



Remote Board Meeting

Thursday, April 23, 2020

10:00 a.m.



**AGENDA
REGULAR SESSION
Remote Access Meeting**

Thursday, April 23, 2020 - 10:00 a.m.

I. **PLEDGE OF ALLEGIANCE**

II. **OPENING STATEMENT**

III. **ROLL CALL**

IV. **APPROVAL OF MINUTES AND CASH DISBURSEMENTS** (Action)

- Approval of Special Meeting Minutes of February 6, 2020
- Approval of Regular Session Meeting Minutes of February 20, 2020
- Approval and/or Ratification of Cash Disbursements over \$100,000 for the months of February and March 2020.

V. **PUBLIC PARTICIPATION ON RESOLUTIONS**

VI. **APPROVALS** (Action)

Resolution 2020-12 Consideration of a Resolution Issuing a Decision on the Special Exception and Variance Application Submitted as Part of File No. 19-436 Int'l Longshoremen/T-Mobile & Sectorsite – Comm. Tower (Special Exception & Variance) – Block 452, Lots 16.01 & 17 in North Bergen.

Resolution 2020-13 Consideration of a Resolution Issuing a Decision on the Variance Application Submitted as Part of File No. 18-422 – 1099 Wall Street Ventures, LLC – New Building (Hotel) & Variance/Subdivision – Block 228, Lots 1.01 & 1.03 in Lyndhurst.

Resolution 2020-14 Consideration of a Resolution Issuing a Decision on the Variance Application Submitted as Part of File No. 19-508 Hudson County/High Tech High School – Cell Tower (Use Variance) – Block 5, Lot 2.03 in Secaucus.

VII. **AWARDS/CONTRACTS** (Action)

Resolution 2020-15 Consideration of a Resolution Authorizing the President and CEO to Enter into a Contract for the Preparation of the Meadowlands District Transportation Plan Update 2045 (File No. SP-767)

Resolution 2020-16 Consideration of a Resolution Authorizing the Negotiation and Execution of a Contract with SCS Engineers for Professional and Field Services Related to the Closure of the Keegan Landfill.

VIII. **PUBLIC PARTICIPATION**

IX. **EXECUTIVE SESSION**

Resolution 2020-17 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**

TO VIEW THE FULL BOARD BOOK, PLEASE VISIT OUR WEBSITE AT:
<https://www.njsea.com/monthly-meetings/>

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



SPECIAL SESSION BOARD MEETING

DATE: February 6, 2020
TIME: 10:00 a.m.
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ
RE: SPECIAL SESSION MEETING MINUTES

Members in Attendance:

John Ballantyne, Chairman
Joseph Buckelew, Vice Chairman
Vincent Prieto, President and CEO
Robert J. Dowd, Member
Armando Fontoura, Member
Michael H. Gluck, Esq., Member (via phone)
Steven Plofker, Member
Anthony Scardino, Member
Louis J. Stellato, Member
Robert Yudin, Member

Absent:

Michael Gonnelli, Member
Woody Knopf, Member
Andrew Scala, Member
Michael Griffin, NJ State Treasurer's Representative

Also Attending:

Christine Sanz, Senior Vice President/Chief Operating Officer
Frank Leanza, Senior Vice President/Chief of Legal & Regulatory Affairs
Adam Levy, Vice President of Legal & Regulatory Affairs
Sara Sundell, Director of Land Use Management and Chief Engineer
Steven Cattuna, Chief of Staff
Lisa LeBoeuf, Senior Legal Specialist
Lauren LaRusso, Assistant Counsel, Governor's Authorities Unit (via phone)
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

Chairman Ballantyne stated that the Hackensack Meadowlands District Master Plan Update 2020 is the first update since 2004. It is a vital plan that sets the pathway for the Meadowlands District's continued and expanded economic growth and environmental preservation objectives. He also stated that the Master Plan Update will advance the substantial economic growth and development that has occurred within the Meadowlands District over the decades by providing for a suitable array of land uses responsive to modern development trends, and encouraging redevelopment opportunities that foster economic vitality with job creation. The Chairman then stated that it will build upon the region's economic foundation and continue to generate quality tax ratables for constituent municipalities, while providing the framework for detailed strategic plans to address flooding, transportation, and housing affordability challenges.

The Chairman asked that public participation comments be limited to ten minutes per speaker.

President Prieto stated that on the environmental side of the spectrum, the Master Plan Update provides for the continued protection and enhancement of the District's environment, including an update on the Meadowlands Wetlands Program Plan. He also stated that measures to support the biodiversity of the District and expand its available recreational opportunities are advanced in the Master Plan Update through strategic and robust natural resource planning, including a Wildlife Management Plan. President Prieto then stated that it also addresses critical environmental challenges, specifically climate change and sea level rise, through a new Plan element, "Sustainable Meadowlands: A Guide to Resiliency."

IV. PUBLIC PARTICIPATING ON RESOLUTION 2020-07

- Michael Gonnelli, Mayor of Secaucus commented on the following:
 - Asked that the Board not override the Mayor's Committee veto on the draft Master Plan.
 - Commented on the HMMC's authority to accept or reject codes and standards formulated by the Commission. Also commented that the veto has been used no more than four times before.
 - Commented that the then NJMC cared about the towns and discussed the impacts of potential policy decisions with the towns.
 - Commented that the HMMC vetoed the Master plan twice based on the need for additional information on traffic and flood control.
 - Commented that at the last HMMC meeting an additional 90 days to review the document was requested because the Mayors have not had adequate time to review comments and amendments to the Master Plan.
 - Commented that the document was delivered to the office of the HMMC but was not given to the Mayors. He also commented that Mayors had not received or seen the Master Plan.
 - Commented that it wasn't until after the review period concluded that the Mayors were sent an email that documents can be accessed via Dropbox.
 - Commented on the NJSEA statutory obligations to adopt the Master Plan.
 - Commented that in 2004 the mayors unanimously voted for the Master Plan.
 - Mayor Gonnelli distributed his statement to board members.

President Prieto addressed some of Mayor Gonnelli's comments:

- Stated that the Board respects the 14 district mayors and explained that they were the first of the key stakeholders to be brought in at the beginning of the process to discuss ideas and concerns.
- Stated that each municipality received a copy of the Master Plan on August 5.
- Stated that after the January 21 meeting with HMMC Executive Director, Chairman and HMMC attorney comments were sent to each mayor.
- Stated that there is a statutory deadline.
- Stated that future studies are included similarly to what was done in the 2004 Master Plan.
- Stated that a new chapter on resiliency has been incorporated into the Master Plan to address flooding.

Chairman Ballantyne stated the following regarding the Master Plan process:

- The NJSEA followed all statutory procedures in drafting and finalizing the 2020 Master Plan Update. Under the Hackensack Meadowlands Consolidation Act of 2015, the NJSEA is required to adopt an update to the 2004 Master Plan by Feb. 5, 2020.
- The NJSEA was required to follow statutory deadlines in the Master Plan Update preparation process over the past 13 months, and provided ample time for public input.
- The Draft Master Plan Update was introduced on Aug. 5, 2019; a six-week public comment period commenced that day and ended on Sept. 16, 2019. Public hearings were held on September 10 in the morning and the evening to receive public comment. These hearings were purposefully scheduled after the summer to maximize availability of the public.
- The Draft Master Plan Update was revised, incorporating revisions that were based on comments and questions received during the public comment period. This revised Draft Master Plan Update, along with public hearing transcripts and a memo responding to the public comments, was delivered to the HMMC offices via email and hard-copy on Sept. 25. A signed receipt of delivery was provided to the NJSEA on Oct. 7, 2019. The transmittal of the documents marked the beginning of HMMC's 120-day review period, which ended on Jan. 22, 2020.
- After the HMMC's vote to reject the Master Plan Update at its Jan. 13th meeting, the NJSEA again provided the Draft Master Plan via an email on Jan. 21 to the HMMC and to each of the individual mayors. Included in that email was a memo from the President and CEO outlining responses to concerns and comments expressed by HMMC members at their Jan. 13th, meeting. The HMMC Executive Director acknowledged receipt of the email on Jan. 21.
- Three of the 14 District municipalities participated during the Master Plan Update public comment period by submitting written comments and providing feedback at the public hearings held on Sept. 10th

Commissioner Yudin asked if passing the Master Plan today precludes any objections to the Master Plan and it being amended. Mr. Levy explained that once adopted it is a final document. Mr. Levy clarified that the document is a planning document and the beginning of a process that will include extensive stakeholder and municipal involvement and public participation. He also stated that plan proposes future studies.

President Prieto noted that Transportation is a separate statute and that a chapter on resiliency was added to the Master Plan to address flooding.

Commissioner Yudin asked Mayor Gonnelli if his objection is based on the process and if he objects to anything in the Master Plan. Mayor Gonnelli commented that he rejects to everything in the Master Plan because neither he nor any of the mayors had time read it and review answers to their questions because it was sent the Director of HMMC and not each Mayor. President Prieto stated that the process followed the statute.

- Bill Sheehan, Riverkeeper commented on the following:
 - Commented that the Riverkeeper has been a regional planning partner with the NJSEA since 2015.
 - Commented that the Master Plan is to protect and address environmental issues.
 - Commented things have been improving since the clean water act was passed and also the new master plan. He also commented on the integral part MERI has played.
 - Commented on the 2015 statutory time limit to approve the Master Plan.
 - Commented that the mayors did unanimously approve the 2004 Master Plan and also commented that it does not have to be unanimous.
 - Commented that the Master Plan is a guidance document.
- Jim Kirkos, President and CEO of Meadowlands Chamber of Commerce commented on the following:
 - Commented that he is here to talk about the plan itself.
 - Commented on the importance of the Master Plan to the region both for environmental preservation and economic growth.
 - Commented on the NJSEA professional staff and their involvement with stakeholders. Also commented on staff working with the Chamber Master Plan Committee over the last few months.
 - Commented on the requirement of a formal commitment to continue to do some of the studies of the elements of the Plan.
 - Commented on the importance of hiring a transportation consultant to assist with Transportation Master Plan and to approve that plan expeditiously.
 - Commented that the legislature and administration need to provide necessary resources to allow the agency to conduct all of the studies - flooding, housing, resiliency and zoning regulations.
 - Commented on the flexibility of the plan and the continuation of a process to take deeper dives along the way.
 - Commented on the Chamber's commitment to being a partner with the NJSEA, the mayors and the communities.
- Steve Lydon, Professional Planner representing Towers Associates
 - Commented that he is not here to speak about his client's property but to speak on the Master Plan.
 - Commented that it is pre-mature to adopt the Master Plan and that there is no requirement or negative consequences if Master Plan is not approved today.
 - Commented that the existing Master Plan and existing zoning regulations will remain in place.
 - Commented that the Master Plan does not have the support of the mayors and should not be ignored. He also commented that the agency needs the support of the mayors.
 - Commented on mobility in the District.

- Commented that the Transportation Study should have been done before the Master Plan was drafted. He also commented that in 2004 the plans were done concurrently and the plans worked together.
- Commented that the board should not approve the Master Plan until the Transportation Study is complete.
- Commented on sea level rise in New Jersey. Also commented that the 2019 Rutgers report that discusses sea level rise should be incorporated in the Master Plan.
- Commented on the resiliency section of the Master Plan and how it does not address sea level rise.
- Commented that the Master Plan needs to be rethought and redesigned and address the 2019 Rutgers study.
- Commented on the Land Use Map and his client's property and how the previous planning and zoning documents deal with that area. He also commented on how the Master Plan will split a portion of his client's property.

Chairman Ballantyne asked that the speaker comment only on the resolution.

- Asked that the board not approve the Master Plan.
- Fred Alworth, Gibbons PC representing NJSEA stated that with regards to the Professional Planner representing Towers Associates who just spoke that there is pending litigation between NJSEA and a neighboring property owner since 2015. He also stated that a matter is pending before the Appellate Division. He explained that it is important that the public and Board understand the connection.
- Dr. Tom Brennan, licensed engineer representing Towers Associates commented on the following:
 - Commented on data needed for the Master Plan - transportation and sea level.
 - Commented that there is no transportation data now and asked that the board wait for the data.
 - Commented on review of MASSTR data.
 - Commented on non-compatible uses in the employment center.
 - Commented that there should be discussion regarding congestion with NJ Transit, MTA and Port Authority to get their perspectives.
 - Commented that transportation data needs to be taken into account with context of what land development is being proposed.

Chairman Ballantyne asked if Dr. Brennan, as a representative of Towers Associates, had spoken at any public hearings. Dr. Brennan replied yes.

- Robert Ceberio, former NJMC Executive Director commented on the following:
 - Commented on developing a solution that works for everyone.
 - Commented that although the agency has a great hard working staff, NJSEA and NJMC in 2015 were stripped down of staff and resources to put together a Master Plan and Transportation Plan.
 - Commented that the mayors committee is asking about transportation and flood controls and are interested in seeing existing land uses and pinch points of where transportation is having a problem.
 - Commented to delay the Master Plan approval and to have staff sit down with mayors to discuss their transportation issues and have an information exchange.

- Commented on the amount of work that needs to be done and that staff will need extra resources to complete.
- Commented if you don't have a transportation plan how can you address land use patterns and designs.
- Recommended that there be an MOU with the HMMC to allow amendments after the studies are done.

