NEW JERSEY MEADOWLANDS COMMISSION
AGENDA

DATE: December 17, 2014
TIME: 10:00 a.m.
PLACE: Lyndhurst, New Jersey
RE: MONTHLY MEETING

1. Pledge of Allegiance

2. Sunshine Law Statement

3. Roll Call

4. REVIEW OF MINUTES - November 25, 2014 - open session
   - October 22, 2014 - closed session

5. SPECIAL PRESENTATION

6. PUBLIC PARTICIPATION ON RESOLUTIONS

7. BUDGET

   Resolution No. 14-57 Consideration of a Resolution Adopting the NJMC Calendar Year 2015 Budget

8. AUDIT SERVICES

   Resolution No. 14-58 Consideration of a Resolution Authorizing the Award of a Contract for Audit Services

9. VARIANCES

   Resolution No. 14-59 Consideration of a Resolution Regarding an Application for One Use Variance for Wacoal America (File #14-018, Wacoal America/ Addition & Variance).

10. REPORTS

    A. Commissioners
    B. Executive Director
    C. Directors
    D. HMMC Executive Director

11. NEW BUSINESS

12. PUBLIC PARTICIPATION

13. CLOSED SESSION

    A. Adopt Resolution No. 14-60 to hold Closed Session.
    B. Adjournment to Closed Session. The Commission Reserves the Right to Reconvene Into Public Session, if necessary, to take Action on Closed Session Items.

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

NEW JERSEY MEADOWLANDS COMMISSION

DATE: November 24, 2014
TIME: 10:00 a.m.
PLACE: Lyndhurst, NJ
RE: MONTHLY MEETING MINUTES

COMMISSIONERS PRESENT:
Richard E. Constable, III, Chairman
Jay C. Nadel
James V. Bocchino
Albert E. Cameron

STAFF PRESENT:
Marcia Karrow, Executive Director
Bernard Nangle, Deputy Executive Director
Edward Bulmer, Director of Finance/Chief Financial Officer
Sara Sundell, Director Land Use Management
Thomas Marturano, Director of Natural Resources
Christine Sanz, Chief Operating Officer/Chief Counsel
Adam Levy, Director of Legal Affairs
Francisco Artigas, Director of MERI
Tyler Yingling, Assistant Counsel to the Governor
Mark Collier, DAG
Fred Dressel, HMMC
Lynn Johnson, Executive Assistant

1. Pledge of Allegiance

2. Executive Director Karrow read the Notice of Meeting required under the Sunshine Law.

3. Roll Call

4. REVIEW OF MINUTES

Minutes of the October 22, 2014 open session were moved by Commissioner Bocchino, seconded by Commissioner Cameron and unanimously carried.

5. PUBLIC PARTICIPATION ON RESOLUTIONS - None

6. DEP ESCROW ACCOUNT AUDIT

Resolution No. 14-51- Resolution concerning adoption of the DEP Escrow Account Audits.

Motion to adopt the resolution was made by Commissioner Nadel, seconded by Commissioner Bocchino and unanimously carried.

7. VARIANCE

Resolution No. 14-52- Resolution issuing a decision on the variance application submitted as part of File No. 14-071 Vineland/Retail Development - Sign Variance, Block 284, Lots 2.02, 3.02 and 4.02 in Kearny.

Motion to adopt the resolution was made by Commissioner Nadel, seconded by Commissioner Cameron and unanimously carried.

8. SPECIAL EXCEPTIONS

Resolution No. 14-53- Resolution issuing a decision on the Special Exception application submitted as part of File No. 14-477 Secaucus Board of Ed/Middle/High School Additions & Special Exception, Block 226, Lot 17.01 in Secaucus.

Motion to adopt the resolution was made by Commissioner Cameron, seconded by Commissioner Nadel and unanimously carried.

Resolution No. 14-54- Resolution issuing a decision on the Special Exception application submitted as part of File No. 14-358 Palmer Terrace Rlty/SoFive - soccer fields - Variance/Special Exception, Block 124, Lot 51 in Carlstadt.

