

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

I. INTRODUCTION

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

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

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

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

II. GENERAL INFORMATION

A. Existing and Proposed Use

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

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

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

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

B. Response to the Public Notice

No written objections were received prior to the public hearing.

III. PUBLIC HEARING

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

A. Exhibits

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

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

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

B. Testimony

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

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

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

C. Public Comment

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

IV. RECOMMENDATION

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

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

Concerning use variances:

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

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

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

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

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

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

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

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

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

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

In addition, the siting of the proposed communications transmission

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

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

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

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

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

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

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

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

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

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

V. SUMMARY OF CONCLUSIONS

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

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

<u>APPROVAL</u>	<u>4/9/2020</u>	
Recommendation on Use Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>APPROVED</u>	<u>4/9/20</u>	
Recommendation on Use Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs