

RECOMMENDATION ON THE VARIANCE APPLICATION OF
HRP Hudson LLC - Major Subdivision & Variances
FILE # 22-387

I. INTRODUCTION

An application for three bulk variances has been filed with the NJSEA by HRP Hudson Owner LLC for the premises located along Van Keuren Avenue and identified as Block 3101, Lots 21, 22, 23, 24, 25, 26, 36, 37, 42, 43 & 44, and Block 7402, Lots 21, 22, 23, 24, 33, 34 & 35, in the City of Jersey City, New Jersey. The subject premises is located within the Hackensack Meadowlands District's Van Keuren Redevelopment Area. The three bulk variances are sought in connection with the applicant's proposed major subdivision, which includes the creation of seven (7) proposed lots to be known as proposed Block 7402.01, Lots 1, 2, 3, 4, 5, 6 and 7.

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

1. N.J.A.C. 19:5-7.4(a), which requires that all lots located in any subdivision shall have direct access to an improved public or private street; whereas, proposed Lots 1, 2, 3 and 4 do not contain direct access to an improved public or private street.
2. Section V.D.1(b) of the Van Keuren Redevelopment Plan, which requires a minimum lot width of 100 feet; whereas, proposed Lot 1 will have a minimum lot width of 89.8 feet.
3. Section V.D.2(b) of the Van Keuren Redevelopment Plan, which requires a minimum open space of 15 percent; whereas, open space of 9.3 percent and 4.6 percent will be provided for proposed Lots 2 and 3, respectively.

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 submitted to the Division of Land Use Management. An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, April 25, 2023. 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 properties in question, known as Parcel "A" (Block 3101, Lots 21, 22, 23, 24, 25, 26, 36, 37, 42, 43 & 44, and Block 7402, Lots 21, 22, 23, 24, 33, 34 & 35), comprise 86.174 acres of land within the Van Keuren Redevelopment Area in Jersey City. The existing properties within the Parcel "A" subdivision tract are part of a zoning lot of record, pursuant to N.J.A.C. 19:4-3.22, which also includes a 24.489-acre tract identified as Parcel "B" (Block 3101, Lots 29, 30, 31 and 32) that is not included within the subject subdivision application.

The subdivision tract's perimeter is bounded by the Hackensack River to the west and the Van Keuren Avenue right of way (ROW) to the south. Lands comprising the former Norfolk Southern rail ROW to the east, now owned by the New Jersey Department of Environmental Protection (NJDEP), are intended for inclusion in the future Essex Hudson Greenway project. Undeveloped lands north of the subject premises within Parcel B are proposed to be improved by the applicant with a warehouse and distribution facility and associated parking. An off-site roadway connects Parcels A and B across a portion of the former Norfolk Southern ROW. Penhorn Creek and associated wetlands are also located to the north of the subject properties.

The properties in question, formerly the Public Service Electric & Gas (PSE&G) Hudson Generating Station, are currently developed with three warehouse and distribution facilities with associated parking that are in various stages of construction, a former wastewater treatment facility once operated by PSE&G, and the PSE&G Marion Switching Station. At present, only one of the warehouse and distribution facilities is occupied while the remaining two are under construction. Parcel A is encumbered by a number of gas, switchyard, and

utility easements granted to PSE&G. A 30-foot-wide sewer and drainage easement is also located along the easterly property boundary. Portions of the subject premises have been dedicated for the realignment of the Van Keuren Avenue right of way, as well as for providing access to the future Essex Hudson Greenway.

The major subdivision application proposes to subdivide 18 existing lots into seven lots within proposed Block 7402.01, as follows:

1. Proposed Lot 1: A 4.429-acre lot containing a canal and associated environmentally-sensitive lands.
2. Proposed Lot 2: A 2.516-acre lot containing a former wastewater treatment facility.
3. Proposed Lot 3: An 18.833-acre lot containing an existing PSE&G switchyard.
4. Proposed Lot 4: A 6.249-acre lot containing an 80,000-square-foot warehouse and distribution development, identified as Facility 3 on the plat, constructed and currently occupied.
5. Proposed Lot 5: A 12.473-acre lot containing a 197,277-square-foot warehouse and distribution development, identified as Facility 2 on the plat, currently under construction.
6. Proposed Lot 6: A 39.5-acre lot containing a 427,155-square-foot warehouse and distribution development, identified as Facility 1 on the plat, currently under construction.
7. Proposed Lot 7: A 2.175-acre lot containing existing PSE&G switchyard equipment.

Proposed Lots 5, 6 and 7 will have direct access to Van Keuren Avenue, and Lot 7 also contains frontage on Duffield Avenue. However, proposed Lots 1, 2, 3 and 4 will have no frontage along Van Keuren Avenue, nor are public or private streets, existing or proposed, located within the subdivision area; therefore, a bulk variance is requested. Bulk variances are also requested for a proposed minimum lot width of 89.8 feet for proposed Lot 1, whereas a minimum lot width of 100 feet

is required, and for providing a minimum open space of 9.3 percent on proposed Lot 2 and 4.6 percent on proposed Lot 3, whereas a minimum of 15 percent open space is required.

B. Response to the Public Notice

No written comments or objections were received prior to the hearing.

III. PUBLIC HEARING (April 25, 2023)

A public hearing was held on Tuesday, April 25, 2023. 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; Mia A. Petrou, P.P., AICP, Supervising Planner; and Ronald Seelogy, P.E., Principal Engineer.

A. Exhibits

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

<u>Number</u>	<u>Description</u>
A-1	"Preliminary Major Subdivision Plan," three sheets, prepared by Dynamic Survey, LLC on August 11, 2022, last revised on March 31, 2023.
A-2	"Subdivision Plan," two sheets, prepared by Dynamic Engineering Consultants on June 30, 2022, last revised on January 19, 2023.

B. Testimony

Thomas J. O'Connor, Esq., of the firm Waters, McPherson, McNeill, P.C., represented HRP Hudson Owner LLC at the hearing. The following witness testified in support of the application:

1. Jeffrey S. Haberman, P.E., P.P., Dynamic Engineering Consultants, P.C.

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. 19:5-7.4(a), which requires that all lots located in any subdivision shall have direct access to an improved public or private street; whereas, proposed Lots 1, 2, 3 and 4 do not contain direct access to an improved public or private street.

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 major subdivision proposes to resubdivide and consolidate 18 existing lots into seven proposed lots, each containing the specific uses described in Section II.A above. The lands

comprising the subdivision exhibit a number of unique characteristics. A variety of utility easements exist throughout the tract, largely associated with the former usage of lands within the redevelopment area by PSE&G as a coal-burning electrical generating plant (since demolished), and continued usage of a portion of the area by PSE&G for existing switchyard utilities on proposed Lots 3 and 7. These conditions affect the configuration of the proposed subdivision and interior lot boundaries.

The tract's principal frontage exists to the south along Van Keuren Avenue, with Lot 7 frontage only along Duffield Avenue, which begins at the western end of Van Keuren Avenue. The subdivision's westerly boundary is formed by the Hackensack River, its easterly boundary by the former Norfolk Southern rail ROW/future Essex Hudson Greenway, and undeveloped lands to the north. No public streets exist to the north of Van Keuren Avenue. The area of the proposed subdivision and associated proposed lot sizes are very large in comparison to neighboring developed properties, and it is an unusual condition that a tract of this size would contain frontage on a single street.

The requested variance to permit the creation of proposed Lots 1, 2, 3 and 4 without direct access to an improved public or private street arises from these unique conditions, which were not created by action of the property owner or the applicant.

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

The subject tract can be characterized as a comparatively isolated area, due to the existence of large-scale utility improvements from

which the public is excluded. Properties to the south of the tract are industrial in nature, properties to the north contain environmentally-sensitive wetlands, and the Hackensack River forms the site's westerly boundary. There are no residential uses in the vicinity.

Although the subject lots will not contain direct frontage on a public or private street, access to the proposed lots is proposed to be provided from Van Keuren Avenue by recorded shared access easements across proposed Lots 5 and 6, and an off-site roadway connecting Parcels A and B across a portion of the former Norfolk Southern ROW, currently owned by NJDEP. There are no public streets or other active development located to the north, east or west of the tract that would promote connections via the subject tract.

Therefore, the requested variance to permit the creation of proposed Lots 1, 2, 3 and 4 without direct access to an improved public or private street 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 unique characteristics of the subject property, detailed in Section *i.* above, constrain the tract's development and lot configuration. These constraints, including the number of easements that cross the tract, the continuing use of portions of the tract for utility uses, sensitive environmental characteristics, and existing means of access, result in peculiar and exceptional practical difficulties and undue hardship upon the property owner if required to provide

direct access to a public or private street from the proposed Lots 1, 2, 3 and 4.

The location of the PSE&G switchyard on Lot 3, in the central portion of the site, constrains access to the north to proposed Lots 1 and 2, for which no development is proposed, although limited redevelopment potential exists on proposed Lot 2. Public access to Lot 3 is neither encouraged nor necessary, as it contains a large-scale utility use that can be efficiently accessed via proposed easements. Finally, there is no existing street access to the tract from the east that would allow direct access to the warehouse on proposed Lot 4. Providing access to proposed Lot 4 via a public or private street from the east is impracticable, as the area of the former Norfolk Southern rail ROW is proposed to be transformed to a pedestrian way as part of the future Essex Hudson Greenway.

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 permit the creation of proposed Lots 1, 2, 3 and 4 without direct access to an improved public or private street 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. Although the subject lots will not contain direct frontage on a street, access will be provided to the proposed lots from Van Keuren Avenue by recorded shared access easements across proposed Lots 5 and 6, and via an off-site roadway connecting Parcels A and B across a portion of the former Norfolk Southern ROW in accordance with Easement Agreement between NJDEP and HRP Owner, LLC dated August 19, 2022. Given

the sensitive nature of the utility uses and environmental features present within the tract, the absence of direct access to a street could be a deterrent to illicit activities and, therefore, would be a benefit to public safety, health, and general welfare based on the particular tract characteristics.

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

The requested variance to permit the creation of proposed Lots 1, 2, 3 and 4 without direct access to an improved public or private street will not have a substantial adverse environmental impact. The applicant has testified that access to the lots will be provided from Van Keuren Avenue via shared access easements, thereby minimizing the potential for additional impervious surfaces within the tract that could result from alternative configurations, such as cul-de-sacs or additional street alignments within the subdivision interior. Furthermore, the variance will not cause the District'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.

The proposed subdivision is configured to provide a specific lot designation for a particular use that is either existing or under development at the subject premises. Existing means of access from the only public streets fronting the subdivision (Van Keuren and Duffield Avenues) are maintained. However, given the large size of the tract, numerous easements, and presence of existing improvements, including operating utility infrastructure, within the subdivision boundaries, it is impracticable to provide direct street

access to Van Keuren Avenue for each of the seven proposed lots. Furthermore, the applicant has satisfactorily demonstrated the impracticability of creating new streets within the tract interior.

Therefore, the requested variance to permit the creation of proposed Lots 1, 2, 3 and 4 without direct access to an improved public or private street 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.

A stated purpose of the District Zoning Regulations is to promote development in accordance with good planning principles that relates the type, design and layout of such development to both the particular site and surrounding environs. The proposed subdivision is reasonably and efficiently configured given the numerous constraints affecting the subject tract. Access to the proposed lots will be provided via easements, and direct access to a public or private street is not necessary when accounting for the particular characteristics of the site and the uses and configuration of proposed Lots 1, 2, 3 and 4. The granting of the requested variance will also promote the redevelopment goals of the Van Keuren Redevelopment Plan, including the promotion of economic development and the creation of job opportunities in an underutilized portion of the District.

Therefore, granting the requested variance to permit the creation of proposed Lots 1, 2, 3 and 4 without direct access to an improved

public or private street will not substantially impair the intent and purpose of these regulations.