Motion to adopt the resolution was made by Commissioner Cameron, seconded by Commissioner Bocchino and unanimously carried.

9. TRANSPOTATION

Resolution No. 14-55- Resolution authorizing the Executive Director to enter into a contract for the construction of Phase Five of the Meadowlands Adaptive Signal System for Traffic Reduction (MASSTR).

Motion to adopt the resolution was made by Commissioner Cameron, seconded by Commissioner Bocchino and unanimously carried.

Resolution No. 14-56– Resolution authorizing the Executive Director to enter into a contract for the construction of a fiber-optic connection for the Meadowlands Adaptive Signal System for Traffic Reduction (MASSTR).

Motion to adopt the resolution was made by Commissioner Bocchino, seconded by Commissioner Cameron and unanimously carried.

10. REPORTS

Executive Director Karrow introduced Tyler Yingling, the NJMC's new Authorities Unit Representative.

11. NEW BUSINESS – None

12. PUBLIC PARTICIAPTION - None

13. CLOSED SESSION - None

Motion to adjourn the meeting was made by Commissioner Bocchino, seconded by Commissioner Nadel with all in favor.

MARCIA A. KARROW, SECRETARY

RESOLUTION#	14-51	14-52	14-53	14-54	14-55	14-56
Chairman Constable	Y	Y	Y	Y	Y	Y
Comm. Bocchino	Y	Y	Y	Y	Y	Y
Comm. DeGennaro	--	--	--	--	--	--
Comm. Nadel	Y	Y	Y	Y	Y	Y
Comm. Quirico	--	--	--	--	--	--
Comm. Cameron	Y	Y	Y	Y	Y	Y
Robert J. Dowd	--	--	--	--	--	--

Y = Yes A= Abstain
R = Recuse N = No
-- = Absent

RESOLUTION ADOPTING THE
2015 NJMC BUDGET

BE IT RESOLVED by the New Jersey Meadowlands Commission that the attached Operations and Maintenance, Capital, Superstorm Sandy repairs, and Contributions to Other Operations budgets are hereby approved and adopted as the 2015 NJMC Budget.

The foregoing resolution was adopted by Commission vote.

Paul Macchia
Acting Chairman

I hereby certify the foregoing to be a true copy of the resolution adopted by the New Jersey Meadowlands Commission at their meeting of December 17, 2014.

Marcia A. Karrow
Secretary

Resolution No. 14-57

Motion___Second___Roll___

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Marcia A. Karrow, Executive Director

From: Edward H. Bulmer, Director of Finance/CFO Date: December 17, 2014

Subject: ADOPTION OF CALENDAR YEAR 2015 BUDGET

Attached for your review and acceptance is the proposed NJMC's calendar year 2015 budget. The budget covers the cost elements of Operations and Maintenance, Capital, Superstorm Sandy Repairs and Contributions to Other Operations.

In continuing our overall goal of reducing the cost of operations of the NJMC, the proposed calendar year 2015 budget reflects a further overall reduction of approximately 14.8%. In calendar year 2014, the NJMC passed a budget reflecting a 3.0% reduction. Budget reductions are being accomplished through efficiencies in internal operations, reduction of spending in the areas of general services, amendment of Ramapo Partnership and accounting support services, as well as reductions in staff positions through attrition, while absorbing increased benefit and pension costs. The proposed calendar year 2015 budget is $9,918,025.

The proposed calendar year 2015 budget can be summarized as follows:

➢ Operations and Maintenance - NJMC	$7,533,875
➢ Operations and Maintenance - NJMCEC	$1,034,150
➢ Contribution to Other Operations	$ 50,000
➢ Capital Budget	$ 950,000
➢ Super-storm Sandy Repairs	$ 350,000

/attachments

New Jersey Meadowlands Commission
Comparative Budgetary Statements
Calendar Year 2015

Operations and Maintenance Budget

Revenue Budget	Approved Budget 2014	Proposed Budget 2015	Difference
Fee Income	$ 1,000,000	$ 1,300,000	$ 300,000
Methane Gas Recovery	-	-	-
Composting Fee Income	300,000	120,000	(180,000)
Reserve Fund Utilization	3,682,818	2,300,000	(1,382,818)
Other Income:			
Overhead Recovery	4,638,804	4,687,786	48,982
Interest And Other	24,000	20,000	(4,000)
Settlement Fees	27,775	138,776	111,001
Grant Revenue	-	-	-
Rental Income - Solar	178,497	182,960	4,463
Tiger II MASSTR grant Reimbursement	600,000	-	(600,000)
DOT MASSTR Contract	206,425	-	(206,425)
Lease Revenue	62,500	658,503	596,003
FEMA Reimbursements	700,000	350,000	(350,000)
MCT Reimbursement	150,000	150,000	-
Tideland Treasures Revenue	10,000	10,000	-
User Fees - NJMCEC	60,000	-	(60,000)
Total Revenues	**$ 11,640,819**	**$ 9,918,025**	**$ (1,722,794)**

Expense Budget	Approved Budget 2014		Proposed Budget 2015		Difference
Operations & Maintenance:					
NJMC	$ 8,254,814		$ 7,533,875		(720,939)
NJMC-Environment Center	2,179,505		1,034,150		(1,145,355)
Sub Total	**$ 10,434,319**		**$ 8,568,025**		**$ (1,866,294)**
Contributions to Other Operations	75,000		50,000		(25,000)
Superstorm Sandy Repairs	700,000	(a)	350,000	(a)	(350,000)
Capital/Maintenance Projects	431,500		950,000		518,500
Debt Service	-		-		-
Total Expense	**$ 11,640,819**		**$ 9,918,025**		**$ (1,722,794)**

(a) Represents the NJMC's anticipated portion of Superstorm Sandy repair costs. Net of Insurance and FEMA reimbursements.

New Jersey Meadowlands Commission
Comparative Budgetary Statements
Calendar Year 2015

NJMC Budget Detail	Approved Budget 2014	Proposed Budget 2015	Difference
Salaries and Fringe Benefits	$ 6,470,381	$ 5,593,555	$ (876,826)
Supplies	231,638	258,900	27,262
Services	1,329,695	1,401,170	71,475
Repairs & Maintenance	222,000	253,000	31,000
Other	-	20,000	20,000
New Equipment	1,100	7,250	6,150
Total NJMC Budget	**$ 8,254,814**	**$ 7,533,875**	**$ (720,939)**

NJMCEC Budget Detail	Approved Budget 2014	Proposed Budget 2015	Difference
Salaries and Fringe Benefits	$ -	$ -	$ -
Supplies	95,100	127,900	32,800
Services	278,575	281,000	2,425
Repairs & Maintenance	100,000	125,000	25,000
New Equipment	250	250	-
Other	2,000	-	(2,000)
Ramapo College Facility Operations	1,703,580	500,000	(1,203,580)
Total NJMCEC Budget	**$ 2,179,505**	**$ 1,034,150**	**$ (1,145,355)**

Contributions to Other Operations Budget Detail	Approved Budget 2014	Proposed Budget 2015	Budget to Budget Difference
Tidegate Maintenance	$ 75,000	$ 50,000	$ (25,000)
Total Cont. to Other Operations	**$ 75,000**	**$ 50,000**	**$ (25,000)**

Special Appropriations Budget

Special Appropriations Budget	Approved Budget 2014	Proposed Budget 2015	Difference
West Riser Tidegate Replacement	$ 1,500,000	$ -	$ (1,500,000)
Total Special Appropriations	**$ 1,500,000**	**$ -**	**$ (1,500,000)**
Funding Sources for Special Appropriations:			
NJMC Flood Control Reserve	$ 1,500,000	$ -	(1,500,000)
Total	**$ 1,500,000**	**$ -**	**$ (1,500,000)**

