



Virtual Board Meeting
Thursday, January 27, 2022
10:00 a.m.



**AGENDA
REGULAR SESSION**

Remote Access Meeting via Zoom

Thursday, January 27, 2022 - 10:00 a.m.

Zoom Link: <https://us02web.zoom.us/j/85233334211>

Zoom via phone: **929-205-6099** / Meeting ID: **852 3333 4211**

I. PLEDGE OF ALLEGIANCE

II. OPENING STATEMENT

III. ROLL CALL

IV. APPROVAL OF MINUTES AND CASH DISBURSEMENTS (Action)

- Approval of Regular Session Remote Meeting Minutes of December 16, 2021.
- Approval and/or Ratification of Cash Disbursements over \$100,000 for the month of December 2021.

V. SPECIAL PRESENTATION

Meadowlands Research and Restoration Institute: *Highlights of 2021 and Looking Ahead to 2022*
Ms. Terry Doss, Co-Director, MRRRI

VI. PUBLIC PARTICIPATION ON RESOLUTIONS

VII. APPROVALS

- | | |
|---------------------------|--|
| <u>Resolution 2022-01</u> | Consideration of a Resolution regarding Tidelands Grant Application for RBD/Liberty Street Pumping Station and Force Main File No. SP-775 Block 105.02, Lot 16 in the Borough of Little Ferry and Block 28, Lot 1 in the Borough of Moonachie. |
| <u>Resolution 2022-02</u> | Consideration of a Resolution Issuing a Decision on the Variance Application Submitted as Part of File No. 21-005 M-Industries/Mack Management & Construction Corp. (Use Variance) Block 158, Lots 1, 2, 3, 4, and 5 in the Town of Secaucus. |
| <u>Resolution 2022-03</u> | Consideration of a Resolution Issuing a Decision on the Variance Application Submitted as Part of File No. 20-226 Commercial SG/Sitex Group - Site Improvement & Variances Block 229, Lot 5 in the Township of Lyndhurst. |
| <u>Resolution 2022-04</u> | Consideration of a Resolution Certifying the Meadowlands Adjustment Payments for CY2022. |

VIII. CONTRACTS/AWARDS

- Resolution 2022-05 Consideration of a Resolution Authorizing Agreements with New Jersey Transit for the Acquisition of a Fee Simple Property Interest and a Temporary Construction Easement to be used for Construction of the Portal Bridge Project.
- Resolution 2022-06 Consideration of a Resolution Authorizing an Additional \$142,087.13 to Repair Subsurface Damage at the Meadowlands Arena.
- Resolution 2022-07 Consideration of a Resolution to Enter into a Contract for Professional Services to Acquire LiDAR for the Hackensack Meadowlands District.

IX. PUBLIC PARTICIPATION**X. EXECUTIVE SESSION**

- Resolution 2022-08 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.

XI. MOTION TO ADJOURN

REGULAR SESSION MINUTES



**REGULAR SESSION BOARD MEETING
MINUTES
REMOTE VIA ZOOM**

DATE: December 16, 2021

TIME: 10:00 a.m.

PLACE: Remote via Zoom

RE: REGULAR SESSION REMOTE MEETING MINUTES

Members in Attendance:

John Ballantyne, Chairman
Joseph Buckelew, Vice Chairman
Vincent Prieto, President and CEO
Robert Dowd, Member
Armando Fontoura, Member
Michael H. Gluck, Esq., Member
Michael Griffin, NJ State Treasurer's Representative
Arthur Kapoor, Member
Woody Knopf, Member
Steven Plofker, Member
Andrew Scala, Member
Anthony Scardino, 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 Duffy, Senior Vice President of Sports Complex Operations & Facilities
Sara Sundell, Director of Land Use Management and Chief Engineer
Anna Acanfora, Co-Director of Finance
Steven Cattuna, Chief of Staff
Teresa Doss, Co-Director/Chief Restoration Scientist, Meadowlands Research & Restoration Institute
Dr. Angela Cristini, Director of the Meadowlands Environment Center
Paula Speers, Financial Operations and Contracts Manager
Brian Aberback, Public Information Officer
Janice Venables, Governor's Authorities Unit
Colleen Mercado, Senior Operations Administrator

Chairman Ballantyne called the meeting to order.

- I. Opening Statement – Chairman Ballantyne read the Notice of Meeting required under the Sunshine Law.

II. Roll Call

III. **SPECIAL RECOGNITION**

Chairman Ballantyne announced that Dr. Angela Cristini, Director of the Meadowlands Environment Center, had recently obtained a \$25,000 grant from the Taub Foundation for student research on climate change. He briefly mentioned the three projects that Ramapo students would be working on next summer that would be taking place mostly in the Meadowlands. He spoke on the various positions held by Dr. Cristini at Ramapo College and noted that she is a biology professor and received her Ph.D. in Biology from the City University of New York.

Dr. Cristini thanked everyone for the support over the past eighteen years. She briefly explained how she had been approached in regards to these potential grants. She said that in the end instead of just one project, she sent in three potential projects and instead of applying for just \$5,000, she applied for the limit of \$25,000. She said that she was absolutely delighted to have students that will be working in the field this summer with MRRI and working with her educators in the Science Center. She concluded by saying the Center was back in full force and completely booked for the month of April.

President Prieto said that the NJSEA was very appreciative for everything Dr. Cristini has done, and said that aside from being a remarkable educator, she has brought more than \$1 million dollars in grants over the years to the NJSEA. He noted that the State's First Lady had touted the mobile food lab and said she thought it was fantastic when it was brought to the State House. He concluded by saying that he looks forward to many more endeavors.

IV. **APPROVAL OF MINUTES AND CASH DISBURSEMENTS**

Chairman Ballantyne presented the minutes from the November 18, 2021 Regular Session Remote Board meeting.

Upon motion made by Commissioner Gluck and seconded by Commissioner Yudin, the minutes of the Regular Session Remote Board Meeting held on November 18, 2021, were unanimously approved.

Chairman Ballantyne presented the report of cash disbursements over \$100,000 for the month of November 2021.

Upon motion by Commissioner Scala and seconded by Commissioner Gluck, the cash disbursements over \$100,000 for the month of November 2021 were unanimously approved.

V. **PUBLIC PARTICIPATON ON RESOLUTIONS** - None.

VI. **APPROVALS**

Resolution 2021-32 Consideration of a Resolution Authorizing the Placement of Property, Auto, Terrorism, General Liability, Umbrella, Marine & Hull, Public Officials, Crime & Fiduciary, Drone Hull Liability, Medical Professional, Terrorism, Heliport Liability, and Cyber Insurance Policies.

Ms. Acanfora explained the process undertaken by the Authority's insurance broker, Willis Towers Watson, in securing the placement of the Authority's policies. She said that there was an increase of 18.9% over the expiring policies. She noted that most of the increase was in property, general liability, commercial, excess liability, crime and fiduciary policies. She concluded by thanking Ms. Paula Speers for all of her hard work in submitting all the required information and she also thanked Commissioner Buckelew for his assistance during this process.

Commissioner Buckelew said that it had been a long several months in getting this program together. He thanked Ms. Speers for being so diligent and helpful; and said that staff had done a good job. He said that Willis had done a good job in his estimation and had gone to every market possible to get the Authority good prices.

Chairman Ballantyne presented Resolution 2021-32. Upon motion by Vice Chairman Buckelew and seconded by Commissioner Yudin, Resolution 2021-32 was unanimously approved by a vote of 14-0.

VII. CONTRACTS/AWARDS

Resolution 2021-33 Consideration of a Resolution Authorizing the President and CEO to Enter into a Contract with Allied Painting of New Jersey for Coating of the Support Piles for the NJSEA Administration and Environment Center Buildings.

Mr. Duffy explained that NJSEA had advertised last November for the maintenance work necessary on the piles associated with the Administration and Environment Center buildings in Lyndhurst. He advised there were two bidders; with Allied Painting being the low bidder. He said that the work entails the maintenance necessary to recoat and repaint the wood and steel piles associated with the facilities. He concluded by saying that staff is recommending to move forward with Allied Painting.

Chairman Ballantyne presented Resolution 2021-33. Upon motion by Commissioner Scardino and seconded by Commissioner Gluck, Resolution 2021-33 was unanimously approved by a vote of 14-0.

Resolution 2021-34 Consideration of a Resolution Authorizing Execution of Agreement with New Jersey Transit for Acquisition of NJSEA-owned property for the Portal Bridge Project.

Mr. Levy explained that New Jersey Transit was in the process of acquiring right of ways necessary to construct and maintain the Portal Bridge project, which spans the Hackensack River in Kearny. He stated that New Jersey Transit had identified parcels at the base of the 1A landfill in Kearny, which is owned by NJSEA, as part of the acquisition. He said that two of the parcels will be acquired at a fee and one parcel would be acquired as an easement over the property. He continued by saying that the acquisition was initiated by NJ Transit as an eminent domain action and the final compensation number was reached as a result of bonafide negotiations between the two agencies pursuant to the Eminent Domain Act. He said the settled amount of total compensation was \$125,000, which will be paid by NJ Transit at the time of closing.

Commissioner Yudin inquired as to the process used to come up with the \$125,000 price and asked if there had been an independent appraiser involved for the NJSEA. He felt the price was low and asked if a figure was ever put forth relative eminent domain.

Mr. Levy responded by saying that there were two appraisals issued by appraisers hired by NJ Transit; one appraisal was very low and one was very high. He said that the Authority used in-house expertise instead of hiring an appraiser. He explained that the parcels are part of a closed landfill; totaling only 1.88 acres; were partly wetlands and not developable property. He went on to explain that this was a public works project and as a state entity NJSEA wanted to help move this project forward due to the disrepair of the Portal Bridge and the need for it to be fixed as soon as possible.

Chairman Ballantyne presented Resolution 2021-34. Upon motion by Commissioner Scardino and seconded by Commissioner Fontoura, Resolution 2021-34 was unanimously approved by a vote of 14-0.

VIII. **PUBLIC PARTICIPATION** - None.

IX. **EXECUTIVE SESSION**

Chairman Ballantyne stated that there was no need to go into Executive Session.

Before adjourning, Chairman Ballantyne thanked the NJSEA staff for their dedication and hard work during the past year. He stated that as he had said in the past it is not just a job for the staff, it is truly a labor of love. He went on to say that it was a great honor and pleasure to be a part of this Board and to chair it. He wished everyone very happy holidays and a happy, healthy new year.

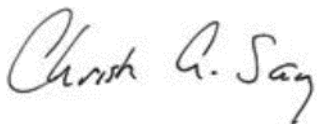
President Prieto thanked the Commissioners for all their hard work and advice they give. He said that the staff goes out of their way to put out a product that is incredible and they go above and beyond. He wished everyone a happy holiday and healthy new year; and hoped to gather together in person soon.

X. **ADJOURNMENT**

With no further business, motion was made to adjourn by Commissioner Scala, seconded by Commissioner Fontoura followed by all in favor.

Meeting adjourned at 10:30 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 Remote Board Meeting held on December 16, 2021.



Christine Sanz
Assistant Secretary

December 16, 2021

Commissioner	Roll Call	2021-32	2021-33	2021-34
Ballantyne, Chairman	P	Y	Y	Y
Buckelew, Vice Chairman	P	Y	Y	Y
Prieto	P	Y	Y	Y
Dowd	P	Y	Y	Y
Fontoura	P	Y	Y	Y
Gluck	P	Y	Y	Y
Gonnelli	--	--	--	--
Kapoor	P	Y	Y	Y
Knopf	P	Y	Y	Y
Plofker	P	Y	Y	Y
Scala	P	Y	Y	Y
Scardino	P	Y	Y	Y
Stellato	P	Y	Y	Y
Yudin	P	Y	Y	Y
Treasury Rep Griffin	P	Y	Y	Y

P = Present A = Abstain -- Absent

R = Recuse Y = Affirmative N = Negative

APPROVALS



CASH DISBURSEMENTS
\$100,000 OR MORE
DECEMBER 2021

SPORTS COMPLEX

	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
DEFENDER EMERGENCY PRODUCTS	130,185.00	A	PURCHASE OF NEW METRO EXPRESS AMBULANCE TRUCK AND WHEEL SIMULATORS
NEW JERSEY STATE POLICE	717,888.45	A	OVERTIME CHARGES: JUL-NOV 2021
NEW MEADOWLANDS STADIUM CO., INC.	489,044.92	A	GRANDSTAND DEMOLITION REIMBURSEMENT
NRG BUSINESS SOLUTIONS	430,492.26	J/L	ELECTRICITY CHARGES: NOV 2021
PUBLIC SERVICE ELECTRIC & GAS	138,978.02	J/L	ELECTRIC TRANSMISSION: NOV 2021
THE CONCEPT FARM, LLC	115,778.20	A	WORLD CUP MARKETING & ACCOUNT MANAGEMENT
SPORTS COMPLEX TOTAL	<u>2,022,366.85</u>		

MONMOUTH PARK RACETRACK MAINTENANCE RESERVE/CAPITAL

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	204,345.14	A	CAFO SPECIAL ASSESSMENT AGREEMENT: 1ST QTR 2022
MPR MAINTENANCE TOTAL	<u>204,345.14</u>		

LYNDHURST

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
NORTH BERGEN, TOWNSHIP OF	113,837.70	I	REAL ESTATE AGREEMENT: FY 2021
WASTE MANAGEMENT OF NEW JERSEY	123,671.13	A	NOV 2021 SOIL PLACEMENT/GRADING AND DEC 2021 WASTE MANAGEMENT SERVICES
LYNDHURST TOTAL	<u>237,508.83</u>		



CASH DISBURSEMENTS
\$100,000 OR MORE

REFERENCE LETTER	TYPE
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 2022-01

**RESOLUTION REGARDING TIDELANDS GRANT APPLICATION FOR
RBD/LIBERTY STREET PUMPING STATION AND FORCE MAIN**

FILE NO. SP-775

BLOCK 105.02, LOT 16

IN THE BOROUGH OF LITTLE FERRY

AND

BLOCK 28, LOT 1

IN THE BOROUGH OF MOONACHIE

WHEREAS, pursuant to N.J.S.A. 13:1B-13.8, the New Jersey Sports & Exposition Authority (NJSEA) may provide comments to the New Jersey Department of Environmental Protection's (NJDEP's) Bureau of Tidelands Management (Tidelands Resource Council) on tidelands license applications and associated permits in the Hackensack Meadowlands District; and

WHEREAS, the NJDEP Bureau of Climate Resilience Design & Engineering has submitted plans to the NJSEA (*RBD/Liberty Street Pumping Station and Force Main, File No. SP-775*) for the construction of the Liberty Street Pumping Station and Force Main, as an element of the Rebuild By Design – Meadowlands project, on the properties identified as Block 105.02, Lot 16, in the Borough of Little Ferry, and Block 28, Lot 1, in the Borough of Moonachie; and

WHEREAS, in accordance with N.J.A.C. 19:4-4.4(e)3, if a portion of a lot that is proposed for development is subject to the State's riparian interest, a duly executed riparian instrument or permit executed by the Bureau of Tidelands Management shall accompany a zoning certificate application; and

WHEREAS, on August 10, 2021, Dennis Reinknecht, Chief, NJDEP Bureau of Climate Resilience Design & Engineering, submitted an application for a riparian utility license to the Tidelands Resource Council, specifically for the riprap scour protection associated with the proposed pump station outfall and for temporary access to a decommissioned tide gate located within the subject properties; and


WHEREAS, the riparian grant application is pending review before the Bureau of Tidelands Management; and

WHEREAS, the NJSEA Staff has reviewed the application submitted by the NJDEP Bureau of Climate Resilience Design & Engineering to the Bureau of Tidelands Management and recommends approval of same.

NOW, THEREFORE, BE IT RESOLVED that based upon its review of the NJDEP Bureau of Climate Resilience Design & Engineering application to the NJDEP Bureau of Tidelands Management for a riparian utility license, the Board of Commissioners of the New Jersey Sports and Exposition Authority agrees with the Staff recommendation and recommends that the application be approved by the Tidelands Resource Council.

BE IT FURTHER RESOLVED that the Board of Commissioners of the New Jersey Sports and Exposition Authority hereby authorizes NJSEA staff to forward the Board of Commissioner's recommendation to the NJDEP Bureau of Tidelands Management accordingly.

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 January 27, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* January 27, 2022

Subject: Tidelands Grant Application - Rebuild By Design - Liberty Street Pumping Station & Force Main (File No. SP-775)

On August 10, 2021, Dennis Reinknecht, Chief, NJDEP Bureau of Climate Resilience Design & Engineering, ("Applicant") submitted an application to the New Jersey Department of Environmental Protection's Bureau of Tidelands Management (Tidelands Resource Council) for a tidelands utility license (temporary and permanent) to purchase tidelands claimed by the State within Block 105.02, Lot 16, in the Borough of Little Ferry, and Block 28, Lot 1, in the Borough of Moonachie, for the Liberty Street Pumping Station & Force Main (LSPS/FM) project, which is one element of the Rebuild By Design - Meadowlands (RBDM) project. The RBDM project is proposed to reduce flood risks in low-moderate income communities within five (5) municipalities in Bergen County utilizing a Superstorm Sandy Community Development Block Grant funded by the U.S. Department of Housing and Urban Development (HUD). The main components of the LSPS/FM project are located outside of the District boundaries; however, two portions of the project, the outfall for the pump station located on the Losen Slote and a decommissioned tide gate located within the channel, are within the District. A tidelands utility license is requested to allow temporary access to the subject properties and for the permanent placement of riprap for scour protection. The in-District portions of the RBDM project are subject to New Jersey Sports and Exposition Authority (NJSEA) review.

Pursuant to N.J.S.A. 13:1B-13.8, the Tidelands Resource Council is responsible for transmitting a copy of the application to the NJSEA for comment. Having reviewed the tidelands utility license application and associated plans, the NJSEA Staff recommends that the application be approved by the Tidelands Resource Council. Furthermore, the NJSEA staff recommends that the NJSEA adopt the attached resolution and forward same to the Tidelands Resource Council as its comment on the application.

RESOLUTION 2022-02

**RESOLUTION ISSUING A DECISION
ON THE VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 21-005
M-INDUSTRIES/MACK MANAGEMENT &
CONSTRUCTION CORP. (USE VARIANCE)
BLOCK 158, LOTS 1, 2, 3, 4, AND 5
IN THE TOWN OF SECAUCUS**

WHEREAS, an application for one use variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Paul Jerkovich, on behalf of Mack Management & Construction Corp., for the premises identified as 925 Paterson Plank Road and 50 Terminal Road, Block 158, Lots 1, 2, 3, 4, and 5, in the Town of Secaucus, New Jersey; and

WHEREAS, the premises is located within the District's Regional Commercial zone; and

WHEREAS, the applicant requested use variance relief from N.J.A.C. 19:4-5.52(a), to permit the conversion of existing retail space to warehouse and distribution space at the subject premises, resulting in an expansion of the existing, nonconforming warehouse use of the site, whereas a warehouse use is not listed as a permitted use in the Regional Commercial 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 Jersey Journal newspaper; and

WHEREAS, an electronic public hearing was held virtually using Zoom video conferencing on Tuesday, October 26, 2021, before Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; and Mia A. Petrou, P.P., AICP, CFM, Supervising Planner; and

WHEREAS, a comprehensive report dated January 12, 2022, 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 January 12, 2022; and

WHEREAS, the report recommends the approval of the requested use variance from N.J.A.C. 19:4-5.52(a) to permit the conversion of existing retail space

to warehouse and distribution space at the subject premises, resulting in an expansion of the existing, nonconforming warehouse use of the site; and

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

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

WHEREAS, the Board of Commissioners hereby determines that the requested use variance application, to permit the conversion of existing retail space to warehouse and distribution space at the subject premises in the Regional Commercial zone, resulting in an expansion of the existing, nonconforming warehouse use of the site, 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 *M-Industries/Mack Management & Construction Corp. (Use Variance)* application for a use variance from N.J.A.C. 19:4-5.52(a), to permit the conversion of existing retail space to warehouse and distribution space at the subject premises in the Regional Commercial zone, resulting in an expansion of the existing, nonconforming warehouse use of the site, conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e), and is hereby **APPROVED** for the reasons set forth in the recommendation dated January 12, 2022.

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 January 27, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* January 27, 2022

Subject: Variance Recommendation - M-Industries/Mack Management & Construction Corp. (Use Variance) (NJSEA File #21-005)

An application for one use variance has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Paul Jerkovich, on behalf of Mack Management & Construction Corp., for the premises located at 925 Paterson Plank Road and 50 Terminal Road, Block 158, Lots 1, 2, 3, 4, and 5, in the Town of Secaucus, New Jersey. The subject property is located within the Hackensack Meadowlands District's Regional Commercial zone. The use variance is sought in connection with the applicant's proposal for an interior alteration related to a change in use of existing retail space to warehouse and office space at the subject premises.

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

1. N.J.A.C. 19:4-5.52(a), whereas a warehouse use is not listed as a permitted use in the Regional Commercial zone.

An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, October 26, 2021.

In a comprehensive report dated January 12, 2022, the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended approval of the requested use variance. A copy of the variance recommendation report was provided to the applicant on January 12, 2022.

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

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
M-Industries/Mack Management & Construction Corp. (Use Variance)
FILE # 21-005**

I. INTRODUCTION

An application for one use variance has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Paul Jerkovich, on behalf of Mack Management & Construction Corp., for the premises located at 925 Paterson Plank Road and 50 Terminal Road, Block 158, Lots 1, 2, 3, 4, and 5, in the Town of Secaucus, New Jersey. The subject property is located within the Hackensack Meadowlands District's Regional Commercial zone. The use variance is sought in connection with the applicant's proposal for an interior alteration related to a change in use of existing retail space to warehouse and office space at the subject premises.

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

1. N.J.A.C. 19:4-5.52(a), whereas a warehouse use is not listed as a permitted use in the Regional Commercial zone.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper and posted on the NJSEA website. No written objections were submitted to the Division of Land Use Management. An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, October 26, 2021. 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 a 13.3-acre site with frontage along westbound New Jersey State Highway Route 3 Service Road North ("Route 3 Service Road"), NJ State Highway Route 3 Ramp "K" ("Ramp K"), and Paterson Plank Road, also identified as County Road 681. The subject property is comprised of five lots within a zoning lot of record, established pursuant to N.J.A.C. 19:4-3.22, and filed in the Hudson County Deed Register at Book 5684, Page 172 *et seq.* on September 25, 2000.

The subject property is located in the Regional Commercial zone of the Hackensack Meadowlands District, and is currently improved with an existing 246,228-square-foot multi-tenanted building, consisting of both warehouse/distribution space (Arrowpac) and two big-box retail tenants (Ashley Furniture and Best Buy). Specifically, the existing building contains 140,785 square feet of warehouse space, 94,233 square feet of retail space, and 11,210 square feet of accessory office space.

Both of the site's retail tenants are in the process of relocating from the premises, and the applicant proposes to convert the existing retail space to warehouse/distribution and accessory office uses. As part of this conversion, the applicant proposes to add one overhead door and five interior loading spaces to the existing drive-in loading area on the easterly building façade, and minor site improvements to accommodate trailer parking spaces on existing pavement and additional open space. The proposed breakdown of uses in the building would include 234,190 square feet of warehouse/distribution space and 12,038 square feet of accessory office space. Therefore, a use variance is required to convert the existing retail space on the premises to warehouse/distribution space, as the proposal represents an expansion of an existing nonconforming use.

Cromakill Creek runs within the property along the site's southerly border. Adjoining properties include an Extra Space self-storage facility to the east, a BP gas station to the southwest, and the NJ Transit Meadowlands Maintenance Facility located within the Township of North Bergen to the south. Other properties in the

vicinity of the subject property include a hotel within the Harmon Meadow complex and vacant land to the north across Paterson Plank Road, and an existing hotel and new warehouse facility under construction to the west across Route 3.

Access to the site is available via an entrance driveway from the Route 3 WB Service Road; a signalized intersection at Paterson Plank Road; and, a right-turn-in/right-turn-out driveway further east along Paterson Plank Road to access the easterly portion of the site containing the majority of the building's loading areas. No internal access route is available between the easterly and westerly portions of the site.

B. Response to the Public Notice

No written objections were received prior to the public hearing.

III. PUBLIC HEARING (October 26, 2021)

A public hearing was held via Zoom on Tuesday, October 26, 2021. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; and Mia A. Petrou, P.P., AICP, CFM, Supervising Planner.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	"Existing Ground Floor Plan", Dwg. EX.1, prepared by William Dahn, R.A., Dahn & Krieger, PC, dated 08/05/2021, last revised 09/27/2021.

- A-2 "Proposed Ground Floor Plan", Dwg. SK.1, prepared by William Dahn, R.A., Dahn & Krieger, PC, dated 08/05/2021, last revised 09/27/2021.
- A-3 "Boundary, Topographical, & Utility Survey", prepared by James D. Sens, P.L.S., Control Point Associates, Inc., dated 02/12/2021.
- A-4 Site plan set consisting of the following 3 sheets, prepared by Richard J. Adehlson, P.E., Frank H. Lehr Associates, Inc., dated 08/13/2021:
- Sheet C-1 entitled "Cover Sheet";
 - Sheet C-2 entitled "Site Plan"; and
 - Sheet C-3 entitled "Turning Template".
- A-5 "Aerial Map", prepared by Langan Engineering and Environmental Services, Inc., dated 10/15/2021.
- A-6 "Photographic Log", prepared by Langan Engineering and Environmental Services, Inc., dated 10/08/2021.
- A-7 Planning Report, prepared by Sean F. Moronski, P.P., AICP, Langan Engineering and Environmental Services, Inc., dated 10/15/2021.

B. Testimony

William C. Sullivan, Esq., of Scarinci Hollenbeck, represented the applicant at the hearing. The following five witnesses testified in support of the application:

1. William Dahn, R.A., Dahn & Krieger, PC;
2. Richard J. Adehlson, P.E., Frank H. Lehr Associates, Inc.;
3. Paul Jerkovich, Mack Management & Construction Corp.; and
4. Sean F. Moronski, P.P., AICP, Langan Engineering and Environmental Services, Inc.

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

Public comment on the application was provided by the following:

1. Gary Jeffas, Administrator, Town of Secaucus.

IV. RECOMMENDATION

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.52(a), which does not list a warehouse use as a permitted use in the Regional Commercial zone.

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 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 applicant proposes to convert existing retail space on the site to warehouse and distribution space. This proposal represents an expansion of the existing warehouse use of the subject premises, which currently accounts for 57 percent of the building's total floor area, inclusive of warehouse space accessory to the existing retail uses on the site.

The existing retail tenants, comprised of a Best Buy store of approximately 72,000 square feet and an Ashley Furniture store of

approximately 48,800 square feet, are vacating the subject property. Both existing retail tenants are relocating from the subject premises due to the contraction of the “big box” retail format, which had been installed at the subject site in the mid-1980s, and, consequently, the building’s inability to accommodate smaller retail tenant spaces to retain these tenancies. The existing building on the site, originally constructed as a warehouse, is not physically able to accommodate a smaller retail format of prospective tenants which, according to the applicant’s testimony, range from 10,000 to 20,000 square feet. Specifically, the significant distance between the site’s existing retail frontage on the westerly façade, and loading areas servicing these tenant spaces located on the easterly façade, makes it impracticable to accommodate smaller retail tenant spaces at the property. The ability to provide additional loading areas to service smaller retail tenant spaces is constrained by the presence of Cromakill Creek to the south, and by NJSEA District Zoning Regulations prohibiting front yard loading along the site’s three front yards. Division of the existing retail space into multiple, smaller retail tenant spaces, or other permitted commercial uses in the Regional Commercial zone, is further constrained due to the site’s dependence on the use of sanitary holding tanks, which limits the number of occupants that could be accommodated within the building.

Despite having three front yards and proximity to Route 3, the site’s access characteristics also represent a constraint for retail uses. Access to the site is available via entrance driveways on the Route 3 WB Service Road and Paterson Plank Road. However, visibility of the site’s Route 3 WB Service Road entrance is somewhat obscured by the presence of the adjacent gas station and

vegetation on the site itself. In addition, there is no direct site exit to Route 3. The site's southerly exit driveway is located at a signalized intersection with Paterson Plank Road, which provides access to Route 3. These constraints also affect the viability of retail uses on the premises.

Therefore, due to these constraints, the strict application of the regulations will result in exceptional practical difficulties and undue hardship to the property owner.

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

The granting of the requested variance to permit the expansion of the existing warehouse use on the subject property will not result in a substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The area of the proposed alteration in the easterly portion of the site currently contains five loading spaces within an interior loading bay, with five exterior overhead loading doors. In the proposed condition, the interior loading bay will accommodate 10 loading spaces within the same footprint, and six exterior overhead loading doors, due to the conversion of the rear storefront entrance of the Best Buy tenant space to an overhead loading door. Trailer parking spaces will be provided on the site over existing pavement, and no off-site queuing of trucks entering the site is anticipated to occur.

It is anticipated that the proposed change of use will not significantly impact motorists or traffic conditions on surrounding roadways during peak periods, as traffic associated with warehouse uses generally occurs outside of peak commuting periods in order to facilitate the movement of goods in an efficient manner. Retail uses also require a larger number of parking spaces to support their operation; therefore, parking demand will also be significantly reduced on the site, by 380 spaces.

Finally, public safety on the site will be improved, as the proposal will result in a greater separation of trucks from passenger vehicles on the site through the conversion of car parking spaces in the vicinity of loading areas to trailer parking spaces in the easterly portion of the site. Additionally, the proposal would eliminate the potential for conflicts between trucks utilizing the existing loading doors in the westerly portion of the site near the Paterson Plank Road signalized intersection and the vehicles of retail patrons unfamiliar with the building layout. While the westerly parking area will continue to be utilized by employees' passenger vehicles, it can be reasonably anticipated that they would be more aware of the loading operations at the site than the occasional retail patron.

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

The granting of the requested variance to permit the expansion of the warehouse use at the subject premises will not result in significant negative impacts to existing infrastructure.

No building expansion or additional impervious surfaces that could impact drainage infrastructure are proposed. Rather, the applicant proposes to convert approximately 2,450 square feet of existing pavement to open space in a portion of the site along Cromakill Creek, which will provide additional vegetated buffer area to that waterway.

Furthermore, warehouse uses typically generate less demand for water and sewer usage than commercial uses, and the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner. The proposed change to warehouse use will result in reduced use of the site's existing 2,000-gallon sanitary holding tank servicing the portion of the building in question, as compared to existing retail or other uses permitted in the Regional Commercial zone.

Finally, the proposal is not anticipated to negatively impact area roadways, as most traffic associated with warehouse uses generally occurs outside of peak commuting periods. All truck queuing and parking areas will be located on the site.

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

The granting of the requested variance to permit the expansion of warehouse use at the subject premises will not result in substantial adverse environmental impacts.

The proposed change of use will occur within the existing building footprint, and no building footprint expansion or expansion of impervious areas is proposed. No wetlands or other environmentally-sensitive areas located on the site will be disturbed. Rather, an approximately 2,450-square-foot area of pavement in the southerly area of the site along Cromakill Creek will become open space, providing additional vegetated buffer area to that waterway, and increasing the site's existing nonconforming open space percentage from 14.25 to 14.68 percent, whereas 20 percent is the minimum amount of open space required in the Regional Commercial zone.

The site's loading operations to service the proposed warehouse space will occur within an existing interior loading bay, and additional open space and landscaped screening will be provided to screen proposed truck parking areas to be installed over existing pavement. Therefore, there will be no significant impact to visual aesthetics in the area as a result of the requested variance.

NJSEA environmental performance standards will not be exceeded for noise, vibration, glare, air emissions, and hazardous and radioactive materials.

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

The intents and purposes of the District Zoning Regulations include to provide sufficient space in appropriate locations for a variety of uses, and to promote development in accordance with

good planning principles that relate the type, design and layout of such development to both the particular site and surrounding environs.

The proposed warehouse use is an expansion of the existing warehouse use already occurring at the premises. Approximately 57 percent of the building floor area consists of warehouse use, and the site is located adjacent to other compatible uses, such as a bus maintenance facility and self-storage facility. The proposal to convert the entire building to warehouse space, inclusive of accessory office space, can be accommodated on the site consistent with good planning principles, including the addition of open space on the site to serve as a buffer adjacent to Cromakill Creek.

The purpose of the Regional Commercial zone is “to accommodate a range of commercial uses serving a regional market area. Development in the zone should incorporate regional retail facilities and large-scale commercial employment centers.” Although not commercial in nature, the proposed warehouse expansion satisfies the intent of the zone to create employment opportunities on a significant portion of the site being vacated.

Therefore, the requested use variance will not substantially impair the intent and purpose of the regulations.

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

A specified goal of the Hackensack Meadowlands District Master Plan Update 2020 is to promote a suitable array of land uses that

encourages economic vitality with job creation and supports the public health, safety, and general welfare. The requested use variance will respond to the strong market demand for warehouse space in the Hackensack Meadowlands District on an appropriate site in an appropriate location, with access to regional and state highway transportation routes. Furthermore, the Master Plan Update's Land Use Plan designates the subject premises as a part of the District's Commercial Center Planning Area, which includes a goal to encourage a mix of uses within the area with varying peak hours of travel in an effort to minimize traffic impacts. The requested use variance will convert existing retail space to warehouse space, which typically generates traffic demand at off-peak hours of travel.

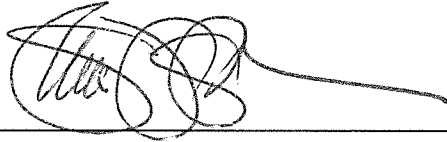
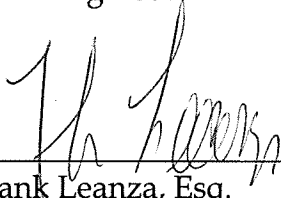
With respect to the appropriateness of the site for retail or other commercial uses permitted in the Regional Commercial zone, the viability of these uses on the site is constrained by the practical difficulties described in Section *i.* above. Additionally, the subject site is isolated from other retail uses. According to the applicant's testimony, Ashley Furniture, a vacating retail tenant, expressed a preference for locating near other commercial uses, and has opened a store in the nearby Harmon Meadow commercial complex on Mill Creek Drive. The rise of e-commerce as a retail trend, as discussed in the master plan and accelerated by the COVID-19 pandemic, has resulted in retailers seeking smaller tenant spaces, and it has been demonstrated that smaller commercial tenants cannot be accommodated at the subject premises due to site constraints.

Therefore, the requested use variance to provide for an expansion of the warehouse use on the subject premises will contribute to and promote the intent of the NJSEA Master Plan.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.52(a), which does not list a warehouse use as a permitted use in the Regional Commercial zone.

Based on the record in this matter, the use variance application to permit the conversion of existing retail space to warehouse and distribution space at the subject premises, resulting in an expansion of the existing, nonconforming warehouse use of the site, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>1/12/2022</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management and Chief Engineer
<u>Approval</u>	<u>1/12/2022</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

RESOLUTION 2022-03

**RESOLUTION ISSUING A DECISION ON THE
VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 20-226
COMMERCIAL SG/SITEX GROUP - SITE IMPROVEMENT & VARIANCES
BLOCK 229, LOT 5
IN THE TOWNSHIP OF LYNDHURST**

WHEREAS, an application for six bulk variances has been filed with the NJSEA by Valley Brook 1201 SG LLC, for the premises located at 1201 Valley Brook Avenue and identified as Block 229, Lot 5, in the Township of Lyndhurst, New Jersey; and

WHEREAS, the premises is located within the District's Light Industrial A zone; 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 or within buffer areas, whereas paved vehicular use areas, inclusive of vehicular parking spaces, are proposed within the 50-foot required front yard facing Clay Avenue at a minimum setback of 4.35 feet; and

WHEREAS, the applicant has also requested bulk variance relief from N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards or within buffer areas, whereas a paved vehicular use area inclusive of the trailer parking spaces and maneuvering area is proposed within the 50-foot required front yard facing Clay Avenue at a setback of 4.35 feet; and

WHEREAS, the applicant has also requested bulk variance relief from N.J.A.C. 19:4-8.2(c)7, which requires that all vehicular use areas shall be properly screened and landscaped in accordance with N.J.A.C. 19:4-8.9, whereas the proposed re-configured parking spaces along Valley Brook Avenue do not allow for the construction of a landscaped berm or the dense planting of evergreens on the subject premises sufficient to reduce headlight glare from within the parking lot as required by N.J.A.C. 19:4-8.9(d)6i; and

WHEREAS, the applicant has also requested bulk variance relief from N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard, whereas five new loading areas are proposed in the front yard facing Clay Avenue; and

WHEREAS, the applicant has also requested bulk variance relief from N.J.A.C. 19:4-8.3(b)4, which requires that all entrances and exits to loading areas shall be located in a safe and convenient manner with minimal impact on

traffic movement on the site and adjacent streets, whereas in order to access the proposed exterior loading areas and the proposed trailer parking area, maneuvering vehicles will encroach within the Clay Avenue right-of-way; and

WHEREAS, the applicant has also requested bulk variance relief from N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii, whereas the proposed re-configured loading areas along Clay Avenue do not allow for the construction of a solid and continuous fence supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading areas and vehicles from the Clay Avenue right-of-way; 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, an electronic public hearing was held virtually using Zoom video conferencing on Tuesday, July 20, 2021, before Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P. AICP, Supervising Planner; and Ronald Seelogy, P.E., P.P., Principal Engineer; and

WHEREAS, at the conclusion of the public hearing the record remained open, and a second 10-day public comment period commenced on Monday, August 16, 2021; and

WHEREAS, a comprehensive report dated January 11, 2022, 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 January 11, 2022; and

WHEREAS, the report recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.2(b)1, to permit paved vehicular use areas, inclusive of vehicular parking spaces, within the 50-foot required front yard facing Clay Avenue at a minimum setback of 4.35 feet; and

WHEREAS, the report also recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.2(b)1, to permit a paved vehicular use area, inclusive of a trailer maneuvering area, within the 50-foot required front yard facing Clay Avenue at a minimum setback of 4.35 feet; and

WHEREAS, the report also recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.2(c)7, to permit the construction of a vehicular use area that does not allow for the construction of landscaped screening measures on the subject property; and

WHEREAS, the report also recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.3(b)1, to permit five new loading areas in the front yard facing Clay Avenue; and

WHEREAS, the report also recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.3(b)4, to permit vehicle maneuvering within the Clay Avenue right-of-way; and

WHEREAS, the report also recommends the conditional approval of the requested bulk variance from N.J.A.C. 19:4-8.3(c)3, to permit the reconfiguration of loading areas along Clay Avenue without sufficient screening; 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, public comments, 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 bulk variance application to permit paved vehicular use areas, inclusive of vehicular parking spaces, within the 50-foot required front yard facing Clay Avenue at a minimum setback of 4.35 feet conditionally conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners also hereby determines that the requested bulk variance application to permit a paved vehicular use area, inclusive of a trailer maneuvering area, within the 50-foot required front yard facing Clay Avenue at a minimum setback of 4.35 feet conditionally conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners also hereby determines that the requested bulk variance application to permit the construction of a vehicular use

area that does not allow for the construction of landscaped screening measures on the subject property conditionally conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners also hereby determines that the requested bulk variance application to permit five new loading areas in the front yard facing Clay Avenue conditionally conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners also hereby determines that the requested bulk variance application to permit vehicle maneuvering within the Clay Avenue right-of-way conditionally conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the Board of Commissioners also hereby determines that the requested bulk variance application to permit the reconfiguration of loading areas along Clay Avenue without sufficient screening conditionally conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Commercial SG/Sitex Group - Site Improvement & Variances application for a bulk variance from N.J.A.C. 19:4-8.2(b)1, to permit paved vehicular use areas, inclusive of vehicular parking spaces, within the 50-foot required front yard facing Clay Avenue at a minimum setback of 4.35 feet is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated January 11, 2022:

1. No landscaping shall be provided within the line of sight triangles at site driveways, or the intersection of Valley Brook and Clay Avenues, in accordance with N.J.A.C. 19:4-8.5, and where proposed parking spaces cannot be screened in accordance with this requirement, those parking spaces shall be eliminated.
2. Additional landscaping, including, but not limited to, the use of landscaped berms, shall be provided to eliminate gaps in landscaping and to achieve compliance with N.J.A.C. 19:4-8.9(d)6i.
3. All striped islands shall be curbed and landscaped safety islands in accordance with N.J.A.C. 19:4-8.2(c)11. At the discretion of the NJSEA Chief Engineer, limited sections of flush curb may be installed to allow for the passage of stormwater surface runoff, the design of which shall be accompanied by a stormwater management report signed and sealed by a NJ-licensed Professional Engineer.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Commercial SG/Sitex Group - Site Improvement & Variances application for a bulk variance from N.J.A.C. 19:4-8.2(b)1, to permit a paved vehicular use area, inclusive of a trailer maneuvering area, within the 50-foot required front yard facing Clay Avenue at a minimum setback of 4.35 feet is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated January 11, 2022:

1. The six proposed trailer parking spaces to the north of the loading doors shall be eliminated, and the subject area shall revert to open space.
2. The portion of the Clay Avenue front yard in the vicinity of the six proposed trailer parking spaces shall be modified to provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide opportunities for additional landscaping and screening.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Commercial SG/Sitex Group - Site Improvement & Variances application for a bulk variance from N.J.A.C. 19:4-8.2(c)7, to permit the construction of a vehicular use area that does not allow for the construction of landscaped screening measures on the subject property is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated January 11, 2022:

1. The Applicant shall obtain a fully executed resolution from the governing body of the Township of Lyndhurst establishing the location of and maintenance requirements for the landscape easement per Exhibit A-8, which shall be recorded within the Bergen County Deed Register, and noted on a revised survey and site plan to be submitted prior to issuance of any final Certificate of Completion and/or Occupancy Certification for the proposed application. A filed copy of the easement agreement shall be provided to the NJSEA.
2. No landscaping shall be provided within the line of sight triangles at site driveways, or the intersection of Valley Brook and Clay Avenues, in accordance with N.J.A.C. 19:4-8.5, and where proposed parking spaces cannot be screened in accordance with this requirement, those parking spaces shall be eliminated.
3. Additional landscaping, including, but not limited to, the use of landscaped berms, shall be provided to eliminate gaps in landscaping and to achieve compliance with N.J.A.C. 19:4-8.9(d)6i.
4. All striped islands shall be curbed and landscaped safety islands in accordance with N.J.A.C. 19:4-8.2(c)11. At the discretion of the NJSEA Chief Engineer, limited sections of flush curb may be installed to allow

for the passage of stormwater surface runoff, the design of which shall be accompanied by a stormwater management report signed and sealed by a NJ-licensed Professional Engineer.