B. Standards for the Granting of a Bulk Variance from the Provisions of Section V.D.1(b) of the Van Keuren Redevelopment Plan, which requires a minimum lot width of 100 feet; whereas, proposed Lot 1 will have a minimum lot width of 89.8 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 subject major subdivision proposes to resubdivide and consolidate 18 existing lots into seven proposed lots, each containing the specific uses described in Section II.A above. The lands comprising the subdivision exhibit a number of unique characteristics. A variety of utility easements exist on Parcel A, largely due to the former usage of lands within the redevelopment area by PSE&G as a coal-burning electrical generating plant (since demolished), and continued usage of a portion of the area by PSE&G utilities on proposed Lots 3 and 7. These conditions affect the configuration of the proposed subdivision and interior lot boundaries.

The area of Proposed Lot 1 contains a canal and associated environmentally-sensitive lands. A minimum lot width of 89.8 feet is proposed on Lot 1, whereas a minimum lot width of 100 feet is

required in the Van Keuren Redevelopment Plan. The proposed subdivision line creating the lot in question follows the alignment of the existing canal from the Hackensack River and associated environmentally-sensitive features located on Lot 1. The applicant's intention is to separate this portion of the tract from developable uplands. These environmentally-sensitive features were existing on the tract and were not created by any action of the property owner or the applicant.

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

There are no residential uses in the vicinity of the subject tract, and properties to the south of the subdivision tract are industrial in nature. Proposed Lot 1 is located in the remote northwesterly portion of the subdivision tract, and contains a canal and associated environmentally-sensitive features, and is not proposed to be developed. Proposed Lot 1 is bounded by the Hackensack River to the west, and Penhorn Creek and associated wetlands are located to the north. Limited access is available to this portion of the subdivision tract.

Therefore, the granting of the requested variance to provide a minimum lot width of 89.8 feet on proposed Lot 1 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 requiring a minimum lot width of 100 feet, whereas 89.8 feet is proposed, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

Proposed Lot 1 is located in the remote northwesterly portion of the subdivision tract, and contains a canal and associated environmentally-sensitive features. The proposed subdivision line was configured to separate these environmental features from developable uplands within the redevelopment area.

The minimum lot width of 89.8 feet is proposed at the narrowest portion of the canal. The majority of the proposed lot otherwise complies with the minimum lot width of 100 feet. The strict application of the minimum lot width requirements to an undevelopable lot that is proposed to remain as open space would cause practical difficulties in the redevelopment of a defunct site within an underutilized area of the District.

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 granting of the requested 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. Proposed Lot 1 is planned to remain open space, and any impacts to the provision of light, air, and open space that could be associated with a structure on a lot of insufficient width are not a factor to be considered on this particular lot. The minimum lot width of 89.8 feet at the subject location will allow the site's redevelopment

potential to be fully realized by maximizing available uplands for development on adjacent Lot 6.

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

The requested variance will not have a substantial adverse environmental impact. No development is proposed on the subject lot, and thus, there will be no impact to the District's environmental performance standards for noise, glare, vibrations, airborne emissions, or hazardous materials.

The configuration of proposed Lot 1, which follows the alignment of the canal on the property, is intended to separate the environmentally-sensitive areas of the subject tract from adjacent developable uplands. These features are existing, and the narrow neck of the canal results in a portion of the lot having a minimum lot width of 89.8 feet.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. The proposed lot width of 89.8 feet occurs only at one location on the lot. The proposed lot boundary is configured to address the particular and unique characteristics present on the subdivision tract, which includes a narrow point in the existing canal on the premises. Proposed Lot 1 is intended to remain open space, and potential alternatives to provide a compliant lot width of 100 feet would constrain the ability of the property owner to maximize the redevelopment potential of the uplands portion of the overall tract.

