

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
Palmer SG/1 Palmer Terrace - New Building & Variance**

FILE # 14-197

I. INTRODUCTION

An application for one (1) bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Cary Goldman of Palmer SC, LLC, for the premises located at 1 Palmer Terrace, Block 124, Lots 50 and 52, in the Borough of Carlstadt, New Jersey. Said premises are located in the Commission's Light Industrial B zone. The variance is sought in connection with the applicant's proposal to construct a 53,152 square foot warehouse/distribution facility with associated site improvements.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-8.7(a)1, which requires a minimum 50-foot wide landscaped buffer measured from the mean high water line or top of bank where any development borders the Hackensack River, tributaries, or streams located in the District. The applicant is proposing 1,900 square feet of new impervious area within the required 50-foot buffer from Peach Island Creek.

A public hearing was held at the Office of the Commission on Tuesday, August 26, 2014. Notice was given to the public and all interested parties as required by law. The public notice of this hearing was published in The Record newspaper. No written objections were submitted to the Division of Land Use Management. 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 and Site Conditions

The subject premises, 1 Palmer Terrace, Block 124, Lots 50 and 52, is a 7.9-acre parcel, containing a three-story office building having a gross floor area of approximately 45,000 square feet. The property is located in the Commission's Light Industrial B zone. The applicant is proposing to demolish the existing office building and construct a 53,152 square foot warehouse/distribution facility with associated site improvements.

The southern property line of the subject site is bounded by Peach Island Creek and the western property line runs along a tributary to the creek. NJMC regulations require a 50-foot wide waterway buffer, measured from the mean high water line or top of bank, to be maintained. The 50-foot buffer on the subject site is measured from the top of bank, as depicted on Exhibits A-2 and A-3.

Exhibit A-2 shows a 1,900 square foot intrusion into the 50-foot buffer by the construction of paved vehicular use areas associated with the proposed warehouse building. At the greatest point of intrusion, the paved area extends approximately 25 feet into the 50-wide buffer. The 3,647 square feet of proposed waterway buffer disturbance shown on Exhibit A-3 includes the 1,900 square feet of proposed pavement along with 1,747 square feet of existing lawn areas that are proposed to be improved with a "reinforced lawn" for emergency fire access around the rear of the proposed building. The reinforced lawn, while engineered to provide a solid sub-surface for fire trucks and emergency vehicles, will appear to be open lawn area. Exhibit A-3 indicates that a total of 4,858 square feet of disturbed waterway buffer, which is a pre-existing non-conformity, will be reclaimed through restoration and enhancement work as a part of the proposed development. As a result, the on-site area of the required 50-foot wide waterway buffer will be increased by a total of 1,211 square feet over the current conditions.

B. Response to the Public Notice

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

III. PUBLIC HEARING (August 26, 2014)

A public hearing was held on Tuesday, August 26, 2014. NJMC staff in attendance were Sara J. Sundell, Director of Land Use Management and Chief Engineer, Sharon Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer, Mark Skerbetz, Senior Planner, and Brandon Alviano, 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:

<u>Number</u>	<u>Description</u>
A-1	"Aerial Photograph With Site Plan," Dwg. No. IA101, prepared by Langan Engineering, dated 8/25/14.
A-2	"Site Plan," Dwg. No. CS101, prepared by Langan Associates, dated 3/28/14 and revised through 6/23/14.
A-3	"Waterway Buffer Disturbance Plan," prepared by Langan Engineering, dated 8/25/14.
A-4	"Wetlands Conservation Easement Plan," Dwg. No. WP103, prepared by Langan Engineering, dated 6/5/14.

B. Testimony

James Rhatican, Esq., of Wolff & Samson, PC, represented Palmer SG, LLC. The following witnesses testified in support of the application:

1. Dan Miola, P.E., Langan Engineering
2. Cary Goldman, Palmer SG, 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 Court Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.7(a)1, which requires a minimum 50-foot wide landscaped buffer measured from the mean high water line or top of bank where any development borders the Hackensack River, tributaries, or streams located in the District. The applicant is proposing 1,900 square feet of new impervious area within the required 50-foot buffer from Peach Island Creek.

