

OTHER AGENCIES

NEW JERSEY MEADOWLANDS COMMISSION

District Zoning Regulations

Official Zoning Map

Block 22, Lot 1 and Block 23, Lot 3, in Moonachie

Proposed Amendment: N.J.A.C. 19:4-3.3

Authorized By: New Jersey Meadowlands Commission

Robert R. Ceberio, Executive Director

Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i). See also N.J.A.C.
19:3-1.5

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number: PRN 2010-

A **public hearing** on this matter will be held on Tuesday, June 29, 2010 at 10:00
am at the following location:

New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Submit written comments by the close of business on August 6, 2010 to:

Sara J. Sundell, P.E., P.P.
Director of Land Use Management
New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

The agency proposal follows:

Summary

On January 28, 2010, a petition for rezoning was received by New Jersey Meadowlands Commission (NJMC) from the property owner, 140 State Street, LLC (an affiliate of Russo Development Corporation) regarding the properties identified as Block 22, Lot 1 and Block 23, Lot 3, located within the Hackensack Meadowlands District (District), in the Borough of Moonachie. The petition requests that the NJMC rezone Block 22, Lot 1 from its existing zoning of Environmental Conservation (EC) to Light Industrial A (LIA) and rezone Block 23, Lot 3 from its existing zoning of Parks and Recreation (PA) to EC. Both properties are situated on State Street. Block 22, Lot 1 is located at 140 State Street and Block 23, Lot 3 is located to the south of the intersection of State Street and Empire Boulevard.

Block 22, Lot 1 is comprised of 7.77 acres of unimproved wooded uplands and includes two small areas of wetlands, one on the southeasterly side of the site and the other at the rear of the property along Losen Slote Creek. To the south and west of the site are active light industrial and warehouse facilities sited in the LIA zone. Losen Slote Creek and properties owned by the Bergen County Utilities Authority (BCUA) are located to the east. According to the petitioner, the site is feasible for development due to its configuration, location, and access

to utilities. Upon development, a considerable tax ratable would be afforded to the Borough of Moonachie.

Block 23, Lot 3 is an unimproved property containing approximately 4.8 acres and predominantly tall grasses, disturbed lowlands, phragmites and some wooded uplands. Approximately 1.03 acres of wetlands were identified on-site. The property is an irregularly-shaped lot that has been altered in recent years by repeated unauthorized use by all-terrain vehicles (ATVs) and illegal grading of the surface to create the hills and valleys of an ATV track. Along the border of the property on the east side is Losen Slote Creek. To the north, are a privately-owned vacant lot in the EC zone and property owned by the BCUA. The Kane Tract, which is intended to serve as a mitigation bank for transit-related projects, is located to the east and south of the property. The properties to the north, south, and east are located in the EC zone.

The current zone designation of Block 22, Lot 1 is EC. The EC zone is intended to provide for the preservation and enhancement of the ecological values of wetlands, open water and adjacent uplands within the District. The zone seeks to provide public access to these areas and encourage scientific and educational study with regard to wetland ecology. The petitioner has provided a Jurisdictional Determination from the US Army Corps of Engineers that indicates the predominance of uplands on the site, which was formerly thought to contain mostly wetlands. The rezoning of Block 22, Lot 1 to LIA would promote the utilization of the parcel in a planned manner consistent with the character of the

existing industrial neighborhood. Light industrial uses are permitted in the LIA zone but not in the EC zone.

The current zone designation for Block 23, Lot 3 is PA. The PA zone 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. A Jurisdictional Determination from the US Army Corps of Engineers provided by the petitioner indicates there is an area of wetlands on the site. The petitioner has indicated they will seek approval from the US Army Corps of Engineers for the creation of a mitigation bank on this site and provide mitigation credits for private projects within the District. The proposed rezoning of Block 23, Lot 3 would permit the enhancement of the site for purposes of creating a wetland mitigation bank and/or other conservation-related uses contiguous to the Richard P. Kane Natural Area. Preservation, enhancement, restoration and creation of wetlands, open water, and adjacent uplands are permitted in the EC zone, but not in the PA zone.

The purpose of the proposed simultaneous rezoning of both properties is to balance economic development with environmental enhancement, preservation, and restoration. The proposed rezoning request will allow for the development of industrial property adjoining similar land uses and permit the establishment of new wetlands and creation of an environmentally-sensitive area.

At its regularly scheduled meeting of April 28, 2010, the NJMC Board of Commissioners authorized staff to prepare and submit a notice of proposal to the Office of Administrative Law for publication in the New Jersey Register and conduct a public hearing to obtain public input regarding this matter.

The NJMC has provided a 60-day comment period in this notice of proposal. Thus, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a) 5.

Social Impact

The proposed rezoning of Block 22, Lot 1 and Block 23, Lot 3 includes approximately 12.57 acres. No notable social impact is envisioned as a result of rezoning these properties. Block 22, Lot 1 adjoins an existing industrial area located along State Street and Empire Boulevard. The rezoning will permit development of this property and will focus economic growth to an existing industrial neighborhood.

Block 23, Lot 3 borders the Richard P. Kane Natural Area, a 587-acre tract of wetlands in the Hackensack Meadowlands District. Allowing the creation of new wetlands adjacent to the Kane tract could result in a positive contribution to the ecology of the area. The creation of new wetlands is an important use because of its ability to address open space, improve water quality, and assist with flood prevention.

The simultaneous rezoning of Block 22, Lot 1 from EC to LIA, and Block 23, Lot 3 from PA to EC, affords the NJMC the ability to encourage economic development and at the same time support the creation of an ecologically sensitive area and its preservation.

The entity impacted most will be the property owner. If approved, the property owner would be bound by a different set of rules that would be applicable to development and enhancement of the sites. However, since the proposal is the result of a petition filed by the property owner, the NJMC may conclude that the property owner has analyzed the impacts of the rezoning and made a determination to proceed with the request.

Economic Impact

The rezoning is anticipated to have an overall positive economic impact on the District. The types of uses in industrial and environmental conservation zones do not typically pose a burden to the municipality. The proposed simultaneous rezoning of Block 22, Lot 1 to permit light industrial uses and Block 23, Lot 3 to permit environmental conservation uses, creates a positive economic opportunity by promoting increased employment and productivity, while on a nearby property, establishes a wetland ecology benefiting the surrounding area and the District.

The NJMC is not aware of any funding sources that may be impacted by the proposed rezoning. There will not be a detrimental economic impact on the

public, and there are no foreseen economic impacts on implementing agencies. The Borough of Moonachie will be afforded a positive tax ratable attributed to the proposed rezoning. The NJMC is the agency with zoning jurisdiction and there are no administrative, enforcement or oversight costs to this agency as a result of this rezoning.

Federal Standards Statement

The Hackensack Meadowlands District is located within the Federally designated Coastal Zone Management Area for New Jersey (designated in accordance with 15 CFR 923.53(a)(1)). The NJMC acts as the lead coastal planning and management agency for the Meadowlands District under the guidance of the New Jersey Department of Environmental Protection (NJDEP).

The NJMC District Zoning Regulations serve as a regulatory tool for meeting the goals and rules established by the New Jersey Coastal Management Program. The proposed amendments do not contain any requirements or standards in excess of those imposed under Federal law.

Jobs Impact

The proposed rezoning will have a positive impact on jobs in the immediate area and the District. The petitioner proposes to construct an industrial facility compatible with the adjacent industrial facilities and in conformity with LIA regulations on Block 22, Lot 1. New opportunities for

construction and employment would result from the development of the property for industrial use.

The petitioner proposes to establish new wetlands on Block 23, Lot 3, which has been significantly altered by unauthorized use of the property by ATVs. The area-at-large would benefit from open space opportunities and a new wetland that could enhance the area's ecology. The property currently generates nominal job opportunities under its zoning designation as PA. A minimal amount of job creation will result during the alteration of the property from uplands to wetlands.

The new employment opportunities generated by the proposed industrial use would contribute to development of the area and complement the enhancement and preservation of the proposed wetlands.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry in the State of New Jersey. The property has never been used for any agricultural purposes or related purposes.

Regulatory Flexibility Statement

The proposed amendment does not impose additional reporting, record keeping or other compliance requirements on small businesses, which means any

business which is resident in New Jersey, independently owned and operated, not dominant in its field, and which employs fewer than 100 full-time employees.

The LIA zone is designed to accommodate on large lots a range of industrial, distribution, commercial and business uses that generate a minimum of detrimental environmental effects. The permitted uses in this zone include, automobile rental facilities, automobile repair facilities, minor, automobile sales, banks, business support services, car washes, commercial recreation, indoor, day care facilities, disaster recover facilities, essential public services, institutional uses, kennels, light industry, offices, parks and recreation facilities, personal services, public utility, light, research and development facilities, self-storage facilities, social services, studios, taxi and limousine services, warehouse and distribution facilities, and wholesales establishments.

The EC zone is designed to preserve and enhance the ecological values of wetlands, open water and adjacent uplands within the District. The zone seeks to provide public access to these areas and encourage scientific and educational study in regard to wetland ecology. The permitted uses in this zone include, existing public utility equipment and appurtenances, including directly related maintenance work, public access to water features and structures that facilitate wildlife observation, scientific, educational and experimentation in regard to wetland ecology, wetland enhancement or creation activities, performed individually or in conjunction with wetland mitigation banks, and wildlife habitat creation.

Therefore, the rezoning of the properties, as requested in the petition, will have no impact on the existing requirement that the property owner obtain all permits and or/applicable approvals from the NJMC.

Smart Growth Impact

Although the provisions of the New Jersey State Development and Redevelopment Plan (SDRP) do not apply to the NJMC, pursuant to N.J.S.A. 52:18A-206, the NJMC Master Plan sets forth smart growth principles to guide growth within the Meadowlands District consistent with State policy. The NJMC rules serve as the implementation tool of this policy.

The proposed amendment will have a positive impact towards the achievement of smart growth, both in the District and on a regional level. Providing more efficient land use for economic development purposes and guiding revitalization for the conservation of natural resources are consistent with the goals of the State's smart growth policy.

Housing Affordability Impact Analysis

The proposed rezoning is not expected to impact the average costs associated with housing in the Hackensack Meadowlands District. The following analysis provides the basis for this determination.

According to Census 2000 data published by the US Census Bureau, the District contains a total of 4,649 housing units. The US Census Bureau does not

separate its published data regarding housing types within the District's 14 constituent municipalities according to their in-District and out-of-District areas. The data reveals, however, that the District's municipalities, including their portions which lie outside the District's boundaries, have a variety of housing types.

The dominant residential structure types within Meadowlands municipalities are single-family (both detached and condominium) and two-family structures, which constitute 41.2 percent and 18.9 percent of the total housing inventory respectively. The data includes the City of Jersey City's housing stock, which consists primarily of multi-family dwellings located outside the District. If the data for Jersey City were excluded, the proportion of single-family residences would equal 46.1 percent of the total housing inventory.

As of the year 2000, the US Census Bureau reports that a total of 37.0 percent of the housing units located within Meadowlands municipalities are owner-occupied, compared to 66.5 percent Statewide. A total of 58.8 percent of Meadowlands housing units are renter-occupied. The remaining units are vacant. The number of multi-family rental units in Jersey City explains, at least in part, the lower homeownership rate for households residing in Meadowlands municipalities.

Housing reserved for occupancy by very low, low, moderate, and middle income households within Meadowlands municipalities is administered by a

number of government and non-profit entities. Data regarding the number of such units, including those located within the District, is not available.

The proposed rezoning will continue to provide opportunities for the orderly development of residential uses in the District. In addition, the proposed rezoning is anticipated not to impact the average cost of housing in the District.

Smart Growth Development Impact Analysis

The US Census Bureau's Census 2000 published data reveals that the District contains a total of 4,649 housing units. Within the District's 14 constituent municipalities, the US Census Bureau does not separate its published data for in-District and out-of-District areas with regard to housing types. However, a variety of housing types are identified within the District's municipalities and in the areas outside of the District's boundary.

The dominant structure types within Meadowlands municipalities are single-family (both detached and condominium) and two-family structures, which constitute 41.2 percent and 18.9 percent of the total housing inventory respectively. The data includes the City of Jersey City's housing stock, which consists primarily of multi-family dwellings located outside the District. If the data for Jersey City were excluded, the proportion of single-family residences would equal 46.1 percent of the total housing inventory.

The US Census Bureau, Census 2000, reports that a total of 37.0 percent of the housing units located within Meadowlands municipalities are owner-occupied, compared to 66.5 percent Statewide. A total of 58.8 percent of

Meadowlands housing units are renter-occupied and the remaining units are vacant. The number of multi-family rental units in Jersey City explains, at least in part, the lower homeownership rate for households residing in Meadowlands municipalities.

Housing reserved for occupancy by very low, low, moderate, and middle income households within Meadowlands municipalities is administered by a number of government and non-profit entities. Data regarding the number of such units, including those located within the District, is not available.

The availability of affordable housing within the District is not anticipated to increase or decrease due to the proposed rezoning. The District is not located within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. Accordingly, the rezoning will not affect, in any manner, new construction within those areas.

Full text of the proposal follows:

19:4-3.3 Official Zoning Map

Change the zoning designation of Block 22, Lot 1, in the Borough of Moonachie from Environmental Conservation to Light Industrial A. Change the zoning designation of Block 23, Lot 3, in the Borough of Moonachie from Parks and Recreation to Environmental Conservation.

OFFICE OF ADMINISTRATIVE LAW NOTE: The Official Zoning Map is not reproduced herein, but may be reviewed at the following locations:

New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Office of Administrative Law
Quakerbridge Plaza, Building 9
Quakerbridge Road
Trenton, New Jersey 08625