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

Minimum lot width standards are intended to provide sufficient area for site development, as well as to accommodate adequate area for setbacks, landscaping, and screening on developed lots. In this particular case, as the site is proposed to remain open space, a minimum lot width of 89.8 feet, exhibited at one location on the lot, will not substantially impair the intent and purpose of the District Zoning Regulations. The majority of the lot will comply with the minimum lot width requirement of 100 feet. Therefore, the requested variance will support the intent of the District Zoning Regulations by promoting development in accordance with good planning principles that relates the type, design and layout of such development to both the particular site and surrounding environs. The goals of the Van Keuren Redevelopment Plan will also be advanced by the requested variance by promoting the redevelopment of the developable uplands portion of the tract.

C. Standards for the Granting of a Bulk Variance from the Provisions of Section V.D.2(b) of the Van Keuren Redevelopment Plan, which requires a minimum open space of 15 percent; whereas, open space of 9.3 percent and 4.6 percent will be provided for proposed Lots 2 and 3, respectively.

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 provide a minimum open space of 9.3 percent on proposed Lot 2 and 4.6 percent on proposed Lot 3, whereas a minimum of 15 percent open space is required, arises from unique conditions on the property in question, which were not created by action of the property owner or the applicant.

The subject major subdivision proposes to resubdivide and consolidate 18 existing lots into seven proposed lots, each containing the specific uses described in Section II.A above. The lands comprising the subdivision exhibit a number of unique characteristics. A variety of utility easements exist on Parcel A, largely due to the former usage of lands within the redevelopment area by PSE&G as a coal-burning electrical generating plant (since demolished), and continued usage of a portion of the area by PSE&G utilities on proposed Lots 3 and 7. Furthermore, a former wastewater treatment plant exists on proposed Lot 2. These conditions affect the configuration of the proposed subdivision and interior lot boundaries.

The area of the proposed subdivision tract and associated proposed lot sizes are also very large in comparison to neighboring developed properties.

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

The subject tract can be characterized as a comparatively isolated area, due to the existence of large-scale utility improvements from which the public is excluded. Properties to the south of the tract are industrial in nature, properties to the north contain environmentally-sensitive wetlands, and the Hackensack River forms the site's westerly boundary. There are no residential uses in the vicinity.

Proposed Lots 2 and 3 are configured to accommodate existing improvements within the subdivision tract. Proposed Lot 2 will contain the area of the former wastewater treatment plan and proposed Lot 3 will contain the existing PSE&G Marion Switching Station. By virtue of the proposed subdivision of the existing improved areas, the proposed lot areas will not provide the minimum open space requirement of 15 percent. However, the overall subdivision tract will cumulatively provide a compliant amount of open space, with more than a third of the tract remaining as open space. Therefore, 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 regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The proposed open space of 9.3 percent on proposed Lot 2 and 4.6 percent on proposed Lot 3 are the result of the configuration of the proposed subdivision lines in relation to the existing utility improvements. No additional

impervious surfaces are proposed and existing conditions are proposed to remain on the subject two lots. It would not be feasible to provide additional open space on proposed Lots 2 and 3 due to the nature of the existing utility uses and configuration of existing structures on the premises. An overall reduction of existing impervious surfaces is proposed within the overall subdivision tract as a result of the site's redevelopment.

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 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 proposed amount of open space on proposed Lots 2 and 3 is not the result of additional site development on either of those lots. Rather, the open space calculation does not comply due to the proposed configuration of the interior lot lines within the overall proposed subdivision. The proposed lot lines are configured to accommodate specific and distinct uses that already exist on the site. There is no change proposed to the physical conditions of Lots 2 and 3, and sufficient open space will be provided on a cumulative basis within the overall subdivision tract.

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

The requested variance to provide open space of 9.3 percent on proposed Lot 2 and 4.6 percent on proposed Lot 3 will not have a substantial adverse environmental impact. There is no change proposed to the existing physical conditions of proposed Lots 2 and

3. Although these two individual lots within the subdivision tract do not comply with the minimum open space requirement on a per-lot basis, the overall open space within Parcel A will increase from 21.9 percent to 35 percent. Furthermore, there will be no impact to the District's environmental performance standards for noise, glare, vibrations, airborne emissions, or hazardous materials.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. The proposed configuration of Lots 2 and 3 follows the boundaries of specific utility uses and associated improvements existing within the tract. Alternative lot configurations are not feasible due to these existing conditions and other particular and unique conditions of the site, including the number of easements throughout the tract. It is impracticable to provide additional landscaping on the proposed lots due to the nature of and constraints related to the utility improvements on the site and the existing extent of impervious surfaces. Although the individual open space requirements for proposed Lots 2 and 3 will not comply, the total amount of proposed open space will increase from 21.9 percent to 35 percent within Parcel "A", which is more than double the amount required.