5. Internal two-way drive aisles that intersect near the Valley Brook Avenue driveway shall be STOP-controlled.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Commercial SG/Sitex Group - Site Improvement & Variances application for a bulk variance from N.J.A.C. 19:4-8.3(b)1, to permit five new loading areas in the front yard facing Clay Avenue is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated January 11, 2022:

1. The size of vehicles utilizing proposed exterior loading doors No. 8, 9, 10 and 11 shall not be larger than a WB-50 and shall not exceed 57.34 feet in total length. These loading spaces shall be delineated in the field with signage reading, "Truck Loading Only: No Trailers Over 43 Feet Permitted," and by striping indicating, "WB-50 ONLY."
2. The size of vehicles utilizing proposed exterior loading door No. 7 shall not be larger than a WB-67 and shall not exceed 68.66 feet in total length. These loading spaces shall be delineated in the field with signage reading, "Truck Loading Only: No Trailers Over 53 Feet Permitted," and by striping indicating, "WB-67 ONLY".

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Commercial SG/Sitex Group - Site Improvement & Variances application for a bulk variance from N.J.A.C. 19:4-8.3(b)4, to permit vehicle maneuvering within the Clay Avenue right-of-way is hereby **APPROVED WITH THE FOLLOWING CONDITIONS** for the reasons set forth in the recommendation dated January 11, 2022:

1. The six proposed trailer parking spaces to the north of the loading doors shall be eliminated, and the subject area shall revert to open space.
2. The portion of the Clay Avenue front yard in the vicinity of the six proposed trailer parking spaces shall be modified to provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide opportunities for additional landscaping and screening.

BE IT FURTHER RESOLVED, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Commercial SG/Sitex Group - Site Improvement & Variances application for a bulk variance from N.J.A.C. 19:4-8.3(c)3, to permit the reconfiguration of loading areas along Clay Avenue without sufficient screening is hereby **APPROVED WITH THE FOLLOWING**

CONDITION for the reasons set forth in the recommendation dated January 11, 2022:

1. Subject to the review and approval of the NJSEA Chief Engineer, additional landscaping shall be provided in the portion of the Clay Avenue front yard in the vicinity of the eliminated six proposed trailer parking spaces, to provide additional screening of the site's loading area.

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 January 27, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto
Secretary



MEMORANDUM

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

From: Sara J. Sundell *Date:* January 11, 2022

Subject: Variance Recommendation - Commercial SG/Sitex Group - Site Improvement & Variances (File No. 20-226)

An application for six bulk variances has been filed with the NJSEA by Valley Brook 1201 SG LLC, for the premises located at 1201 Valley Brook Avenue and identified as Block 229, Lot 5, in the Township of Lyndhurst, New Jersey. Said premises is located within the District's Light Industrial A zone. The six bulk variances are sought in connection with the Applicant's proposal to construct five loading areas and paved vehicular use areas, inclusive of vehicle and trailer parking spaces and maneuvering areas, on the subject premises in the front yard facing Clay Avenue.

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

1. N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards or within buffer areas. Paved vehicular use areas, inclusive of vehicular parking spaces, are proposed within the required front yard facing Clay Avenue at a minimum setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.
2. N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards or within buffer areas. A paved vehicular use area inclusive of the trailer parking spaces and maneuvering area is proposed within the required front yard facing Clay Avenue at a setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.
3. N.J.A.C. 19:4-8.2(c)7, which requires that all vehicular use areas shall be properly screened and landscaped in accordance with N.J.A.C. 19:4-8.9. The proposed re-configured parking spaces along Valley Brook Avenue do not allow for the construction of a landscaped berm or the dense planting of evergreens on the subject premises sufficient to reduce headlight glare from within the parking lot as required by N.J.A.C. 19:4-8.9(d)6i.
4. N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard. Five new loading areas are proposed in the front yard facing Clay Avenue.

5. N.J.A.C. 19:4-8.3(b)4, which requires that all entrances and exits to loading areas shall be located in a safe and convenient manner with minimal impact on traffic movement on the site and adjacent streets. In order to access the proposed exterior loading areas and the proposed trailer parking area, maneuvering vehicles will encroach within the Clay Avenue right-of-way.
6. N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii. The proposed re-configured loading areas along Clay Avenue do not allow for the construction of a solid and continuous fence supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading areas and vehicles from the Clay Avenue right-of-way.

An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, July 20, 2021. At the conclusion of the hearing, the record remained open, and a second 10-day public comment period commenced on Monday, August 16, 2021.

In a comprehensive report dated January 11, 2022, the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended the conditional approval of each of the six bulk variances requested above. A copy of the comprehensive report and variance recommendation was provided to the applicant on January 11, 2022.

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

RECOMMENDATION ON THE VARIANCE APPLICATION OF
Commercial SG/Sitex Group - Site Improvement & Variances
FILE # 20-226

I. INTRODUCTION

An application for six bulk variances has been filed with the NJSEA by Valley Brook 1201 SG LLC ("Applicant"), for the premises located at 1201 Valley Brook Avenue and identified as Block 229, Lot 5, in the Township of Lyndhurst, New Jersey. The subject premises is located within the District's Light Industrial A zone. The six bulk variances are sought in connection with the Applicant's proposal to construct five loading areas and paved vehicular use areas, inclusive of vehicle and trailer parking spaces and maneuvering areas, on the subject premises in the front yard facing Clay Avenue.

Specifically, the Applicant is requesting bulk variance relief from the following:

1. N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards or within buffer areas. Paved vehicular use areas, inclusive of vehicular parking spaces, are proposed within the required front yard facing Clay Avenue at a minimum setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.
2. N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards or within buffer areas. A paved vehicular use area inclusive of the trailer parking spaces and maneuvering area is proposed within the required front yard facing Clay Avenue at a setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.
3. N.J.A.C. 19:4-8.2(c)7, which requires that all vehicular use areas shall be properly screened and landscaped in accordance with N.J.A.C. 19:4-8.9. The proposed re-configured parking spaces along Valley Brook Avenue do not allow for the construction of a landscaped berm or the dense

planting of evergreens on the subject premises sufficient to reduce headlight glare from within the parking lot as required by N.J.A.C. 19:4-8.9(d)6i.

4. N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard. Five new loading areas are proposed in the front yard facing Clay Avenue.
5. N.J.A.C. 19:4-8.3(b)4, which requires that all entrances and exits to loading areas shall be located in a safe and convenient manner with minimal impact on traffic movement on the site and adjacent streets. In order to access the proposed exterior loading areas and the proposed trailer parking area, maneuvering vehicles will encroach within the Clay Avenue right-of-way.
6. N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii. The proposed re-configured loading areas along Clay Avenue do not allow for the construction of a solid and continuous fence supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading areas and vehicles from the Clay Avenue right-of-way.

A public hearing was held via Zoom videoconferencing on Tuesday, July 20, 2021. At the conclusion of the hearing, the record remained open, and a second 10-day public comment period commenced on Monday, August 16, 2021. Notice was given to the public and all interested parties as required by law. The public notices for this hearing and subsequent public comment period were published in The Record newspaper. All information submitted to the Division of Land Use Management relative to this application was made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question is a 9.9-acre parcel containing frontage along Clay Avenue to the east and Valley Brook Avenue to the south. The site is currently developed with an unoccupied 172,801-square-foot warehouse and distribution facility with associated parking and loading facilities. Wetlands have been identified on the northerly portion of the site, which includes a tidal pond.

Properties in the surrounding area contain a mix of developed uses and environmentally sensitive areas. A warehouse and distribution facility is currently under construction on the site of former office space to the north. The adjoining property to the west contains wetlands and is largely undeveloped, with the exception of radio transmission towers. A total of 166 parking spaces are provided, although three (3) of these existing spaces and a portion of a paved drive aisle are provided beyond the site's property lines, whereas 175 parking spaces are required based upon the current approved uses. It is noted that the applicant had recently demolished 7,324 square feet of office space, which resulted in a reduction in the parking requirement on the premises by 19 spaces. The existing parking deficit is considered a pre-existing nonconformity under the District Zoning Regulations. An unpermitted gravel vehicular use area was constructed by the prior tenant adjacent to the building's loading facilities. Access to the site is provided from both Clay and Valley Brook Avenues.

A total of six loading docks, five drive-in loading doors, and a refuse area exist on the premises along Clay Avenue. The Applicant is proposing to convert the five existing drive-in loading doors to tailboard loading docks in line with the exterior wall of the existing building, which will be located closer to the Clay Avenue ROW, and to reconfigure and expand paved vehicular use areas, inclusive of both vehicle and trailer parking spaces and maneuvering areas, on the subject premises in the front yard facing Clay Avenue. No new structures are proposed. The Applicant also proposes to install landscaping within the Valley Brook Avenue right-of-way (ROW), subject to an easement agreement with the Township of Lyndhurst.

B. Response to the Public Notice

Two commenters provided written responses to the second public notice dated August 16, 2021 objecting to the proposal:

1. Email, dated August 23, 2021, from Gavin M. Daniel, Vice President of Real Estate for Branca Properties, Inc., representing the 210 Clay Avenue Associates LLC, owner of the property located at 210 Clay Avenue, identified as Block 230, Lot 10.01 in the Township of Lyndhurst.
2. Email, dated August 23, 2021, from Mark Grossman, representing Hop Industries Corporation, tenant of the property located at 1251 Valley Brook Avenue, identified as Block 230, Lot 8, in the Township of Lyndhurst.

III. PUBLIC HEARING (July 20, 2021)

A public hearing was held on Tuesday, July 20, 2021. NJSEA staff in attendance were Sara Sundell, Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, Supervising Planner; and, Ronald Seelogy, Principal Engineer. At the end of the public hearing, NJSEA staff announced that the record was to be kept open for submission of additional exhibits, as requested by the applicant, and it was stated that a second public comment period would be provided so that interested parties could review and comment on the record.

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	"ALTA/NSPS Land Tile Survey," two sheets, prepared by Control Point Associates, Inc., dated April 16, 2020, last revised May 21, 2021.
A-2	Photo exhibit, six pages, prepared by Nick Tsapatsaris & Associates, dated December 30, 2020.
A-3	"Key Site Plan," Drawing Number SP-001, prepared by Nick Tsapatsaris & Associates, dated April 3, 2020, last revised May 7, 2021.
A-4	"Partial Site Plan (Section A)," Drawing Number SP-101, prepared by Nick Tsapatsaris & Associates, dated April 3, 2020, last revised May 24, 2021.
A-5	"Partial Site Plan (Section B)," Drawing Number SP-102, prepared by Nick Tsapatsaris & Associates, dated April 3, 2020, last revised May 7, 2021.
A-6	"Truck Turning Exhibit," 28 sheets, prepared by Stonefield Engineering & Design, dated March 25, 2021, last revised May 17, 2021.
A-7	NJSEA Zoning Certificate/Occupancy Certification Application dated April 13, 2021.
A-8	"Sitex Group Valley Brook 1201 SG, LLC Proposed Site Plan," 14 sheets, prepared by Nick Tsapatsaris & Associates dated April 9, 2020, last revised May 7, 2021 and May 24, 2021.
A-9	"Stormwater Management Study," prepared by Nick Tsapatsaris & Associates, dated July 15, 2020, last revised May 11, 2021.
A-10	"Stormwater Management Post Development Letter," prepared by Nick Tsapatsaris & Associates, dated March 25, 2021, last revised May 26, 2021.

- A-11 "Planning Report & Fiscal Impact Analysis," prepared by Burgis Associates, Inc., dated January 7, 2021, last revised April 15, 2021.
- A-12 "Proposed Floor Plan," Drawing Number A-1, prepared by Buchholz Architects, dated July 15, 2020.
- A-13 US Army Corps of Engineers jurisdictional determination letter dated March 15, 2021.
- A-14 "Milling Parking Lot Test Pit Investigation Report," prepared by GZA Geo Environmental, Inc. dated March 17, 2021.
- A-15 Landscape easement agreement letter prepared by Carmine R. Alampi, Esq., attorney for the Township of Lyndhurst, dated June 7, 2021.
- A-16 Letter regarding landscaping, prepared by Nick Tsapatsaris & Associates, dated June 7, 2021.

In addition, the following items were submitted by the Applicant after the public hearing, but during the public comment period, which closed on August 26, 2021:

1. The following aerial imagery prepared by Nick Tsapatsaris & Associates, dated July 26, 2021:
 - a. Aerial Imagery 1, dated June 9, 2019;
 - b. Aerial Imagery 2, dated March 28, 2019;
 - c. Aerial Imagery 3, dated March 24, 2019;
 - d. Aerial Imagery 4, dated October 27, 2017; and
 - e. Aerial Imagery 5, dated September 15, 2014.
2. "Truck Turning Exhibit," 56 sheets, prepared by Stonefield Engineering Design, dated March 25, 2021, last revised July 22 - 23, 2021.
3. "Planning Report & Fiscal Impact Analysis," prepared by Burgis Associates, Inc., dated January 7, 2021, last revised on July 23, 2021.

B. Testimony

Victor J. Herlinsky, Esq. and Corey Klein, Esq., both of the firm Sills Cummis & Gross, P.C., represented Valley Brook 1201 SG LLC at the hearing. The following five (5) witnesses testified in support of the application:

1. Michael Sas, R.A., Nick Tsapatsaris & Associates;
2. Nick Tsapatsaris, P.E., AIA, Nick Tsapatsaris & Associates;
3. Matthew J. Seckler, P.E., PTOE, P.P., Stonefield Engineering;
4. Joseph H. Burgis, P.P., AICP, Burgis Associates, Inc.; and
5. Richard Volpi, Sitex Group.

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

- 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 or within buffer areas. Paved vehicular use areas, inclusive of vehicular parking spaces, are proposed within the required front yard facing Clay Avenue at a minimum setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.

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

1. *Concerning bulk variances:*

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

The requested variance to permit a paved vehicular use area, inclusive of vehicular parking spaces, within the required front yard facing Clay Avenue at a minimum setback of 4.35 feet arises from conditions that are unique to the site. District Zoning Regulations do not permit vehicular use areas within the required 50-foot front yard setback or within five feet from side and rear property lines. There are several unique characteristics that affect the placement of vehicular use areas on the subject property.

The site contains two front yards, Clay Avenue to the east and Valley Brook Avenue to the south. Approximately 961.88 feet of frontage is provided along Clay Avenue, and a frontage of 431.73 feet is provided along Valley Brook Avenue. The site's Valley Brook Avenue frontage contains encroachment of the site's vehicular use areas into the adjacent ROW. The property's existing parking area

along Clay Avenue is located at a pre-existing nonconforming setback of 31 feet, whereas 50 feet is the minimum front yard setback required to both parking areas and structures. In addition, approximately 40 percent of the site is encumbered by wetlands, which include a tidal pond.

The Applicant's proposal includes a reconfiguration of existing parking areas on the site in an effort to promote a more efficient site layout. As part of this reconfiguration, the Applicant proposes to construct 29 new automobile parking spaces and an associated drive aisle within the required front yard facing Clay Avenue at a minimum setback of 4.35 feet. The proposal would increase the number of parking spaces on the site to 175 parking spaces, which is the minimum number of parking spaces required for the uses on the site per the District Zoning Regulations.

The location and configuration of the existing improvements and building on the site, as well as the presence of environmentally-sensitive wetlands precluding development, result in a unique situation in which the only remaining area where a functional parking layout can be configured is within the required front yard along Clay Avenue.

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

No residential properties are located proximate to the site. The site is located within a fully-developed commercial/industrial area, with wetlands located both on the subject site and on the adjoining site to the west. The proposed vehicular use area within the Clay Avenue front yard includes an expanded parking area for passenger vehicles,

as well as expanded pavement adjacent to the loading area to accommodate six new trailer parking spaces and truck maneuvering areas on the site. Commenter #2 expressed concerns that the expanded pavement would result in flooding impacts to the area.

The proposed automobile parking area within the Clay Avenue front yard will allow for a more efficient parking and circulation layout and an increase in the number of parking spaces versus those currently provided on-site. Landscaping is proposed to screen the automobile parking area to prevent negative visual impacts and obstruct headlight glare to neighboring properties and motorists along Clay Avenue. However, there are some gaps in the landscaping, as well as some landscaping proposed to be placed within the line of sight at the site's Clay Avenue driveway, which could affect area properties and motorists in a detrimental manner. Therefore, it is a recommended condition of this report that no landscaping shall be provided within the line of sight triangles at site driveways provided in accordance with N.J.A.C. 19:4-8.5, and where proposed parking spaces cannot be screened in accordance with this requirement, those parking spaces shall be eliminated. It is further recommended that more robust landscaping, such as a landscaped berm, be provided to eliminate the gaps in landscaping and achieve compliance with N.J.A.C. 19:4-8.9(d)6i.

No increase in traffic generated by the site is anticipated, and additional landscaping will be provided to screen the parking area from adjoining properties and streets. In addition, all drainage requirements will be required to be met to prevent flooding both on site and in the surrounding area. With the recommended conditions, there will be no adverse effects to surrounding properties,

particularly the warehouse property located across Clay Avenue to the east, which is tenanted by Commenter #2.

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 requiring a minimum 50-foot-wide front yard setback will result in practical difficulties and undue hardship upon the property owner. Given the unique conditions and physical characteristics existing on the property, practical difficulties are evident in the attempt to provide functional and compliant parking and circulation on the site.

The site contains two front yards, each requiring the provision of a 50-foot-wide front yard setback. However, the existing parking on the site is set back at an existing nonconforming setback of 31 feet along Clay Avenue, and 166 parking spaces are provided, whereas 175 parking spaces are required. The existing configuration of parking areas on the site, which includes dead-end parking bays perpendicular to the building, results in inefficient on-site circulation. The Applicant proposes to reconfigure the existing parking areas on the site to improve site circulation, and to provide the minimum number of parking spaces required by the District Zoning Regulations to a conforming 175 parking spaces.

Furthermore, approximately 40 percent of the site is encumbered by wetlands, which includes a tidal pond, requiring that all development be located on the southerly portion of the site. The building on the site is located just to the south of the wetlands line, and provides a 30-foot-wide setback to the westerly side yard, which

is insufficient space to provide parking and associated drive aisles in that location.

