applicant provided expert testimony through their attorney Joseph Ferrante, Jr., Esq., their engineer George Cascino, P.E. and their traffic engineer Hal. Simoff, P.E. It was noted that this site plan was the product of several meetings with NJMC staff in both Land Use Management and Solid Waste.

There were no municipal representatives or other members of the public that provided testimony at the public hearing, and there were no written or oral communications received relative to this application. Representatives of the Bergen County Health Department were in attendance, but did not provide comments at the hearing. The proposed amendment was forwarded to the Township of Lyndhurst Mayor and Township Clerk, as well as the District Solid Waste Advisory Committee (the Mayors Committee), and a Public Notice was placed in The Record as required by law.

Based on the above, the NJMC Solid Waste Division recommends adoption of a Plan Amendment to include this facility as described above.

RESOLUTION 2015-23

**RESOLUTION ISSUING A DECISION ON THE
BULK VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 14-640
JARET LLC/TECHNICAL MAJOR SUBDIVISION & VARIANCE
BLOCK 70, LOTS 8 & 9, IN THE BOROUGH OF MOONACHIE**

WHEREAS, an application for two bulk variances was filed with the New Jersey Meadowlands Commission (NJMC) by Richard H. Kaplan, Esq., on behalf of Jaret LLC, for the premises identified as Block 70, Lots 8 and 9, in the Borough of Moonachie, New Jersey; and

WHEREAS, the properties are located in the District's Light Industrial B zone; and

WHEREAS, the variances are sought in connection with the applicant's proposal to subdivide the subject properties into two proposed lots, to be known as Lots 8.01 and 9.01; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.83(a)1, which requires a minimum lot area of one acre, whereas a lot area of 0.54 acres is proposed for Lot 8.01; and

WHEREAS, the applicant also requested relief from N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard of 20 feet, whereas a setback of 12.10 feet is proposed along the easterly side yard of Lot 8.01; and

WHEREAS, notice of the requested bulk variance relief was provided to the public and all interested parties as required by law and was published in the Record newspaper; and

WHEREAS, effective February 5, 2015, the New Jersey Meadowlands Commission has become part of the New Jersey Sports and Exposition Authority (NJSEA).

WHEREAS, a public hearing was held in the Office of the NJSEA on March 17, 2015, before Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer, Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer, Mia Petrou, P.P., AICP, Senior Planner, and Ronald Seelogy, P.E., P.P., Senior Engineer; and

WHEREAS, a comprehensive report, dated April 28, 2015, has been prepared indicating the recommendations of the Director of Land Use Management and the Executive Director in this matter; and

WHEREAS, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.83(a)1 to permit a lot area of 0.54 acres for proposed Lot 8.01; and

WHEREAS, the report also recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.84(a)3ii to permit a setback of 12.10 feet along the easterly side yard of proposed Lot 8.01; and

WHEREAS, the Board of Commissioners of the NJSEA has reviewed the full record in this matter, including the transcripts of the public hearings, recommendations on the application by the Director of Land Use Management and by the Executive Director, and the submissions of the applicant; and

WHEREAS, the Board of Commissioners of the NJSEA concurs with the recommendations of the Director of Land Use Management and the Executive Director; and

WHEREAS, the Board of Commissioners of the NJSEA hereby determines that the requested bulk variance to subdivide the subject properties into two proposed lots, known as proposed Lots 8.01 and 9.01, creating proposed Lot 8.01 with a lot area of 0.54 acres, does conform with the standards for approving applications of variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners of the NJSEA hereby further determines that the requested bulk variance in connection with the subdivision of the subject properties into two proposed lots, known as proposed Lots 8.01 and 9.01, providing a setback of 12.10 feet along the easterly side yard of proposed Lot 8.01, does conform with the standards for approving applications of variances as set forth in N.J.A.C. 19:4-4.14(e).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Jaret LLC/Technical Major Subdivision & Variance application for one bulk variance to provide for the creation of proposed Lot 8.01 with a lot area of 0.54 acres, is hereby **APPROVED** for the reasons set forth in the recommendation dated April 28, 2015.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Jaret LLC/Technical Major Subdivision & Variance variance application for one bulk variance to provide for the creation of a lot with a setback of 12.10 feet along the easterly side yard of proposed Lot 8.01, is hereby **APPROVED** for the reasons set forth in the recommendation dated April 28, 2015.

Adopted: May 14, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell *Date:* May 14, 2015

Subject: Variance Recommendation: Jaret LLC/Technical Major Subdivision & Variance (File No. 14-640)

This application for two bulk variances was filed with the New Jersey Meadowlands Commission (NJMC) by Richard H. Kaplan, Esq., on behalf of Jaret, LLC, for the premises identified as Block 70, Lots 8 and 9, in the Borough of Moonachie, New Jersey. The subject premises are located in the District's Light Industrial B zone. The bulk variances are sought in connection with the applicant's proposal to subdivide the subject properties into two proposed lots, to be known as Lots 8.01 and 9.01.

The applicant requested variance relief from the following:

1. N.J.A.C. 19:4-5.83(a)1, which requires a minimum lot area of one acre, whereas a lot area of 0.54 acres is proposed for Lot 8.01.
2. N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard of 20 feet, whereas a setback of 12.10 feet is proposed along the easterly side yard of Lot 8.01.

A public hearing on this matter was held in the Office of the NJSEA on March 17, 2015.

In a comprehensive report, dated April 28, 2015, the Director of Land Use Management and the Executive Director recommended the approval of the bulk variances requested in Items 1 and 2 above.

A copy of the comprehensive report and variance recommendation was provided to the applicant on April 28, 2015.

At this time, the Board of Commissioners is required to issue a decision on the variance application described above. A resolution requesting the same is attached for your consideration.

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
Jaret LLC/Technical Major Subdivision & Variance**

FILE # 14-640

I. INTRODUCTION

An application for two bulk variances has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Richard H. Kaplan, Esq., of the firm, Rubin, Kaplan & Associates, on behalf of Jaret, LLC, for the premises located at 1 Barrett Avenue, Block 70, Lot 8, and 100 Grand Street, Block 70, Lot 9, in the Borough of Moonachie, New Jersey. Said premises are located in the Hackensack Meadowlands District's Light Industrial B zone. The variances are sought in connection with the applicant's proposal to subdivide the subject premises into two lots, proposed to be designated as Lots 8.01 and 9.01. In accordance with N.J.A.C. 19:5-5.3(a)2 & (a)4, the proposed subdivision is classified as a technical major subdivision, because bulk variances are requested from the District Zoning Regulations at N.J.A.C. 19:4.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.83(a)1, which requires a minimum lot area of one acre, whereas a lot area of 0.54 acres is proposed for Lot 8.01.
2. N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard of 20 feet, whereas a setback of 12.10 feet is proposed along the easterly side yard of Lot 8.01.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. No written objections were received. A public hearing was held in the Office of the NJSEA on Tuesday, March 17, 2015. All information submitted to the Division of Land

Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The existing lot areas for Lots 8 and 9 are 0.80 acres and 0.79 acres respectively, whereas a minimum lot area of one acre is required in the Light Industrial B zone. Existing Lots 8 and 9 each have two front yards - Lot 8 fronts on Purcell Court to the west and Barrett Avenue to the north, while Lot 9 also fronts on Barrett Avenue to the north and Grand Street to the east. There are no known existing easements on either property, although a 12-inch municipal storm sewer pipe does traverse both properties. A warehouse facility is located to the south of the subject properties. The remainder of the surrounding area is primarily developed with similar warehousing and light industrial uses.

The subject properties are each currently developed with a one-story masonry warehouse building and associated parking and loading facilities. Direct access to both structures is provided from Barrett Avenue. Parking and additional loading facilities for Lot 9 are accessed directly from Grand Street. Secondary access to Lot 8 is provided from Purcell Court. It is noted that the existing building on Lot 9 encroaches beyond the westerly property line onto Lot 8. In an attempt to rectify this situation at the time the buildings were built, a minor subdivision was approved by the Borough of Moonachie Planning Board on July 26, 1962, which relocated the common lot line to be roughly equidistant between both buildings. However, this minor subdivision was never perfected by filing with the Bergen County Clerk's Office within the required timeline.

The applicant proposes to subdivide existing Lots 8 and 9 into proposed Lots 8.01 and 9.01 and thereby re-establish the location of the common property line consistent with the prior July 26, 1962, minor subdivision approval. Each lot

will contain one existing warehouse structure and its respective parking and loading areas. The proposed subdivision of the subject property will not result in any changes to the site or buildings.

Proposed Lot 8.01 will not provide the minimum lot area, nor will it provide the minimum required side yard setback along the easterly property line. However, the area of existing Lot 8 is only 0.80 acres, which is less than the minimum required lot area of one acre. Relocation of the common lot line between proposed Lots 8.01 and 9.01 will increase the side yard setback provided for proposed Lot 9.01 from zero feet to 13.44 feet, thereby decreasing the degree of existing nonconformity. The applicant will contact the Borough of Moonachie regarding the establishment of a proposed drainage easement for the existing 12-inch storm sewer that is located on the southerly portions of proposed Lots 8.01 and 9.01.

B. Response to the Public Notice

No written comments were submitted to this Office prior to the public hearing.

III. PUBLIC HEARING (March 17, 2015)

A public hearing was held on Tuesday, March 17, 2015. NJMC staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; and Ronald Seelogy, P.E., P.P., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	"Preliminary Plat Technical Major Subdivision, Block 70, Lot 8 & 9," Sheet 1 of 2, prepared by Job & Job Consulting Engineers, P.A., dated September 23, 2014, revised February 3, 2015.
A-2	"Preliminary Plat Technical Major Subdivision, Block 70, Lot 8 & 9," Sheet 2 of 2, prepared by Job & Job Consulting Engineers, P.A., dated September 23, 2014, revised February 3, 2015.

B. Testimony

Richard H. Kaplan, Esq., of the firm, Rubin, Kaplan & Associates, represented Jaret, LLC, at the hearing. The following witness testified in support of the application:

1. Kenneth J. Job, P.E., P.L.S., P.P.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION(S)

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.83(a)1, which requires a minimum lot area of one acre, whereas a lot area of 0.54 acres is proposed for Lot 8.01.

The District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The shape and lot area of existing Lots 8 and 9 were not created by any action of the property owner and are not typical of the properties located in the Light Industrial B zone. Lot 9 contains an existing building that encroaches beyond its westerly property line, onto Lot 8. The combined lot area of both of the subject properties is 1.59 acres, as existing Lot 8 contains 0.80 acres and existing Lot 9 contains 0.79 acres. The existing lot areas are both pre-existing nonconforming conditions. As a result, since the total area of the subject properties is less than the minimum two-acre area required for two lots, there is no manner in which the properties can be divided into two lots each with a minimum lot area of one acre. These circumstances are unique conditions that are not ordinarily found in the Light Industrial B zone.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance to permit an undersized lot will not adversely affect the rights of neighboring property owners or residents. The neighborhood in which the subject properties are located is primarily industrial and commercial in nature. No residential properties are located in the immediate vicinity. The character of the neighborhood will not be altered by the creation of a substandard lot, as there will be no physical changes to either of the existing sites. Ingress and egress for both properties will remain unchanged. Existing uses will not be intensified.

- iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.*

The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The proposed subdivision to relocate the existing lot line, which currently runs through an existing building, is constrained by the location of the existing buildings on the properties, as well as the substandard combined lot area of the subject properties. The areas of existing Lots 8 and 9 are pre-existing nonconformities, containing 0.80 and 0.79 acres, respectively. As the total lot area of both properties is 1.59 acres, there is no manner in which the subject properties can be subdivided to provide two conforming one-acre lots. The proposed subdivision also represents the preferred planning alternative,

which creates two lots that create a more regular site configuration than existing conditions.

- iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.*

There will be no substantial detriment to the public good and no adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare by granting the requested variance for a lot area less than one acre. Both properties will continue to physically function as they currently exist, as no site improvements or other changes are proposed. There will be no activities or conditions created by the granting of the requested variance resulting in any noise, odor, vibration or glare that could negatively impact public health or safety. Access for firefighting and emergency vehicles will remain unchanged under the proposed lot configuration.

- v. The variance will not have a substantial adverse environmental impact.*

There will be no adverse environmental impacts created by the granting of the requested variance to allow one of the two proposed lots to be subdivided to be less than one acre. As no improvements are proposed, the subdivision will not disturb environmentally sensitive areas or stormwater facilities. The variance will not cause the District's environmental performance standards for noise, glare, vibrations, airborne emissions or hazardous materials to be exceeded.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The areas of existing Lots 8 and 9 are each currently less than one acre and are pre-existing nonconformities, containing 0.80 and 0.79 acres, respectively. Although the area of proposed Lot 8.01 will be 0.26 acres less than the area of existing Lot 8, the subdivision will create Lot 9.01 with a conforming area of 1.05 acres, thereby eliminating an existing nonconformity. Also, the granting of the requested variance will permit the existing building at 100 Grand Street, which currently straddles the property line between Lots 8 and 9, to be located entirely on proposed Lot 9.01. Potential locations to provide an alternate subdivision line are limited due to the locations of the two existing buildings on the properties. The proposed subdivision line has been placed in an optimal location representing the most regular layout available given the existing site conditions. Therefore, the placement of the proposed lot line approximately equidistant from each of the existing buildings represents the preferred planning alternative for subdivision of the subject properties, as well as the most practical way to allow both properties to function in an orderly manner.

In addition, since the total area of both properties is 1.59 acres, there is no manner in which the properties can be subdivided to provide two conforming one-acre lots. Therefore, the requested variance represents the minimum deviation from the District zoning regulations that will afford relief.

vii. *Granting the variance will not substantially impair the intent and purpose of these regulations.*

The granting of the requested variance for the creation of one lot with a substandard lot size will not substantially impair the intent and purpose of these regulations. The second lot created by the proposed subdivision will thereby comply with the minimum lot size requirement of the Light Industrial B zone. Existing uses of both properties, which are permitted in the Light Industrial B zone, will not be intensified. Access to improved public streets will continue to be provided. Therefore, the proposed subdivision is consistent with sound planning practices and will promote the intent and purpose of these regulations by allowing both subject properties to be utilized in a safe and orderly manner.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard of 20 feet, whereas a setback of 12.10 feet is proposed along the easterly side yard of Lot 8.01.

The District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. Concerning bulk variances:

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

Existing Lots 8 and 9 are each currently improved with a one-story warehouse building. No new structures or site improvements are proposed. Both of the subject properties are owned by the applicant. The existing building on Lot 9 encroaches beyond its westerly property line onto Lot 8. The proposed subdivision to correct the location of the lot line, which currently runs through an existing building, is constrained by the location of the existing buildings, as well as the combined lot area of the subject properties. In order to facilitate the future sale of the subject properties, the applicant is seeking technical major subdivision approval to relocate the common property line between Lots 8 and 9 approximately equidistant from the two existing warehouse buildings. The relocation of the easterly property line for proposed Lot 8.01 results in a side yard setback of only 12.10 feet, whereas a minimum side yard setback of 20 feet is required in the Light Industrial B zone.

The subject properties are amongst the smallest in this portion of the District's Light Industrial B zone. The areas of Lots 8 and 9 are 0.80 acres and 0.79 acres, respectively; whereas a minimum lot area of one acre is required. Additionally, both properties are corner lots with two front yards each. Lot 9 fronts along Grand Street to the east and Barrett Avenue to the north, while Lot 8 fronts along Purcell Court to the west and Barrett Avenue to the north. As a result, each of the subject properties has only one rear yard and one side yard. The distance between the existing buildings is approximately 25 feet, which limits the provision of a conforming side yard setback. This combination of conditions related to the size of the subject properties, the siting of the existing building straddling the boundary between Lots 8 and 9, and a common side yard subject this site to a unique set

of circumstances. These conditions are not ordinarily found in the Light Industrial B zone and were not created by any action of the property owner or the applicant.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance will not adversely affect the rights of neighboring property owners or residents. The neighborhood in which the subject properties are located in is primarily industrial and commercial in nature. No residential properties are located in the immediate vicinity. The character of the neighborhood will not be altered by the shifting of a lot line, as there will be no physical changes to either of the existing sites. Ingress and egress for both properties will remain unchanged. Existing uses will not be intensified.

- iii. *The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.*

The strict application of these regulations would require a minimum setback of 20 feet along the easterly property line of proposed Lot 8.01, whereas 12.10 feet is proposed, and would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. Existing Lot 8 is undersized with an area of only 0.80 acres, whereas a minimum lot area of one acre is required in the Light Industrial B zone. Relocating the proposed subdivision line in

order to provide the minimum required setback of 20 feet in the easterly side yard would add 1,422 square feet, or 0.03 acres to proposed Lot 8.01 for an area of 0.57 acres, which would remain undersized.

Also, a relocated subdivision line would conflict with an existing transformer compound that serves the building on existing Lot 9 (proposed Lot 9.01). The siting of the existing transformer compound between proposed Lots 8.01 and 9.01 could hinder the potential sale of either one or both of the subject properties. In balancing the requirements of the Light Industrial B zone with the particular characteristics of the subject properties, the proposed variance is required to provide a functional site layout and to avoid any undue hardship for the property owner related to the future sale of the properties.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good and no adverse impacts to the public health, safety, morals, order, convenience, prosperity or general welfare by granting of the requested variance. The placement of the proposed subdivision line will have no adverse impact on public safety or health, as adequate light, air and open space will continue to be supplied. No residential properties are located in the immediate vicinity. No new structures or site improvements are proposed, therefore the granting of this variance will not result in any increases to current

traffic levels. There will be no changes to current on-site vehicle circulation patterns. All points of ingress/egress will be maintained. Excess noise, odor, vibration or glare will not be generated as a result of the relocated lot line.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance will not have any adverse environmental impacts. The location of the proposed subdivision line will not cause the NJSEA's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality to be exceeded. Proposed Lots 8.01 and 9.01 will provide 51.18 percent and 24.67 percent open space, respectively, in compliance with the minimum open space requirements of the Light Industrial B zone. Adequate drainage will continue to be provided.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The requested variance represents the minimum deviation from the regulations that will afford relief. Locations for the proposed subdivision line are limited due to the existing site and building configuration.

The proposed minimum side yard setback of 12.10 feet along the easterly property line of proposed Lot 8.01 is consistent with the minimum side yard setback requirements for other zones which require smaller lot sizes. The subject properties each contain an

existing building, and, therefore, are constrained in providing a conforming location for the proposed subdivision line that could provide the minimum required side yard setbacks.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

Specific purposes of the District zoning regulations include providing sufficient space in appropriate locations for a variety of uses, and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that the aesthetic and use values are maximized. The proposed easterly side yard setback is consistent with this intent by allowing the site to be utilized in a safe, orderly and efficient manner.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.83(a)1, which requires a minimum lot area of one acre, whereas a lot area of 0.54 acres is proposed for Lot 8.01.

Based on the record in this matter, the bulk variance application to permit a lot area of 0.54 acres for proposed Lot 8.01, whereas a minimum lot area of one acre is required, is hereby recommended for approval.

APPROVAL

Recommendation on
Variance Request

4.28.15

Date



Sara J. Sundell, P.E., P.P.
Director of Land Use Management

Approval

Recommendation On
Variance Request

4/28/15

Date



Marcia A. Karrow
Executive Director

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard of 20 feet, whereas a setback of 12.10 feet is proposed along the easterly side yard of Lot 8.01.

Based on the record in this matter, the bulk variance application to permit a setback of 12.10 feet along the easterly side yard of proposed Lot 8.01, whereas a minimum side yard setback of 20 feet is required, is hereby recommended for approval.

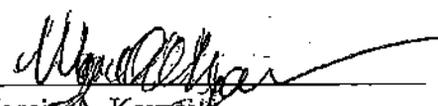
APPROVAL
Recommendation on
Variance Request

4.28.15
Date


Sara J. Sundell, P.E., P.P.
Director of Land Use Management

Approval
Recommendation on
Variance Request

4/28/15
Date


Marcia A. Karrow
Executive Director

RESOLUTION 2015-24

**RESOLUTION ISSUING A DECISION ON THE
SUITABILITY RECOMMENDATION AS REQUIRED BY THE
NJSEA INTERIM POLICIES GOVERNING AFFORDABLE HOUSING
DEVELOPMENT IN THE MEADOWLANDS DISTRICT
FILE NO. 15-100, MEPT Lincoln Crossing/ 2701 Rt. 3 East – New Bldg. & Variance
BLOCK 451.05, LOT 14.011
IN THE TOWNSHIP OF NORTH BERGEN
AND
BLOCK 155, LOTS 1.03, 1.04 AND 6
IN THE TOWN OF SECAUCUS**

WHEREAS, in a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing; and

WHEREAS, on July 25, 2007, the Commission adopted Resolution No. 07-68, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing"; and

WHEREAS, on May 6, 2008, COAH adopted new rules, which became effective upon publication in the New Jersey Register on June 2, 2008 and, in addition, adopted new rules on September 22, 2008, which became effective on October 20, 2008; and

WHEREAS, on July 17, 2008, P.L. 2008, Chapter 46 became law, revising various parts of the statutory law concerning affordable housing; and

WHEREAS, on July 23, 2008, the Commission adopted Resolution No. 08-80, which approved the "*Interim Policies Governing Affordable Housing Development in the Meadowlands District*," in order to govern the review of and restraints upon applications for further development in the Meadowlands District in a manner consistent with these regulatory and statutory changes, prior to the implementation of new regulations regarding same; and

WHEREAS, pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015; and

WHEREAS, the *Interim Policies*, last revised by Resolution No. 11-29 on July 27, 2011, govern all zoning certificate applications, petitions to amend the Official Zoning Map, new redevelopment plans, and proposed amendments to a redevelopment plan pertaining to new proposed uses or changes to existing uses, received on or after July 24, 2008, and remain in effect until the NJSEA promulgates new regulations concerning affordable housing, or the *Interim Policies* are withdrawn or rescinded by Commission action or court order, whichever occurs first; and

WHEREAS, the *Interim Policies* set forth the criteria for a Review Team, comprised of three NJSEA staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each applicable application to determine the suitability of the subject site for residential use; and

WHEREAS, a zoning certificate application was submitted to the NJSEA on March 17, 2015, by Martin Standiford of MEPT Lincoln Crossing, LLC, for the premises identified as 1 Daffy's Way (2701 Route 3 East), Block 451.05, Lot 14.011, in North Bergen, and Block 155, Lots 1.03, 1.04 and 6, in Secaucus, New Jersey, and which is located in the Regional Commercial zone; and

WHEREAS, the subject application proposes the construction of an approximately 347,053 square foot warehouse and, as such, is not exempt from the *Interim Policies*; and

WHEREAS, the application was forwarded to the Review Team for review of the application in accordance with the *Interim Policies*; and

WHEREAS, the Review Team evaluated the suitability of the subject property taking into consideration the specific application submitted for construction of a new building; and

WHEREAS, a suitability review, dated April 30, 2015, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

WHEREAS, the suitability review recommends that the subject property is unsuitable for residential use; and

WHEREAS, the Board of Commissioners of the NJSEA have reviewed the suitability review and recommendation prepared by the Review Team, regarding the subject property; and

WHEREAS, the Board of Commissioners of the NJSEA concur with the recommendation of the Review Team; and

WHEREAS, the Board of Commissioners of the NJSEA hereby determines that the subject commercial property is unsuitable for residential use.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the existing commercial property located at 1 Daffy's Way (2701 Route 3 East), Block 451.05, Lot 14.011, in North Bergen, and Block 155, Lots 1.03, 1.04 and 6, in Secaucus, New Jersey, is deemed to be unsuitable for residential use.

Adopted: May 14, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell *Date:* May 14, 2015

Subject: Site Suitability Recommendation for Block 451.05, Lot 14.011, in North Bergen, and Block 155, Lots 1.03, 1.04 and 6, in Secaucus, New Jersey (File No. 15-100)

In a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing. The Commission followed up by adopting Resolution No. 07-68, on July 25, 2007, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing." Thereafter, on July 23, 2008, the Commission adopted Resolution No. 08-80, which approved the "*Interim Policies Governing Affordable Housing Development in the Meadowlands District,*" which was last revised by Resolution No. 11-29 on July 27, 2011, in order to govern the review of and restraints upon applications for further development in the Meadowlands District in a manner consistent with regulatory and statutory changes regarding affordable housing, prior to the implementation of new regulations regarding same.

Pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

The Interim Policies apply to all zoning certificate applications, petitions to amend the Official Zoning Map, new redevelopment plans, and proposed amendments to a redevelopment plan pertaining to new proposed uses or changes to existing uses, received on or after July 24, 2008, and will remain in effect until the NJSEA promulgates new regulations concerning affordable housing, or the Interim Policies are withdrawn or rescinded by Authority action or court order, whichever occurs first. The Interim Policies set forth the criteria for a Review Team, comprised of three NJSEA staff members, including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each applicable application to determine the suitability of the subject site for residential use.

The NJSEA received an application for the construction of an approximately 347,053 square foot warehouse on the premises located at 1 Daffy's Way (2701 Route 3 East), Block 451.05, Lot 14.011, in North Bergen, and Block 155, Lots 1.03, 1.04 and 6, in Secaucus, New Jersey. The subject property currently contains a warehouse that was constructed in 1964 and has been vacant since the fall of 2012.

The matter was forwarded to the Review Team for review of the proposed site in accordance with the Interim Policies. A suitability review, dated April 30, 2015, has been prepared, indicating that the Review Team recommends that the subject commercial property is not suitable for residential use.

At this time, the NJSEA staff is recommending that the members of the NJSEA concur with the site suitability recommendation prepared by the Review Team, which determines that the subject commercial property is not suitable for residential use.



Suitability Review – Summary

File No. 15-100

MEPT Lincoln Crossing/2701 Rt. 3 East – New Bldg. & Variance

Block 451.05, Lot 14.011, in the Township of North Bergen

and Block 155, Lots 1.03, 1.04 and 6, in the Town of Secaucus

April 24, 2015

Pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

The NJSEA received a zoning certificate application for the proposed construction of an approximately 347,053 square foot warehouse located at 1 Daffy's Way (2701 Route 3 East), Block 451.05, Lot 14.011, in North Bergen, and Block 155, Lots 1.03, 1.04 and 6, in Secaucus, New Jersey. The subject area is currently located in the Regional Commercial zone and, as such, is not exempt from the site suitability review process. In keeping with the review process, the site characteristics of the property have been evaluated in accordance with the "Interim Policies Governing Affordable Housing Development in the Meadowlands District," adopted by the NJMC on July 24, 2008, and last revised on July 27, 2011.

In accordance with Section IV(c)1 of the Interim Policies, the criteria to deem a site suitable for housing are as follows:

- i. The site is adjacent to compatible land uses and has access to appropriate streets.**
 - The subject property is bound by major highways on three sides: the New Jersey State Highway Route 3 Eastbound ramp to the east, the New Jersey State Highway Route 95 (495 Bypass) to the south, and the New Jersey Turnpike to the west.
 - The north side of the subject property is adjacent to an existing warehouse building, a Hilton Garden Inn hotel with a free-standing multi-level parking structure and restaurant, and a small vacant lot. A Home Depot is located directly north of the vacant lot and west of the existing warehouse. The developed neighboring properties are active commercial sites.
 - Although the subject property is surrounded on three sides by major highways, there are limited access points for someone entering or leaving the site. The only direct connection to the surrounding



highways is through Block 155, Lot 6, which fronts on the Route 3 Eastbound ramp. This access point appears to have been utilized as a limited emergency ingress/egress driveway, which allowed only right-in, right-out movements. Exiting the site from this driveway would result in a vehicle continuing eastbound in the Route 3 Express lanes or entering the 495 Bypass heading west towards the NJ Turnpike (both northbound and southbound lanes).

- Access to and from the site is predominantly provided through an access easement across the Home Depot property (Daffy's Way), leading to Block 155, Lot 1.02, and also through Block 155, Lot 1.04, (Bigley Drive), which fronts on the ramp from Paterson Plank Road to the Route 3 Eastbound ramp. Both of these egress points allow only right-turn out movements onto the public street.
 - The Paterson Plank Road entrance at the Home Depot at Daffy's Way can be accessed from both the east- and westbound travel lanes along Paterson Plank Road, i.e. right and left turns into the site are permitted. However, exiting the site onto Paterson Plank Road is limited to only right-out, or eastbound, movements. Thus, a vehicle exiting the subject property at the traffic light on Daffy's Way cannot turn left toward the Secaucus business district.
 - The Bigley Drive entrance is located off of a one-way ramp, allowing only right-in, right-out movements.
 - The portion of Paterson Plank Road that leads to the subject property is heavily used by commercial truck and tractor-trailer traffic traveling between Route 3, the New Jersey Turnpike and the warehouse/distribution and light industrial zones in Secaucus and North Bergen.
 - A residential use would not be compatible with the surrounding highways and the commercial uses located on the properties adjacent to the subject property.
- ii. **The site has access to water and sewer infrastructure with sufficient capacity.**
- This criteria is met by the subject property.
- iii. **The site can be developed consistent with the rules of the NJSEA.**
- This criteria can be met by the subject property.



- iv. **Former and existing land uses, either on the site or in the vicinity, may not expose resident to environmental hazard. Alternatively, the site shall be remediated to NJDEP residential standards as a condition of the Board's approval.**
- The subject property is purported to contain historic fill, which is under investigation at this time. The applicant has indicated that the anticipated remediation methods for the site may consist of engineering controls in the form of a cap, composed of the building structure and pavement. Additionally, institutional controls are likely to be established in the form of a deed notice. The applicant anticipates that the deed notice will preclude the use of the site for residential uses. Remediation will be overseen by a Licensed Site Remediation Professional (LSRP) in accordance with NJDEP regulations.
 - Based on the information provided and the on-going investigation into the historic fill on the site, there may be certain conditions on or in the vicinity of the subject property, either former or existing, that may expose residents to environmental hazard.
- v. **The size, shape, or layout of any existing structure that shall remain, or other physical limitation(s) not listed previously, do not preclude residential use.**
- The proposed redevelopment of the subject property includes the demolition of the existing structure, which was constructed in 1964, and replacement with a more modern efficient building.
- vi. **The site is suitable for residential use pursuant to sound planning principles.**
- The location of the subject property with respect to the surrounding major highways and commercial properties is not conducive to the construction of a residential development.
 - The immediately surrounding properties are predominantly built-out with an active and viable commercial and industrial development.
 - The site is surrounded by major state highways, including Route 3, Route 495 and the New Jersey Turnpike, and is within a dynamic and heavily-trafficked commercial/industrial area that is active all day, including the very early morning hours. Noise experienced at the site from the surrounding highways is unceasing over the course of the day and night.
 - The site is also not an appropriate location to construct residential



units due to pedestrian access issues. Although there are sidewalks along Paterson Plank Road that lead to the Secaucus business district, approximately one-half mile away, pedestrians walking to the town center would be required to cross several heavily-trafficked intersections, including the Daffy's Way driveway at Home Depot entrance, a Turnpike exit ramp, and County Avenue, that are utilized by considerable numbers of tractor-trailers, other commercial vehicles and cars.

- Traffic circulation patterns on adjoining streets do not permit vehicles exiting the site, at any of the three driveways, to travel directly to the Secaucus business district, thereby isolating future residents from the community.
- A non-residential use is compatible with the surrounding commercial uses of the adjacent properties.

In summary, only three of the above criteria, as per Section IV(c)1 of the Interim Policies, apply to the subject property.

Conclusion

The subject commercial property located at 1 Daffy's Way (2701 Route 3 East), Block 451.05, Lot 14.011, in North Bergen, and Block 155, Lots 1.03, 1.04 and 6, in Secaucus, is recommended to be deemed unsuitable for housing.

Contingent upon the approval of this recommendation by the NJSEA Board of Commissioners, the review of the submitted zoning certificate application for the proposed nonresidential development may proceed for this site. However, as a condition of zoning certificate approval, the applicant shall be required to satisfy the project's affordable housing requirements as per Section VII(a) of the Interim Policies or as required by law.

RESOLUTION 2015-25

**RESOLUTION ISSUING A DECISION ON THE
SUITABILITY RECOMMENDATION AS REQUIRED BY THE
NJSEA INTERIM POLICIES GOVERNING AFFORDABLE HOUSING DEVELOPMENT
IN THE MEADOWLANDS DISTRICT**

FILE NO. 14-588

120 CHUBB LLC/NEW RESIDENTIAL DEVELOPMENT & VARIANCE

BLOCK 231, LOT 2

IN THE TOWNSHIP OF LYNDHURST

WHEREAS, in a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing; and

WHEREAS, on July 25, 2007, the Commission adopted Resolution No. 07-68, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing;" and

WHEREAS, on May 6, 2008, COAH adopted new rules, which became effective upon publication in the New Jersey Register on June 2, 2008 and, in addition, adopted new rules on September 22, 2008, which became effective on October 20, 2008; and

WHEREAS, on July 17, 2008, P.L. 2008, Chapter 46 became law, revising various parts of the statutory law concerning affordable housing; and

WHEREAS, on July 23, 2008, the Commission adopted Resolution No. 08-80, which approved the *Interim Policies Governing Affordable Housing Development in the Meadowlands District*, in order to govern the review of and restraints upon applications for further development in the Meadowlands District in a manner consistent with these regulatory and statutory changes, prior to the implementation of new regulations regarding same; and

WHEREAS, pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015; and

WHEREAS, the *Interim Policies*, last revised by Resolution No. 11-29 on July 27, 2011, govern all zoning certificate applications, petitions to amend the Official Zoning Map, new redevelopment plans, and proposed amendments to a redevelopment plan pertaining to new proposed uses or changes to existing uses, received on or after July 24, 2008 and remain in effect until the NJSEA promulgates new regulations concerning affordable housing, or the *Interim Policies* are withdrawn or rescinded by Commission action or court order, whichever occurs first; and

WHEREAS, a property owner or applicant may, in addition, request that the Commission evaluate the suitability of a particular site for housing in a zone that does not permit residential dwellings as a principal use in accordance with Subsection V.(a) of the *Interim Policies*; and

WHEREAS, the *Interim Policies*, in Subsection VI.(c), permit a developer to request an increase to the maximum permitted density for the zone; and

WHEREAS, the *Interim Policies* set forth the criteria for a Review Team, comprised of three NJSEA staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each applicable application to determine the suitability of the subject site for residential use and for any proposed density increase; and

WHEREAS, the NJSEA has received a Site Suitability application from JERC Partners, XXVIII, LLC, regarding the property located at 120 Chubb Avenue, Block 231, Lot 2, in the Township of Lyndhurst, New Jersey; and

WHEREAS, the applicant proposes to construct a four-story residential development, with up to 218 units, inclusive of a 20% affordable housing unit set-aside for households of low or moderate-income; and

WHEREAS, the subject property is located in the Light Industrial A zone, which does not permit residential uses; and

WHEREAS, the Site Suitability application was forwarded to the Review Team for review in accordance with the *Interim Policies*; and

WHEREAS, a public hearing was held on March 31, 2015, to receive public comment on the Site Suitability application; and

WHEREAS, no written comments regarding the proposed application were received by the Review Team prior to the public hearing; and

WHEREAS, four (4) members of the public provided comments at the hearing; and

WHEREAS, a suitability review, dated May 1, 2015, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

WHEREAS, the suitability review recommends that the subject property is deemed conditionally suitable for residential use; and

WHEREAS, the Hackensack Meadowlands Municipal Committee (HMMC) acted favorably on the suitability recommendation at their May 4, 2015, meeting; and

WHEREAS, the Board of Commissioners of the NJSEA have reviewed the suitability review and recommendation prepared by the Review Team, regarding the subject property; and

WHEREAS, the Board of Commissioners of the NJSEA concurs with the recommendation of the Review Team; and

WHEREAS, the Board of Commissioners of the NJSEA hereby determines that the subject property is deemed conditionally suitable for residential use.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the subject property located at 120 Chubb Avenue, Block 231, Lot 2, in the Township of Lyndhurst, is deemed suitable for residential use subject to the following conditions:

1. To proceed with the future development of the subject property with a residential use, developer shall coordinate with the appropriate municipal officials, including representatives of the Police Department and the Board of Education, to work out a mutually agreeable plan to address pedestrian safety concerns.
2. Signage shall be provided on-site to deter access to the wetlands areas and Berry's Creek.

Adopted: May 14, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell **Date:** May 14, 2015

Subject: Site Suitability Recommendation for 120 Chubb Avenue, Block 231, Lot 2
in the Township of Lyndhurst (File No. 14-588)

In a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing. The Commission followed up by adopting Resolution No. 07-68, on July 25, 2007, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing. Thereafter, on July 23, 2008, the Commission adopted Resolution No. 08-80, which approved the "*Interim Policies Governing Affordable Housing Development in the Meadowlands District*," which was last revised by Resolution No. 11-29 on July 27, 2011, in order to govern the review of and restraints upon applications for further development in the Meadowlands District in a manner consistent with regulatory and statutory changes regarding affordable housing, prior to the implementation of new regulations regarding same.

Pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

The Interim Policies apply to all zoning certificate applications, petitions to amend the Official Zoning Map, new redevelopment plans, and proposed amendments to a redevelopment plan pertaining to new proposed uses or changes to existing uses, received on or after July 24, 2008, and will remain in effect until the NJSEA promulgates new regulations concerning affordable housing, or the Interim Policies are withdrawn or rescinded by Authority action or court order, whichever occurs first. The Interim Policies set forth the criteria for a Review Team, comprised of three NJSEA staff members, including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each applicable application to determine the suitability of the subject site for residential use.

A Site Suitability application has been filed with the NJSEA by JERC Partners, XXVIII, LLC, regarding the property located at 120 Chubb Avenue, Block 231, Lot 2, in the Township of Lyndhurst, New Jersey. This request for a Site Suitability Determination is sought in connection with the applicant's proposal to construct a four-story residential development, with up to 218 units, inclusive of a 20% affordable housing unit set-aside, on the subject premises. The subject property is located in the Light Industrial A zone,

which does not permit residential uses, thus requiring a public hearing in accordance with Section V(a)2 of the *Interim Policies Governing Affordable Housing Development in the Meadowlands District*. A public hearing regarding this matter was held on March 31, 2015.

The following four (4) members of the public provided comments at the hearing: John Montillo, Lyndhurst Commissioner of Public Safety; Christopher Musto, President of the Lyndhurst Board of Education; James O'Connor, Lyndhurst Police Chief; and Mr. Lenny Nix, a private citizen. The overriding concern from the Lyndhurst officials was the safety of pedestrians, including schoolchildren, walking in the neighborhood. Specific comments from each of the above are listed in the transcript.

After the public hearing, the matter was forwarded to the Review Team for review of the proposed development in accordance with the Interim Policies. A suitability review, dated May 1, 2015, has been prepared indicating that the Review Team recommends that the subject property be deemed conditionally suitable for residential use. The recommendation was forwarded to the Hackensack Meadowlands Municipal Committee (HMMC) who acted favorably on the suitability recommendation at their May 4, 2015, meeting.

At this time, the NJSEA staff is recommending that the members of the NJSEA concur with the suitability recommendation prepared by the Review Team, which recommends that the subject property be deemed suitable for residential use subject to the following conditions:

1. To proceed with the future development of the subject property with a residential use, developer shall coordinate with the appropriate municipal officials, including representatives of the Police Department and the Board of Education, to work out a mutually agreeable plan to address pedestrian safety concerns.
2. Signage shall be provided on-site to deter access to the wetlands areas and Berry's Creek.

**Suitability Review
Public Hearing Report**

File No. 14-588

120 Chubb LLC/New Residential Development & Variance

Block 231, Lot 2

Township of Lyndhurst

May 1, 2015

Prepared by the
New Jersey Sports and Exposition Authority



Suitability Review Public Hearing Report

A Site Suitability application has been filed with the NJSEA by JERC Partners XXVIII, LLC, for the premises located at 120 Chubb Avenue, Block 231, Lot 2, in the Township of Lyndhurst, New Jersey. This request for a Site Suitability Determination is sought in connection with the applicant's proposal to construct a four-story residential development, with up to 218 units, inclusive of a 20% affordable housing unit set-aside of 44 units, on the subject premises. The subject property is currently located in the Light Industrial A zone, which does not permit residential uses, thus requiring a public hearing in accordance with Section V(a)2 of the *Interim Policies Governing Affordable Housing Development in the Meadowlands District*.

The site characteristics of the property have been evaluated in accordance with the *Interim Policies*, which were adopted by the NJMC on July 24, 2008, and last revised on July 27, 2011.

Note that pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

Existing site conditions

The proposed residential development will be located on Block 231, Lot 2, which has an area of approximately 6.96 acres. The property currently contains an 81,015 square foot warehouse building that has been vacant since approximately 2008, according to the applicant. The property fronts on Chubb Avenue. Berry's Creek runs along the rear property line, resulting in a 2.6-acre wetland area encompassing the rear portion of the lot.

A tidelands grant was obtained by the Bellemead Development Corporation (State of NJ Tidelands Claim 714-2154, reference #4, Liber C-3, pg. 241) for six (6) separate areas on the subject property. The adjacent property to the north, Block 231, Lot 1.02, is predominantly covered by wetlands, and as such, is vacant. The adjacent property to the south, Block 231, Lot 3, contains a multi-story office building and associated parking areas.



The property fronts on Chubb Avenue, which has a 60-foot wide paved cartway within an 80-foot wide right-of-way. The oversized road width includes marked shoulders along both sides that are existing portions of Meadows Path, a pedestrian walkway proposed to extend from Little Ferry to Kearny along the west side of the Hackensack River within the Hackensack Meadowlands District (District). A sidewalk is proposed on the subject property along Chubb Avenue as part of the proposed development.

A new residential development, The Station at Lyndhurst, has recently opened approximately 800 feet to the south of the subject property along Chubb Avenue on previously vacant uplands. The Avalon Lyndhurst residential development is located approximately 1000 feet to the north at the far side of the intersection of Chubb Avenue and Wall Street West. Bergen Community College at the Meadowlands is located within the vicinity of the subject site, along with a mix of land uses including office, warehouse, light industrial and health club.

Public hearing

A public hearing on this matter was held in the Office of the Commission on Thursday, March 31, 2015. Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. All information submitted to the Division of Land Use Management relative to this application was made part of the record of this recommendation.

NJSEA staff in attendance at the public hearing were Sara Sundell, Director of Land Use Management and Chief Engineer; Sharon Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Fawzia Shapiro, Senior Engineer; and Mia Petrou, Senior Planner.

Exhibits

The following is a list of the exhibits regarding the site suitability request submitted by the applicant to the NJSEA at the public hearing:

<u>Number</u>	<u>Description</u>
A-1	"Aerial Exhibit," Sheet 1 of 1, prepared by Böhler Engineering, dated 3/30/15.



- A-2 "ALTA/ACSM Land Title Survey, 120 Chubb Avenue," Sheet 1 of 1, prepared by Control Point Associates, Inc., dated 6/30/14, last revised 7/29/14.
- A-3 "Overall Site Plan Rendering," Sheet 4 of 22, prepared by Bohler Engineering, dated 9/24/14, last revised 2/13/15.
- A-4 "Garage Floor Plan," prepared by Minno & Wasko, dated 3/23/15.
- A-5 "Second Floor Plan," prepared by Minno & Wasko, dated 3/23/15.
- A-6 "Third & Fourth Floor Plan," prepared by Minno & Wasko, dated 3/23/15.
- A-7 "Concept Elevation," prepared by Minno & Wasko, dated 3/31/15.
- A-8 "Site Suitability Analysis," prepared by Monica Mianecki, P.E., P.P., dated October 14, 2014.
- A-9 Six (6) Photographs labeled A through F, provided by Lyndhurst Police Chief O'Connor.
- A-10 "Planning Report, Parking Reduction Bulk Variance," prepared by Monica Mianecki, P.E., P.P., dated March 31, 2015.

Testimony

Thomas J. O'Connor, Esq., of Waters, McPherson, McNeill, represented JERC Partners XXVIII, LLC, at the hearing. The following witnesses testified in support of the application:

1. Bradford Bohler, P.E., Bohler Engineering.
2. David J. Minno, R.A., P.P., Minno & Wasko.
3. Monica Mianecki, P.E., P.P., Mianecki Consulting Engineers.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, CCR, Certified Court Reporter.



Public Comment

Four (4) members of the public spoke at the hearing: Lyndhurst Commissioner of Public Safety John Montillo, President of the Lyndhurst Board of Education Christopher Musto, Lyndhurst Police Chief James O'Connor, and Mr. Lenny Nix. Specific comments from each of the above are listed in the transcript.

Site Suitability Criteria

In accordance with Section IV(c)1 of the *Interim Policies*, the following information specific to this application pertains to the criteria required to determine whether a site is suitable for residential use:

i. The site is adjacent to compatible land uses and has access to appropriate streets.

- A mix of land uses is located within the vicinity of the subject site, including office, warehouse, light industrial, community college, and a health club. The site is located within close proximity of the Avalon Lyndhurst and The Station at Lyndhurst residential developments.
- The subject property is accessed directly from Chubb Avenue, which is an 80-foot wide public right-of-way with a 60-foot wide paved road surface. In addition, Chubb Avenue connects to Wall Street West, which has easy access to NJ State Highways 3 and 17. Chubb Avenue also intersects with Valley Brook Avenue, which leads directly to the commercial center of Lyndhurst.
- Concerns were raised by several township officials attending the public hearing, including the Commissioner of Public Safety, the Police Chief, and the President of the Lyndhurst Board of Education, regarding pedestrian movements and safety on the roads in the surrounding development. The applicant indicated a willingness to discuss pedestrian safety concerns and potential improvements regarding same with the municipal officials, including the Board of Education. The approval of a residential development on the subject site should include considerations for pedestrian safety in the vicinity.



ii. The site has access to water and sewer infrastructure with sufficient capacity.

- Public water and sewer utilities currently serve the existing commercial, industrial and residential uses located in the vicinity of the subject premises. The applicant has indicated that there is sufficient capacity from the Lyndhurst Township Water Department and the Passaic Valley Sewerage Commissioners to serve the proposed residential facility with water and sewerage services. An application for Treatment Works Approval (TWA) has been submitted to the NJDEP by the applicant with respect to the treatment of the development's wastewater by the Passaic Valley Sewerage Commission.

iii. The site can be developed consistent with the rules of the NJSEA.

- The applicant is seeking a bulk variance from the NJSEA requirement in N.J.A.C. 19:4-8.4(a)26, which requires a total of 436 parking spaces for a 218-unit multifamily residential project, whereas 349 parking spaces are proposed. The applicant has not requested any additional relief from the NJSEA rules to develop the site with a residential use.
- The 81,015 square foot existing warehouse building on the subject property was developed in the 1970's and is proposed to be demolished. The site contains wetlands along the rear portion of the property that will be required to remain undisturbed. There are no physical limitations that would constrain the development of a residential structure conforming with the bulk requirements of the Light Industrial A zone on the uplands of the subject premises.

iv. Former and existing land uses, either on the site or in the vicinity, may not expose residents to environmental hazard. Alternatively, the site shall be remediated to NJDEP residential standards as a condition of the Board's approval.

- The property is subject to NJDEP regulations due to the placement of historic fill on the site during construction of the existing warehouse building. The applicant has indicated that engineering and institutional controls (i.e. a soil cap and deed notice) will be implemented to isolate the historic fill. Any required remedial activities will be required to be



completed in accordance with the NJDEP Technical Requirements for Site Remediation.

- In order to protect the public from any potential contact with contaminated waters or sediment in Berry's Creek, access to the creek and the on-site wetland area in the rear and sides of the site should be prohibited. While the plans submitted indicate an elevation difference between the developable portion of the site and the wetlands, in addition to a retaining wall topped by a railing along the developed edge, signage should be provided on-site to deter access to the wetlands and the creek.
- v. **The size, shape, or layout of any existing structure that shall remain, or other physical limitation(s) not listed previously, do not preclude residential use.**
- The existing property was developed in the 1970's with an 81,015 square foot warehouse building that is proposed to be demolished. There are no other structures on the subject site. A 50-foot wide waterway buffer is required along Berry's Creek, as measured from the top of bank or mean high water line. In addition, the wetlands located along Berry's Creek at the rear of the site are required to remain undisturbed. There are no physical restrictions or impediments on the site that would preclude new residential development on the remaining portions of the site.
- vi. **The site is suitable for residential use pursuant to sound planning principles.**
- Through the use of sound planning principles, the proposed 218-unit residential project can be developed harmoniously with the surrounding land uses. The existing Avalon Lyndhurst and The Station at Lyndhurst residential developments, located to the north and south of the premises, provide evidence that residential uses can co-exist in this business-park and industrial setting. Nearby land uses would have a negligible influence on the proposed development as most of these uses are either office, warehouse, or institutional, generating minimal environmental impacts.
 - The *NJMC Master Plan*, adopted in January 2004, determined that there is a shortage of suitable, affordable housing in northern New Jersey.



Development of the site with residential uses would contribute to addressing this need and would further the Master Plan strategy to “spur the production of affordable housing in the region.”

- There is adequate infrastructure in place to support the proposed project, including roads, water, and sewer capacity. The site is easily accessible to emergency services.
- Public transportation opportunities are available to future residents by way of NJ Transit bus lines that stop directly on Chubb Avenue and the Lyndhurst Corporate Shuttle, operated by Meadowlink/EZ Ride, that provides connections to the major NJ Transit bus stop at the intersection of Rutherford and Polito Avenues and to NJ Transit’s Kingsland and Rutherford train stations. The applicant has indicated that it will enter into an agreement with Meadowlink/EZ Ride for shuttle service for the residents of the subject property.

Recommendation and Conditions

The subject site conditionally satisfies all of the above criteria, as per Section IV(c)1 of the *Interim Policies*. **As a result, the subject property, known as 120 Chubb Avenue, Block 231, Lot 2, located within the Light Industrial A zone in the Township of Lyndhurst, is recommended to be deemed suitable for residential use subject to the following conditions recommended by the Review Team:**

1. To proceed with the future development of the subject property with a residential use, developer shall coordinate with the appropriate municipal officials, including representatives of the Police Department and the Board of Education, to work out a mutually agreeable plan to address pedestrian safety concerns.
2. Signage shall be provided on-site to deter access to the wetlands areas and Berry’s Creek.

Pursuant to approval of this recommendation by the NJSEA Board of Commissioners, the applicant may proceed with the zoning certificate application process for their proposed residential project.



The proposed development will generate a need for affordable housing within the municipality. In addition to the conditions stated above being a prerequisite for zoning certificate approval for any residential use, the applicant shall also be required to satisfy the project's affordable housing requirements as per the NJMC Interim Policies, as a condition of zoning certificate approval.

Failure by any developer(s) to abide by the conditions herein shall render this site suitability determination null and void.



Appendix A

Aerial photos of subject property: Block 231, Lot 2 (shaded)





Appendix B

"Site Suitability Analysis, 120 Chubb Avenue, Block 231, Lot 2 Township of Lyndhurst, Hackensack Meadowlands District"; prepared Monica R. Mianeki, P.E., P.P., Mianeki Consulting Engineers, dated October 14, 2015.

(Available upon request.)

AWARDS/ CONTRACTS

RESOLUTION 2015-26

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO
TO ENTER INTO A CONTRACT FOR THE
VISITOR'S CENTER WALKWAY, GAZEBO AND BALCONY
RECONSTRUCTION**

WHEREAS, the emergency egress walkway and attached gazebo to the Visitor's Center, was damaged during Hurricane Sandy; and

WHEREAS, this walkway is a necessary component to operating the Visitor's Center, and is also used as a walkway for birders and park visitors; and

WHEREAS, staff prepared the necessary documentation to receive disaster assistance through FEMA; and

WHEREAS, during the inspection of the walkway damage from the water it was determined that the steel structure underneath the Visitors Center needs to be repainted and the concrete balcony around it was in a state of disrepair; and

WHEREAS, the NJSEA staff and Harsen and Johns Architects, P.A., prepared the plans and specifications for the Visitor's Center, Walkway, Gazebo and Balcony Reconstruction (File SW-13-001); and

WHEREAS, before public bidding the project was sent to the State Comptroller's office for review and approval; and

WHEREAS, ten (10) bid packages were purchased during the bid advertisement period; and

WHEREAS, four (4) construction bids for this project were received and opened on March 6, 2015; and

WHEREAS, Priore Construction Services LLC was the lowest responsive bidder, with a bid amount of \$977,116.00; and

WHEREAS, staff review of the bid proposal indicates that their bid proposal is reasonable and proper; and

WHEREAS, after reviewing the costs for the balcony reconstruction it was determined that the costs exceeded the capital budget for this item and that the repairs could be temporarily postponed; and

WHEREAS, after meeting with Priore Construction Services LLC, it was determined that the scope of this project will only include the walkway repair and the painting of the steel steel structure, therefore lowering the total project cost to \$343,877, and that Priore Construction remained the low bidder for the reduced scope; and

WHEREAS, FEMA PW4288 will fund 90% of their estimated \$238,315 of the project cost for the Visitor Emergency Egress repair and the NJSEA will fund the remaining cost; and

WHEREAS, the total project authorization shall be \$361,071 which includes a small (5%) contingency fund above the \$343,877. The purpose of the contingency fund is to construct a barrier to prevent the public from accessing the balcony.

NOW, THEREFORE, BE IT RESOLVED by the New Jersey Sports and Exposition Authority that the President and CEO is hereby authorized to enter into a contract with Priore Construction Services, LLC for the "Visitor's Center Walkway, Gazebo, and Balcony Reconstruction" project at a cost not to exceed \$361,071.

Adopted: May 14, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg
From: Thomas Marturano *Date:* May 14, 2015
Subject: File SW-13-001- Reconstruction of the Visitor's Center Walkway, Gazebo and Balcony

The existing emergency egress walkway and attached gazebo to the Visitor's Center was damaged during Hurricane Sandy and needed to be repaired. This walkway is a necessary component to operating the Visitor's Center. It is also used as a walkway by birders and park visitors. The NJSEA, in conjunction with financial support from FEMA PW4288, is proposing to replace this walkway with a new superstructure atop the existing piles.

During the inspection of the walkway piles, a determination was made that the steel structure underneath the visitor's center needed to be repainted. It was also determined that the balcony around the Visitor's Center was in a state of disrepair and needed to be repaired for safe use. The repainting of the structural steel and repair of the balcony was initially included in the cost of this contract, but after reviewing the received bids, it was determined that the costs exceeded the capital budget for this item and that the repairs to the balcony should be temporary postponed. The repainting of the structural steel members cannot wait and will be included in this contract. This work is not covered by FEMA PW4288, as it is not Hurricane Sandy damage. Since the balcony will not be repaired, this contract will also include the installation of a barrier along each side of the walkway to prevent access to the balcony from the walkway.

On March 6, 2015, four bids were received and opened for the above-referenced contract. During the bid period, a total of ten (10) prospective bidders purchased the bid packages. Four bids were submitted and are listed as follows from lowest to highest:

Priore Construction Services LLC: \$977,116.00
John O'Hara Company, Inc: \$992,147.66
NEIE Construction Services LLC: \$1,283,900.00
Bismark Construction Corporation: \$1,678,300.00

With the removal of the balcony reconstruction, the bid prices are adjusted as listed below, from lowest to highest:

Priore Construction Services LLC: \$343,877.00
John O'Hara Company, Inc: \$352,916.261
NEIE Construction Services LLC: \$420,400.00
Bismark Construction Corporation: \$461,700.00

FEMA PW4288 will fund 90% of their estimated \$238,915 of the project cost for the Visitor Center Emergency Egress repair and the NJSEA will fund the remaining cost. The total project authorization is \$361,071, which includes a small (5%) contingency fund above the \$343,877. This contingency fund is to account for the barrier along the walkway to prevent access to the balcony, which was not included in the original bid price.

Therefore, the NJSEA staff is requesting Commission authorization for the President to enter into a contract with Priore Construction Services for the "Visitor's Center Walkway, Gazebo and Balcony Reconstruction" project at a cost not to exceed \$361,071.

EXECUTIVE SESSION

RESOLUTION 2015-27

**RESOLUTION AUTHORIZING THE
NEW JERSEY SPORTS AND EXPOSITION AUTHORITY
TO CONDUCT A MEETING TO WHICH
THE GENERAL PUBLIC SHALL NOT BE ADMITTED**

BE IT RESOLVED by the New Jersey Sports and Exposition authority (“Authority”) that it shall conduct a meeting to which the general public shall not be admitted to discuss personnel matters, the status of pending and anticipated litigation and other matters within the attorney client privilege, contract negotiations, and, if necessary, to act upon pending contracts.

BE IT FURTHER RESOLVED that the time when such discussions may be disclosed to the public shall be when and as such disclosure may be made without adversely affecting the Authority’s pending and/or anticipated legal, personnel, contractual matters and other matters within the exceptions provided for by the statute.

ADOPTED: May 14, 2015