

Board Meeting

Thursday, June 18, 2015

AGENDA

REVISED AGENDA



We Bring the World to New Jersey

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY
AGENDA REGULAR SESSION
Thursday, June 18, 2015 -10:00 a.m.
Two DeKorte Park Plaza, Lyndhurst, NJ

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

- Approval of Regular Session Meeting Minutes of May 14, 2015.

II. **PUBLIC PARTICIPATION ON RESOLUTIONS**

III. **SPECIAL PRESENTATION**

IV. **APPROVALS** – (Action)

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

Resolution 2015-28 Consideration of a Resolution Regarding a Site Suitability Recommendation for a Non-Residential Development on Block 451, Lot 21, in North Bergen (File SP-719; North Bergen Motel Association LLC)

Resolution 2015-29 Consideration of a Resolution Regarding an Application for One Bulk Variance for JERC Partners XXVIII, LLC (File 14-588; 120 Chubb LLC/New Residential Development & Variance)

Resolution 2015-30 Consideration of a Resolution Regarding an Application for One Use Variance for Ditobarbi & Co. (File 09-772; Ditobarbi/ZLOR, Site Improvement & Use Variance)

Resolution 2015-31 Consideration of a Resolution Regarding an Application for One Bulk Variance for St. Paul's Ave Properties, LLC (File 08-757; Impex/New Building)

Resolution 2015-32 Consideration of a Resolution authorizing changes in existing bank accounts.

V. **COMMITTEE REPORTS** (Discussion)

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

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

Resolution 2015-33 Consideration of a resolution authorizing the President and CEO of the New Jersey Sports and Exposition Authority to enter into a lease for the NJSEA Vegetative Waste Transfer Facility.

Resolution 2015-34 Consideration of a resolution authorizing the President and CEO of the New Jersey Sports and Exposition Authority to award property insurance.

Resolution 2015-35 Consideration of a resolution authorizing a Memorandum of Understanding between New Jersey Sports and Exposition Authority and the State of New Jersey Department of Law and Public Safety.

VII. **CHIEF EXECUTIVE OFFICER'S REPORT**VIII. **PUBLIC COMMENTS**IX. **EXECUTIVE SESSION** (Action)

Resolution 2015-36 Resolution authorizing the New Jersey Sports and Exposition Authority to conduct a meeting, to which the general public shall not be admitted.

X. **AWARDS** (Action)

Resolution 2015-37 Consideration of a resolution authorizing an award in connection with the Kingsland Redevelopment properties.

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

MINUTES



SPECIAL SESSION BOARD MEETING
Thursday, May 14, 2015

DATE: Thursday, May 14, 2015
TIME: 10:00 a.m.
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ
RE: SPECIAL MEETING MINUTES

Members in Attendance:

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

President Hasenbalg called the meeting to order.

President Hasenbalg 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

President Hasenbalg presented the minutes of the Board Meeting held on April 16, 2015.

Upon motion made by Commissioner Ballantyne and seconded by Commissioner Scala, the minutes of the Board Meeting held on April 16, 2015, were unanimously approved by a vote of 13-0.

II. PUBLIC PARTICIPATING ON RESOLUTIONS

- Robert Ceberio, representing JERC Partners – spoke on Resolution 2015-25
- Mayor Giangeruso, Lyndhurst, spoke on Resolution 2015-25 and presented to Commissioners photos of Rutherford Ave and Valley Brook Ave.
- Shauna DeMarco – Lyndhurst HS Principal/Assistant Superintendent, spoke on Resolution 2015-25
- John Montillo – Lyndhurst Commissioner of Public Safety, spoke on Resolution 2015-25
- David DiPisa – Lyndhurst Business Administrator, spoke on Resolution 2015-25

III. APPROVALS

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

President Hasenbalg presented the report of cash disbursements over \$100,000 and Professional Invoices for the month of April 2015

Upon motion by Commissioner Ballantyne and seconded by Commissioner Scala, the cash disbursements over \$100,000 for the month of April 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 2015-22 Resolution approving an amendment to the Solid Waste Management Plan.

Mr. Marturano explained Resolution 2015-22 to the commissioners.

President Hasenbalg presented Resolution 2015-22. Upon motion by Commissioner Romano and seconded by Commissioner Fontoura, proposed resolution 2015-22 was approved by a vote of 13-0.

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 Moonachie.

Ms. Sundell explained Resolution 2015-23 to the commissioners.

President Hasenbalg presented Resolution 2015-23. Upon motion by Commissioner Ballantyne and seconded by Commissioner Kolber, proposed resolution 2015-23 was approved by a vote of 13-0.

Resolution 2015-24 Resolution issuing a decision 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 North Bergen and Block 155, Lots 1.03, 1.04 and 6 in Secaucus

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

President Hasenbalg presented Resolution 2015-24. Upon motion by Commissioner Plofker and seconded by Commissioner Romano, proposed resolution 2015-24 was approved by a vote of 13-0.

Resolution 2015-25 Resolution issuing a decision 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 Lyndhurst.

Ms. Sundell explained Resolution 2015-25 to the commissioners.

Commissioner Scardino asked if the recommendation takes into account the needs of the schools. Ms. Sundell explained that the recommendation is not for specific type of residential development just for residential in general. It is during the Zoning Certification Approval process they must meet all regulations and prove that the project impacts are met.

President Hasenbalg presented Resolution 2015-25. Upon motion by Commissioner Ballantyne and seconded by Commissioner Plofker, proposed resolution 2015-25 was approved by a vote of 13-0.

IV. Awards and Contracts

Resolution 2015-26 Resolution authorizing the President and CFO to enter into a contract for the Visitor's Center Walkway, Gazebo and Balcony reconstruction.

Mr. Marturano explained Resolution 2015-26 to the commissioners.

Commissioner Yudin asked if the low bidder was vetted. Mr. Marturano explained that the bidders submit an experience sheet, which is checked.

President Hasenbalg presented Resolution 2015-26. Upon motion by Commissioner Scardino and seconded by Commissioner Scala, proposed resolution 2015-26 was approved by a vote of 13-0.

V. CEO REPORT

President Hasenbalg explained that the ongoing merger is still underway and expects to be under one roof by the next meeting.

President Hasenbalg introduced Captain Bill Sheehan to speak about their new pontoon boats and programs.

Fred Dressel, Executive Director HMMC spoke about the timing in the new law for HMMC to respond to notice of change in zoning, master plan, etc. from 45 days to 30 days. Mayor Dressel explained that procedurally it is a problem for the HMMC. Ms. Sanz explained that the NJSEA is sensitive of the timing and will ensure that there is an appropriate amount of time to review the matters that come before them.

V. PUBLIC COMMENTS

- Marvin Donaic, resident of Cliffside Park.

VI. EXECUTIVE SESSION

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

Resolution 2015-27 - Resolution authorizing the NJSEA to enter into a meeting to which the general public shall not be admitted.

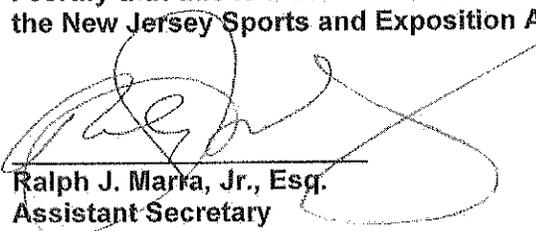
Upon motion made by Commissioner Romano, and seconded by Commissioner Scardino, Resolution 2015-27 was approved by a vote of 13-0.

Executive Session commenced at 11:00 a.m.

Public Session resumed at 11:40 a.m.

President Hasenbalg requested a motion to conclude the meeting. Upon motion made by Commissioner Scala and seconded by Commissioner Yudin, the public meeting was adjourned by a vote of 9-0 at 11:41 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 May 14, 2015.



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

APPROVALS



OUTSTANDING PROFESSIONAL SERVICES
MAY 2015

| <u>PAYEE</u> | <u>\$ AMOUNT</u> | <u>DESCRIPTION</u> |
|-----------------------------|-------------------|-------------------------------------------------------|
| CONNELL FOLEY LLP | 1,713.65 | LEGAL SERVICES: GENERAL COUNSEL - MAR 2015 - APR 2015 |
| GIBBONS P.C. | 192,260.50 | LEGAL SERVICES: GENERAL COUNSEL - APR 2015 - MAY 2015 |
| SPORTS COMPLEX TOTAL | <u>193,974.15</u> | |



CASH DISBURSEMENTS
 \$100,000 OR MORE
 MAY 2015

RACETRACK

| <u>PAYEE</u> | <u>\$ AMOUNT</u> | <u>REFERENCE LETTER</u> | <u>ACCOUNT DESCRIPTION</u> |
|------------------------------|---------------------|-------------------------|----------------------------|
| NEW JERSEY RACING COMMISSION | 1,254,055.47 | A | FISCAL YEAR 2015 BUDGET |
| RACETRACK TOTAL | <u>1,254,055.47</u> | | |

SPORTS COMPLEX

| <u>PAYEE</u> | <u>\$ AMOUNT</u> | <u>REFERENCE LETTER</u> | <u>ACCOUNT DESCRIPTION</u> |
|-------------------------------|-------------------|-------------------------|---------------------------------|
| ADP/MANAGISTICS | 159,814.81 | B | PAYROLL TAXES: MAY 2015 |
| NRG BUSINESS SOLUTIONS | 410,426.74 | A | ELECTRICITY CHARGES: MAR 2015 |
| PUBLIC SERVICE ELECTRIC & GAS | 141,910.07 | A | ELECTRIC TRANSMISSION: APR 2015 |
| SPORTS COMPLEX TOTAL | <u>712,151.62</u> | | |



CASH DISBURSEMENTS
 \$100,000 OR MORE
 MAY 2015

| <u>PAYEE</u> | <u>\$ AMOUNT</u> | <u>REFERENCE LETTER</u> | <u>ACCOUNT DESCRIPTION</u> |
|--------------------------|---------------------|-------------------------|-----------------------------------------------------|
| NJ STATE HEALTH BENEFITS | \$169,906.76 | D | MAY 2015 HEALTH & PRESCRIPTION COVERAGE (EMPLOYEES) |
| | <u>\$ 35,681.40</u> | D | MAY 2015 HEALTH & PRESCRIPTION COVERAGE (RETIRES) |
| | \$205,588.16 | | |
| WASTE MANAGEMENT OF NJ | \$422,584.72 | A | OPERATIONS CONTRACT – KEEGAN LANDFILL – APRIL 2015 |



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 2015-28

**RESOLUTION ISSUING A DECISION ON THE
SUITABILITY RECOMMENDATION AS REQUIRED BY THE
NJMC INTERIM POLICIES GOVERNING AFFORDABLE HOUSING
DEVELOPMENT IN THE MEADOWLANDS DISTRICT
FILE NO. SP-719, North Bergen Motel Assoc. Petition for Rezoning
BLOCK 451, LOT 21
IN THE TOWNSHIP OF NORTH BERGEN**

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 (Commission or 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 Policies are withdrawn or rescinded by action of the Authority 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 petition to rezone the property located on State Route No. 3 Ramp A, Block 451, Lot 21, in the Township of North Bergen was submitted to the NJSEA by North Bergen Motel Association LLC; and

WHEREAS, the petition requests the rezoning of the subject property from the Environmental Conservation zone to the Highway Commercial zone; and

WHEREAS, petitions for rezoning are 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 petition request for the rezoning of the subject property; and

WHEREAS, a suitability review, dated June 3, 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 has 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 unsuitable 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 State Route No. 3 Ramp A, Block 451, Lot 21, in the Township of North Bergen, is unsuitable for residential use.

ADOPTED: June 18, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell Date: June 18, 2015

Subject: Site Suitability Recommendation for Block 451, Lot 21, in North Bergen, New Jersey (File No. SP-719)

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 or Commission) 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 a petition to rezone the property located on State Route No. 3 Ramp A, Block 451, Lot 21, in the Township of North Bergen, New Jersey. The petition requests the rezoning of the subject property from the Environmental Conservation zone to the Highway Commercial zone.

The matter was forwarded to the Review Team for review in accordance with the Interim Policies, taking into consideration the specific petition request for the rezoning of the subject property. A suitability review, dated June 3, 2015, has been prepared, indicating that the Review Team recommends that the subject property is not suitable for residential use.

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



Suitability Review – Summary

File No. SP-719

*North Bergen Motel Assoc. Petition for Rezoning
Block 451, Lot 21, in the Township of North Bergen*

June 3, 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 petition to rezone the property located on State Route No. 3 Ramp A, Block 451, Lot 21, in the Township of North Bergen, New Jersey. The subject area is vacant and is currently located in the Environmental Conservation zone, which is exempt from the site suitability review process; however, the petitioner has requested that the property be rezoned to the Highway Commercial zone, which 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 northern side of the subject property is bound by the New Jersey State Highway Route 3 Ramp H and Ramp A. As indicated in Reference No. 5 on the Boundary and Topographic Survey, prepared by McNally Engineering, dated 10/26/12, and last revised 2/26/13, vehicular access to the site is limited to the its property line along the Route 3 Ramp A, as per the "General Property Parcel Map, Route 3, (1953) Section 4," dated February 1961. As such, access is not permitted along Route 3 Ramp H, which forms a curve along the western side of the northern property line.
 - Direct connections to local roads, and thereby to community uses, are extremely limited. If the property were to be served by the right in/right out (RI/RO) driveway configuration proposed in the applicant's concept plan for the site, access to the site would be limited to vehicles traveling on the Eastern Spur of the New Jersey Turnpike,



from either the northbound or southbound directions. A major limited access highway, which is also a toll road, is not appropriate as the only access roadway into a residential community.

- If the property were to be served by the proposed RI/RO driveway configuration, vehicles exiting the site would be required to travel east on Route 3 Ramp A and enter Route 3 West using the NJ Transit Park and Ride driveway. Once on Route 3 West, vehicles could continue toward the community in Secaucus or take Route 495 West to enter either the northbound or southbound lanes of the NJ Turnpike.
 - If left turns were to be allowed into the site from Route 3 Ramp A, then access to the site would be possible from Route 1 and 9 (via Route 3 East and the NJ Transit Park and Ride driveway) and, therefore, a connection to the neighboring communities in North Bergen and Union City would be possible.
 - If left turns were to be allowed out of the site onto the Route 3 Ramp A, a direct connection to Route 495 East would be possible, thus allowing drivers to access points east and the Lincoln Tunnel.
 - The available roadway system utilized for access to and from the site, including Route 3, the New Jersey Turnpike, and possibly Route 495 and Routes 1 & 9, are heavily used by commercial truck and tractor-trailer traffic traveling to the warehouse/distribution and light industrial zones in Secaucus, North Bergen and the surrounding area.
 - Triangular in shape, the western and southern property lines of the subject site are adjacent to properties comprised almost entirely of wetlands, also within the Environmental Conservation zone. Access to the site from these directions is not feasible due to the presence of wetlands.
 - Further north of the subject property, the land is developed with a series of highway ramps and roadway surfaces, including Route 495 and Route 3. Directly across Route 3 from the subject site is a surface parking lot in the NJ Transit North Bergen Park and Ride facility.
 - The isolated location of the subject property from similar and compatible uses renders the site unable to meet this criteria. In addition, the complicated and convoluted network of roadways required to access and exit the site also render the site unable to meet this criteria.
- ii. **The site has access to water and sewer infrastructure with sufficient capacity.**
- No evidence has been provided of any water or sewer infrastructure along the Route 3 ramps or in the immediate vicinity of the subject



property. As such, this criteria is not met by the subject property.

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

- The subject property is currently located in the Environmental Conservation zone, which does not permit vertical development except for work on existing public utility equipment and appurtenances. Under the current zoning, the NJSEA regulations do not permit the development of the site for residential use.
- The site is the subject of a petition by the applicant to rezone the property from the Environmental Conservation zone to the Highway Commercial zone.
- Should the property be rezoned to the Highway Commercial zone, then the 3.66 acres of uplands on the site could be developed in accordance with the bulk requirements of the new zone and the NJSEA design standards. Any development proposed on the remaining 2.10-acre wetland area would require the approval of the U.S. Army Corps of Engineers.
- This criteria cannot be met by the subject property under the current zoning; however, should the rezoning be approved, then the site could be developed consistent with the rules of the NJSEA.

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.

- A review of the NJDEP Data Miner revealed that the subject property is not currently subject to NJDEP violation action at this time. A review of historic aerial photography of the site, in particular a comparison of the 1930 NJDEP aerials to the 1969 NJMC aerials, indicates the construction of the Route 3 and Route 495 access ramps may have resulted in the placement of fill on the subject site, possibly resulting in the creation of uplands in an area formerly containing wetlands.
- As such, there is a possibility that the upland areas may contain, or may have been formed by, historic fill and this criteria cannot be definitively met. Prior to any future development, the applicant should investigate the uplands to determine if historic fill is present on the site and, thereafter, formulate a plan to handle any applicable regulatory processes.



- 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.**
- This criteria can be met by the subject property. Aerial photography dating back to 1930 indicates that the subject property has never been developed.
- vi. **The site is suitable for residential use pursuant to sound planning principles.**
- The location of the subject property with respect to the surrounding properties is not conducive to the construction of a residential development.
 - The subject property is essentially triangular in shape with two sides adjacent to property also located in the Environmental Conservation zone, consisting predominantly of wetlands, and the third side adjacent to two active Route 3 ramps. The wetlands and highways isolate the property from other development and the community.
 - The site is also not an appropriate location to construct residential units due to pedestrian access issues. There are no community facilities or amenities in the walkable vicinity of the subject property. Sidewalks are not provided along the Route 3 ramps. The closest business districts of Secaucus and Union City are more than one mile away, along and across heavily-trafficked highways.
 - The site is remote from public schools, neighborhood retail stores, recreational facilities, and other public amenities. Traffic circulation patterns on adjoining streets do not permit vehicles exiting the site to travel directly to the closest business districts, thereby further isolating future residents from the community.

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

Conclusion

The subject property located on State Route No. 3 Ramp A, Block 451, Lot 21, in the Township of North Bergen, 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 rezoning petition for to rezone the



subject property from Environmental Conservation to Highway Commercial may proceed for this site. However, as a condition of an future zoning certificate approval on this site, 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 2015-29

**RESOLUTION ISSUING A DECISION ON THE
VARIANCE APPLICATION SUBMITTED AS PART OF FILE NO. 14-588,
120 CHUBB LLC/ NEW RESIDENTIAL DEVELOPMENT & VARIANCE
BLOCK 231, LOT 2, IN THE TOWNSHIP OF LYNDHURST**

WHEREAS, an application for one bulk variance has been filed with the New Jersey Sports and Exposition Authority (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; and

WHEREAS, by Resolution No. 2015-25, dated May 14, 2015, the NJSEA deemed the subject premises, which is located in the Commission's Light Industrial A zone, to be suitable for housing, subject to certain conditions; and

WHEREAS, the variance is sought in connection with the applicant's proposal to construct a 218-unit residential development and associated site improvements on the subject property; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-8.4(a)27, which requires one parking space per unit for units restricted as affordable; two parking spaces per market-rate unit; and one visitor space per four market rate units, resulting in a total of 436 parking spaces required for the development; whereas the applicant is proposing to provide one parking space per unit for affordable units; 1.5 parking spaces per market-rate unit; and one visitor space per four market-rate units, with a total of 349 parking spaces provided for the development; and

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

WHEREAS, a public hearing was held in the Office of the NJSEA on Tuesday, March 31, 2015, before Sara Sundell, Director of Land Use Management and Chief Engineer; Sharon Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, Senior Planner; and Fawzia Shapiro, Senior Engineer; and

WHEREAS, a comprehensive report dated May 29, 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 conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.4(a)27, which requires two parking space per market-rate unit, whereas 1.5 parking spaces per market-rate unit are proposed; and

WHEREAS, effective February 5, 2015, The New Jersey Meadowlands Commission has become part of the NJSEA; and

WHEREAS, the Board of Commissioners of the NJSEA has reviewed the full record, 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 variance application to permit 1.5 parking spaces per market-rate unit, whereas two parking spaces per market-rate unit are required, conforms with the standards for approving applications for 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 120 Chubb LLC/ New Residential Development & Variance application for one bulk variance to permit 1.5 parking spaces per market rate unit, whereas two parking spaces per market rate unit are required, is hereby **APPROVED WITH THE FOLLOWING CONDITIONS**, for the reasons set forth in the recommendation dated May 29, 2015:

1. A minimum of 60 percent of the market rate units shall be one bedroom units.
2. The applicant shall submit a parking management plan for the residential development that addresses the methodology for the assignment and control of primary parking spaces and additional spaces to individual units, as well as the allocation of visitor parking spaces. The plan shall also address how on-site parking will be monitored to ensure adequate parking is available for visitors and tenants. The plan shall be submitted to the NJSEA for review and approval prior to the issuance of a zoning certificate for the development.
3. In order to accommodate residents of a facility with limited parking space availability, the applicant shall provide an ongoing direct

connection to mass transit opportunities, including local commuter rail stations, as well as the NJ Transit bus stop at the intersection of Polito and Rutherford Avenues. The applicant shall either institute their own shuttle service or coordinate with Meadowlink for the use of the Lyndhurst Shuttle Service, including the applicant's fair share contribution towards same. The applicant shall provide the NJSEA with a plan indicating how they intend to provide an ongoing shuttle service prior to the issuance of any occupancy approvals.

ADOPTED: June 18, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg
From: Thomas Marturano *Date:* June 18, 2015
Subject: Variance Recommendation - 120 Chubb LLC/New Residential
Development & Variance (File No. 14-588)

An application for one bulk variance has been filed with the New Jersey Sports and Exposition Authority (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. The subject premises is located in the District's Light Industrial A zone. By Resolution No. 2015-25, dated May 14, 2015, the NJSEA Board of Commissioners deemed the subject premises to be suitable for housing, subject to certain conditions.

The bulk variance is sought in connection with the applicant's proposal to construct a 218-unit residential development and associated site improvements on the subject property.

The applicant requested variance relief from the following:

1. N.J.A.C. 19:4-8.4(a)27, which requires one parking space per unit for units restricted as affordable; two parking spaces per market-rate unit; and one visitor space per four market-rate units, resulting in a total of 436 parking spaces required for the development. The applicant is proposing to provide one parking space per unit for affordable units; 1.5 parking spaces per market-rate unit; and one visitor space per four market-rate units, with a total of 349 parking spaces provided for the development.

A public hearing was held in the Office of the Commission on Tuesday, March 31, 2015. The public notice was published in The Record newspaper. Notice was given to the public and all interested parties as required by law. No written objections were submitted to the Division of Land Use Management.

In a comprehensive report dated May 29, 2015, the Director of Land Use Management and the Executive Director recommended the conditional approval of the bulk variance requested above.

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
120 Chubb LLC/New Residential Development & Variance
FILE #14-588

I. INTRODUCTION

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.

An application for one bulk variance 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. Said premises is located within the Hackensack Meadowlands District's Light Industrial A zone. The variance is sought in connection with the applicant's proposal to construct a 218-unit residential development and associated site improvements on the subject property. The proposed development includes the construction of 174 market-rate units and 44 affordable units.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-8.4(a)27, which 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, resulting in a total of 436 parking spaces required for the development. The applicant is proposing to provide one parking space per unit for affordable units; and 1.5 parking spaces per market-rate unit and one visitor space per four market-rate units, with a total of 349 parking spaces provided for the development.

A public hearing was held in the NJSEA Office on Tuesday, 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. No written

objections were submitted to the Division of Land Use Management. 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 subject property, Block 231, Lot 2, contains approximately 6.96 acres and is located in the Light Industrial A zone. It is bounded to the north by a vacant parcel, to the south by an office development, to the east by Berry's Creek, and to the west by Chubb Avenue. The site, which has been vacant since 2007 per the applicant's testimony, is currently improved with a 51,000-square-foot office and warehouse building consisting of approximately 81,000 square feet of total floor area and related parking and site improvements. There is historic fill on the site and the proposed development will act as a cap, designed in accordance with the NJDEP standards for residential uses, to isolate the fill. In addition, a deed notice will be filed upon completion of the development by the applicant's LSRP. Wetlands are present along the north and east side of the property, proximate to the limit of the existing improvements. All tidelands claims on the property have been cleared through the prior issuance of tidelands grants from the New Jersey Department of Environmental Protection (NJDEP) Bureau of Tidelands Management and therefore, do not impact the proposed development. A stormwater drainage ditch with an associated 50-foot-wide NJDEP stream buffer is present along the southern property line, while a 100-foot-wide waterway buffer adjacent to Berry's Creek is located on the east side of the property. Existing improvements, including portions of the driveway and parking areas, are located within the 50-foot-wide stream buffer along the south side. Similarly, the proposed improvements on the south end of the site, which are located within the existing disturbed limit, will also encroach within the aforementioned 50-foot-wide stream

buffer. The surrounding area is primarily comprised of commercial and industrial uses. The Avalon Lyndhurst residential development is located further north of the subject property and the Station at Lyndhurst residential development is located approximately 700 feet south of the subject site.

On May 14, 2015, by Resolution 2015-25, the NJSEA Board of Commissioners deemed the subject property to be suitable for residential development, subject to certain conditions, as per the criteria listed in the "Interim Policies Governing Affordable Housing Development in the Meadowlands District," effective July 24, 2008, revised through July 27, 2011. As a result, the applicant is proposing to demolish the existing structure on the premises to construct a multi-story 218-unit residential development, inclusive of 44 affordable units. The proposed building consists of four residential levels with a mix of one-, two- and three-bedroom units over covered parking, as well as surface parking spaces. The market-rate units include 109 one-bedroom units and 65 two-bedroom units, while the affordable units include eight one-bedroom units, 27 two-bedroom units and nine three-bedroom units.

B. Response to the Public Notice

No written comments or objections were submitted to this Office regarding this application prior to the public hearing.

III. PUBLIC HEARING (March 31, 2015)

A public hearing was held on Tuesday, March 31, 2015. NJSEA 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 Fawzia Shapiro, 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 | "Aerial Exhibit," prepared by Bohler Engineering, dated March 30, 2015. |
| A-2 | "ALTA/ACSM Land Title Survey- 120 Chubb Avenue," prepared by Control Point Associates, Inc., dated June 30, 2014 and revised through July 29, 2014. |
| A-3 | "Overall Site Plan Rendering," prepared by Bohler Engineering, dated September 24, 2014 and revised through February 13, 2015. |
| A-4 | "Garage Floor Plan," prepared by Minno & Wasko, dated March 23, 2015. |
| A-5 | "Second Floor Plan," prepared by Minno & Wasko, dated March 23, 2015. |
| A-6 | "Third & Fourth Floor Plan," prepared by Minno & Wasko, dated March 23, 2015. |
| A-7 | "Concept Elevation," prepared by Minno & Wasko, dated March 31, 2015 (rendering). |
| A-8 | "Site Suitability Analysis," prepared by Miannecki Consulting Engineers, dated October 14, 2014. |
| A-9 | Six photographs (A-F) showing pedestrians walking along Lyndhurst roads, provided at the prior suitability hearing by Chief O'Connor. |
| A-10 | "Planning Report - Parking Reduction Bulk Variance," prepared by Miannecki Consulting Engineers, dated March 31, 2015. |

B. Testimony

Thomas J. O'Connor, Esq., of Waters, McPherson, McNeill, P.C., 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 Minno, AIA, Minno & Wasko;
3. Monica Miannecki, P.E., P.P., Miannecki Consulting Engineers; and
4. Gary Dean, P.E., Dolan & Dean 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, Certified Court Reporter.

C. Public Comment

No members of the public provided comments at the public hearing.

IV. RECOMMENDATION

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 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, resulting in a total of 436 parking spaces required for the development. The applicant is proposing to provide one parking space per unit for affordable units, and 1.5 parking spaces per market-rate unit and one visitor space per four market-rate units, with a total of 349 parking spaces provided for the development.

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 requested variance to permit 349 parking spaces for a residential development, whereas 436 spaces are required, arises from conditions that are unique to the site. 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.

The subject premises contains approximately 6.96 acres and has frontage on Chubb Avenue. The property is currently developed with a 51,000-square-foot building and related site improvements, which are proposed to be removed to construct a four-story multifamily residential development.

Berry's Creek is located along the eastern property line. A man-made drainage ditch conveying runoff to Berry's Creek is located along the southern property line, which is part of an associated 50-foot-wide stream buffer required by the NJDEP. Existing improvements, including portions of the driveway and parking areas, are located within the 50-foot wide stream buffer along the south side. Similarly, the proposed improvements on the south end of the site, which are situated within the existing disturbed limit, will also encroach within the 50-foot-wide stream buffer along the south side. The site is further encumbered by wetlands that are located on the northern and eastern portion of the property. The delineated wetlands boundary line coincides with the limit of the existing parking improvements and the disturbance limit along the north and east side of the property. The wetlands boundary line, stream areas and related stream buffers comprise approximately 2.6 acres of the 6.96-acre parcel, resulting in substantial constraints on the layout of the site and creating significantly less developable area on the lot than other lots in the same zone. This results in limited area available for

development and less flexibility in the placement of site improvements, such as parking.

A parcel containing environmental constraints that render nearly 37 percent of the property as unusable for development, is not a common scenario in the District. This condition was not created by any action of the property owner or 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 to construct 349 parking spaces, whereas 436 spaces are required, will not adversely affect the rights of neighboring property owners or residents.

The property located north of the subject site is an undeveloped parcel that contains wetlands and waterways. This property will most likely remain undeveloped and will not be impacted by the proposed residential development. The property located immediately south of the site is an office development with sufficient on-site parking. The residential development located further south of the site, the Station at Lyndhurst, has an equivalent parking ratio for market-rate units as that proposed for the subject project, with no perceptible parking impact to the surrounding area. Since there is no expectation that parking will overflow onto adjacent properties or Chubb Avenue, other existing industrial and commercial businesses that are located in the vicinity of the subject site will not be negatively impacted by the residential development or the proposed reduction of required parking spaces on the site.

The project architect testified that the number of parking spaces proposed is sufficient to support the residential use since more than 60 percent of the market-rate units are one-bedroom units. The high percentage of one-bedroom units greatly reduces the need for additional parking. Furthermore, parking controls will be in place and monitored by the building management office. Per testimony provided, rental leases will explicitly assign one parking space per unit, with an added charge for any additional parking spaces. The applicant testified that this parking surcharge creates a financial disincentive for renters with multiple vehicles from leasing units on the premises. Another residential development in the District, the Monarch, located on the Route 3 East - South Service Road similarly averages one car per unit. The residential development, the Station at Lyndhurst, operates with an equivalent parking ratio as that proposed for the subject project. Public transit opportunities will also be available to the future occupants of the site, which will decrease parking demand on the site.

There are no improvements planned on the subject premises that could negatively impact the operations of neighboring properties, which can continue to function as they do under present conditions. In addition, residents of Avalon Lyndhurst and the Station at Lyndhurst will not be negatively impacted by the proposed improvements since the proposed residential use is similar in nature to the existing residential development in the area and represents a less intense use than the previous office and warehouse development that operated on the site. Therefore, the

granting of the variance will not adversely affect the rights of neighboring property owners or 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 strict application of the minimum required parking regulations would result in practical difficulties and undue hardship upon the applicant. Approximately 37 percent of the subject lot is encumbered with wetland areas, streams, and stream buffers, creating practical difficulties in accommodating development and required improvements, such as parking, on the site. The proposed and expanding the development footprint to construct additional parking spaces would require encroachment into environmentally sensitive wetland and stream buffer areas.

The applicant intends to notify prospective tenants that one parking space will be assigned per unit and that additional parking spaces will be available at an added cost to the tenant. Visitor parking will be accommodated in the surface parking lots at the south and southwest side of the building.

The strict application of the regulations would obligate the applicant to construct additional parking on a site with significantly reduced developable area due to existing environmental constraints. This would require encroachments into environmentally sensitive areas and could result in underutilized parking. The project proposes that

60 percent of the market-rate units will be one-bedroom units, thereby reducing the probability of having multiple vehicles per household.

The proposed project does not maximize the development potential of the lot, providing for 44 percent lot coverage, whereas a maximum of 60 percent is permitted, and a 0.89 FAR, whereas a maximum 2.5 FAR is permitted. Finally, the proposal provides for 55 percent open space while only 15 percent open space is required.

This project does not represent overdevelopment of the site, but rather, the site is subject to significant environmental constraints that present practical difficulties in the layout and development of the property that result in undue hardship to 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 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.

The applicant's engineer has testified that the proposed parking ratio is adequate for a residential development where 60 percent of the market-rate units are one-bedroom units, thereby reducing the probability of having multiple vehicles per household. The applicant's professionals testified that building management will provide supervision of all on-site parking to ensure there is

adequate parking available for visitors and tenants. The nearby residential development, the Station at Lyndhurst, functions using a parking ratio that is equal to that proposed for the subject development, with no perceptible adverse parking impacts to the surrounding area. Public transit opportunities will also be available to residents, thereby reducing parking demand for the project. There is no expectation that parking from the proposed development will overflow onto Chubb Avenue and other adjacent lots, or that internal or off-site circulation will be negatively impacted in any way. Therefore, the public health, safety, morals, order, convenience, prosperity, and general welfare will not be compromised.

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. Rather, the project will allow for the capping of a site containing historic fill, in accordance with the NJDEP requirements for residential uses.

The granting of the requested variance to provide 87 fewer parking spaces than required also minimizes the amount of impervious cover on the site that would otherwise be necessary to accommodate required parking. Furthermore, the project maintains the existing limit of disturbance/development footprint, with no further encroachment into wetlands or buffers. The proposed variance, therefore, minimizes potential impacts on the

environment and surrounding wetland areas by maximizing the amount of open space on the site. 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. 19:48.4(a)27 requires one parking space per unit for those units restricted as affordable, two parking spaces per market-rate unit and one visitor space per four market-rate units for multiple family dwellings. This results in a minimum of 436 parking spaces required for the development, whereas the applicant is proposing to construct 349 parking spaces.

The applicant's professionals testified that the proposed parking ratio of 1.5 spaces per market-rate unit is adequate considering that the development contains a high mix of one-bedroom units. Specifically, 60 percent of the market-rate units are one bedroom units. The applicant's professionals also testified that there will be parking controls in place. Rental agreements will allocate one parking space per unit, with an added fee for any additional parking spaces. The applicant further testified that the cap on available parking fosters a lifestyle choice for prospective tenants who elect to reside at the proposed development.

The project traffic engineer testified that mass transit opportunities exist in the immediate vicinity, which decrease dependence on

automobiles for commuting needs. A bus shelter is located within walking distance, approximately 200 feet north of the site on Chubb Avenue, and provides access to three different New Jersey Transit bus lines. In addition, the applicant intends to contract with Meadowlink's Lyndhurst Shuttle Service to accommodate additional commuting needs. The Meadowlink Lyndhurst Shuttle Service would provide commuters at the site an ongoing direct connection to nearby bus and rail mass transit opportunities.

Therefore, it is expected that prospective tenants will not rely solely on automobiles for commuting needs. As such, the construction of additional parking may result in underutilized parking spaces. Furthermore, potential locations for additional onsite parking are severely limited due to site constraints, and would require disturbance of wetland and environmental buffer areas. Since lot coverage and floor area are not maximized at the site, and more than half of the site will remain open space, 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.

Granting the requested variance to permit 349 parking spaces, whereas 436 spaces are required, will not substantially impair the intent and purpose of the NJSEA's zoning regulations.

In accordance with N.J.A.C. 19:4-5.72, The Light Industrial A zone is "designed to accommodate on large lots a wide range of industrial, distribution, commercial and business uses that generate

a minimum of detrimental environmental effects." In accordance with the "Interim Policies Governing Affordable Housing Development in the Meadowlands District," the subject site has been deemed conditionally suitable for residential development by the NJSEA Board of Commissioners.

The project provides for the orderly and comprehensive development of the subject site, as the project maintains the existing limit of disturbance/development footprint and does not propose wetland disturbance. The proposed variance to provide fewer parking spaces than required, but sufficient parking spaces to serve the proposed development, will result in the preservation of the critical wetland and buffer areas onsite and will ensure that there is no further encroachment into wetlands or stream buffers. The project will also provide for the capping of a site containing historic fill.

The intent of the NJSEA'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 and visitors since building management will oversee parking controls. Tenant leases will allocate one parking space per unit, with an added charge for any additional parking spaces. The parking surcharge creates a financial disincentive for renters with multiple vehicles from leasing a unit on the premises. Furthermore, there are mass transit opportunities available in the

area, and the applicant intends to contract with Meadowlink to provide commuters at the site with an ongoing direct shuttle connection to nearby bus and rail mass transit opportunities.

In order to ensure sufficient parking for the residential development, the applicant should institute controls in accordance with a parking management plan and provide proof of contracting with Meadowlink for the use of the Lyndhurst Shuttle Service.

V. SUMMARY OF CONCLUSIONS

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 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, resulting in a total of 436 parking spaces required for the development. The applicant is proposing to provide one parking space per unit for affordable units; and 1.5 parking spaces per market-rate unit and one visitor space per four market-rate units, with a total of 349 parking spaces provided for the development.

Based on the record in this matter, the bulk variance application to permit 1.5 parking spaces per market-rate unit, whereas two parking spaces per market-rate unit are required, is hereby recommended for approval with the following conditions:

1. A minimum of 60 percent of the market-rate units shall be one-bedroom units.
2. The applicant shall submit a parking management plan for the residential development that addresses the methodology for the assignment and

control of primary parking spaces and additional parking spaces to individual units, as well as the allocation of visitor parking spaces. The plan shall also address how on-site parking will be monitored to ensure adequate parking is available for visitors and tenants. The plan shall be submitted to the NJSEA for review and approval prior to the issuance of a zoning certificate for the development.

3. In order to accommodate residents of a facility with limited parking space availability, the applicant shall provide an ongoing direct connection to mass transit opportunities, including local commuter rail stations, as well as the NJ Transit bus stop at the intersection of Polito and Rutherford Avenues. The applicant shall either institute their own shuttle service or coordinate with Meadowlink for the use of the Lyndhurst Shuttle Service, including the applicant's fair share contribution towards same. The applicant shall provide the NJSEA with a plan indicating how they intend to provide an ongoing shuttle service prior to the issuance of any occupancy approvals.

CONDITIONAL APPROVAL 5/29/11

Recommendation on _____ Date _____
Variance Request _____ Sara J. Sundell, P.E., P.P.
Director of Land Use Management

CONDITIONAL APPROVAL 5/29/11
Recommendation on _____ Date _____
Variance Request _____ Maura A. Karow
Executive Director

RESOLUTION 2015-30

**RESOLUTION ISSUING A DECISION ON THE
USE VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 09-772
DITOBARBI/ZLOR, SITE IMPROVEMENT & USE VARIANCE
BLOCK 130, LOTS 4, 14, 15, 16 & 18, IN THE BOROUGH OF CARLSTADT**

WHEREAS, an application for a use variance was filed with the New Jersey Meadowlands Commission (NJMC) by Jeffrey A. Zenn, Esq., on behalf of Ditobarbi & Co., for the premises identified as 1 Avenue A, Block 130, Lot 4; 217 Washington Avenue, Block 130, Lot 14; 1 A Street, Block 130, Lot 15; 2 A Street, Block 130, Lot 16; and 3 A Street, Block 130, Lot 18, in the Borough of Carlstadt, New Jersey; and

WHEREAS, the premises are located in the District's Light Industrial A zone; and

WHEREAS, the variance is sought in connection with the applicant's request to allow outdoor storage as a principal use on the subject properties; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.73(a), which does not list outdoor storage as a permitted use in the Light Industrial A zone, whereas the applicant is requesting a use variance to allow outdoor storage on the subject properties as a principal use; and

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

WHEREAS, a public hearing was held in the Office of the NJMC on November 25, 2014, 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, a copy of the recommendation and comprehensive report was provided to the applicant on May 8, 2015; and

WHEREAS, the report recommends the conditional approval of the requested use variance from N.J.A.C. 19:4-5.73(a) to permit outdoor storage on the subject properties as a principal use; and

WHEREAS, effective February 5, 2015, the New Jersey Meadowlands Commission has become part of the NJSEA; and

WHEREAS, the Board of Commissioners of the NJSEA have reviewed the full record 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 members of the NJSEA concur with the recommendations of the Director of Land Use Management and the Executive Director; and

WHEREAS, the NJSEA hereby determines that the requested use variance to permit outdoor storage on the subject properties as a principal use, does conditionally 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 Ditobarbi/ZLOR, Site Improvement & Use Variance application for one use variance to permit outdoor storage on the subject properties as a principal use, is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated April 28, 2015, as follows:

1. All future tenants or occupants of the subject premises shall comply with the terms and conditions set forth in the New Jersey Industrial Site Recovery Act (ISRA).
2. Any occupant shall not cause or permit, either intentionally or unintentionally, the releasing, spilling, leaking, pumping, pouring, emitting or dumping of a hazardous substance as defined by any environmental law.
3. Any occupant shall not transport or store hazardous waste or hazardous substances, as defined by any environmental law, except in strict accordance with applicable laws.
4. Outdoor storage areas shall be maintained in an orderly manner, and shall comply with the provisions of the New Jersey Uniform Fire Code at N.J.A.C. 5:18.
5. Outdoor storage may occur only in delineated locations indicated on an approved site plan pursuant to an NJSEA zoning certificate approval. Outdoor storage areas shall be delineated on the site with four-inch-wide striping, at a minimum, which shall be maintained and visible at all times. Any change to the configuration and/or dimension of approved delineated outdoor storage areas shall require new NJSEA zoning certificate approval.
6. Outdoor storage shall not occur within required open space, parking, and loading areas, or outside of the delineated area, nor shall the location of outdoor storage areas conflict with vehicle circulation.

7. Products, materials, and/or other items stored within outdoor storage areas shall not exceed 25 feet in height. Outdoor storage of containers shall be limited to a total of two containers per stack or a maximum height of 25 feet above grade level, whichever is less.
8. Outdoor storage of raw materials such as sand, stone, gravel, topsoil, cement and/or similar materials shall not be placed directly on the ground, but shall be contained, covered and secured in a manner that does not allow for the erosion of product outside of containment areas or for stormwater infiltration of the stored product. The method of containment shall be subject to the approval of the Chief Engineer. It is recommended that the storage of items such as bricks, pavers, concrete block, pipes, lumber, steel, scaffolding, or similar large, bulky materials be placed upon pallets or racks.
9. The applicant shall close off, either temporarily or permanently, all of the existing loading doors that are adjacent to a proposed area allocated for outdoor storage as shown on the approved site plan. These loading doors shall remain closed as long as the outdoor storage area designated on an approved site plan remains adjacent to the loading doors. If the applicant or an existing or future tenant of any of the subject properties within the zoning lot of record wishes to utilize the previously closed off loading door(s), it must first obtain NJSEA approval of a revised striping plan that forgoes use of the adjacent area for outdoor storage. The revised striping plan shall accompany the submittal of an occupancy certification in the case of a new tenant seeking to use previously closed off loading doors.
10. Outdoor storage shall not include any use that may be classified as either a solid waste, recycling, or salvage facility. A salvage facility shall mean a facility or area for storing, selling, dismantling, shredding, compressing or salvaging scrap, discarded material, or equipment; but shall not include the storage of vehicles to be transported off site.
11. Outdoor storage areas shall maintain a minimum setback of seven (7) feet from any exterior lot line of the zoning lot of record and from any interior lot line of the constituent lots of the zoning lot of record fronting on "A" Street.
12. The applicant shall combine the subject properties identified as Block 130, Lots 4, 14, 15, 16, 18 and 20 into one zoning lot of record through an NJSEA Declaration of Zoning Restriction pursuant to N.J.A.C. 19:4-3.22.

ADOPTED: June 18, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell *Date:* June 18, 2015

Subject: Variance Recommendation: Ditobarbi/ZLOR, Site Improvement & Use Variance (File No. 09-772)

This application for one use variance was filed with the New Jersey Meadowlands Commission (NJMC) by Jeffrey A. Zenn, Esq., on behalf of Ditobarbi & Co., for the premises identified as 1 Avenue A, Block 130, Lot 4; 217 Washington Avenue, Block 130, Lot 14; 1 A Street, Block 130, Lot 15; 2 A Street, Block 130, Lot 16; and 3 A Street, Block 130, Lot 18, in the Borough of Carlstadt, New Jersey. The subject premises are located in the District's Light Industrial A zone. The use variance is sought in connection with the applicant's request to allow outdoor storage as a principal use on the subject properties.

The applicant requested variance relief from the following:

1. N.J.A.C. 19:4-5.73(a), where outdoor storage is not listed as a permitted use in the Light Industrial A zone. The applicant is requesting a use variance to allow outdoor storage on the subject properties as a principal use.

A public hearing on this matter was held in the Office of the NJMC on November 25, 2014.

In a comprehensive report, dated April 28, 2015, the Director of Land Use Management and the Executive Director recommended the conditional approval of the use variance requested in Item 1 above.

A copy of the comprehensive report and variance recommendation was provided to the applicant on May 8, 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

Ditobarbi/ZLOR, Site Improvement & Use Variance

FILE # 09-772

I. INTRODUCTION

An application for one (1) use variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Jeffrey A. Zenn of the firm Sokol, Behot & Fiorenzo, on behalf of Ditobarbi & Co., for the premises identified as 1 Avenue A, Block 130, Lot 4; 217 Washington Avenue, Block 130, Lot 14; 1 A Street, Block 130, Lot 15; 2 A Street, Block 130, Lot 16; and 3 A Street, Block 130, Lot 18, in the Borough of Carlstadt, Bergen County, New Jersey. Said premises are located in the Commission's Light Industrial A zone. The applicant is requesting a use variance to allow outdoor storage as a principal use on the subject properties.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19-4-5.73(a), where outdoor storage is not listed as a permitted use in the Light Industrial A zone. The applicant is requesting a use variance to allow outdoor storage on the subject properties as a principal use.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record. One written objection was received from Joseph R. Pagano, Counselor at Law, on behalf of Funds Service Facility, Inc., 440 Borell Avenue, Carlstadt, New Jersey. A public hearing was held in the Office of the Commission on Tuesday, November 25, 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 subject application proposes outdoor storage usage of commonly-owned properties in the Borough of Carlstadt identified as 1 Avenue A (Block 130, Lot 4); 217 Washington Avenue (Block 130, Lot 14); 1 A Street (Block 130, Lot 15); 2 A Street (Block 130, Lot 16); and 3 A Street (Block 130, Lot 18). The applicant is seeking to combine the aforementioned properties into one zoning lot of record through an NJMC Declaration of Zoning Restriction, pursuant to N.J.A.C. 19-4-3.22. The subject properties have the following areas: Lot 4 - 34,865 square feet (0.8 acre); Lot 14 - 41,299 square feet (0.94 acre); Lot 15 - 39,723 square feet (0.91 acre); Lot 16 - 113,776 square feet (2.61 acres); Lot 18 - 101,904 square feet (2.34 acres); and Lot 20 - 57,500 square feet (1.32 acres). The proposed zoning lot of record would have a combined area of approximately 8.92 acres.

Current access to the properties is provided through a series of 30-foot-wide private roadways, which are owned by Ditobarbi and Co., identified as "A," "B," and "C" Streets (Block 130, Lot 20), which would remain unchanged in the current proposal. "A" Street contains direct access to and from Washington Avenue.

The existing and proposed use of the properties are as follows:

- Lot 4 contains a 6,618-square-foot multiple-bay truck terminal and proposes 10,530 square feet of outdoor storage area.
- Lot 14 is improved with a 7,642-square-foot multiple-bay truck terminal and proposes 10,189 square feet of outdoor storage area.
- Lot 16 contains a 5,628-square-foot multiple-bay truck terminal and proposes 45,779 square feet of outdoor storage area.
- Lot 18 contains a 9,600-square-foot multiple-bay truck terminal and proposes 21,131 square feet of outdoor storage area.

▪ Lot 15 is a vacant lot presently used for the outdoor storage of trucks and trailers.

Vehicular use areas exist throughout the site, which include a mix of surface materials ranging from gravel, dirt, stone and concrete. Existing open space is less than the required minimum of 15 percent of the zoning lot of record area. Although not permitted uses in the Light Industrial A zone, the truck terminals on Lots 4, 14, 16 and 18 and the outdoor storage on Lot 15 are pre-existing nonconforming uses.

The applicant is proposing to utilize a portion of the subject properties for the outdoor storage of all items that can be transported by truck. All outdoor storage is proposed to be located on areas that will be resurfaced with asphalt. The NJMC recently approved zoning certificate ZC-09-772 for the resurfacing of portions of Lots 4, 14, 15, 18, and the portion of Lot 20 identified as "B" Street, including the provision of proposed stormwater management measures. As of the date of this recommendation, the construction of the approved site improvements has not commenced. No new buildings or building additions are proposed.

B. Response to the Public Notice

One written objection was received from Joseph R. Pagano, Counselor at Law, on behalf of Funds Service Facility, Inc., the property owner of 440 Barell Avenue, Carlstadt, New Jersey.

III. PUBLIC HEARING (November 25, 2014)

A public hearing was held on Tuesday, November 25, 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; 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 | "Cover Sheet," Drawing Number S-1, prepared by Koestner Associates, undated. |
| A-2 | "Zoning Lot of Record Plan," Drawing Number S-2, prepared by Koestner Associates, dated May 11, 2009, revised through August 5, 2014. |
| A-3 | "Zoning Lot of Record Plan," Drawing Number S-3, prepared by Koestner Associates, dated May 11, 2009, revised through August 5, 2014. |
| A-4 | "Open Space & Traffic Plan," Drawing Number S-4, prepared by Koestner Associates, dated September 9, 2009, revised through November 14, 2014. |
| A-5 | "Open Space & Traffic Plan," Drawing Number S-5, prepared by Koestner Associates, dated December 16, 2008, revised through August 5, 2014. |
| A-6 | "Open Space & Traffic Plan," Drawing Number S-6, prepared by Koestner Associates, dated May 18, 2012, revised through August 5, 2014. |
| A-7 | "Open Space & Traffic Plan," Drawing Number S-7, prepared by Koestner Associates, dated December 17, 2008, revised through August 14, 2013. |
| A-8 | "Cover Sheet," Drawing Number S-1, prepared by Koestner Associates, undated; "Drainage Plan," Drawing Number S-2, prepared by Koestner Associates, dated September 9, 2009, revised through April 7, 2014; "Drainage Plan," Drawing Number S-3, prepared by Koestner Associates, dated |

December 16, 2008, revised through April 7, 2014; "Drainage Plan," Drawing Number S-4, prepared by Koestner Associates, dated December 21, 2006, revised through March 12, 2014; "Drainage Plan," Drawing Number S-5, prepared by Koestner Associates, dated December 17, 2008, revised through March 12, 2014; "Drainage Plan Details," Drawing Number S-6, prepared by Koestner Associates, dated December 17, 2008, revised through April 7, 2014.

A-9 Certification of Thomas Barrett, dated November 19, 2014.

B. Testimony

Jeffrey A. Zenn, Esq., of the firm Sokol, Behot & Fiorenza, represented Ditobarbi, LLC, at the hearing. The following two witnesses testified in support of the application:

1. Steven L. Koestner, P.E., L.S., Koestner Associates.
2. Raymond Moraski, Koestner Associates.

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

Joseph R. Pagano, Counselor at Law, commented on the application on behalf of Funds Service Facility, Inc., 440 Borell Avenue, Carlstadt, New Jersey. James Harper, of Sheet Metal Workers Fund Services, 440 Borell Avenue, Carlstadt, also commented on the application.

IV. RECOMMENDATION

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19-4-5.73(a), where outdoor storage is not listed as a permitted use in the Light Industrial A zone. The applicant is requesting a use variance to allow outdoor storage on the subject properties as a principal use.

The NJMC Zoning Regulations at N.J.A.C. Section 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 use variances:

- i. *The strict application of these 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 will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The applicant testified that areas for outdoor storage are required due to a lack of storage space provided inside the existing buildings on each of the subject properties. The existing structures have small building footprints and low ceiling heights, thereby limiting interior storage capacity. The ability to expand the existing buildings on the properties to accommodate additional storage within the buildings is affected by the nature and configuration of existing improvements on the properties. There are practical difficulties in the expansion of the truck terminals, which exhibit narrow building widths and cross-dock configurations, while maintaining adequate building setbacks and functional circulation patterns for truck maneuvering and

trailer staging. In addition, the subject properties have strong similar features to the Heavy Industrial-zoned areas in the District, which permit outdoor storage, in that they are located within an isolated, defined area not visible from the main thoroughfare.

ii. *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 permit outdoor storage on the subject properties 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. Outdoor storage is currently permitted as a pre-existing nonconformity on Lot 15 and the property identified as Block 129, Lot 9, which is also owned by the applicant. In all, the owner of the subject properties owns five out of ten properties fronting "A" Street in Carlstadt.

Potential negative aesthetic impacts to the surrounding properties, as a result of the outdoor storage, will be avoided through proper site screening techniques, as well as limitations to the height of stored items on the properties. Currently, no visual screening is provided. The applicant proposes to screen the proposed outdoor storage at the subject sites by installing landscaping and fencing of a sufficient height around the perimeter of each property. It is not anticipated that the proposed outdoor storage areas will be visible from Washington Avenue due to the difference in elevation and the presence of existing structures between the subject properties and

that roadway. In order to ensure that the visual impacts of the proposed outdoor storage uses do not cause a detriment to the public good, this report recommends that the maximum height of outdoor storage areas be limited to 25 feet. The report also recommends that outdoor storage areas be maintained in an orderly manner on each lot and be delineated by striping pursuant to an approved site plan. Through the introduction of screening and the maintenance of existing site circulation patterns, the public good will not be adversely impacted. In order to ensure a safe and efficient site layout, the applicant testified that existing loading doors on Lot 4 will become inactive to avoid possible site circulation conflicts with the proposed outdoor storage areas, and fewer vehicle trips are expected due to the reduction in loading doors.

Finally, in accordance with approved zoning certificate ZC-09-772, the subject properties will be resurfaced from their existing deteriorated condition, which will accommodate the proposed outdoor storage use, and drainage improvements consisting of storm sewers and stormwater detention structures will be constructed, which will positively impact neighborhood drainage.

iii. *Adequate infrastructure, including storm and sanitary sewers, utilities, access roads, will be provided and shall be so designed to prevent and/or minimize negative impacts upon the existing infrastructure. In addition, the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner.*

The granting of the requested variance to permit outdoor storage on the subject properties will not impact the existing utility infrastructure. The proposed use of the site will not result in any structures that would generate demand for additional water, sewer, or energy utility services. As the subject properties are located in an existing industrial area, certain infrastructure, including utilities and sanitary sewers, is in place. In addition, the NJMC recently approved drainage improvements for all of the subject properties that will reduce the peak runoff rate after resurfacing and will provide enhanced water quality.

This report also recommends that certain restrictions be placed upon the type and placement methodologies of the proposed outdoor storage. Caution shall be taken in order to prevent hazardous substances from spilling on the ground surface or entering the stormwater system, water courses or ditches in the vicinity. Hazardous waste or substances shall not be transported over or stored upon the subject properties except in strict compliance with applicable laws. In addition, raw materials, such as sand, stone, gravel, topsoil, cement and/or similar materials stored out in the open should be contained, covered, and secured in a manner that does not allow for the erosion of product outside of containment areas or for stormwater infiltration of the stored product. Subject to these limitations, the proposed use will not decrease the ability of the existing or proposed infrastructure to perform in a safe and efficient manner.

No significant impact to traffic in the surrounding area is anticipated. Adjacent roadways are capable of handling the traffic that will be associated with the proposed use.

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

The granting of the requested variance to permit outdoor storage on the subject properties will not result in any adverse environmental impacts. NJMC environmental performance standards will not be exceeded for noise, vibration, glare, airborne emissions, hazardous or radioactive materials. No environmentally sensitive areas are proposed to be disturbed. Upon construction, recently approved drainage improvements will reduce peak runoff rates and will provide enhanced water quality.

However, in order to protect the surrounding environment from potential environmental impacts, all future tenants or occupants of the subject premises who utilize the site for outdoor storage shall take precautions during operations at the site. Caution shall be taken in order to prevent hazardous substances from spilling on the ground surface or entering water courses or ditches in the vicinity. Hazardous waste or substances shall not be transported over or stored upon the subject properties except in strict compliance with applicable laws.

Placing raw materials directly on the ground could compromise the surrounding environment. Therefore, raw materials, such as sand, stone, gravel, topsoil, cement and/or similar materials stored out in the open should be contained, covered, and secured in a manner

that does not allow for the erosion of product outside of containment areas or for stormwater infiltration of the stored product. The use of pallets and/or racking is recommended to be utilized for bulkier materials, such as bricks, pavers, concrete blocks, pipes, lumber, steel or scaffolding that might otherwise be stored on the ground.

In addition, the utilization of portions of the subject property for outdoor storage shall not conflict with required open space, parking and loading areas, and vehicular circulation. As such, specific areas for outdoor storage shall be delineated with striping on the asphalt surface.

Outdoor storage shall not include any use that may be classified as either a solid waste, recycling, or salvage facility. A salvage facility involves the storage of vehicles, equipment, and/or similar items which are no longer intended or in condition for legal use according to their original purpose.

v. The variance will not substantially impair the intent and purpose of these regulations.

Use limitations for the Light Industrial A zone restrict outdoor storage to accessory outdoor display areas connected to retail sales for the staging of new products and outdoor storage and operations for studio uses. Although the parking and storage of trucks and trailers is permitted as a pre-existing nonconformity on Lots 4, 14, 15, 16 and 18, any other type of outdoor storage is prohibited within the Light Industrial A zone.

One intention of the exclusion of outdoor storage in the Light Industrial A zone is to avoid the function of such facilities that are more suited for the Heavy Industrial and Intermodal B zones. Lots in the Heavy Industrial or Intermodal B zones, where outdoor storage is permitted, tend to be larger and in more remote locations, where visual intrusion into the surrounding properties is less conspicuous.

The typical outdoor storage associated with a truck terminal is often comprised of trucks and trailers. Due to the small building footprints and low ceiling heights on the subject property, the applicant testified that the proposed outdoor storage on the subject properties is necessary for day-to-day business operations. Fencing and landscaped screening is proposed to counteract/offset any negative visual and aesthetic effects of the outdoor storage on the surrounding streets and properties. Testimony was provided that the applicant would agree to a condition that any storage containers on site would not be stored more than two containers high.

Accordingly, the granting of the variance to permit outdoor storage on the subject properties would not impair the intent and purpose of these regulations. Sufficient space will remain for the existing truck terminal use. Areas allocated for the proposed outdoor storage are appropriately located and do not conflict with vehicle circulation.

vi. *The variances at the specified location will contribute to and promote the intent of the NJMC Master Plan.*

Truck terminals are centralized distribution facilities for warehousing/manufacturing businesses that use trucks as the main transportation mode. The region's roadways have historically encouraged the development of truck terminals within the District. The subject properties have direct access to Washington Avenue, defined by the NJMC Master Plan as an arterial roadway, which connects local streets to Paterson Plank Road/Route 120. Such major truck routes provide access to freight facilities in the larger regional area.

The NJMC Master Plan designates the subject properties as part of the District's Employment Center planning area. These centers include a mix of land uses such as warehouse-distribution and industrial facilities. Transportation facilities are also encouraged within the Employment Center planning area. As has been previously mentioned, transportation facilities like truck terminals often provide a link between warehouse-distribution/industrial and freight facilities. While the NJMC Master Plan's planning areas do not constitute zoning districts, their descriptions provide the foundation for the NJMC District Zoning Regulations.

The regulations reflect the spirit and intent of the NJMC Master Plan and are the mechanism by which the policies and principles of the NJMC Master Plan are implemented and enforced, in accordance with smart growth policies. The subject properties are located within the Commission's Light Industrial A zone. There

are a total of 26 different land uses that are permitted in the zone, although outdoor storage is not permitted. However, the proposed use is similar to certain aspects of a warehouse-distribution or industrial facility and the outdoor storage element can be visually mitigated. While outdoor storage is only a permitted use in the Heavy Industrial zone, the subject properties have strong similar features to the Heavy Industrial-zoned areas in the District, in that they are located within an isolated, defined area not visible from the main thoroughfare.

Another goal of the NJMC Master Plan is to promote an array of land uses that encourage economic vitality and support the public health, safety, and welfare. Other businesses, particularly in the warehouse-distribution and industrial fields, will benefit from the convenience of having a series of truck terminals nearby with additional space allocated on site for outdoor storage. And as stated previously, subject to the recommended conditions, the proposed outdoor storage use will not result in substantial detriment to the public health, safety and welfare. Accordingly, the proposed outdoor storage use will contribute to and promote the intent of the NJMC Master Plan.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.73(a), where outdoor storage is not listed as a permitted use in the Light Industrial A zone. The applicant is requesting a use variance to allow outdoor storage on the subject properties as a principal use.

Based on the record in this matter, the use variance application to permit outdoor storage on the subject properties is hereby recommended for approval subject to the following conditions:

1. All future tenants or occupants of the subject premises shall comply with the terms and conditions set forth in the New Jersey Industrial Site Recovery Act (ISRA).
2. Any occupant shall not cause or permit, either intentionally or unintentionally, the releasing, spilling, leaking, pumping, pouring, emitting or dumping of a hazardous substance as defined by any environmental law.
3. Any occupant shall not transport or store hazardous waste or hazardous substances, as defined by any environmental law, except in strict accordance with applicable laws.
4. Outdoor storage areas shall be maintained in an orderly manner, and shall comply with the provisions of the New Jersey Uniform Fire Code at N.J.A.C. 5:18.
5. Outdoor storage may occur only in delineated locations indicated on an approved site plan pursuant to an NJSEA zoning certificate approval. Outdoor storage areas shall be delineated on the site with four-inch-wide striping, at minimum, which shall be maintained and visible at all times. Any change to the

configuration and/or dimension of approved delineated outdoor storage areas shall require new NJSEA zoning certificate approval.

6. Outdoor storage shall not occur within required open space, parking, and loading areas, or outside of the delineated area, nor shall the location of outdoor storage areas conflict with vehicle circulation.

7. Products, materials, and/or other items stored within outdoor storage areas shall not exceed 25 feet in height. Outdoor storage of containers shall be limited to a total of two containers per stack or a maximum height of 25 feet above grade level, whichever is less.

8. Outdoor storage of raw materials such as sand, stone, gravel, topsoil, cement and/or similar materials shall not be placed directly on the ground, but shall be contained, covered and secured in a manner that does not allow for the erosion of product outside of containment areas or for stormwater infiltration of the stored product. The method of containment shall be subject to the approval of the Chief Engineer. It is recommended that the storage of items such as bricks, pavers, concrete block, pipes, lumber, steel, scaffolding, or similar large, bulky materials be placed upon pallets or racks.

9. The applicant shall close off, either temporarily or permanently, all of the existing loading doors that are adjacent to a proposed area allocated for outdoor storage as shown on the approved site plan. These loading doors shall remain closed as long as the outdoor storage area designated on an approved site plan remains adjacent to the loading doors. If the applicant or an existing or future tenant of any of the subject properties within the zoning lot of record wishes to utilize the previously closed off loading door(s), it must first obtain NJSEA approval of a revised striping plan that forgoes

use of the adjacent area for outdoor storage. The revised striping plan shall accompany the submittal of an occupancy certification in the case of a new tenant seeking to use previously closed off loading doors.

10. Outdoor storage shall not include any use that may be classified as either a solid waste, recycling, or salvage facility. A salvage facility shall mean a facility or area for storing, selling, dismantling, shredding, compressing or salvaging scrap, discarded material, or equipment, but shall not include the storage of vehicles to be transported off site.

11. Outdoor storage areas shall maintain a minimum setback of seven (7) feet from any exterior lot line of the zoning lot of record and from any interior lot line of the constituent lots of the zoning lot of record fronting on "A" Street.

12. The applicant shall combine the subject properties identified as Block 130, Lots 4, 14, 15, 16, 18 and 20 into one zoning lot of record through an NJSEA Declaration of Zoning Restriction pursuant to N.J.A.C. 19:4-3.22.

CONDITIONAL APPROVAL 4-28-15
Recommendation on Date
Variance Request Sara J. Sundell, P.E., P.F.
Chief Engineer Director of Land Use Management and

Conditional approval 4/28/15
Recommendation on Date
Variance Request Marcia K. Morrow
Executive Director

RESOLUTION 2015-31

**RESOLUTION ISSUING A DECISION ON THE
BULK VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 08-757
IMPEX/NEW BUILDING
BLOCK 6201, LOT 12, IN THE CITY OF JERSEY CITY**

WHEREAS, an application for a bulk variance was filed with the New Jersey Sports & Exposition Authority (NJSEA) by Thomas J. O'Connor, Esq., of the firm, Waters, McPherson, McNeill, on behalf of St. Paul's Ave. Properties, LLC, for the premises identified as 438 St. Paul's Avenue, Block 6201, Lot 12, in the City of Jersey City, New Jersey; and

WHEREAS, the premises are located in the District's Heavy Industrial zone; and

WHEREAS, the variance is sought in connection with the applicant's construction of two (2) loading areas on the subject property in the front yard facing St. Paul's Avenue; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard, whereas two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue; and

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

WHEREAS, a public hearing was held in the Office of the NJSEA on April 7, 2015, before 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; and

WHEREAS, a comprehensive report dated June 4, 2015, has been prepared indicating the recommendations of the Director of Land Use Management and the Executive Director in this matter; and

WHEREAS, a copy of the recommendation and comprehensive report was provided to the applicant on June 4, 2015; and

WHEREAS, the report recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.3(b)1 to permit two (2) loading areas in the front yard facing St. Paul's Avenue; and

WHEREAS, effective February 5, 2015, the New Jersey Meadowlands Commission has become part of the NJSEA; and

WHEREAS, the members of the Board of Commissioners of the NJSEA have reviewed the full record 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 members of the Board of Commissioners of the NJSEA concur 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 permit two (2) loading areas in the front yard facing St. Paul's Avenue, does conditionally 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 Impex/New Building application for one bulk variance to permit two (2) loading areas in the front yard facing St. Paul's Avenue, is hereby **CONDITIONALLY APPROVED** for the reasons set forth in the recommendation dated June 4, 2015:

1. Vehicles utilizing the two loading areas in the front yard facing St. Paul's Avenue shall be limited to a maximum length of 20 feet.

ADOPTED: June 18, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Sara J. Sundell *Date:* June 18, 2015

Subject: Variance Recommendation: Impex/New Building (File No. 08-757)

An application for a bulk variance was filed with the New Jersey Sports & Exposition Authority (NJSEA) by Thomas J. O'Connor, Esq., of the firm, Waters, McPherson, McNeill, on behalf of St. Paul's Ave. Properties, LLC, for the premises identified as 438 St. Paul's Avenue, Block 6201, Lot 12, in the City of Jersey City, New Jersey. The subject premises are located in the District's Heavy Industrial zone. The bulk variance is sought in connection with the applicant's construction of two (2) loading areas on the subject property in the front yard facing St. Paul's Avenue.

The applicant requested 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. Two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue.

A public hearing on this matter was held in the Office of the NJSEA on April 7, 2015.

In a comprehensive report dated June 4, 2015, the Director of Land Use Management and the Executive Director recommended the conditional approval of the bulk variance requested above.

A copy of the comprehensive report and variance recommendation were provided to the applicant on June 4, 2015.

At this time, the NJSEA 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

Impex/New Building

FILE # 08-757

I. INTRODUCTION

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.

An application for one bulk variance has been filed with the NJSEA by Thomas J. O'Connor, Esq., of the firm, Waters, McPherson, McNeill, P.C., on behalf of St. Paul's Properties, LLC, for the premises located at 438 St. Paul's Avenue, Block 6201, Lot 12, in the City of Jersey City, New Jersey. Said premises is located in the Hackensack Meadowlands District's Heavy Industrial zone. The variance is sought in connection with the applicant's construction of two (2) loading areas on the subject property in the front yard facing St. Paul's Avenue.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard.
- Two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. No written objections were received. A public hearing was held in the NJSEA Office on Tuesday, April 7, 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 property in question is approximately 1.59 acres in area. The site is currently developed with a 38,652-square-foot building for the manufacturing, processing and storage of frozen foods, with associated parking and loading areas. The applicant had previously received variance approval from the NJMC on May 27, 2009, for relief from N.J.A.C. 19:4-5.105(a)3i to construct the addition to the existing industrial building at a setback of 10 feet from the westerly front lot line along James Avenue, and from N.J.A.C. 19:4-5.105(a)3iii to construct the addition to the existing industrial building at 10 feet from the easterly rear lot line. The applicant now seeks a variance for two loading areas that have been constructed in the front yard facing St. Paul's Avenue without the benefit of approvals. The site is a corner "through" lot containing three front yards, with approximately 520 feet of frontage along James Avenue, 125 feet along Lewis Avenue and 150 feet along St. Paul's Avenue. The site is encumbered with a 25-foot-wide PSE&G utility easement that traverses east to west across the northern portion of the site.

Neighboring properties primarily contain public utilities, truck terminals and warehousing, and light and heavy industrial uses, with mixed-use residential and commercial space also present. The PSE&G Jersey City Gas Business Unit Headquarters complex is located to the west across James Avenue. Several trucking facilities exist to the north along James Avenue. Also accessed via James Avenue to the north is the PSE&G Hudson Generating Station. To the southeast, and sharing frontage along St. Paul's Avenue, is a four-story mixed-use building with residential uses on the upper floors. A variety of industrial and residential uses front on Lewis Avenue at a grade of approximately 10 feet higher than the subject property.

The applicant has constructed two loading areas in the front yard facing St. Paul's Avenue. The dimension of each loading space is 8 feet by 20 feet, which

have been designed for use by smaller vehicles such as vans. No tractor trailer activity is anticipated at these loading docks. Large deliveries and shipments of food product occur at three 12-foot by 60-foot loading spaces located on the north side of the building. There is also a grade difference between the site and St. Paul's Avenue.

B. Response to the Public Notice

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

III. PUBLIC HEARING (April 7, 2015)

A public hearing was held on Tuesday, April 7, 2015. NJSEA 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:

| Number | Description |
|--------|--------------------------------------------------------------------------------------------------------------------------------------|
| A-1 | "Front Loading Variance Exhibit," Sheet 1 of 1, Drawing Number FILE-1, prepared by McNally Engineering, L.L.C., dated April 6, 2015. |
| A-2(a) | Photo exhibit entitled, "Impex - Former Building Front Loading," undated. |
| A-2(b) | Photo exhibit entitled, "Impex - Former Building Front Loading," undated. |

| | |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| A-3(a) | Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo A," undated. |
| A-3(b) | Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo B," undated. |
| A-3(c) | Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo C," undated. |
| A-3(d) | Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo D," undated. |
| A-3(e) | Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo E," undated. |
| A-3(f) | Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo F," undated. |
| A-3(g) | Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo G," undated. |
| A-4 | "Site Plan," Sheet No. 3 of 8, Drawing Number SP-1, prepared by McNally Engineering, L.L.C., dated October 30, 2008, revised through January 29, 2015. |
| A-5 | "As-Built - First Floor Fire Travel Plan with Pallet Racking Layout," Sheet No. G-003, prepared by Concept Design Group, LLC, dated September 23, 2014. |

B. Testimony

Thomas J. O'Connor, Esq., of the firm, Waters, McPherson, McNeill, P.C., represented St. Paul's Properties, LLC at the hearing. The following witness testified in support of the application:

1. Perry Frenzel, P.E., 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. 19:4-3.3(b)(1), which does not permit loading in any front yard. Two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue.

The Hackensack Meadows 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...*

I. 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 is currently improved with a 58,652-square-foot building for the manufacturing, processing and storage of frozen foods with associated parking and loading. The property has a shape that is not characteristic of other properties in the Heavy Industrial zone and predates the inception of the District Zoning Regulations. The subject property is a corner "through" lot with three front yards - St. Paul's Avenue to the south, James Avenue to the west, and Lewis Avenue to the east. The existing

grade of the site is lower than the elevation of both the St. Paul's and Lewis Avenues right-of-way (ROWs). This combination of characteristics uniquely affects the ability of the property owner to accommodate loading areas on the property in a conforming location, i.e., not within a front yard.

The zoning regulations require that loading doors and facilities be located in rear and side yards. The site is configured with existing loading areas provided in the northerly side yard. However, the configuration of the existing building on the site limits the provision of new loading areas with adequate and appropriate building access and vehicle circulation that would be in conformance with the regulations.

Two loading areas have been constructed in the front yard facing St. Paul's Avenue. Possible locations for conforming loading areas are limited to the northerly side yard and a portion of the easterly property line classified as the rear yard. However, the provision of new loading spaces in the northerly side yard would cause site circulation conflicts with adjacent vehicle parking and loading areas. Due to the location of the building, which is set back 10 feet from the rear lot line, there is no possibility of providing a conforming loading space on the east side of the subject property. No property can be acquired to the east from the property located at 19-23 Lewis Avenue (Block 6201, Lot 7) due to an existing masonry retaining wall and structure on this lot that is located within close proximity to the common property line.

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 loading areas in the front yard facing St. Paul's Avenue will not affect the ability of adjacent properties to continue with their existing operations. The residential properties in the general vicinity are located at a higher elevation than the subject premises, and are adjacent to other existing industrial uses. Neighborhood aesthetics will not be degraded by the new loading areas, as their visibility is minimized by the site's grade separation from St. Paul's Avenue.

Site circulation will not be significantly impacted by the proposed loading area and will not result in any off-site impacts. Vehicles will continue to enter the site from the southerly of two site driveways located on James Avenue and drive through the parking lot into the loading area to utilize the new loading doors. In accordance with the applicant's testimony, the new loading areas will only be utilized by vehicles with a maximum length of 20 feet. All loading operations will occur on-site and will not require maneuvering within adjacent ROWs or neighboring properties to access the new loading areas.

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 that prohibit front yard loading will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. Alternative site layouts, such as constructing the loading spaces on the northerly side of the building, would create site circulation conflicts with adjacent parking and loading areas. Due to the location of the existing building, which is set back only 10 feet from the rear lot line, there is no possibility of providing a conforming loading space on the east side of the subject property. Likewise, the construction of the new loading areas in the front yards facing James Avenue and Lewis Avenue would require maneuvering within the right of way and also require variance relief.

According to the testimony provided by the applicant, deliveries to the new loading doors will be limited to vehicles with a maximum length of 20 feet. Adequate maneuvering area is available on site for vehicles of this size accessing the new loading areas. Therefore, the strict application of the zoning regulations results in practical difficulties in the functionality of the subject property.

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 impact to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The placement of the loading areas within the front yard facing St. Paul's Avenue will have no adverse impact on public safety or health as adequate light, air and open space will continue to be supplied.

The applicant provided testimony that vehicles utilizing the new loading areas will not exceed 20 feet in length. The location of the new loading areas permits such vehicles to safely maneuver both on and off the site. As such, vehicles utilizing the new loading areas will not have to back into the site from James Avenue, and direct access to the site is maintained from the existing southerly-most of the two site driveways located on James Avenue. In addition, excess noise, odor, vibration or glare will not be generated as a result of the new loading areas. It is anticipated that the number of vehicle trips generated by the new loading areas will not cause significant changes to 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. No additional paved areas have been proposed and, consequently, the amount of open space will remain

the same. No environmentally sensitive areas, such as wetlands or stormwater facilities, will be disturbed. No new light fixtures will be installed. Therefore, the requested variance to locate the new loading areas within the front yard facing St. Paul's Avenue will not cause the NJSEA'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 requested variance represents the minimum deviation from the regulations that will afford relief. Potential locations to provide alternative loading areas outside of the front yard facing St. Paul's Avenue are not available due to the existing building floor plan, site layout, and property configuration. The ability to accommodate conforming loading areas on the site is significantly constrained by its three front yards. The new loading areas have been situated to ensure safe and efficient operation of the food processing facility, necessitating their location facing St. Paul's Avenue. The visibility of the loading areas is minimized as they are at a lower elevation than the adjacent St. Paul's Avenue ROW.

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

The new loading areas facing St. Paul's Avenue will not substantially impair the intent and purpose of these regulations. The intent and purpose of front yard loading regulations are rooted

in the promotion of public safety and aesthetics. Although this proposal locates loading areas in the front yard, public safety is not adversely impacted. All maneuvering to access the loading areas will occur entirely within the vehicular use area on site, will not impede on-site or off-site circulation, and will not occur within the St. Paul's Avenue or James Avenue rights of way. The applicant proposes to limit vehicle sizes at the new loading areas to 20 feet in length in order to ensure on-site circulation continues to function safely and efficiently. The new loading areas will not be a significant detriment to area aesthetics, as the two new loading areas are located within an existing paved vehicular use area that is located at a lower elevation than the St. Paul's Avenue right of way. The placement of the new loading areas within the front yard facing St. Paul's Avenue will provide appropriate and functional access for vehicles, including emergency equipment. The site will, therefore, be utilized in a safe and orderly manner.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.I.A.C. 194.8.3(b)1, which does not permit loading in any front yard. Two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue.

Based on the record in this matter, the bulk variance application to permit two loading areas in the front yard facing St. Paul's Avenue, whereas loading is not permitted in any front yard, is hereby recommended for APPROVAL SUBJECT TO THE FOLLOWING CONDITION:

1. Vehicles utilizing the two loading areas in the front yard facing St. Paul's Avenue shall be limited to a maximum length of 20 feet.

Commonal Approval 6/3/15
Recommendation on _____ Date _____
Variance Request


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

conditional approval 6/3/15
Recommendation on _____ Date _____
Variance Request


Marcia A. Karrow
Executive Director

RESOLUTION 2015-32

**RESOLUTION AUTHORIZING CHANGES IN
EXISTING BANK ACCOUNTS**

WHEREAS, certain bank accounts (the "bank accounts") were established by resolution adopted in the past for the New Jersey Sports and Exposition Authority (the "Authority"); and

WHEREAS, the New Jersey Meadowlands Commission has been merged into the Authority; and

WHEREAS, due to changes of personnel within the Authority, certain signatory changes are necessary,

NOW, THEREFORE, BE IT RESOLVED, the Board of Commissioners of the New Jersey Sports and Exposition Authority hereby authorizes the following signatures, to be assigned to the bank accounts as directed by and in the discretion of the CEO/President Wayne Hasenbalg: Christine Sanz; Daniel Povia, Edward H. Bulmer; and Wayne Hasenbalg.

ADOPTED: June 18, 2015

COMMITTEE REPORTS

CONSTRUCTION REPORT

June 2015

SITE

- **American Dream**

This department continues to meet and work with Triple Five and PCL, the contractor, regarding permitting, planning, operational logistics, patron safety and environmental issues. Construction activity on the site continues for both the ERC and Amusement Water Parks.

- **Environmental Open Cases at the Sports Complex**

Langan is preparing an updated report based on the data from the last round of sampling.

MONMOUTH PARK

Fire Project

- Work continues during live racing on the fire standpipe system, third and fourth floors as well as controls. The project completion date is October 1, 2015.

AWARDS/ CONTRACTS

RESOLUTION 2015-33

**RESOLUTION AUTHORIZING THE PRESIDENT OF THE SPORTS
AUTHORITY TO ENTER INTO A LEASE FOR THE NJSEA
VEGETATIVE WASTE TRANSFER FACILITY**

WHEREAS, the NJSEA currently leases out 7 acres on top of the NJSEA 1-E Landfill for vegetative waste transfer facility operations, which provide a needed outlet to many local municipalities and companies for their vegetative waste disposal; and

WHEREAS, the current lease with Nature's Choice Corporation expires on June 30, 2015; and

WHEREAS, on March 23, 2015 a Request for Lease Proposals was issued to obtain a lessee for the next 54-month period, which will end at the same time as the current permit; and

WHEREAS, only two bidders picked up the bid; the current operator, Nature's Choice Corporation, and RER Supply, LLC of Riverdale, NJ; and

WHEREAS, proposals were accepted and opened on April 21, 2015. The proposal submitted by Nature's Choice was \$16,101.25/month or \$869,467.50 for the 54-month contract term. RER Supply, LLC provided a slightly higher bid of \$16,829.00/month or \$908,766.00 for the 54-month contract term; and

WHEREAS, on May 8, 2015, RER Supply submitted a letter to the NJSEA stating that at the time of the bid they did not "...fully understand the coverage, liabilities, and associated costs of insurance", and that they had "...made a material and substantial mistake in the preparation of its bid and therefore ask for our bid to be withdrawn from consideration; and

WHEREAS, the Solid Waste Division agrees with their assessment of their bid and recommends awarding the contract to the current operator Nature's Choice Corporation.

NOW, THEREFORE, BE IT RESOLVED that the President of the Sports Authority is hereby authorized to enter into a Lease with Nature's Choice Corporation for 54 months at a monthly lease fee of \$16,101.25; or \$869,467.50 for the full Lease term.

ADOPTED: June 18, 2015

MEMORANDUM

To: NJSEA Board Members and President Wayne Hasenbalg

From: Thomas Marturano Date: June 18, 2015

Subject: Vegetative Waste Transfer Facility Lease

The NJSEA has leased out 7 acres on top of the NJSEA 1-E landfill for a vegetative waste transfer operation for the past 10 years. This facility has continued to provide a needed outlet to many local municipalities and companies for their vegetative waste disposal. The existing lease with Nature's Choice Corporation expires on June 30, 2015.

On March 23, 2015 a Request for Lease Proposals was issued to obtain a lessee for the next 54-month period, which will end at the same time as the current permit. Only two bidders picked up the bid; the current operator, Nature's Choice Corporation, and RER Supply, LLC of Riverdale, NJ. We should note that RER Supply, LLC picked up the bid documents only 4 days prior to the bid opening date of April 21, 2015. RER Supply never contacted the NJSEA for a site visit, nor were there any questions received relative to the Bid documents.

Proposals were accepted and opened on April 21, 2015. The proposal submitted by Nature's Choice was \$16,101.25/month or \$869,467.50 for the 54 month contract term. RER Supply, LLC provided a slightly higher bid of \$16,829.00/month or \$908,766.00 for the 54-month contract term. \

At a post-bid meeting on April 25, 2015, RER Supply raised a concern about the cost of our required environmental liability insurance. On May 8, 2015, RER Supply submitted a letter to the NJSEA stating that at the time of the bid they did not "...fully understand the coverage, liabilities, and associated costs of insurance", and that they had "...made a material and substantial mistake in the preparation of its bid and therefore ask for our bid to be withdrawn from consideration."

Based on their review of the bid and the short time frame that RER Supply had to compile the bid we believe that they did not account for the true cost of the environmental insurance. Therefore, we are recommending that the lease be awarded to Nature's Choice for 54 months at a payment of \$869,467.50.

RESOLUTION 2015-34

RESOLUTION JUNE 2015
AUTHORIZING THE PLACEMENT OF
PROPERTY INSURANCE

WHEREAS, the New Jersey Sports and Exposition Authority ("Authority") requires the assistance and services of insurance brokers for obtaining property insurance for 2015/16 policy year; and

WHEREAS, the Authority placed an advertisement and issued an RFP for insurance brokerage services in March 2015 to several insurance brokers that required submission of qualifications related to soliciting quotations, and

WHEREAS, the selection committee, which was comprised of George Zahn, and Robert Weakley evaluated responses to the RFP; and

WHEREAS, based on the attached criteria, the selection committee determined that Marsh, Willis, Wells Fargo, Fairview Insurance Services and the Taylor Group Inc. possessed the necessary expertise to solicit quotations from insurance companies of their choice, and

WHEREAS, the selection committee evaluated the insurance premium quotations submitted by Marsh based on the attached criteria, and

WHEREAS, Marsh, the only broker to obtain a quote, submitted a quote from the Lexington Insurance Company, the incumbent insurance company for \$589,60 and,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the New Jersey Sports and Exposition Authority hereby authorize Marsh to bind the property insurance with the Lexington Insurance Company for the fiscal year June 30, 2015/16 at an annual cost of \$589,600 which is \$26,045 lower than the expiring premium.

ADOPTED: June 18, 2015

EVALUATION CRITERIA

INSURANCE BROKER CRITERIA

| |
|-------------------------------------------------------------------------------------------------------|
| Experience of the brokerage firm with risks similar to those faced by the authority |
| Experience of the account executive assigned to the Authority's account |
| Amount of insurance placed by broker with their requested insurance company |
| Coverage the requested insurance company provides on risks similar to those faced by the authority |

Evaluation Criteria For Awarding The Placement Of Insurance
(An insurance company without an "A" rating will be rejected)

| |
|------------------------------------|
| <u>CRITERIA</u> |
| Limits of Insurance Being Provided |
| Insurance Deductibles |
| Premium |

COMPARISON OF PREMIUM QUOTES

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Expiring Lexington (AIG) Insurance \$300 million in limits</p> | <p>Renewal Quote From Marsh Lexington (AIG) Insurance \$300 million in limits</p> |
| <p>Premium, with \$100 million in terrorism coverage of \$615,645, including Terrorism premium \$50,000</p> <p><u>Deductibles:</u> General \$100,000 Wind \$100,000 Flood \$1,000,000</p> | <p>Premium, with \$100 million in terrorism coverage of \$589,600 Terrorism premium \$50,000</p> <p><u>Deductibles:</u> General \$100,000 Wind \$100,000 Flood \$1,000,000</p> |
| | |

RESOLUTION 2015-35

RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING
BETWEEN NEW JERSEY SPORTS AND EXPOSITION AUTHORITY AND
THE STATE OF NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY

BE IT HEREBY RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the President and CEO and his delegates are authorized to execute the attached memorandum of understanding with the Office of The Attorney General of New Jersey for the reasons set forth therein.

ADOPTED: June 18, 2015

**MEMORANDUM OF UNDERSTANDING
BETWEEN NEW JERSEY SPORTS AND EXPOSITION AUTHORITY AND
THE STATE OF NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made by and between the NEW JERSEY SPORTS AND EXPOSITION AUTHORITY ("NJSEA"), located at 50 State Route 120, East Rutherford, New Jersey 07073, and the STATE OF NEW JERSEY, DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF LAW ("L&PS"), located at 25 Market Street, Trenton, New Jersey 08625.

WHEREAS, the Legislature enacted the New Jersey Sports and Exposition Law (the "NJSEA Act"), P.L. 1971, c. 137, to provide for projects, including the establishment and operation of needed stadiums and other facilities for the holding of spectator sports, exhibitions and other public events and usage in the Hackensack Meadowlands; and

WHEREAS, the NJSEA Act established the New Jersey Sports and Exposition Authority ("NJSEA") and charged it with promoting the holding of athletic contests, horse racing, and other spectator sporting events, trade shows and other expositions in the State of New Jersey; and

WHEREAS, the Legislature enacted the Hackensack Meadowlands Reclamation and Development Act (the "NJMC Act"), P.L. 1968, c. 404, to provide for a commission transcending municipal boundaries, and a committee representing municipal interests which will act in concert to reclaim, plan and develop the Hackensack meadowlands; and

WHEREAS, the NJMC Act established the New Jersey Meadowlands Commission ("NJMC") and charged it with the development and redevelopment of the Hackensack Meadowlands in an orderly and comprehensive fashion; and

WHEREAS, The Legislature enacted the Hackensack Meadowlands Agency Consolidation Act (the "Consolidation Act") P.L. 2015, c. 19, to consolidate the NJSEA and the NJMC in order to effectively address the modern needs of the Hackensack Meadowlands; and

WHEREAS, the Consolidation Act dissolved the NJMC and consolidated its functions under the NJSEA; and

WHEREAS, the NJSEA Act provides the NJSEA with statutory authority to employ its own legal counsel and to engage its own legal counsel; and

WHEREAS, although NJSEA may retain separate counsel for certain specific matters or types of matters, NJSEA has requested that L&PS provide representation and advice for the majority of its legal matters; and

WHEREAS, L&PS has agreed to provide the requested representation and advice, consistent with the statutory authority of the Attorney General and in accordance with the terms of this MOU;

NOW, THEREFORE, NJSEA and L&PS agree as follows:

1. Purpose of this MOU. The purpose of this MOU is to outline the types of new matters with regard to which L&PS will provide representation and advice to NJSEA, on and after the date of execution of this MOU. Matters being handled by L&PS as of the date of execution of this MOU will continue to be handled by L&PS, unless otherwise agreed to, in writing, by NJSEA and L&PS.
2. Areas in Which L&PS Will Provide Representation and Advice. Except as otherwise noted below, on and after the date of execution of this MOU, L&PS will provide NJSEA with representation and advice in areas including the following areas:
 - a. the Consolidation Act and implementation thereof;
 - b. interpreting NJSEA's authorizing statutes and regulations;
 - c. the adoption and maintenance of the Master Plan, zoning and building codes and standards for the Hackensack Meadowlands, and development applications submitted to NJSEA for review and disposition in accordance therewith including any appeals of approvals and violations issued in connection with such applications;
 - d. workers compensation and second injury fund matters being managed by the Department of the Treasury, Division of Risk Management as follows:
 - i. for NJSEA employees, as of the execution of this agreement;
 - ii. for former NJMC employees, as of the expiration of the existing workers compensation insurance policy with New Jersey Manufacturers;
 - e. tort matters arising after the execution of this MOU, with the understanding that any Tort claim, judgment or settlement requiring NJSEA to pay the

claimant cannot be paid out of the New Jersey Tort Claims Fund;

- f. employment matters arising after the execution of this MOU;
- g. procurement and NJSEA contracts arising after the execution of this MOU;
- h. Open Public Records Act requests, common law right to know requests, and subpoenas to NJSEA arising after the execution of this MOU; and
- i. Other matters as may be agreed upon in writing.

3. Consultation. Requests by the NJSEA for the advice and/or representation of L&PS shall come from the NJSEA's Office of Chief Counsel or directly from NJSEA staff only after consultation with and upon the express direction of the NJSEA Office of Chief Counsel. In all matters where L&PS represents NJSEA, L&PS will communicate regularly with NJSEA to keep the agency apprised of events and activities and consult with NJSEA prior to taking any significant actions with regard to the matters. In advance of filing any pleading or motion in active litigation, L&PS will consult with NJSEA and, if requested by NJSEA, will provide drafts of the motions and pleadings prior to filing, to the extent that time permits such advance review. In no event will L&PS accept or reject any settlement offer or make any offer of settlement without NJSEA approval.
4. Payment. Payment for all services provided to NJSEA by L&PS will be made in accordance with the terms of a Client Funding Agreement to be negotiated.
5. Amendment. This MOU may be amended only by mutual consent of the parties. Any amendment shall be memorialized in writing.
6. Effective Date and Duration. This MOU shall become effective as of the date of its execution and shall continue for a period of three years, unless it is terminated earlier by one or both of the parties. Either party may terminate this MOU upon forty-five (45) days written notice to the other party.

7. Notices. Any notice given under this MOU shall be a written communication directed by one party to the other party at the following respective addresses:

NJSDA: New Jersey Sports & Exposition Authority
50 State Route 120
East Rutherford, NJ 07073
Attn: Chief Counsel

L&PS: State of New Jersey
Office of the Attorney General
Department of Law and Public Safety
Division of Law
25 Market Street
P.O. Box 112
Trenton, NJ 08625-0112
Attn: Director, Assistant Attorney General

8. Authority. By execution of this MOU, the parties represent that they are duly authorized and empowered to enter into this MOU and to perform all duties and responsibilities established herein.

9. Signatures. By execution of this MOU, the undersigned duly authorized representatives of NJSEA and L&PS hereby agree that the parties shall in good faith abide by and fulfill both the spirit and letter of this MOU.

For the State of New Jersey, Department of Law and Public Safety, Division of Law:

By: _____ Date _____

For the New Jersey Sports & Exposition Authority:

By: _____ Date _____

EXECUTIVE SESSION

RESOLUTION 2015-36

**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: June 18, 2015

RESOLUTION 2015-37

**RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR SALE OF
FORMER GOLF COURSE REDEVELOPMENT PROPERTIES WITHIN THE
MEADOWLANDS DISTRICT**

WHEREAS, as a result of litigation, approximately 718 acres of property located in Lyndhurst, Rutherford and North Arlington ("Properties"), which had been previously slated for a golf course redevelopment project, reverted to the New Jersey Meadowlands Commission ("NJMC"), nunc pro tunc, as of May 8, 2008; and

WHEREAS, on May 22, 2014, as part of a public bid process, the NJMC issued a Bid Offering Memorandum ("BOM") for the sale of the Properties; and

WHEREAS, the NJMC received two timely bid submissions on October 8, 2014; and

WHEREAS, an evaluation committee received and reviewed the proposals and made a recommendation, based on price and other factors, consistent with the BOM; and

WHEREAS, in accordance with the BOM, the committee recommended a Primary Awardee along with a Secondary Awardee that may be designated as the Primary Awardee in the event the original awardee does not close in a reasonable period of time; and

WHEREAS, effective February 5, 2015, pursuant to P.L. 2015, c. 19, the NJMC became part of the New Jersey Sports and Exposition Authority ("NJSEA"); and

WHEREAS, the NJSEA reviewed the bid submissions along with the recommendation of the evaluation committee.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the recommendation of the Evaluation Committee is accepted, which recommendation selected Kingsland Development, LLC, with a Best and Final Offer of \$42,500,000, as the Primary awardee and Valleybrook 2014, LLC, with a Best and Final Offer of \$40,000,000, as the Secondary awardee, and further that the President and CEO and his delegates are authorized to negotiate and execute an agreement for the sale of the Properties and take all necessary steps to complete the sale.

ADOPTED: June 18, 2015