The existing site characteristics, as well as the placement of the existing building, provide no alternative location for the provision of parking 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.

The neighboring properties consist mainly of warehouse and distribution uses. The Applicant is proposing to locate parking spaces and drive aisles in the required front yard along Clay Avenue at a minimum setback of 4.35 feet from the property line.

The proposed location of the parking spaces within the required Clay Avenue front yard is required to achieve a more efficient site layout for the existing warehouse and distribution facility on the site and is not the result of site overdevelopment. The pre-existing nonconformity with regard to the number of parking spaces provided on site will be eliminated by this proposal. Also, nonconforming, unapproved parking spaces currently located within the Clay Avenue ROW will be removed, and landscaping will be provided to screen the visual impact of the parking area. Additional open area of approximately 9 feet in width is provided between the property line and the cartway of Clay Avenue. Therefore, the proposed parking within the Clay Avenue front yard will physically be set back approximately 13.35 feet from the Clay Avenue curb line, and the required 50-foot minimum front yard setback will continue to be maintained to all structures.

Of the site's proposed 175 automobile parking spaces, approximately 29 new spaces are to be located within the required front yard facing Clay Avenue. Public safety will not be compromised by the requested variance. With the removal of the nonconforming, unapproved parking spaces, passenger vehicles will not be backing out of the site into Clay Avenue. In addition, vehicle access, including for emergency vehicles, will be improved by the proposed on-site circulation design, and, with the recommended condition discussed under Criterion *ii.* above, headlight glare will be fully screened by landscaping. No increase in traffic generated by the site is anticipated.

However, the site constraints and the desire to provide additional parking do not preclude public safety concerns. Per N.J.A.C. 19:4-8.9(d)1, plants located within the line of sight triangles provided in accordance with N.J.A.C. 19:4-8.5 shall not exceed a height of 30 inches at maturity. A landscaping height of 30 inches is not sufficient to screen headlight glare from taller vehicles. As recommended in Criterion *ii.* above, no landscaping shall be provided within the line of sight triangles at site driveways required in accordance with N.J.A.C. 19:4-8.5, and where such landscape screen cannot be provided, any proposed adjacent parking spaces shall be eliminated. The Applicant proposes to provide 175 parking spaces on the site to conform to the minimum parking required by the District Zoning Regulations. According to the Applicant's traffic expert's review of the Institute for Transportation Engineers (ITE) Parking Generation Manual, the actual parking demand for the existing warehouse on the site, pursuant to Land Use Code 150 (Warehouse) would generally range from 133 to 159 parking spaces, with a low range of

68 parking spaces at the 50th percentile and 189 spaces at the 85th percentile. The Applicant's planning expert also stated that the number of full-time employees could be anticipated to be 100 persons, as provided in the Planning Report. Furthermore, the applicant had recently demolished approximately 7,300 square feet of office space that reduced the parking requirement on the site by 19 parking spaces, further reducing parking demand from the conditions shown in the aerial imagery provided by the Applicant's engineer in the supplemental submittal dated July 26, 2021. Therefore, the site could absorb the limited elimination of parking spaces potentially needed to meet the conditions of this recommendation.

In order to further protect public safety and meet the requirements of N.J.A.C. 19:4-8.2(c)11, this recommendation includes a condition to convert all striped islands to curbed, landscaped safety islands. As testified to by the Applicant's traffic expert, "having no raised islands or concrete aisles within the parking fields does cause both vehicular circulation issues, as well as pedestrian circulation issues to and from the building." (p. 52, lines 6-10)

With the recommended condition, the granting of the requested variance would avoid adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare.

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

The granting of the requested variance will not have an adverse environmental impact. The area's aesthetics will not be adversely impacted by the proposed location of parking in the required front yard facing Clay Avenue, with the recommended conditions

discussed under Criterion *ii.* above. Although additional impervious area is proposed on the site to accommodate the expansion of vehicular use areas, all drainage regulations will be required to be met. Landscaped screening will be provided and, overall, the proposed development will provide 43.12 percent open space, whereas a minimum of 15 percent open space is required. No impacts are proposed to the on-site wetlands. The proposed stormwater conveyance system will reduce the peak runoff rate and will remove total suspended solids from surface runoff. The location of the proposed parking spaces and drive aisles within the 50-foot front yard setback along Clay Avenue, with the recommended conditions to provide additional landscaping discussed under Criterion *ii.* above, will not cause the NJSEA's performance standards regarding noise, vibrations, airborne emissions, hazardous materials or glare to be exceeded.

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

The requested variance, with the recommended conditions herein, represents the minimum deviation from the regulations that will afford relief. This proposal will decrease the pre-existing degree of nonconformity with regard to the total number of parking spaces provided on site. Of the 175 parking spaces proposed to be provided, 29 new automobile parking spaces are proposed within the Clay Avenue front yard due to a lack of practicable alternative locations to achieve a conforming parking layout. The proposed parking configuration on this particular property attempts to balance the applicable zoning requirements with the site constraints, including the preclusion of site development on the approximately 40 percent of the site area consisting of wetlands.

However, the site constraints and the desire to provide additional parking do not preclude public safety concerns. Per N.J.A.C. 19:4-8.9(d)1, plants located within the line of sight triangles provided in accordance with N.J.A.C. 19:4-8.5 shall not exceed a height of 30 inches at maturity. A landscaping height of 30 inches is not sufficient to screen headlight glare from taller vehicles. As recommended in Criterion *ii.* above, no landscaping shall be provided within the line of sight triangles at site driveways, or the intersection of Valley Brook and Clay Avenues, in accordance with N.J.A.C. 19:4-8.5, and where proposed parking spaces cannot be screened in accordance with this requirement, those parking spaces shall be eliminated. The Applicant proposes to provide 175 parking spaces on the site to conform to the minimum parking required by the District Zoning Regulations. According to the Applicant's traffic expert's review of the Institute for Transportation Engineers (ITE) Parking Generation Manual, the actual parking demand for the existing warehouse on the site, pursuant to Land Use Code 150 (Warehouse) would generally range from 133 to 159 parking spaces, with a low range of 68 parking spaces at the 50th percentile and 189 spaces at the 85th percentile. The Applicant's planning expert also stated that the number of full-time employees could be anticipated to be 100 persons, as provided in the Planning Report. Furthermore, the applicant had recently demolished approximately 7,300 square feet of office space that reduced the parking requirement on the site by 19 parking spaces, further reducing parking demand from the conditions shown in the aerial imagery provided by the Applicant's engineer in the supplemental submittal dated July 26, 2021. Therefore, the site could absorb the limited elimination of parking spaces potentially needed to meet the conditions of this

recommendation. Thusly, with the conditions recommended herein to address public safety concerns, 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.

The requested variance to permit parking and drive aisles in the front yard facing Clay Avenue will not impair the intent and purpose of the regulations. The principal intent of front yard setback requirements, including setbacks to vehicular use areas, is to minimize visual impacts to neighboring properties and to ensure sufficient light, air and open space to the subject property and adjoining properties. Although some of the parking spaces and drive aisles along Clay Avenue will be located within the required 50-foot setback, the Applicant has proposed landscaped screening that will minimize visual impacts of the proposed parking from the ROW and other properties. Conditions of this recommendation will ensure a more robust landscape scheme.

Conditions of this recommendation will also ensure that public safety will not be compromised. Adequate drive aisle widths will be provided to accommodate vehicle movements, and vehicle access to the site, including emergency vehicles, will be improved from the existing conditions. Line-of-sight triangles will be clear of any obstructions. The intrusion into the front yard setback is due to proposed vehicle parking areas, and not due to the placement of structures. Therefore, the intent and purpose of the regulations will not be significantly impaired by the requested variance.

The approval of the variance request will contribute to and promote the intent of the District Master Plan by allowing the site to be utilized in a safe, orderly, and efficient manner.

B. 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 or within buffer areas. A paved vehicular use area inclusive of the trailer parking spaces and maneuvering area is proposed within the required front yard facing Clay Avenue at a setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.

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

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

The requested variance to permit a paved vehicular use area, inclusive of trailer parking spaces and maneuvering area, within the required front yard facing Clay Avenue at a minimum setback of 4.35 feet, arises from conditions that are unique to the site. District Zoning Regulations prohibit the placement of vehicular use areas within the required 50-foot front yard setback or within five feet from side and rear property lines. There are several unique characteristics that affect the placement of vehicular use areas on the subject property.

The site contains two front yards, Clay Avenue to the east and Valley Brook Avenue to the south. Approximately 961.88 feet of frontage is

provided along Clay Avenue and 431.73 feet of frontage along Valley Brook Avenue. In addition, approximately 40 percent of the site is encumbered by wetlands, which include a tidal pond.

The Applicant proposes to infill five existing drive-in loading doors on the premises to create tailboard loading positions in line with the exterior wall of the existing building, and to improve an unpermitted gravel automobile parking area adjacent to the building's loading facilities into a paved vehicular use area to accommodate six (6) 60-foot-long trailer parking spaces of varying widths, with an associated truck maneuvering area. A portion of this unapproved gravel parking area is currently located within the required front yard facing Clay Avenue at a minimum setback of approximately 23 feet. Under proposed conditions, the vehicular use area would be expanded further into the aforementioned required front yard, reducing the setback to be provided from the edge of the paved trailer parking lot and maneuvering area to the front property line located along Clay Avenue from 23 feet to 4.35 feet.

The location and configuration of the existing improvements on the site, as well as the presence of environmentally-sensitive wetlands precluding development, result in a unique situation where the only remaining area where a functional truck turning layout can be configured is within the required front yard along Clay Avenue. The provision of trailer parking spaces and maneuvering area with adequate and appropriate site circulation is limited by the unique characteristics of the subject premises.

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

No residential properties are located proximate to the site. The site is located within a fully-developed commercial/industrial area, with wetlands located both on the site and on the adjoining property to the west. The proposed vehicular use area within the Clay Avenue front yard will provide expanded pavement within the loading area to accommodate six new trailer parking spaces and truck maneuvering area on the site. The trailer parking spaces are proposed within an existing gravel area that had been installed over open space on the site without the benefit of approvals. The Applicant is proposing to decrease the existing front yard setback from approximately 23 feet to 4.35 feet in this vicinity, whereas 50 feet is the minimum setback required.

Commenters #1 and #2 expressed concerns with respect to the expansion of front yard loading and the use of Clay Avenue for the maneuvering of trucks into the proposed loading and trailer parking spaces the site. Commenter #2 also expressed concerns with respect to potential flooding that could result from expanded pavement at the site.

A portion of the expanded pavement in the Clay Avenue front yard adjacent to the site's loading area is intended to better accommodate on-site truck circulation movements for vehicles accessing the site's loading docks, in an effort to minimize movements by trucks within the Clay Avenue ROW as they maneuver into the site's existing and reconfigured loading docks. However, the expanded pavement adjacent to the site's loading area is also intended to accommodate six new trailer parking spaces within the Clay Avenue front yard, which raises public safety concerns and could adversely impact

neighboring properties, due to the intensification of trucks, beyond the existing 11 loading positions, that will be maneuvering on site, potentially blocking access to the 11 loading dock positions and causing additional queuing within the Clay Avenue ROW.

The minimum number of loading spaces required by the regulations is currently provided onsite. District Zoning Regulations do not require a minimum number of trailer parking spaces to be provided.

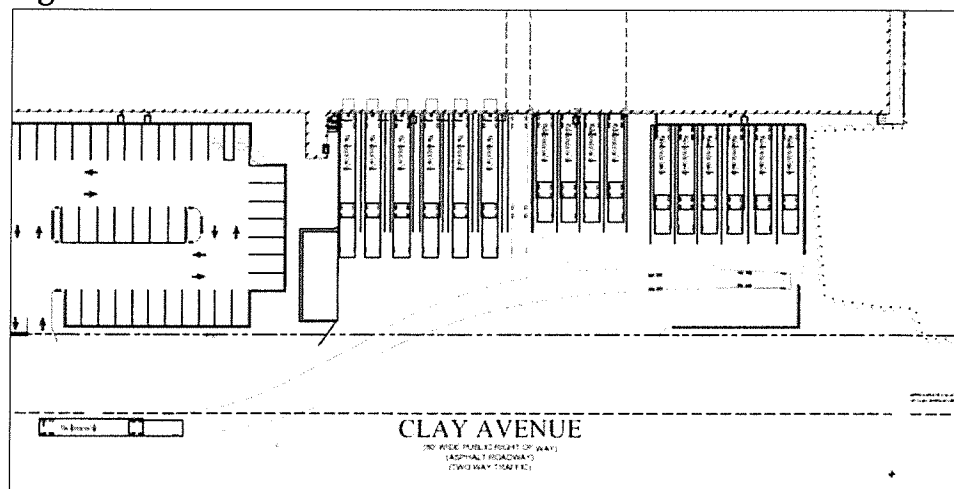
Accordingly, a recommended condition of this report is that the six proposed trailer parking spaces to the north of the loading doors (see Figure 1) shall be eliminated, with this paved parking area reverting to open space, in order to prevent both the maneuvering of trucks into these spaces from blocking access to the 11 loading dock positions and the queuing and maneuvering of additional trucks within the Clay Avenue ROW, in order to protect the public safety.

Furthermore, the degree of expansion of pavement within the Clay Avenue front yard in order to accommodate truck circulation movements for vehicles utilizing the loading docks and minimize movements by trucks within the Clay Avenue ROW as they maneuver into the site's existing and reconfigured loading docks, shall be the minimum necessary. Therefore, based on a review of the truck circulation plans for both the reconfigured and existing loading docks provided by the Applicant's traffic expert, a condition is recommended to modify the requested variance for the portion of the Clay Avenue front yard in the vicinity of the six proposed truck parking spaces to eliminate the six proposed tractor trailer parking spaces, with this proposed pavement area reverting to open space, and provide only enough pavement within the front yard, at a

minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to maximize landscaped screening opportunities in the Clay Avenue front yard. With this condition, no increase in traffic generated by the site, in particular truck traffic that would need to wait within the ROW while trucks maneuver into the six proposed truck parking spaces, is anticipated. In addition, it is recommended that additional landscaping be provided in the front yard between the property line and the proposed curb line to screen the loading area and pavement from Clay Avenue to the extent practicable, without hindering the line of sight for trucks entering and exiting the site. Furthermore, all drainage regulations will be required to be met.

With the recommended conditions, there will be no adverse effects to surrounding properties.

Figure 1



Detail of Dwg. P7-A entitled "Truck Turning Exhibit Loading Dock 7," prepared by Matthew J. Seckler, P.E., Stonefield Engineering, dated 3/25/2021, and revised through 07/22/2021.

- 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. Given the unique conditions and physical characteristics existing on the property, practical difficulties are evident in the attempt to provide functional and compliant parking, loading, and circulation on the site.

The site contains two front yards, each requiring the provision of a 50-foot-wide front yard setback. Furthermore, approximately 40 percent of the site is encumbered by wetlands, which includes a tidal pond, requiring that all development be located on the southerly portion of the site. The building on the site is located just to the south of the wetlands line, and provides a 30-foot-wide setback to the westerly side yard, which is insufficient space to provide vehicular use areas, particularly for trucks, in that location. Given the unique conditions and physical characteristics of the property, practical difficulties are evident in the attempt to provide functional and compliant loading and truck maneuvering areas on site.

The applicant proposes to reconfigure the site's existing loading area along Clay Avenue. Five of the site's existing 11 loading doors are drive-in doors that will be reconfigured in line with the exterior wall of the existing building as tailboard loading docks. The Applicant also proposes an expansion of the pavement in the Clay Avenue front yard to accommodate certain truck turning movements on the site instead of in the adjacent Clay Avenue ROW. The Applicant proposes to locate a paved vehicular use area for truck maneuvering

in the required front yard along Clay Avenue since development in the remaining yards is maximized to the extent possible. The proposed expansion of the vehicular use area for truck maneuvering into the tailboard loading docks will be located adjacent to the building's existing loading facilities, resulting in an efficient site layout.

However, the applicant also proposes to expand the overall number of truck positions on the property through the proposed addition of six trailer parking spaces to the north of the 11 existing and reconfigured loading doors and refuse area, including pavement for maneuvering into these spaces in the required front yard of Clay Avenue at a minimum setback of 4.35 feet. Therefore, based on a review of the truck circulation plans for both the reconfigured and existing loading doors provided by the Applicant's traffic expert, a condition is recommended to modify the requested variance for a paved vehicular use area in the Clay Avenue front yard in the vicinity of the truck loading docks to eliminate the six proposed tractor trailer parking spaces, with this proposed paved area reverting to open space, and provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors. With this condition, no increase in traffic generated by the site, especially in truck traffic that would need to wait within the ROW while trucks maneuver into the six proposed truck parking spaces, is anticipated. In addition, it is recommended that additional landscaping be provided in the front yard between the property line and the proposed curb line to screen the loading area and pavement

from Clay Avenue to the extent practicable, without hindering the line of sight for trucks entering and exiting the site.

It should also be noted that the District Zoning Regulations do not require that a minimum number of trailer parking spaces be provided. A minimum of four loading spaces are required by the regulations, and 11 loading spaces are existing and proposed. Trucks may be parked and staged at loading doors, as is common at warehouse sites throughout the District.

Thusly, the recommended modification continues to address the exceptional practical difficulties and exceptional and undue hardship on the property owner, by allowing for an expansion of on-site truck maneuvering areas to more efficiently access the loading doors, which are being reconfigured to be closer to the Clay Avenue ROW, but not expanded in number. In lieu of forcing maneuvering to occur in the street, the variance request, as modified, would improve both existing and proposed conditions by minimizing truck movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, while providing for landscaped screening. However, the provision of the six proposed trailer parking spaces would expand the intensity of the site's preexisting nonconformities within the Clay Avenue front yard, and does not represent an exceptional practical difficulty or exceptional and undue hardship upon the property owner.

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

The neighboring properties consist mainly of warehouse and distribution uses. The Applicant is proposing to locate a paved vehicular use area for truck maneuvering in the required front yard along Clay Avenue.

The location of the paved vehicular use area within the required Clay Avenue front yard is required to achieve a functional site layout for the existing warehouse and distribution facility on site and is not the result of site overdevelopment. The width of the Clay Avenue curb cut dedicated to loading will not be extended beyond existing conditions. The additional pavement will provide for additional capability for on-site maneuvering of trucks that currently utilize the Clay Avenue ROW to maneuver into the loading areas on the site and for trucks that will access the reconfigured tailboard loading doors. Landscaping will be provided to the extent possible within the front yard loading area.

However, the portion of the proposal related to pavement for trailer parking spaces on the site raises public safety concerns. As stated above, the Applicant is proposing to decrease the existing front yard setback from approximately 23 feet to 4.35 feet. The extent of the reduction in the front yard setback in this portion of the site is mainly due to the Applicant's proposal to provide for on-site pavement to maneuver into these spaces, and to provide six trailer parking spaces on site. District Zoning Regulations do not require that a minimum number of trailer parking spaces be provided. The minimum number of loading spaces required by the regulations are provided.

With the modification recommended in Criterion *ii.* above with respect to the removal of the six truck parking spaces and the

minimization of paved area to provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, no increase in traffic generated by the site is anticipated. The addition of the six (6) trailer parking spaces would negatively impact vehicle circulation both on- and off-site, and could potentially require even more truck turning movements and truck queuing within the Clay Avenue ROW. The required 50-foot minimum front yard setback will continue to be maintained to all structures.

Therefore, with the recommended modification, the granting of the requested variance would avoid adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare.

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

The granting of the requested variance will not have a substantial adverse environmental impact. The area's aesthetics will not be adversely impacted by the proposed location of paved vehicular use areas in the required front yard facing Clay Avenue. Landscaped screening will be provided and, overall, the proposed improvements will result in 43.12 percent open space, whereas a minimum of 15 percent open space is required. The recommended modification to eliminate the pavement in the area of the proposed truck parking spaces will serve to increase opportunities for landscaping and screening of the reconfigured loading area. Furthermore, the recommended additional landscaping to be provided in the front yard between the property line and the proposed curb line to screen

the loading area and pavement from Clay Avenue will enhance the aesthetics of the property in that location. No impacts are proposed to the on-site wetlands. The proposed stormwater conveyance system will reduce the peak runoff rate and will remove total suspended solids from surface runoff, and all drainage requirements will be met. The location of the proposed paved vehicular use area within the 50-foot front yard setback along Clay Avenue will not cause the NJSEA's performance standards regarding noise, vibrations, airborne emissions, hazardous materials or glare to be exceeded, as the number of existing and proposed loading doors are the same within the site's preexisting front yard loading area, although in a reconfigured manner, and landscaping will be provided to the extent possible.

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

The requested variance to provide a minimum 4.35-foot front yard setback from the proposed trailer maneuvering area to the Clay Avenue ROW, with the recommended condition and modification herein, represents the minimum deviation from the regulations that will afford relief. Elimination of the six proposed trailer parking spaces as recommended herein will decrease the amount of truck turning movements occurring within the Clay Avenue ROW, thereby minimizing potential negative impacts on neighboring property owners.

The site's existing loading area is situated within the Clay Avenue front yard due to a lack of practicable alternative locations on the site. The proposed expansion of pavement within the Clay Avenue front yard on this particular property attempts to balance the

applicable zoning requirements with the site constraints, including the preclusion of site development on the approximately 40 percent of the site area consisting of wetlands.

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

The requested variance to permit expanded pavement in the front yard of Clay Avenue will not impair the intent and purpose of the regulations. The principal intent of front yard setback requirements, including setbacks to vehicular use areas, are to minimize visual impacts to neighboring properties and to ensure sufficient light, air and open space to the subject property and adjoining properties. The intent of the setback regulations would be met by the proposed 4.35-foot front yard setback along Clay Avenue to provide additional paved area to facilitate trucks maneuvering into the existing and reconfigured loading spaces.

The intent of the District Zoning Regulations includes promoting development in accordance with good planning principles that relates the type, design and layout of such development to the particular site and surrounding environs. The site is constrained and the provision of additional on-site maneuvering area to accommodate the modernization of the warehouse's loading area furthers this intent. The proposed modification to eliminate and reconfigure the placement of some of the pavement and provide landscaping in the area of the proposed truck parking spaces will contribute to and promote the intent of the District Master Plan by allowing the site to be utilized in a safe, orderly and efficient manner.

- C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(c)7, which requires that all vehicular use areas shall be properly screened and landscaped in accordance with N.J.A.C. 19:4-8.9. The proposed re-configured parking spaces along Valley Brook Avenue do not allow for the construction of a landscaped berm or the dense planting of evergreens on the subject premises sufficient to reduce headlight glare from within the parking lot as required by N.J.A.C. 19:4-8.9(d)6i.

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 subject property is a 9.9-acre parcel fronting Clay Avenue to the east and Valley Brook Avenue to the south. The site contains two front yards, Clay Avenue to the east and Valley Brook Avenue to the south. Approximately 961.88 feet of frontage is provided along Clay Avenue and 431.73 feet of frontage along Valley Brook Avenue. The site's Valley Brook Avenue frontage contains encroachment of the site's vehicular use areas into the adjacent ROW. The property's existing parking area along Clay Avenue is located at a pre-existing nonconforming setback of 31 feet, whereas 50 feet is the minimum front yard setback required to both parking areas and structures. In addition, approximately 40 percent of the site is encumbered by wetlands, which includes a tidal pond.

The site is currently developed with a one-story warehouse and distribution building that is served by a parking lot containing 166

automobile parking spaces, whereas a total of 175 parking spaces are required on site based upon the approved uses in the existing warehouse and distribution building per the District Zoning Regulations. A zero-foot setback is provided along Valley Brook Avenue as measured from the ROW line to the existing edge of pavement of the parking lot. The Applicant proposes to reconfigure the parking lot layout on this portion of the site to accommodate 42 parking spaces within a parking bay oriented parallel to the Valley Brook Avenue ROW line. As part of this reconfiguration, the applicant proposes to remove and restore the existing paved encroachment within the Valley Brook ROW to open space. However, due to the limited area available for the reconfigured parking bay, which results in no open space on the subject property along Valley Brook Avenue, no on-site landscaping is proposed to screen the parking area from the adjacent ROW. However, landscaping is proposed to be provided within a 10-foot-wide lawn strip within the Township of Lyndhurst's ROW between the property line and the edge of pavement of Valley Brook Avenue.

The location and configuration of the existing improvements and building on the site, as well as the presence of environmentally-sensitive wetlands precluding development, result in a unique situation which constrains the ability of the property owner to provide additional parking, and the ability to screen parking areas, on the site.

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

The site's vehicular use areas are located at a pre-existing nonconforming zero-foot setback along Valley Brook Avenue. The

current parking configuration along the site's Valley Brook Avenue frontage consists of parking bays located perpendicular to the building façade. The Applicant proposes to reconfigure the parking area to provide for parking bays parallel to Valley Brook Avenue, which would result in headlight glare directed toward the roadway and the neighboring property to the south. At a zero-foot setback, there is no available area on the site along its Valley Brook Avenue frontage to provide the required landscaping that would serve to screen headlight glare to motorists and neighboring properties, and promote area aesthetics.

However, the Applicant has provided a letter from the attorney for the Township of Lyndhurst (see Exhibit A-15) regarding a landscape easement agreement, allowing the Applicant to provide the required landscaping with the Township's Valley Brook Avenue ROW. The proposed landscaping depicted on the Applicant's site plan will be compatible with the character of the surrounding neighborhood. The proposed 10-foot-wide landscape easement area will be located approximately five feet from the adjacent curb line and will not interfere with the existing pedestrian walkway or bike path within the paved travel way of Valley Brook Avenue. There are no pedestrian sidewalks within the area.

The rights of adjacent property owners will not be adversely affected by the proposed vehicular use areas in the required front yard along Valley Brook Avenue due to the installation of landscaping within the Valley Brook Avenue ROW. However, to ensure the easement is properly enacted, it is a recommended condition of this report that the Applicant shall obtain a resolution from the governing body of the Township of Lyndhurst establishing the location of and

maintenance requirements for the easement, which shall be recorded within the Bergen County Deed Register and noted on a revised survey and site plan to be submitted prior to issuance of any final Certificate of Completion and/or Occupancy Certification for the proposed application.

However, there are some gaps in the landscaping which could affect area properties and motorists in a detrimental manner. Therefore, it is a recommended condition of this report, that more robust landscaping, such as a landscaped berm, be provided to eliminate the gaps in landscaping and achieve compliance with N.J.A.C. 19:4-8.9(d)6i.

With these conditions, the granting of the variance will not adversely affect the rights of neighboring property owners or residents.

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

The strict application of the provisions of the regulations would result in practical difficulties and undue hardship upon the property owner. Approximately 40 percent of the site is encumbered by wetlands, which include a tidal pond, requiring that all site development be located on the southerly portion of the property. If the landscaping were to be installed in conformance with the regulations, the landscaped area would deprive the owner of the ability to use a large portion of the existing parking lot. The installation of the landscaping within the Valley Brook Avenue ROW, subject to an easement agreement with the Township of

Lyndhurst, would provide sufficient area for more effective and comprehensive screening of the site's parking areas.

The configuration of the parking lot and its pre-existing non-conforming zero-foot setback along Valley Brook Avenue does not allow for the on-site installation of any of the screening measures that would conform with the requirements of the District Zoning Regulations.

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

The subject property is currently improved with a warehouse use, and neighboring properties also consist mainly of warehouse and distribution uses. Pre-existing nonconforming conditions, including a zero-foot front yard setback to parking areas along the site's Valley Brook Avenue frontage, constrain the ability to provide landscaping on the site.

However, the site constraints and the desire to provide additional parking do not preclude public safety concerns. Per N.J.A.C. 19:4-8.9(d)1, plants located within the line-of-sight triangles, provided in accordance with N.J.A.C. 19:4-8.5, shall not exceed a height of 30 inches at maturity. A landscaping height of 30 inches is not sufficient to screen headlight glare from taller vehicles. Therefore, as a condition of this recommendation, no landscaping shall be provided within the line of sight triangles of site driveways or the intersection of Valley Brook and Clay Avenues, in accordance with N.J.A.C. 19:4-8.5, and where proposed parking spaces cannot be screened in

accordance with this requirement, those parking spaces shall be eliminated.

Furthermore, a review of the plans indicates that there is available area in the westerly portion of the Valley Brook Avenue parking lot to provide on-site landscaping, as there is a double two-way drive aisle that could be narrowed to provide on-site landscaping and also provide a safer on-site circulation pattern by minimizing conflicts resulting from this double-aisle configuration. Therefore, it is recommended that, as condition of this recommendation, one or both two-way drive aisles on this portion of the site be reconfigured to be STOP-controlled. Additionally, in order to protect public safety and meet the requirements of N.J.A.C. 19:4-8.2(c)11, this recommendation includes a condition to convert all proposed striped islands shown on the Site Plan to curbed, landscaped safety islands. As testified to by the Applicant's traffic expert, "having no raised islands or concrete aisles within the parking fields does cause both vehicular circulation issues, as well as pedestrian circulation issues to and from the building." (Transcript, p. 52, lines 6-10)

With the conditions recommended herein, there will be no substantial detriment to the public good and no adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance.

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

The granting of the requested variance will not have an adverse environmental impact. The proposed development will provide 43.12 percent open space, whereas a minimum of 15 percent open space is required. No impacts are proposed to the on-site wetlands.

The proposed stormwater conveyance system will reduce the peak runoff rate and will remove total suspended solids from surface runoff, and all drainage requirements will be met. The area's aesthetics will not be adversely impacted by the proposed location of landscaping within the Valley Brook Avenue ROW, with the recommended conditions discussed under Criterion *ii.* above. With the installation of the recommended landscaping in the ROW, the NJSEA's performance standards regarding noise, vibrations, airborne emissions, hazardous materials or glare will not be exceeded.

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

The variance represents the minimum deviation from the regulations that will afford relief. A zero-foot setback is provided along Valley Brook Avenue as measured from the ROW line to existing edge of pavement. If the landscaping were to be installed in conformance with the regulations, the landscaped area would deprive the owner of the ability to use the existing parking lot on the site, which is proposed to be reconfigured to meet the site's parking requirement of 175 spaces. With the recommended conditions herein, the proposed landscaping within the ROW will not obstruct line of sight either at the Valley Brook Avenue/Clay Avenue intersection or the ingress/egress driveway along Valley Brook Avenue, nor will it encroach upon the adjacent pedestrian and bike paths. Furthermore, the applicant had recently demolished approximately 7,300 square feet of office space that reduced the parking requirement on the site by 19 parking spaces, further reducing parking demand from the conditions shown in the aerial imagery provided by the Applicant's engineer in the supplemental

submittal dated July 26, 2021. Therefore, the site could absorb limited elimination of parking spaces potentially needed to meet the conditions of this recommendation.

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

The granting of this variance would not substantially impair the intent and purpose of these regulations. While the subject property contains many pre-existing nonconformities, the Applicant has chosen to install landscaping that is consistent with the landscaped front yard areas provided throughout this portion of the District. Installation of the proposed landscaping within the Valley Brook Avenue ROW is aesthetically pleasing and will contribute to and promote the intent of the NJSEA Master Plan.

D. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard. Five new loading areas are proposed in the front yard facing Clay Avenue.

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.*

District Zoning regulations prohibit loading areas in any front yard. The site has frontage along both Clay Avenue to the east and Valley Brook Avenue to the south. Approximately 961.88 feet of frontage is provided along Clay Avenue and 431.73 feet of frontage along Valley

Brook Avenue. In addition, approximately 40 percent of the site is encumbered by wetlands, which include a tidal pond. The site is currently developed with a 172,801-square-foot warehouse and distribution facility with associated parking and loading facilities. Due to the two front yards, the subject property has a rear yard and one side yard. The existing building is located along the 30 foot wide side yard setback, a portion of which is delineated wetlands. The result is that there is not sufficient space along the side yard to provide loading spaces and associated truck maneuvering. In the rear yard, the existing building is located within ten to 15 feet of the delineated wetlands line, thereby precluding the construction of loading spaces and pavement for associated truck maneuvering. The existing site is configured with existing loading provided in the front yard facing Clay Avenue. These pre-existing nonconforming conditions affect the development of the property in question.

District Zoning Regulations require that loading doors and facilities be located in rear and side yards. However, the configuration of the existing building on the site limits the provision of new loading areas with adequate and appropriate building access and vehicle circulation that would be in conformance with the regulations.

The Applicant proposes to infill five existing drive-in loading doors on the premises to create five tailboard loading positions in line with the exterior wall of the existing building, which will be in line with the six existing tailboard loading docks, and to improve an unpermitted gravel automobile parking area adjacent to the building's loading facilities into a paved vehicular use area to accommodate six 60-foot-long trailer parking spaces of varying widths, with an associated truck maneuvering area. The Applicant's

proposed five reconfigured tailboard loading positions within the front yard facing Clay Avenue will be located closer to the Clay Avenue ROW than the existing drive-in loading doors. Although the subject site and the neighboring property across Clay Avenue, identified as 1251 Valley Brook Avenue (Block 230, Lot 8), contain pre-existing nonconforming front yard loading, this is not a condition ordinarily present in the immediate vicinity. In addition, the subject property is the only property along the Clay and Valley Brook Avenue corridors that necessitates truck movements within the ROW to back in to the loading docks on the site.

Due to the two front yards, the approximately rectangular subject property has a rear yard and one side yard. The existing building is located along the 30 foot wide side yard setback line and a portion of the side yard is delineated as wetlands. No property can be acquired to the west (Block 229, Lot 6), as this lot contains radio towers, is zoned Environmental Conservation and is also comprised of wetlands. The result is that there is not sufficient space along the side yard to provide loading spaces and associated truck maneuvering. In the rear yard, the existing building is located within ten to 15 feet of the delineated wetlands line, thereby impeding the construction of loading spaces and pavement for associated truck maneuvering. In the proposed condition, possible locations for conforming loading areas are limited to the easterly front yard facing Clay Avenue and the southerly front yard facing Valley Brook Avenue. However, the provision of new loading doors in the southerly Valley Brook Avenue front yard would cause site circulation conflicts with an adjacent vehicular use area, and would still be subject to variance relief. These pre-existing, nonconforming conditions were not created by any action of the Applicant.

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

The granting of the requested variance will not adversely affect the rights of neighboring property owners or residents. The neighborhood in which the property is located is primarily industrial and commercial in nature. There are no residences located nearby.

Commenters #1 and #2 expressed concerns with respect to the expansion of front yard loading and the use of Clay Avenue for the maneuvering of trucks into the proposed loading and trailer parking spaces the site. Commenter #2 also expressed concerns with respect to potential flooding that could result from expanded pavement at the site.

Vehicles will continue to enter the site from the easterly driveway on Clay Avenue into the loading area to utilize the proposed exterior tailboard loading spaces. The total proposed number of loading doors remains the same as the existing number of loading doors, although in a new configuration with the five doors located closer to the Clay Avenue ROW. This new configuration alters the existing site circulation patterns and intensifies the loading operations and maneuvering within the front yard, and therefore, requires variance relief.

In accordance with the Applicant's testimony, proposed exterior loading doors No. 8, 9, 10 and 11 will be utilized only by trucks classified as WB-50 or smaller, which have a maximum length of 57.34 feet to ensure adequate truck maneuvering area on the site by avoiding conflicts with trucks utilizing other loading doors in the

loading area. Of the five newly configured loading doors, only proposed loading door No. 7 is intended to be utilized by trucks classified as WB-67, which have a maximum length of 68.66 feet. Both maximum vehicle lengths were proposed by the Applicant after an analysis was performed to determine the largest-sized vehicle that could safely maneuver on-site into each loading area without encroaching upon neighboring properties or the Clay Avenue ROW, while adjacent loading areas were occupied by a parked vehicle. A vehicle length limitation, along with the requirements for corresponding striping and signage, is recommended as a condition of approval of this variance request. While some maneuvering will still occur within the Clay Avenue ROW from trucks utilizing the unchanged pre-existing, nonconforming tailboard loading doors, with the inclusion of a vehicle length limitation for the modified loading doors, the truck maneuvering for the modified doors will minimize further encroachments into the ROW. Encroachments into the ROW from the infilled loading doors will be less than under existing conditions where the length of the truck is not regulated, resulting in a safer condition than currently exists. The actual loading operations, involving the movement of products into and out of the trailers, will occur on-site within the confines of the loading spaces.

The proposed improvements will not create any further negative visual impacts to neighboring properties or impede their ability to function as intended with the recommended conditions. Additional pavement is proposed on-site for truck maneuvering to minimize truck movements in the Clay Avenue ROW. There is no increase in traffic anticipated by the proposal, as the existing and proposed number of loading doors remains the same. Therefore, there will be

no increase in the number of trucks utilizing the site than currently exists. The existing loading areas for 1251 Valley Brook Avenue (Block 230, Lot 8), which are located directly across Clay Avenue, facing the proposed loading areas, will not be adversely affected. In addition, all drainage requirements will be met.

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

The strict application of the regulations that prohibit front yard loading will result in peculiar and exceptional difficulties to, or exceptional and undue hardship upon, the property owner. In balancing the requirements of the Light Industrial A zone with the particular characteristics of the property, the proposed variance is required to ensure a functional building and parking layout. Although five drive-in loading doors are existing, a variance is required to convert the drive-in doors to tailboard loading docks, as the reconfiguration would intensify the pre-existing nonconforming front yard loading condition by altering truck circulation patterns on the site. All proposed exterior loading docks will be situated adjacent to existing exterior loading docks, which represents a consolidated approach to the site's layout.

Alternative site layouts, such as constructing loading areas along the Valley Brook Avenue side of the building, would create site circulation conflicts with an adjacent vehicle parking area and still require variance relief due to its front yard location. Constructing the proposed loading areas on the north side of the building, in the rear yard, would encroach upon wetlands, which occupy approximately 40 percent of the site, and require the installation of

additional impervious surface in this environmentally sensitive area, which is not permitted. The 30 foot wide side yard on the west side of the building does not contain sufficient land area to provide loading spaces and associated truck maneuvering and also contains wetlands.

Additional maneuvering area is proposed to be provided on site for vehicles of the sizes mentioned in Criterion *ii.* above to access the proposed exterior loading areas, thereby minimizing the use of the Clay Avenue ROW for maneuvering of trucks backing into loading docks. Therefore, the strict application of the zoning regulations results in practical difficulties in the functionality of the subject property.

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

There will be no substantial detriment to the public good and no adverse impacts to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The placement of the exterior loading areas within the front yard facing Clay Avenue, as proposed, will have no adverse impact on public safety or health as adequate light, air and open space will continue to be supplied.

The Applicant provided testimony that trucks utilizing proposed exterior loading doors No. 8, 9, 10 and 11 will be classified as WB-50 or smaller, which will not exceed 57.34 feet in length, while trucks utilizing proposed loading door No. 7 will be classified as WB-67 or smaller, which will not exceed 68.66 feet in length. The location of

the proposed exterior loading docks, combined with the size limitations of vehicles and expansion of on-site pavement, permits these vehicles to maneuver both on and off site in a safer condition than currently exists. As such, vehicles utilizing the proposed exterior loading areas will not need to block the Clay Avenue ROW to back into the site, and separate access to the site by passenger vehicles is maintained from existing site driveways on Clay and Valley Brook Avenues. In addition, excess noise, odor, vibration or glare will not be generated as a result of the proposed exterior loading areas. No increase in the number of vehicle trips generated by the proposed exterior loading areas is anticipated, nor will this proposal cause any significant changes to current traffic patterns.

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

The granting of the requested variance will not have any adverse environmental impacts. Although some new impervious surface is proposed, the amount of open space to be provided will exceed the minimum 15 percent requirement of the District Zoning Regulations almost threefold. No environmentally sensitive areas, such as wetlands or stormwater facilities, will be disturbed, and all drainage requirements will be met. No new light fixtures will be installed. Therefore, the requested variance to locate the proposed exterior loading docks within the front yard facing Clay Avenue will not cause the NJSEA's environmental performance standards for noise, vibrations, airborne emissions or hazardous materials to be exceeded. Any glare caused by truck headlights will not exceed current conditions, as the existing and proposed number of loading doors remain the same, and additional landscaping is recommended as a condition to the north of the loading area in Section IV.B of this

recommendation to minimize potential glare and improve area aesthetics.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. Testimony was provided that, from a market perspective, prospective tenants need the additional exterior loading areas for a building of this size. Potential locations to provide alternative loading areas outside of the front yard facing Clay Avenue are limited due to the existing site layout and particular and unique conditions on the property. The proposed exterior loading areas have been situated to ensure safe and efficient operations of the warehouse/distribution facility, necessitating their location facing Clay Avenue. Ultimately, the existing and proposed number of loading doors is the same, albeit in a reconfigured manner, and other improvements to minimize impacts, including expanded pavement to allow for additional on-site truck maneuvering over existing conditions, additional landscaping, and vehicle size limitations, will be implemented to ensure the requested variance is the minimum deviation from the regulations.

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

The proposed exterior loading docks facing Clay Avenue will not substantially impair the intent and purpose of these regulations. The intent and purpose of front yard loading regulations are rooted in the promotion of public safety and aesthetics. Although this proposal locates loading areas in the front yard, public safety is not

adversely impacted due to the Applicant's vehicle size restrictions which will not impede on- or off-site circulation. The Applicant proposes to limit the size of trucks utilizing proposed exterior loading doors No. 8, 9, 10 and 11 to a WB-50 type or smaller, which has a maximum of 57.34 feet in length, and a WB-67 type or smaller with a maximum length of 68.66 feet for trucks utilizing proposed loading door No. 7, in order to ensure on-site circulation continues to function safely and efficiently. The proposed exterior loading areas will not be a significant detriment to area aesthetics, as the five (5) proposed exterior loading doors are to be located within an existing front yard loading area. The existing and proposed number of loading doors is the same; therefore, there will be no increase in the number of trucks utilizing the site than currently exists.

The placement of the proposed exterior loading areas within the front yard at this particular location will provide appropriate and functional access for vehicles, including trucks and emergency equipment. The site will, therefore, be utilized in a safe and orderly manner.

- E. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)4, which requires that all entrances and exits to loading areas shall be located in a safe and convenient manner with minimal impact on traffic movement on the site and adjacent streets. In order to access the proposed exterior loading areas and the proposed trailer parking area, maneuvering vehicles will encroach within the Clay Avenue right of way.

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.*

District Zoning Regulations prohibit loading areas in any front yard, not only for aesthetic purposes, but for public safety purposes. The site has frontage along Clay Avenue to the east and Valley Brook Avenue to the south. Approximately 961.88 feet of frontage is provided along Clay Avenue and 431.73 feet of frontage along Valley Brook Avenue. In addition, approximately 40 percent of the site is encumbered by wetlands, which includes a tidal pond. The site is currently developed with a 172,801-square-foot warehouse and distribution facility with associated parking and loading facilities. Also, the site is configured such that existing loading is provided in the front yard facing Clay Avenue. These pre-existing nonconforming conditions affect the development of the property in question.

District Zoning Regulations require that truck maneuvering into the proposed exterior loading spaces be conducted within the boundaries of the subject premises so as not to negatively impact traffic movements within the adjacent Clay Avenue ROW. However, the configuration of the existing building on the site limits the provision of new loading areas with adequate and appropriate building access and vehicle circulation that would be in conformance with the regulations.

The Applicant proposes to infill five existing drive-in loading doors on the premises to create tailboard loading positions, and to improve an unpermitted gravel automobile parking area adjacent to the building's loading facilities into a paved vehicular use area to

accommodate six 60-foot-long trailer parking spaces of varying widths with an associated truck maneuvering area. The Applicant's proposal is located in the front yard facing Clay Avenue. Although these five loading spaces will be located closer to the Clay Avenue ROW, the Applicant is proposing to provide additional paved areas on site to allow for the majority of truck movements to occur on the subject premises and not within the traveled way of Clay Avenue, resulting in less on-street maneuvering compared to the existing conditions for both the six existing tailboard loading docks and the five existing drive-in loading doors.

Possible locations for conforming loading areas that would not require truck maneuvering within a public ROW are limited to the northerly rear yard and westerly side yard. However, the placement of new loading facilities in the northerly rear yard would encroach upon wetlands and create the need for the construction of additional paved areas. The existing building is located along the 30 foot wide side yard setback line and a portion of the side yard is delineated as wetlands. The result is that there is not sufficient space along the side yard to provide loading spaces and associated truck maneuvering. In addition, no property can be acquired to the west (Block 229, Lot 6) as this lot contains radio towers, is zoned Environmental Conservation, and is also comprised of wetlands. These conditions were not created by any action of the Applicant. However, it must be noted that the gravel area, proposed to be paved to accommodate six trailer parking spaces, was installed by the prior property owner without approvals.

- 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 allow for truck maneuvering within the Clay Avenue ROW raises significant public safety concerns. It must first be noted that there are no residences located nearby. The neighborhood in which the property is located is primarily industrial and commercial in nature.

Commenters #1 and #2 expressed concerns with respect to the expansion of front yard loading and the use of Clay Avenue for the maneuvering of trucks into the proposed loading and trailer parking spaces the site. Commenter #2 also expressed concerns with respect to potential flooding that could result from expanded pavement at the site.

Regarding circulation patterns, trucks will continue to enter the site from the easterly driveway on Clay Avenue into the loading area to utilize the loading spaces. The new loading dock configuration alters the existing site circulation patterns and intensifies the loading operations within the front yard, and therefore, requires variance relief. However, the total proposed number of loading doors remains the same as the existing number of loading doors, although in a new configuration. The proposal also includes improvements to mitigate the impacts of the reconfigured loading areas, including additional pavement for truck maneuvering on-site to minimize truck movements in the Clay Avenue ROW, vehicle size limitations, and additional landscaping. All drainage requirements will be met by the proposal.

However, in addition to the reconfigured loading spaces, the Applicant's proposal includes the construction of six 60-foot trailer

parking spaces of varying widths to the north of the building's existing loading facilities. The presence of these additional trucks on the site would increase the number and intensity of truck movements both on-site and within the Clay Avenue ROW, and interfere with the trucks accessing the six existing tailboard truck docks and five proposed reconfigured tailboard truck docks within the front yard, which would significantly adversely impact neighboring properties and the public. Therefore, it is a recommended condition of this report to eliminate the six trailer parking spaces from the proposal and to revert the subject area to open space, and to revise the plans to implement design solutions that would provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide opportunities for additional landscaping and screening.

With the recommended condition, granting of the requested variance will not adversely affect the rights of neighboring property owners or residents.

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

The strict application of the regulations will result in peculiar and exceptional difficulties to, or exceptional and undue hardship upon, the property owner. In balancing the requirements of the Light Industrial A zone with the particular characteristics of the property, the proposed variance is needed to ensure a continuation of the site's building operations. All proposed exterior loading docks will be

situated in line with the exterior wall of the existing building, adjacent to existing loading docks, which represents a consolidated approach to the site's layout.

Alternative site layouts, such as constructing loading areas on the north side of the building would encroach upon wetlands, which occupy approximately 40 percent of the site, and require the installation of additional impervious surface in this environmentally sensitive area, which is not permitted. The west side of the existing building is located 30 feet from the property line and the side yard includes delineated wetlands, and as a result, there is not sufficient space to provide loading spaces and associated truck maneuvering. Maneuvering area is available on site for vehicles, with the size limitations proffered by the Applicant's traffic expert, to access the proposed exterior loading areas, in a manner that is an improvement over the existing conditions related to the existing drive-in loading doors.

However, there are public safety concerns inherent in the proposal to expand truck movements within the Clay Avenue ROW that, on balance, greatly override any practical difficulties or hardships experienced by the property owner from a market perspective. The property owner has acquired a building containing preexisting nonconformities, including loading areas and parking within a front yard, that predate the creation of the District Zoning Regulations. The Applicant has demonstrated the practical difficulties and constraints experienced in their attempt to modernize the building to current market standards, and has offered improvements requiring a significant degree of other variance relief. However, the practical difficulties and hardship expressed with respect to

expanded use of the Clay Avenue ROW to accommodate more trucks on the site than currently accommodated, thereby expanding the number and intensity of truck movements in the Clay Avenue ROW, have not been demonstrated. District Zoning Regulations do not require that a minimum number of trailer parking spaces be provided. Four loading spaces are the minimum number of loading spaces required by the regulations, and 11 loading spaces are existing and proposed. However, trucks may be parked and staged at loading doors, as is common practice at warehouse sites throughout the District.

Therefore, with the recommended conditions in Criterion *ii.* above to eliminate the six truck parking spaces and provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, the strict application of the zoning regulations results in practical difficulties in the functionality of the subject property.

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

The requested variance to utilize the Clay Avenue ROW for maneuvering into truck loading areas is largely due to the conversion of five existing drive-in loading doors that are proposed to be reconfigured to loading docks. In total, the existing and proposed number of loading doors at the site will remain the same, with 11 loading positions, and one refuse area to accommodate a compactor. The variance requested with respect to these doors

includes improvements such as expanded pavement on the site to minimize truck movements in the ROW, limited vehicle sizes to ensure no on-site conflicts exist, and additional landscaping to screen the loading area. Therefore, the intensity of truck operations within the Clay Avenue ROW will not be increased over the existing conditions.

However, the additional truck turning movements required by those vehicles accessing the proposed trailer parking spaces would interfere with the trucks accessing the six existing tailboard truck docks and five proposed reconfigured tailboard truck docks within the front yard, increasing the number and intensity of truck movements on-site and within the Clay Avenue ROW. The approval of expanded truck operations within the Clay Avenue ROW would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Therefore, with the recommended conditions in Criterion *ii.* above to eliminate the six truck parking spaces and revert the subject area to open space; to limit vehicle sizes; and to provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide opportunities for additional landscaping and screening, the requested variance will not result in substantial detriment to the public health, safety, morals, order, convenience, prosperity or general welfare.

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

With the recommended conditions in Criterion *ii.* above to eliminate the six truck parking spaces and provide the minimum pavement area to minimize truck movements within the Clay Avenue ROW, and to provide opportunities for additional landscaping and screening, the granting of the requested variance will not have any adverse environmental impacts, as the existing and proposed number of trucks to be accommodated on the site will remain the same. Although some new impervious surface is proposed, the amount of open space to be provided will exceed the minimum 15 percent requirement of the District Zoning Regulations almost threefold. No environmentally sensitive areas, such as wetlands or stormwater facilities, will be disturbed, and all drainage requirements will be met. No new light fixtures will be installed. Therefore, the requested variance will not cause the NJSEA's environmental performance standards for noise, vibrations, airborne emissions or hazardous materials to be exceeded.

Any glare caused by truck headlights will not exceed current conditions, as the existing and proposed number of loading docks remains the same, and additional landscaping is recommended as a condition of this recommendation to minimize potential glare and improve area aesthetics.

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

The requested variance arises from particular and unique property characteristics that constrain site development, including the presence of existing loading areas in a front yard, and

environmentally-sensitive lands that occupy approximately 40 percent of the site area.

Trucks utilizing the site's existing loading area currently utilize the Clay Avenue ROW to maneuver into the loading doors on the site. The existing and proposed number of loading doors is the same, albeit in a reconfigured manner that reduces the availability of area on the site to maneuver into loading dock positions when the doors are occupied. However, improvements are proposed to mitigate the impacts of the requested variance, including expanded pavement to allow for additional on-site truck maneuvering over existing conditions, additional landscaping, and vehicle size limitations, which will be implemented to ensure that the requested variance with respect to maneuvering into the loading doors is minimized. All drainage requirements will be met.

However, the requested variance with respect to proposed trailer parking spaces on the site does not represent the minimum deviation from the regulations that will afford relief. District Zoning Regulations do not require a minimum number of trailer parking spaces to be provided. The Applicant's proposal to construct six trailer parking spaces on the site will increase the intensity of truck maneuvering within the Clay Avenue ROW.

Therefore, with the recommended condition in Criterion *ii.* above to eliminate the six truck parking spaces and provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide

opportunities for additional landscaping and screening, the requested variance represents the minimum deviation from the regulations that would afford relief.

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

District Zoning regulations prohibit loading areas in any front yard, not only for aesthetic purposes, but for public safety purposes. Most sites with front yard loading areas predate the creation of the Hackensack Meadowlands District, as front yard loading is prohibited to prevent trucks from obstructing the free flow of traffic and causing public safety concerns.

In this instance, the existing and proposed number of loading doors is the same, and a recommended condition on the elimination of six proposed truck parking spaces will ensure that there will be no increase in the number of trucks utilizing the front yard loading area and, consequently, the Clay Avenue ROW, than currently exists. Therefore, the intent of the District Zoning Regulations to promote development in accordance with good planning principles that relates the type, design and layout of such development to the particular site and surrounding environs will be furthered.

With the recommended condition in Criterion *ii.* above to eliminate the six truck parking spaces and provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide opportunities for additional

landscaping and screening, the variance requested does not substantially impair the intent and purpose of the regulations.

- F. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii. The proposed re-configured loading areas along Clay Avenue do not allow for the construction of a solid and continuous fence supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading areas and vehicles from the Clay Avenue right of way.

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 property in question is a 9.9-acre parcel currently developed with a one-story warehouse and distribution building that is served by six exterior loading areas and five drive-in loading doors, all of which are accessed from Clay Avenue. All loading areas are in a pre-existing nonconforming location within the front yard facing Clay Avenue.

The property is a corner lot with two front yards, with frontage on Clay Avenue to the east and Valley Brook Avenue to the south. Approximately 961.88 feet of frontage is provided along Clay Avenue, and 431.73 feet of frontage along Valley Brook Avenue.

Approximately 40 percent of the site contains wetlands, including a large tidal pool in the northerly portion of the site.

The Applicant proposes to convert five existing drive-in loading bays into exterior tailboard loading docks. The site's existing loading area is comprised of 11 total loading positions, including one compactor space, located adjacent to a curb cut that measures approximately 170 feet in width. The excessive width of this curb cut associated with the existing front yard loading, which is not ordinarily found on the immediate vicinity, is a preexisting nonconforming condition on the site. The setback of the existing building in relation to Clay Avenue is approximately 112 feet. The use of the site's frontage for loading operations in this portion of the site continues an existing condition, although in a reconfigured manner, and does not allow for the installation of landscaped screening. The requested variance arises from this unique condition.

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

The rights of adjacent property owners will not be adversely affected by the granting of the requested variance. No residential properties are located proximate to the site. The site is located within a fully-developed commercial/industrial area, with wetlands located both on the site and on the adjoining site to the west.

No increase in the number of loading doors is proposed, as the proposal involves the reconfiguration of five interior loading spaces to exterior tailboard loading docks, located in line with the exterior wall of the existing building. The construction of landscaping along the site's frontage would obstruct site access and result in a negative

impact to circulation both on and off the site, including multiple movements within the ROW by trucks to access the loading doors, and excessive queuing of vehicles along area roadways.

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 site contains two front yards and a significant amount of wetlands that constrain site development. The location and configuration of the existing improvements on the site, as well as the presence of environmentally-sensitive wetlands precluding development, result in a unique situation where the only remaining area to provide functional circulation and loading areas on the site is within a front yard. The applicant proposes to continue loading operations within the Clay Avenue front yard. The provision of trailer parking spaces and maneuvering area with adequate and appropriate site circulation is limited by the unique characteristics of the subject premises. The placement and configuration of the building on the site dictates the need to have unobstructed access between Clay Avenue and the site's loading doors.

If screening was to be installed in conformance with the regulations, truck movements would be significantly restricted on the site, resulting in significant disutility of the site. Therefore, the strict application of the regulations would cause peculiar and exceptional practical difficulties and hardship to the property owner.

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

The requested variance will not adversely affect public health, safety, morals, order, convenience, prosperity or general welfare. The use of the site's Clay Avenue frontage is required to be unobstructed to allow for functional loading operations on the subject property, where the existing and proposed number of loading doors remain the same. If landscaped screening was required to be installed in conformance with the regulations, additional curb would be required which would further restrict truck movements on the site, resulting in more truck maneuvering within the Clay Avenue ROW. However, per the condition in Sections IV.B and IV.E of this recommendation regarding the proposed front yard setback along Clay Avenue, additional opportunity for landscaping will be available to screen the front yard loading area to the extent possible. A condition of the requested variance is recommended that, subject to the review and approval of the NJSEA Chief Engineer, additional landscaping shall be provided in the portion of the Clay Avenue front yard in the vicinity of the eliminated six proposed trailer parking spaces, to provide additional screening of the site's loading area.

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

The granting of the requested variance will not have a substantial adverse environmental impact. The width of the existing curb cut does not allow for the installation of landscaped screening, and continues the existing front yard loading operations that are a preexisting nonconforming condition on the premises. Additional landscaping is proposed to the north of the loading area to provide some additional screening of the site's loading operations than currently exists. With the recommended condition to provide

additional landscaping, the lack of landscaped screening in the portion of the site in front of the loading doors will not cause the NJSEA's environmental performance standards for noise, glare, vibrations, airborne emissions, or hazardous materials to be exceeded.

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

Due to the site's pre-existing and unique conditions, there is no area available on the site to provide the required landscaped screening across the front of the loading doors. The excessive width of the existing curb cut is required to accommodate the site's loading operations. However, the existing and proposed number of loading doors are to remain the same. While additional pavement is proposed on the site to accommodate truck movements and, therefore, minimize truck movements in the Clay Avenue ROW, the curb cut is still required to accommodate the site's truck maneuvers. The installation of additional landscaped islands across the site's frontage would negatively impact both on site and off site circulation. Therefore, the variance represents the minimum deviation from the regulations that will afford relief.

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

The intent of the District Zoning Regulations includes the promotion of development in accordance with good planning principles that relates the type, design and layout of such development to the particular site and surrounding environs. The absence of landscaping across the site's loading frontage continues an existing condition to allow for appropriate access to the existing warehouse and distribution facility, which permits the site to be developed in a safe and orderly manner. The applicant proposes additional landscaping in the open space to the north of the loading area to maximize what available area exists on the site to provide for screening. The applicant has demonstrated that the preexisting and unique site conditions constrain site development, and, the proposal effectively continues the existing condition. Therefore, granting of the requested variance will not substantially impair the intent and purpose of these regulations.

V. SUMMARY OF CONCLUSIONS

- A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards or within buffer areas. Paved vehicular use areas, inclusive of vehicular parking spaces, are proposed within the required front yard facing Clay Avenue at a minimum setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.

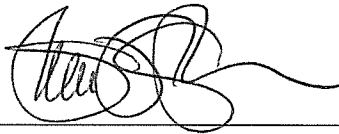
Based on the record in this matter, the bulk variance application to permit a minimum setback of 4.35 feet to a new paved vehicular use area, inclusive of vehicular parking spaces, within the 50-foot-wide required front yard along Clay Avenue is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

1. No landscaping shall be provided within the line of sight triangles at site driveways, or the intersection of Valley Brook and Clay Avenues, in accordance with N.J.A.C. 19:4-8.5, and where proposed parking spaces cannot be screened in accordance with this requirement, those parking spaces shall be eliminated.
2. Additional landscaping, including, but not limited to, the use of landscaped berms, shall be provided to eliminate gaps in landscaping and to achieve compliance with N.J.A.C. 19:4-8.9(d)6i.
3. All striped islands shall be curbed and landscaped safety islands in accordance with N.J.A.C. 19:4-8.2(c)11. At the discretion of the NJSEA Chief Engineer, limited sections of flush curb may be installed to allow for the passage of stormwater surface runoff, the design of which shall be accompanied by a stormwater management report signed and sealed by a NJ-licensed Professional Engineer.

CONDITIONALLY APPROVED 1/11/2022

Recommendation on
Variance Request

Date

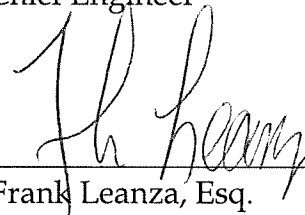


Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer

Conditionally Approved 1/11/2022

Recommendation on
Variance 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. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards or within buffer areas. A paved vehicular use area inclusive of the trailer parking spaces and maneuvering area is proposed within the required front yard facing Clay Avenue at a setback of 4.35 feet, whereas the front yard setback requirement is 50 feet.

Based on the record in this matter, the bulk variance application to permit a minimum setback of 4.35 feet to a new vehicular use area, inclusive of the six trailer parking spaces and maneuvering area, within the 50-foot-wide required front yard along Clay Avenue is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

1. The six proposed trailer parking spaces to the north of the loading doors shall be eliminated, and the subject area shall revert to open space.
2. The portion of the Clay Avenue front yard in the vicinity of the six proposed trailer parking spaces shall be modified to provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide opportunities for additional landscaping and screening.

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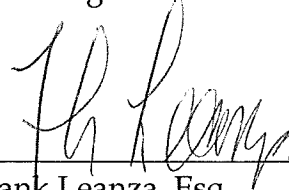


Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer

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Senior Vice President
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C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(c)7, which requires that all vehicular use areas shall be properly screened and landscaped in accordance with N.J.A.C. 19:4-8.9. The proposed re-configured parking spaces along Valley Brook Avenue do not allow for the construction of a landscaped berm or the dense planting of evergreens on the subject premises sufficient to reduce headlight glare from within the parking lot as required by N.J.A.C. 19:4-8.9(d)6i.

Based on the record in this matter, the bulk variance application to construct a vehicular use area that does not allow for the construction of a landscaped berm or the dense planting of evergreens on the subject premises sufficient to reduce headlight glare from within the parking lot towards the Valley Brook Avenue right of way is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

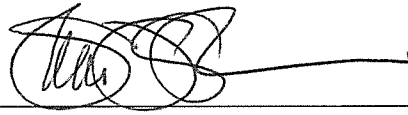
1. The Applicant shall obtain a fully executed resolution from the governing body of the Township of Lyndhurst establishing the location of and maintenance requirements for the landscape easement per Exhibit A-8, which shall be recorded within the Bergen County Deed Register, and noted on a revised survey and site plan to be submitted prior to issuance of any final Certificate of Completion and/or Occupancy Certification for the proposed application. A filed copy of the easement agreement shall be provided to the NJSEA.
2. No landscaping shall be provided within the line of sight triangles at site driveways, or the intersection of Valley Brook and Clay Avenues, in accordance with N.J.A.C. 19:4-8.5, and where proposed parking spaces cannot be screened in accordance with this requirement, those parking spaces shall be eliminated.
3. Additional landscaping, including, but not limited to, the use of landscaped berms, shall be provided to eliminate gaps in landscaping and to achieve compliance with N.J.A.C. 19:4-8.9(d)6i.

4. All striped islands shall be curbed and landscaped safety islands in accordance with N.J.A.C. 19:4-8.2(c)11. At the discretion of the NJSEA Chief Engineer, limited sections of flush curb may be installed to allow for the passage of stormwater surface runoff, the design of which shall be accompanied by a stormwater management report signed and sealed by a NJ-licensed Professional Engineer.
5. Internal two-way drive aisles that intersect near the Valley Brook Avenue driveway shall be STOP-controlled.

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Variance Request

1/11/2022
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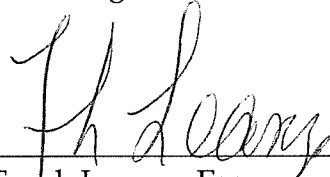


Sara J. Sundell, P.E., P.P.
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D. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard. Five new loading areas are proposed in the front yard facing Clay Avenue.

Based on the record in this matter, the bulk variance application to construct five new loading areas in the front yard facing Clay Avenue is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

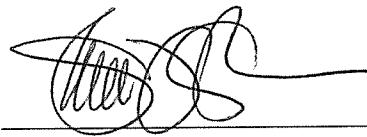
1. The size of vehicles utilizing proposed exterior loading doors No. 8, 9, 10 and 11 shall not be larger than a WB-50 and shall not exceed 57.34 feet in total length. These loading spaces shall be delineated in the field with signage reading, "Truck Loading Only: No Trailers Over 43 Feet Permitted," and by striping indicating, "WB-50 ONLY."
2. The size of vehicles utilizing proposed exterior loading door No. 7 shall not be larger than a WB-67 and shall not exceed 68.66 feet in total length. These loading spaces shall be delineated in the field with signage reading, "Truck Loading Only: No Trailers Over 53 Feet Permitted," and by striping indicating, "WB-67 ONLY."

CONDITIONALLY APPROVED

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Variance Request

1/11/2022

Date



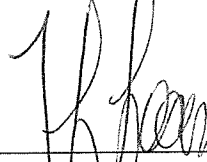
Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer

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E. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)4, which requires that all entrances and exits to loading areas shall be located in a safe and convenient manner with minimal impact on traffic movement on the site and adjacent streets. In order to access the proposed exterior loading areas and the proposed trailer parking area, maneuvering vehicles will encroach within the Clay Avenue right of way.

Based on the record in this matter, the bulk variance application to permit vehicles to maneuver within the Clay Avenue right of way to access the proposed exterior loading areas is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

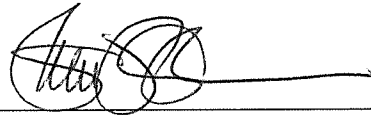
1. The six proposed trailer parking spaces to the north of the loading doors shall be eliminated, and the subject area shall revert to open space.
2. The portion of the Clay Avenue front yard in the vicinity of the six proposed trailer parking spaces shall be modified to provide only enough pavement within the front yard, at a minimum setback of 4.35 feet, in order to minimize truck loading movements within the Clay Avenue ROW associated with trucks accessing both the reconfigured and existing loading doors, and to provide opportunities for additional landscaping and screening.

CONDITIONALLY APPROVED

Recommendation on
Variance Request

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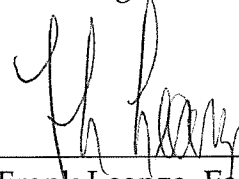
Sara J. Sundell, P.E., P.P.
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Senior Vice President
Chief of Legal & Regulatory Affairs

F. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(c)3, which requires that all loading areas be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii. The proposed re-configured loading areas along Clay Avenue do not allow for the construction of a solid and continuous fence supplemented by evergreens capable of maturing to a height and width sufficient to screen the loading areas and vehicles from the Clay Avenue right of way.

Based on the record in this matter, the bulk variance application to construct the proposed re-configured loading areas along Clay Avenue without the required screening and landscaping to be provided on the subject premises is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITION:

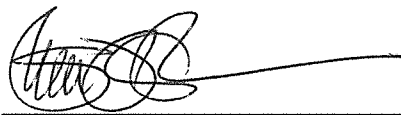
1. Subject to the review and approval of the NJSEA Chief Engineer, additional landscaping shall be provided in the portion of the Clay Avenue front yard in the vicinity of the eliminated six proposed trailer parking spaces, to provide additional screening of the site's loading area.

CONDITIONALLY APPROVED

Recommendation on
Variance Request

1/11/2022

Date



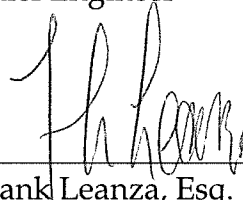
Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer

Conditionally Approved

Recommendation on
Variance Request

1/11/2022

Date



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

RESOLUTION 2022-04

**RESOLUTION CERTIFYING THE
MEADOWLANDS ADJUSTMENT PAYMENTS FOR CY2022**

WHEREAS, pursuant to P.L. 2015, c.19, the New Jersey Sports and Exposition Authority is required on or before February 1 of each year, to certify to the financial officer of each constituent Hackensack Meadowlands municipality an amount known as the Meadowlands Adjustment Payment; and

WHEREAS, the Meadowlands Adjustment Payments for the adjustment year 2022 have been computed and are shown on the schedule attached hereto; and

WHEREAS, the tax sharing computations have been reviewed and verified by the independent auditing firm of Mercadien, P.C.

NOW THEREFORE BE IT RESOLVED by the New Jersey Sports and Exposition Authority that the Meadowlands Adjustment Payments, as shown on the attached schedule, are hereby certified to the financial officers of each constituent municipality.

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 January 27, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', is written over a horizontal line.

Vincent Prieto
Secretary

2022 MEADOWLANDS TAX SHARING SCHEDULE

EXHIBIT A

MUNICIPALITY	ADJUSTMENT PAYMENT REC (PAY)	RECEIVABLE		
		DUE 5/15/2022	DUE 8/15/2022	DUE 11/15/2022
CARLSTADT	(\$1,813,418)	0	0	0
EAST RUTHERFORD	(\$211,645)	0	0	0
LITTLE FERRY	(\$1,163,807)	0	0	0
LYNDHURST	(\$740,060)	0	0	0
MOONACHIE	(\$862,168)	0	0	0
NORTH ARLINGTON	\$1,200,095	400,032	400,032	400,031
RIDGEFIELD	\$845,978	281,993	281,992	281,993
RUTHERFORD	(\$142,216)	0	0	0
SOUTH HACKENSACK	(\$464,039)	0	0	0
TETERBORO	\$0	0	0	0
JERSEY CITY	\$1,105,893	368,631	368,631	368,631
KEARNY	\$6,853,589	2,284,529	2,284,530	2,284,530
NORTH BERGEN	(\$2,024,173)	0	0	0
SECAUCUS	(\$2,584,029)	0	0	0
TOTAL	\$0	3,335,185	3,335,185	3,335,185
TOTAL RECEIVABLE	\$ 10,005,555			
TOTAL PAYABLE	\$ (10,005,555)			

**2022 MEADOWLANDS TAX SHARING SCHEDULE
EXHIBIT A-1**

	2019 PRE-ADJUSTMENT PAYMENT	2020 PRE-ADJUSTMENT PAYMENT	2021 PRE-ADJUSTMENT PAYMENT	ADJUSTMENT PAYMENT THREE - YEAR AVERAGE 2022	ADJUSTMENT PAYMENT 2021
CARLSTADT	(\$2,600,986)	(\$1,704,554)	(\$1,134,714)	(\$1,813,418)	(\$2,392,712)
EAST RUTHERFORD	\$15,210	(\$598,313)	(\$51,832)	(\$211,645)	(\$315,592)
LITTLE FERRY	(\$1,251,186)	(\$1,206,551)	(\$1,033,685)	(\$1,163,807)	(\$1,259,120)
LYNDHURST	(\$877,988)	(\$140,141)	(\$1,202,051)	(\$740,060)	(\$681,651)
MOONACHIE	(\$731,680)	(\$801,415)	(\$1,053,408)	(\$862,168)	(\$786,978)
NORTH ARLINGTON	\$1,159,556	\$1,172,594	\$1,268,136	\$1,200,095	\$1,145,483
RIDGEFIELD	\$755,481	\$813,712	\$968,740	\$845,978	\$790,930
RUTHERFORD	(\$179,633)	(\$202,574)	(\$44,442)	(\$142,216)	(\$199,219)
SOUTH HACKENSACK	(\$525,051)	(\$514,413)	(\$352,654)	(\$464,039)	(\$494,217)
TETERBORO	\$0	\$0	\$0	\$0	\$0
JERSEY CITY	\$1,032,630	\$1,052,312	\$1,232,737	\$1,105,893	\$1,048,878
KEARNY	\$6,783,165	\$6,549,113	\$7,228,490	\$6,853,589	\$6,562,016
NORTH BERGEN	(\$1,881,028)	(\$2,103,912)	(\$2,087,580)	(\$2,024,173)	(\$1,989,073)
SECAUCUS	(\$1,698,491)	(\$2,315,858)	(\$3,737,737)	(\$2,584,029)	(\$1,428,746)
BERGEN COUNTY	(\$4,236,277)	(\$3,181,655)	(\$2,635,910)	(\$3,351,280)	(\$4,193,076)
HUDSON COUNTY	\$4,236,277	\$3,181,655	\$2,635,910	\$3,351,281	\$4,193,076
	\$0	\$0	\$0	\$1	\$0

2022 TAXSHARING DISTRIBUTION

EXHIBIT B

	2018 COMPARISON YEAR				1970 BASE YEAR				2018			
	2018 AGGREGATE ASSESSED VALUATION	2018 EQUALIZATION RATIO NISA34:1.35.1	2018 AGGREGATE TRUE VALUATION (Col. 1/Col.2)	2018 EQUALIZATION RATIO NISA34:1.35.1	1970 AGGREGATE ASSESSED VALUATION	1970 EQUALIZATION RATIO NISA34:1.35.1	1970 AGGREGATE TRUE VALUATION (Col. 4/Col.5)	EQUALIZATION INCREASE/DECREASE OF TRUE VALUE IN COMPARISON YEAR (Col. 3 - 6)	2018 MUNICIPAL TAX RATE (ADJUSTED) (Col. 8 * Col. 2)	2018 EFFECTIVE TAX RATE (Col. 8 * Col. 2)	2018 INCREASE OF H.M. PUPILS OVER BASE YEAR 1970 (10)	2018 COST PER PUPIL IN COMPARISON YEAR (11)
	(1)	(2)	(3)	(5)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
CARLSTADT	\$1,283,648,997	101.02 %	\$1,275,637,495	72.05 %	\$72,295,483	72.05 %	\$100,340,712	\$1,175,296,783	\$1,809	\$1,827	0	
EAST RUTHERFORD	\$892,553,001	90.78	\$983,204,451	89.51	\$41,975,219	89.51	\$46,894,446	\$916,310,005	\$1,778	\$1,614	0	
LITTLE FERRY	\$202,180,200	93.39	\$216,490,202	98.28	\$14,203,275	98.28	\$14,451,847	\$202,038,355	\$3,179	\$2,969	0	
LYNDHURST	\$745,572,400	82.42	\$909,454,501	69.11	\$12,093,803	69.11	\$17,506,588	\$891,947,913	\$2,943	\$2,426	84	\$ 15,318
MOONACHIE	\$446,027,738	97.12	\$459,354,261	106.62	\$49,175,466	106.62	\$46,122,178	\$413,132,083	\$2,326	\$2,259	0	
NORTH ARLINGTON	\$983,500	94.59	\$1,039,751	68.96	\$330,900	68.96	\$479,843	\$559,908	\$2,984	\$2,823	0	
RIDGEFIELD	\$226,738,100	80.66	\$273,664,890	90.05	\$20,349,950	90.05	\$22,598,501	\$231,066,389	\$2,465	\$1,988	0	
RUTHERFORD	\$178,583,200	91.54	\$195,087,612	102.94	\$15,347,700	102.94	\$14,909,365	\$180,178,247	\$2,694	\$2,466	0	
SOUTH HACKENSACK	\$69,000,800	94.27	\$73,194,866	76.34	\$6,072,150	76.34	\$7,954,087	\$65,240,779	\$2,674	\$2,521	0	
TEKERBORO	\$0	0.00	\$0	108.48	\$18,602,200	108.48	\$17,148,046	\$0	\$1,154	\$0,000	0	
JERSEY CITY	\$332,591,900	101.02	\$329,333,716	90.11	\$15,980,900	90.11	\$17,736,848	\$311,496,868	\$1,490	\$1,505	0	
KEARNY	\$85,144,200	27.11	\$314,069,347	82.27	\$31,008,267	82.27	\$37,690,856	\$276,378,491	\$11,188	\$3,033	82	\$ 9,408
NORTH BERGEN	\$329,454,625	39.50	\$834,062,342	78.46	\$26,623,623	78.46	\$33,932,734	\$800,129,608	\$5,563	\$2,197	0	
SECAUCUS	\$2,391,266,734	51.82	\$5,000,314,732	72.35	\$95,145,123	72.35	\$131,506,735	\$4,869,007,997	\$3,548	\$1,839	841	\$ 16,729
BERGEN COUNTY	\$4,048,287,936	NA	4,387,028,029	NA	\$250,451,146	NA	\$288,405,613	\$4,115,770,462	NA	NA	84	NA
HUDSON COUNTY	\$3,338,457,459	NA	6,477,880,137	NA	\$168,757,913	NA	\$220,867,173	\$6,257,012,964	NA	NA	923	NA
ALL MUNICIPALITIES	\$7,386,745,395	NA	10,864,908,166	NA	\$419,209,059	NA	\$509,272,786	\$10,372,783,426	NA	NA	1,007	NA

	2018 COUNTY PORTION OF TAX RATE	2018 MUNICIPAL/SCHOOL VET./S.C. PORTION OF TAX RATE	2018 APPORTIONMENT RATE (COL. 9 * COL. 13)	PERCENT OF H.M.D. LAND AREA FOR EACH MUNICIPALITY	2018 YEAR INCREASE IN TAXES OVER 1970 BASE YEAR (Col. 7 * Col. 9)	LESS PORTION OF COL. 12 COUNTY TAX PERCENT (Col. 16 * Col. 12)	(SECTION 13:17 - 67) 2018 TAXES COLLECTED LESS COUNTY TAXES POST 1970 RATABLES (Col. 14 * Col. 7)	DIRECT RETENTION (60% OF COL. 18)	TOTAL SUBJECT TO TAX SHARING (COL. 18 - COL. 19)	GUARANTEE PAYMENTS
	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
CARLSTADT	12.700 %	87.300 %	1.5949710%	12.193 %	\$21,472,672	\$2,727,029	\$18,745,643	\$11,247,386	\$7,498,257	\$0
EAST RUTHERFORD	10.231	89.769	1.4488717%	10.298	\$15,112,043	\$1,546,113	\$13,565,930	\$8,139,558	\$5,426,372	\$0
LITTLE FERRY	7.261	92.739	2.7534209%	2.283	\$5,998,519	\$435,552	\$5,562,966	\$3,337,780	\$2,225,186	\$0
LYNDHURST	9.916	90.064	2.1849526%	10.168	\$21,038,656	\$2,150,017	\$19,488,639	\$11,693,183	\$7,795,456	\$0
MOONACHIE	10.533	89.467	2.0210595%	4.381	\$9,332,654	\$983,008	\$8,349,645	\$5,009,787	\$3,339,858	\$0
NORTH ARLINGTON	7.864	92.136	2.6009993%	2.441	\$15,806	\$1,243	\$14,563	\$8,738	\$5,825	\$0
RIDGEFIELD	11.883	88.117	1.7517660%	5.227	\$4,991,200	\$593,104	\$4,398,096	\$2,638,858	\$1,759,238	\$0
RUTHERFORD	9.580	90.420	2.2297572%	2.994	\$4,443,196	\$425,658	\$4,017,537	\$2,410,522	\$1,607,015	\$0
SOUTH HACKENSACK	9.349	90.651	2.2853117%	0.467	\$1,644,720	\$153,765	\$1,490,955	\$894,573	\$596,382	\$0
TETERBORO	23.079	76.921	0.0000000%	-	\$0	\$0	\$0	\$0	\$0	\$0
JERSEY CITY	26.831	73.169	1.1011935%	4.991	\$4,688,028	\$1,257,845	\$3,430,183	\$2,058,110	\$1,372,073	\$0
KEARNY	14.254	85.746	2.6006762%	17.881	\$8,382,560	\$1,194,850	\$7,187,710	\$4,312,626	\$2,875,084	\$0
NORTH BERGEN	19.038	80.962	1.7787351%	6.908	\$17,578,847	\$3,346,661	\$14,232,187	\$8,539,312	\$5,692,875	\$0
SECAUCUS	21.478	78.522	1.4440196%	19.768	\$89,541,057	\$19,231,628	\$70,309,429	\$42,185,657	\$28,123,772	\$0
BERGEN COUNTY	NA	NA	NA	50.452	\$84,649,466	\$9,015,489	\$75,633,974	45,380,385	\$30,253,589	\$0
HUDSON COUNTY	NA	NA	NA	49.548	\$120,190,492	\$25,030,984	\$95,159,509	\$7,095,705	\$38,063,804	\$0
ALL MUNICIPALITIES	NA	NA	NA	100.000	\$204,839,958	\$34,046,473	\$170,793,483	102,476,090	\$68,317,393	\$0

	SCHOOL SERVICE PAYMENTS (Col. 10 * Col. 11)	APPORTIONMENT PAYMENTS (%IN COL. 15 * COL 20 TOTAL - COL 21 AND COL 22 TOTALS	TOTAL CREDIT DUE MUNICIPALITY (TOTAL OF COLUMNS 21+22+23)	2022 PRE-ADJUSTMENT PAYMENT (Col. 24 - 20)	ADJUSTMENT 2021 RECALCULATION (26)	ADJUSTMENT 2020 RECALCULATION (27)	ADJUSTMENT 2022 RECALCULATION (28)	TOTAL 2022 ADJUSTMENT PAYMENT (28)
	(22)	(23)	(24)	(25)	(26)	(27)	(28)	
CARLSTADT	\$0	\$6,363,543	\$6,363,543	(\$1,134,714)	\$0	\$0	(\$1,134,714)	
EAST RUTHERFORD	\$0	\$5,374,540	\$5,374,540	(\$51,832)	\$0	\$0	(\$51,832)	
LITTLE FERRY	\$0	\$1,191,501	\$1,191,501	(\$1,033,685)	\$0	\$0	(\$1,033,685)	
LYNDHURST	\$1,286,712	\$3,306,693	\$6,593,405	(\$1,202,051)	\$0	\$0	(\$1,202,051)	
MOONACHIE	\$0	\$2,286,450	\$2,286,450	(\$1,053,408)	\$0	\$0	(\$1,053,408)	
NORTH ARLINGTON	\$0	\$1,273,961	\$1,273,961	\$1,268,136	\$0	\$0	\$1,268,136	
RIDGEFIELD	\$0	\$2,727,978	\$2,727,978	\$968,740	\$0	\$0	\$968,740	
RUTHERFORD	\$0	\$1,562,573	\$1,562,573	(\$44,442)	\$0	\$0	(\$44,442)	
SOUTH HACKENSACK	\$0	\$243,728	\$243,728	(\$352,654)	\$0	\$0	(\$352,654)	
TETERBORO	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
JERSEY CITY	\$0	\$2,604,810	\$2,604,810	\$1,232,737	\$0	\$0	\$1,232,737	
KEARNY	\$771,456	\$9,332,118	\$10,103,574	\$7,228,490	\$0	\$0	\$7,228,490	
NORTH BERGEN	\$0	\$3,605,295	\$3,605,295	(\$2,087,580)	\$0	\$0	(\$2,087,580)	
SECAUCUS	\$14,069,089	\$10,316,946	\$24,386,035	(\$3,737,738)	\$0	\$0	(\$3,737,737)	
BERGEN COUNTY	\$1,286,712	\$26,330,967	\$27,617,679	(\$2,635,910)	\$0	\$0	(\$2,635,910)	
HUDSON COUNTY	\$14,840,545	\$25,859,169	\$40,699,714	\$2,635,909	\$0	\$0	\$2,635,910	
ALL MUNICIPALITIES	\$16,127,257	\$52,190,136	\$68,317,393	(\$2)	\$0	\$0	\$0	

2022 MEADOWLANDS TAX SHARING SCHEDULE
IN LIEU TAX PAYMENTS - 2018

SCHEDULE 1

MUNICIPALITY:	IN LIEU OF TAX PAYMENT	TAX RATE	ASSUMED ASSESSED VALUATION COL. 1/2	EQUALIZATION RATIO 54:135.1	EQUALIZED VALUATION COL. 3/4
CARLSTADT	\$12,867	1.922	\$669,459	101.02	\$662,699
EAST RUTHERFORD (A,B)	\$8,296,941	1.778	\$466,644,601	90.78	\$514,038,996
LITTLE FERRY	\$0	3.301	\$0	93.39	\$0
LYNDHURST	\$0	2.976	\$0	82.42	\$0
MOONACHIE	\$16,336	2.423	\$674,188	97.12	\$694,181
NORTH ARLINGTON	\$0	2.914	\$0	94.59	\$0
RIDGEFIELD	\$0	2.417	\$0	80.66	\$0
RUTHERFORD	\$0	2.701	\$0	91.54	\$0
SOUTH HACKENSACK	\$0	2.759	\$0	94.27	\$0
TETERBORO	\$0	1.155	\$0	103.34	\$0
JERSEY CITY	\$0	1.488	\$0	101.02	\$0
KEARNY	\$0	10.561	\$0	27.11	\$0
NORTH BERGEN (B)	\$0	5.636	\$0	39.50	\$0
SECAUCUS (B)	\$10,500	3.610	\$290,859	51.82	\$561,287
BERGEN COUNTY	\$8,326,144		\$467,988,248	-	\$515,395,876
HUDSON COUNTY	\$10,500		\$290,859	-	\$561,287
ALL MUNICIPALITIES	\$8,336,644		\$468,279,106	-	\$515,957,163

SCHEDULE 2

2022 MEADOWLANDS TAX SHARING SCHEDULE
2018 COMPARISON YEAR
REVISION OF TAX RATES
TO ADJUST FOR COMPOUNDING

COL. 7* 2018 GENERAL TAX RATE	SEC. 12-D* TAX LEVY ON WHICH TAX RATE IS COMPUTED	2019 ADJUSTMENT PAYMENT	ADJ. TAX LEVY (2-3)	COL. 6* NET VALUATION TAXABLE	ADJ. TAX RATE (4)/(5)	SEC. 12-AIII* NET COUNTY TAXES APPORTIONED	TAX RATE % COUNTY TAXES (7)/(4)	TAX RATE % ALL OTHER USES
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.922	\$44,467,379	(\$2,600,986)	\$41,866,393	\$2,313,884,514	\$1,809	\$5,282,617	12.618%	87.382%
1.778	\$37,231,019	\$15,210	\$37,246,229	\$2,095,011,962	\$1,778	\$3,771,773	10.127%	89.873%
3.301	\$33,867,272	(\$1,251,186)	\$32,616,086	\$1,026,129,130	\$3,179	\$2,363,321	7.246%	92.754%
2.976	\$79,317,716	(\$877,988)	\$78,439,748	\$2,665,719,871	\$2,943	\$7,778,895	9.917%	90.083%
2.423	\$18,351,813	(\$731,680)	\$17,620,133	\$757,487,326	\$2,326	\$1,845,834	10.476%	89.524%
2.914	\$47,933,331	\$1,159,556	\$49,092,907	\$1,645,213,873	\$2,984	\$3,856,549	7.856%	92.144%
2.417	\$37,790,310	\$755,481	\$38,545,791	\$1,563,950,888	\$2,465	\$4,586,145	11.898%	88.102%
2.701	\$73,277,604	(\$179,631)	\$73,097,971	\$2,713,039,226	\$2,694	\$6,999,009	9.575%	90.425%
2.759	\$17,006,013	(\$525,051)	\$16,480,962	\$616,437,300	\$2,674	\$1,548,408	9.395%	90.605%
1.155	\$4,968,746	\$0	\$4,968,746	\$430,460,300	\$1,154	\$1,146,743	23.079%	76.921%
1.488	\$511,076,766	\$1,032,650	\$512,109,396	\$34,360,843,026	\$1,490	\$137,412,447	26.833%	73.167%
10.561	\$114,167,008	\$6,783,165	\$120,950,173	\$1,081,067,198	\$11,188	\$17,178,547	14.203%	85.797%
5.636	\$145,654,376	(\$1,881,028)	\$143,773,348	\$2,584,393,269	\$5,563	\$27,352,336	19.025%	80.975%
1.610	\$100,042,182	(\$1,698,491)	\$98,343,691	\$2,771,569,462	\$3,548	\$21,428,274	21.789%	78.211%

2022 MEADOWLANDS TAX SHARING SCHEDULE
STUDENT ENROLLMENT
AS OF SEPTEMBER 30, 2018
WITH BASE YEAR 1970

SCHEDULE 3

MUNICIPALITY:	LOCAL DISTRICT SCHOOL ENROLLMENT	REGIONAL DISTRICT SCHOOL ENROLLMENT	LOCAL and REGIONAL SCHOOL ENROLLMENT	1970 BASE YEAR H.M.D.C. SCHOOL ENROLLMENT	2018 H.M.D.C. ENROLLMENT	INCREASE (DECREASE) STUDENT ENROLLMENT
CARLSTADT	504	251	755	14	0	-14
EAST RUTHERFORD	726	347	1073	26	26	0
LITTLE FERRY	898	465	1363	274	232	-42
LYNDHURST	2410	75	2485	0	84	84
MOONACHIE	287	9	296	223	203	-20
NORTH ARLINGTON	1832	68	1900	0	0	0
RIDGEFIELD	1737	2	1739	0	0	0
RUTHERFORD	2530	64	2594	0	0	0
SOUTH HACKENSACK	258	119	377	0	0	0
TETERBORO	0	0	0	0	0	0
JERSEY CITY	24599	9	24608	16	6	-10
KEARNY	5655	0	5655	0	82	82
NORTH BERGEN	7760	73	7833	29	0	-29
SECAUCUS	2179	36	2215	408	1249	841
BERGEN COUNTY	11182	1400	12582	537	545	8
HUDSON COUNTY	40193	118	40311	453	1337	884
ALL MUNICIPALITIES	51375	1518	52893	990	1882	892

2020 MEADOWLANDS TAX SHARING SCHEDULE
2017 SCHOOL TAX DATA

SCHEDULE 4

MUNICIPALITY:	LOCAL TAXES AS REQUIRED BY DISTRICT SCHOOL BUDGET (1)	LOCAL TAXES AS REQUIRED BY REGIONAL SCHOOL BUDGET (2)	BY LOCAL MUNICIPAL BUDGET (3)	TOTAL SCHOOL TAXES COLUMNS(1+2+3) (4)	TOTAL SCHOOL DISTRICT ENROLLMENT (5)	COST PER PUPIL COL. 4/5 (6)
CARLSTADT	\$12,338,555	\$7,446,625	\$0	\$19,785,180	755	\$26,206
EAST RUTHERFORD	\$16,532,619	\$5,617,629	\$0	\$22,150,248	1073	\$20,643
LITTLE FERRY	\$19,074,412	\$0	\$0	\$19,074,412	1363	\$13,994
LYNDHURST	\$38,065,035	\$0	\$0	\$38,065,035	2485	\$15,318
MOONACHIE	\$8,325,950	\$0	\$0	\$8,325,950	296	\$28,128
NORTH ARLINGTON	\$25,868,925	\$0	\$0	\$25,868,925	1900	\$13,615
RIDGEFIELD	\$21,824,484	\$0	\$0	\$21,824,484	1739	\$12,550
RUTHERFORD	\$42,062,891	\$0	\$0	\$42,062,891	2594	\$16,215
SOUTH HACKENSACK	\$7,973,031	\$0	\$0	\$7,973,031	377	\$21,149
TETERBORO	\$207,658	\$0	\$0	\$207,658	0	\$0
JERSEY CITY	\$120,529,903	\$0	\$3,063,404	\$123,593,307	24608	\$5,022
KEARNY	\$53,203,134	\$0	\$0	\$53,203,134	5655	\$9,408
NORTH BERGEN	\$50,850,587	\$0	\$0	\$50,850,587	7833	\$6,492
SECAUCUS	\$37,054,759	\$0	\$0	\$37,054,759	2215	\$16,729
BERGEN COUNTY	\$192,273,560	\$13,064,254	\$0	\$205,337,814	12582	
HUDSON COUNTY	\$261,638,383	\$0	\$3,063,404	\$264,701,787	40311	
ALL MUNICIPALITIES	\$453,911,943	\$13,064,254	\$3,063,404	\$470,039,601	52893	

AWARDS / CONTRACTS

RESOLUTION 2022-05

**RESOLUTION AUTHORIZING AGREEMENTS WITH NEW JERSEY TRANSIT
FOR THE ACQUISITION OF A FEE SIMPLE ESTATE AND GRANT OF A
TEMPORARY CONSTRUCTION EASEMENT TO BE USED FOR
CONSTRUCTION OF THE PORTAL BRIDGE PROJECT**

WHEREAS, the Portal North Bridge Project ("Bridge Project") being undertaken by NEW JERSEY TRANSIT CORPORATION, ("NJ Transit") involves the replacement of the current 110-year-old Portal Bridge over the Hackensack River in Kearny, Hudson County, with a proposed two-track fixed structure that will increase capacity to meet demands along the Northeast Corridor and improve service reliability; and

WHEREAS, NEW JERSEY SPORTS AND EXPOSITION AUTHORITY ("NJSEA") is the owner of property located at Block 287 Lots 33 and 33.01 in the Town of Kearny, County of Hudson; and

WHEREAS, NJ Transit is presently in the process of acquiring Right-of-Way parcels and construction easements for the Bridge Project; and

WHEREAS, during the early stages of the Bridge Project, NJSEA had granted a Temporary Easement for Construction and Access to NJ TRANSIT ("Agreement"); and

WHEREAS, NJ TRANSIT has determined there is a need to maintain certain temporary easement rights for an additional term and with modifications to the original Agreement; and

WHEREAS, NJ Transit desires to acquire from NJSEA property interests consisting of a 2.009-acre Fee Simple Estate ("Parcel 119A") and a 0.416 acre Temporary Construction Easement ("Parcel TCE119B"), which are portions of Block 287, Lots 33 and 33.01, located in the Town of Kearny, New Jersey (collectively hereinafter referred to as the "Property Interests"); and

WHEREAS, the Property Interests have limited utility for conventional development but are required by NJ Transit to construct and maintain the Bridge Project; and.

WHEREAS, the terms of the conveyance, including but not limited to the compensation, are the result of bona fide negotiations between NJSEA and NJ Transit, pursuant to the Eminent Domain Act of 1971, N.J.S.A. 20:3-1, et seq.; and

WHEREAS, the parties reached mutual agreement on a settlement subject to Federal Transit Administration concurrence, which proposed settlement represents a compromise acceptable to both parties; and

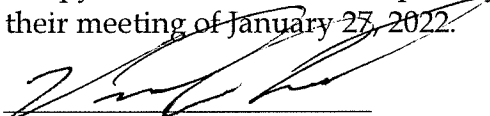
WHEREAS, under the terms of the proposed settlement, the purchase price for the Fee Simple Estate is \$200,900.00, which shall be paid by NJ Transit at the time of Closing; and

WHEREAS, in consideration for the grant of a Temporary Construction Easement, NJ Transit shall pay \$10,000 per year for a term of five years to NJSEA.

NOW, THEREFORE, BE IT RESOLVED, that the President & CEO is hereby authorized to negotiate and enter into agreements with NEW JERSEY TRANSIT CORPORATION for the conveyance of the Property Interests.

BE IT FURTHER RESOLVED, that the President & CEO may take any and all actions and agree to any and all provisions in the agreements that are deemed necessary, desirable, or advisable to facilitate the acquisition and use of the Property Interests for the construction and maintenance of the Portal North Bridge Project.

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 January 27, 2022.



Vincent Prieto
Secretary

RESOLUTION 2022-06

**RESOLUTION AUTHORIZING AN ADDITIONAL \$142,087.13 TO REPAIR
SUBSURFACE DAMAGE AT THE MEADOWLANDS ARENA**

WHEREAS, at its October 28, 2021 meeting the NJSEA adopted Resolution 2021-25, "Resolution Authorizing Emergency Repair of Meadowlands Arena Elevators and Entrance Voids" (copy attached); and

WHEREAS, in order to repair entrance voids "the NJSEA entered into a contract with Joseph M. Sanzari, Inc. under the same terms as the contractor's emergency service contract with Bergen County in an amount currently estimated at \$135,000, but subject to conditions revealed during excavations [underline added]; and

WHEREAS, under excavation of the Meadowlands Arena site revealed: additional voids in all four entrances that required additional excavation, investigation, and proper filling; repair of additional drain and manholes; and milling and paving the box office/medical entrance to raise its elevation six (6") inches to avoid future flooding; and

WHEREAS, NJSEA facilities staff has authorized; inspected and approved the additional work as necessary and determined that the cost thereof was an additional \$142,087.13.

NOW, THEREFORE, BE IT RESOLVED that the contract amount with Joseph M. Sanzari, Inc. for its emergency services to repair Meadowlands Arena voids be increased by \$142,087.13 to \$277,087.13.

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 January 27, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto
Secretary

ATTACHMENT TO RES. 2022-06

RESOLUTION 2021-25

RESOLUTION AUTHORIZING EMERGENCY REPAIR OF MEADOWLANDS ARENA ELEVATORS AND ENTRANCE VOIDS

WHEREAS, effective at 9:00 p.m. on Wednesday, September 1, 2021 Governor Murphy issued Executive Order No. 259 declaring a State of Emergency resulting from the impact of Tropical Storm Ida; and

WHEREAS, on September 5, 2021 President Biden declared that a major disaster exists in the State of New Jersey, specifically including the Bergen County location at the New Jersey Sports and Exposition Authority's (NJSEA's) Meadowlands Arena; and

WHEREAS, State of New Jersey Executive Order #37 (Corzine) provides that public advertisement and competitive procurement processes shall not apply:

"In cases of unforeseen life, safety, or health emergencies where the public exigency requires that services or products be purchased immediately, as demonstrated by the memorialized concurrence of three authority officials who have been pre-designated to make such determinations. This exception is a limited one; the State authorities shall make efforts to contract in advance to deal with the types of emergencies that typically arise. In addition, the emergency contract must be limited to purchasing those services or products necessary to mitigate the emergency situation."; and

WHEREAS, on the morning after Hurricane Ida resulted in approximately eleven (11") inches of precipitation over the NJSEA Sports Complex, Senior Vice Presidents Duffy and Leanza, together with the NJSEA Engineering and Construction Department inspected the water damaged Arena and authorized an emergent clean up by both NJSEA employees and private contractors, concurred with by President and CEO Prieto; and

WHEREAS, post clean up and subsequent inspections at the Meadowlands Arena revealed major subsurface erosion and voids at the northern and southern entrances to the Meadowlands Arena resulting in a partial blocking of areas in danger of collapse and restricted access of ambulances to our EMT emergency care facility; and

WHEREAS, flooding of electro-mechanical components of Arena elevators have rendered the elevators inoperable for both emergency EMT purposes and employee and tenant access purpose; and

WHEREAS, the NJSEA could not have foreseen the major soil erosion, but did the reasonable precautions by entering into an elevator maintenance contract under a

ATTACHMENT TO RES. 2022-06

New Jersey State contract with the original vendor thereof, Schindler Elevator Corporation; and

WHEREAS, the necessary elevator repairs are outside of the scopes of both the elevator maintenance contract and the State of New Jersey contract with Schindler Elevator Corporation but these repairs within the scope of the State Contract will be billed accordingly; and

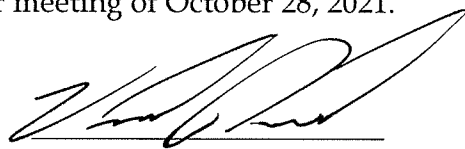
WHEREAS, the NJSEA was offered the services of Joseph M. Sanzari, Inc. for repair of the Arena entrance voids under the terms of the emergency contract currently in force with Bergen County Bid #1971-CO-OP; and

WHEREAS, claims are currently pending with the NJSEA's insurance carrier for both void and elevator repairs, with claims to be made with the Federal Emergency Management Agency for repairs in excess of insurance coverage.

NOW, THEREFORE, BE IT RESOLVED that the NJSEA enter into a contract with Joseph M. Sanzari, Inc. under the same terms as the contractor's emergency service contract with Bergen County in an amount currently estimated at \$135,000, but subject to conditions revealed during excavations.

BE IT FURTHER RESOLVED that the NJSEA accept the proposal of Schindler Elevator Corporation attached hereto as Exhibit A to repair the Arena elevators for \$967,230.

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 October 28, 2021.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto
Secretary

RESOLUTION 2022-07

**RESOLUTION TO ACQUIRE LiDAR FOR
THE HACKENSACK MEADOWLANDS DISTRICT**

WHEREAS, the current topographic data for the Meadowlands District dates back to 2014; and

WHEREAS, since 2014 new buildings and roads have been developed; and

WHEREAS, emergency managers require up-to-date contour and spot elevation data to assess risk to areas vulnerable to flooding; and

WHEREAS, accurate topographic measurements are needed to further reclaim, plan, develop and re-develop in the Meadowlands District; and

WHEREAS, the NJSEA was awarded a Grant from USEPA (CD96247300-0) that provides funding to acquire LiDAR data to update the existing topographic information of the Meadowlands District; and

WHEREAS, the NJSEA issued an RFP on December 20, 2021, seeking a vendor to acquire LiDAR data by performing a full flight over the District; and

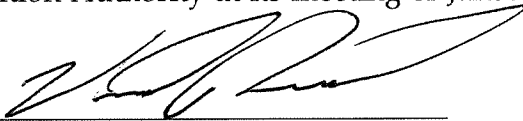
WHEREAS, in response to the RFP the NJSEA received 3 proposals; and

WHEREAS, an evaluation committee comprised of NJSEA staff, reviewed the proposals, and ranked the proposals based on established criteria; and

WHEREAS, after evaluating and ranking the submitted proposals, the evaluation committee recommends that the NJSEA award the contract to Kucera International Inc. as the highest ranked qualified firm, price and other factors considered.

NOW, THEREFORE, BE IT RESOLVED that the President and CEO is authorized to enter into a contract with Kucera International Inc. for the acquisition of LiDAR data using EPA Grant funds at a cost not to exceed the submitted bid price of \$49,900.00.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at its meeting of January 27, 2022.



Vincent Prieto
Secretary