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR AUDIT SERVICES

WHEREAS, the Commission's current audit services contract expires on December 31, 2014, thereby requiring the Commission to newly procure audit services; and

WHEREAS, the process for the selection of auditors is set forth in Executive Order 122 (2004); and

WHEREAS, in accordance with EO 122, a Request for Proposals (RFP) was issued on September 12, 2014 for the Annual Audit of the NJMC, MCT and DEP Sanitary Landfill Closure Fund for the years 2014, 2015 and 2016, with two one-year extension options; and

WHEREAS, a total of six firms obtained the RFP in response to the public notice and five firms attended the mandatory pre-bid meeting held on September 26, 2014; and

WHEREAS, the due date for responses was October 20, 2014 and the following five firms submitted proposals for a three-year contract: Garbarini & Co.; Holman Frenia Allison, P.C.; Lerch Vinci & Higgins; Mercadien Group; and Wiss & Company; and

WHEREAS, in accordance with EO 122, an Evaluation Committee was established to review and rank the proposals based on the criteria and process established by the Audit Committee. A written report of the Committee's findings was provided to the Audit Committee; and

WHEREAS, the Evaluation Committee found that all five firms provided responsive proposals and all five firms were certified by the Department of Treasury pursuant to Chapter 51; and

WHEREAS, of the five firms, Wiss and Company was ranked highest by the Evaluation Committee; and

WHEREAS, the Audit Committee reviewed the findings of the Evaluation Committee, concurs with the Evaluation Committee's scoring, and recommends that the contract for audit services be awarded to Wiss and Company.

NOW, THEREFORE, BE IT RESOLVED that the Executive Director is authorized to enter into a three-year contract with Wiss and Company at a cost not to exceed $156,000.

BE IT FURTHER RESOLVED that if NJMC and vendor are in agreement to extend the contract, the cost for the first and second year options will not exceed $54,000 and $55,000, respectively.

The foregoing Resolution was adopted by Commission vote.

Paul Macchia
Acting Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of December 17, 2014.

Marcia A. Karrow
Secretary

Resolution No. 14- 58

Motion___Second___Roll___

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Marcia A. Karrow, Executive Director

From: Edward H. Bulmer Date: December 17, 2014

Subject: Audit Services Contract

The Commission's current audit services contract expires on December 31, 2014, thereby requiring the Commission to newly procure audit services. The process for the selection of these services is set forth in Executive Order 122 (2004).

In accordance with EO 122, a Request for Proposals (RFP) was issued on September 12, 2014 for the Annual Audit of the NJMC, MCT and DEP Sanitary Landfill Closure Fund for the years 2014, 2015 and 2016, with two one-year extension options.

A total of six firms obtained the RFP in response to the public notice and five firms attended the mandatory pre-bid meeting held on September 26, 2014. The due date for responses was October 20, 2014 and the following five firms submitted proposals for a three-year contract: Garbarini & Co. P.C.; Holman Frenia Allison, P.C; Lerch Vinci & Higgins; Mercadien Group; and Wiss & Company.

In accordance with EO 122, an Evaluation Committee was established to review and rank the proposals based on the criteria and process established by the Audit Committee. A written report of the Evaluation Committee's findings was provided to the Audit Committee.

The Evaluation Committee found that all five firms provided responsive proposals and all five firms were certified by the Department of Treasury pursuant to Chapter 51. Of the five firms, Wiss and Company was ranked highest by the Evaluation Committee.

The Audit Committee reviewed the findings of the Evaluation Committee, concurs with the Evaluation Committee's scoring, and recommends that the contract for audit services be awarded to Wiss and Company at a cost not exceed $156,000 for a 3-year term.

If NJMC and vendor are in agreement to extend the contract, the cost for the first and second year options will not exceed $54,000 and $55,000, respectively.

RESOLUTION ISSUING A
DECISION ON THE USE VARIANCE APPLICATION
SUBMITTED AS PART OF FILE NO. 14-018
WACOAL AMERICA/ADDITION & VARIANCE
BLOCK 227, LOT 2, IN THE TOWNSHIP OF LYNDHURST

WHEREAS, an application for one use variance was filed with the New Jersey Meadowlands Commission (NJMC) by Jason R. Tuvel, Esq., of the firm Gibbons, P.C., on behalf of Wacoal America, Inc., for the premises identified as 50 Polito Avenue, Block 227, Lot 2, in the Township of Lyndhurst, New Jersey; and

WHEREAS, the premises is located in the Commission's Commercial Park zone; and

WHEREAS, the use variance is sought in connection with the applicant's proposal to construct two warehouse additions totaling 78,656 square feet on the subject premises; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.46(a), which does not list warehouse and distribution facilities as a permitted use in the Commercial Park zone; and

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

WHEREAS, a public hearing was held in the Office of the NJMC on Tuesday, October 14, 2014, before Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mark Skerbetz, P.P., AICP, Senior Planner, and Mia Petrou, P.P., AICP, Senior Planner; and

WHEREAS, a comprehensive report dated December 3, 2014, has been prepared indicating the recommendations of the Director of Land Use Management and the Executive Director in this matter; and

WHEREAS, a copy of the recommendation and comprehensive report was provided to the applicant on December 3, 2014; and

WHEREAS, the report recommends approval of the use variance requested from N.J.A.C. 19:4-5.46(a), to permit the construction of two warehouse additions totaling 78,656 square feet on the subject premises; and

WHEREAS, the members of the NJMC have reviewed the full record including the transcripts of the public hearings, recommendations on the application by the Director of Land Use Management and by the Executive Director, and the submissions of the applicant; and

WHEREAS, the members of the NJMC concur with the recommendations of the Director of Land Use Management and the Executive Director; and

WHEREAS, the NJMC hereby determines that the use variance from N.J.A.C. 19:4-5.46(a), to permit the construction of two warehouse additions totaling 78,656 square feet on the subject premises, 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 New Jersey Meadowlands Commission, that the Wacoal America/Addition & Variance application for one use variance from N.J.A.C. 19:4-5.46(a), to permit the construction of two warehouse additions totaling 78,656 square feet on the subject premises, is hereby **APPROVED** for the reasons set forth in the recommendation dated December 3, 2014.

The foregoing was adopted on Commission vote.

Paul Macchia
Acting Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of December 17, 2014.

Marcia A. Karrow
Secretary

Resolution No. 14-59

Motion___Second___Roll___

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Marcia A. Karrow, Executive Director

From: Sara J. Sundell Date: December 17, 2014

Subject: Variance Recommendation: Wacoal America/ Addition & Variance (File #14-018)

An application for one use variance was filed with the New Jersey Meadowlands Commission (NJMC) by Jason R. Tuvel, Esq., of the firm Gibbons, P.C., on behalf of Wacoal America, Inc., for the premises identified as 50 Polito Avenue, Block 227, Lot 2, in the Township of Lyndhurst, New Jersey. Said premises are located in the Commission's Commercial Park zone.

The use variance is sought in connection with the applicant's proposal to construct two warehouse additions totaling 78,656 square feet on the subject premises.

The applicant requested use variance relief from the following:

1. N.J.A.C. 19:4-5.46(a), which does not list warehouse and distribution facilities as a permitted use in the Commercial Park zone. The applicant is proposing to construct two warehouse additions totaling 78,656 square feet on the subject premises.

A public hearing was held in the Office of the NJMC on Tuesday, October 14, 2014.

In a comprehensive report dated December 3, 2014, the Director of Land Use Management and the Executive Director recommended the approval of the requested use variance to permit the construction of two warehouse additions totaling 78,656 square feet on the subject premises.

A copy of the comprehensive report and variance recommendation was provided to the applicant on December 3, 2014.

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

RECOMMENDATION ON THE VARIANCE APPLICATION OF

Wacoal America/Addition & Variance

FILE # 14-018

I. INTRODUCTION

One (1) use variance has been filed with the New Jersey Meadowlands Commission by Jason R. Tuvel, Esq., of the firm Gibbons, P.C., on behalf of Wacoal America, Inc., for the premises identified as 50 Polito Avenue, Block 227, Lot 2, in the Township of Lyndhurst, New Jersey. Said premises are located in the Commission's Commercial Park zone. The use variance is sought in connection with the applicant's proposal to construct two warehouse additions totaling 78,656 square feet on the subject premises.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.46(a), which does not list warehouse and distribution facilities as a permitted use in the Commercial Park zone. The applicant is proposing to construct two warehouse additions on the premises.

Notice was given to the public and all interested parties as required by law. Twenty-five (25) notices were sent out by certified mail, return receipt requested. Three (3) certified mail receipts have not been received by the NJMC prior to the public hearing. One (1) certified mail receipt was returned as "Not deliverable as addressed-unable to forward." The public notice was published in The Record newspaper. No written comments or objections were submitted to the Division of Land Use Management. A public hearing was held in the Office of the Commission on Tuesday, October 14, 2014. 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 subject property is an 8.25-acre parcel, fronting on Polito Avenue, Wall Street West, and Garland Way in Lyndhurst. The site is currently improved with a 146,085-square-foot commercial building, containing 117,058 square feet of warehouse space and 29,027 square feet of office space. On-site parking is located around the building's perimeter, predominantly along Garland Way and along the property's northerly rear yard. Delivery access points are from Polito Avenue, where loading areas are located. Client and employee access is primarily from Garland Way. The remainder of the property is landscaped with open lawn areas and several trees and shrubs. The surrounding area is developed primarily with a mix of warehousing facilities, hotels, and office uses, and is also proximate to the Medieval Times facility.

Wacoal's existing warehouse and distribution facility is a lawful nonconforming use within the Commercial Park zone. The applicant is proposing to construct two warehouse additions totaling 78,656 square feet on the subject premises in two phases, which would constitute an expansion of the existing nonconforming use. Phase 1 will consist of constructing a 29,420-square-foot warehouse addition at the southeasterly corner of the existing building. Phase 2 will consist of demolishing 29,027 square feet of existing office space and constructing a 49,236-square-foot warehouse addition to the east of the existing building. On-site improvements, including parking, lighting, landscaping, and drainage, will be installed as required for each phase.

B. Response to the Public Notice

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

III. PUBLIC HEARING (October 14, 2014)

A public hearing was held on Tuesday, October 14, 2014. NJMC staff in attendance were Sharon Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Mark Skerbetz, Senior Planner; and Mia Petrou, Senior 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:

Number	Description
A-1	"Existing Conditions Plan," Drawing No. C-2, prepared by Page Consultants, Inc., dated December 27, 2013, revised March 24, 2014.
A-2	"Site Plan (Phase 1)," Drawing No. C-4, prepared by Page Consultants, Inc., dated December 27, 2013, revised through July 16, 2014.
A-3	"Site Plan (Phase 2)," Drawing No. C-10, prepared by Page Consultants, Inc., dated December 27, 2013, revised through May16, 2014.
A-4	"Ultimate Build Out/Site Plan," Drawing No. C-3.1, prepared by Page Consultants, Inc., dated April 29, 2014, revised through July 16, 2014.

A-5	"Proposed Trip Distribution," prepared by Page Consultants, Inc., references traffic study performed September 2014.
A-6	"Existing Land Use," prepared by Maser Consulting P.A., dated October 13, 2014.
A-7	Photographs looking from site in several directions, prepared by Maser Consulting P.A., dated October 13, 2014.
A-8	"Lighting Plan (Phase 1)," Drawing No. C-7, prepared by Page Consultants, Inc., dated December 27, 2013, revised through May20, 2014.
A-9	"Lighting Plan (Phase 2)," Drawing No. C-13, prepared by Page Consultants, Inc., dated December 27, 2013, revised through April 29, 2014.

B. Testimony

Jason R. Tuvel, Esq., of the firm Gibbons, P.C., represented Wacoal America, Inc., at the hearing. The following three witnesses testified in support of the application:

1. William B. Page, P.E., Page Consultants, Inc.
2. Daniel Bloch, P.P., AICP, Maser Consulting, P.A.
3. Jan Levine, Director of Distribution, Wacoal America

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

C. Public Comment

There were no members of the public present at this hearing.

IV. RECOMMENDATION

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.46(a), which does not list warehouse and distribution facilities as a permitted use in the Commercial Park zone.

The NJMC 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 strict application of the regulations would result in practical difficulties and undue hardship to Wacoal America, the property owner of the subject premises. Wacoal America occupies the premises and operates the existing warehouse and distribution use at this facility as a lawful nonconforming use.

The project is proposed in two phases. Phase 1 will consist of the construction of a 29,420-square-foot warehouse addition with related site improvements, while Phase 2 will consist of removing the existing 49,236 square feet of office space and constructing a 49,236–square-foot warehouse addition with related site improvements.

The existing warehouse and distribution facility use is proposed to be expanded in order to accommodate changes resulting from

increased bulk in the packaging of Wacoal's present-day product lines. If the variance were not granted to expand the existing nonconforming use and allow construction of two warehouse additions totaling 78,656 square feet on the subject premises, Wacoal America would not be able to enlarge its existing warehouse at this location, which would not allow the company to efficiently store its current products, and thereby negatively impact its business operations.

Thus, the strict application of the regulations, which would prohibit the construction of additional warehouse space in two additions totaling 78,656 square feet on the subject premises, would result in exceptional or undue hardship upon the applicant or 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 construct two warehouse additions totaling 78,656 square feet on the subject premises 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 additions at this specific site will allow the existing warehouse and distribution facility to operate in a more efficient manner. The warehouse additions will still be served via the existing loading area located along Polito Avenue and will not require any new loading areas to serve the additional space. Truck traffic will not be

substantially increased. The hours of operation and customer base will not change as a result of the increase in warehouse space necessary to accommodate Wacoal's increased product bulk. The proposed warehouse additions will be constructed in a manner that will not inhibit or impede pedestrian or employee access to the site, or have a negative effect on loading and delivery operations. The elimination of the existing office space in the second phase of the project may result in a reduction of on-site employees.

Additional landscaping along Wall Street, Garland Way, and the northerly side yard of the property will be provided to enhance the existing landscaping already on site. A proposed emergency generator along Polito Avenue will be set back a minimum of fifty feet from the street and will be sufficiently screened by a slatted chain-link fence. On-site vehicular circulation and parking will be re-organized in an efficient and safe arrangement, including the provision of entrance-only and exit-only driveways along Garland Way. On-site drainage improvements will be provided to address any additional stormwater runoff that may be created by the new construction, thus augmenting the existing stormwater drainage system serving the site and surrounding neighborhood.

Through improved facility efficiency and functionality, as well as improvements to the site circulation pattern, parking layout, and the stormwater drainage system, the public good will not be adversely impacted. Rather, when compared to the existing conditions, the public good will be enhanced by the proposed site improvements.

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 construct two warehouse additions totaling 78,656 square feet on the subject premises will not impact the existing utility infrastructure. The site contains all required utility infrastructure, including water, electric and sanitary sewers, and is of a sufficient size that will allow the project to be constructed and function as intended. The removal of the existing office space during Phase 2 of the project will result in a reduction in demand for water and sanitary sewer usage. In addition, stormwater drainage improvements will be provided to augment the existing stormwater drainage system serving the site and surrounding neighborhood. The proposed use will not decrease the ability of the existing utility infrastructure to perform in a safe and efficient manner.

