

## RECOMMENDATION ON THE VARIANCE APPLICATION OF

### 996 Belleville/Excel - Truck Scale/Variances

FILE # 14-401

#### I. INTRODUCTION

Applications for three bulk variances have been filed with the New Jersey Meadowlands Commission (NJMC) by Thomas J. O'Connor, Esq. of Waters, McPherson, McNeill, P.C., on behalf of Excel Plastics Recycling, for the premises identified as 996 Belleville Turnpike, Block 286, Lot 37.01, in the Town of Kearny, Hudson County, New Jersey. Said premises are located in the Commission's Koppers Coke Peninsula Redevelopment Area. The bulk variances are sought in connection with the applicant's construction of a truck scale with associated site improvements on the subject property in the front yard facing Crosspike Drive.

Specifically, the applicant is requesting relief from the following:

1. Section V.D.2(b) of the Koppers Coke Peninsula Redevelopment Plan, which requires a minimum of 15 percent open space. Construction of the truck scale has reduced open space provided on the subject property from 11.3 percent to 5.7 percent.
2. Section V.D.2(c)i of the Koppers Coke Peninsula Redevelopment Plan, which requires a minimum front yard of 30 feet. A truck scale has been constructed on the subject property within the required front yard facing Crosspike Drive at a setback of 8.4 feet.
3. Section V.E.8(a) of the Koppers Coke Peninsula Redevelopment Plan, which states that fences are permitted in required front yards at a minimum setback of five feet. A chain link fence is proposed within the required front yard facing Crosspike Drive at a setback of zero feet.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal. No written objections were received. A public hearing was held in the Office of the Commission on Tuesday, December 16, 2014. 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

The property in question contains approximately 3.81 acres within the Koppers Coke Peninsula Redevelopment Area. The subject property is rectangular in shape with frontage to the east along Belleville Turnpike and frontage to the south along Crosspike Drive. The property is bordered to the north by the Pennsylvania Tunnel & Terminal Railroad – Mainstem Amtrak Northeast Corridor rail line and a warehouse/distribution facility to the west.

The subject property is currently developed with a 60,000-square-foot warehouse/distribution facility with associated parking. The structure is accessed by driveways on Belleville Turnpike and Crosspike Drive. The property is listed on the New Jersey Department of Environmental Protection's Known Contaminated Sites List, and is contaminated with chromium. A cap has been installed as an Interim Remedial Measure (IRM), and a final remedial plan is being prepared by Tierra Solutions, Inc., on behalf of a responsible party, Occidental Chemical Corp., for NJDEP approval.

A truck scale with flanking concrete pads was previously constructed on the southerly portion of the site in the required front yard facing Crosspike Drive without benefit of approvals or permits from the NJMC, and is the subject of a violation action by the NJMC. The subject variance applications concerning the

front yard setback and open space are due primarily to the as-built conditions of the truck scale.

This application further proposes the installation of an eight-foot-high chain link fence within the required front yard facing Crosspike Drive. The Koppers Coke Redevelopment Plan permits the installation of a fence within a required front yard at a minimum setback of five feet. The applicant requests a variance to install the fence within the required front yard facing Crosspike Drive at a setback of zero feet. No other changes to the buildings or the site are proposed.

**B. Response to the Public Notice**

One written comment was submitted to this Office from Gerald Rolnick, 1010 Belleville Turnpike, Kearny, New Jersey prior to the public hearing.

**III. PUBLIC HEARING (December 16, 2014)**

A public hearing was held on Tuesday, December 16, 2014. NJMC staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner and Ronald Seelogy, P.E., P.P., Senior 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	"Fence and Scale Plan," Drawing Number FP-1, prepared by McNally Engineering, L.L.C., dated June 17, 2014, revised through September 30, 2014.

A-2 Letter from Teresa C. Jordan, P.E., of Tierra Solutions, Inc.,  
dated September 9, 2014.

**B. Testimony**

Thomas J. O'Connor, Esq. of the firm Waters, McPherson, McNeill, P.C. represented Excel Plastics Recycling, at the hearing. The following witness testified in support of the application:

1. Perry Frenzel, P.E., P.P.

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(S)**

**A. Standards for the Granting of a Bulk Variance from the Provisions of Section V.D.2(b) of the Koppers Coke Peninsula Redevelopment Plan, which requires a minimum of 15 percent open space. Construction of the truck scale has reduced open space provided on the subject property from 11.3 percent to 5.7 percent.**

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 subject property is a corner lot located within the Commission's Koppers Coke Redevelopment Area, fronting Belleville Turnpike to the east and Crosspike Drive to the south. It consists of 3.81 acres and is divided into two lease areas. The applicant's operation is located on the larger, easterly lease area consisting of approximately 2.4 acres. The remaining westerly portion of Lot 37.01, identified on the site plan as "Parcel 4," is a vacant portion of the lot leased by others.

The property is rectangular in shape, with 164.43 feet of frontage along Belleville Turnpike and 632.10 feet along Crosspike Drive. The subject property is currently developed with a one-story, 60,000-square-foot warehouse/distribution building and associated paved parking and site improvements. Lot coverage for the entire property is 36.2 percent; however, the existing warehouse/distribution building covers approximately 57 percent of the easterly lease area. Based on the survey of the property, the lease area is the subject of a recorded deed, which is a unique and unusual condition affecting the property owner's ability to provide additional open space at the premises. As per the recorded deed, the tenant of Parcel 4 does have the option to purchase the leased area provided they obtain the required approvals from those government agencies with jurisdiction.

The property is also listed on the NJDEP Known Contaminated Sites List as a chromium site, with unique limitations on land disturbances due to Interim Remedial Measures, including the

placement of surface caps to prevent exposure to underlying contaminants.

The site was developed prior to the adoption of NJMC regulations and, as such, contains a number of pre-existing nonconformities. The minimum front yard setback to the existing building along Crosspike Drive is 22.8 feet, whereas a minimum setback of 30 feet is required. The existing truck scale was constructed by a prior property owner at a nonconforming setback of 8.4 feet from the Crosspike Drive right-of-way (ROW). Prior to the installation of the truck scale, 11.3 percent open space was provided. Currently, 5.7 percent open space is provided. Those properties within the Koppers Coke Redevelopment Area are required to maintain a minimum of 15 percent open space.

Therefore, the variance requested arises from these existing conditions that are unique to the property in question, are not ordinarily found in the same zone, and were not created by any action of the property owner or applicant.

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

Crosspike Drive is an approximately 660-foot-long ROW that contains access to four properties in total. The subject property occupies the entire frontage of the northerly ROW line, and two industrial properties front on the southerly ROW line. According to the tax map, Crosspike Drive continues as an easement over a

former Conrail rail line into an adjoining industrial property at Block 286, Lot 45.01.

Approximately 9,198 square feet of open space was removed by a prior property owner along Crosspike Drive to accommodate the installation of the truck scale. The 5.7 percent remaining open space is located along Belleville Turnpike and along the property's northerly side yard. No addition to the existing building or expansion of paved vehicular use areas is proposed. Existing parking and loading areas will be maintained at their present levels.

The proposed reduction in open space areas in the front yard along Crosspike Drive will not impact drainage to neighboring properties. The applicant proposes a fence in the front yard along Crosspike Drive that, if approved, may serve as a screening measure to address area aesthetics.

No residential uses are located within the general vicinity. Therefore, the proposed amount of open space resulting from the installation of the truck scale will not adversely affect the rights of neighboring property owners and residents, and will not affect the ability of neighboring properties to function as intended.

*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 Koppers Coke Peninsula Redevelopment Area minimum open space requirement of 15 percent to the subject property will result in particular and exceptional practical difficulties to, and exceptional and undue hardship upon, the property owner. The subject property contains an existing nonconforming amount of 11.3 percent open space, proposed to be reduced to 5.7 percent open space as a result of the truck scale installation. Existing site conditions present practical difficulties in the provision of the required open space.

The easterly portion of the subject property leased to the applicant is currently developed with a one-story, 60,000-square-foot warehouse/distribution building and associated paved parking and site improvements. The truck scale, which was installed by a previous property owner, is vital to the applicant's daily operations. Although removal of the truck scale and associated paved surfaces would increase the amount of open space provided, there is no ability to relocate the truck scale elsewhere on the property or inside the building. The placement of a truck scale on any other location on the property would conflict with on-site circulation and loading activities, and the history of chromium contamination on the site constrains further development or disturbances on the property. No additional impervious surfaces or structures are proposed that would further decrease the amount of open space provided.

*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.*

Approval of the requested variance to permit 5.7 percent open space on the subject premises, whereas a minimum of 15 percent open space is required, 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. Existing site conditions do not allow for the creation of additional open space or landscaped areas on other portions of the property due to the history of chromium contamination on the site that discourages additional land disturbances. Reduction in the amount of open space provided from 11.3 percent to 5.7 percent will not have a substantial negative impact on any of the surrounding properties or the public.

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

The granting of the variance to permit 5.7 percent open space on the subject property, whereas a minimum of 15 percent open space is required in the Koppers Coke Peninsula Redevelopment Area, will not have a substantial adverse environmental impact. The intent of the minimum open space requirement is to provide for sufficient green space for drainage purposes and neighborhood aesthetics. No new impervious surfaces will be installed as part of this application, and aesthetic concerns are minimal within this heavily industrial neighborhood comprised of only four properties.

Existing drainage patterns will be maintained. The NJMC's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials or water quality will not 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. Due to the building configuration, the location of the paved vehicular use areas, and the site's environmental history, the site cannot be functionally redesigned in a manner that would meet open space requirements. One potential alternative location to install a truck scale is within the westerly loading area. However, this alternative is not practicable, as this location would conflict with the site's existing truck circulation and loading operations. The proposed location provides an efficient means of access to the truck scale that would not interfere with on-site circulation or off-site traffic patterns within the Crosspike Drive ROW.

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

The granting of the requested variance to permit 5.7 percent open space, whereas a minimum of 15 percent open space is required in the Koppers Coke Peninsula Redevelopment Area, will not substantially impair the intent and purpose of these regulations. The intent and purpose of an open space regulation is to provide

for sufficient green space for public health in the form of adequate drainage and area aesthetics. The proposed variance does not arise from the applicant's actions. Rather, the applicant is seeking to address a prior violation by requesting variance approval for an existing truck scale and adjacent impervious surfaces that were installed by a previous property owner without permits and/or approvals from the NJMC. Due to the building configuration, the location of the paved vehicular use areas, and the presence of contaminants, the site cannot be redesigned to comply with open space requirements. For these reasons, this proposal supports the purpose of the NJMC zoning regulations to "promote development in accordance with good planning practices that relates the type, design, and layout of such development to both the particular site and surrounding environs."

**B. Standards for the Granting of a Bulk Variance from the Provisions of Section V.D.2(c)i of the Koppers Coke Peninsula Redevelopment Plan, which requires a minimum front yard of 30 feet. A truck scale has been constructed on the subject property within the required front yard facing Crosspike Drive at a setback of 8.4 feet.**

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 variance to permit a truck scale within the required 30-foot front yard setback arises from conditions that are unique to the site. The subject property is a corner lot with two front yards, Belleville Turnpike to the east and Crosspike Drive to the south. It is also divided into two lease areas. The applicant's operation is located on the larger, easterly lease area consisting of approximately 2.4 acres. The remaining westerly portion of Lot 37.01, identified on the site plan as "Parcel 4," is leased by others. Based on the survey of the property, the lease area is the subject of a recorded deed, which is a unique and unusual condition. As per the recorded deed, the tenant of Parcel 4 does have the option to purchase the leased area provided they obtain the required approvals from those government agencies with jurisdiction.

The property is also listed on the NJDEP Known Contaminated Sites List as a chromium site, with unique limitations on land disturbances due to Interim Remedial Measures, including the placement of surface caps to prevent exposure to underlying contaminants.

The property is generally rectangular in shape, with 164.43 feet of frontage along Belleville Turnpike and 632.10 feet along Crosspike Drive. However, the property is configured and improved in such a way that alternate locations for the truck scale are limited without negatively affecting vehicular movements into and around the site. The truck scale location will preserve the established logistical operations on the site. The site is currently developed with a one-story, 60,000-square-foot warehouse/distribution building and associated paved parking and site improvements. Lot coverage for

the entire property is 36.2 percent; however, the existing warehouse/distribution building covers approximately 57 percent of the easterly lease area, which limits the placement of the truck scale in alternate locations.

Therefore, the requested variance to permit a truck scale within the required front yard facing Crosspike Drive at a setback of 8.4 feet, whereas 30 feet is required, arises from these conditions that are unique to the site and the configuration of the existing building on the site, which are not created by any action of the property owner.

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

The granting of the requested front yard setback variance will not adversely affect the rights of neighboring property owners or residents. The applicant is seeking to address a prior violation by requesting variance approval for an existing truck scale installed within the required front yard setback by a previous property owner without permits and/or approvals from the NJMC.

Crosspike Drive is an approximately 660-foot-long ROW that contains access to four properties in total. The site is located within a fully-developed industrial area, with an adjacent grade-separated rail line located to the north of the subject property. The subject property occupies the entire frontage of the northerly ROW line, and two industrial properties front on the southerly ROW line.

The truck scale will not create any negative visual impacts to the neighboring properties, nor impede their ability to function as intended. The applicant proposes a fence in the front yard along Crosspike Drive that, if approved, may serve as a screening measure to address area aesthetics. There are no residential uses within the immediate vicinity of the subject premises.

*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, and exceptional and undue hardship upon, the property owner. The particular characteristics of the property, including the location and configuration of the existing building and parking and loading areas on the site, present challenges in providing a conforming functional location for the truck scale.

The ability to locate a truck scale elsewhere on the property is constrained. The existing building on the site is located at a nonconforming 22.8 feet from Crosspike Drive, whereas the minimum front yard setback requirement is 30 feet. Likewise, alternate locations to construct a conforming truck scale outside of the required front yard would result in the loss of required parking and front yard loading operations on the easterly portion of the lease area, or would create possible site circulation conflicts with an existing loading area on the west side of the building. The northerly side yard is also not a practicable alternative, as the

proposed location would be within the required side yard setback. As the existing building is set back 16.8 feet from the northerly lot line, the construction of a truck scale at this alternative location would not be feasible due to the narrow width of land available between the building and the lot line, and access to this location would conflict with on-site circulation patterns. Finally, the presence of chromium contamination on the site constrains further disturbances of the property.

The proposed location of the truck scale will allow the site to continue to function in a safe and efficient manner.

*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 neighboring properties consist primarily of warehouse and distribution uses. The location of the truck scale within the required front yard setback, as proposed, will not negatively impact the general welfare or public safety.

The truck scale, installed at a setback of 8.4 feet from the southerly lot line, will not result in vehicular conflicts either on or off the site, and sight distances into and out of the existing driveways will be maintained. The truck scale is located behind an existing guide rail, and an eight-foot high chain-link fence is proposed that, if

approved, would address any potential adverse aesthetic impacts to the surrounding properties. Finally, the installation of the truck scale will allow Excel Plastics Recycling to remain at its current location, thereby promoting neighborhood stability and prosperity, of particular importance on a site within a designated redevelopment area.

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

The granting of the requested variance to permit a truck scale within the required 30-foot front yard setback will not have any adverse environmental impacts. The proposed structure will not result in any adverse impacts to light and air within the required setback as it is a site improvement, and not an enclosed building. The location of the truck scale will not alter existing drainage patterns on the site, nor will it violate the NJMC performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality. In addition, no environmentally sensitive areas have been disturbed by the placement of the truck scale, as no wetlands were disturbed to install the scale on the site and, according to Tierra Solutions, the existing IRM is not affected by the truck scale.

*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 truck scale has been installed on a fully-developed lot with two front yards. Potential locations to

provide an alternate location for the truck scale without altering the safe operation and layout of the warehouse/distribution facility are limited. The truck scale has been installed on the southerly property line at a setback of 8.4 feet behind the guard rail adjacent to Crosspike Drive. The current location of the truck scale ensures proper vehicle movement within the site without compromising the use of the existing paved areas for parking, circulation and maneuvering. Further disturbance of the site is significantly constrained due to the presence of contaminants.

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

The requested variance to permit a truck scale within the required 30-foot front yard setback to Crosspike Drive will not impair the intent and purpose of the regulations. The property in question is located in an area comprised of various industrial uses. Although the truck scale is located within the required front yard setback, it has minimal visual impact to the surrounding area as it is a site improvement and not an enclosed structure. Furthermore, the truck scale at its current location will continue to maintain the overall logistical functionality of the site. For these reasons, this proposal supports the purpose of the NJMC zoning regulations to “promote development in accordance with good planning practices that relates the type, design, and layout of such development to both the particular site and surrounding environs.”

**C. Standards for the Granting of a Bulk Variance from the Provisions of Section V.E.8(a) of the Koppers Coke Peninsula Redevelopment Plan, which states that fences are permitted in required front yards at a minimum setback of five feet. A chain link fence is proposed within the required front yard facing Crosspike Drive at a setback of zero feet.**

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 variance to permit an eight-foot high chain-link fence, with a 20-foot wide swing gate and a 40-foot-wide sliding gate, within the required five-foot front yard fence setback arises from conditions that are unique to the site. The subject property is a corner lot with two front yards, Belleville Turnpike to the east and Crosspike Drive to the south. It is also divided into two lease areas. The applicant's operation is located on the larger, easterly lease area consisting of approximately 2.4 acres. The remaining westerly portion of Lot 37.01, identified on the site plan as "Parcel 4," is leased by others. Based on the survey of the property, the lease area is the subject of a recorded deed, which is a unique and unusual condition. As per the recorded deed, the tenant of Parcel 4 does have the option to purchase the leased area provided they

obtain the required approvals from those government agencies with jurisdiction.

The property is also listed on the NJDEP Known Contaminated Sites List as a chromium site, with unique limitations on land disturbances due to Interim Remedial Measures, including the placement of surface caps to prevent exposure to underlying contaminants.

The property is rectangular in shape, with 164.43 feet of frontage along Belleville Turnpike and 632.10 feet along Crosspike Drive. The site is currently developed with a one-story, 60,000-square-foot warehouse-distribution building and associated paved parking and site improvements. Lot coverage for both lease areas is 36.2 percent; however, the existing warehouse/distribution building covers approximately 57 percent of the easterly lease area.

NJMC zoning regulations restrict the placement of fences within required front yards. The property is configured and improved in such a way that limits potential locations for a fence without negatively affecting vehicular movements into and around the site. The existing warehouse/distribution facility on the site is located within the required front yard at a setback of 22.8 feet from the southerly property line along Crosspike Drive. An existing truck scale and associated paved areas are also located within the required front yard setback, at 8.4 feet from the southerly property line. The applicant is proposing to install an eight-foot-high chain link fence along the southerly lot line at a setback of zero feet so as not to

impede vehicular circulation within the vicinity of the existing truck scale.

Therefore, the location and configuration of the building and improvements on the site uniquely affect the ability to accommodate a functional fence at a compliant setback. The proposed fence location will preserve the established logistical functions of the site.

- 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 the proposed fence within the required five-foot front yard fence setback will not adversely affect the rights of neighboring property owners or residents. The site is located within a fully-developed industrial area. The Pennsylvania Tunnel & Terminal Railroad is located to the north of the subject property. There are no residential uses within the immediate vicinity of the subject premises.

The proposed fence, which is proposed to be setback zero feet from the front property line along Crosspike Drive, will not be highly visible from Belleville Turnpike. Even though Crosspike Drive is a public ROW, it is a local street serving four industrial properties. The proposed fence will not create any negative visual impacts to the neighboring properties or impede their ability to function as intended. Rather, the proposed fence may act as a screening and safety measure to provide for physical and visual separation between the street and the truck scale. 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, and exceptional and undue hardship upon, the property owner. The strict application of the required five-foot front yard fence setback places the proposed fence within paved areas adjacent to the existing truck scale. The full unobstructed width between the truck scale and the property line is needed to preserve access to the truck scale for maintenance purposes, as well as to allow use by vehicles to bypass flooding conditions on Crosspike Drive. The proposed location of the fence will allow the site to continue to function as intended, and will not negatively impact aesthetics in the neighborhood.

*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 would result from the granting of the requested variance. The surrounding properties consist primarily of warehouse and distribution uses. The applicant proposes to construct an eight-foot-high chain-link fence,

including a 20-foot wide swing gate and a 40-foot wide sliding gate, within the required five-foot front yard fence setback along Crosspike Drive, which intersects with Belleville Turnpike. The fence is proposed to be set back zero feet from the front property line.

The proposed setback is required to minimize any potential vehicular conflicts that would result from installing the proposed fence in a conforming location, and to provide security for the site. The proposed fence will be installed behind an existing guide rail. The proposed fence location will also provide unobstructed vehicle access parallel to Crosspike Drive on the site, which will have a positive impact on public health, safety, and order by allowing vehicles to utilize this area as a bypass during times of extreme flooding conditions on the roadway.

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

The granting of the requested variance to permit an eight-foot high chain-link fence and gates within the required five-foot front yard fence setback will not have any adverse environmental impacts. The location of the proposed fence within the required front yard facing Crosspike Drive will not violate the NJMC performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality. In addition, no environmentally sensitive areas will be disturbed by the placement of the proposed fence. The installation of the fence posts, which will likely disturb the cap, will be conducted in a manner that will

preserve the integrity of the IRM's on the site and under the oversight of Tierra Solutions.

*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 fence will be installed on a fully-developed lot with two front yards. Potential locations to provide a functional fence without altering the safe operation and layout of the warehouse/distribution facility are limited. The fence is proposed to be installed on the southerly property line at a setback of zero feet behind the guard rail adjacent to Crosspike Drive. The proposed deviation of five feet represents a minimal intrusion into the required fence setback. The fence as proposed ensures proper vehicle movement within the site without compromising the use of the existing paved areas for parking, circulation and maneuvering.

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

The requested variance to permit an eight-foot-high chain-link fence and gates within the required five-foot front yard fence setback adjacent to Crosspike Drive will not impair the intent and purpose of the regulations. The intent of requiring fences at a minimum five-foot setback is to allow the provision of adequate sight distances and to provide area for landscaping along a site's street frontage. In this case, in balancing the fence setback

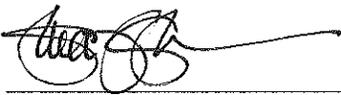
requirements with the particular characteristics of the site and the neighborhood in which it is located, the proposed variance can be granted with no substantial detriment to these intents.

The property in question is located in an area comprised of various industrial uses. Although the fence will be located within the required front yard setback, it will have a minimal visual impact to the surrounding area. Furthermore, the fence at the proposed location will promote site security while maintaining the overall logistical functionality of the site.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of Section V.D.2(b) of the Koppers Coke Peninsula Redevelopment Plan, which requires a minimum of 15 percent open space. Construction of the truck scale has reduced open space provided on the subject property from 11.3 percent to 5.7 percent.

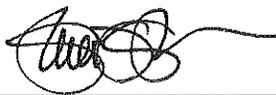
Based on the record in this matter, the bulk variance application to permit the construction of the truck scale that has reduced open space provided on the subject property from 11.3 percent to 5.7 percent, whereas a minimum of 15 percent open space is required, is hereby recommended for APPROVAL.

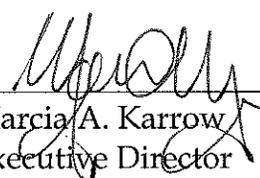
<u>APPROVAL</u>	<u>4-1-15</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>4/2/15</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director

**B. Standards for the Granting of a Bulk Variance from the Provisions of Section V.D.2(c)i of the Koppers Coke Peninsula Redevelopment Plan, which requires a minimum front yard of 30 feet. A truck scale has been constructed on the subject property within the required front yard facing Crosspike Drive at a setback of 8.4 feet.**

Based on the record in this matter, the bulk variance application to permit the construction of a truck scale on the subject property within the required front yard facing Crosspike Drive at a setback of 8.4 feet, whereas a minimum front yard setback of 30 feet is required, is hereby recommended for APPROVAL.

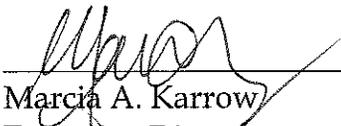
<u>APPROVAL</u>	<u>4-1-15</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>4/2/15</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director

C. Standards for the Granting of a Use Variance from the Provisions of Section V.E.8(a) of the Koppers Coke Peninsula Redevelopment Plan, which states that fences are permitted in required front yards at a minimum setback of five feet. A chain link fence is proposed within the required front yard facing Crosspike Drive at a setback of zero feet.

Based on the record in this matter, the bulk variance application to permit the installation of an eight-foot high chain-link fence and slide gate at a zero-foot setback within the required front yard facing Crosspike Drive, whereas fences may be permitted within a required front yard at a minimum setback of five feet, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>4-1-15</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>4/2/15</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director