President Prieto thanked Mr. Ceberio for his comments and input. He explained that the document is a living and breathing document. He stated that the agency values the mayors input and that the process has been open and transparent. President Prieto noted that the December study mentioned earlier didn't discuss the Meadowlands it talked about Sandy Hook and the Battery. He also stated that the agency relies on MERI to augment the report and to monitor the areas. President Prieto also stated that additional staff and resources were added for the Master Plan process.

- Don Evanson, Secaucus resident commented on the following:
 - Commented that the Master Plan is a historical document.
 - Commented that there should be a section comparing the 2004 document and the current document.
 - Commented that it is not an actionable document.
 - Commented that the document should also include objectives, goals, strategies, implementation and measure of performance.
 - Commented that the document is a framework not a plan.
- Joseph Fiorenzo, Sills Cummis & Gorss representing Towers Associates commented on the following:
 - Commented on the rejection of the Master Plan by the mayors. Also commented that the more time requested by the mayors is fair and reasonable.
 - Commented that more data on transportation and flooding is needed prior to the adoption of the Master Plan.
 - Commented on the impacts of flooding and transportation and rising sea levels
 - Commented on the statutory deadline and that there is no consequences in extending the time.
 - Commented on the Governor's Executive Order on climate control.
 - Commented not to act today but to wait for data and meet with mayors for their input.
- Hugh Carola, representing Hackensack Riverkeeper commented on the following:
 - Commented that they are in support of the Master Plan
 - Commented on consequences of waiting to approve the Master Plan.
 - Commented that the entire estuary is affected by flooding not just the district.
 - Commented on the NJSEA staff and Terry Doss with the natural resources group for their work on enhancing the Meadowlands.
 - Commented that the Hackensack Riverkeeper is here to be a resource and partner with the NJSEA.
- Gary Jeffas, Secaucus Town Administrator commented on the following:
 - Commented on the Master Plan process, attendance at hearings and when documents were received by Town. Also commented on not receiving a reply to their comments and issues until after the review period was over.

- o Commented as an example on how the Master Plan would affect a proposed project and that a meeting prior to approval would have allowed the town to explain its reasoning.
- o Commented that studies on flooding and traffic would insure that designations are correct and make sense for the long term.

V. APPROVALS

Resolution 2020-07 Resolution Adopting the Hackensack Meadowlands District Master Plan Update 2020 (File No. SP-755).

Ms. Sundell explained the following:

Background

- The agency's enabling legislation at N.J.S.A. 5:10A-7(b) provides the NJSEA with the power "to prepare, adopt and implement a master plan for the physical development of all lands, or a portion thereof, lying within the district".
- The current District master plan, entitled "NJMC Master Plan" and adopted in February 2004, was the first comprehensive amendment to the District's original 1970 master plan.
- The Hackensack Meadowlands Agency Consolidation Act (Act) mandates that the next examination and revision of the master plan be completed within five years of the Act's effective date, which was February 5, 2015.
- A master plan update has been prepared by staff that includes an analysis of current conditions, examines agency objectives, and enhances strategies to implement the NJSEA's established goals to promote economic development and provide for future growth at suitable upland locations with adequate infrastructure, while simultaneously preserving wetlands and other environmentally sensitive areas.
- The master plan is the primary comprehensive planning document for the District, and as such, this update provides for a comprehensive system of plans related to natural resources, land use, and sustainability to implement the agency's goals.
- Master planning is an ongoing process. The identification and recommendation for further study of critical areas is a common element of many master plans. A master plan is a component of an ongoing planning process that includes future studies to be done in accordance with the master plan's objectives and suggestions.
- In fact, several of the individual master plans and reexamination reports of the District's constituent municipalities also identify areas or concerns that are to be addressed through further study and deliberation.
- The 2020 Master Plan Update is an update to the 2004 Master Plan. The Land Use Plan in Chapter 8 does not reflect a significant change from the 2004 Land Use Plan, and as such, does not warrant new District-wide studies to be conducted prior to the adoption of the 2020 Master Plan Update. It is noted that traffic and drainage impacts of individual projects are reviewed by the NJSEA for all development projects, and these reviews account for both on-site and regional impacts.

Transportation

- Regarding transportation, the Master Plan Update addresses transportation within the region in Chapter 6, which is entitled Circulation, as well as within the Transportation Systems Plan detailed in Chapter 7.
- I also note that the preparation of a District-wide Transportation Plan is not a mandated requirement of a Master Plan for the Hackensack Meadowlands District, as per the Consolidation Act at N.J.S.A. 5:10A-10.
- While a Transportation Plan is not required pursuant to the Consolidation Act, a *separate* statute, namely the Hackensack Meadowlands Transportation Planning District Act

(TPD Act), requires that a comprehensive, future-oriented District Transportation Plan be prepared, and that it and any updates be consistent with the District's Master Plan. I want to point out that many of the previous commenters have ignored this point. The Meadowlands District Transportation Plan 2030 was adopted in 2007. The Authority has recently requested proposals for the development of the Meadowlands District Transportation Plan 2045. Responses have been received and proposals are under review. By the way, the HMMC and the Meadowlands Regional Chamber of Commerce will both be members of the Transportation Planning Board, which is required by statute to oversee the preparation of the Transportation Plan. The plan will also involve stakeholder outreach with the municipalities, business community and others.

Flooding

- With respect to flooding, the NJSEA has incorporated a new section on resiliency within Chapter 9 of the Master Plan Update in recognition that a significant portion of the Meadowlands region lies in a flood plain.
- This chapter, which is entitled, Sustainable Meadowlands: A Guide to Resiliency, utilized the Science and Technical Advisory Panel (or STAP) Report, which was prepared by Rutgers University on behalf of the New Jersey Climate Adaption Alliance. This is the same data source that NJDEP is utilizing in its recent resiliency studies. In addition, the NJSEA utilized data, both real-time and historical, from local water level sensors, which are monitored by the Rutgers Meadowlands Environmental Research Institute (or MERI).
- This chapter recognizes the importance of planning for resilience in the face of sea level rise and presents a variety of potential future strategies for the District. It also recommends future studies to explore these and other potential implementation measures that would be most appropriate and effective for the Meadowlands District.
- In addition, the NJSEA is in the process of updating its 2005 Hackensack Meadowlands District Floodplain Management Plan, which is due to be completed in 2021, as required by FEMA.
- The existing 2005 Floodplain Management Plan, which assessed and identified flood hazards in the Meadowlands District, still remains relevant today. This plan established a foundation that resulted in many multi-step, coordinated initiatives that have been undertaken by the agency since 2005 to address flooding in the District. The agency also performs many floodplain management activities that are subject to audit by FEMA.
- In the meantime, the NJSEA will continue to do what we do regarding floodplain management:
 - We work with the development community to devise drainage systems particular to the hydrology of the Meadowlands;
 - We inspect drainage systems and structures throughout the District;
 - We maintain CRS ratings for flood insurance discounts throughout the District through our floodplain management activities.

Process

- The Master Plan Update was developed in consultation with various stakeholder groups of the Hackensack Meadowlands District, including constituent municipalities, other governmental entities, the business community, and environmental advocacy organizations. The agency held numerous stakeholder meetings and solicited input from stakeholders on several occasions.
- As authorized by the Board in Resolution No. 2019-21, the Draft Master Plan Update - August 2019 was made available to the public on August 5, 2019, and a six-week comment period was provided to receive comments, which ended on September 16, 2019.

- Public hearings were held in the morning and the evening on September 10th to receive public comments on the Draft Master Plan Update. These hearings were purposefully scheduled after the summer to maximize the availability of the public.
- Three of the 14 District municipalities, specifically, Secaucus, East Rutherford and Ridgefield, participated during the Master Plan Update public comment period by submitting written comments and providing feedback at the public hearings held on September 10th.
- Upon the close of the comment period, NJSEA staff reviewed oral and written comments received during the comment period and prepared a memo, dated September 25, 2019, which was evaluative of and responsive to the comments.
- The Draft Master Plan Update was then revised, incorporating revisions that were based on comments and questions received during the public comment period. This revised Draft Master Plan Update, along with the public hearing transcripts, the September 25th memo responding to the public comments, and a redlined version of the August 2019 Draft Master Plan to show the specific changes that had been made in the September 2019 version, was delivered to the HMMC offices via email and hard-copy on September 25, 2019. A signed receipt from the HMMC acknowledging delivery of the documents was provided to the NJSEA on October 7, 2019. The transmittal of the documents marked the beginning of HMMC's 120-day review period, which ended on Jan. 22, 2020. I want to note that the agenda of the HMMC meetings in November and December listed the Master Plan Update as "new/unfinished business."
- The HMMC voted to reject the Master Plan Update at its meeting on January 13, 2020.
- Thereafter, the NJSEA President and CEO again provided the Draft Master Plan Update via an email link on January 21st to the HMMC Executive Director and to each of the individual mayors. Included in that email was a memorandum from the President and CEO, dated January 21, 2020, which summarized the master plan outreach process and provided a response to comments and concerns expressed by HMMC members and the public during the HMMC's meeting on January 13th. The email also included an enhanced "Summary of Responses to both HMMC and Municipal Comments." The HMMC Executive Director acknowledged receipt of this email on January 21st.
- The NJSEA has finalized the Hackensack Meadowlands District Master Plan Update 2020, with the version you have before you, which is dated February 2020.
- It is noted that, by statute at N.J.S.A. 5:10A-9(c), the NJSEA Board may take action on any matter that has been formally rejected by the HMMC by an affirmative vote of the majority of members of the NJSEA Board of Commissioners.
- The entire record of this matter has been provided to the Board of Commissioners for review, including details of the HMMC and municipal outreach process.
- At this time, staff is pleased to present to the Board for adoption, the Hackensack Meadowlands District Master Plan Update 2020, which is an update to the 2004 Master Plan, as it will set the pathway for the continued and expanded economic growth and environmental preservation objectives for the Hackensack Meadowlands District.
- As I previously mentioned, the NJSEA staff recognizes that planning is an ongoing and iterative process. Through the implementation of this Update, we are refining and refocusing our vision for the future of the Meadowlands in light of the challenges and opportunities facing the District. We look forward to continued outreach to, and participation by, our constituent municipalities and other stakeholders through current and future planning initiatives, such as the forthcoming Meadowlands District Transportation Plan, in order to together, achieve a greener, more prosperous, and more resilient Meadowlands District.

Commissioner Plofker asked if in 2004 the transportation study came after the Master Plan was adopted. Ms. Sundell replied yes. She explained that at the time the Master Plan was adopted the Meadowlands Mobility 2030 was being released to the public for review and a future public hearing was to be held. Commissioner Plofker then asked if there was any conflict between the two. Ms. Sundell replied no. She explained that the Meadowlands Mobility 2030 was a non-technical study and did not have transportation modeling in it.

Commissioner Plofker asked about the study that was just requested proposals for. Ms. Sundell explained that it is an update to the 2007 Transportation Plan that required a very detailed transportation model for the entire district. She also explained that it is anticipated to be completed in 2021.

Commissioner Plofker asked if there is anything in the current Master Plan that is being considered that would be in conflict with the study. Ms. Sundell replied no.

Commissioner Plofker commented that there was discussion regarding the Master Plan creating zoning for the district but that this is not his understanding. He commented that it is his understanding that the Master Plan is a framework for the district. Ms. Sundell replied that it is a framework. She explained that the Master Plan has a land use element, and that there is a land use plan and that not many changes were made. She also explained that rezoning has to be consistent with the Master Plan.

Commissioner Yudin asked that if the Master Plan cannot be amended what happens if after the transportation plan is completed it is not consistent with the Master Plan. Ms. Sundell explained that planning is ongoing and that there are ways to address issues by resolution.

Chairman Ballantyne presented Resolution 2020-07. Upon Motion made by Commissioner Plofker and seconded by Commissioner Fontoura Resolution 2020-07 was unanimously approved by a vote of 10-0

Roll Call: Resolution 2020-07

John Ballantyne, Chairman	Yes
Joseph Buckelew, Vice Chairman	Yes
Vincent Prieto, President and CEO	Yes
Robert J. Dowd	Yes
Armando Fontoura	Yes
Michael H. Gluck, Esq., (via phone)	Yes
Steven Plofker	Yes
Anthony Scardino	Yes
Louis J. Stellato	Yes
Robert Yudin	Yes

VI. PUBLIC PARTICIPATION - None

VII. EXECUTIVE SESSION

Chairman Ballantyne stated that there is no need for Executive Session.

VIII. ADJOURNMENT

With no further business, motion was made to adjourn by Commissioner Dowd and seconded by Commissioner Plofker will all in favor.

Meeting adjourned at 12:00 p.m.

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 Special Board Meeting held on February 6, 2020.



Christine Sanz
Assistant Secretary

February 6, 2020 -Special Board Meeting

Commissioner	Roll Call	2020-07
Ballantyne, Chairman	P	Y
Bucklew, Vice Chairman	P	Y
Prieto	P	Y
Dowd	P	Y
Fontoura	P	Y
Gluck	P (via phone)	Y
Gonnelli	--	--
Knopf	--	--
Plofker	P	Y
Scala	--	--
Scardino	P	Y
Stellato	P	Y
Yudin	P	Y
Treasury Rep Griffin	--	--

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



REGULAR SESSION BOARD MEETING

DATE: February 20, 2020
TIME: 10:00 a.m.
PLACE: 2 DeKorte Park Plaza - Lyndhurst, NJ
RE: **REGULAR SESSION MEETING MINUTES**

Members in Attendance:

John Ballantyne, Chairman
Joseph Buckelew, Vice Chairman
Vincent Prieto, President and CEO
Robert J. Dowd, Member (excused at 10:30 a.m.)
Armando Fontoura, Member (via phone)
Michael H. Gluck, Esq., Member (via phone)
Michael Griffin, NJ State Treasurer's Representative (via phone)
Woody Knopf, Member (via phone)
Steven Plofker, Member
Anthony Scardino, Member
Andrew Scala, Member
Louis J. Stellato, Member
Robert Yudin, Member

Absent:

Michael Gonnelli, Member

Also Attending:

Christine Sanz, Senior Vice President/Chief Operating Officer
Frank Leanza, Senior Vice President/Chief of Legal & Regulatory Affairs
Adam Levy, Vice President of Legal & Regulatory Affairs
John Yarenis, Director of Finance/Accounting
Sara Sundell, Director of Land Use Management and Chief Engineer
Steven Cattuna, Chief of Staff
John Duffy, Senior Vice President of Sports Complex Operations & Facilities
Lisa LeBoeuf, Senior Legal Specialist
Brian Wilton, 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 AND CASH DISBURSEMENTS

- Chairman Ballantyne presented the minutes of the Regular Session Board Meeting held on January 23, 2020.

Upon motion made by Commissioner Yudin and seconded by Commissioner Scala, the minutes of the Regular Session Board Meeting held on January 23, 2020 were unanimously approved.

- Chairman Ballantyne presented the report of cash disbursements over \$100,000 and Professional Invoices for the month of January 2020.

Upon motion by Commissioner Dowd and seconded by Commissioner Scala, the cash disbursements over \$100,000 for the month of January 2020 were unanimously approved.

V. PRESENTATION - Operation Osprey Uplift

Chairman Ballantyne was pleased to announce Operation Osprey Uplift, an exciting new multi-party collaboration that is providing much-needed nesting space in the Meadowlands for these important raptors. Osprey is on the rebound in New Jersey but remain on the State Threatened Species list. He explained that the Osprey population has made a remarkable resurgence in the region over the past decades, to the point where there are more Osprey in the Meadowlands than suitable nesting locations. The Operation Osprey Uplift team is working together to develop a variety of nesting approaches in different areas of the Meadowlands. He also explained that the Natural Resources staff installed the first nesting platform last month in Lyndhurst and acknowledged the incredible staff that has made this happen; Terry Doss, Drew McQuade, Aleshanee Mooney and Brett Bragin. He stated that the overall partnership includes the NJSEA, PSE&G, the Meadowlands Conservation Trust, Hackensack Riverkeeper and Bergen County Audubon Society. The Chairman acknowledged the agency's partners in the audience without whom Operation Osprey Uplift would not be possible: Captain Bill Sheehan, the Hackensack Riverkeeper and Chairman of the Meadowlands Conservation Trust; Don Torino, President of the Bergen County Audubon Society and David Hollenbeck, Senior Regional Public Affairs Manager for PS&EG.

President Prieto stated The New Jersey Sports and Exposition Authority is dedicated to protecting and preserving the precious wildlife that inhabit the Meadowlands and we are very pleased to help increase successful raptor nesting rates through Operation Osprey Uplift. This project is also a shining example of the great achievements that come through the cooperation of public and private entities and non-profit organizations. We extend a big thank you to our partners who are here today.

Chairman Ballantyne introduced Ms. Doss and explained that she is a certified restoration ecologist, who has served as a local leader in restoring the natural areas located within the urban wildlands of New York and New Jersey. He also spoke about her educational background and work experience in this field over the past 35 years.

Ms. Doss did a PowerPoint presentation on Operation Osprey Uplift and spoke about the following:

- Osprey were previously classified as an endangered species but have made a comeback establishing a home in the Meadowlands.
- Prior to 1800s there were 500 breeding pairs Osprey but excess hunting, habitat loss and pesticides by 1975 only 68 breeding pairs were left.
- After DDT was banned the first report of a nest re-established in the Meadowlands was in 2006. In the 2019 season there were eight nests in the Meadowlands.
- There are 16 different nest locations in the Meadowlands District with varying rates of success.
- Various types of nests have been successful - osprey platforms, utility towers, communication towers, dead trees and bridges.
- Osprey pairs have been observed trying to nest in unnatural locations - Turnpike Plaza pole, power line towers and unused construction equipment.
- There are more Osprey in the Meadowlands than there are suitable nesting locations.
- Typical Osprey nests are not suitable for nesting in the Meadowlands.
- Working with the Hackensack Riverkeeper, Meadowlands Conservation Trust, Bergen County Audubon, Conserve Wildlife Foundation and PSEG to develop a program to test different nesting types in various areas throughout the Meadowlands to determine what might be most effective for the Ospreys to use.
- Displayed a map of potential platform locations and photo of platform currently at the Erie Landfill and being built at Riverbed Marsh.

Chairman Ballantyne asked how many Osprey pairs are currently nesting in the Meadowlands and how long are the nests in use. Ms. Doss replied that in 2019 there were eight nests and that they nest from March through August/September. The Chairman also asked about live video feeds. Ms. Doss stated that they would love to have live video feeds for the public.

Captain Bill Sheehan Hackensack Riverkeeper stated that he was delighted to support the program that has been long needed. He stated that without the partnership the Hackensack Riverkeeper would not have the resources to do the project alone. Captain Sheehan stated that back 1994/1995, after a friend had told him that an Osprey was trying nest on poles near the power plant, he had approached PSEG to put up Platforms in the area. He then explained that a couple of years later the Osprey moved in at the now Hilco site and have been populating the Meadowlands. He also stated that the ospreys were endangered but are now threatened by habitat loss. He explained that providing artificial habitat will allow them to thrive.

Don Torino, President of the Bergen County Audubon Society spoke about the great projects done during the 11 year partnership with the NJSEA and acknowledged the staff. Mr. Torino stated that helping the Osprey return to the Meadowlands is magical. He spoke about growing up in the Meadowlands and that we've come a long way. Mr. Torino commented that Osprey will probably remain on the threatened and endangered list because they will always be dependent on artificial platforms. He also commented that there are a lot more Ospreys than there are nesting sites and how this project will establish them for a long time to come.

VI. PUBLIC PARTICIPATING ON RESOLUTIONS - None

VII. APPROVALS

Resolution 2020-08 Resolution to Adopt the Van Keuren Redevelopment Plan for the Van Keuren Redevelopment Area located at Block 3101, LOTS 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 36, 37, 42, 43 & 44, and Block 7402, LOTS 21, 22, 23, 24, 33, 34 & 35 in Jersey City – File No. SP-768.

Ms. Sundell stated that HRP Hudson, LLC, previously petitioned the NJSEA to investigate the redevelopment potential of a 117-acre area located along the Hackensack River in Jersey City. She also stated that the area consists of 22 properties owned by HRP Hudson, LLC, and includes the decommissioned PSE&G Hudson Generating Station. The parcels were previously located in the District's Heavy Industrial, Public Utilities, and Intermodal B zones. Ms. Sundell explained that HRP Hudson, LLC has plans to construct a development consisting of warehouse/distribution facilities within the area. She also explained that on September 18, 2019, the NJSEA Board deemed the area to be in-need of redevelopment and authorized staff to prepare a redevelopment plan. Ms. Sundell stated that staff prepared a draft redevelopment plan, which provides planning goals and redevelopment standards for the area. She further explained that the purpose of the plan is to accommodate efficient and flexible large-scale industrial distribution facilities, as well as a variety of related land uses to accommodate truck terminals, shipping container storage, truck parking and other port related activities. She then explained that the plan also focuses on maintaining existing public utility infrastructure, specifically, the PSEG switching stations that will remain on site, and also accommodates water-related uses and green technologies. Ms. Sundell stated that a public hearing was held on January 28, 2020. No public comments were made at the hearing or submitted in writing during the public comment period. As a result of comments offered by staff at the public hearing, the redevelopment plan was revised to include certain wetland area-related permitted uses, such as wetland mitigation banks. She also stated that the redevelopment plan was forwarded to the Hackensack Meadowlands Municipal Committee for review on January 29, 2020. The plan was accepted unanimously by the HMMC at its meeting on February 3, 2020. Ms. Sundell requested that the Board adopt the Van Keuren Redevelopment Plan and authorize staff to prepare a public notice for publication in the NJ Register.

Chairman Ballantyne presented Resolution 2020-08. Upon motion made by Commissioner Dowd and seconded by Vice Chairman Buckelew. Resolution 2020-08 was unanimously approved by a vote of 13-0.

VIII. AWARDS/CONTRACTS

Resolution 2020-09 Resolution Authorizing the President and CEO to enter into a Contract with Waste Management of New Jersey for Soil Placement Services at Keegan Landfill.

Mr. Levy stated that this resolution is to authorize placement of soil at the Keegan Landfill. He also stated that the resolution authorizes the appropriation of \$1.5 million. Mr. Levy explained that Waste Management has provided services at Keegan Landfill while it was open and operating. He further explained that now that the landfill is

closed the agency is in the process of completing the closure. Mr. Levy indicated that during landfill operation, part of Waste Management's work including soil placement services. Mr. Levy explained that the agency will continue to utilize their soil placement services leading up to closure of the landfill. Mr. Levy indicated that there is a credit from their prior contract for placement of soil that would have occurred at the end of that contract. He explained that this amount will be credited back to the work to be done now. Mr. Levy also stated that Waste Management will be doing grading and contouring leading up to the ultimate closure and installation of the cap and gas collection systems. Mr. Levy stated that the contract is expected to last about one year.

Chairman Ballantyne presented Resolution 2020-09. Upon motion made by Commissioner Yudin and seconded by Commissioner Dowd. Resolution 2020-09 was unanimously approved by a vote of 13-0

Resolution 2020-10 Resolution Authorizing the Purchase of a 2020 Typhoon Pumper Truck Model HC04.

Mr. Duffy explained that with the advent of American Dream the current pumper truck does not meet the needs of the Complex any longer. Mr. Duffy explained that four firms were solicited who participate in the Houston-Galveston Area Council's program. Mr. Duffy stated that American Dream has agreed to pay fifty percent of the total costs of the new pumper. Mr. Duffy indicated that staff met with Commissioner Yudin to review the selection of the pumper. Mr. Duffy also stated that the NJSEA Fire Department met with providers and recommends the low proposer, Absolute Fire Protection. Mr. Duffy indicated that the agency has done business with them in the past successfully.

Commissioner Yudin congratulated the staff, Fire Fighters, Chief and Officers for a job well done. He explained that an engine gets built from scratch up and that it is a complicated process taking about a year to build.

Chairman Ballantyne thanked Commissioner Yudin for taking the time and his expertise in reviewing the specifications with the fire department.

Chairman Ballantyne presented Resolution 2020-10. Upon motion made by Commissioner Yudin and seconded by Commissioner Scardino. Resolution 2020-10 unanimously approved by a vote of 13-0.

IX. PUBLIC PARTICIPATION - None

IX. 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 2020-11 Resolution Authorizing the NJSEA to Conduct a Meeting to which the General Public Shall Not Be Admitted.

Chairman Ballantyne presented Resolution 2020-11. Upon motion made by Commissioner Scala and seconded by Commissioner Scardino. Resolution 2020-11 was carried by a vote of 13-0.

Entered Executive Session 10:30 a.m.

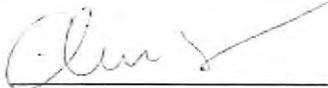
Returned to open session 10:48 a.m.

X. ADJOURNMENT

With no further business, motion was made to adjourn by Commissioner Scardino and seconded by Commissioner Yudin with all in favor

Meeting adjourned at 10:49 a.m.

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 February 20, 2020.



Christine Sanz
Assistant Secretary

February 20, 2020

Commissioner	Roll Call	2020-08	2020-09	2020-10	2020-11
Ballantyne, Chairman	P	Y	Y	Y	Y
Buckelew, Vice Chairman	P	Y	Y	Y	Y
Prieto	P	Y	Y	Y	Y
Dowd	P	Y	Y	Y	Y
Fontoura	P (via phone)	Y	Y	Y	Y
Gluck	P (via phone)	Y	Y	Y	Y
Gonnelli	--	--	--	--	--
Knopf	P (via phone)	Y	Y	Y	Y
Plofker	P	Y	Y	Y	Y
Scala	P	Y	Y	Y	Y
Scardino	P	Y	Y	Y	Y
Stellato	P	Y	Y	Y	Y
Yudin	P	Y	Y	Y	Y
Treasury Rep Griffin	P (via phone)	Y	Y	Y	Y

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



CASH DISBURSEMENTS
 \$100,000 OR MORE
 FEBRUARY 2020

EAST RUTHERFORD - SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
GIBBONS P.C.	208,035.11	A	LEGAL SERVICES - AUTHORITY TRANSACTIONS COUNSEL: DEC 2019 - JAN 2020
NRG BUSINESS SOLUTIONS	399,012.82	J/L	ELECTRICITY CHARGES: JAN 2020
PUBLIC SERVICE ELECTRIC & GAS COMPANY	155,964.48	J/L	ELECTRIC TRANSMISSION: JAN 2020
STATE OF NEW JERSEY TREASURY DEPARTMENT	276,117.64	A	WORKERS' COMPENSATION COVERAGE: 2ND QTR FY2020
EAST RUTHERFORD - SC TOTAL	1,039,130.05		

LYNDHURST

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
PHILADELPHIA INSURANCE COMPANIES	167,396.07	A	ENTERTAINMENT PACKAGE & PROSPORTS UMBRELLA POLICIES FOR 2020
RAMAPO COLLEGE FOUNDATION	301,500.00	A	MEC PROGRAMS INITIAL FUNDING FOR 2020 AND RECEIPT OF SCHOOL PROGRAM PAYMENT
SCS ENGINEERS	333,844.81	A	KEEGAN LANDFILL LFG SYSTEM, WELLFIELD, AND BALEFILL LANDFILL OPERATIONS
WILLIS TOWERS WATSON NORTHEAST, INC.	126,128.84	A	NEW BUSINESS & ENVIRONMENTAL POLLUTION FOR KEEGAN POLICIES, AND BROKERAGE FEES FOR 2020
LYNDHURST TOTAL	928,869.72		



CASH DISBURSEMENTS
\$100,000 OR MORE
MARCH 2020

EAST RUTHERFORD - SPORTS COMPLEX

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF EAST RUTHERFORD	225,000.00	I	PILOT SETTLEMENT WEST SIDE 3RD ADDENDUM: 2020
NEW JERSEY STATE POLICE	1,862,369.36	A/L	OVERTIME CHARGES: AUG-DEC 2019
NRG BUSINESS SOLUTIONS	351,665.55	J/L	ELECTRICITY CHARGES: FEB 2020
PUBLIC SERVICE ELECTRIC & GAS COMPANY	138,491.92	J/L	ELECTRIC TRANSMISSION: FEB 2020
SPORTS ARENA EMPLOYEES RETIREMENT FUND LOCAL 137	306,598.02	A	PENSION WITHDRAWAL LIABILITY PAYMENT: FEB-APR 2020
EAST RUTHERFORD - SC TOTAL	2,884,124.85		

MONMOUTH PARK RACETRACK MAINTENANCE RESERVE/CAPITAL

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	552,032.22	A	CAFO SPECIAL ASSESSMENT AGREEMENT: 2ND QUARTER 2020
MPR MAINTNANCE R/C TOTAL	552,032.22		

LYNDHURST

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
LOWENSTEIN SANDLER PC	123,905.00	A	LEGAL SERVICES - AUTHORITY TRANSACTIONS COUNSEL: JAN 2020
SCS ENGINEERS	375,794.35	A	BALEFILL & LANDFILL WELLFIELD/FLARE OPERATIONS AND PROJECT KEEGAN LANDFILL 2019 LFG SYSTEM T6-T7
WASTE MANAGEMENT OF NEW JERSEY	196,430.67	A	KEEGAN LANDFILL SOIL PLACEMENT & GARDENING AND WASTE REMOVAL CHARGE: MAR 2020
WILLIS TOWERS WATSON NORTHEAST, INC.	304,803.00	A	RENEWAL OF POLICIES IN 2020 FOR COMMERCIAL MARINE, BUSINESS LEAD UMBRELLA, EXCESS MARINE, LIABILITY, BUSINESS AUTO, AND ENVIRONMENTAL POLLUTION AND AMERICAN DREAM PROJECT CONSULTING FEES
LYNDHURST TOTAL	1,000,933.02		



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 2020-12

**RESOLUTION ISSUING A DECISION ON THE
SPECIAL EXCEPTION AND VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 19-436
INT'L LONGSHOREMEN/T-MOBILE & SECTORSITE -
COMM. TOWER (SPECIAL EXCEPTION & VARIANCE)
BLOCK 452.06, LOTS 16.01 & 17
IN THE TOWNSHIP OF NORTH BERGEN**

WHEREAS, an application for one special exception use and two bulk variances has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Gregory D. Meese, Esq., of the firm, Price, Meese, Shulman & D'Arminio, P.C., on behalf of T-Mobile Northeast, LLC and SectorSite, LLC, for the premises located at 5000 West Side Avenue and identified as Block 452.06, Lots 16.01 and 17, in the Township of North Bergen, New Jersey; and

WHEREAS, the premises is located within the District's Intermodal A zone; and

WHEREAS, the special exception and variances are sought in connection with the applicant's proposal to establish as permanent an existing temporary telecommunications facility that is located on Lot 17; and

WHEREAS, the applicant requested special exception approval from N.J.A.C. 19:4-5.88(a)3, in which communications transmission towers are listed as a special exception use in the Intermodal A zone; and

WHEREAS, the applicant requested bulk variance relief from N.J.A.C. 19:4-5.91(a)3i, which requires a minimum front yard setback of 30 feet, whereas the applicant is proposing a wireless communications compound with a minimum setback of 17 feet from the unimproved 50th Street right of way; and

WHEREAS, the applicant has also requested bulk variance relief from N.J.A.C. 19:4-5.91(a)3iii, which requires a minimum rear yard setback of 50 feet, whereas the applicant is proposing a wireless communications compound with a minimum setback of 18.1 feet from the easterly rear yard property line; and

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

WHEREAS, a public hearing was held in the Office of the NJSEA on Tuesday, January 14, 2020, before Sara Sundell, P.E., P.P., Director of Land Use

Management and Chief Engineer; Mia Petrou, P.P. AICP, Principal Planner; and Ronald Seelogy, P.E., P.P., Principal Engineer; and

WHEREAS, a comprehensive report dated February 27, 2020, 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 February 27, 2020; and

WHEREAS, the report recommends the approval of the requested special exception from N.J.A.C. 19:4-5.88(a)3, to install a 100-foot-high communications transmission tower as part of a permanent telecommunications compound on Lot 17; and

WHEREAS, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.91(a)3i, to install a wireless communications compound with a minimum front yard setback of 17 feet from the unimproved 50th Street right of way; and

WHEREAS, the report also recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.91(a)3iii, to install a wireless communications compound with a minimum rear yard setback of 18.1 feet from the easterly rear yard property line; 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 special exception application, to install a 100-foot-high communications transmission tower as part of a permanent telecommunications compound on Lot 17, conforms with the standards for approving applications for special exceptions as set forth in N.J.A.C. 19:4-4.13(e); and

WHEREAS, the Board of Commissioners hereby determines that the requested bulk variance application, to install a wireless communications compound with a minimum front yard setback of 17 feet from the unimproved

50th Street right of way, 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 determines that the requested bulk variance application, to install a wireless communications compound with a minimum rear yard setback of 18.1 feet from the easterly rear yard 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).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Int'l Longshoremen/T-Mobile & SectorSite - Comm. Tower (Special Exception & Variance) application for a special exception from N.J.A.C. 19:4-5.88(a)3, install a 100-foot-high communications transmission tower as part of a permanent telecommunications compound on Lot 17, is hereby **APPROVED** for the reasons set forth in the recommendation report dated February 27, 2020.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Int'l Longshoremen/T-Mobile & Sector Site - Comm. Tower (Special Exception & Variance) application for a bulk variance from N.J.A.C. 19:4-5.91(a)3i, to install a wireless communications compound with a minimum front yard setback of 17 feet from the unimproved 50th Street right of way, is hereby **APPROVED** for the reasons set forth in the recommendation report dated February 27, 2020.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Int'l Longshoremen/T-Mobile & Sector Site - Comm. Tower (Special Exception & Variance) application for a bulk variance from N.J.A.C. 19:4-5.91(a)3iii, to install a wireless communications compound with a minimum rear yard setback of 18.1 feet from the easterly rear yard property line, is hereby **APPROVED** for the reasons set forth in the recommendation report dated February 27, 2020.

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 23, 2020.



Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* April 23, 2020

Subject: Variance Recommendation - Int'l Longshoremen/T-Mobile & SectorSite - Comm. Tower (Special Exception & Variance) (File No. 19-436)

An application for one special exception and two bulk variances has been filed with the NJSEA by Gregory D. Meese, Esq., of the firm Price, Meese, Shulman & D'Arminio, P.C., on behalf of T-Mobile Northeast, LLC and SectorSite, LLC, for the premises located at 5000 West Side Avenue and identified as Block 452.06, Lots 16.01 and 17, in the Township of North Bergen, New Jersey. The subject premises is located within the District's Intermodal A zone. The special exception and two bulk variances are sought in connection with the applicant's proposal to establish as permanent an existing temporary telecommunications facility that is located on Lot 17.

Specifically, the applicant is requesting special exception approval pursuant to:

1. N.J.A.C. 19:4-5.88(a)3, in which communications transmission towers are listed as a special exception use in the Intermodal A zone.

In addition, the applicant is requesting bulk variance relief from the following:

2. N.J.A.C. 19:4-5.91(a)3i, which requires a minimum front yard setback of 30 feet, whereas the applicant is proposing a wireless communications compound with a minimum setback of 17 feet from the unimproved 50th Street right of way.
3. N.J.A.C. 19:4-5.91(a)3iii, which requires a minimum rear yard setback of 50 feet, whereas the applicant is proposing a wireless communications compound with a minimum setback of 18.1 feet from the easterly rear yard property line.

A public hearing was held in the Office of the NJSEA on Tuesday, January 14, 2020.

In a comprehensive report dated February 27, 2020, the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended the approval of the special exception use requested above in Item 1 and the bulk variances requested above in Items 2 and 3. A copy of the comprehensive report and special exception and variance recommendation was provided to the applicant on February 27, 2020.

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

**RECOMMENDATION ON THE
VARIANCE AND SPECIAL EXCEPTION APPLICATION OF
Int'l Longshoremen/T-Mobile & SectorSite - Comm. Tower
(Special Exception & Variance)
FILE # 19-436**

I. INTRODUCTION

An application for one special exception use and two bulk variances has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Gregory D. Meese, Esq., of the firm, Price, Meese, Shulman & D'Arminio, P.C., on behalf of T-Mobile Northeast, LLC and SectorSite, LLC, for the premises located at 5000 West Side Avenue and identified as Block 452.06, Lots 16.01 and 17, in the Township of North Bergen, New Jersey. The subject properties are considered a single Zoning Lot of Record pursuant to N.J.A.C. 19:4-3.22, according to the Declaration of Zoning Restriction recorded with the Hudson County Register of Deeds on Page 515 of Book 9085 on December 10, 2015. The subject premises is located within the Hackensack Meadowlands District's (District) Intermodal A zone. The special exception and two bulk variances are sought in connection with the applicant's proposal to establish as permanent an existing temporary telecommunications facility that is located on Lot 17.

Specifically, the applicant is requesting special exception approval pursuant to:

1. N.J.A.C. 19:4-5.88(a)3, in which communications transmission towers are listed as a special exception use in the Intermodal A zone.

In addition, the applicant is requesting bulk variance relief from the following:

1. N.J.A.C. 19:4-5.91(a)3i, which requires a minimum front yard setback of 30 feet, whereas the applicant is proposing a wireless communications compound with a minimum setback of 17 feet from the unimproved 50th Street right of way.
2. N.J.A.C. 19:4-5.91(a)3iii, which requires a minimum rear yard setback of 50 feet, whereas the applicant is proposing a wireless communications compound with a minimum setback of 18.1 feet from the easterly rear yard property line.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. No written objections were received. A public hearing was held in the Office of the Commission on Tuesday, January 14, 2020. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question has an area of approximately 2.34 acres. It contains frontage on West Side Avenue to the west, and is bordered by the New York Susquehanna and Western Railroad to the east. A paper street right of way known as 50th Street abuts the site to the south and consists of a drainage ditch, vegetation, bituminous pavement and curb. An intermodal facility is located to the north of the site. The existing drainage ditch located within the 50th Street right-of-way leads into a drainage retention basin located at the southwestern corner of the subject property, which eventually discharges to the wetlands located west of West Side Avenue.

The site is currently improved with a three-story contractor's office building and an associated parking area, which occupy a majority of the lot area.

Direct access to the site is provided from West Side Avenue by two driveways located to the north and south of the existing building.

The applicant is proposing to establish as permanent an existing temporary telecommunications facility operated by T-Mobile & SectorSite that is located on the southeasterly portion of Lot 17. The existing temporary telecommunications compound was constructed by T-Mobile Northeast LLC. Prior to construction, T-Mobile Northeast LLC operated a wireless communications facility located on a nearby electric transmission tower owned by Public Service Electric & Gas (PSE&G). Upgrades to the electric transmission tower mandated by PSE&G's North Central Reliability Project necessitated the temporary relocation of the wireless communications facility to the subject property. The existing fenced temporary telecommunications compound, inclusive of a 100-foot tall transmission tower, is set back 17 feet from the property line along the southerly front yard and 18.1 feet from the property line along the easterly rear yard, whereas the minimum front and rear yard setbacks in the Intermodal A zone are 30 feet and 50 feet, respectively.

B. Response to the Public Notice

No written objections were received prior to the public hearing.

III. PUBLIC HEARING (January 14, 2020)

A public hearing was held on Tuesday, January 14, 2020. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Mia Petrou, P.P., AICP, Principal Planner and Ronald Seelogy, P.E., P.P., Principal Engineer.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	"Site Map and Notes," Sheet #SP-1, prepared by French & Parrello Associates on July 15, 2019, last revised on December 19, 2019.
A-2	"Enlarged Area Plan," Sheet #SP-2, prepared by French & Parrello Associates on July 15, 2019, last revised on December 19, 2019.
A-3	"Compound Plan and Elevation," Sheet #SP-3, prepared by French & Parrello Associates on July 15, 2019, last revised on December 19, 2019.
A-4	"Details (1 of 2)," Sheet #SP-4, prepared by French & Parrello Associates on July 15, 2019, last revised on December 19, 2019.
A-5	"Details (2 of 2)," Sheet #SP-5, prepared by French & Parrello Associates on July 15, 2019, last revised on December 19, 2019.
A-6	"Property Owners," Sheet #SP-6, prepared by French & Parrello Associates on July 15, 2019, last revised on December 19, 2019.
A-7	"Cover Sheet," Sheet #C-01, prepared by French & Parrello Associates on July 15, 2019, last revised on December 19, 2019.
A-8	"Monopole Setback Exhibit," Sheet #EXH-1, prepared by French & Parrello Associates on May 21, 2019, last revised on January 13, 2020.
A-9	"Independent Radio Frequency Report Regarding a Proposed Wireless Communications Facility for T-Mobile

Northeast, LLC," prepared by PierCon Solutions, LLC on December 8, 2017.

A-10 Updated capacity charts, six sheets, prepared by PierCon Solutions, LLC on January 13, 2020.

A-11 "Antenna Site FCC RF Compliance Assessment and Report Prepared for T-Mobile Northeast LLC," prepared by the Pinnacle Telecom Group on November 6, 2019.

B. Testimony

Gregory D. Meese, Esq., of the firm Price, Meese, Shulman & D'Arminio, P.C., represented the applicant at the hearing. The following witnesses testified in support of the application:

1. Joshua Cottrell, P.E., French & Parrello Associates;
2. Ed Yorke, PierCon Solutions, LLC;
3. Daniel J. Collins, Pinnacle Telecom Group, LLC; and
4. David Karleback, P.P.

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

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION(S)

A. Standards for the Granting of a Special Exception to permit a communications transmission tower in the Intermodal A zone as per N.J.A.C. 19:4-5.88(a)3.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.13(e) state in part that, *a special exception use shall not be granted unless specific written findings of fact are made based upon the evidence presented that supports the following conclusions:*

1. *The proposed special exception use at the specified location will contribute to and promote the welfare or convenience of the public.*

The applicant provided testimony explaining that the 100-foot-high communications transmission tower is required to help address the current demand on the wireless telecommunication network in order to support reliable in-vehicle and in-building communications and the potential lack of capacity within the general vicinity of the subject site without the existing temporary tower. The permanent telecommunications facility will continue to ensure that the pre-existing coverage gap in T-Mobile's wireless telecommunication service is closed and will provide seamless, ubiquitous, and reliable wireless service to users, in accordance with the Wireless Communications and Public Safety Act of 1999. The closing of the coverage gap ensures that wireless users within the corridor bounded by the New Jersey Turnpike, NJ Route 3, NJ Route 495 and US Highway 1 continue to have enhanced cellular and emergency 911 services. Additionally, the 100-foot-tall communications transmission tower has been designed to allow for future co-location by other carriers, as required to be accommodated by the District zoning regulations. The upgraded telecommunications

coverage in the vicinity of the subject site promotes the welfare and convenience of the public.

2. *The proposed special exception use will not cause substantial injury to the value of other property in the neighborhood.*

The permanent 100-foot-high communications transmission tower will not cause substantial injury to other properties in the surrounding neighborhood. The tower, as part of a permanent wireless communications facility, is a benign commercial use that is located in the rear of the subject property behind the existing three-story contractor's office building. A potential negative impact created by the installation of the tower would be its visibility to surrounding properties. However, this effect is mitigated by the monopole's location towards the rear of the property, behind the existing building. In addition, existing vegetation and the proposed eight-foot-high chain link fence with privacy slats will screen the ground-level electrical equipment at the base of the pole.

The public benefits by the closure of a gap in wireless telecommunications service, particularly in cases where the subject carrier is utilized for emergency services. Additionally, there will be no noise, glare, odor, vibration or noxious characteristics associated with the permanent 100-foot-high communications transmission tower. The applicant provided testimony that an FCC license has been issued for the subject facility.

3. *The special exception use will not dominate the immediate neighborhood in a manner that could prevent development and use of neighboring properties in accordance with the applicable regulations, in consideration of the following:*

i. The location and size of the special exception use;

The location and size of the permanent monopole will not dominate the immediate area or neighborhood as to prevent development in accordance with District zoning regulations. To screen the equipment and provide as much distance as possible from the improved West Side Avenue right of way, the monopole, the top of which is approximately 100 feet above the ground level, has been installed in the rear of the property adjacent to the unimproved 50th Street right of way. As such, the monopole is not particularly noticeable from the surrounding area, and it has been designed to mitigate any visual impact that it may create.

ii. The nature and intensity of the operation of the special exception use;

The permanent 100-foot-high monopole and associated telecommunications facility will be unmanned, requiring only monthly visits for maintenance purposes. Sufficient parking areas are available on site for the visiting technician. This low intensity use has no detrimental effects on the surrounding properties.

iii. The location of the site with respect to access and circulation;

The subject property is fully developed with a contractor's office building and contains sufficient access and vehicle circulation for the existing use. The minor increase in intensity on the subject premises created by the permanent installation of the 100-foot-high monopole and associated unmanned wireless telecommunications facility does not burden or create a dominating effect on the surrounding area. Neighboring properties are not impeded in their ability to function in accordance with the applicable zoning regulations, as little activity or traffic results from the permanent installation of the monopole and facility.

iv. The location, nature, and height of structures, walls and fences on the site; and

The location, nature and height of the permanent 100-foot tall communications transmission tower and fence on the site will not dominate the surrounding area. The height of the monopole is required to be the minimum height necessary to effectively transmit and receive radio signals, and at this location was based on its ability for its signal to clear the blockage resulting from trees bordering the Meadowlands Exposition Center located 2,500 feet to the west. The telecommunications equipment at the base of the monopole will not be visible from most points since it is located behind the existing three-story office building and will be screened by a chain link fence with privacy slats. The monopole is the most visible component of the facility, however, the structure has been designed to mitigate any visual impact that the monopole may

create, specifically, and the color of the monopole blends with the surroundings.

v. The nature and extent of landscaping and screening on the site.

Adequate screening and fencing will be provided at the base of the permanent monopole and telecommunications facility. As the telecommunications facility is set back approximately 230 feet from the improved West Side Avenue right of way, visibility from the roadway is limited. Additionally, the existing three-story contractor's office building and the vegetation in the unimproved 50th Street right of way screen the compound from nearby properties, and the equipment located at the base of the monopole will be surrounded by an eight-foot-high chain link fence with privacy slats.

4. Adequate utilities, drainage and other necessary facilities have been or will be provided.

The permanent monopole and telecommunications facility will not require any water or sewer utility service. The electric and telephone services required by the facility are available in the vicinity. Connections to the existing infrastructure have been designed to prevent potential negative impacts to existing utility services. The permanent monopole and equipment will not impact the existing stormwater drainage infrastructure or conditions.

5. *Adequate access roads and drive aisles have been or will be provided and shall be designed to prevent traffic hazards and minimize traffic congestion.*

Adequate site access and circulation for the permanent monopole and associated telecommunications facility is provided within the existing parking/vehicular use on the site. The impact to traffic in the surrounding area is insignificant. Traffic generated by the unmanned facility is comprised of one site visit for facility maintenance purposes every four to six weeks. The surrounding roadways are capable of handling the minimal traffic generated by the use.

6. *The special exception use will not have a substantial adverse environmental impact.*

The permanent communications transmission tower monopole and telecommunications facility will not cause any adverse environmental impacts. District environmental performance standards will not be exceeded as there is no noise, vibration, glare, air emissions, hazardous or radioactive materials generated by the existing facility. No wetlands or environmentally sensitive areas will be disturbed, and all required buffers will be maintained.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.91(a)3i, which requires a minimum front yard setback of 30 feet, whereas the applicant is proposing wireless communications compound with a minimum setback of 17 feet from the unimproved 50th Street right of way.

The Hackensack Meadowlands 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 subject property contains two front yards and is irregularly-shaped, with an approximate 144-foot by 85-foot flag portion on Lot 16.01 that extends in a northerly direction towards adjacent Lot 18. This results in a lot width of approximately 449 feet along West Side Avenue, compared to a lot width of only 331 feet at the rear of the property. In addition, the front yard from which the setback variance is sought is along the 50th Street right of way, which contains a drainage ditch, vegetation, bituminous surface and curb, is not likely to become a paved public thoroughfare.

The subject property is currently improved with a three-story contractor's office building, which represents an existing lot coverage of 9.81 percent. Existing open space on the site, which includes a drainage retention basin on Lot 16.01, totals 40.23 percent, whereas a minimum of 15 percent is required. The

remainder of the site consists of paved parking area. It is an unusual circumstance, given the available lot coverage and degree of excess open space on the subject property, that the applicant would need to seek a front yard setback variance. However, the location of the permanent monopole and telecommunications facility within the required front yard facing the 50th Street right of way is dependent upon the utilization of nearby existing electric utility lines.

These are unique circumstances that are not ordinarily found on properties in the Intermodal A zone. The requested variance to permit a reduced southerly front yard setback to the 50th Street right of way arises from these conditions.

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

The neighborhood in which the subject property is located is primarily industrial in nature and no residences or commercial uses that would be frequented by the general public are located nearby. The neighboring parcel to the south located along West Side Avenue on the opposite side of the 50th Street right of way, which is identified as Block 452.04, Lot 15.01, is the property that would be most impacted by the proposed front yard setback variance. Lot 15.01 contains an automobile storage facility with no immediately adjacent structures. The wireless communications compound requires infrequent maintenance by personnel, and the existing vegetation within the 50th Street right of way screens the compound from Lot 15.01.

The permanent wireless communications compound will not create any negative visual impacts to the neighboring properties or impede their ability to function as intended. Therefore, the granting of the requested variance to provide a reduced southerly front yard setback to the 50th Street right of way will not adversely affect the rights of neighboring property owners or residents.

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

A denial of the requested variance will result in peculiar and exceptional practical difficulties, and exceptional and undue hardship upon the property owner. The site is constrained by a drainage retention basin located at the southwestern corner of the property that eventually discharges off-site to the wetlands located west of West Side Avenue. The location of the telecommunications compound is further constrained by its need for electrical power, which necessitates its location within close proximity of an existing utility pole within the 50th Street right of way. An existing overhead electric wire has been rerouted from this existing utility pole located within the 50th Street right of way to a utility pole on the subject property adjacent to the wireless communications compound. Consequently, the placement of the wireless communications compound is limited by the location of the utility pole, which was determined by PSE&G. Locating the wireless communications compound at this site allows T-Mobile and SectorSite to provide the required coverage to its customers in this

vicinity. The premises cannot function as a wireless communications facility without the installation of the wireless communications compound in a location that is accessible to the required utilities.

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

There will be no substantial detriment to the public good and no adverse impact to the public health, safety, morals, order, convenience, prosperity or general welfare by granting the requested variance. The placement of the permanent wireless communications compound at the current location on site does not have a detrimental effect on the quality of life in the District, as there will be no increase in traffic, pollution, odor, glare or vibrations associated with the equipment. The wireless communications compound is part of an unmanned facility, is essentially inconspicuous, and does not create any negative visual impact. The general welfare of the population is also served by advancing telecommunications service in the area.

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

The granting of the requested variance to install wireless communications compound within the front yard setback from the 50th Street right of way does not have any adverse environmental impacts. No environmentally sensitive areas will be disturbed. The permanent wireless communications compound will not exceed the District's category B performance standards in regard to noise, vibrations, glare, airborne emissions, hazardous or radioactive materials, wastewater and traffic. Additionally, the permanent wireless communications compound will not involve the storage of any hazardous materials, liquids or chemicals.

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

The requested variance to provide a 17-foot front yard setback from the fenced wireless communications compound to the 50th Street right of way, whereas a minimum 30 foot setback is required, represents the minimum deviation that will afford relief at this location. Increasing the southerly front yard setback to the minimum 30 feet required would negatively impact site efficiency. The location of the wireless communications compound needs to be in close proximity to an existing electric utility pole, which is the nearest power source. Potential locations for the placement of a wireless communications compound are limited due to existing site layout and the placement of the utility pole by PSE&G. Compliance with the minimum required setback would result in the installation of the wireless communications compound and

underground electric conduit within an existing paved parking area.

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

The granting of the bulk variance to locate the wireless communications compound within the required front yard setback from the 50th Street right of way will not impair the intent and purpose of the regulations. One purpose of a setback is provide a buffer between uses, or with respect to a front yard setback, between a use and a public right of way; however, the permanent wireless communications compound is separated from the automobile storage facility on Lot 15.01 by the 50th Street right of way. The appearance of the surrounding area will not be compromised, as the permanent telecommunications facility will have minimal visual impacts on the surrounding industrial properties.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.91(a)3iii, which requires a minimum rear yard setback of 50 feet, whereas the applicant is proposing wireless communications equipment with a minimum setback of 18.1 feet from the easterly rear yard property line.

The Hackensack Meadowlands 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 subject property contains two front yards and is irregularly-shaped, with an approximate 144-foot by 85-foot flag portion on Lot 16.01 that extends in a northerly direction towards adjacent Lot 18. This results in a lot width of approximately 449 feet along West Side Avenue, compared to a lot width of only 331 feet at the rear of the property. The proposed 18.1-foot rear yard setback is measured from the fenced wireless communication compound to the adjacent New York Susquehanna and Western Railroad right of way.

The property is currently improved with a three-story contractor's office building, which represents an existing lot coverage of 9.81 percent. Existing open space on the site, which includes a drainage retention basin, totals 40.23 percent, whereas a minimum of 15 percent is required. The remainder of the site consists of paved parking area. It is an unusual circumstance, given the available lot coverage and degree of excess open space on the subject property, that the applicant would need to seek a rear yard setback variance. However, the current location of the monopole and telecommunications facility is dependent upon the utilization of nearby existing electric utility lines. The permanent 100-foot-tall monopole will provide an antenna pattern clear of any obstructions and will continue to provide adequate coverage to the area.

These are unique conditions that are not ordinarily found on properties in the Intermodal A zone. The requested variance to

permit a reduced easterly rear yard setback arises from these conditions.

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

The neighborhood in which the subject property is located is primarily industrial in nature and no residences or commercial uses that would be frequented by the general public are located nearby. The neighboring parcel to the east, identified as Block 485, Lot 3, is the property most impacted by the proposed variance to provide a fenced wireless communications compound with a minimum rear yard setback of 18.1 feet. Lot 3 is owned by the New York Susquehanna and Western Railroad and contains a railroad transfer facility with no immediately adjacent structures. The permanent wireless communications compound requires infrequent maintenance by personnel, and the proposed chain link fence with privacy slats will screen the permanent wireless communications compound equipment from Lot 3.

The permanent wireless communications compound will not create any negative visual impacts to the neighboring properties or impede their ability to function as intended. Therefore, the granting of the requested variance to provide a reduced easterly rear yard setback will not adversely affect the rights of neighboring property owners or residents.

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

A denial of the requested variance to provide a fenced wireless communications compound with a minimum rear yard setback of 18.1 feet will result in peculiar and exceptional practical difficulties, and exceptional and undue hardship upon the property owner. Increasing the easterly rear yard setback to the minimum 50 feet required would negatively impact existing site circulation and efficiency within the parking lot for the contractor's office. Locating the wireless communications compound within the required rear yard will allow T-Mobile and SectorSite to continue to serve the regions by providing the required coverage and capacity to its customers.

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

There will be no substantial detriment to the public good and no adverse impact to the public health, safety, morals, order, convenience, prosperity or general welfare by granting the requested variance to maintain a fenced wireless communications compound with a minimum rear yard setback of 18.1 feet. The placement of the wireless communications compound at the current location on site will not have a detrimental effect on the quality of life in the District, as there will be no increase in traffic, pollution, odor, glare or vibrations associated with the compound.

The wireless communications compound is an unmanned facility, is essentially inconspicuous, and will not create any negative visual impacts. The general welfare of the population is also served by advancing telecommunications service in the area.

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

The granting of the requested variance to provide a fenced wireless communications compound with a minimum rear yard setback of 18.1 feet will not have any adverse environmental impacts. No environmentally sensitive areas will be disturbed. The permanent wireless communications compound will not exceed the District's category B performance standards in regard to noise, vibrations, glare, airborne emissions, hazardous or radioactive materials, wastewater and traffic. Additionally, the permanent wireless communications compound will not involve the storage of any hazardous materials, liquids or chemicals.

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

The requested variance to provide a fenced wireless communications compound with an 18.1-foot rear yard setback, whereas a minimum 50 foot setback is required, does represent the minimum deviation that will afford relief at this location. Increasing the easterly rear yard setback to the minimum 50 feet required would require the wireless communications compound to be relocated within the existing parking lot for the contractor's office, which would negatively impact site circulation and

efficiency. The placement of the monopole and telecommunications facility was determined by the applicant to provide an antenna transmission pattern that is clear of obstructions. Potential locations for the placement of wireless communications compound are limited due to the existing site layout. The current location of the monopole and telecommunications facility was also selected due to its close proximity to existing electric utility lines.

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

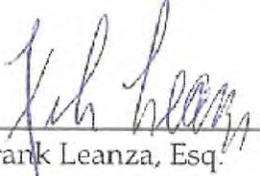
The granting of the bulk variance to locate the fenced wireless communications compound within the required rear yard setback will not impair the intent and purpose of the regulations. One purpose of a setback is provide a buffer between uses; however, the permanent wireless communications equipment will be screened from the adjacent railroad transfer facility on Lot 3 by the proposed chain link fence with privacy slats. The appearance of the surrounding area will not be compromised, as the telecommunications compound will have minimal visual impacts on the surrounding industrial properties.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Special Exception to permit a communications transmission tower in the Intermodal A zone as per N.J.A.C. 19:4-5.88(a)3.

Based on the record in this matter, the special exception application to install a 100-foot-high communications transmission tower as part of a permanent telecommunications compound on the subject premises is hereby recommended for APPROVAL.

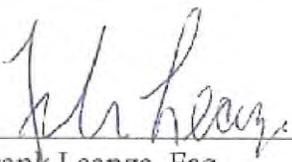
<u>APPROVAL</u>	<u>2/27/2020</u>	
Recommendation on Special Exception Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>APPROVAL</u>	<u>2/27/20</u>	
Recommendation on Special Exception Request	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. 19:4-5.91(a)3i, which requires a minimum front yard setback of 30 feet, whereas the applicant is proposing a wireless communications compound with a minimum setback of 17 feet from the unimproved 50th Street right of way.

Based on the record in this matter, the bulk variance application to install a wireless communications compound with a minimum front yard setback of 17 feet from the 50th Street right of way along the southerly property line, whereas a minimum front yard setback of 30 feet is required, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>2/27/2020</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>APPROVAL</u>	<u>2/27/20</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

RESOLUTION 2020-13

**RESOLUTION ISSUING A
DECISION ON THE VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 18-422
1099 WALL STREET VENTURES, LLC-
NEW BUILDING (HOTEL) & VARIANCE/SUBDIVISION
BLOCK 228, LOTS 1.01 & 1.03, IN THE TOWNSHIP OF LYNDHURST**

WHEREAS, an application for one bulk variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by William Sullivan, Esq. of the firm Scarinci Hollenbeck, on behalf of BDG Hotels at Lyndhurst, LLC, for the premises located at 1099 Wall Street West, identified as Block 228, Lots 1.01 & 1.03, 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 bulk variance is sought in connection with the applicant's proposal to construct a 128-room hotel building and related site improvements on the subject premises; and

WHEREAS, the applicant requested bulk variance relief from N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards, whereas the applicant is proposing a vehicular use area including 18 parking spaces at a minimum 15-foot setback within the required 35-foot-wide front yard setback along Wall Street West; and

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

WHEREAS, a public hearing was held in the Office of the NJSEA on Tuesday, January 7, 2020, 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, CFM, Principal Planner; and William Moran, P.E., P.P., AICP, Senior Engineer; and

WHEREAS, a comprehensive report dated March 6, 2020, 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 March 9, 2020; and

WHEREAS, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-8.2(b)1, to permit a vehicular use area and 18 parking spaces at a minimum 15-foot setback in the 35-foot-wide required front yard along Wall Street West; 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 further determines that the requested bulk variance application to permit a vehicular use area and 18 vehicle parking spaces at a minimum 15-foot setback in the 35-foot-wide required front yard along Wall Street West, 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 1099 Wall Street West, LLC. - New Building (Hotel) & Variance/Subdivision application for a variance from N.J.A.C. 19:4-8.2(b)1, to permit a vehicular use area and 18 vehicle parking spaces at a minimum 15-foot setback in the 35-foot-wide required front yard along Wall Street West, is hereby **APPROVED** for the reasons set forth in the recommendation report dated March 6, 2020.

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 23, 2020.



Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell

Date: April 23, 2020

Subject: Variance Recommendation-1099 Wall Street Ventures, LLC. - New Building (Hotel). & Variance/Subdivision (File No. 18-442)

An application for one bulk variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by William Sullivan, Esq. of the firm Scarinci Hollenbeck on behalf of BDG Hotels at Lyndhurst, LLC, for the premises located at 1099 Wall Street West, identified as Block 228, Lots 1.01 & 1.03, in the Township of Lyndhurst, New Jersey. The subject property is located within the District's Commercial Park zone. The variance is sought in connection with the applicant's proposal to construct a 128-room hotel building with related site improvements on the subject premises.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards. The applicant is proposing a vehicular use area with 18 vehicle parking spaces at a 15-foot setback within the 35-foot-wide required front yard setback along Wall Street West.

A public hearing was held in the Office of the NJSEA on Tuesday, January 7, 2020.

In a comprehensive report dated March 6, 2020, the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended the approval of the bulk variance to permit a vehicular use area and 18 parking spaces at a 15-foot setback within the 35-foot-wide required front yard setback along Wall Street West.

A copy of the comprehensive report and variance recommendation was provided to the applicant on March 9, 2019.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
1099 Wall Street Ventures, LLC – New Building (Hotel) & Variance
FILE #18-442**

I. INTRODUCTION

An application for one bulk variance has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Richard Bhojani of BDG Hotels at Lyndhurst, LLC, for the premises identified as Block 228, Lots 1.01 & 1.03, in the Township of Lyndhurst, New Jersey. The subject premises are located in the Hackensack Meadowlands District's (District) Commercial Park zone. The variances are sought in connection with the applicant's proposal to construct a 128-room hotel building, with associated site improvements, on the subject property.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards. The applicant is proposing a vehicular use area including 18 vehicle parking spaces located at a minimum 15-foot setback from the front lot line adjoining Wall Street West, whereas a minimum 35-foot-wide front yard setback is required.

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 received. A public hearing was held in the Office of the NJSEA on Tuesday, January 7, 2020. 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 is an 8.21-acre parcel containing frontage on Wall Street West to the south, Garland Way to the west, and NJ State Highway Route 17 to the north. The property's Route 17 frontage is not considered a front yard due to the grade separation between the property and the roadway, pursuant to N.J.A.C. 19:4-3.19. The site is currently improved, containing a three-story office building on Lot 1.01, and a vacant one-story former bank branch building on Lot 1.03.

Neighboring properties include the NJ State Highway Route 17 right-of-way (Route 17 ROW) and public utility infrastructure to the north, the Union multi-family residential complex to the east beyond a wooded area that is part of the Route 17 ROW, and a warehouse/office building to the west across Garland Way. Properties located to the south of the site include office uses and a satellite branch of Bergen Community College.

The applicant proposes to construct a 128-room hotel building with associated site improvements over an existing parking field and the area containing the former bank building in the easterly portion of the subject property. The existing office building, identified as 1099 Wall Street West, will be retained in the westerly portion of the site, and the former bank building on Lot 1.03 is proposed to be demolished. As part of this proposal, a bulk variance is requested to install a vehicular use area including 18 parallel parking spaces in the required front yard along Wall Street West.

B. Response to the Public Notice

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

III. PUBLIC HEARING (January 7, 2020)

A public hearing was held on Tuesday, January 7, 2020. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, CFM, Principal Planner; and William Moran, P.E., P.P., AICP, Senior Engineer.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	"Minor Subdivision Plat," Sheet 1 of 1, prepared by Control Point Associates, last revised December 13, 2019.
A-2	"Aerial Exhibit," Sheet 2 of 2, prepared by Bohler Engineering, dated December 17, 2019.
A-3	"Overall Site Layout Plan/Open Space Plan," Sheet C-02 of 27, prepared by Bohler Engineering, last revised November 27, 2019.
A-4	"Exterior Rendering," colorized, prepared by S & P Architectural Studio, dated January 7, 2020.
A-5	"Site Layout Plan (A)," Sheet C-05 of 27, prepared by Bohler Engineering, last revised November 27, 2019.

B. Testimony

William Sullivan, Esq. of the firm Scarinci Hollenbeck represented BDG Hotels at Lyndhurst, LLC at the hearing. The following witnesses testified in support of the application:

1. Tung To Lam, P.E., Bohler Engineering; and
2. Deborah Lawlor., P.P., FAICP, Maser Consulting; and

3. David Iacobucci, Senior Investment Officer, Bergman Real Estate Group; and
4. James Kirkos, President, Meadowlands Chamber of Commerce.

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

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATIONS

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards; whereas the applicant is proposing a vehicular use area with 18 vehicle parking spaces located at a minimum 15-foot setback from the front lot line adjoining West Wall Street, where a minimum 35-foot-wide front yard setback is required.

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 vehicle parking and circulation areas at a minimum setback of 15 feet within the required front yard along Wall Street West arises from conditions that are unique

to the site. The subject property is an irregularly-shaped lot, as its southerly lot line angles toward the northwest following the angle of Wall Street West as it intersects with Clay Avenue, and its northerly lot line is formed by the curve of the Route 17 ROW. The curved northerly lot line results in a narrowing of the lot width at the location of the proposed hotel building. The site also contains a significant amount of frontage in relation to its lot depth, having approximately 1,155 feet of frontage along Wall Street West and 520 feet along Garland Way. The property's lot depth is reduced by more than half at its easterly point, where the hotel is proposed to be located.

In addition, the site is encumbered by an existing triangularly-shaped U.S. Army Corps of Engineers-delineated wetlands area in the northeasterly portion of the site, which limits the placement of improvements on the site. The existing office site to remain also contains existing nonconforming ninety-degree parking spaces located at a minimum four-foot-wide setback, within the required front yard setback of 35 feet in the Commercial Park zone in which the property is located.

This combination of characteristics creates a unique condition that affects the ability of the property owner to accommodate site development in a fully compliant and functional manner. Based on the site's particular characteristics, the applicant proposes to combine the two lots comprising the property within a single zoning lot of record and construct the hotel building on the easterly portion of the site, while retaining the existing office building. The location and configuration of the proposed improvements on the

site result from the unique circumstances on the property, where the only remaining area where a functional parking layout can be configured for 18 parking spaces is within the site's required front yard along Wall Street West.

- 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 provide parking and circulation areas in the required front yard along Wall Street West will not adversely affect the rights of neighboring property owners. Ninety-degree parking spaces currently exist adjacent to Wall Street West on Lot 1.01, at a minimum setback of approximately four feet from the property line, as an existing nonconformity. The applicant proposes to increase the distance from the property line to the proposed parallel parking spaces from the existing 4-foot-wide setback to a 15-foot-wide setback, approximately four times the distance than currently exists. Furthermore, landscaped screening will be provided to shield the view of the parking and vehicular use areas from adjoining properties and streets, and to attenuate headlight glare for public safety purposes. A wooded area within the Route 17 ROW also exists between the subject property and the Union multi-family residence, providing additional screening to area residents. Therefore, there will be no adverse impacts to the neighboring properties as a result of the requested variance.

- 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 property owner. The property's unique characteristics, as documented in section *i.* above, results in significant practical difficulties in the ability of the property owner to develop the proposed hotel in a manner conforming to all of the bulk requirements of the Commercial Park zone. The property's irregular shape results in a narrowing of the lot in the easterly portion of the site, which is further constrained by the presence of wetlands. In addition, the site is required to maintain minimum, unobstructed front yard setbacks of 35 feet in width along its southerly and westerly frontages, totaling 1,675 feet. This combination of factors affects the placement and configuration of building on the site, and given these unique conditions and physical characteristics, practical difficulties are evident in the effort to provide functional and compliant parking and circulation areas on the site.

- 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 construct parking areas at a minimum 15-foot

setback from Wall Street West, whereas a minimum of 35 feet is required. The location of the parking within the required Wall Street West front yard is necessary to achieve a functional site layout, and is not the result of site overdevelopment. The proposed hotel does not exceed maximum lot coverage or FAR requirements in the Commercial Park zone, and a minimum 56.8-foot front yard setback is proposed to the hotel structure.

Ninety-degree parking spaces adjacent to Wall Street West currently exist for the office building at a minimum setback of approximately four feet from the property line. The applicant's proposed parking setback of 15 feet will enable the applicant to provide the total amount of required parking spaces for the hotel and to design functional circulation aisles in accordance with the required minimum dimensions. Of the site's 128 parking spaces designated for the hotel building, 18 of the proposed parking spaces are located within the required front yard, parallel to the front lot line along Wall Street West. All vehicle movements will be conducted on the site, and headlight glare will not be directed toward motorists traveling along Wall Street West. The proposed setback will be sufficient to accommodate landscaping to screen the parking at its proposed location. Therefore, public safety, order, convenience, and general welfare will not be compromised by the requested variance.

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

The granting of the requested variance to locate vehicular use areas within the required front yard will not result in substantial adverse

environmental impacts. The delineated wetland area located on the site will remain preserved in the proposed condition.

In addition, the area's aesthetics will not be adversely impacted by the proposed location of parking in the required front yard. A landscape hedge and street trees will be provided within the proposed 15-foot setback area between the property line and the proposed parallel parking. Overall, the proposal will provide a three percent increase in open space on the site over current conditions (from 19.8 to 22.8 percent open space), as well as site drainage improvements.

The proposed parking spaces within the required front yard are aligned parallel to the front lot line, and will not result in glare directed toward vehicles traveling on Wall Street West, nor to neighboring properties. Furthermore, District performance standards will be met for noise, vibration, airborne emissions, hazardous and radioactive materials, and wastewater.

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

The requested variance to permit a vehicular use area and parking within the required front yard setback arises from the specific site conditions that result in practical difficulties in the development of a conforming site plan. Alternative parking configurations on the subject property are not practicable based on the particular characteristics of the property that affect the site's development. These characteristics include its irregular shape and the presence of

a triangularly-shaped swath of wetlands in the northeasterly portion of the site that constrain site development. The proposed hotel complies with lot coverage and FAR requirements, evidencing that the practical difficulties associated with the provision of parking are not the result of site overdevelopment that would generate additional parking demand.

The proposed development will increase open space on the premises and provide additional parking setback and landscaping along Wall Street West over current conditions. In addition, the variance enables the applicant to provide the 128 parking spaces required to serve the proposed use of the property, as well as the adjacent office building under a shared parking/cross access agreement between the two users of the site. Of the total number of parking spaces provided, 18 spaces are proposed within the Wall Street West required front yard due to the lack of practicable alternative locations to achieve a conforming parking layout. The proposed parking configuration on this particular property balances the applicable zoning requirements with the site constraints. Therefore, the requested 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 Hackensack Meadowlands District Zoning Regulations include providing sufficient space in appropriate locations for a variety of uses, and ensuring 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 proposal for the location of vehicular use areas within the required front yard setback will not substantially impair the intent and purpose of the regulations. Public safety will not be compromised, as adequate drive aisle widths are provided to accommodate vehicle movements on-site.

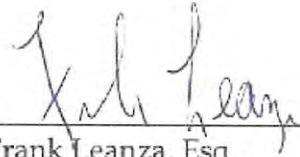
The principal intent and purpose of setback regulations includes the provision of sufficient light, air, and open space to the subject property and adjoining properties. The intrusion into the front yard setback is due to proposed vehicle parking areas, and is not a direct result of the placement of structures. The proposal balances the provision of sufficient parking with the constraints arising from particular site conditions. Therefore, the intent and purpose of the regulations will not be significantly impaired by the requested variance.

V. SUMMARY OF CONCLUSIONS

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards. The applicant is proposing a vehicular use area including 18 vehicle parking spaces located at a minimum 15-foot setback from the front lot line adjoining Wall Street West, whereas a minimum 35-foot-wide front yard setback is required.

Based on the record in this matter, the bulk variance application to permit a minimum front yard setback of 15 feet to a vehicular use area including 18 vehicle parking spaces in the required front yard along Wall Street West, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>3/6/2020</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>APPROVAL</u>	<u>3/16/2020</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

RESOLUTION 2020-14

**RESOLUTION ISSUING A
DECISION ON THE USE VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 19-508
HUDSON COUNTY/HIGH TECH HIGH SCHOOL -
CELL TOWER (USE VARIANCE)
BLOCK 5, LOT 2.03, IN THE TOWN OF SECAUCUS**

WHEREAS, an application for a use variance has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by the Hudson County Schools of Technology High Tech High School for the premises located at 1 High Tech Way, identified as Block 5, Lot 2.03, in the Town of Secaucus, New Jersey; and

WHEREAS, the premises is located within the Hackensack Meadowlands District's Parks and Recreation zone; and

WHEREAS, the use variance is sought in connection with the applicant's proposal to construct a 155-foot-tall cell tower and related site improvements on the subject premises; and

WHEREAS, the applicant requested use variance relief from N.J.A.C. 19:4-5.14(a), where communications transmission towers are not listed as a permitted use in the Parks and Recreation zone; and

WHEREAS, notice of the requested use 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 4, 2020, 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; and William Moran, P.E., P.P., AICP, Senior Engineer; and

WHEREAS, a comprehensive report dated April 9, 2020, 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 14, 2020; and

WHEREAS, the report recommends the approval of the requested use variance from N.J.A.C. 19:4-5.14(a), to permit a communications transmission tower with a maximum height of 155 feet; 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 further determines that the requested use variance application to permit a communications transmission tower with a maximum height of 155 feet, 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 Hudson County/High Tech High School - Cell Tower (Use Variance) application for a use variance from N.J.A.C. 19:4-5.14(a), to permit a communications transmission tower with a maximum height of 155 feet, is hereby **APPROVED** for the reasons set forth in the recommendation report dated April 9, 2020.

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 23, 2020.



Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell

Date: April 23, 2020

Subject: Variance Recommendation- Hudson County/High Tech High School - Cell Tower/Use Variance (File No. 19-508)

An application for a use variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Nicholas Fargo, on behalf of the Hudson County Schools of Technology High Tech High School, for the premises located at 1 High Tech Way and identified as Block 5, Lot 2.03, in the Town of Secaucus, New Jersey. The subject property is located within the District's Parks and Recreation zone. The use variance is sought in connection with the applicant's proposal to construct a 155-foot-tall cell tower with associated site improvements on a portion of the subject premises.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.14(a), where communications transmission towers are not listed as a permitted use in the Parks and Recreation zone. The applicant is requesting a use variance to construct a 155-foot-tall communications transmission tower.

A public hearing was held in the Office of the NJSEA on Tuesday, February 4, 2020.

In a comprehensive report dated April 9, 2020, the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended the approval of a use variance to construct a communications transmission tower with a maximum height of 155 feet, as part of a permanent telecommunications compound on the subject premises.

A copy of the comprehensive report and variance recommendation was provided to the applicant on April 14, 2020.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
Hudson County/High Tech High School - Cell Tower (Use Variance)
FILE # 19-508**

I. INTRODUCTION

An application for one use variance has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Nicholas Fargo, on behalf of Hudson County Schools of Technology, for the premises located at Hudson County High Tech High School, Frank J. Gargiulo Campus, One High Tech Way, Block 5, Lot 2.03, in the Town of Secaucus, New Jersey. The subject premises are located in the Parks and Recreation zone of the Hackensack Meadowlands District (District). The variance is sought in connection with the applicant's proposal to construct a 155-foot-tall cell tower with associated site improvements on a portion of the subject property.

Specifically, the applicant is requesting a use variance as follows:

1. N.J.A.C. 19:4-5.14(a), where communications transmission towers are not listed as a permitted use in the Parks and Recreation zone. The applicant is requesting a use variance to construct a 155-foot-tall cell tower.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. No written objections were received. A public hearing was held in the Office of the Authority on Tuesday, February 4, 2020. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question is the site of the Hudson County Schools of Technology High Tech High School. The 24.92-acre site is currently improved with the high school facility building located above an underground parking level, an associated at-grade parking area, an on-site ring road identified as High Tech Way, and a storm water management facility. Direct access to the site is provided from Laurel Hill Road/Paul Amico Way, which intersects with High Tech Way in the northeasterly portion of the property.

The site is bordered by Laurel Hill County Park to the west and north, the Xchange at Secaucus Junction residential development to the northeast, and the southbound on and off ramps for Exit 15X of the New Jersey Turnpike Eastern Spur to the east. The New Jersey Turnpike Eastern Spur right-of-way (ROW) abuts the property to the south and is grade-separated from the subject property.

The applicant is proposing to install a 155-foot-tall telecommunications tower with associated structures on the southeasterly portion of Lot 2.03. The telecommunications compound will be set back approximately 1,000 feet from the front property line along Laurel Hill Road/Paul Amico Way and approximately 150 feet from both the easterly rear property line and southerly side property line.

As part of this proposal, a use variance is requested to install the telecommunications tower, which is defined as a communications transmission tower in the District Zoning Regulations, on the subject property in the Parks and Recreation zone, whereas a communications transmission tower is not listed as a permitted use in this zone.

B. Response to the Public Notice

No written objections were received prior to the public hearing.

III. PUBLIC HEARING

A public hearing was held on Tuesday, February 4, 2020. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; and William Moran, P.E., P.P., AICP, Senior Engineer.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	“Cover Sheet,” Sheet 1.00, prepared by Neglia Engineering Associates on November 15, 2019, last revised on December 23, 2019.
A-2	“Overall Site Plan,” Sheet 3.00, prepared by Neglia Engineering Associates on November 15, 2019, last revised on December 23, 2019.
A-3	“Site Improvements Plan,” Sheet 3.01, prepared by Neglia Engineering Associates on November 15, 2019, last revised on December 23, 2019.
A-4	“Landscape and Lighting Plan,” Sheet SP-4, prepared by Neglia Engineering Associates on November 15, 2019, last revised on December 23, 2019.
A-5	“Exhibit A - Fire Radio System - Existing Portable Talk Back,” prepared by PierCon Solutions, undated.

- A-6 “Exhibit B – Fire Radio System – Existing and Proposed Portable Talk Back,” prepared by PierCon Solutions, undated.
- A-7 “Exhibit C – Police Radio System – Existing Portable Talk Back,” prepared by PierCon Solutions, undated.
- A-8 “Exhibit D – Police Radio System – Existing and Proposed Portable Talk Back,” prepared by PierCon Solutions, undated.
- A-9 “An Analysis of the Predicted Radiofrequency Environment in the Vicinity of a Proposed Wireless Communication Facility” prepared by PierCon Solutions, LLC on October 30, 2019.
- A-10 “Independent Radio Frequency Report Regarding a Proposed Wireless Communication Facility for Secaucus Public Safety Radio Systems,” prepared by PierCon Solutions, LLC on November 15, 2019.

B. Testimony

John Dineen, Esq., General Counsel to Hudson County Schools of Technology, represented the applicant at the hearing. The following two witnesses testified in support of the application:

1. Anthony Kurus, P.E., P.P., Neglia Engineering Associates; and
2. Ronald Lukach, PierCon Solutions, LLC.

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

C. Public Comment

Several members of the public attended the public hearing and provided comments regarding the proposed use variance. These comments may be found in the corresponding transcript of the public hearing dated February 4, 2020.

IV. RECOMMENDATION

A. Standards for the Granting of a Use Variance to permit a communications transmission tower in the Parks and Recreation zone as per N.J.A.C. 19:4-5.14(a), where communications transmission towers are not listed as a permitted use.

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

Concerning use variances:

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

The strict application of the regulations that do not permit communications transmission towers in the Parks and Recreation zone would result in exceptional practical difficulties and undue hardship to the property owner. The applicant's professionals provided testimony and exhibits demonstrating that a deficiency in wireless transmission coverage and signal strength exists within the general vicinity of the subject site and surrounding area. This deficiency results in a telecommunications signal coverage gap, not only for personal mobile devices, but also for emergency response coverage for the Town of Secaucus' fire, police, and other emergency services. The existing deficiency in telecommunication services,

which would be ameliorated through the installation of a communications transmission tower, creates an exceptional practical difficulty and undue hardship, particularly when considering the importance of establishing reliable communications between emergency services and the public school facility on the subject property.

A coverage analysis provided by the applicant (Exhibits A-6 and A-8), which evaluated several potential locations in the vicinity of the subject property to locate a communications transmission tower, demonstrated that the proposed location on the High Tech High School property was the optimal location for the cell tower. The communications tower at the proposed location would close the coverage gap and would ensure that emergency services, the school community, and the general public within this area of Secaucus, including travelers along the New Jersey Turnpike corridor, will have reliable and enhanced communications services available.

- 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 communications transmission tower will not result in a substantial detriment to the public good, nor will it adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The tower, as part of a permanent wireless communications facility, is a benign use that will enhance the public good, safety, convenience, and general welfare by increasing and enhancing the wireless communications signal strength and coverage area in this portion of the District. The tower is proposed to be sited in a relatively obscure location on the site, toward the

rear of the subject property behind the existing school building, and, therefore, it will not be detrimental to area aesthetics nor interfere with traffic circulation patterns. The applicant has submitted reports indicating that there will be no detrimental public health effects resulting from the communications transmission tower.

- 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 proposed use variance for the installation of a communications transmission tower, which will be part of an unmanned telecommunications facility, is intended to improve wireless telecommunication coverage, both on the site and in the surrounding area. The proposed tower will connect to existing infrastructure available on the site, and such connections have been designed to avoid negative impacts to existing utility services. Additionally, the communications transmission tower has been designed to allow for future co-location by other carriers, as required by the District Zoning Regulations.

The communications transmission tower and accessory equipment represent only a slight increase in lot coverage and, therefore, will not impact existing stormwater drainage infrastructure, nor alter surface runoff conditions on the site. Water and sewer service are not required; therefore, there will be no impact to this public infrastructure.

In addition, the siting of the proposed communications transmission

tower will not impact the existing on-site circulation. Furthermore, no adverse traffic impacts will result from the proposed use, as the unmanned facility requires only one site visit every four to six weeks for facility maintenance purposes. Therefore, the surrounding roadways will be capable of handling the minimal traffic generated by the proposed use, and the existing traffic pattern will not be impacted.

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

The requested use variance to install a communications transmission tower and accessory equipment on the subject property will not have a substantial adverse environmental impact. District environmental performance standards will not be exceeded as there will be no noise, vibration, glare, airborne emissions, or hazardous or radioactive materials generated by the proposed facility. The proposed increase in lot coverage resulting from the tower and other equipment footprints is minimal. No wetlands, floodplains, or environmentally sensitive areas will be disturbed, and all required buffers will be maintained.

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

The proposed use variance to install a communications transmission tower and accessory equipment on the subject property will not substantially impair the intent and purpose of the District Zoning Regulations. The subject property is located in the District's Parks and Recreation zone, which is intended to provide for the creation, management and appropriate use of public open space and recreation facilities within the District in a manner that allows for the public use and

enjoyment of these areas. The proposed communications transmission tower will not cause adverse impacts to neighboring uses. The appearance of the surrounding area will not be compromised by the approval of the proposed use variance, as the proposed communications transmission tower will have minimal visual impact to the high school facility and surrounding uses, including recreational land and residences. The proposed use variance is consistent with the purposes of the regulations to provide sufficient space in appropriate locations for a variety of uses, and to provide that such uses are suitably sited.

Furthermore, the approval of the proposed use variance will promote the intent of the regulations to provide for adequate infrastructure and utility improvements. The proposed communications transmission tower will boost the availability and reliability of the wireless telecommunications utility infrastructure coverage on, and in the vicinity of, the subject property. As a result, the proposed communications transmission tower will benefit the public good by improving the public safety communications network and overall telecommunications services in this area of the District.

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

The requested use variance to install a communications transmission tower and accessory equipment on the subject property will contribute to and promote the intent of the Hackensack Meadowlands District Master Plan Update 2020. Specifically, Goal 7 of the Master Plan, which is to increase the security and resiliency of the District and its neighboring areas by mitigating hazards and risks, would be promoted by the granting of the

requested use variance. The proposed facility will enhance the public health, safety, and general welfare through the improvement of area-wide wireless communications for the school on the subject site, for the local fire, police, and emergency services, and for the general public. As a result, existing risks associated with inadequate telecommunications services in the southerly portion of Secaucus and surrounding areas will be mitigated.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance to permit a communications transmission tower in the Parks and Recreation zone as per N.J.A.C. 19:4-5.88(a)3.

Based on the record in this matter, the use variance application to install a communications transmission tower with a maximum height of 155 feet, as part of a permanent telecommunications compound on the subject premises, is hereby recommended for APPROVAL.

APPROVAL

4/9/2020



Recommendation on
Use Variance Request

Date

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

APPROVED

4/9/30



Recommendation on
Use Variance Request

Date

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

RESOLUTION 2020-15

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO
TO ENTER INTO A CONTRACT FOR THE PREPARATION OF THE
MEADOWLANDS DISTRICT TRANSPORTATION PLAN UPDATE 2045
(File No. SP-767)**

WHEREAS, The Hackensack Meadowlands Transportation Planning District Act at N.J.S.A. 5:10A-69 (TPD Act) establishes the Meadowlands Transportation Planning District and permits fees to be assessed for transportation purposes; and

WHEREAS, the TPD Act requires the New Jersey Sports and Exposition Authority (NJSEA) in conjunction with the Meadowlands District Transportation Planning Board (MTPB) to oversee the development and updating of a comprehensive, future-oriented District Transportation Plan; and

WHEREAS, on October 22, 2007, the MTPB unanimously passed a resolution recommending the 2007 Meadowlands District Transportation Plan to the New Jersey Meadowlands Commission (NJMC); and

WHEREAS, thereafter on November 28, 2007, the NJMC passed Resolution No. 07-104 adopting the 2007 Meadowlands District Transportation Plan; and

WHEREAS, on October 1, 2019, the NJSEA published a Request for Proposals (RFP) to update the 2007 Meadowlands District Transportation Plan, which was projected to year 2030, and prepare the Meadowlands District Transportation Plan Update 2045, which will assess the District's transportation needs, incorporating recent growth and transportation projects and evaluating projected needs to year 2045; and

WHEREAS, two respondents submitted proposals in response to the RFP; and

WHEREAS, the NJSEA evaluated the proposals and determined that one of the two respondents must be disqualified from the bid process due to potential conflicts of interest involving a subcontractor on the respondent's team along with the failure to disclose those potential conflicts in the submitted proposal; and

WHEREAS, an evaluation committee, comprised of NJSEA staff members, evaluated the remaining proposal in accordance with the submission requirements of the RFP and determined that AECOM Technical Services, Inc. (AECOM) is the most qualified, responsible respondent and that AECOM's proposal meets the requirements set forth in the RFP; and

WHEREAS, the evaluation committee recommends that the contract for the preparation of the Meadowlands District Transportation Plan Update 2045 be awarded to AECOM.

NOW, THEREFORE BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority that the President and CEO is hereby authorized to enter into a contract with AECOM for the preparation of the Meadowlands District Transportation Plan Update 2045, at a cost not to exceed \$852,875.

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 23, 2020.



Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell

Date: April 23, 2020

Subject: Award of Contract for Preparation of Meadowlands District Transportation Plan Update 2045 (File No. SP-767)

The Hackensack Meadowlands Transportation Planning District Act of 2005 and 2015 (the TPD Act) at N.J.S.A. 5:10A-69 established the Meadowlands Transportation Planning District, which is comprised of all lands within the Hackensack Meadowlands District.

The law requires the creation of a comprehensive District-wide Transportation Plan that will identify transportation projects and associated funding needed to sustain future economic growth. The Act empowers the New Jersey Sports and Exposition Authority to assess fees on future District development based upon a technical analysis of its projected impact upon the transportation system. The current plan, the Meadowlands District Transportation Plan 2030, was adopted by both the Meadowlands Transportation Planning Board (MTPB) and the NJMC in 2007.

The NJSEA issued a Request for Proposal (RFP) for the preparation of the Meadowlands District Transportation Plan Update 2045, which will identify transportation needs, recommend specific improvements and estimate costs of improvements over a time frame that reaches to the year 2045.

The NJSEA received two responses to the RFP. One of the two submissions was later rejected due to potential conflicts of interest arising from a team member's involvement in two pending litigation cases to which the NJSEA is a party, which constituted grounds for rejection of the bid under the requirements of the RFP.

The NJSEA evaluation committee evaluated the remaining proposal and has determined that it meets the submission requirements set forth in the RFP.

At this time, the NJSEA evaluation committee recommends that the Board authorize the award of the contract to AECOM Technical Services, Inc., in an amount not to exceed \$852,875, which includes AECOM's estimated project cost plus a 10% contingency.

RESOLUTION 2020-16

**RESOLUTION AUTHORIZING THE NEGOTIATION AND EXECUTION OF A
CONTRACT WITH SCS ENGINEERS FOR PROFESSIONAL AND FIELD
SERVICES RELATED TO THE CLOSURE OF KEEGAN LANDFILL**

WHEREAS, the New Jersey Sports and Exposition Authority (“NJSEA”) entered into an Administrative Consent Order (“ACO”) with the New Jersey Department of Environmental Protection (“NJDEP”) governing the closure of the Keegan Landfill; and

WHEREAS, this ACO imposes strict regulatory deadlines and compliance milestones with respect to the work required to close and cap the Landfill and the continued collection and control of gas emissions from the Landfill; and

WHEREAS, the NJSEA continues to require professional and field services to perform the required work; and

WHEREAS, Stearns, Conrad and Schmidt, Consulting Engineers, Inc. dba SCS Engineers and SCS Field Services (“SCS Engineers”) is currently being employed successfully by the NJSEA to provide services and perform work at the Keegan Landfill in furtherance of NJSEA’s obligations under the existing and prior ACO and judicial orders; and

WHEREAS, a State of Emergency has been declared throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, both State purchasing law, N.J.S.A. 52:34-10(b), and the Authority’s enabling statute, N.J.S.A. 5:10-21.4, provide for exceptions to requirements for publicly advertised bidding when required by the public exigency; and

WHEREAS, the NJSEA desires to extend its engagement with SCS Engineers for the required professional services, to ensure the continued collection and control of gas emissions from the Landfill and achieve compliance with the strict regulatory requirements and timelines in the ACO; and

WHEREAS, such engagement shall include the provision of professional services in support of NJDEP permitting submissions, final closure construction, Gas Collection and Control System O&M, regulatory compliance, and post closure care; and

WHEREAS, such engagement shall be for the two-year period necessary to complete construction.

NOW, THEREFORE, BE IT RESOLVED, that the NJSEA hereby appropriates an amount not to exceed Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000.00) for the required professional and field services.

BE IT FURTHER RESOLVED, that the President and CEO is hereby authorized to negotiate and execute a contract with Stearns, Conrad and Schmidt, Consulting Engineers, Inc. for the above referenced services.

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 23, 2020.



Vincent Prieto
Secretary