



Board Meeting

Thursday, April 11, 2019

10:00 a.m.



**AGENDA  
REGULAR SESSION**

Thursday, April 11, 2019 - 10:00 a.m.  
Two DeKorte Park Plaza, Lyndhurst, NJ

I. **PLEDGE OF ALLEGIANCE**

II. **OPENING STATEMENT**

III. **ROLL CALL**

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

- Approval of Regular Session Meeting Minutes of March 21, 2019.

V. **PUBLIC PARTICIPATION ON RESOLUTIONS**

VI. **APPROVALS** – (Action)

Cash Disbursements Approval and/or Ratification of Cash Disbursements over \$100,000 for March 2019.

Resolution 2019-13 Consideration of a Resolution Authorizing Staff to Investigate the Redevelopment Potential of Property Identified as Block 3101, Lots 21-26, 29-32, 36, 37, 42-44; Block 7402, Lots 21-24, 33-35, in Jersey City – File No. SP-764.

Resolution 2019-14 Consideration of a Resolution Issuing a Decision on the Variance Application Submitted as Part of File No. 17-326 Galaxy Holdings/Lyndhurst Storage LLC – New Bldg. & Variances – Block 226, Lot 2, in Lyndhurst.

VII. **AWARDS/CONTRACTS**

Resolution 2019-15 Consideration of a Resolution Authorizing the President and CEO to Enter Into a Contract for Replacement of 5 kV Automatic Switchgear for the Stormwater Pump Station at the Meadowlands Sports Complex.

Resolution 2019-16 Consideration of a Resolution Authorizing the President and CEO to Enter Into a Contract with Emilcott Environmental, Health & Safety Experts for Hydrogen Sulfide Monitoring Services at the Keegan Landfill.

VIII. **PUBLIC PARTICIPATION**

IX. **EXECUTIVE SESSION**

Resolution 2019-17 Consideration of a Resolution Authorizing the New Jersey Sports and Exposition Authority to conduct a meeting, to which the general public shall not be admitted for the purposes of discussing legal matters, personnel matters and contract negotiations.

X. **MOTION TO ADJOURN**

# MINUTES



## REGULAR SESSION BOARD MEETING

DATE: March 21, 2019  
TIME: 10:00 a.m.  
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ  
RE: REGULAR SESSION MEETING MINUTES

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### Members in Attendance:

John Ballantyne, Chairman  
Joseph Buckelew, Vice Chairman (via phone)  
Vincent Prieto, President and CEO  
Robert J. Dowd, Member  
Armando Fontoura, Member (excused at 1:40 p.m.)  
Michael H. Gluck, Esq., Member (via phone)  
Michael Griffin, NJ State Treasurer's Representative (via phone) (excused at 12:50 p.m.)  
George Kolber, Member  
Steven Plofker, Member  
Andrew Scala, Member  
Anthony Scardino, Member  
Robert Yudin, Member

### Absent:

Michael Gonnelli, Member

### Also Attending:

Frank Leanza, Senior Vice President/ Chief of Legal and Regulatory Affairs  
Christine Sanz, Senior Vice President/COO  
Adam Levy, Vice President of Legal & Regulatory Affairs  
John Yarenis, Director of Finance/CFO  
Sara Sundell, Director of Land Use Management and Chief Engineer  
Steven Cattuna, Chief of Staff  
Thomas Marturano, Director of Solid Waste  
Lisa LeBoeuf, Senior Legal Specialist  
Lauren LaRusso, Assistant Counsel, Governor's Authorities Unit  
Christine Ferrante, Executive Assistant/Paralegal

Chairman Ballantyne called the meeting to order.

- I. Pledge of Allegiance
- II. Opening Statement - Chairman Ballantyne read the Notice of Meeting required under the Sunshine Law.
- III. Roll Call

#### IV. APPROVAL OF MINUTES

Chairman Ballantyne presented the minutes of the Regular Session Board Meeting held on January 17, 2019.

Upon motion made by Commissioner Fontoura and seconded by Commissioner Dowd, the minutes of the Regular Session Board Meeting held on January 17, 2019 were unanimously approved.

Chairman Ballantyne welcomed and thanked the residents of Kearny for attending the Board meeting. The Chairman stated that the board understands why many are here and looks forward to hearing comments, concerns and input with regard to the Keegan Landfill and the Administrative Consent Order on today's agenda.

Chairman Ballantyne indicated that the Board understands that Kearny residents have rightly been concerned with the recent odor complaints being made in the area of the Keegan Landfill. He also made clear that NJSEA is likewise concerned. The Chairman stated that when this issue was raised, the agency began cooperating with the NJDEP to determine if, in fact, the Keegan Landfill was the source of the reported odors. Chairman Ballantyne explained that following numerous inspections and investigations, the NJDEP determined that hydrogen sulfide levels exceeding NJDEP standards were detected and that this is the likely source of at least some of the reported odor issues. The Chairman further explained why this issue is occurring now; the agency learned that under certain conditions, and particularly in light of last year's heavy volume of rainfall, the decomposition of certain types of construction and demolition material accepted at the landfill can generate high levels of hydrogen sulfide gas resulting in odor issues at the landfill. In response, the Authority worked with DEP to investigate the odors, which resulted in the Administrative Consent Order that the Board will be voting on today, which details the DEP's findings along with the compliance efforts that the Authority will be required to undertake.

Chairman Ballantyne believes that the agreement is the right way to address the problem and insure that the Keegan Landfill is operated properly going forward. The Chairman stated that the Board is making a commitment to the residents of Kearny that it will do everything in its power to remedy the problem, and that it will honor this agreement in both the letter and spirit of the law.

President Prieto went through some of the specifics of the DEP Administrative Consent Order (ACO) to give everyone a better understanding of the immediate action that the Board would be taking. The President explained that the ACO contains a strict compliance schedule to establish monitoring and implement a fix. By April 1 of this year, the NJSEA will submit a monitoring plan to the NJDEP to install air monitors that will sample 24 hours per day / 7 days per week. This plan will include specific actions that the NJSEA will take to control and/or mitigate the emissions of hydrogen sulfide. Furthermore, the ACO requires that the NJSEA take immediate measures to return the site to compliance and, ultimately, orders that the NJSEA take all measures necessary to control or eliminate the offending emissions. President Prieto further explained that under the ACO, the immediate measures that the NJSEA will undertake to control hydrogen sulfide emissions and related odors include: 1) Minimize or eliminate the acceptance of C&D waste which contains gypsum wallboard, especially

gypsum fines; 2) Evaluate the use of additional or alternative cover material and/or cover products; 3) Properly compact daily cover material; and 4) Minimize the surface area of the working face of the landfill. President Prieto made it clear that the Board takes the responsibility very seriously and is fully committed to meeting all of the schedules and compliance requirements contained in the ACO.

President Prieto announced, for the purpose of transparency, a page on the NJSEA website will be devoted to keeping the public updated on the progress of the ACO.

#### IV. PUBLIC PARTICIPATING ON RESOLUTIONS

The following people spoke on Resolution 2019-05:

- Cristina Montague, resident of Kearny – Ms. Montague stated that over the past year residents of Kearny have been suffering as a result of the noxious odors emanating from the Keegan landfill. She stated that there has been a detrimental impact on the community and quality of life has deteriorated significantly. She further stated that the residents are unable to open their windows, many complaining of headaches and respiratory issues as a result of the odors. Ms. Montague spoke of a child who wrote an article for the town paper on how she has to hold her breath as she walks to school. Ms. Montague asked if the board members would tolerate this in their own communities. She guarantees it would not be business as usual. She further stated that what has happened to the community is a great injustice and has become an unbearable situation and that it must end now. She stated that the agency makes a profit from the landfill and is the agency's responsibility to ensure actions are not impacting the residents or their community. She stated that the agency has done nothing to assure their residents are safe. Ms. Montague indicated that Kearny has had to take matters into their own hands by purchasing our own equipment to monitor their air quality and that the readings speak for themselves. She stated that the operation should not be near residents, schools or recreational fields. She indicated that they will continue to raise their voices until the landfill is shut down for good. Ms. Montague presented to the Board a petition with 3,341 signatures from Kearny residents to shut down the landfill.
- Alberto Santos, Mayor of Kearny – Spoke of his concerns with the DEP inspection reports and the high level readings from Kearny's own air monitor. He also spoke of the residents, schools and recreation fields that are in close proximity to the landfill. Mayor Santos expressed his outrage that the only reason the landfill continues to operate is because of the approximate \$25 million it generates. The mayor asked that after listening to everyone today the Board will have a better understanding of what residents of Kearny are going through and will do the right thing and close the landfill.

President Prieto stated that he feels the mayor's frustration and indicated that actions have been taken to rectify the DEP violations mentioned. President Prieto also stated that the ACO is a start in rectifying the problem.

- Councilwoman Carol Jean Doyle, resident of Kearny – spoke of her recollection of a conversation many years ago with former HMDC Exec. Dir. Scardino regarding opening the landfill. Commissioner Scardino did not recall the conversation. Councilwoman Doyle indicated that she is the voice of those who could not attend. She also explained that she has been a resident for 50 years and how this is the lowest point for the Town. She also stated that the landfill is a life issue and should be closed down.
- Eileen Verdi, Kearny resident – Ms. Verdi has been a resident for 50 years. She spoke of her concern with the height of the landfill, the smells, flooding and health issues with animals and children. She demanded to have landfill closed and to follow the money.

Chairman Ballantyne explained that the board of commissioners is doing everything within its power to remedy the matter. He also explained that board members are volunteers and receive no money and the only one paid is the President.

- Arthur Jackson, Kearny resident – spoke of health issues that may be related to landfill. He also spoke of decrease in home values.
- Jason Pedraza, Kearny resident of three years – spoke of the odors creeping more and more into the town. Also spoke of his newborn son's health issue and doctor's suggestion that he live in a place with good air quality. Mr. Pedraza asked the board to empathize with the Town of Kearny.
- Nick Kintos, Kearny Resident – Spoke of the odors that can smelled from his home as coming and going in the mornings and evenings. He also spoke of the past few summers having an increase of flies and mosquitos. He stated that the focus should not only be on hydrogen sulfide but also other things coming from landfill. Mr. Kintos would like the board to consider closing the landfill.
- John Downey, Kearny resident – Stated that NJSEA should not be in the business of running a landfill. Mr. Downey demanded the landfill be closed.

Chairman Ballantyne noted that NJSEA has professional engineers and staff working with regulatory agencies to make sure the landfill is in compliance.

- Councilwoman Eileen Eckel, Kearny resident – spoke of Kearny's diverse community with a lot to offer. The Councilwoman also spoke on how they were promised that the landfill would be closed and capped to become green space. She also asked that the Board to think about the perception of money in their pockets and the legacy they want to leave behind. She also expressed how Kearny has put their trust in the agency and is counting on the Board to do the right thing.
- Linda McGaughan, Kearny resident. Spoke of her concern with the strong odor as she drives to work past the landfill and how nauseous she becomes. She asked that the Board look into what is being dumped on Monday that causes the stench on Tuesday mornings. She also spoke about how this may affect the health of children. She asked that the landfill be closed.
- Councilman Albino Cardoso, Kearny resident. Spoke how he was on the zoning board when the agency was re-opening the landfill and that they were promised to have recreation fields in the end. He also spoke of his

concern with the height of the landfill and the odor smelled even far away from the landfill. He asked that the landfill be closed.

- Lyla DeCastro, Kearny resident. Spoke of her concern with the impact the landfill has on the community, children and health of everyone.
- James Montague, Kearny resident. Spoke of how people of Kearny are suffering in the community. He also spoke of the difficulty reporting odors to officials with wind shifts.

Chairman Ballantyne indicated that with the ACO there will be 24/7 air monitoring at the site making sure the agency is in compliance.

- Michael Fernandez, Kearny resident. Spoke as a father of four and of his concern with not only the odor but health issues from the landfill. He asked that the board does not pass the resolution and to close the landfill.
- Cathy DeRay, Kearny resident. Spoke of her concern with the odor in her home. Ms. DeRay also spoke of her headaches and nose bleeds. She also spoke of real estate values declining because of the smells from the landfill. She asked for the landfill to be closed.
- Barbara Goldberg, Kearny resident. Asked the Board what they would do if this was in their towns.
- Deborah Garcia, Kearny resident. Spoke of her and her son's health issues. She asked that the board consider what this is doing to the Town of Kearny. She also spoke of driving past the landfill at night and how the smell is still there at 10:30 p.m.
- Toni Fenker, Kearny resident. Spoke of odor for the past year and half in her home and her mother's home, which is on the other side of town. She also spoke of how the school she works in they are unable to open the windows on warm days due to the noxious odor. She also expressed her concern that it is also a soil contamination issue, not just odor.
- Emily Pinto, Kearny resident. Spoke that the Consent Order is not enough. She also spoke of her child's health issue. Ms. Pinto invited board members to her home to experience the odors firsthand. She asked that the board hold a special meeting to suspend operations until the matter is thoroughly investigated. She also asked that board work with the Town to restore their trust.

President Prieto explained the landfill has been opened since 2009. He also explained that as previously stated, it is believed that the odor may be due to high precipitation this year in combination of the acceptance gypsum wallboard. President Prieto stated that the agency is no longer taking that material at the landfill. He also explained the agency is here to find out the source of the odor so that it can be rectified. President Prieto indicated that as of December 31 he has made the site accessible to authorities 24/7.

- Santo Merilo, Kearny resident. Spoke of his concerns regarding the reasons for the odors, the height of the landfill, the water table, the candy cane venting and the leachate system. Mr. Marturano, NJSEA Director of Solid Waste, explained how a landfill works and answered Mr. Merilo's questions regarding his concerns.
- Len Twist, Kearny resident. Spoke of his concern with the health issues he sees with the feral cat community that he cares for. He asked that the landfill be closed not only for cats but for the people and children.

- Paula Cavalier, Kearny resident. Spoke of her concerns with the quality of life due to the odor coming from the landfill and also the loss of house values. She expressed that the \$2,500 fine from DEP is a joke. Ms. Cavalier pleaded for the landfill to be closed now as the agency deals with the cause.
- Councilwoman Susan McCurrie, Kearny resident. Spoke of the lack of trust the public has in the system. The Councilwoman asked for an independent monitor. She also spoke of the height of the landfill and slurry wall.
- Angela Azevedo, Harrison resident. Spoke of her concern with the rotten egg odor smelled in Harrison. She also spoke of her children's respiratory issues when odors are in the air. She asked that the landfill be closed.
- Randi Shu, Harrison resident. Spoke of his concerns with the odor in the late evening and early morning. He asked that the landfill be closed.
- John King and grandson, Kearny residents. Spoke of his concern with the poisonous/toxic gases – not odors. Mr. King is there fighting for the kids.
- Alberto Monllor, Kearny resident. Spoke of his concern with the smell being all over, Kearny, Harrison and Belleville. He also spoke of his and his wife's health issues and the risk the landfill may have to others. Mr. Monllor asked that the landfill be closed.
- Adam Ginsberg, Kearny resident. Asked about possibility of independent monitoring.

President Prieto replied that he will be looking into an independent monitor and will reach out to Councilwoman McCurrie.

Mr. Ginsberg expressed that he does not believe that the Board feels the urgency of the matter. He recommended that the resolution be amended. Chairman Ballantyne made it clear that the Board is very concerned. Commissioner Plofker stated that this is a serious issue and hears everyone and that the issue needs to be addressed.

- Councilman Peter Santana, Kearny resident. Spoke of his concern with the terrible smell since last year and why it hasn't been addressed. His concern is for the community and his pregnant wife. He stressed that this is a serious problem. He asked that the resolution be amended to suspend operation of the landfill. Councilman Santana also spoke about the height of the landfill.
- Cristina Montague, Kearny resident spoke again. She stated that stopping the taking of gypsum is not going resolve the problem. She indicated that according to the ACO it appears the remedy is the gas capturing system, if gypsum is the problem. She does not understand why the need to continue to monitoring.

Mr. Marturano explained that per the ACO, the monitoring is needed to pinpoint the locations for the gas capturing system.

- Marytrine DeCastro – Kearny resident. Asks that the Board to hear their voices. Ms. DeCastro spoke of her concerns as a health provider. She stated that the odors are toxic gases being released and not just an odor. She asked if it is because of the money that the landfill is not being shut down.

Commissioner Dowd stated that after listening to everyone who spoke, he found the matter to be very concerning and feels that no one should have to live with the odors/pollution. He spoke how the ACO and the steps that need to be taken are a first step to rectify the issue.

- Anita Rodrigues, Kearny resident. Spoke of her concerns with the opening of the landfill in 2008. She stated that the reopening of the landfill was about the money and a slight to Kearny residents. She also questioned why monitoring systems were not put into place back in 2008. Ms. Rodrigues spoke of the respiratory issues of family members. She asked that the landfill operation be suspended and that the Board becomes proactive instead of reactive.
- Bill Sheehan, Hackensack Riverkeeper, spoke in favor of Resolution 2019-07. Captain Sheehan was thankful that the NJSEA has chosen to take over the redevelopment of the area. His concern is that a large portion of the site is wetlands and asks that whoever comes in to develop the site also take care of the wetlands correctly.
- James P. Rhatican, Hartz Mountain spoke against Resolution 2019-07. Mr. Rhatican indicated that he sent a letter to Ms. Sundell on February 20, 2019 with substantive reasons for the objection. Mr. Rhatican stated that there is no formal project application to be considered a vital project and that the minor site improvement is ultimately not a project.

## VI. APPROVALS

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

Vice Chairman Buckelew presented the report of cash disbursements over \$100,000 and Professional Invoices for the months of January and February 2019.

Upon motion by Commissioner Scala and seconded by Commissioner Plofker, the cash disbursements over \$100,000 for the months of January and February 2019 were unanimously approved.

Resolution 2019-05 Resolution Authorizing Execution of an Administrative Consent Order (ACO) between NJSEA and NJDEP to Pay Penalties Related to NJDEP's Finding of Violations at Keegan Landfill Including, Among Others, Emission of hydrogen Sulfide Gas at Levels above Established NJDEP Standards and Ordering NJSEA to Take Remedial Action to Achieve Compliance, including the Control or Elimination of emission Exceedances.

Commissioner Kolber stated that he shares the concerns of the residents. He also stated that the threats of investigations and accusations from the public accusing members of the board of taking money are not a way to reach the ultimate goal. He went on to say that being an unpaid public servant on the board, he has had to make many decisions in the best interest of the people of New Jersey and for the

Meadowlands District. Commissioner Kolber further stated that the resolution is a first step and that working together the issue can be resolved.

Commissioner Fontoura stated that he and his wife are very familiar with Kearny. He spoke about a recent visit with his wife and how they did smell the strong odor. The Commissioner acknowledged that the agency needs to immediately improve upon and be vigilant with the monitoring and what is being dumped at the site. He stated that now there is a need to act responsibly. He explained that the landfill fills a need for the State and it is the agency's responsibility to see that it is run properly. He also explained that when the time comes to find an alternative for the landfill, he will work diligently with everyone and lobby for that. Commissioner Fontoura went on to speak of his great respect for the mayor.

Commissioner Plofker stated that he is in favor of the resolution and that it is the next necessary step, but by no means the final step. Commissioner went on to say that he heard all the comments and takes the matter very seriously. He also stated that he understands how important this issue is to everyone.

Commissioner Yudin stated that he had heard everything that was said and sympathizes. He explained that he did resent the accusations and personal attacks on the board members, but would not allow that to get in the way of making a sound decision. Commissioner Yudin indicated that the resolution is a good first step and how it would start the process to alleviate and solve the Town's valid concerns.

Chairman Ballantyne presented Resolution 2019-05. Upon motion made by Commissioner Yudin and seconded by Commissioner Plofker Resolution 2019-05 was unanimously approved by a vote of 11-0.

#### Roll Call – Resolution 2019-05

|                  |              |
|------------------|--------------|
| John Ballantyne  | Yes          |
| Joseph Buckelew  | Yes          |
| Vincent Prieto   | Yes          |
| Robert J. Dowd   | Yes          |
| Armando Fontoura | Yes          |
| Michael H. Gluck | Yes          |
| Michael Griffin  | -- (excused) |
| George Kolber    | Yes          |
| Steven Plofker   | Yes          |
| Andrew Scala     | Yes          |
| Anthony Scardino | Yes          |
| Robert Yudin     | Yes          |

#### Resolution 2019-06

Resolution Issuing a Decision on the Suitability Recommendation as Required by the NJSEA Interim Policies Governing Affordable Housing Development in the Meadowlands District – File No. 18-442, 1099 Wall Street Venture, LLC/New building (Hotel) & Variances, Block 228, Lots 1.01 and 1.02 in the Township of Lyndhurst.

Ms. Sundell explained that BDG Hotels at Lyndhurst, LLC submitted a zoning certificate application proposing the construction of a 128-room hotel on Wall Street West in Lyndhurst. The subject site is comprised of two lots located in the District's Commercial Park zone and currently contains a three-story office building, which is proposed to remain, a large parking lot, which is the location of the proposed hotel, and a small bank building, which is proposed to be demolished. She further explained that uses on neighboring properties include offices and institutions, with warehouse and industrial uses located further within the Lyndhurst Corporate Park. Ms. Sundell indicated that while there are three existing residential developments in the area, all of these developments are located along the edges of the Lyndhurst Corporate Park and have some type of buffer along the majority of sides, including open space, creeks and ditches, and highway ramps, where they are not located directly adjacent to industrial and commercial uses. Ms. Sundell stated that in accordance with the Interim Policies, Staff evaluated the site and prepared a suitability review indicating that the subject property at 1099 and 1201 Wall Street West is recommended to be deemed unsuitable for housing. She also stated that the existing office building to remain on-site precludes the construction of a residential structure on the property, as a reasonable separation distance and appropriate buffering between the different uses cannot be provided. Ms. Sundell explained that other reasons for the staff's recommendation include factors associated with the warehouse and distribution businesses in the vicinity of the subject site that are potentially detrimental to residents, such as significant truck traffic, noise and, pollution on the adjacent roadways, which would present challenges with respect to the circulation, safety, and quality of life of residents. Ms. Sundell stated that staff requests that the Board concur with the Review Team's recommendation that the subject property be deemed not suitable for residential use.

Chairman Ballantyne presented Resolution 2019-06. Upon motion made by Commissioner Scala and seconded by Commissioner Scardino Resolution 2019-06 was approved by a vote of 10-0 with Vice Chairman Buckelew recused.

Resolution 2019-07 Resolution Designating the Development of the Mori Tract - Block 227, Lot 9 in Secaucus as a Vital Project Within the Hackensack Meadowlands District - File No. SP-733.

Ms. Sundell explained The Hackensack Meadowlands Agency Consolidation Act and Resolution 2015-54 states that a constituent municipality within the Hackensack Meadowlands District that adopts and maintains the District master plan, zoning regulations, codes, and standards shall review and approve or reject applications for development within the District. As such, the Town of Secaucus has adopted an ordinance and conducts reviews of certain development applications within the District. However, the Act also contains a provision that the NJSEA may maintain sole jurisdiction of any project it deems to be vital to the public safety, general welfare, development, or redevelopment of the District, and NJSEA Resolution 2015-59 established guidelines for designating "Vital Projects." Ms. Sundell stated that the Mori Tract, located at Block 227, Lot 9, in the Town of Secaucus is one of the largest undeveloped parcels within the District. She also stated that the development of the Mori Tract has the potential to result in substantial economic growth and job creation within the region and, additionally, has the potential to produce a beneficial environmental impact by facilitating the resolution of unresolved zoning violations

regarding illegally-placed fill on uplands and tidal wetlands at the site. She explained that based on the assessment of the property in accordance with the established guidelines, the development of the Mori Tract satisfies the criteria for designation as a "Vital Project."

Chairman Ballantyne presented Resolution 2019-07. Upon motion made by Commissioner Fontoura and seconded by Commissioner Yudin Resolution 2019-07 was approved by a vote of 10-0 with President Prieto recused.

Resolution 2019-08 Resolution Issuing a Decision on the Suitability Recommendation as Required by the *NJSEA Interim Policies Governing Affordable Housing Development in the Meadowlands District* – File No. 19-081, HCIA/Morris Kearny Associates – New Buildings, Block 287, Lots 32.01, 32.02, 46, 47, 47.01, 54, 55, 56, 60, 61.02, 61.03, 62, 62.01, 63, 70, 70.01, 71, 71.01, 73, 79 and 80 in the Town of Kearny.

Ms. Sundell explained that Morris Kearny Associates, LLC, submitted a zoning certificate application proposing the construction of four (4) warehouse/distribution buildings with an area of approximately 2.1 million square feet and access driveways within the Koppers Coke Peninsula Redevelopment Area in Kearny. She further explained that the majority of the properties involved in this application are owned by the Hudson County Improvement Authority. However, portions of the driveways for the development are proposed to be located on property owned by Mariana Properties, Inc., care of Glenn Springs Holdings, Inc. (also known as the Diamond Shamrock site) and by James M Salerno Enterprises, Inc. Ms. Sundell explained that in accordance with the Interim Policies, Staff evaluated the properties and prepared a suitability review indicating that the subject properties are recommended to be deemed unsuitable for housing, particularly in light of the historic contamination of these properties and the surrounding sites. The subject properties are currently vacant; however, the Koppers Coke site and the Diamond Shamrock site were formerly the location of heavy industrial uses. Koppers Coke was coal tar processing and coke plant, and Diamond Shamrock contained a chromate chemical manufacturing plant. Ms. Sundell indicated that the Salerno property is currently being utilized for truck and equipment parking. She further indicated that The Standard Chlorine Superfund site is located between the Koppers Coke and Diamond Shamrock sites. Other properties in the immediate vicinity contain heavy industrial uses, such as Owens Corning, which manufactures roofing shingles, and transportation uses, such as the Meadowlands Maintenance Complex, which is a vast rail yard operated by NJ Transit. Ms. Sundell explained that prior to the adoption of the Koppers Coke Peninsula Redevelopment Plan, all of the subject properties were included in the Intermodal B zone, which is currently deemed unsuitable for housing in the "Interim Policies." Ms. Sundell stated other reasons for the staff's recommendation include factors associated with the heavy industrial uses in the vicinity of the subject site that are potentially detrimental to residents, such as significant truck traffic, noise, and pollution on the adjacent roadways, which would present challenges with respect to the safety and quality of life of residents. There are no existing residential developments in the Hackensack Meadowlands District portion of the Town of Kearny. In addition, the Town of Kearny's core residential community, local business district, and municipal services are located several miles from the subject properties and would be accessed via highways, such as Route 7, that are major transportation corridors for buses, trucks, and tractor trailers serving the region. Ms. Sundell stated that staff requests that the Board concur with the Review Team's recommendation that the subject property be deemed not suitable for residential use.

Chairman Ballantyne presented Resolution 2019-08. Upon motion made by Commissioner Plofker and seconded by Commissioner Scardino Resolution 2019-08 was unanimously approved by a vote of 10-0.

Resolution 2019-09 Resolution Authorizing the NJSEA and its Staff to File a Notice of Proposal and Hold a Public Hearing for Proposed Changes to the Hackensack Meadowlands District Flood Plain Management Regulations and to Adopt FEMA's Effective Flood Insurance Study and Firm Mapping for the Hackensack Meadowland District.

Ms. Sundell explained FEMA recently sent a Letter of Final Determination to the NJSEA notifying us that it has finalized Flood Hazard Determinations (FHDs) affecting the Flood Insurance Rate Maps (FIRM) and a Flood Insurance Study (FIS) report for the area that encompasses the Hackensack Meadowlands District (HMD). She further explained that as a participating community in the National Flood Insurance Program (NFIP), the NJSEA will be required to amend its Flood Plain Management regulations at N.J.A.C. 19:4-9 *et seq* to adopt the newly revised FIRM panels and FIS report, which will become effective on August 28, 2019. Ms. Sundell stated that in addition, the NJSEA will be required to amend the existing Flood Plain Management regulations at N.J.A.C. 19:4-9 *et seq* to be consistent with the New Jersey Department of Environmental Protection's model Flood Damage Prevention Ordinance. Ms. Sundell stated that staff is requesting authorization to file a Notice of Proposal in accordance with the requirements of the NJ Office of Administrative Law for publication in the New Jersey Register and to hold a public hearing on these amendments to the Flood Plain Management Regulations.

Chairman Ballantyne presented Resolution 2019-09. Upon motion made by Commissioner Dowd and seconded by Commissioner Kolber Resolution 2019-09 was approved by a vote of 10-0.

Resolution 2019-10 Resolution Authorizing the Purchase of a 2019 Ford RP-90 ES MEDEX Type III Ambulance.

Mr. Duffy explained that this ambulance would replace an existing 16-year-old ambulance. Mr. Duffy further explained that since there are no ambulance contracts in place under the state contract program, the ambulance will be obtained through a nationwide Government-to-Government cooperative purchasing program.

Chairman Ballantyne presented Resolution 2019-10. Upon motion made by Commissioner Buckelew and seconded by Commissioner Scala, Resolution 2019-10 was unanimously approved by a vote of 10-0.

## VII. PUBLIC PARTICIPATION

- Roderick Binson – spoke on American Dream and his support of the project. Mr. Binson expressed his concern with the incident of a noose being found on the project site and the amount of silence surrounding the matter. Mr. Binson also spoke of the need for diversity in leadership positions on the project.

Chairman Ballantyne stated that state police are investigating this matter and that it is being taken very seriously. With regards to diversity, the Chairman stated that the unions have done a good job and have exceeded their originally agreed upon goal.

Commissioner Dowd explained that noose on the project site is a bias crime and recommends that the NJSEA, as the landlord, send a letter to the Department of Criminal Justice urging them to give this matter top priority.

**VIII. EXECUTIVE SESSION**

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

Resolution 2019-11 Resolution Authorizing the NJSEA to Conduct a Meeting to which the General Public Shall Not Be Admitted.

Chairman Ballantyne presented Resolution 2019-11. Upon motion made by Commissioner Scardino and seconded by Commissioner Yudin Resolution 2019-11 was carried by a vote of 10-0.

Returned to open session

**IX. PUBLIC PARTICIPATION ON RESOLUTION 2019-12 - None**

**X. APPROVAL**

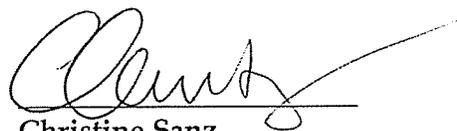
Resolution 2019-12 Resolution Authorizing the Execution of a Settlement Agreement by and Between North Arlington-Lyndhurst Joint Sewer Meeting and NJSEA.

Chairman Ballantyne presented Resolution 2019-12. Upon motion made by Commissioner Scala and seconded by Commissioner Dowd Resolution 2019-12 was unanimously approved by a vote of 10-0.

**XI. MOTION TO ADJOURN**

With no further business, motion to adjourn the meeting was made by Commissioner Scardino and second by Commissioner Yudin with all in favor.

I certify that on information and belief this is a true and accurate transcript of the Minutes of the Regular Session of the New Jersey Sports and Exposition Authority Board Meeting held on March 21, 2019.



Christine Sanz  
Assistant Secretary

March 21, 2019

| Commissioner            | Roll Call                                   | 2019-05 | 2019-06 | 2019-07 | 2019-08 | 2019-09 | 2019-10 | 2019-11 | 2019-12 |
|-------------------------|---|---------|---------|---------|---------|---------|---------|---------|---------|
| Ballantyne, Chairman    | P   | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Buckelew, Vice Chairman | P<br>(via phone)                            | Y       | R       | Y       | Y       | Y       | Y       | Y       | Y       |
| Prieto                  | P   | Y       | Y       | R       | Y       | Y       | Y       | Y       | Y       |
| Dowd                    | P   | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Fontoura                | P<br>(excused @<br>1:40p.m.)                | Y       | Y       | Y       | --      | --      | --      | --      | --      |
| Gluck                   | P<br>(via phone)                            | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Gonnelli                | --  | --      | --      | --      | --      | --      | --      | --      | --      |
| Kolber                  | P   | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Plofker                 | P   | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Scala                   | P   | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Scardino                | P   | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Yudin                   | P   | Y       | Y       | Y       | Y       | Y       | Y       | Y       | Y       |
| Treasury Rep Griffin    | P<br>(via phone)<br>(excused @<br>12:50p.m) | --      | --      | --      | --      | --      | --      | --      | --      |

P - Present      A - Abstain  
 -- Absent      R = Recuse  
 Y = Affirmative      N = Negative

# **APPROVALS**



CASH DISBURSEMENTS  
\$100,000 OR MORE  
MARCH 2019

**EAST RUTHERFORD - SPORTS COMPLEX**

| <u>PAYEE</u>                          | <u>\$ AMOUNT</u>           | <u>REFERENCE LETTER</u> | <u>ACCOUNT DESCRIPTION</u>                    |
|---------------------------------------|----------------------------|-------------------------|---|
| BOROUGH OF EAST RUTHERFORD            | 250,000.00                 | I                       | PILOT SETTLEMENT WEST SIDE 3RD ADDENDUM: 2019 |
| NEW JERSEY STATE POLICE               | 267,877.51                 | A/L                     | OVERTIME CHARGES: JAN 2019 - FEB 2019         |
| NRG BUSINESS SOLUTIONS                | 411,343.57                 | J/L                     | ELECTRICITY CHARGES: FEB 2019                 |
| PUBLIC SERVICE ELECTRIC & GAS COMPANY | 134,779.00                 | J/L                     | ELECTRIC TRANSMISSION: FEB 2019               |
| <b>EAST RUTHERFORD - SC TOTAL</b>     | <b><u>1,064,000.08</u></b> |                         |   |

**MONMOUTH PARK RACETRACK MAINTENANCE RESERVE/CAPITAL**

| <u>PAYEE</u>                    | <u>\$ AMOUNT</u>         | <u>REFERENCE LETTER</u> | <u>ACCOUNT DESCRIPTION</u>                          |
|---------------------------------|--------------------------|-------------------------|---|
| BOROUGH OF OCEANPORT            | 550,432.22               | A                       | CAFO SPECIAL ASSESSMENT AGREEMENT: 2ND QUARTER 2019 |
| <b>MPR MAINTNANCE R/C TOTAL</b> | <b><u>550,432.22</u></b> |                         |   |

**LYNDHURST**

| <u>PAYEE</u>                     | <u>\$ AMOUNT</u>         | <u>REFERENCE LETTER</u> | <u>ACCOUNT DESCRIPTION</u>   |
|----------------------------------|--------------------------|-------------------------|--|
| PHILADELPHIA INSURANCE COMPANIES | 134,803.00               | A                       | ENTERTAINMENT INSURANCE PACKAGE - GL, AUTO, INLAND, AND MARINE POLICIES - 3RD INSTALLMENT: JAN 2019 - DEC 2019 |
| WASTE MANAGEMENT OF NEW JERSEY   | 444,400.88               | A                       | KEEGAN LANDFILL OPERATIONS & WASTE REMOVAL CHARGE: FEB 2019  |
| <b>LYNDHURST TOTAL</b>           | <b><u>579,203.88</u></b> |                         |  |



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                       | PRESIDENT/CEO APPROVAL  |
| I                       | STATUTORY PAYMENT   |
| J                       | UTILITIES   |
| 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 2019-13**

**RESOLUTION AUTHORIZING NJSEA STAFF TO  
INVESTIGATE THE REDEVELOPMENT POTENTIAL OF  
THE HRP HUDSON, LLP-OWNED PROPERTY IDENTIFIED AS  
BLOCK 3101, LOTS 21-26, 29-32, 36, 37 & 42-44; AND  
BLOCK 7402, LOTS 21-24 & 33-35,  
IN THE CITY OF JERSEY CITY, NEW JERSEY  
FILE NO. SP-764**

**WHEREAS**, N.J.S.A. 5:10A-7(j) authorizes the New Jersey Sports and Exposition Authority (NJSEA) to determine the existence of areas in need of redevelopment or rehabilitation and to approve or undertake redevelopment projects therein; and

**WHEREAS**, N.J.A.C. 19:3-5.1 *et seq.* provides the regulations governing redevelopment within the Hackensack Meadowlands District, including the process and criteria for establishing redevelopment areas and the preparation and adoption of redevelopment plans; and

**WHEREAS**, a petition dated March 11, 2019, was submitted by Thomas J. O'Connor, Esq. of Waters, McPherson, McNeill, P.C., on behalf of HRP Hudson, LLC, requesting that the NJSEA investigate the redevelopment potential of the HRP Hudson, LLC-owned property at the former PSE&G Hudson Generating Station, located at Block 3101, Lots 21-26, 29-32, 36, 37 & 42-44; and Block 7402, Lots 21-24 & 33-35, in the City of Jersey City; and

**WHEREAS**, the NJSEA staff must request authorization from the NJSEA Board of Commissioners to conduct an investigation of areas that may potentially be deemed in need of redevelopment; and

**WHEREAS**, the NJSEA staff requests authorization to conduct an investigation of the property located at Block 3101, Lots 21-26, 29-32, 36, 37 & 42-44; and Block 7402, Lots 21-24 & 33-35, in the City of Jersey City to examine its redevelopment potential; and

**WHEREAS**, the NJSEA staff has compiled preliminary information regarding the subject properties in accordance with the requirements of N.J.A.C. 19:3-5.2 to support this request; and

**WHEREAS**, the NJSEA staff requests authorization to prepare an "In Need of Redevelopment Report" pursuant to N.J.A.C. 19:3-5.4, and to hold a public hearing to obtain public comment on the report and its findings.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the NJSEA staff is hereby authorized to conduct an investigation of the property located at Block 3101, Lots 21-26, 29-32, 36, 37 & 42-44; and Block 7402, Lots 21-24 & 33-35, in the City of Jersey City to examine its redevelopment potential.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the NJSEA staff is hereby authorized to prepare an "In Need of Redevelopment Report" pursuant to N.J.A.C. 19:3-5.4 and hold a public hearing to obtain public comment on the report and its findings.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of April 11, 2019.



Vincent Prieto  
Secretary



## MEMORANDUM

*To:* NJSEA Board Members and Vincent Prieto, President/CEO

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*From:* Sara J. Sundell

*Date:* April 11, 2019

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*Subject:* Request for Authorization to Conduct Redevelopment Investigation of HRP Hudson, LLC Property in the City of Jersey City (File No. SP-764)

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On March 11, 2019, the New Jersey Sports and Exposition Authority (NJSEA) received a petition from Thomas J. O'Connor, Esq. of Waters, McPherson, McNeill, P.C., submitted on behalf of HRP Hudson, LLC, requesting that the NJSEA investigate the redevelopment potential of the property at Block 3101, Lots 21-26, 29-32, 36, 37 & 42-44; and Block 7402, Lots 21-24 & 33-35, in the City of Jersey City. The subject property is the site of the former PSE&G Hudson Generating Station.

The NJSEA staff undertook a preliminary analysis of the subject property and prepared a summary report of its findings. Pursuant to N.J.A.C. 19:3-5.2, the NJSEA staff requests authorization from the Board of Commissioners to conduct an investigation of the redevelopment potential of the property at Block 3101, Lots 21-26, 29-32, 36, 37 & 42-44; and Block 7402, Lots 21-24 & 33-35, in the City of Jersey City to determine whether it contains the conditions to be designated an area in need of redevelopment. The results of this investigation will be compiled in an "In Need of Redevelopment" report, in accordance with the requirements of N.J.A.C. 19:3-5.4.

Authorization is also requested to hold a public hearing to obtain public comment on this report and its findings.

**PRELIMINARY INFORMATION TO SUPPORT THE**  
**REQUEST FOR AUTHORIZATION TO INVESTIGATE THE**  
**REDEVELOPMENT POTENTIAL OF**  
**THE HRP HUDSON, LLC-OWNED PROPERTY IDENTIFIED AS**  
**BLOCK 3101, LOTS 21-26, 29-32, 36, 37 & 42-44; AND**  
**BLOCK 7402, LOTS 21-24 & 33-35,**  
**IN THE CITY OF JERSEY CITY, NEW JERSEY**  
**FILE NO. SP-764**

In a letter dated March 11, 2019, the New Jersey Sports and Exposition Authority (NJSEA) received a petition from Thomas J. O'Connor, Esq. of Waters, McPherson, McNeill, P.C., submitted on behalf of HRP Hudson, LLC, requesting that the NJSEA investigate the redevelopment potential of the property located along Van Keuren Avenue, on Block 3101, Lots 21-26, 29-32, 36, 37 & 42-44; and Block 7402, Lots 21-24 & 33-35, in the City of Jersey City. All parcels are under the ownership of HRP Hudson, LLC, and contain the former PSE&G Hudson Generating Station.

Pursuant to N.J.A.C. 19:3-5.2, the NJSEA staff must request authorization from the Board of Commissioners to conduct an investigation of areas that may potentially be deemed in need of redevelopment. The request must include the following:

1. The block and lot number designation of the properties;
2. The existing zoning and land use of the properties;
3. A map showing the boundaries of the area to be investigated;
4. A description of all existing structures on each site; and
5. A statement indicating why the property may be in need of redevelopment.

The NJSEA staff conducted a preliminary review of the subject property.

The proposed study area is comprised of 22 tax lots, totaling approximately 117 acres in area. The chart in Figure 1 provides the area of each individual lot within the overall property.

The properties associated with the proposed in need of redevelopment investigation area are delineated in red on Figure 2 - Location Map, also entitled "Redevelopment Area - Aerial Exhibit," prepared by Dynamic Engineering, dated 3/7/19. The subject property fronts on Van Keuren Avenue, Duffield Avenue and West Site Avenue to the south and is bounded by the Hackensack River to the west. The eastern boundary includes a segment of the Exit 15X ramp for the New Jersey Turnpike and an active railroad right-of-way owned by Norfolk Southern Railway. A branch of the Norfolk Southern rail line also bisects the subject property. The adjacent properties to the north contains wetlands, open water and Penhorn Creek. There are no residential uses in the immediate vicinity of the subject property.

The subject properties are located in the Hackensack Meadowlands District's Public Utilities zone, Heavy Industrial zone, and Intermodal B zone, as shown on Figure 3 - Zoning Map, also entitled "Redevelopment Area - Zoning Exhibit," prepared by Dynamic Engineering, dated 3/7/19.

The subject property is the site of the decommissioned Public Service Electric and Gas (PSE&G) coal-fired power generation plant and ancillary facilities, commonly known as Hudson Generating Station. The site has been occupied by PSE&G, or their subsidiaries, since 1906, and the decommissioned coal-fired plant was operational on the site from the early 1960's to 2018. PSE&G will continue to operate and maintain electrical distribution and switching equipment on portions of the subject property, but will not be generating energy.

The subject properties are identified as Known Contaminated Sites by the New Jersey Department of Environmental Protection (NJDEP) and are currently the subject of several open NJDEP remediation cases. The various structures associated with the power plant are not practical for reuse.

**Conclusion:**

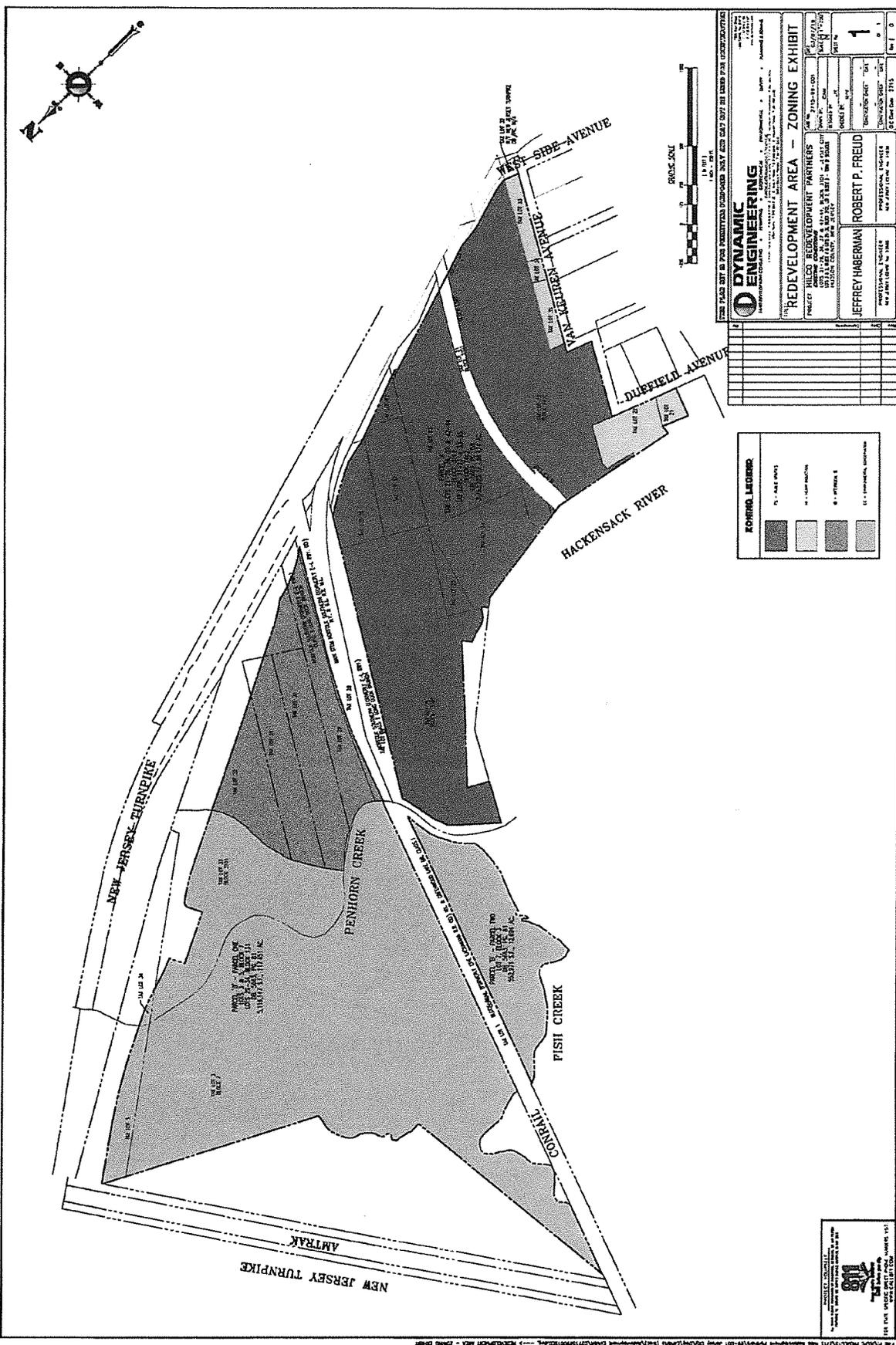
Based on the above information, the NJSEA staff requests authorization to conduct a more detailed study of the subject properties to analyze their redevelopment potential. The findings of this investigation will be compiled into an "In Need of Redevelopment Report", in accordance with the requirements of N.J.A.C. 19:3-5.4, and a public hearing will be held to obtain public comment on the report and its findings.

| <b>Figure 1 Jersey City Hilco Redevelopment Investigation - Subject Properties</b> |            |                         |                                   |                             |                            |
|--|------------|-------------------------|-----------------------------------|-----------------------------|----------------------------|
| <b>Block</b>   | <b>Lot</b> | <b>Property Address</b> | <b>NJSEA GIS Lot Area (acres)</b> | <b>Tax Lot Area (acres)</b> | <b>Current NJSEA Zone*</b> |
| 3101   | 21         | Van Keuren Ave          | 3.22                              | 1.05                        | ROW                        |
| 3101   | 22         | Van Keuren Ave          | 0.07                              | 0.15                        | ROW                        |
| 3101   | 23         | Van Keuren Ave          | 12.15                             | 14.23                       | PU                         |
| 3101   | 24         | Van Keuren Ave          | 6.56                              | 5.01                        | PU                         |
| 3101   | 25         | Van Keuren Ave          | 1.17                              | 1.1                         | PU                         |
| 3101   | 26         | Van Keuren Ave          | 26.44                             | 23.16                       | PU                         |
| 3101   | 29         | Seaview EXT (15X)       | 5.52                              | 4.752                       | IB                         |
| 3101   | 30         | Seaview EXT (15X)       | 6.1                               | 5.59                        | IB                         |
| 3101   | 31         | Seaview EXT (15X)       | 6.03                              | 6.11                        | IB                         |
| 3101   | 32         | Seaview EXT (15X)       | 13.26                             | 14.28                       | IB                         |
| 3101   | 36         | Van Keuren Ave          | 2.48                              | 2.92                        | PU                         |
| 3101   | 37         | Van Keuren Ave          | 4.29                              | 4.3                         | PU                         |
| 3101   | 42         | Van Keuren Ave          | 0.6                               | 0.58                        | PU                         |
| 3101   | 43         | Hackensack Riv ETC      | 0                                 | 0.7                         | PU                         |
| 3101   | 44         | none                    | 0.01                              | 0                           | PU                         |
| 7402   | 21         | 135 Duffield Ave        | 1.07                              | 2.68                        | HI                         |
| 7402   | 22         | 135 Duffield Ave        | 2.93                              | 1.24                        | HI                         |
| 7402   | 23         | Van Keuren Ave          | 22.75                             | 22.64                       | PU                         |
| 7402   | 24         | Van Keuren Ave          | 0.23                              | 0.72                        | ROW                        |
| 7402   | 33         | 50 Van Keuren Ave       | 1.2                               | 1.25                        | HI                         |
| 7402   | 34         | 58 Van Keuren Ave       | 0.32                              | 0.32                        | HI                         |
| 7402   | 35         | 80 Van Keuren Ave       | 0.99                              | 1.16                        | HI                         |
| <b>Totals</b>  |            |                         | 117.39                            | 113.94                      |                            |

| <b>* NJSEA Zones:</b> |                            |
|-----------------------|----------------------------|
| HI                    | Heavy Industrial           |
| PU                    | Public Utilities           |
| IB                    | Intermodal B               |
| EC                    | Environmental Conservation |
| ROW                   | Right of Way               |



**FIGURE 3. ZONING MAP**  
**Van Keuren Avenue (Block 3101, Lots 21-26, 29-32, 36, 37 & 42-44; Block 7402, Lots 21-24 & 33-35), Jersey City, New Jersey**



**RESOLUTION 2019-14**

**RESOLUTION ISSUING A  
DECISION ON THE VARIANCE APPLICATION  
SUBMITTED AS PART OF FILE NO. 17-326  
GALAXY HOLDINGS/LYNDHURST STORAGE LLC-  
NEW BLDG. & VARIANCES  
BLOCK 226, LOT 2, IN THE TOWNSHIP OF LYNDHURST**

**WHEREAS**, an application for one use variance and three bulk variances has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Jason R. Tuvel, Esq., of the firm Rubin & Dombeck, LLC, on behalf of Lyndhurst Storage, LLC, for the premises located at 1 Terminal Road, identified as Block 226, Lot 2, in the Township of Lyndhurst, New Jersey; and

**WHEREAS**, the premises is located within the Hackensack Meadowlands District's Commercial Park zone; and

**WHEREAS**, the use variance and bulk variances are sought in connection with the applicant's proposal to construct a self-storage facility and related site improvements on the subject premises; and

**WHEREAS**, the applicant requested use variance relief from N.J.A.C. 19:4-5.46(a), which does not permit self-storage facilities in the Commercial Park zone; and

**WHEREAS**, the applicant also requested bulk variance relief from N.J.A.C. 19:4-5.49(a), which permits a maximum floor area ratio (FAR) of 1.25, whereas the applicant proposed a six-story self-storage facility with an FAR of 2.5, however, during testimony provided at the public hearing held on February 5, 2109, the applicant modified its bulk variance request from N.J.A.C. 19:4-5.49(a) to an FAR of 2.5; and

**WHEREAS**, the applicant also requested bulk variance relief from N.J.A.C. 19:4-8.2(b)2, which requires that all vehicular use areas shall maintain a five-foot setback from side and rear property lines, whereas the applicant is proposing a zero-foot setback for the vehicular use area along the rear property line; and

**WHEREAS**, the applicant also requested bulk variance relief from N.J.A.C. 19:4-8.9(d)4, which requires a five-foot-wide landscape strip with shade

trees to be planted on 25 to 40 foot centers along all side and rear property lines, whereas the applicant is not proposing a five-foot-wide landscape strip along the rear property line; and

**WHEREAS**, notice of the requested use variance and 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 NJSEA on Tuesday, February 5, 2019, 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, Principal Planner; and Fawzia Shapiro, P.E., P.P., Assistant Chief Engineer; and

**WHEREAS**, a comprehensive report dated April 1, 2019, has been prepared indicating the recommendations of the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs in this matter; and

**WHEREAS**, a copy of the recommendation and comprehensive report was provided to the applicant on April 2, 2019; and

**WHEREAS**, the report recommends the conditional approval of the requested use variance request from N.J.A.C. 19:4-5.46(a), to permit a self-storage facility on the subject premises; and

**WHEREAS**, the report also recommends the modified approval of the requested bulk variance from N.J.A.C. 19:4-5.49(a)4, to permit a six-story self-storage facility with an FAR of 2.5; and

**WHEREAS**, the report also recommends the approval of the requested bulk variance from N.J.A.C. 19:4-8.2(b)2, to permit a zero-foot setback for the vehicular use area along the rear property line; and

**WHEREAS**, the report also recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.9(d)4, to permit pavement along the rear property line, whereas a five-foot-wide landscape strip with shade trees is required; and

**WHEREAS**, the Board of Commissioners of the NJSEA has reviewed the full record, including the transcripts of the public hearings, the submissions of the applicant, and recommendations on the application by the Director of Land Use Management and by the Senior Vice President/Chief of Legal & Regulatory Affairs; and

**WHEREAS**, the Board of Commissioners concurs with the recommendations of the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs; and

**WHEREAS**, the Board of Commissioners hereby determines that the requested use variance application to permit a self-storage facility on the subject premises conditionally conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

**WHEREAS**, the Board of Commissioners hereby further determines that the requested bulk variance application to permit a six-story self-storage facility with an FAR of 2.5, as modified from the applicant's original variance request for an FAR of 2.63, conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

**WHEREAS**, the Board of Commissioners hereby further determines that the requested bulk variance application to permit a zero-foot setback for the vehicular use area along the rear property line also conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

**WHEREAS**, the Board of Commissioners hereby further determines that the requested bulk variance application to permit pavement along the rear property line, where a five-foot-wide landscape strip with shade trees is required, conditionally 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 Galaxy Holdings/Lyndhurst Storage LLC - New Building & Variances application for one use variance from N.J.A.C. 19:4-5.46(a), to permit a self-storage facility on the subject premises, is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation report dated April 1, 2019:

1. Subject to property owner approval regarding the off-site segments of the shared access agreements, the applicant shall make improvements to the pavement and stormwater infrastructure located within the areas of the 50-foot-wide Terminal Road shared access easement and pavement within the 25-foot-wide shared access easement along the rear of the property as depicted on the plan entitled "Applicant Responsibility Maintenance Exhibit," Drawing 1 of 1, prepared by Stonefield Engineering & Design, and dated November 7, 2018.

2. The applicant shall pursue agreements with the adjacent property owners to address the long term maintenance of pavement areas and stormwater infrastructure within the shared access easements.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Galaxy Holdings/Lyndhurst Storage LLC - New Building & Variances application for one bulk variance from N.J.A.C. 19:4-5.49(a)4, to permit a six-story self-storage facility with an FAR of 2.63, which request was modified to an FAR of 2.5 by the applicant during the public hearing held on February 5, 2019, is hereby **APPROVED AS MODIFIED** for the reasons set forth in the recommendation report dated April 1, 2019.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Galaxy Holdings/Lyndhurst Storage LLC - New Building & Variances application for one bulk variance from N.J.A.C. 19:4-8.2(b)2, to permit a zero-foot setback for the vehicular use area along the rear property line, is hereby **APPROVED** for the reasons set forth in the recommendation report dated April 1, 2019.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Galaxy Holdings/Lyndhurst Storage LLC - New Building & Variances application for one bulk variance from N.J.A.C. 19:4-8.9(d)4, to permit pavement along the rear property line, where a five-foot-wide landscape strip with shade trees is required, is hereby **APPROVED WITH THE FOLLOWING CONDITION** for the reasons set forth in the recommendation report dated April 1, 2019:

1. The applicant shall plant a minimum of thirteen shade trees on the subject premises, including four shade trees within the parking area planting islands at the rear of the property.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of April 11, 2019.



Vincent Prieto  
Secretary



## MEMORANDUM

*To:* NJSEA Board Members and Vincent Prieto, President/CEO

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*From:* Sara J. Sundell *Date:* April 11, 2019

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*Subject:* Variance Recommendation–Galaxy Holdings/Lyndhurst Storage LLC-  
New Bldg. & Variances (File No. 17-326)

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An application for one (1) use variance and three (3) bulk variances has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Jason R. Tuvel, Esq., of the firm Rubin & Dombeck, LLC, on behalf of Lyndhurst Storage, LLC, for the premises located at 1 Terminal Road, identified as Block 226, Lot 2, in the Township of Lyndhurst, New Jersey. The subject property is located within the District's Commercial Park zone. The variances are sought in connection with the applicant's proposal to construct a self-storage facility with related site improvements on the subject premises.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.46(a), which does not permit self-storage facilities in the Commercial Park zone.
2. N.J.A.C. 19:4-5.49(a)4, which permits a maximum floor area ratio (FAR) of 1.25, whereas the applicant is proposing a six-story self-storage facility with an FAR of 2.63\*.

\*Note that the recommendation is based on a modified request for an FAR of 2.5, as proposed by the applicant during the public hearing held on February 5, 2019.

3. N.J.A.C. 19:4-8.2(b)2, which requires that all vehicular use areas shall maintain a five-foot setback from side and rear property lines, whereas the applicant is proposing a zero foot setback for the vehicular use area along the rear property line.
4. N.J.A.C. 19:4-8.9(d)4, which requires a five-foot-wide landscape strip with shade trees to be planted on 25 to 40 foot centers along all side and rear property lines, whereas the applicant is not proposing a five-foot wide landscape strip with shade trees along the rear property line.

A public hearing was held in the Office of the NJSEA on Tuesday, February 5, 2019.

In a comprehensive report dated April 1, 2019, the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended the conditional approval of the use variance to permit a self-storage facility on the subject premises; the modified approval of the bulk variance to permit a six-story self-storage facility with an FAR of 2.5; the approval of the bulk variance to permit a zero-foot setback for the vehicular use area along the rear property line; and the conditional approval of the bulk variance to permit pavement along the rear property line, where a five-foot wide landscape strip with shade trees is required.

A copy of the comprehensive report and variance recommendation was provided to the applicant on April 2, 2019.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF  
Galaxy Holdings/ Lyndhurst Storage LLC - New Bldg. & Variances  
FILE # 17-326**

**I. INTRODUCTION**

Applications for one (1) use variance and three (3) bulk variances have been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Jason R. Tuvel, Esq., of the firm Rubin & Dombeck, LLC, on behalf of Lyndhurst Storage, LLC, for the premises identified as 1 Terminal Road, Block 226, Lot 2, in the Township of Lyndhurst, New Jersey. The subject property is located in the Hackensack Meadows District's (District's) Commercial Park zone. The variances are sought in connection with the applicant's proposal to construct a self-storage facility and related improvements on the subject premises.

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

1. N.J.A.C. 19:4-5.46(a), which does not permit self-storage facilities in the Commercial Park zone.
2. N.J.A.C. 19:4-5.49(a)4, which permits a maximum floor area ratio (FAR) of 1.25, whereas the applicant is proposing a six-story self-storage facility with an FAR of 2.63<sup>1</sup>.
3. N.J.A.C. 19:4-8.2(b)2, which requires that all vehicular use areas maintain a five-foot setback from side and rear property lines, whereas the applicant is proposing a zero-foot setback for the vehicular use area along the rear property line.
4. N.J.A.C. 19:4-8.9(d)4, which requires a five-foot-wide landscape strip with shade trees to be planted on 25 to 40 foot centers along all side and rear property lines, whereas the applicant is not proposing a five-foot-wide landscape strip along the rear property line.

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<sup>1</sup> This recommendation is based on a modified request for an FAR of 2.5, as proposed by the applicant during the public hearing held on February 5, 2019.

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. A public hearing was held in the Office of the NJSEA on Tuesday, February 5, 2019. 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 comprises 1.08 acres and is presently developed with an existing one-story 28,055-square-foot warehouse building. The property is located within the Commercial Park zone, at the intersection of Rutherford Avenue (State Route 17) and Terminal Road. The site contains frontage along Rutherford Avenue; however, Terminal Road, a 50-foot-wide dead-end private access easement, provides the only access from Rutherford Avenue to and from the site. A 25-foot-wide portion of this access easement is located on adjacent Lot 3.01 to the east, which contains the Courtyard by Marriott hotel. The remaining 25-foot-wide portion of the access easement encumbers the subject site and is located along its east property line. Terminal Road also functions as a driveway for automobile and truck access to the pre-existing nonconforming industrial properties located immediately to the south (Block 226, Lots 17 and 18) and west (Block 226, Lot 1) of the site and to the non-public areas at the rear of the Courtyard by Marriott hotel. Another 25-foot-wide private easement on adjacent Lot 1 is located perpendicular to Terminal Road and abuts the south property line of the subject property. This particular easement allows access to existing paved areas on neighboring lots, including the subject property.

Surrounding land uses include the nine-story Renaissance Meadowlands Hotel, which is located across Rutherford Avenue, to the north of the site. The six-story Courtyard by Marriott hotel, which is accessed from Polito Avenue, is located to the east of the site across Terminal Road. The non-public areas of the Courtyard hotel, including the loading areas and mechanical equipment, are accessed via Terminal Road. A parking garage for the Copper Ridge commercial office building, which is also accessed from Polito Avenue, is located approximately 191 feet south of the subject site.

The existing warehouse building on the subject premises is proposed to be demolished to construct a six-story self-storage building and related site improvements. Access to the site will remain unchanged and will continue to be provided through the Terminal Road cross-access easement. Site improvements include pavement installation and repairs within Terminal Road, parking, loading, landscaping, lighting, and utility improvements.

**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 (February 5, 2019)**

A public hearing was held on Tuesday, February 5, 2019. 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, Principal Planner; and Fawzia Shapiro, P.E., P.P., Assistant Chief 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," Drawing 1 of 2, prepared by Stonefield Engineering & Design, dated January 31, 2019, and revised through February 5, 2019.  |
| A-2           | "Aerial Exhibit," Drawing 2 of 2, prepared by Stonefield Engineering & Design, dated January 31, 2019, and revised through February 5, 2019.  |
| A-3           | "ALTA/NSPS Land Title Survey of Tax Map Lot 2, Block 226," Sheet 1 of 1, prepared by Teunisen Surveying & Planning Co., Inc., dated August 2, 2017 and revised through November 30, 2018.   |
| A-4           | Color rendered drawing titled "Site & Utility Plan," prepared by Stonefield Engineering & Design, dated November 14, 2017, and revised through December 4, 2018.  |
| A-5           | Plan titled "Site Renderings," showing proposed building views along Terminal Road and the proposed building superimposed on an aerial photograph viewed from the intersection of Rutherford Avenue and Polito Avenue.              |
| A-6           | Plan titled "Site Renderings," showing the proposed building superimposed on an aerial photograph of the area surrounding the subject property.   |
| A-7           | "CubeSmart Self-Storage," 8 sheets in total, prepared by DiGiovanni & Associates Architects, dated March 3, 2018, and revised through June 1, 2018.   |
| A-8           | "Preliminary and Final Major Site Plan for Lyndhurst Storage LLC - Proposed Self-Storage Facility," 13 Sheets in total, prepared by Stonefield Engineering & Design, dated November 14, 2017, and revised through December 4, 2018. |

The subject site is located in the Commercial Park zone, which is intended to accommodate commercial mixed use developments in compact centers that are designed to be interrelated, including banks, office buildings, retail stores, and restaurants. However, most uses that are permitted in the zone are not compatible with the unique characteristics of the subject lot or the existing land uses in the immediate vicinity of the site, which include pre-existing non-conforming industrial properties.

The site has frontage along Rutherford Avenue; however, a 50-foot-wide private access easement known as Terminal Road provides the only access to and from the site. A 25-foot-wide portion of this access easement is located on adjacent Lot 3.01 to the east, which contains the Courtyard by Marriott hotel. The remaining 25-foot-wide portion of the access easement encumbers the subject site and is located along the east property line. Terminal Road also acts as a driveway for automobile and truck access to the existing industrial properties in the immediate vicinity and to the non-public areas at the rear of the Courtyard by Marriott hotel. Another 25-foot-wide private easement, located on adjacent Lot 1, is perpendicular to Terminal Road and abuts the south property line of the subject property. This particular easement allows access to existing paved areas on neighboring lots, including the subject property. Shared access and circulation for neighboring industrial facilities through private easements, including Terminal Road, represents an exceptional practical difficulty when considering development on the premises. The existing warehouse operations generate heavy truck traffic that would pose conflicts with vehicular traffic from

**B. Testimony**

Jason R. Tuvel, Esq., of the firm Rubin & Dombeck, LLC, represented Lyndhurst Storage, LLC, at the hearing. The following witnesses testified in support of the application:

1. Matthew Seckler, P.E., P.T.O.E., Stonefield Engineering & Design
2. Keenan Hughes, P.P., Phillips Preiss Grygiel Leheny Hughes, LLC

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

**C. Public Comment**

No members of the public were present to comment on the application.

**IV. RECOMMENDATIONS**

**A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.46(a), which does not permit self-storage facilities in the Commercial Park zone.**

The NJSEA's 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...*

2. 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.*

many of the commercial uses permitted in the zone, such as a banks, restaurants, retail stores, or offices.

In contrast, the proposed self-storage use is complementary to and compatible with the surrounding industrial uses. Based on the traffic engineer's review of permitted uses and related traffic generation based on the Institute of Transportation Engineers Trip Generation Manual, the proposed self-storage facility is a low generator of traffic. The applicant testified that the self-storage facility will generate less traffic per square foot of floor area than most of the uses permitted in the zone. The applicant estimated that the permitted uses, such as commercial and retail buildings or health care centers, would generate more vehicle trips in a peak hour than the proposed self-storage building would generate over an entire day. Furthermore, self-storage facilities do not exhibit peaks related to traffic entering and exiting the site. Therefore, traffic related to the proposed use will have little to no impact on the peak hour of adjacent street traffic. Additionally, the applicant testified that the proposed hours of operation for the self-storage facility will be limited to 6:00 AM to 10:00 PM, seven days per week, thereby minimizing conflicts with existing industrial uses that may operate 24-hours per day. Self-storage facilities are not marketed to businesses that utilize tractor trailers or other large vehicles for movement of goods. The majority of the vehicles expected to use the facility are cars and vans. As such, it is expected there will be minimal traffic conflicts due to the proposed use and the use will not hinder the operations of neighboring businesses or have an impact on adjacent street traffic.

Site access and circulation limitations resulting from existing cross-access easements and the surrounding industrial development pattern are significant constraints that impact the ability to feasibly accommodate a permitted use on the premises. Therefore, the strict application of the regulations relating to the proposed use creates exceptional or undue hardship upon the property owner.

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 variance to permit the construction of a self-storage facility and related site improvements on the subject property 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 professionals testified that the proposed self-storage facility is an exceptionally benign land use in terms of its impacts. It is a very low generator of traffic due to the infrequency of visitations by tenants. The applicant testified that the proposed hours of operation for the self-storage facility are 6:00 AM to 10:00 PM, seven days per week and that the typical vehicles expected to use the facility are mainly cars and vans. These factors will minimize impacts on the current operations of the existing industrial buildings in the area as there will be minimal disruption to traffic movement and circulation due to the proposed use. The applicant also stated that there is a need for the proposed self-storage facility in the area. The proposed use will advance the general welfare by satisfying a growing demand among residents and businesses in

the surrounding market area for secure, climate-controlled, clean, and modern storage space.

Access to the proposed self-storage facility from Rutherford Avenue is provided through the existing 50-foot-wide cross access easement known as Terminal Road. While a 25-foot-wide portion of this paved easement will be maintained on the subject premises, all proposed site parking and loading will be located outside of the Terminal Road driveway width. As such, there will be no proposed obstructions within the on-site portion of the easement/driveway to hinder access. Circulation and access to additional on-site parking proposed along the south side of the self-storage facility is provided by a separate 25-foot-wide easement abutting the south property line, which is within adjacent Lot 1. The applicant is proposing off-site pavement and storm utility improvements within the 50-foot-wide Terminal Road access easement and pavement improvements within the 25-foot-wide easement along the rear of the property. These improvements will benefit the subject property as well as the adjacent properties, as pavement and storm utilities within the access easements are in disrepair. The applicant testified that it will also pursue agreements with adjacent property owners to address the long term maintenance of pavement areas and drainage infrastructure within the shared easements. The provision of the improvements to the pavement and stormwater infrastructure within the shared access easement areas and the pursuit of long term maintenance agreements of same shall be a condition of approval of this use variance.

Therefore, the self-storage facility proposed at this location will not result in significant adverse impacts to neighboring properties or the public.

*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 subject site is presently developed with a pre-existing nonconforming one-story 28,055-square-foot warehouse building, which is proposed to be demolished to construct a six-story self-storage facility. Adequate utility infrastructure, including storm and sanitary sewers, public water, gas, electric and telephone services, exists to serve the proposed self-storage facility. The applicant is proposing new storm utilities, as well as off-site improvements to portions of the existing storm sewer infrastructure that is presently in disrepair. The self-storage facility is a particularly low impact use in terms of wastewater generation, water consumption, and energy usage, as compared to commercial and retail uses that are permitted in the zone.

Adequate access and circulation to the site is provided through existing recorded easements. The applicant is proposing pavement improvements within the 50-foot-wide Terminal Road access easement and within the 25-foot-wide easement along the rear of the property.

These proposed improvements will benefit the adjacent properties, as pavement and storm utilities within the access easements are in disrepair. The applicant provided testimony that it will also pursue agreements with adjacent property owners to address the long term maintenance of pavement areas and drainage infrastructure within the shared easements. The provision of the improvements to the pavement and stormwater infrastructure within the shared access easement areas and the pursuit of long term maintenance agreements of same shall be a condition of approval of this use variance.

Therefore, the proposed use will not negatively impact the existing utility and road infrastructure in the neighborhood.

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

The proposed use variance will not have a substantial adverse environmental impact. The site is presently fully developed with a single-story warehouse building and related site improvements. There are no known environmental conditions on the property that would expose employees, neighboring properties, or the general public to any environmental hazard. The proposed development will not impact wetlands or other sensitive environmental features. Additionally, the applicant testified that the proposed use will not cause the NJSEA's performance standards to be exceeded for noise, vibration, airborne emissions, glare, hazardous and radioactive materials or wastewater.

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

The stated purpose of the Commercial Park zone is "to accommodate mixed use development in compact centers designed to be interrelated to provide a mitigating effect upon peak hour traffic that would normally be generated from single commercial uses." Additionally, one of the general purposes of the District Zoning Regulations is to promote development in accordance with good planning principles that relate to type, design, and layout of such development to both the particular site and the surrounding environs. Self-storage facilities do not have a substantial traffic impact due to the infrequency of visitations by tenants. The self-storage facility will generate less traffic per square foot of floor area than many of the uses that are permitted in the zone. Also, since self-storage facilities do not exhibit peaks related to traffic entering and exiting the site, the facility will not have a negative impact to adjacent street traffic. As such, the proposed use meets the NJSEA's intent to provide a mitigating effect upon existing peak hour traffic. The applicant testified that, while the use is not expressly permitted in the Commercial Park zone, it is complementary to the surrounding industrial uses. In addition, the less intensive self-storage facility use provides a suitable transition between the pre-existing nonconforming industrial uses and the adjacent commercial hotel uses.

The existing industrial uses generate heavy truck traffic that is accommodated through the existing shared access easements. The subject property is not conducive to commercial mixed use

development involving uses permitted in the zone due to access and circulation limitations associated with the heavy truck traffic utilizing Terminal Road. Furthermore, the site is not appropriate for pedestrian-oriented uses that are permitted in the zone due to the heavy truck traffic along Terminal Road and the lack of sidewalks along Rutherford Avenue. In addition, Rutherford Avenue, as an extension of State Route 17, is heavily traveled by vehicles and trucks servicing commercial and industrial uses in the surrounding area. A self-storage facility, however, is in keeping with the intent of the Commercial Park zone, as there are no significant traffic impacts related to the use, the proposed use requires minimal municipal services, and a self-storage facility at this location will not interfere with the existing industrial operations in the area.

The proposed self-storage facility is a less intense use and is better suited to this particular site than the commercial mixed uses permitted in the zone. Therefore, the proposed self-storage facility at this particular location will not substantially impair the intent and purpose of the regulations.

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

The District Master Plan designates the subject premises as a part of the District's Employment Center planning area. While the planning areas in the Master Plan do not constitute zoning districts, the planning objectives for these areas provide the foundation for the District Zoning Regulations and Official Zoning Map, which

reflect the spirit and intent of the Master Plan and are the mechanism by which the policies and principles of the Master Plan are implemented and enforced.

The Employment Center planning area includes a mix of land uses such as offices, warehouse-distribution and industrial facilities. Due to the site's specific constraints, such as shared access and circulation, heavy truck traffic, and the existing industrial nature of the surrounding area, a self-storage facility is better suited for the subject premises than the uses permitted within the Commercial Park zone. A proposed self-storage use is consistent with the existing industrial character of the area. In addition, the proposed development promotes a specific goal of the Master Plan, which is to "promote a suitable array of land uses that encourage economic vitality, create jobs, and support public health, safety, and general welfare." The proposed self-storage facility will benefit the general welfare of the public, including residents and businesses, by satisfying a growing demand in the surrounding market area for secure, climate-controlled, clean, and modern storage space.

As such, the proposed use will provide an appropriate transition between the adjacent commercial hotels and pre-existing nonconforming industrial uses and will fill a need for a storage facility to be used by the business community and the residential population in the District, which serves the general welfare. Therefore, the proposed self-storage use will contribute to and promote the intent of the District Master Plan and Zoning Regulations.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.49(a)14, which permits a maximum floor area ratio (FAR) of 1.25, whereas the applicant is proposing a six-story self-storage facility with an FAR of 2.63<sup>2</sup>.

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 applicant submitted a variance application and related site plans proposing a six-story self-storage building with a total floor area of 123,652 square feet and related FAR of 2.63. During the course of the public hearing, the applicant proposed to decrease the proposed floor area in the building's upper floors, resulting in their modified request for a maximum FAR of 2.5, instead of 2.63. The applicant stated that they would accomplish this modification without affecting the building footprint, impairing any minimum building setbacks, or impacting any other variances that they have requested as part of this application.

The variance request to permit an FAR of 2.5, where a maximum FAR of 1.25 is permitted in the Commercial Park zone, arises from conditions that are unique to the site. The subject site is a pre-

<sup>2</sup> This recommendation is based on a modified request for an FAR of 2.5, as proposed by the applicant during the public hearing held on February 5, 2019.

existing nonconforming undersized lot that is 1.08 acres in size, whereas the minimum required lot area is three acres within the Commercial Park zone. Furthermore, the site is encumbered by a 25-foot-wide access easement located along the east side of the property, which is part of the overall 50-foot-wide cross-access easement and driveway identified as Terminal Road. Terminal Road is the only means of ingress and egress from Rutherford Avenue for the subject lot and the surrounding industrial properties. As such, the 25-foot-wide strip of the Terminal Road access easement that is located on the subject site is required to be maintained as pavement area with no obstructions that could hinder vehicular access or circulation. The 25-foot-wide access easement on the subject undersized lot results in less developable and usable area on the property for constructing improvements. In order to provide sufficient floor area for a marketable self-storage facility, the applicant is proposing to build vertically. Specifically, a six-story self-storage facility is proposed.

Based on the subject site's pre-existing nonconforming lot area of 1.08 acres, which is roughly one-third of the minimum required lot area, and a maximum permitted FAR of 1.25, the applicant would be allowed to construct a conforming building with a total floor area of approximately 58,000 square feet on the site. The applicant testified that this permissible floor area would undermine the viability of the proposed use on the site, as the industry-standard floor area for a self-storage facility is generally in the range of 120,000 to 150,000 square feet. The applicant is proposing a six-story building with an FAR of 2.5, which equates to approximately 117,000 square feet of total floor area. FAR is used to establish a

limit on building size that is proportional to the lot size, and the permitted FAR of 1.25 in the Commercial Park zone is intended to accommodate commercial uses on a lot with a minimum required area of three acres. The Light Industrial A (LIA) zone, which permits self-storage facilities as a principal use, also requires a minimum required lot area of three acres; however, the LIA zone allows a maximum FAR of 2.5. The proposed FAR of 2.5 would be consistent with a permitted self-storage facility in the LIA zone. In this case, an FAR of 2.5 can be considered appropriate for the proposed development on the subject property as it is located within a pre-existing nonconforming industrial area. Additionally, all required building setbacks have been met, and Terminal Road, including the strip of the access easement and related pavement on the subject parcel, will continue to operate as intended. Other than limitations related to the FAR, there are no specific building height restrictions in the Commercial Park zone, and the applicant testified that the proposed building height for the self-storage facility is compatible with the character of the heights of other buildings in the surrounding neighborhood, including offices and hotels. Therefore, the proposed FAR of 2.5 on the subject premises does not signify overdevelopment of the property.

The undersized lot area and the portion of the shared access easement located on the subject lot are site specific conditions that have an impact on the potential development of the premises. As a result, the development envelope on the property is significantly smaller than that which would be provided on a conforming three acre lot, which creates challenges when balancing the zone's requirements for minimum building setbacks, minimum open

space, and maximum FAR with a facility size that is viable for development. These conditions are not a common scenario in the Commercial Park zone and were 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 permit an FAR of 2.5, where the maximum permitted FAR is 1.25, will not adversely affect the rights of neighboring property owners. The subject site is an improved lot with an existing warehouse building and related parking and loading spaces. The surrounding neighborhood is primarily industrial and commercial, and there are no residences in the vicinity of the subject site. The applicant has testified that the variance request to exceed the maximum permitted FAR is primarily a result of the undersized nature of the lot and access easement constraints. Nonetheless, the proposed self-storage facility has been designed to meet all required building setbacks in the zone and to maintain the existing on-site access easement/driveway width within Terminal Road, which will continue to provide a benefit to the surrounding property owners. All site related parking and loading has been located so that the existing shared access and circulation through Terminal Road remains unencumbered for adjacent properties. Furthermore, the proposed building height is compatible with other structures in the area, including the six-story Courtyard by Marriott hotel located east of Terminal Road and the nine-story Renaissance hotel located across Rutherford Avenue to the north of the site. The applicant

testified that the architecture of the building is in keeping with the character of other buildings in the area, and that, by locating the proposed building within the required setbacks, the proposed building height is concentrated in a location that will not negatively impact adjoining properties. Also, there are no improvements planned on the subject lot that would negatively impact the existing operations of neighboring properties. Therefore, the granting of the variance will not adversely affect the rights of neighboring properties.

*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 FAR regulation will result in practical difficulties and undue hardship upon the applicant and property owner. The subject lot is undersized at 1.08 acres, where the minimum required lot area is three acres in the Commercial Park zone. The site is also encumbered by a 25-foot-wide access easement, which is part of the 50-foot-wide access easement and driveway known as Terminal Road. Terminal Road is the only means of ingress and egress to the site and adjacent properties. The 25-foot-wide access easement on the subject parcel is required to be maintained as pavement area for vehicular use to ensure that existing access and circulation are not hindered. The undersized lot area and shared access easement result in insufficient room to locate a functioning and viable structure within the required FAR limit. This results in a reduced building envelope on the subject premises when compared with other properties in the same zone,

requiring the applicant to build vertically to provide marketable floor area. If the regulations were strictly enforced, the proposed building would need to be scaled down substantially, which would render the project unfeasible.

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

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The FAR variance request is the result of the undersized lot area and shared access easements, which create insufficient room to locate a functional structure within the required FAR limit of 1.25. The proposed six-story structure with an FAR of 2.5 is compatible with the character of the surrounding area. The applicant testified that the proposed building height will not negatively impact any other adjoining properties. All required setbacks and open space requirements have been met and there are no improvements planned on the subject lot that will negatively impact the existing operations of neighboring properties. Adjacent properties will actually benefit from new pavement and repairs to the storm drainage system within the shared access easements.

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

The Commercial Park zone requires compliance with the NJSEA's Category B performance standards. The applicant testified that

NJSEA performance standards will be met for noise, vibration, airborne emissions, glare, hazardous and radioactive materials, and wastewater. The proposed development will not impact wetlands or other sensitive environmental features. As the increased floor area is proposed to be constructed vertically, the granting of this variance request for increased FAR will not have an effect on performance standards or environmental features. Landscaping improvements are proposed, which will increase open space on the premises in accordance of the required 25 percent. As such, the granting of the requested variance will not result in any substantial adverse environmental impacts.

*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. The undersized lot area and shared access easement on the property create significant practical difficulties in designing a viable development within the building envelope. The applicant is proposing a six-story structure with an FAR of 2.5, which is the FAR applicable to a self-storage facility in the Light Industrial A zone where the use is permitted. The allowable FAR of 1.25 is intended to accommodate higher intensity commercial uses on larger lots, while the subject proposal is for a low intensity use based on traffic generation, traffic impacts, and the minimal requirements for municipal services related to the use. The higher FAR that is proposed in this particular case does not represent a more intensive development. The proposed improvements do not represent overdevelopment of the site or a

proposed building height that is out of scale with the surrounding neighborhood. All required building setbacks have been met, the required amount of parking and loading spaces have been provided, and more open space than the required minimum has been provided. Also, the shared access easement on the premises will continue to function as intended. Therefore, 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.*

Specific purposes of the District Zoning Regulations that relate to the subject variance request include providing sufficient space in appropriate locations for a variety of uses, and to ensure that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that aesthetics and use values are maximized. The proposed self-storage facility with an FAR of 2.5 balances the zoning requirements within the Commercial Park zone with the specific characteristics of the site and its surroundings. The undersized lot area and shared access easement are site specific conditions that impact development on the premises. The proposed improvements and corresponding FAR do not represent overdevelopment on the premises, since all building setbacks have been met, the number of required parking and loading spaces has been provided, the maximum lot coverage is not exceeded, and more open space than required has been provided. Also, the building height is compatible with the character of the area and the office and hotel structures in the area. Therefore, the

proposed variance as modified to reflect a requested FAR of 2.5 will not substantially impair the intent and purpose of the District Zoning Regulations.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(b)2, which requires that all vehicular use areas shall maintain a five-foot setback from side and rear property lines, whereas the applicant is proposing a zero-foot setback for the vehicular use area along the rear property line.

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 a zero-foot setback for the vehicular use area along the rear property line arises from conditions that are unique to the site. A 25-foot-wide paved access easement is located to the south of the site on Lot 1 and runs parallel to the subject lot's rear property line. This access easement, which benefits Lots 2, 17, and 18, is recorded as part of the deeds of the subject property and neighboring properties. The paved area within this easement is used by Lots 1, 2, 17, and 18 for access and circulation since there is no public right of way between the subject site and adjacent lots. The paved area within this easement, along with the contiguous paved areas on the subject site and Lot 18, are currently utilized as part of an existing, shared vehicular use area.

The applicant testified that providing a setback, which would consist of a five-foot-wide curbed landscaped island, along the rear property line would reduce the existing vehicular use area that is currently shared by the four properties. A property line that functions as part of a shared vehicular use area is not a common scenario in the Commercial Park zone, and 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 permit a zero-foot setback for the vehicular use area along the rear property line, whereas a five-foot setback is required, will not adversely affect the rights of the neighboring property owners.

The 25-foot-wide access easement area located on adjacent Lot 1, along with the adjacent appurtenant paved areas on Lot 18 and the subject site, are utilized as a shared vehicular use area for access and circulation by users of the subject property and neighboring properties. The easement within this paved area is presently used to access parking spaces for the existing warehouse on the subject premises and will continue to provide access to parking spaces for the proposed development. The proposal to maintain area driveway along the rear property line, without a five-foot setback, will allow the access easement on Lot 1 to remain fully accessible, with minimal impact to the existing shared vehicular use area and traffic movements and circulation. A five-foot pavement setback in this area, which would consist of a curbed landscaped island,

would constrict the common vehicular use area and negatively impact the rights of neighboring property owners that currently utilize the access easement. During the public hearing, the applicant noted that the existing pavement area within the access easement has not been maintained and is in need of repair. The applicant provided testimony stating that it will assume the maintenance responsibility for the pavement within the access easement if a joint maintenance agreement is not reached between the adjacent property owners. Long term maintenance of the access easement will be an added benefit for all property owners using the access easement. Therefore, the granting of the requested variance will not adversely affect the rights of neighboring property owners.

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

The strict application of the regulations will result in practical difficulties and undue hardship upon the applicant and property owner. The applicant is proposing to maintain the existing paved vehicular use area at the rear of the subject site, which abuts the 25-foot-wide access easement on adjacent Lot 1. As a result, they are not providing the required five-foot setback from the rear property line. The applicant testified that the rear property line is not a conventional lot line where it would be practical to accommodate the required setback. This lot line functions as part of a shared paved access area. The provision for a five-foot setback along this property line, which would consist of curbed landscaped island, would restrict and encroach upon the existing shared vehicular use

area utilized by users of the subject property and neighboring properties. Maintaining the existing pavement in this area of the site adjacent to the access easement will continue to provide for the existing open access and circulation intended as part of the recorded easement. Therefore, the strict application of the regulations to provide a five-foot setback from the rear property line will result in peculiar and exceptional practical difficulties and undue hardship upon 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.*

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The proposed paved area along the rear property line, which abuts the 25-foot-wide easement on Lot 1, serves as part of the shared vehicular use area for vehicle and truck access and circulation for neighboring properties. The easement on Lot 1 will also provide access to the applicant's proposed onsite parking stalls at the rear of the property. The proposed improvements, including the pavement within 5 feet of the rear property line, ensure that shared vehicular use area, inclusive of the easement, will continue to function without impacting existing access or circulation. Furthermore, the applicant has testified that it will resurface the paved areas within the easement and ensure the long term maintenance of same. Therefore, no negative impact to public health or the general welfare is expected.

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

The Commercial Park zone requires compliance with the NJSEA's Category B performance standards. The performance standards will be met for noise, vibration, airborne emissions, glare, hazardous and radioactive materials, and wastewater. Maintaining the current location of existing paved driveway access will not result in an exceedance of the performance standards. Onsite stormwater will be collected and piped to existing inlets and pipes located off-site within Terminal Road, which are currently non-functional and proposed to be repaired as part of the application. The proposed development will not impact wetlands or other sensitive environmental features. Although the applicant will not be providing a five-foot-wide setback, which would consist of a curbed landscaped island, the proposed self-storage facility will otherwise provide required landscaping and open space on the premises will increase in excess of the required 25 percent minimum. Therefore, the granting of the requested variance will not result in any substantial adverse environmental impacts.

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 and balances the zoning requirements with site conditions. The applicant is proposing to pave to the rear property line, whereas the regulations require that all vehicular use areas maintain a five-foot setback from the rear

property line. Providing a five-foot setback, which would consist of a curbed landscaped island, where vehicle usage is not permitted would limit the functionality of the shared vehicular use area that currently exists between the properties. Presently, existing pavement on the subject lot abuts the 25-foot-wide access easement on Lot 1 to create a more expansive vehicular use area for shared access and circulation. The proposed site layout, without a 5-foot setback, will uphold the intent of the existing cross-access easement. In addition, the proposed parking stalls at the back of the self-storage facility will maintain a 5.9-foot offset from the rear property line so that the shared vehicular use area remains open and unrestricted for circulation. Proposed onsite parking will be offset from the property line so there is no encroachment into the shared vehicular use area. Therefore, the variance represents the minimum deviation from the regulations that will afford relief, while balancing site specific conditions that impact access and circulation.

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

One of the purposes of the District Zoning Regulations is to promote development in accordance with good planning principles that relate type, design, and layout of such development to both the particular site and the surrounding environs. The subject site is unique in that the rear property line is part of the shared vehicular use area, which includes the access easement located on Lot 1. The applicant is proposing to maintain the existing paved vehicular use area at the rear of the subject site, which abuts the 25-foot-wide access

easement on adjacent Lot 1. As a result, they are not providing the required five-foot setback from the rear property line. The applicant testified that the rear property line is not a conventional lot line where it would be practical to accommodate the required setback. This lot line functions as part of a shared paved access area. The provision for a five-foot setback along this property line, which would consist of curbed landscaped island, would restrict and encroach upon the existing shared vehicular use area utilized by users of the subject property and neighboring properties. The granting of the variance would allow the easement on Lot 1 to remain fully accessible to the subject property and neighboring lots, as required by the recorded cross-access easement. In addition, the on-site parking and circulation has been provided in a safe and efficient manner, and landscaped islands have been provided adjacent to the parking spaces to increase open space and improve aesthetics. Therefore, the proposed variance will not substantially impair the intent and purpose of the District Zoning Regulations.

**D. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.9(d)4 which requires a five-foot-wide landscape strip with shade trees to be planted on 25 to 40 foot centers along all side and rear property lines, whereas the applicant is not proposing a five-foot-wide landscape strip along the rear property line.**

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 pavement to extend to the rear property line, where a five-foot-wide landscape strip with shade trees is required, arises from conditions that are unique to the site. The rear yard is constrained by an adjacent access easement. Specifically, a 25-foot-wide paved access easement is located to the south of the site on Lot 1 and runs parallel to the subject lot's rear property line. This access easement, which benefits Lots 2, 17, and 18, is recorded along with the deeds of the subject property and neighboring properties. The paved area within this easement is used by Lots 1, 2, 17, and 18 for access and circulation since there is no public right of way between the subject site and adjacent lots. The paved area within this easement, along with the contiguous paved areas on the subject site and Lot 18, are currently utilized as part of an existing shared vehicular use area. The applicant testified that providing a landscaped island with shade trees along the rear property line is not feasible due to the risk of encroaching upon the easement and limiting the access that is currently shared. A property line that functions as part of a shared access easement is not a common scenario in the Commercial Park zone, and 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 permit pavement along the rear property line, where a five-foot-wide landscaped strip with shade trees is required, will not adversely affect the rights of the neighboring property owners.

A 25-foot-wide easement is located on Lot 1 directly parallel to the rear property line of the subject property, and is used by the subject lot and neighboring properties for access and circulation. A landscape island with shade trees is not practical in this location, as any improvement other than pavement along the rear property line would encroach upon the existing shared vehicular use area, which includes the access easement. The proposal to provide pavement to the rear property line will provide for the open access and circulation intended by the recorded easement. Curbed islands with shade trees and evergreen shrubs are, however, provided throughout site and in the area of the rear parking spaces, including evergreens proposed to screen the refuse area. In addition, the proposed open space percentage exceeds both the existing and the minimum required open space percentages. The proposed landscaping improvements will provide visual enhancements to the area and improve aesthetics for adjoining properties, as the industrial uses in the surrounding area are fully developed with minimal open space or landscaping. Therefore, the granting of the variance will not adversely affect the rights of neighboring properties owners.

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

The strict application of the regulations will result in practical difficulties and undue hardship upon the applicant and property owner. The applicant is not proposing to install the required five-foot-wide landscape strip with shade trees along the rear property line. Rather, the existing pavement within the shared vehicular use area is proposed to remain to maintain unrestricted access for the subject site and neighboring properties that use the cross access easement. The applicant testified that the rear property line is not a conventional lot line where it would be feasible to accommodate a landscape strip with shade trees. The rear lot line actually functions as part of the shared access easement within the common vehicular use area. The provision to provide a landscape strip with shade trees in this specific location would encroach on the existing shared vehicular use area, which includes the access easement, and create undue hardship on 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.*

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. To avoid impacts to the existing access and circulation in the area of the shared vehicular use area, the applicant is not proposing to provide the required landscape strip with shade trees along the rear property line. However, required landscaping is otherwise accommodated throughout the site and

within islands between parking stalls. The applicant is proposing shade trees and shrubs in parking lot islands, and open space in excess of that required is proposed on the premises. The overall number of shade trees proposed along the side yard is in accordance with the landscaping requirements, and the property frontage has been effectively landscaped. The landscaping improvements will provide visual enhancements in the area and for adjacent properties. Therefore, no negative impacts to public health or the general welfare are expected.

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

The granting of the requested variance to provide pavement along the rear property line, instead of the required five-foot-wide landscape strip with shade trees, will not result in substantial adverse environmental impacts. The Commercial Park zone requires compliance with the NJSEA's Category B performance standards. These performance standards will be met for noise, vibration, airborne emissions, glare, hazardous and radioactive materials, and wastewater. Maintaining the current location of existing paved driveway access will not result in an exceedance of the performance standards. On-site stormwater will be collected and piped to existing inlets and pipes located off-site within Terminal Road, which are currently non-functional and proposed to be repaired as part of the application. Although the applicant is not proposing a five-foot-wide setback with shade trees, the applicant testified that the proposed facility will exceed the minimum requirement for open space percentage, and the property will otherwise be compliant with landscaping requirements,

providing landscaping where feasible and unconstrained by access easements. The provision of a minimum of thirteen shade trees, the overall number required on the subject premises, inclusive of four shade trees within the parking area planting islands at the rear of the property will be a condition of this variance. As such, the granting of the requested variance will not result in any substantial adverse environmental impacts.

*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 by balancing the landscaping regulations with the specific site conditions. It is not feasible to provide a five-foot-side landscape strip with shade trees along the rear property line, as this would impact existing access and circulation within the shared vehicular use area. However, the required amount of landscaping is accommodated elsewhere throughout the site and within islands between parking stalls. The proposed facility provides open space in excess of the minimum requirement.

The applicant is proposing shade trees and shrubs within the parking lot islands at the rear of the property at the same spacing as required for a five-foot-wide landscape strip. The number and spacing of shade trees proposed along the side yard conform to the landscaping requirements, and the property frontage has also been effectively landscaped. The provision of a minimum of thirteen shade trees, the overall number required on the subject premises,

inclusive of four shade trees within the parking area planting islands at the rear of the property will be a condition of this variance. These improvements will provide a positive impact on aesthetics in the area and will improve the viewshed from Rutherford Avenue and from neighboring properties. Therefore, the variance represents the minimum deviation from the regulations that will afford relief, while balancing landscaped open space requirements and site specific conditions that impact access and circulation.

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

One specific purpose of the District Zoning Regulations is to promote development in accordance with good planning principles that relate to type, design, and layout of such development to both the particular site and surrounding environs. The intent of the regulation for a required five-foot-wide landscape strip with shade trees along the rear property line is to provide a vegetative buffer between adjacent properties and related improvements for aesthetic and ecological purposes. In this particular case, a landscaped buffer between the subject property and the 25-foot-wide easement on Lot 1 would not be practical since existing access and circulation within the shared vehicular use area would be impacted. The proposal to maintain pavement adjacent to the access easement, rather than providing a landscape strip with shade trees, is based on the particular characteristics of the site and its surroundings. Specifically, the existing pavement at the rear property line functions as part of the shared vehicular use area,

which includes the 25-foot-wide access easement, and the provision for a 5-foot-wide curbed landscape strip with shade trees in this location would encroach upon the existing shared vehicular use area. Furthermore, the viewshed from Rutherford Avenue or adjacent properties will not be negatively impacted. The proposed facility will provide open space in excess of the minimum requirement. The applicant testified that shade trees provided along the parking lot islands at the rear of the property are provided at the same spacing as would be required within the five-foot landscape strip. The overall number and spacing of shade trees, including shade trees proposed along the side yard, will otherwise conform to the landscaping requirements, and the property frontage has also been effectively landscaped. The provision of a minimum of thirteen shade trees, the overall number required on the subject premises, inclusive of four shade trees within the parking area planting islands at the rear of the property will be a condition of this variance. These improvements will provide a positive impact on aesthetics in the area and will improve the viewshed from Rutherford Avenue and from neighboring properties. Therefore, the proposed variance will not substantially impair the intent and purpose of the District Zoning Regulations.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.46(a), which does not permit self-storage facilities in the Commercial Park zone.

Based on the record in this matter, the use variance application to permit a self-storage facility on the subject premises is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

1. Subject to property owner approval regarding the off-site segments of the shared access agreements, the applicant shall make improvements to the pavement and stormwater infrastructure located within the areas of the 50-foot-wide Terminal Road shared access easement and pavement within the 25-foot-wide shared access easement along the rear of the property as depicted on the plan entitled "Applicant Responsibility Maintenance Exhibit," Drawing 1 of 1, prepared by Stonefield Engineering & Design, and dated November 7, 2018.
2. The applicant shall pursue agreements with the adjacent property owners to address the long term maintenance of pavement areas and stormwater infrastructure within the shared access easements.

CONDITIONAL APPROVAL  
Recommendation on  
Variance Request

4/1/2019  
Date

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

CONDITIONAL APPROVAL  
Recommendation on  
Variance Request

4/2/19  
Date

  
Frank Leanza, Esq.  
Senior Vice President  
Chief of Legal & Regulatory Affairs

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.49(a)4, which permits a maximum floor area ratio (FAR) of 1.25, whereas the applicant is proposing a six-story self-storage facility with FAR of 2.63.

Based on the record in this matter, inclusive of the applicant's proposed modification to its variance request during the public hearing held on February 5, 2019, for an FAR of 2.5, the bulk variance application to permit an FAR of 2.5 on the subject premises, whereas a maximum FAR of 1.25 is required, is hereby recommended as a MODIFIED APPROVAL.

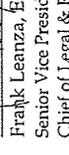
MODIFIED APPROVAL  
Recommendation on  
Variance Request

4/1/2019  
Date

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

MODIFIED APPROVAL  
Recommendation on  
Variance Request

4/2/19  
Date

  
Frank Leanza, Esq.  
Senior Vice President  
Chief of Legal & Regulatory Affairs

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(b)2, which requires that all vehicular use areas shall maintain a five-foot setback from side and rear property lines, whereas the applicant is proposing a zero-foot setback for the vehicular use area along the rear property line.

Based on the record in this matter, the bulk variance application to permit a zero-foot setback for the vehicular use area along the rear property line, whereas a five-foot setback is required, is hereby recommended for APPROVAL.

APPROVAL  
Recommendation on  
Variance Request

4/1/2019  
Date

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

APPROVAL  
Recommendation on  
Variance Request

4/2/19  
Date

  
Frank Leanza, Esq.  
Senior Vice President  
Chief Of Legal & Regulatory Affairs

D. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.9(d)4, which requires a five-foot-wide landscape strip with shade trees to be planted on 25 to 40 foot centers along all side and rear property lines, whereas the applicant is not proposing a five-foot-wide landscape strip along the rear property line.

Based on the record in this matter, the bulk variance application to permit pavement along the rear property line, whereas a five-foot-wide landscape strip with shade trees is required, is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITION:

1. The applicant shall plant a minimum of thirteen shade trees on the subject premises, including four shade trees within the parking area planting islands at the rear of the property.

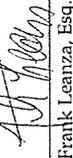
CONDITIONAL APPROVAL  
Recommendation on  
Variance Request

4/1/2019  
Date

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

CONDITIONAL APPROVAL  
Recommendation on  
Variance Request

4/2/19  
Date

  
Frank Leanza, Esq.  
Senior Vice President  
Chief of Legal & Regulatory Affairs

# **AWARDS/ CONTRACTS**

**RESOLUTION 2019-15**

**RESOLUTION AUTHORIZING THE  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
TO ENTER INTO A CONTRACT FOR  
REPLACEMENT OF 5 kV AUTOMATIC SWITCHGEAR FOR THE  
STORMWATER PUMP STATION AT THE  
MEADOWLANDS SPORTS COMPLEX**

**WHEREAS**, the New Jersey Sports and Exposition Authority requires the replacement of the existing generator automatic transfer switchgear for the stormwater pump station at the Meadowlands Sports Complex East Rutherford campus and;

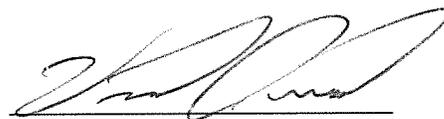
**WHEREAS**, this work was publicly bid, with two (2) qualified bids being received on January 29, 2019 and;

**WHEREAS**, Precision Electric Motors Works, Inc. was the lowest responsive proposer, with a bid in the amount of \$302,400.00 and;

**WHEREAS**, staff review of the bid indicates that the bid is reasonable and proper and in the best interest of the NJSEA, as outlined in the attached memorandum.

**NOW, THEREFORE, BE IT RESOLVED** by the New Jersey Sports and Exposition Authority that the President and Chief Executive Officer is hereby authorized to enter into a contract with Precision Electric Motor Works, Inc. at a price not to exceed \$302,400.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of April 11, 2019.



Vincent Prieto  
Secretary



*MEMORANDUM*

To: NJSEA Board Members and Vincent Prieto, President / CEO  
From: John J. Duffy Date: April 11, 2019  
RE: Contract: CN-266 - Replacement of 5 kV Automatic Switchgear for the Storm Water Pump Station at the Meadowlands Sports Complex

This resolution authorizes the President and Chief Executive Officer to enter into a contract as described in the request for proposal documents issued January 2019. Under the contract, the work shall include all the equipment, materials and design services needed to provide a new 5kV automatic switchgear for installation in the storm water pump station at the Meadowlands Sports Complex.

During the bid period, a total of four (4) prospective proposers picked up the contract documents. Only two (2) proposals were received and both were deemed qualified.

The lowest responsive bidder was Precision Electric Motor Works, Inc., a supplier of Eaton switchgear with a bid of \$ 302,400.00. Review of the bid indicates it is complete and in order.

Therefore, we submit for your consideration and approval, a resolution authorizing the President and Chief Executive Officer to enter into a contract with Precision Electric Motors Works, Inc. for the replacement of the 5kV automatic transfer switchgear at the Meadowlands Sports Complex storm water pump station at a cost not to exceed \$302,400.00.

RESOLUTION 2019-16

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO  
TO ENTER INTO A CONTRACT WITH  
EMILCOTT ENVIRONMENTAL, HEALTH & SAFETY EXPERTS FOR  
HYDROGEN SULFIDE MONITORING SERVICES AT THE KEEGAN LANDFILL**

**WHEREAS**, the New Jersey Sports and Exposition Authority (NJSEA) is required to perform hydrogen sulfide monitoring at the Keegan Landfill pursuant to the Administrative Consent Order between the New Jersey Department of Environmental Protection (NJDEP) and the NJSEA dated March 22, 2019 (ACO); and

**WHEREAS**, NJDEP and NJSEA agree that Emilcott Environmental, Health & Safety Experts are able to perform the required monitoring in the manner set forth by NJDEP and within the mandated timeframe.

**NOW, THEREFORE, BE IT RESOLVED**, that the NJSEA is hereby authorized to appropriate \$300,000 for hydrogen sulfide monitoring services as required by the ACO; and

**BE IT FURTHER RESOLVED**, that the President and CEO is authorized to contract with Emilcott Environmental, Health & Safety Experts for such services for an initial period of twelve months.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of April 11, 2019.

  
\_\_\_\_\_  
Vincent Prieto  
Secretary

# **EXECUTIVE SESSION**

RESOLUTION 2019-17

**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.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of April 11, 2019.

  
\_\_\_\_\_  
Vincent Prieto  
Secretary