There will not be a significant impact to the existing transportation infrastructure in the surrounding area as a result of the proposed warehouse expansion, as any increase in traffic generated by the warehouse additions will be minimal. There are no new loading doors proposed to serve the expanded warehouse area and all loading operations will occur via the existing loading area along Polito Avenue. The traffic impact from the proposed project will be substantially less than that which could reasonably be expected from many of the uses permitted in the Commercial Park zone,

such as business support services, commercial indoor recreation facilities, office, and restaurants, and, generally, occur at earlier peak hours of operation than those uses. As such, the two warehouse additions totaling 78,656 square feet on the subject premises will not produce a significant increase in area traffic.

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

The granting of the requested variance to construct two warehouse additions totaling 78,656 square feet on the subject premises will not result in any adverse environmental impacts. NJMC environmental performance standards, as they relate to noise, vibration, glare, air emissions, and hazardous or radioactivity materials will not be exceeded by the project. In addition, no environmentally sensitive areas will be disturbed on the property. The proposed additions will comply with all lot coverage and open space requirements of the zone. The proposed emergency generator will comply with Category B performance standards for noise.

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

The stated purpose of the Commercial Park zone is to accommodate commercial mixed-use developments in compact centers designed to be interrelated to provide a mitigating effect upon peak hour traffic that would normally be generated from single commercial uses. Development should provide for safe and unimpeded pedestrian movement. Although a total of 17 different land uses are permitted within the zone, including business support services, commercial indoor recreation facilities, and restaurants, warehouse and distribution facility uses are not permitted.

Allowable uses within the Commercial Park zone tend to be varied in scope, requiring a minimum lot area of three acres, whereas warehouse uses containing a corporate distribution center, which typically require larger lots, are not permitted. The existing warehouse facility occupies a lot of 8.25 acres in size, which is almost triple the minimum required lot area for the zone.

Additionally, the warehouse and distribution use currently exists on the site as a lawful nonconforming use, and the subject property is located adjacent to the Light Industrial A zone to the south, where warehouse and distribution facilities are a permitted use. The proposed warehouse expansion can easily be accommodated on the site and is not inconsistent with the character of the adjacent area, which consists of a mix of warehousing facilities, offices,

hotels, and other commercial uses. At total build-out, approximately 25 percent of the lot will be dedicated to open space and landscaping, meeting the zone's bulk requirement. On-site parking will be reconfigured, providing an efficient and safe design. The proposed number and configuration of parking spaces will conform to NJMC regulations. On-site stormwater drainage improvements will be made to alleviate any potential drainage impacts created by the new development. Accordingly, the form and function of the proposed warehouse additions are similar to uses in the surrounding neighborhood and adjacent zone, and 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 NJMC Master Plan.

The Master Plan designates the subject premises as a part of the District's Employment Center planning area and states in part, "The Land Use Plan calls for centers with a concentration of industrial and warehouse distribution businesses...Employment Centers could evolve into the next phase of distribution and light industrial facilities." See NJMC Master Plan, adopted January 2004, (Area Plans, 11-7). While the Master Plan's planning areas do not constitute zoning districts, their descriptions provide the foundation for the zone designations within the NJMC District Zoning Regulations.

The regulations reflect the spirit and intent of the Master Plan and are the mechanism by which the policies and principles of the

Master Plan are implemented and enforced, in accordance with smart growth principles.

The proposed project will support the expansion of an existing business entity already utilizing the subject premises for a warehouse and distribution use. The subject property's location is adjacent to properties in the Light Industrial A zone, where warehouse uses are permitted. Accordingly, the proposed 78,656 square feet of warehouse space on the subject premises will contribute to and promote the intent of the NJMC Master Plan regarding employment centers.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.46(a), which does not list warehouse and distribution facilities as a permitted use in the Commercial Park zone.

Based on the record in this matter, the use variance application to construct two warehouse additions totaling 78,656 square feet on the subject premises is hereby recommended for approval.

APPROVAL	12/3/14	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
Approval	12/3/14	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director