

**RECOMMENDATION ON THE VARIANCE APPLICATION OF  
Madison Circle Dr. Assoc/New Building - Variance  
File #08-114**

**I. INTRODUCTION**

An application for one bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Madison Circle Drive Associates LLC, for the premises located along Madison Circle Drive, Block 106.02, Lot 7, in the Borough of East Rutherford, Bergen County, New Jersey. Said premises is located in the Commission's Light Industrial A (LI-A) zone. The variance is sought in connection with the applicant's proposal to construct one loading area on the subject premises in the front yard facing Madison Circle Drive. Specifically, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard. One loading area is proposed in the front yard facing Madison Circle Drive.

Notice was given to the public and all interested parties as required by law. Public notices were published in The Record newspaper. No written comments or objections have been received to date. 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 consists of approximately 5.81 acres, and has a diamond-shaped configuration. The site fronts Madison Circle Drive to the west and is bordered by Berry's Creek to the east. Properties to the north and south are vacant, consisting predominantly of wetland areas, and are located in the Commission's Environmental Conservation (EC) zone. There are no easements on the subject property.

The subject property is currently undeveloped. Presently there is no improved means of access to the site from Madison Circle Drive. The eastern portion of the site along Berry's Creek consists of tidally-influenced wetlands and includes approximately 80 percent of the total site. The remainder of the subject property, approximately 1.1 acres, contains a developable upland area adjacent to Madison Circle Drive.

The applicant is proposing to construct a new four-story, 20,692-square-foot office building on the uplands portion of the site, containing one 12' x 30' loading area in the front yard facing Madison Circle Drive. Vehicles will enter the site from a one-way ingress driveway along Madison Circle Drive to access the proposed loading area. No vehicle maneuvering will occur on neighboring properties or within the Madison Circle Drive right of way.

### **B. Response to the Public Notice**

No written comments or objections were received during the public comment period.

## **III. PUBLIC HEARING (June 11, 2013)**

A public hearing was held on Tuesday, June 11, 2013. NJMC staff in attendance were 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.

**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	“Site Plan,” Sheet Number 2 of 7, prepared by Schwanewede/Hals Engineering, dated February 22, 2008, revised through June 3, 2013.
A-2	“Topographic Survey,” Sheet Number 7 of 7, prepared by Schwanewede/Hals Engineering, dated February 22, 2008, revised June 3, 2013.
A-3	“Floor Plans,” Drawing Number A101, prepared by DeBarbieri Architects, dated December 12, 2006, revised February 24, 2010.
A-4	“Exterior Elevations,” Drawing Number A201, prepared by DeBarbieri Architects, dated December 12, 2006, revised through February 24, 2010.

**B. Testimony**

The applicant was represented at the hearing by Thomas H. Bruinooge, Esq., of the firm Bruinooge & Associates. The following three witnesses testified in support of the application:

1. Christopher Branca, Madison Circle Drive Associates;
2. David Hals, P.E., L.S., P.P., Schwanewede/Hals Engineering; and
3. Mohamed Shama, AIA, DeBarbieri Architects.

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

#### IV. RECOMMENDATION

**A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard. One loading area is proposed in the front yard facing Madison Circle Drive.**

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.*

Development on the property in question is constrained by the presence of tidally-influenced wetlands along Berry's Creek on the eastern 80 percent of the site. The property is irregularly-shaped, with a diamond-shaped configuration. Within the LI-A zone, a minimum lot area of three acres is required, whereas only 1.1 acres of the subject 5.8-acre property consists of developable upland area. The developable area footprint is also irregular in configuration, with a 50- to 100-foot wide portion of the uplands in the center of the lot extending approximately 50 feet in depth beyond the bulk of the uplands area along Madison Circle Drive. These conditions were not created by any action of the applicant or property owner.

Although the lot is vacant, the small upland area, combined with the irregularly-shaped developable area footprint, impacts the placement of the building on the lot, which, therefore, constrains the ability to comply with all required zoning regulations. The proposed placement of the building, centrally located at the deepest part of the lot, with parking areas located along the property's frontage, complies with all required setbacks. However, the limited development footprint presents challenges in providing for a loading area with adequate and appropriate building access and vehicular circulation in a location outside of the front yard.

The requested variance to permit a loading area within the front yard arises from these conditions.

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

The neighborhood in which the subject property is located is primarily industrial in nature. No residences are located in the general vicinity. Undeveloped properties to the north and south are zoned Environmental Conservation (EC) and consist of tidally-influenced wetlands along Berry's Creek. The existing structures on the neighboring properties located at 55 Madison Circle Drive (Block 106.03, Lot 2) and 450 Murray Hill Parkway (Block 106.03, Lot 3), which are industrial properties located on the opposite side of Madison Circle Drive from the subject site, are situated a sizable distance from the proposed office building, and also contain front-yard loading areas facing Madison Circle Drive.

The proposed loading area will adjoin the vehicle parking area, and a one-way circulation pattern through the site will be instituted. All maneuvers by vehicles accessing the loading area will occur on-site; no vehicles will reverse into the loading area via Madison Circle Drive. Deliveries will be made utilizing small office supply and mail trucks, which can safely and efficiently maneuver into the area provided for deliveries at the site.

Although the loading space is proposed in the property's front yard, it is not proposed within the required front yard setback. Rather, the proposed loading space is set back approximately 108 feet from the property's front lot line at Madison Circle Drive. Landscaping in the westerly front yard, combined with the loading area's distance from Madison Circle Drive, will lessen the visual impact of the proposed loading area from the view of neighboring properties and those traveling on Madison Circle Drive.

Therefore, the granting of the requested variance will not adversely affect the rights of neighboring property owners or impede the ability of these properties to function as intended.

*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 results in practical difficulties in the development of the subject property, which is constrained by the presence of tidally-influenced wetlands along

Berry's Creek on the eastern 80 percent of the site. Despite containing a total lot area of 5.8 acres, the subject property contains only 1.1 acres of developable upland area, which is also less than the LI-A zone required minimum lot size of three acres.

The subject premises fronts Madison Circle Drive and has no other means of ingress or egress. The office building is proposed to be placed at the deepest part of the uplands area on the lot, with vehicular use areas along Madison Circle Drive. In balancing the requirements of the LI-A zone with the particular characteristics of the property, the proposed variance is required to ensure a functional office building and vehicular use area layout.

Alternative site layouts were evaluated, including placement of the loading area beneath the proposed office building. This configuration would require the second floor of the structure to be raised to provide for a minimum vertical clearance of 14 feet, which would require the relocation of building columns, stairways and an elevator shaft, and result in on-site vehicle and pedestrian circulation conflicts. Possible expansion of the paved vehicular use area to the north, south and east of the proposed office building is restricted by the presence of wetlands along Berry's Creek. The proposed loading area will be adjacent to the vehicle parking area, which represents a comprehensive and consolidated approach to the site's layout.

The type of vehicles making deliveries to the site will be small office supply and mail trucks, which will not require taildock loading and will not back up into the property from Madison Circle

Drive, as there is adequate maneuvering area available on site for these vehicles. The safe maneuvering of vehicles on the site, combined with the proposed parking layout, provides the most efficient use of the land, given its small and oddly-shaped developable area.

*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 the granting of the requested variance. The placement of a loading area within the front yard, as proposed, is required to provide functional site circulation and will have no adverse impact on public safety or health, as adequate light, air, and open space will continue to be supplied.

The location of the proposed loading area permits vehicles to safely maneuver both on and off the site. Vehicles utilizing the proposed loading area will not reverse into the site from Madison Circle Drive. This ensures proper circulation and reduces the potential for on- and off-site vehicular conflicts. The proposed loading area will not be located in the vicinity of any building entrances, thereby reducing possible conflicts with pedestrian traffic. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed loading area. Due to the low frequency and small size of trucks making deliveries to the site, it is anticipated

that the small number of vehicle trips generated by the proposed loading area will not cause any significant changes in current traffic patterns.

*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 loading area within the front yard will not cause the NJMC's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials or water quality to be exceeded. Additionally, more than 88 percent of the property will remain open space, due to the presence of existing wetlands and proposed landscaped setbacks on the site.

*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. Most of the loading space will be located beyond the front building line of the proposed office building. Potential locations to provide an alternative loading area outside of the front yard are limited due to the small and irregularly-shaped development footprint caused by the presence of wetlands on the easterly portion of the site along Berry's Creek. The proposed loading area has been situated to ensure safe and efficient operations of the proposed office building, necessitating its location facing Madison Circle Drive.

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

The proposed loading area facing Madison Circle Drive will not substantially impair the intent and purpose of the regulations prohibiting front yard loading areas, which include protection of the public safety and promotion of aesthetics. In this instance, all maneuvering associated with the proposed loading area will occur on site, and landscaping in the westerly front yard, combined with the loading area's distance from Madison Circle Drive, will lessen the visual impact of the proposed loading area. Given the particular site conditions, the placement of the loading area within the front yard, as proposed, results in a more efficient overall site layout with appropriate access for delivery trucks, refuse collection vehicles, and emergency equipment. Therefore, the proposed loading area will contribute to and promote the intent of the NJMC Master Plan by allowing for the site to be developed and utilized in a safe and orderly manner.

IV. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard. One loading area is proposed in the front yard facing Madison Circle Drive.

Based on the record in this matter, the bulk variance application to construct one 12' x 30' loading area in the front yard facing Madison Circle Drive is hereby recommended for approval.

APPROVAL  
RECOMMENDATION ON  
VARIANCE REQUEST

8-30-13  
Date

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

Approval  
RECOMMENDATION ON  
VARIANCE REQUEST

9/3/13  
Date

  
Marcia A. Karrow  
Executive Director