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