

RECOMMENDATION ON THE VARIANCE APPLICATION OF

Hess – New Residential Development Variances

FILE # 13-801

I. INTRODUCTION

An application for two bulk variances has been filed with the New Jersey Meadowlands Commission (NJMC) by Hartz Mountain Industries on behalf of Hess Corporation, for the premises identified as 34 Meadowland Parkway, Block 101, Lot 8, in the Town of Secaucus, New Jersey. Said premises are located in the Commission's Neighborhood Commercial zone. The bulk variances are sought in connection with the applicant's proposal to construct a four-story, 72,201-square-foot residential building with 65 units, inclusive of 13 affordable units, with associated site improvements on the subject property.

Specifically, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-5.43(a)4, which permits a maximum building height of 35 feet, whereas a building with a height of 54.67 feet to the top of the stair tower and 44.92 feet to the top of the parapet wall is proposed.
2. N.J.A.C. 19:4-8.4(a)27, which requires a total of 130 parking spaces (104 parking spaces for market-rate units, 13 parking spaces for those units restricted as affordable and 13 visitor parking spaces), whereas 97 parking spaces are proposed, which results in an overall parking ratio of 1.49 parking spaces per residential unit.

Notice was given to the public and all interested parties as required by law. The public notice was published in the Jersey Journal. One written comment was submitted to the Division of Land Use Management. A public hearing was held in the Office of the Commission on Tuesday, June 3, 2014. 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 property in question contains approximately 2.2 acres within the Neighborhood Commercial zone. It includes three front yards, with frontage on Tenth Street, Meadowland Parkway, and the on-ramp to Route 3 East. The site is currently vacant, but was formerly utilized by the Amerada Hess Corp. as a truck service facility. On February 26, 2014, by Resolution No. 14-10, the NJMC Board of Commissioners deemed the subject property to be suitable for residential development, as per the criteria listed in the "Interim Policies Governing Affordable Housing Development in the Meadowlands District."

Neighboring uses include single-family and two-family residences to the east across Tenth Street, three-story condominium/apartment buildings adjoining the site to the south and northeast, and, to the west across Meadowland Parkway, the WWOR media studios and vacant property along the Hackensack River that formerly housed large tanks utilized by the Amerada Hess Corp. The property's northern boundary adjoins the on-ramp to Route 3 East from Meadowland Parkway. The NJMC jurisdictional boundary line runs along Ninth Street, approximately 250 feet east of the subject property.

The applicant proposes to construct a four-story, 72,201-square-foot residential building with 65 units, including 13 affordable units, with associated site improvements on the subject property. The unit breakdown includes 40 studio or one-bedroom units, 22 two-bedroom units, and three three-bedroom units. The NJMC's parking requirements for multi-family dwellings consists of one parking space per affordable unit, two parking spaces per market rate unit, and one parking space per every four units for visitor parking. The required parking for the proposed development is 130 parking spaces, whereas 97 parking spaces are proposed to be provided. This results in a proposed parking ratio of 1.49 spaces per dwelling unit.

The applicant also requests a variance for the proposed height of the building, which exceeds the maximum permitted building height of 35 feet in the Neighborhood Commercial zone, whereas a building with a height of 54.67 feet to the top of the stair tower and 44.92 feet to the top of the parapet wall is proposed.

B. Response to the Public Notice

One written comment was submitted to this Office regarding this application prior to the public hearing by an anonymous person. Ten members of the public who attended the public hearing offered comments, which can be found in the corresponding transcript.

III. PUBLIC HEARING (June 3, 2014)

A public hearing was held on Tuesday, June 3, 2014. 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; Ronald Seelogy, P.E., Senior Engineer; and Mia A. Petrou, P.P., AICP, Senior Planner.

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	“Existing Conditions Exhibit,” prepared by Menlo Engineering, dated June 3, 2014.
A-2	“Site Plan Exhibit,” prepared by Menlo Engineering, dated June 3, 2014.

- A-3 "Tenth Street Elevation Exhibit," prepared by Menlo Engineering, dated June 3, 2014.
- A-4 "Traffic Impact Study," prepared by Michael Maris Associates, Inc., dated April, 2014.
- A-5 Parking analysis letter prepared by Michael Maris Associates, Inc., dated May 28, 2014.
- A-6 "Expert Planning Report in Support of an Application for Bulk Variances from the Maximum Height of a Building and the Minimum Number of Parking Spaces in Connection with a Proposed Multi-Family Residential Development Located at 34 Meadowland Parkway in the Town of Secaucus, New Jersey," prepared by Phillips Preiss Grygiel LLC, dated February, 2014.

B. Testimony

David J. Hughes, Esq. of Hartz Mountain Industries, Inc., represented Hartz Mountain Industries, Inc. at the hearing. The following four witnesses testified in support of the application:

1. Allen Magrini, Senior Vice President of Land Use and Development, Hartz Mountain Industries, Inc.;
2. Scott Turner, P.E., Senior Project Manager, Menlo Engineering Associates;
3. Michael Maris, President, Michael Maris Associates, Inc.; and
4. Paul Phillips, P.P., AICP, Principal, Phillips, Preiss, Grygiel, LLC.

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 and Notary Public.

C. Public Comment

Ten members of the public who attended the public hearing provided comments regarding the proposed variances. These comments may be found in the corresponding transcript of the public hearing dated June 3, 2014.

IV. RECOMMENDATION(S)

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.43(a)4 which permits a maximum building height of 35 feet, whereas a building with a height of 54.67 feet to the top of the stair tower and 44.92 feet to the top of the parapet wall are proposed.

The NJMC 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 subject property contains unique characteristics that are not ordinarily found in the Neighborhood Commercial zone in which the property is located. The subject property is a long, narrow lot with three front yards and is irregularly-shaped. The property's frontage is along Meadowland Parkway, a heavily-traveled, six-lane arterial roadway that connects to Route 3, and its westerly lot line follows the alignment of the roadway. The property also fronts on the on-ramp to Route 3 East to the north. Finally, the property fronts on Tenth Street, which is a local two-lane street developed with a mix of residential uses and small-scale commercial uses, including medical offices and convenience retail.

Development of the subject property is constrained by the location of two proposed utility easements, a proposed 10-foot-wide sanitary sewer easement encompassing an existing 30-inch sanitary sewer line in the northerly portion of the site, and a proposed 30-foot-wide water utility easement to United Water encompassing two existing water mains, consisting of a 20-inch line and a 6-inch line, which generally continues the alignment of Front Street. While the easements are proposed by the applicant, the location of the existing utilities was not created by the applicant/property owner.

However, it has not been adequately demonstrated that these conditions affect the ability of the site to comply with the height requirements of the Neighborhood Commercial zone. Since the front yard setbacks within the Neighborhood Commercial zone are a minimum of two feet, the constraints usually associated with multiple front yards would not limit the siting of a building. The development's proposed lot coverage of 18.8 percent represents less than half of the permitted lot coverage in the Neighborhood Commercial zone. Notwithstanding the location of the proposed easements, sufficient area remains to expand the site's lot coverage in the southern portion of the lot, south of the existing utility lines, beyond the proposed building footprint.

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

The subject property can be characterized as a transitional site between the predominantly commercial, larger-scale uses to the west of the site on Meadowland Parkway, which are in the Commercial Park zone, and the adjoining residential neighborhood in the Low Density Residential zone across Tenth Street to the east. This neighborhood is comprised primarily of one- and two-family uses on typical 5,000-square-foot lots, although lots as small as 2,500 square feet, and a lot as large as 0.6 acres containing a three-story garden apartment building (Block 106, Lot 1), exist in this neighborhood as well. In comparison to the six other properties in the Neighborhood Commercial zone situated between Meadowland Parkway and Tenth Street, the subject property contains the largest lot area at 2.2 acres, and is double the size of the next largest of those properties. The maximum height of structures in the adjacent Low Density Residential zone is likewise 35 feet.

The applicant indicated in testimony that the proposed building height will be substantially similar to the recently-developed Osprey Cove multi-family dwelling, located across Meadowland Parkway to the southwest of the property in question, except that the proposed building will be lower in height by proposing a flatter roof than the peak roof line of the Osprey Cove structure. Osprey Cove contains frontage on Meadowland Parkway and is located in the Commercial Park zone, where there is no specified height limitation.

The proposed building is located a significant distance from properties across Meadowland Parkway, which, in the vicinity of the subject site, is a six-lane roadway within a 100-foot-wide right-of-way. Therefore, there is no adverse impact of the proposed building height on properties to the west across Meadowland Parkway due to the distance between the properties.

While the subject proposal, like Osprey Cove, is located on a property with frontage on Meadowland Parkway, unlike Osprey Cove, the subject property is also located along a local, predominantly residential street with a 50-foot-wide right-of-way, Tenth Street. The proposed building's main façade orientation and site entrances are on Tenth Street and, therefore, the requested variance regarding the proposed building height must principally be evaluated in relation to the character of the built environment along Tenth Street and not along Meadowland Parkway.

An analysis of the properties along Tenth Street reveals that no structure along the Tenth Street frontage exceeds three stories in height, inclusive of residential and commercial development. While a survey of the neighboring building heights was not provided by the applicant, it could be reasonably assumed that a three-story structure could comply with the maximum 35-foot height requirement of both the Neighborhood Commercial and Low Density Residential zones. This assumption is supported by statements on the record from the property owner of a three-story duplex residence at 778 Tenth Street, across from the subject property, whose building height is 33 feet. Therefore, the proposed four-story building height of 44.92 feet, with an additional 9.75 feet

to accommodate a stair tower, is not consistent with the prevailing height of other buildings on Tenth Street, both in terms of height and the number of stories.

Furthermore, the impact of the proposed building height on neighboring properties would be exacerbated by the applicant's proposal to fill, and thereby raise, the site in order to comply with regulations for construction in the floodplain. Currently, the topography in the area along Tenth Street is relatively level. The existing elevation of the property in the general area of the building footprint averages approximately 5 feet (listed in the North American Vertical Datum of 1988, or "NAVD88"), and currently ranges from 4.2 feet to 6.7 feet along Tenth Street. According to NJMC GIS data, elevations of properties across Tenth Street to the east range from 5 feet to 5.5 feet (NAVD88) and properties to the south established at elevation 4.7 feet to 5.5 feet (NAVD88).

NJMC floodplain regulations require that the finished floor elevation of structures be a minimum of one foot above the 100-year base flood elevation established by the Federal Emergency Management Agency (FEMA), which is 8 feet (NAVD88) at the subject location. According to the proposed site plans submitted, the applicant proposes to fill the site and provide a building finished floor elevation of 10.7 feet (NAVD88), resulting in an approximate average increase in the site's existing grade elevation of 5.7 feet, although the applicant's engineer testified that the site would be filled by only three (3) feet. The increase in elevation of the site's grade plane added to the proposed height of the building further intensifies the impact of the proposed building height, and

results in a structure that would rise between 50 feet and 60 feet in height in relation to the existing grade of neighboring properties. In other words, the building would be approximately 10 to 20 feet taller than a neighboring structure, assuming a maximum height of 35 feet, although it is noted that some residences across Tenth Street are lower than 35 feet.

Testimony was also provided that the building is proposed to be set back at a distance that is greater than the required front yard setback in the Neighborhood Commercial zone. The required setback along Tenth Street is two (2) feet, whereas the four-story residential structure is proposed to be set back 16.62 feet from the Tenth Street right-of-way. Testimony indicated that the increased setback will act as a tradeoff for the increased height of the building, as a three-story structure could be constructed two (2) feet from the property line in this zone and the four-story building is set back almost 15 feet more than is required by the NJMC regulations. Testimony was also provided stating that the additional setback area is proposed to be landscaped with trees that would mitigate the increased building height. However, since the site will be raised by an additional 5.7 feet to meet the required first floor elevations in the floodplain as described above, the additional 10 feet of building height visually appears to be more than 15 feet higher than what is permitted.

Although landscaping is proposed to mitigate the effect of the increased building height, the height of the proposed trees will mature at 25 feet, and will not grow tall enough to shield the upper half of the building from view. While the height of the trees at

planting are proposed to be 9 to 10 feet, it will take many years of growth to reach the mature height, which will only reach half-way up the proposed building, not taking into account the height of the proposed stair towers which are another 10 feet higher than the building roofline.

While the proposed 16.6-foot setback is conforming, the specified location of the building, in combination with its proposed height, the raising of the site through added fill, and a long, linear façade of 305 feet with minimal architectural relief that could potentially minimize the bulk appearance of the structure, would impact the provision of light and air and promote a sense of crowding in the surrounding neighborhood that would result in a substantial detriment to area residents. Therefore, the building height, as proposed, would result in a significant adverse impact to the rights of neighboring property owners and residents.

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 Neighborhood Commercial zone provides for a maximum building height of 35 feet, whereas a building with a maximum height of 54.67 feet to the top of the stair tower, and 44.92 feet to the top of the parapet wall is proposed.

Development of the subject property is constrained by the location of two proposed utility easements, a proposed 10-foot-wide sanitary sewer easement over an existing 30-inch sanitary sewer

line in the northerly portion of the site, and a proposed 30-foot-wide easement to United Water encompassing two existing water mains, a 20-inch line and a 6-inch line, which generally extends along the alignment of Front Street.

Other considerations in the development of the property, as cited by the applicant's professionals' testimony, include the need to maintain circulation for emergency access purposes around the building perimeter. A review of the Section 502.1 of the 2009 International Fire Code indicates that access must be maintained to within 150 feet of the building perimeter, to correspond to the length of a fire hose. While emergency access is a critical site consideration, it is a requirement for all new development, and it is unclear how the subject site's conditions represent an exceptional practical difficulty in the accommodation of this access, particularly since roadways may be utilized for this required access. The subject site contains frontage on two roadways and may, therefore, be less constrained in this respect than other properties.

Despite these constraints, it was not definitively proven that the strict application of the regulations limiting the height of the building to 35 feet would result in exceptional and undue hardship to the applicant, as alternative development scenarios are possible given the development's degree of compliance with other bulk requirements.

For example, the subject application proposes a lot coverage of 18.8 percent, whereas the Neighborhood Commercial zone permits up to 40 percent of the site to be covered by structures. In addition,

open space, while encouraged, is generously provided on the subject property at 35.9 percent, whereas a minimum of 15 percent is required. Also, the Neighborhood Commercial zone allows a two (2) foot front yard setback along all three (3) front yards of the subject property, thereby substantially increasing the building envelope for development over what is allowed in other zones. Some of the testimony regarding the height variance focused on the proposed design, which provides more than the required two (2) foot front yard setback along Tenth Street in order to provide additional open space between the proposed structure and the residences along Tenth Street. However, the design did not take advantage of the two (2) foot front yard setback along Meadowland Parkway. All of these features provide flexible design options, particularly on a lot that is 13 times larger than the minimum required lot area in the Neighborhood Commercial zone.

Given these circumstances, the strict application of the regulations governing building height will not result in peculiar and exceptional practical difficulties, or exceptional and undue hardship upon, the property owner.

There appear to be a number of design alternatives available that could enable the development to provide a conforming building height compatible with neighboring properties. Based on the record in the matter, such design alternatives were not fully explored by the applicant.

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.

The requested variance to exceed the maximum permitted building height by a maximum of 19.67 feet as proposed would result in a substantial detriment to the public good and would adversely affect the general welfare. The public order, convenience, and general welfare would be adversely impacted by the proposed building height at the specified location. The proposed structure would crowd out and loom over adjacent residential development and impact the provision of adequate light and air, resulting in a negative visual impact to adjoining properties. In addition, the building's architectural details presented in the applicant's exhibits show little relief in the façade, and neighboring residents across Tenth Street would be facing a large expanse of wall with no breaks in the building line. The mass of the four story building, proposed approximately 6 feet vertically above the elevation of the street and 16.6 feet horizontally off of the property line, while also spanning approximately 305 feet along Tenth Street, would create a negative impact on the visual aesthetics of the neighborhood to the detriment of the general welfare.

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

The requested variance to exceed the maximum permitted building height by a maximum of approximately 19.67 feet as proposed will not cause the NJMC's environmental performance standards for noise, glare, vibrations, airborne emissions, or hazardous materials

to be exceeded. All drainage and water quality requirements will be met. The site is currently vacant and was the subject of remedial environmental activities.

However, the requested variance as it relates to the proposed building height at the specified location would have a substantial adverse impact to the visual environment of the neighborhood, and would overwhelm the Tenth Street neighborhood to which it is oriented.

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

The requested variance does not represent the minimum deviation from the regulations that would afford relief. In balancing the NJMC's bulk regulations with the particular conditions of the site, there is available land capacity to avoid or mitigate the requested height variance.

One alternative design option that could be considered includes providing additional distance to neighboring properties by increasing the front yard setback along Tenth Street and moving the building closer to Meadowland Parkway, where a similar four-story building exists to the southwest of the subject site. While emergency circulation was attested as an issue affecting the development of the site, access might be provided from Meadowland Parkway, or via a reconfiguration of the proposed building layout.

Alternatively, as the proposed lot coverage is less than half of the minimum 40 percent required and the proposed open space requirements are more than double of the 15 percent required, the applicant has flexibility to evaluate the provision of a three-story building on a larger footprint. In this case, parking, which would not be required to be elevated 5.7 feet above the established floodplain, could be partially incorporated within the building footprint.

Additionally, the proposed structure occupies two-thirds of the site's frontage along Tenth Street, with no significant breaks in the façade. Perhaps the visual impact of the structure could be mitigated by either reconfiguring the structure to an L- or U-shaped structure, or stepping back the building height by having three stories at the Tenth Street frontage and four stories beyond.

Finally, the subject property contains the largest lot area in the general study area and is vacant and devoid of existing structures. Although easements are proposed on the site, a large portion of the site that remains can be comprehensively developed with little encumbrance. The required two-foot setbacks along the three front yards are not a constraint. The application does not maximize the available lot coverage and provides more than double the open space requirements in the zone. Therefore, the minimum deviation cannot be established for the subject application.

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

The granting of the requested variance to exceed the maximum permitted building height as proposed would substantially impair the intent and purpose of the NJMC regulations.

The purpose of the Neighborhood Commercial zone is to provide uses compatible with the scale and character of the neighboring residential areas. The proposed building height is not consistent with the prevailing three-story character and smaller scale of other development in the neighborhood. The building's orientation and points of access are via Tenth and Front Streets, and not Meadowland Parkway, where similar development was cited as being consistent with the proposed development.

The proposed building height at the specified location substantially impairs the intent and purpose of the Neighborhood Commercial zone, as well the following purposes of the NJMC regulations at N.J.A.C. 19:4-1.2(a):

7. To provide that such uses are suitably sited and placed in order to secure safety from fire, flood and other natural and man-made disasters, provide adequate light and air, prevent the overcrowding of land and undue concentration of population, prevent traffic congestion, and, in general, relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized;

The proposed building height will impact the provision of light and air to the surrounding neighborhood, and does not relate to

the height of the existing structures within the immediate vicinity.

8. *To promote development in accordance with good planning principles that relates the type, design and layout of such development to both the particular site and surrounding environs;*

The type, design, and layout of the development are not consistent and inappropriate given the context of the neighborhood.

9. *To promote a desirable visual environment through building design and location.*

The proposed building design at the specified location has a detrimental and overwhelming effect on the neighborhood, and insufficient mitigation is proposed to lessen the impact of the proposed height on the neighborhood.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.4(a)27, which requires a total of 130 parking spaces (104 parking spaces for market-rate units, 13 parking spaces for those units restricted as affordable and 13 visitor parking spaces), whereas 97 parking spaces are proposed, which results in an overall parking ratio of 1.49 parking spaces per residential unit.

The NJMC 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 subject property contains unique characteristics that are not ordinarily found in the Neighborhood Commercial zone in which the property is located. The subject property is irregularly-shaped and contains existing utilities and their easements that divide the lot and limit the location of new building construction.

Development of the subject property is constrained by the location of two proposed utility easements, a proposed 10-foot-wide sanitary sewer easement encompassing an existing 30-inch sanitary sewer line in the northerly portion of the site, and a proposed 30-foot-wide water utility easement to United Water encompassing two existing water mains, a 20-inch line and a 6-inch line, which generally extends along the alignment of Front Street. While the easements are proposed by the applicant/property owner, the location of the existing utilities was not created by the applicant/property owner. The locations of the easements dictate the building location and, consequently, limit the available area remaining for surface parking.

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

The granting of the requested bulk variance to construct the proposed residential development with 97 parking spaces, whereas 130 parking spaces are required, will not adversely affect the rights of neighboring property owners or residents. The unit breakdown includes 40 studio or one-bedroom units, which minimizes parking demand.

Mr. Maris testified that, as per the Institute of Transportation Engineers (ITE) publication entitled, "Parking Generation," 4th edition, a development such as this would require approximately 1.23 parking spaces per unit. He stated that this ratio is consistent with the nearby Osprey Cove residential development, where 140 of the 268 parking spaces available are utilized. When considering this parking ratio, a total of 80 parking spaces would be sufficient to accommodate the parking demand for the 65 units proposed. In addition, it is anticipated that only one employee will be on site during the daytime hours. Furthermore, residents of the prospective development would likely use public transit services.

Therefore, the 97 on-site parking spaces provided will adequately satisfy the demand for the proposed residential development. However, to ensure that sufficient parking is available at the site, it is recommended the applicant be required to prepare a parking management plan, including specific information regarding the assignment and management of parking spaces for residents and visitors. Additionally, the applicant shall provide a transit access

plan to specify how residents will safely access transit services and identify any improvements that may be necessary to ensure pedestrian safety.

- 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 NJMC parking regulation at N.J.A.C. 19:4-8.4(a)27 requires one parking space per unit for units restricted as affordable, and two parking spaces per unit and one visitor space per four units for all other units for multiple family dwellings, requiring a total of 130 parking spaces for this project. The applicant requests a bulk variance to construct the proposed residential development with 97 parking spaces at a ratio of 1.49 parking spaces per unit.

The proposed project as configured does not maximize the development potential of the lot, providing for 18.8 percent lot coverage, whereas a maximum of 40 percent is permitted, and providing for 35.9 percent open space, whereas a minimum of 15 percent is required. Even though open space can be reduced to provide additional parking, the long and narrow lot configuration does not allow for the construction of additional parking spaces and drive aisles in a conforming manner. The subject property is irregularly-shaped, and crossed by existing utilities and their easements that divide the lot and limit the location of new building construction. Therefore, the strict application of the regulations would result in practical difficulties in the accommodation of the required number of parking spaces on the site.

Based upon a recent parking study of the nearby Osprey Cove residential development and ITE standards, a total of 80 parking spaces would be required for the 65 units proposed. Therefore, the 97 parking spaces proposed are sufficient to support the parking demand for the project.

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.

The granting of the requested variance to construct a reduced number of parking spaces 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. Based upon the testimony provided, the 97 parking spaces proposed will be adequate for the anticipated demand of the proposed residential development. The ability to provide additional parking spaces is constrained by the irregular shape of the subject property and the existing utilities and their easements that divide the lot and limit the location of new building construction.

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

The granting of the requested variance to construct fewer parking spaces than required will not cause the NJMC's environmental performance standards for noise, glare, vibrations, airborne emissions, or hazardous materials to be exceeded.

The granting of the requested variance also allows for the provision of open space, and minimizes the amount of impervious cover on the site that would otherwise be necessary to accommodate parking. All drainage and water quality requirements will be met. Therefore, no substantial adverse environmental impact is anticipated to result from the proposed variance.

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

The regulation at N.J.A.C. 19:4-8.4(a)27 requires one parking space per unit for units restricted as affordable, and two parking spaces per market rate unit and one visitor space per four market rate units for multiple family dwellings.

The applicant's professionals testified that the proposed overall parking ratio of 1.49 spaces per unit is adequate based on studies of a comparable development (Osprey Cove) and ITE standards.

Prospective residents of these types of dwelling units do not solely depend on automobiles for their primary commuting needs, relying instead on other alternatives such as mass transit and carpooling. Public transportation exists in the vicinity of the development and trends in personal automobile ownership and use indicate a decreased dependence on automobiles for commuting needs. However, it was not clearly specified how residents would access transit services.

As the proposed overall parking ratio is in accordance with ITE standards and the applicant has demonstrated that the proposed ratio is consistent with other recent residential development in the area; lot coverage and floor area are not maximized at the site; and more open space than the minimum required is provided; the variance represents the minimum deviation from the regulations that will afford relief.

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

The intent of the NJMC's parking requirements is to estimate parking demand based on a particular use, in anticipation of the needs of occupants, employees, or patrons of such uses. To that end, sufficient parking needs to be provided for the residents of the proposed development and for their visitors. Testimony has been provided indicating that there will be sufficient parking for tenants based on the prevailing parking demand established by similar development, and available mass transit opportunities. However, the applicant should institute controls in accordance with a parking management plan that will control the number of parking spaces allocated per residential unit and their assignment in order to ensure sufficient parking for the residential development.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.43(a)4, which permits a building with a maximum height of 35 feet, whereas a building height of 54.67 feet to the top of the stair tower and 44.92 feet to the top of the parapet wall are proposed.

Based on the record in this matter, the bulk variance application to permit a maximum building height of 54.67 feet, whereas the maximum permitted height is 35 feet on the subject premises, is hereby recommended for DENIAL.

DENIAL
Recommendation on
Variance Request

9.4.14
Date


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

Denial
Recommendation on
Variance Request

9/5/14
Date


Marcia A. Karrow
Executive Director

B. Standards for the Granting of a Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.4(a)27, which requires a total of 130 parking spaces (104 parking spaces for market-rate units, 13 parking spaces for those units restricted as affordable, and 13 visitor parking spaces), whereas 97 parking spaces are proposed, resulting in an overall parking ratio of 1.49 parking spaces per residential unit.

Based on the record in this matter, the bulk variance application to permit an overall residential development parking ratio of 1.49 parking spaces per unit, is hereby recommended for conditional approval, subject to the following conditions:

1. A parking management plan shall be submitted for review and approval by the NJMC Chief Engineer to ensure that adequate parking is available for visitors and tenants at the subject premises.
2. A transit access plan shall be submitted for review and approval by the NJMC Chief Engineer to specify how residents will safely access transit services and identify any improvements that may be necessary to ensure pedestrian safety.

CONDITIONAL APPROVAL

Recommendation on
Variance Request

9.4.14

Date



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

conditional approval

Recommendation on
Variance Request

9/5/14

Date



Marcia A. Karrow
Executive Director