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 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 bulk variance to permit 1,900 of new impervious area within the required 50-foot buffer from Peach Island Creek arises from conditions that are unique to the site. The subject premise is an irregularly-shaped, 7.9 acre parcel fronting on a private road, known

as Palmer Terrace. The property's southern edge is bounded by Peach Island Creek, which runs the entire length of the site and along the western property line. Peach Island Creek is meandering and does not follow a straight line along the southern property line.

The allowable setback for vehicular use areas in the side- and rear-yards in the Light Industrial B zone, including at-grade parking and drive aisles, is 5 feet. On the subject site, however, the property line is located within the Peach Island Creek waterway and the 50-foot buffer from the top of bank takes precedence, which decreases the available footprint for vehicular use areas on the property. The site is currently improved with a 3-story office building that is planned for demolition. A portion of the existing paved vehicular use area associated with the existing office building is currently located in the required 50-foot buffer along the edge of the creek. Some of those paved areas are proposed to be removed and returned to a more natural state, thereby reducing the existing non-conformity in certain locations on the site.

The applicant is proposing to construct a 53,152 square foot warehouse/distribution facility with associated site improvements, including minimal intrusion into the 50-foot buffer for paved areas associated with truck access to loading docks and the parking lot. The proposed pavement will allow for adequate maneuverability of trucks to safely utilize the loading docks as well as provide for a vehicular turnaround area in the parking lot. Due to site constraints, as a result of the configuration of the lot and the required 50-foot buffer requirement from the top of bank, the area available to provide additional pavement for safe vehicular use is limited. These circumstances are unique to the property in question.

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

The granting of the requested variance to permit 1,900 square feet of new impervious area within the required 50-foot buffer from the Peach Island Creek waterway, will not adversely affect the rights of neighboring property owners or residents. The site is located within a fully developed commercial/industrial area. Properties located immediately to the north, east and west of the premises are zoned Light Industrial B and consist of a variety of commercial and industrial uses. Properties to the south of Peach Island Creek are located within the Paterson Plank Redevelopment Area and are comprised of predominantly industrial-type uses.

The 1,900 square feet of new impervious area is incorporated into the proposed stormwater management system for the property. The design will comply with NJMC's water quantity and quality regulations and will not present any detrimental impacts on the neighboring properties. In addition, the applicant proposes to enhance and restore approximately 4,858 square feet of existing disturbed areas within the 50-foot buffer, thereby increasing the amount of landscape buffer area from that which currently exists.

- 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 site, as it exists today, comprises of a 3-story office building with an associated parking lot. The current office building use is a pre-existing, nonconforming use. The applicant proposes to demolish the existing building and construct a 53,152 square foot warehouse/distribution facility, which is a permitted use in the Light Industrial B zone. Peach Island Creek meanders along the southern edge of the property and a tributary runs along the western property line. As per NJMC regulations, a 50-foot buffer must be maintained from the mean high waterline or top of bank, which decreases the available building envelope, thereby limiting the amount of development allowed on the site.

In order to provide sufficient pavement area for safe and adequate maneuverability of trucks utilizing the loading doors and passenger cars turning around in the parking lot, the applicant is proposing 1,900 square feet of new impervious area within the 50-foot required buffer. Without the paved area requested in this variance application, trucks would not have sufficient room to maneuver into and out of the loading docks, and cars in the parking lot would have difficulty reversing direction to exit the lot. The width of the buffer is not decreased to less than 25 feet, or half of the required buffer, in any location on the plan. The proposed amount and location of the paved area will allow the site to function as proposed, while maintaining a sufficient buffer from Peach Island Creek.

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

There will be no substantial detriment to the public good and no adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The surrounding neighborhood properties principally consist of warehouse and distribution uses. The applicant proposes to add 1,900 square feet of new impervious area within the 50-foot required buffer from Peach Island Creek in association with the construction of a 53,152 warehouse/distribution facility on the property. The proposed design results in a redesign of the stormwater management system for the site. As testified by the applicant, the stormwater design is in compliance with NJMC regulations and will provide adequate stormwater quality and quantity management, which will be an improvement over the existing stormwater system. The proposed disturbance to the required 50-foot buffer does not extend more than 25 feet into the buffer, and thus does not completely eliminate the buffer in any one location. Peach Island Creek is uncommonly wide along the rear of the subject property, thus placing a substantial physical and visual barrier between the location of the intrusion into the 50-foot buffer and the properties located in the vicinity. Therefore, 1,900 square feet of new impervious vehicular use area within the required 50-foot buffer, will not have any adverse effects to the surrounding properties.

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

The granting of the requested variance will not have any adverse environmental impacts. No wetlands, as delineated on the proposed plans by the applicant's professionals, are proposed to be disturbed. Certain areas with the 50-foot required waterway buffer that had previously been disturbed by the construction of the existing structure are proposed as "compensation areas," which are to be restored with landscaping to a green condition again. In addition, the proposed 1,900 square feet of new impervious area within the required 50-foot buffer from Peach Island Creek will not cause the NJMC's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality to be exceeded.

- 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 southern property line of the subject premises meanders along Peach Island Creek and the western property line parallels a small tributary to the creek. As a result, any new development is required to maintain a 50-foot buffer from the mean high waterline or top of bank. As part of the overall redevelopment of the site, the applicant is proposing 1,900 square feet of new impervious area in the form of pavement within this buffer. The impervious area within the buffer is required for adequate and safe maneuvering of trucks accessing the loading doors and for passenger vehicle turnaround in the parking area. The areas

depicted on the plan for truck and car maneuvering are the minimum necessary to allow such movements to take place.

In addition, the applicant is proposing to replant certain areas of the waterway buffer that have previously been disturbed by the existing building and pavement areas, but which can be returned back to their natural state under the current development proposal. The location and amount of new impervious area within the required 50-foot buffer, in relation to the overall redevelopment of the site, represents the minimum deviation from the regulations that will afford relief.

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

The requested variance to permit the addition of 1,900 square feet of new impervious area within the required 50-foot buffer from Peach Island Creek will not impair the intent and purpose of the regulations. The purpose of requiring a 50-foot landscape buffer between new development and adjacent waterways is to provide a natural vegetative filter in the form of trees, shrubs and grasses, which can intercept stormwater runoff pollutants from surface water runoff before they reach a river or stream. The proposed plan indicates 1,900 square feet of new impervious area within the required 50-foot buffer from Peach Island Creek. Although the new impervious area will be located within the 50-foot buffer, the plans indicate a maximum buffer intrusion of 25 feet in the area between new paved area and Peach Island Creek.

The disturbance to the buffer for the inclusion of a reinforced lawn emergency fire access lane will not diminish the effectiveness of the

waterway buffer. In addition, a total of 4,858 square feet of currently disturbed waterway buffer will be reclaimed through restoration and enhancement work as a part of the proposed development. This restoration and enhancement work will result in a net waterway buffer increase of 1,211 square feet between pre- and post- development of the site. Thus, any negative effects of the 1,900 square feet of new impervious surface will be compensated for by the proposed improvements to the stormwater management system at the site and the increase in existing waterway buffer area.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.7(a)1, which requires a minimum 50-foot wide landscaped buffer measured from the mean high water line or top of bank where any development borders the Hackensack River, tributaries, or streams located in the District. The applicant is proposing 1,900 square feet of new impervious area within the required 50-foot buffer from Peach Island Creek.

Based on the record in this matter, the bulk variance application to permit 1,900 square feet of new impervious area within the required 50-foot buffer from Peach Island Creek, is hereby recommended for approval.

<u>APPROVAL</u>	<u>9.30.14</u>	
Recommendation On Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>approval</u>	<u>10/1/14</u>	
Recommendation On Variance Request	Date	Marcia A. Karrow Executive Director