

RECOMMENDATION ON THE VARIANCE APPLICATION OF
Vedant Hospitality LLC/Comfort Inn & Suites
FILE # 17-185

I. INTRODUCTION

An application for one use variance and two bulk variances has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Kirti Desai, on behalf of Vedant Hospitality LLC, for the premises located at 82 County Avenue, identified as Block 33, Lots 10 and 11, in the Town of Secaucus, New Jersey. The subject premises is located in the Hackensack Meadowlands District (District) within the Neighborhood Commercial zone. The variances are sought in connection with the applicant's proposal to construct a 72-room hotel and related improvements on the subject premises.

Specifically, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-5.39(a), in which hotels and motels are not listed as a permitted uses in the Neighborhood Commercial zone.
2. N.J.A.C. 19:4-5.43(a)4, which permits a maximum building height of 35 feet, whereas a building height of 57 feet to the top of the building is being proposed.
3. N.J.A.C. 19:4-8.4(a), which requires that all hotels provide one parking space per guest room; and such other spaces for accessory uses as required herein, whereas 62 parking spaces are proposed and 72 parking spaces are required.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. A public hearing at the Office of the Commission was held on Tuesday, August 27, 2019.

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 subject property is a 0.723-acre parcel located in Secaucus within the Neighborhood Commercial zone, and fronts on the east side of County Avenue. The property is bordered by Legend's Diner to the north, a NJ Turnpike Authority maintenance yard and salt dome to the east within the NJ Turnpike right-of-way (ROW), County Car Wash to the south, and a mix of residential, commercial, and industrial uses within the Light Industrial A zone across County Avenue to the west.

The subject property contains an existing single-story storage shed on Lot 11 and a single family dwelling on Lot 10. Each lot is accessed by a driveway along County Avenue. The property exhibits a slight decrease in elevation from north to south and west to east.

The applicant is proposing to construct a four-story, 72-room hotel and related improvements on the subject premises. The first floor will consist of the hotel lobby along County Avenue and covered surface parking, while the second through fourth floors will have rooms for the hotel guests. No conference rooms or restaurants are proposed within the hotel. As hotel uses are not a permitted use in the Neighborhood Commercial zone in which the property is located, a use variance has been requested.

The building is proposed to be set back two feet from the property line along County Avenue. The building is proposed to be four stories tall and 57 feet in height, measured to the top of the parapet and, therefore, requires a bulk variance for exceeding the maximum permitted building height of 35 feet in the Neighborhood Commercial zone. During summation at the public hearing, the

applicant's attorney indicated the proposed building height could potentially be reduced to 45 feet.

Access to the site is proposed from County Avenue via two 26-foot-wide two-way traffic driveways, one on the south side of the building and the other on the north side. The upper floors of the building will extend over a portion of the parking area in the rear of the property. The applicant is proposing 62 parking spaces, whereas 72 parking spaces are required, and, therefore, has requested a bulk variance from the District's parking regulations.

B. Response to the Public Notice

One written objection, dated August 23, 2019, was received from Gary M. Jeffas, Administrator for the Town of Secaucus.

III. PUBLIC HEARING (August 27, 2019)

A public hearing commenced in the Office of the NJSEA on Tuesday, August 27, 2019. NJSEA 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; Lyndsay Knight, P.P., AICP, Senior Planner; and Ronald Seelogy, P.E., P.P., Principal 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	Aerial Photograph.

- A-2 "Existing Conditions," Drawing Number EC-1, prepared by the McNally, Doolittle Engineering, LLC, on August 3, 2018, last revised on April 19, 2019.
- A-3 "Site Plan," Drawing Number SP-1, prepared by McNally, Doolittle Engineering, LLC, on August 3, 2018, last revised on April 19, 2019.
- A-4 "Truck Turning Analysis," Drawing Number TT-1, prepared by McNally, Doolittle Engineering, LLC, on August 3, 2018, last revised on April 19, 2019, undated.
- A-5 "Grading, Drainage & Utility Plan," Drawing Number GU-1, prepared by McNally, Doolittle Engineering, LLC, on August 3, 2018, last revised on April 19, 2019.
- A-6 "Lighting Plan," Drawing Number LT-1, prepared by McNally, Doolittle Engineering, LLC, on August 3, 2018, last revised on April 19, 2019.
- A-7 "Exhibit Plan," Drawing Number EXH-1, prepared by McNally, Doolittle Engineering, LLC, on August 3, 2018, last revised on April 19, 2019.
- A-8 Letter from Krishna Murthy, President & CEO of EZ Ride, dated March 19, 2019.
- A-9 "Artistic Rendering of Front Elevation," prepared by NJ Architecture LLC, on August 27, 2019.
- A-10 "Elevations," Drawing Number Z-5, prepared by NJ Architecture LLC, on January 3, 2017, last revised on January 25, 2019.
- A-11 "First Floor Plan," Drawing Number Z-1, prepared by NJ Architecture LLC, on January 3, 2017, last revised on January 25, 2019.

- A-12 "Second Floor Plan," Drawing Number Z-2, prepared by NJ Architecture LLC, on January 3, 2017, last revised on January 25, 2019.
- A-13 "Traffic Impact Study," prepared by Stonefield Engineering & Design, LLC, on April 23, 2019.
- A-14 Parking analysis letter from William P. Stimmel, P.E., P.P., PTOE of Stimmel Engineering dated June 17, 2019.
- A-15 Letters of support dated April 30, 2018, from the following local businesses:
Nelson Morano, Campanello's Pizza;
Spencer Kaye, Lorenzo's Restaurant;
Jim Bhuas, Legends Diner;
Dhaval Patel; and
Good Fella's Deli.
- A-16 "Inset F" from the NJSEA Zoning Map.

B. Testimony

Thomas Trautner, Esq., of Chiesa, Shahinian & Giantomasi, represented the applicant at the hearing. The following witnesses testified in support of the application:

1. Raj Patel, Vedant Hospitality LLC;
2. Matthew Greco, P.E., McNally, Doolittle Engineering, LLC;
3. Nehal Jhaveri, NCARB, NJ Architecture, LLC;
4. Matthew Seckler, P.E., P.P., P.T.O.E., Stonefield Engineering & Design, LLC;
5. William Stimmel, P.E., P.T.O.E., Stimmel Engineering;
6. George Cascino, P.E., P.P., Cascino Engineering & Planning.

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

The following people provided comments objecting to the application at the public hearing, which are recorded in the transcript of the hearing;

1. Mayor Michael Gonnelli, Mayor, Town of Secaucus;
2. Leon Just, Jr., resident, Town of Secaucus;
3. Alex Arceja, 155 County Avenue, Town of Secaucus;
4. David Smentkowski, 75 County Road, Town of Secaucus;
5. Edward Pasznik, 170 County Avenue, Town of Secaucus;
6. Ryan Smentkowski, 75 County Road, Town of Secaucus.

IV. RECOMMENDATION(S)

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.46(a), in which hotels and motels are not listed as a permitted use in the Neighborhood Commercial zone.

The NJSEA's District 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...*

2. 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 District zoning regulations does not permit a hotel on the subject site in the Neighborhood Commercial

zone. The applicant's professional planner, Mr. Cascino, attested that the site's specific location on County Avenue and the nature of existing uses in the area, including a car wash, warehouse, and the NJ Turnpike Authority's salt storage facility, would preclude the development of the subject site as intended by the zone plan. He also attested that neighboring restaurant uses would support a hotel use. Mr. Cascino opined that permitted uses, such as day care facilities, health care facilities, and funeral homes, would be difficult to blend in with mixed car and truck traffic on County Avenue, and that "...any other use listed within the permitted uses would create an exceptional practical difficulty on the applicant..." (T-70), without providing evidence to support this assertion.

Furthermore, the applicant has not demonstrated that exceptional practical difficulties or hardship would result if a hotel use were not permitted on the subject property. The site is adequately sized to accommodate permitted uses in the Neighborhood Commercial zone, measuring approximately 31,500 square feet, more than four times larger than the minimum 7,500-square-foot lot area requirement for the zone.

Additionally, the site does not contain extraordinary conditions that would prevent development of the site as envisioned by the zone plan. The property is relatively flat with significant frontage along County Avenue as to support building construction, ingress/egress driveways, site circulation and the appurtenances associated with a permitted use. The Neighborhood Commercial zone provides for 19 permitted uses and an additional nine special exception uses that are appropriate for properties with the size and

location characteristics of the Neighborhood Commercial zoned properties along County Avenue. Furthermore, the character of existing neighboring development cited by Mr. Cascino, which includes a car wash (which is permitted as a special exception use in the Neighborhood Commercial zone), a warehouse (which is a permitted use in the Light Industrial A zone located opposite County Avenue from the subject site), and the NJ Turnpike's maintenance and salt storage facility, which could potentially impact hotel patrons when in operation, would not preclude development of other uses permitted in the zone that are intended to provide for uses that serve area residents and employees of local businesses. Accordingly, the applicant has not met this use variance criterion.

- 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 Neighborhood Commercial zone is intended to accommodate uses compatible with the scale and character of the neighboring residential area, serving both residents and area employees. Residents and local businesses have a vested interest in the long-term welfare of their community. Hotel uses, meanwhile, are intended to provide commercial transient accommodations of limited duration.

While prospective hotel patrons do have the potential to contribute to the local economy through activities such as patronizing local dining establishments, the immediate neighborhood surrounding

the subject site, in most cases, would not be the ultimate destination point for hotel patrons. The site's proximity to transit and New York City further supports the likelihood that hotel patrons would principally support uses outside of the neighborhood.

In addition, hotel uses typically do not have traditional hours of operation, and are open 24 hours per day, 7 days per week to accommodate guests, which is atypical of the operations of existing commercial uses in the neighborhood. Thusly, the nature of a hotel use would introduce a commercial element that does not currently exist, nor operate in the same manner as existing commercial development, in the Neighborhood Commercial zone.

In addition, the method by which the hotel use is proposed to be accommodated on the subject property would result in detrimental impacts to the public good, order, convenience, and general welfare. For example, the proposed building height is inconsistent with the developed character of the neighborhood, where buildings range from one to 2.5 stories in height. The applicant proposes to maintain a minimum front yard setback of two feet, which is the minimum permitted front yard for the smaller scale development contemplated within the Neighborhood Commercial zone, wherein buildings are no more than 35 feet in height. The proposed building height of 57 feet (potentially reduced to a roof height of 45 feet based on summation at the public hearing by the applicant's attorney, Mr. Trautner), combined with the building's long, linear façade of approximately 175 feet, with minimal architectural articulation, located just two feet from the property line, would result in a detrimental visual impact, in addition to impacting the

provision of light and air and promoting a sense of overcrowding, thus resulting in a substantial detriment to the surrounding neighborhood. In addition, the intensity of the proposed hotel building on the limited depth of the subject site also results in the corresponding request for a variance from the parking requirement, wherein 72 parking spaces are required, but only 62 parking spaces can be spatially accommodated on the subject site.

Furthermore, the subject site's location adjacent to the NJ Turnpike's maintenance and salt storage facility, combined with a plan that offers very little buffering to the noise and glare associated with the maintenance/salt yard, which may operate at any hour of the day depending on weather and roadway conditions, does not promote the public health and welfare of hotel patrons. The placement of such a use, where people will be sleeping, next to an active maintenance and salt storage yard for the major north/south highway in the state adversely affects the general welfare of the people who would be using the hotel.

Therefore, the granting of the requested variance to permit a hotel in the Neighborhood Commercial zone will result in a substantial detriment to the public good and will adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. Accordingly, the applicant has not met this use variance criterion.

- iii. Adequate infrastructure, including storm and sanitary sewers, utilities, and 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 proposed use will not negatively impact the existing utility and road infrastructure in the neighborhood. The applicant has provided testimony and exhibits that show the proposed use will not negatively impact the existing infrastructure and will not decrease the ability of infrastructure to perform in a safe and efficient matter. The site contains two means of access and the applicant's traffic expert has demonstrated that a prospective hotel use would not significantly impact traffic in the neighborhood.

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

The previously developed site is primarily vacant, with an existing dwelling and garage that are proposed to be demolished. There are no wetlands present on the subject site, and the Neighborhood Commercial zone's minimum open space requirements will be met. Furthermore, the proposed hotel use will not cause Hackensack Meadowlands District environmental performance standards for noise, glare, vibrations, airborne emissions or hazardous materials to be exceeded. Therefore, the proposed hotel use itself will not result in a substantial adverse environmental impact.

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

The Neighborhood Commercial zone is intended to provide uses compatible with the scale and character of the neighboring

residential area, serving both residents and area employees. Hotel uses are intended to provide overnight commercial transient accommodations to patrons whose principal destination is located primarily outside of the neighborhood in which the hotel is proposed to be located, and thus would not contribute to the zone's intent to serve area residents and employees. The continuous hours of operation of a hotel use could also substantially impair the intent to provide for a smaller-scale commercial environment as envisioned by the zone plan.

Furthermore, the character of the proposed use and the bulk variances stemming from the proposal, which both speak to the intensity of the proposed use at this site, support a recommendation that the subject site is not an appropriate site to accommodate the proposed hotel. The bulk regulations for this zone were created to accommodate uses that are smaller in scale than that proposed. Specifically, the proposed hotel use, in order to accommodate franchisee requirements, is proposed to be 22 feet higher than the maximum permitted building height within the zone, with a possible reduction to 45 feet to the roof line, or 10 feet higher than permitted, as noted by the applicant's attorney during the public hearing. The proposed height of the hotel is substantially taller than the existing buildings located along County Avenue, and would not be compatible to the scale and character of the neighborhood.

Therefore, approval of the requested use variance to permit a hotel at the specified location would substantially impair the intent and purpose of the Neighborhood Commercial zone, as well as the

purposes of the Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-1.2(a) to promote development in accordance with good planning principles that relate the type, design and layout of such development to both the particular site and surrounding environs, and to relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized. Accordingly, the applicant has not met this use variance criterion.

- vi. The variance at the specified location will contribute to and promote the intent of the District Master Plan.*

The 2004 Master Plan in effect for the Hackensack Meadowlands District designates the subject premises as a part of the District's Secaucus Village Planning Area. While the Planning Areas in the Master Plan do not constitute zoning districts, the planning objectives for these areas provide the foundation for the District Zoning Regulations and Official Zoning Map.

The Village Planning Area seeks to protect and maintain existing one- and two-family residential areas. The Village designation promotes "the continuation of this development scale" and provides that "retail and service establishments will be permitted to accommodate residents." The Master Plan also states that new development will be consistent with the character of surrounding neighborhoods. The existing residences located directly across County Avenue from the proposed hotel, while located in the Light Industrial A zone, are a part of the surrounding neighborhood and would be negatively affected by a hotel structure that is not within

the character and scale of the existing uses in the area, with a height in excess of the permitted requirements and a 175-foot long building façade set as close as two feet from the County Avenue right-of-way.

For the reasons stated herein, the proposed use variance will not contribute to or promote the intent of the District's Master Plan. The proposed use variance is contrary to the intent of the Planning Area to serve area residents, and the scale and intensity of the project is not compatible with the character of the surrounding neighborhood. Accordingly, the applicant has not met this use variance criterion.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.43(a)4, which permits a maximum building height of 35 feet, whereas a building height of 57 feet to the top of the building is being proposed.

As the use variance request to permit a hotel on the subject premises is recommended for denial, the bulk variance request to permit a building height of 57 feet to the top of the building, where the maximum permitted building height is 35 feet, is therefore rendered moot.

- C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.4(a), which requires that all hotels provide one parking space per guest room; and such other spaces for accessory uses as required herein, whereas 62 parking spaces are proposed and 72 parking spaces are required.

As the use variance request to permit a hotel on the subject premises is recommended for denial, the bulk variance request to provide 62 parking spaces, whereas 72 parking spaces are required, is therefore rendered moot.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.9(a), in which hotels and motels are not listed as a permitted use in the Neighborhood Commercial zone.

Based on the record in this matter, the use variance application to permit a hotel on the subject premises is hereby recommended for DENIAL.

<u>DENIAL</u>	<u>11/7/12</u>	
Recommendation on Use Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>DENIAL</u>	<u>11/7/14</u>	
Recommendation on Use Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

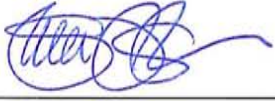
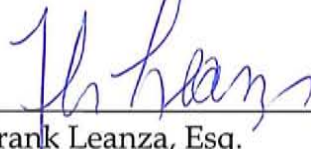
B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.43(a)4, which permits a maximum building height of 35 feet, whereas a building height of 57 feet to the top of the building is being proposed.

Based on the previous recommendation that the request to permit a hotel on the subject premises be denied, the need for a variance from N.J.A.C. 19:4-5.43(a)4, regarding the maximum permitted building height, is therefore MOOT.

<u>MOOT</u>	<u>11/7/17</u>	
Recommendation on Bulk Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>MOOT</u>	<u>11/7/18</u>	
Recommendation on Bulk Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

- C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.4(a), which requires that all hotels provide one parking space per guest room; and such other spaces for accessory uses as required herein, whereas 62 parking spaces are proposed and 72 parking spaces are required.

Based on the previous recommendation that the request to permit a hotel on the subject premises be denied, the need for a variance from N.J.A.C. 19:4-8.4(a), regarding the required number of parking spaces for a hotel use, is therefore MOOT.

<u>Moot</u>	<u>11/7/12</u>	
Recommendation on Bulk Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>Moot</u>	<u>11/7/12</u>	
Recommendation on Bulk Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs