

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
Group @ Route 3/Equinox 360 - Residential Development**

FILE #11-249

I. INTRODUCTION

An application for one (1) bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Larry Pantirer of Group at Route 3, LLC, for the premises identified as Block 108.04, Lot 5, located along the Route 3 East Service Road, in the Borough of East Rutherford, New Jersey. Said premises are located in the Commission's Route 3 East Redevelopment Area. The variance is sought in connection with the applicant's proposal to construct a 316-unit residential building and associated site improvements on the subject property. The proposed development includes the construction of 284 market rate units and 32 affordable units.

Specifically, the applicant is requesting relief as follows:

1. Chapter IV. Land Use Standards, Section B. Design Standards, Subsection 6. Parking, of the Route 3 East Redevelopment Plan, which requires two parking spaces per dwelling unit. The applicant proposes to provide a total of 560 parking spaces, whereas 632 total parking spaces are required.

A public hearing was held in the Office of the Commission on Tuesday, November 22, 2011. 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 property in question is located along the Route 3 East Service Road in the Borough of East Rutherford, New Jersey. The majority of the 32-acre site contains wetland areas adjacent to Berry's Creek, which runs along the property's southerly boundary. The property is also bounded to the east by the New Jersey Turnpike entrance ramp at Interchange 16W and to the west by a vacant parcel identified as Block 108.04, Lot 4, recently rezoned by the NJMC to Planned Residential. Surrounding uses further east along the Route 3 East Service Road corridor include hotel and office development. The site is also proximate to, although not easily accessible from, the New Jersey Sports and Exposition Authority Meadowlands Sports Complex to the north, across Route 3.

This application proposes a six-story, 316-unit multi-family residential development on 4.25 upland acres, consisting of four residential levels above two levels of parking. Approximately 3,200 square feet of accessory retail space for the convenience of the residents is also proposed. The applicant previously received zoning approval from the NJMC consisting of a 614-unit, 20-story residential development in May 2005 on the site, with a compliant 1,228 parking spaces. Site preparation work commenced on the 4.25 acres of uplands at the site, but building construction did not begin. This application does not propose to expand the existing limit of disturbance established in the prior approval.

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 (November 22, 2011)

A public hearing was held on Tuesday, November 22, 2011. NJMC staff in attendance were Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; and Mia Petrou, P.P., AICP, Senior Planner.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	Floor plan entitled "Lobby Level Plan," Sheet A1.1, prepared by Lessard Design, Inc., dated 09/19/2011.
A-2	Floor plan entitled "Upper Garage Level Plan," Sheet A1.2, prepared by Lessard Design, Inc., dated 09/19/2011.
A-3	Floor plan entitled "Plaza Level Plan," Sheet A1.3, prepared by Lessard Design, Inc., dated 09/19/2011.
A-4	Elevation plan entitled "North Elevation," Sheet A2.1, prepared by Lessard Design, Inc., dated 09/19/2011.
A-5	Planning summary entitled "Parking Variance for Equinox 360," prepared by Peter G. Steck, P.P., dated 11/22/2011.
A-6	Plan entitled "Cover Sheet," Sheet CS-1, prepared by Matthew Greco, P.E., McNally Engineering, Inc., dated 05/02/2011, revised through 10/18/2011.
A-7	Plan entitled "Site Plan," Sheet SP-1, prepared by Matthew Greco, P.E., McNally Engineering, Inc., dated 05/02/2011, revised through 10/18/2011.

B. Testimony

Francis X. Regan, Esq., of DeCotiis Fitzpatrick & Cole, LLP, represented Group at Route 3, LLC at the hearing. The following witnesses testified in support of the application:

1. Christian Lessard, Lessard Design, Inc.;
2. Matthew Greco, P.E., McNally Engineering, LLC;
3. Brian Intindola, P.E., Neglia Engineering Associates; and
4. Peter G. Steck, P.P.

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

C. Public Comment

No comments were submitted at the public hearing.

IV. RECOMMENDATION

A. Standards for the Granting of a Bulk Variance from the Provisions of Chapter IV. Land Use Standards, Section B. Design Standards, Subsection 6. Parking, of the Route 3 East Redevelopment Plan, which requires two parking spaces per dwelling unit. The applicant proposes to provide a total of 560 parking spaces, whereas 632 total parking spaces are required.

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

1. *Concerning bulk variances:*

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

The requested variance to permit 560 parking spaces for the proposed residential development, whereas 632 spaces are required, arises from conditions that are unique to the site.

The subject premises consists of approximately 32 acres and contains frontage on the Route 3 East Service Road. The property is currently vacant. Berry's Creek is located along the southerly property line, and the site is encumbered by wetlands located on the majority of the property. This results in less available area for development and less flexibility in the placement of site improvements, including parking. Approximately 4.25 acres of the 32-acre site consists of developable upland area. The applicant has addressed these constraints by incorporating two levels of structured parking within the building footprint below the residential units.

A parcel zoned for redevelopment, but containing environmental constraints that render approximately 87 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 applicant requests a variance to construct 560 parking spaces for the proposed 316-unit residential development, whereas 632 parking spaces are required in accordance with the Route 3 East Redevelopment Plan.

The neighboring properties consist of vacant land to the south and west and heavily-traveled regional rights-of-way to the north and east. There are no available off-site locations on neighboring properties or within rights-of-way where parking for residents or visitors to the subject development can occur.

There are no improvements planned on the subject premises that would prevent the ability of neighboring properties to function as intended. Parking for visitors must be accommodated on the subject site within the parking levels of the residential building so that an "overflow" situation does not occur. This can be accomplished through modification of the parking calculation requirements as a condition of the variance. Such a condition requiring the dedication of a specific number of visitor parking spaces, in addition to spaces assigned to individual units, will help ensure that visitors to the site will not park illegally within the Route 3 East Service Road right-of-way.

At the public hearing, the applicant was amenable to the suggestion of the preparation of a parking management plan to ensure that the proposed parking is allotted to residents and

tenants in a manner sufficient to support the proposed development. Therefore, with the conditions that a parking management plan be prepared by the applicant to manage, through leasing and other methods, and monitor parking on the site, and the parking calculation requirements be modified, 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 of the Route 3 East Redevelopment Plan would require 632 parking spaces for the proposed 316-unit residential development, whereas 560 parking spaces are proposed.

The strict application of the parking requirements of the redevelopment plan would obligate the applicant to utilize a ratio of two parking spaces per residential unit. With 560 parking spaces proposed, the maximum number of units for the development would be limited to 280. On the contrary, to maintain a 316-unit residential development, an additional 72 parking spaces would be required to be constructed on the project site.

However, nearly 87 percent of the subject lot is encumbered with undevelopable environmentally sensitive areas, creating practical difficulties in accommodating required parking. Only 4.25 acres of the 32-acre site consists of developable upland area, while the

remainder is wetlands. Due to these environmental constraints, the proposed project cannot maximize the development potential of the lot, resulting in 8.4 percent lot coverage, whereas a maximum of 40 percent is permitted, and a density of 9.79 units per acre, whereas 20 units per acre are permitted. In addition, the proposed development provides 86.9 percent open space, while 35 percent open space is required. This project does not represent overdevelopment of the site; but rather, there are significant lot constraints that present practical difficulties in development of the property.

A large concern in this instance is the adequacy of the parking ratio, as proposed at 1.77 spaces per unit, as it relates to the ability of the subject development to provide visitor parking to the degree necessary so that an "overflow" situation does not occur. There is no potential for off-site parking.

In order to address concerns regarding the parking ratio with respect to the number of visitor spaces, the project's composition is detailed in the following paragraph.

The bedroom distribution of the subject development is relatively evenly split between one-bedroom (50 percent) and two-bedroom (48 percent) units, whereas the three-bedroom units, which are proposed to be designated as affordable units, constitute only two percent of the number of proposed units. During testimony, the applicant proposed that one parking space would be assigned to each one-bedroom unit and two parking spaces would be assigned to each two-bedroom and three-bedroom unit, implying that a higher

bedroom count necessitates the need for more parking. Therefore, as the applicant proposes a limited number of parking spaces, the NJMC staff recommends that approval of this variance be conditioned upon maintaining the bedroom mix as proposed. The applicant's engineer testified that the proposed overall parking ratio of 1.77 parking spaces per unit is adequate for the proposed residential development.

The following table details the bedroom distribution and related parking proposed to be provided by the applicant:

Table 1. Proposed Parking

Unit Type	Number of Units	Provided Parking	Number of Spaces
Market 1BR	152	1 space/unit	152
Market 2BR	132	2 spaces/unit	264
Affordable 1BR	6	1 space/unit	6
Affordable 2BR	19	2 spaces/unit	38
Affordable 3BR	7	2 spaces/unit	14
Visitor Parking		remaining spaces*	86
TOTAL	316		560

**although the proposed plans allocate 86 guest parking spaces for visitors, the applicant stated during testimony that remaining parking spaces may be assigned to visitors and/or leased as additional parking to residents.*

The applicant's traffic engineer also testified that Census data for households in the Borough of East Rutherford indicated a parking ratio of approximately 1.4 parking spaces per household. He further stated that recent developments approved by the NJMC were approved with a reduced parking requirement, including the recently proposed Chubb Avenue residential development in Lyndhurst with a parking rate of 1 space per affordable unit, 1.5 spaces per market rate unit and 1 visitor space per 4 market rate

units (as conditionally approved by variance from N.J.A.C. 19:4-8.4(a)27), and the Avalon Lyndhurst development with a parking rate of 1.71 spaces per unit, although the redevelopment plan for Avalon Lyndhurst permits 1.5 spaces per unit. The applicant's traffic engineer also provided information on parking ratios for other developments outside of the Meadowlands District, which are currently under construction, with parking rates of 1.5 spaces per unit. However, no comparable data regarding parking at other isolated highway-oriented residential developments was provided for evaluation.

As mentioned previously, the subject residential development is located on a highway service road and is remote from the residential portion of the municipality. However, other residential developments approved by the NJMC with a parking ratio of less than two spaces per unit are not located on or oriented toward highways to this degree, and afford access to both mass transit opportunities and on-street parking. The general housing characteristics of the Borough of East Rutherford are residences in walkable neighborhood communities, predominantly single-family/duplex residential gridded street neighborhoods, where on-street parking and multiple mass transit opportunities are readily available.

The applicant's plans indicate the location of a transit stop along the Route 3 East Service Road to accommodate future transit potential; however, the details of such service have yet to be provided. While transit from the site to New York City and other eastbound destinations can feasibly occur, access to a return trip

that would directly service the site is significantly hampered due to the lack of a feasible physical connection to a proximate point on westbound Route 3. Construction of a physical connection, such as a pedestrian bridge, would be impractical. However, the applicant stated that access to transit will be provided via shuttle service from the proposed development to the Secaucus Transfer Station, and that a shuttle could also service westbound return trips.

Therefore, in evaluating the record in its totality, it becomes apparent that some modification to the parking standards applicable to the development, as well as certain conditions regarding the composition of the project, are merited.

It is recommended that the applicant provide a minimum of one parking space per affordable unit, as is applicable to all other affordable units in the Meadowlands District that were approved after July 24, 2008. It is further recommended that a minimum parking requirement of 1.5 parking spaces per market rate unit shall apply. The difference between the proposed total of 560 parking spaces on the site and the number of required parking spaces calculated with the ratios listed above, shall be the number of parking spaces required to be reserved for visitors. In the event that the number of residential units decreases, in order to provide sufficient parking spaces for visitors to prevent an "overflow" situation, the number of reserved visitor spaces shall not be less than 35 percent of the total number of market-rate units in the development. As the development proposes 560 parking spaces for a 316-unit development, a total of 102 parking spaces shall be reserved for visitors. The assignment of parking spaces to tenants

shall be the responsibility of the applicant. These modifications may result in an adjustment to the project's bedroom distribution, number of units, and/or building design, depending on how the applicant chooses to address the conditions.

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

Due to the project's location on an isolated highway service road, there is no possibility for off-site parking to service the proposed project. Thus, in order to ensure the public safety, health, morals, order, convenience and general welfare, it is recommended that the applicant prepare and submit a parking management plan to address the methodology for the assignment and control of parking spaces for individual units and the allocation of visitor parking spaces. The plan shall address how on-site parking will be monitored and controlled to ensure adequate parking is available for visitors and tenants.

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

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

The proposed parking is located on the upland portion of the site and is incorporated into the building design, located in two levels

of parking structure below the residential units, and, therefore, will not impact the environment and surrounding wetland areas. 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 redevelopment plan for the subject property requires that two parking spaces per unit shall be provided for residential development, resulting in a total parking requirement of 632 parking spaces. The applicant proposes to construct 560 parking spaces for the 316-unit development, of which 32 units are proposed to be affordable. The total parking provided results in a net ratio of 1.77 spaces per unit, inclusive of visitor parking. Based on the parking analysis conducted herein, it is recommended that a modified parking requirement be applied to the proposed development.

The NJMC staff recommends that a modified parking requirement for this development be approved using the following calculation: a minimum of one parking space per affordable unit and a minimum of 1.5 parking spaces per market rate unit, resulting in a total of 458 parking spaces assigned to the residential units. The remaining 102 parking spaces within the 560 spaces provided shall be reserved for visitors. The number of visitor spaces may potentially be reduced pending the results of a year-long parking study, but may not be reduced to less than 25 percent of total number of market rate units in the development.

A parking management plan, which includes the monitoring and control of tenant and visitor parking, will ensure that adequate parking is available, as no off-site parking “overflow” is possible due to the property’s relatively isolated location on the Route 3 East Service Road. In order to accommodate the residents of a development with limited parking space availability, the applicant will also need to provide an ongoing direct connection to mass transit opportunities. The applicant shall either institute private shuttle service or contract with an outside shuttle service, such as Meadowlink, to provide shuttle service to mass transit opportunities.

Potential locations for additional onsite parking are severely limited due to site constraints, including the presence of wetlands. Lot coverage and floor area are not maximized at the site, and more open space than the minimum required is provided. Therefore, a variance subject to the conditions in this recommendation 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 fewer than two parking spaces per unit will not substantially impair the intent and purpose of the NJMC’s zoning regulations.

The project provides for the orderly and comprehensive development of the subject site and proposes a use permitted by the redevelopment plan. The project does not propose to expand the existing limit of disturbance beyond the 4.25 acres of upland area. The proposed variance to provide fewer parking spaces than required will result in no further encroachment into sensitive wetland areas.

The intent of the NJMC's parking requirements is to estimate parking demand based on a particular use, in anticipation of the needs of occupants, employees, or patrons of such use. To that end, sufficient parking needs to be provided for the residents of the proposed development and for their visitors taking into consideration the project's isolated location along the Route 3 East Service Road. With the conditions of this recommendation, including a modified parking requirement, the provision of a shuttle to mass transit opportunities, a parking management plan, and certain conditions regarding the composition of the project, sufficient parking for the residential development will be ensured.

A modified parking variance subject to the conditions in this recommendation promotes the intent and purpose of the Route 3 East Redevelopment Plan and the NJMC District Zoning Regulations to promote development in accordance with good planning principles that relate the type, design and layout of such development to both the particular site and surrounding environs.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of Chapter IV. Land Use Standards, Section B. Design Standards, Subsection 6. Parking, of the Route 3 East Redevelopment Plan, which requires two parking spaces per dwelling unit. The applicant proposes to provide a total of 560 parking spaces, whereas 632 total parking spaces are required.

Based on the record in this matter, the bulk variance application to permit 560 parking spaces, whereas 632 total parking spaces are required, is hereby recommended for modified approval with the following conditions:

1. The residential development shall include a minimum of 152 one-bedroom market rate units and a maximum of 132 two-bedroom market rate units. The development shall not exceed 316 residential units.
2. The number of parking spaces required for the development shall be modified and determined as follows: a minimum of one parking space shall be provided per affordable unit, a minimum of 1.5 parking spaces shall be provided per market rate unit, and the remaining 102 parking spaces of the 560 spaces proposed shall be reserved for visitors and may not be assigned to any particular unit. In the event that the number of residential units in the development decreases, the minimum number of visitors spaces required shall equal 35 percent of the total number of market rate units in the development.
3. The applicant shall submit a parking management plan for the residential development that addresses the methodology for the assignment and control of 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 residents. The plan shall be submitted to the

NJMC for review and approval prior to the issuance of a zoning certificate for the development.

4. Upon build-out and 85 percent occupancy of the development, the applicant may prepare a parking study analyzing data collected over a period of one full year. The parameters of the parking study shall be approved by the NJMC prior to the start of the study. If supported by the results of the parking study, the visitor parking allocation may be reduced by the NJMC Chief Engineer, but may not be reduced to less than 25 percent of total number of market rate units. The remaining spaces may then be available for assignment to residents.
5. To justify their requested variance for a reduction in the NJMC's residential parking requirements, the applicant contends that they will provide for residents private shuttle service to mass transit opportunities in the area. In order to accommodate residents of a facility with limited parking space availability, the applicant shall provide an ongoing direct connection to such mass transit opportunities, including local commuter rail stations and NJ Transit bus stops. The applicant shall either institute their own independent shuttle service or contract with an outside shuttle service, such as Meadowlink. The applicant shall provide the NJMC with a plan, prior to the issuance of any occupancy approvals, indicating how they intend to provide a continual shuttle service.

MODIFIED
CONDITIONAL
APPROVAL

2-3-12



Recommendation On

Date

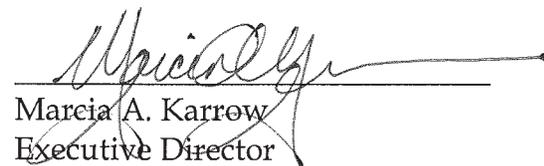
Sara J. Sundell, P.E., P.P.

Variance Request
*modified
conditional*

Director of Land Use Management

Approval

2/6/12



Recommendation On

Date

Marcia A. Karrow

Variance Request

Executive Director