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

A stated purpose of the District Zoning Regulations is to promote development in accordance with good planning principles that relates the type, design and layout of such development to both the

particular site and surrounding environs. The proposed subdivision is reasonably and efficiently configured given the numerous constraints affecting the subject tract. The requested variance to provide open space of 9.3 percent on proposed Lot 2 and 4.6 percent on proposed Lot 3 is compensated by the overall increase in open space resulting from the tract's redevelopment. Therefore, the 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 Bulk Variance from the Provisions of N.J.A.C. 19:5-7.4(a), which requires that all lots located in any subdivision shall have direct access to an improved public or private street; whereas, proposed Lots 1, 2, 3 and 4 do not contain direct access to an improved public or private street.

Based on the record in this matter, the bulk variance application to provide a subdivision resulting in the creation of proposed Lots 1, 2, 3 and 4 with no access upon an improved street is hereby recommended for APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall prepare a Discharge of Declaration of Zoning Restriction for NJSEA execution stating that the provisions of the Declaration of Zoning Restriction agreement entered into on October 29, 2020, are no longer necessary and that, as a result, the Declaration should be discharged of record. The fully executed copy of the Discharge agreement shall be recorded in the Office of the Hudson County Registrar.
2. Concurrently with the Discharge of Declaration of Zoning Restriction required in Condition 1, the applicant shall establish existing Block 3101, Lots 29, 30, 31 & 32 and proposed Block 7402.01, Lots 1, 2, 3, 4, 5, 6 and 7 as a single Zoning Lot of Record pursuant to N.J.A.C. 19:4-3.22 by recording a Declaration of Zoning Restriction agreement in the Office of the Hudson County Registrar.
3. Prior to the applicant's conveyance of proposed Block 7402.01, Lots 1, 2, 3 and/or 4 to an affiliate or any entity, the applicant shall provide a

recorded access easement(s) to ensure that continual access to Van Keuren Avenue is provided to Lots 1, 2, 3 and/or 4.

CONDITIONAL APPROVAL

Recommendation on
Variance Request

6/8/2023

Date



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

Conditional Approval

Recommendation on
Variance Request

6/8/23

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 Section V.D.1(b) of the Van Keuren Redevelopment Plan, which requires a minimum lot width of 100 feet; whereas, proposed Lot 1 will have a minimum lot width of 89.8 feet.

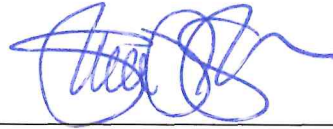
Based on the record in this matter, the bulk variance application to permit a minimum lot width of 89.8 feet for proposed Lot 1, whereas a minimum lot width of 100 feet is required, is hereby recommended for APPROVAL.

APPROVAL

Recommendation on
Variance Request

6/8/2023

Date



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

Approval

Recommendation on
Variance Request

6/8/23


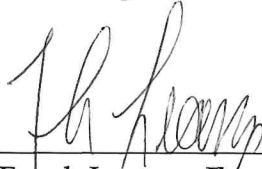
Date



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

C. Standards for the Granting of a Bulk Variance from the Provisions of Section V.D.2(b) of the Van Keuren Redevelopment Plan, which requires a minimum open space of 15 percent; whereas, open space of 9.3 percent and 4.6 percent will be provided for proposed Lots 2 and 3, respectively.

Based on the record in this matter, the bulk variance application to provide open space of 9.3 percent and 4.6 percent for proposed Lots 2 and 3, respectively, whereas a minimum open space of 15 percent is required, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>6/8/2023</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>6/8/23</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs