

TOWN OF PHILLIPSBURG PLANNING BOARD RESOLUTION NO. 2021-5

**RESOLUTION GRANTING AMENDED PRELIMINARY AND FINAL MAJOR SITE PLAN
APPROVAL AND BULK VARIANCE APPROVAL FOR THE FORMER INGERSOLL RAND
PROPERTY KNOWN AS BLOCK 3401, LOTS 1, 3, 4, 5, 6, 7, 8 AND 9 (FORMERLY KNOWN
AS BLOCK 3201, LOTS 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 7.09,
7.10, 7.11, 7.12, 7.13, 7.031, 7.032 and 7.033;
BLOCK 3301, LOTS 1, 2, 4, 4.01, 5 and 6)
IN CASE NO. 15-004**

**PR Bridge I78 Phase II Owner Urban Renewal, LLC – Applicant/Owner
One Gatehall Drive, Suite 201
Parsippany, New Jersey, 07064**

Application #2021-9

WHEREAS, PR Bridge I78 Phase II Owner Urban Renewal, LLC (hereinafter “Applicant”), has applied to the Town of Phillipsburg Planning Board (“Board”), for Amended Preliminary and Final Major Site Plan Approval; with variances and any and all design exceptions and/or waivers (collectively the “Application”), for the construction of one warehouse building of approximately one million two hundred and eighty-five thousand, three hundred and sixty-five square feet (1,285,365 sq. ft.), which would include two internal mezzanines which would increase the gross floor area to approximately one million eight hundred and forty-two thousand five hundred and forty-nine square feet (1,842,549 sq. ft.), located in Phase 2 of the development known as Bridge Point 78 (the “Application”);; and

WHEREAS, the Applicant had applied to the Board for Preliminary and Final Major Site Plan Approval in Application #2015-004, which was granted; and

WHEREAS, the Board having satisfied itself that proper notice was given to neighboring property owners and others entitled to notice, as well as publication pursuant to the Town of Phillipsburg Code and N.J.S. 40:55D-12; and

WHEREAS, due to the public health emergency necessitated by the COVID-19 pandemic, pursuant to the Executive Orders of the Governor of the State of New Jersey and the existing laws of the State of New Jersey, public gatherings have been limited in size, space, location and duration; and

WHEREAS, due to the public health emergency necessitated by the COVID-19 pandemic, pursuant to the Executive Orders of the Governor of the State of New Jersey and the existing laws of the State of New Jersey businesses and gatherings have been open to the public in only a limited capacity; and

WHEREAS, due to the public health emergency necessitated by the COVID-19 pandemic, pursuant to the Executive Orders of the Governor of the State of New Jersey and the existing laws of the State of New Jersey, public bodies, such as the Board, are expressly authorized by law to conduct public meetings remotely through the use of audio and video technology; and

WHEREAS, due to the public health emergency necessitated by the COVID-19 pandemic, it was the decision of the Board that it was in the best interests of the Board, the Town of Phillipsburg, the Applicant and the public for this Application to proceed without further delay, consistent with the Executive Orders of the Governor of the State of New Jersey and the existing laws of the State of New Jersey; and

WHEREAS, the Board was of the opinion, after consultation with its professionals, that the Board could consider this Application remotely and that its consideration would not be impeded whatsoever by considering the Application remotely; and

WHEREAS, the Applicant appeared virtually before the Planning Board at a regularly-scheduled meeting on June 24, 2021, at which time it was decided by the Board that it was in the best interests of the Board, the Applicant and the public that the Application be considered at a specially-schedule meeting; and

WHEREAS, it was announced publicly at the June 24, 2021 meeting that the Application would be carried, without the necessity of publication of further notice, to July 12, 2021, at 7:00 p.m.; and

WHEREAS, the Applicant, nonetheless, provided notice of the specially-scheduled meeting to neighboring property owners and others entitled to notice, as well as publication pursuant to the Town of Phillipsburg Code and N.J.S. 40:55D-12; and

WHEREAS, a virtual special public hearing was held on July 12, 2021, which was noticed in accordance with the Open Public Meetings Act N.J.S. 10:4-6, et seq., where the Applicant, represented by Karl P. Kemm, Esq.; and

WHEREAS, on July 12, 2021, and prior to this Application, the Applicant was granted approvals for the Updated Amended GDP under Application # 2021-9 for Phase 2 which changed Phase 2 from 2 warehouses with a total footprint and gross square footage of 1,672,818 sq. ft., to a single warehouse which has a footprint of 1,285,365 sq. ft. and with the two mezzanine areas has a total floor area of 1,842,549 sq. ft.

WHEREAS, Mr. Kemm presented an explanation concerning the Applicant's intended use of the subject property and the construction of one warehouse building and related amenities in accordance with the Updated Amended GDP approved under Application # 2021-9; and

WHEREAS, the Applicant requested certain waivers from the Preliminary Site Plan checklist and the Final Site Plan checklist, and the Board having determined by vote of the Board members present that said waivers can be granted temporarily and the Application was determined by the Board to be complete, all of which is noted below; and

WHEREAS, the Board has received certain documentation and reports from the Applicant, the Board's professional consultants and others, these having been given due consideration and being the following:

- A. Town of Phillipsburg – Application for Amended Preliminary and Final Conventional Site Plans, dated June 10, 2021, which subsequently included a July 12, 2021 Certification from the Collector Taxes that realty taxes are current;
- B. Town of Phillipsburg – Application for Amended General Development Plan, dated June 10, 2021, which subsequently included a July 12, 2021 Certification from the Collector Taxes that realty taxes are current;
- C. “Updated Amended General Development Plans” Set for I-78 Logistics Park Lopatcong Urban Renewal, LLC, PR Bridge I78 Phase II Owner Urban Renewal, LLC, Proposed Bridge Point 78, prepared by Dynamic Engineering, dated June 9, 2021, revised July 2, 2021, consisting of three (3) sheets (Cover Sheet, Updated Amended General Development Plan, and Amended General Development Plan);
- D. “Updated Amended General Development Plan Report” for I-78 Logistics Park (PR Bridge I78 Phase II Owner Urban Renewal, LLC), consisting of thirty-seven (37) pages and Appendices A, B and C, prepared by Dynamic Engineering and signed by Brett W. Skapinetz, P.E., P.P. and Joseph G. Jaworski, P.E., C.M.E., C.F.M, dated August of 2019, and last revised July of 2021;
- E. Board Resolution for Approval of Amendments to Amend General Development Plan, dated October 24, 2019;
- F. Transmittal Letter prepared by Dynamic Engineering, dated June 11, 2021; and
- G. Site plans entitled: “Preliminary and Final Amended Site Plan Building 1 (Phase 2), consisting of forty-one (41) pages, prepared by Dynamic Engineering, dated June 9, 2021;
- H. Stormwater Report entitled: “Stormwater Management Summary Addendum Prepared for PR Bridge I78 Phase II Owner Urban Renewal, LLC,” prepared by Dynamic Engineering, dated June of 2021, and revised July of 2021;
- I. Architectural Plans prepared by Ford & Associates, consisting of eight (8) sheets, dated June 10, 2021, and revised July 2, 2021; and
- J. Traffic Impact Analysis prepared by Dynamic Traffic, dated June 28, 2021; and

WHEREAS, the Applicant is requesting the following variances from the Town Ordinances:

1. A “c” use variance, pursuant to N.J.S. 40:55D-70(c), to permit more than one wall sign per business on each side of a building which fronts a public street, where L.O. 625-40(A)(1) prohibits the same; and
2. A “c” use variance, pursuant to N.J.S. 40:55D-70(c), to permit the aggregate square footage of permanent signs other than wall signs to exceed twenty-five square feet (25’) plus one

square foot for each two linear feet of lot frontage, where L.O. 625-40(B)(1) prohibits the same; and

WHEREAS, the Applicant is requesting the following design waivers from the Town Ordinances:

1. A waiver from the requirement that prohibits automobile parking between the fire aisle and a building in excess of ten thousand square feet (10,000 sq. ft.) under L.O. 510-12(B)(2)(f)(1);
2. A waiver from the requirement that all fire aisles have a minimum width of thirty feet (30') under L.O. 510-12(B)(2)(f)(2); and
3. A waiver from the required number of parking spaces under L.O. 625-32; and

WHEREAS, the Board has considered the review letter of the Board Engineer dated July 9, 2021, as well as the July 8, 2021 letter Bright View Engineering, the contents of which the Board adopts and incorporates its finding of fact by reference herein; and

WHEREAS, the Board unanimously voted to deem the Application complete; and

WHEREAS, the Applicant presented the sworn testimony of the following individuals:

1. Brett W. Skapinetz, P.E., P.P., who is the Applicant's engineer; and
2. Craig W. Peregoy, P.E., who is the Applicant's traffic engineer; and

WHEREAS, the following documents were marked as exhibits at the July 12, 2021 hearing and were discussed and testified to by the Applicant's witnesses. These are now included as part of the record:

1. A-1: Curriculum Vitae of Brett W. Skapinetz, P.E., P.P.;
2. A-2: Sheet 2 of the Updated Amended General Development Plans, depicting the proposed single warehouse configuration; and
3. A-3: Curriculum Vitae of Craig W. Peregoy, P.E.
4. A-4: Letter from Fire Chief Richard Hay, dated July 12, 2021; and

WHEREAS, before the testimony of the Applicant's witnesses on July 12, 2021, the Board's engineer discussed the waivers from the Town's Site Plan checklist which was requested by the Applicant and which are referenced in the Board Engineer's July 9, 2021 letter and further recommended that the Board grant temporary waivers from the Town's Preliminary Site Plan Checklist, as outlined in the July 9, 2021 letter, to items 2a, 2b, and 2c; and grant temporary waivers from the Town's Final Site Plan Checklist, as outlined in the July 9, 2021 letter to items 3a through 3l; and

WHEREAS, by unanimous vote on July 12, 2021, the Board granted the waivers and temporary waivers referenced above and deemed the Application complete; and

WHEREAS, Brett Skapinetz, P.E., P.P., a New Jersey Licensed Engineer and Licensed Professional Planner, who after being sworn and accepted as an engineering expert, based upon Exhibit A-1 provided testimony on behalf of the Applicant. Mr. Skapinetz discussed the size of the building, the

parking lot design, the number of parking spaces, the three entry points to the building from Rand Boulevard and location of the groundwater treatment building, guard shack and related amenities. He then testified that additional green space is proposed which improves the existing stormwater management plan. He also noted the proposed increased landscaping around the stormwater basin serving this site. He stated that Applicant will work with Fire Chief on all issues raised. He testified that the proposed lighting plan is consistent with Town's requirements and will not affect any other parcels or property in a negative manner. He then discussed the need for the two sign variances as noted above. He also addressed the request for the design waivers noted above. Mr. Skapinetz stated that Fire Chief does not object to the requested design waivers.

As discussed during the hearing for the Updated Amended GDP, the Board agreed to waive the requirement that a 10' right-of-way and sidewalk on Roseberry Street be constructed. There was further discussion whether mature trees in place already provide a buffer on Roseberry Street and if disturbance of those trees would make the site less safe. It was noted that there is a sidewalk on the other side of Roseberry Street and further noted that by not constructing additional sidewalks, the impervious coverage of the overall site would not increase. The Board requested that the area of overgrown, mature trees on Roseberry Street be cleaned up and possibly supplemented, and the Applicant agreed as a condition of approval to work with the Board Planner and Board Engineer in this regard. Mr. Skapinetz then commented on the Stormwater Management Plan and said it will comply with Town requirements.

The Applicant agreed as a condition of approval to work with the Board Engineer to address item 1(y) in Section III, Technical Comments, in his report. The Applicant agreed as a condition of approval to work with the Board Engineer to determine the extent of street, curb and sidewalk replacement in lieu of complete replacement to satisfy items 5(f) through (j) in Section III, Technical Comments, in his report which the Board accepted. As also discussed during the hearing for the Updated Amended GDP, the Applicant agreed to install the on-site directional signage for truck traffic in accordance with what will be Exhibit D to the Updated Amended General Development Plan Report.

WHEREAS, Mr. Skapinetz was asked to address the technical comments contained in the Board Engineer's July 9, 2021 review letter and stated that the Applicant was prepared to address all of the technical comments in the letter and that the Applicant would work with the Board Engineer; and

WHEREAS, the Board was satisfied with Mr. Skapinetz' testimony, especially in light of the Board Engineer's comments and review, such that the Board did not have any additional questions or comments; and

WHEREAS, the Board Engineer then asked that Joseph A. Fishinger, P.E., P.P., P.T.O.E., a traffic engineer consulted by the Board Engineer, be allowed to testify and to comment. Mr. Fishinger was

accepted by the Board as a traffic engineer. Mr. Fishinger made a few comments, which were consistent with his July 8, 2021 letter; and

WHEREAS, Craig W. Peregoy, P.E., was offered as the Applicant's second witness, who after being sworn and accepted as a traffic engineering expert, based upon Exhibit A-3, provided testimony on behalf of the Applicant. Mr. Peregoy stated that he was updating the 2015 traffic study previously presented to the Board. He stated that his focus was on impact of traffic on Roseberry Street. He said that while recent traffic counts are unreliable because due to the COVID-19 pandemic, the closure of Third Street bridge at the site and the existing site construction, he was relying upon the 2018 traffic counts as a baseline. Mr. Peregoy also explained that the Third Street Bridge would be built with two lanes, one in each direction in accordance with the previously obtained NJDOT approvals and approval of the railroad. As also discussed during the hearing for the Updated Amended GDP, further studies will be undertaken and eventually a traffic light will be installed at the intersection of Rand Boulevard, Center Street and Roseberry Street, which will be operational prior to receiving the last final certificate of occupancy for the Bridge Point 78 development. Mr. Peregoy also made some technical comments, to which Mr. Fishinger did not have any further comments and questions; and

WHEREAS, the Board was satisfied with Mr. Peregoy's testimony, especially in light of the Board Engineer's comments and review and upon Mr. Fishinger's comments and review, such that the Board did not have any additional questions or comments; and

WHEREAS, the Applicant did not offer any additional witnesses, documents or evidence; and

WHEREAS, the Town Planner, Angela Knowles, was present during the hearing and did not have any questions regarding the preceding; and

WHEREAS, the Board asked for public comments, and having heard comments from Kelly Lefler which were addressed; and

NOW THEREFORE, as a result of the Applicant's presentation, testimony and exhibits presented by the Applicant's witnesses as aforesaid and the documentation submitted, the Board finds as follows:

1. The property in question is located in the Phillipsburg Commerce Park Redevelopment Area and is subject to the Revised Phillipsburg Commerce Park Redevelopment Plan (the "Redevelopment Plan").
2. N.J.S. 40A:12A-13 and the Redevelopment Plan provides for review and approval of site plans by the Board in redevelopment areas.
3. Pursuant to the Redevelopment Plan, the Board has the authority to grant waivers from the requirements of the Redevelopment Plan, and from the provisions of Chapter 510 of the Town of Phillipsburg's Ordinances, to wit, "Town of Phillipsburg's Site Plan Ordinance of 1979". The Board finds that the design waivers requested are hereby granted subject to the conditions agreed upon, as they will not

substantially impair the intent of the Redevelopment Plan, and will not present a substantial detriment to the public health, safety and welfare, and substantially meet the requirements of the Town of Phillipsburg Ordinances.

4. Pursuant to the Redevelopment Plan, the Board has the authority to grant variances from the requirements of the Redevelopment Plan, and from the provisions of Chapter 510 of the Town of Phillipsburg's Ordinances, to wit, "Town of Phillipsburg's Site Plan Ordinance of 1979". The Board finds that the signage variances requested are hereby granted subject to the conditions agreed upon, as they will not substantially impair the intent of the Redevelopment Plan, and will not present a substantial detriment to the public health, safety and welfare, and substantially meet the requirements of the Town of Phillipsburg Ordinances and otherwise meet the requirements of N.J.S. 40:55D-70(c)(2).

5. The Board finds from the testimony presented, subject to the conditions imposed herein, that the Amended Preliminary and Final Major Site Plan is in substantial compliance with N.J.S.A. 40:55D-38, 39, 41 and 50, and the applicable Town Ordinances, the Redevelopment Plan, the Updated Amended GDP as approved under Application # 2021-8, and advances sound land use principals and the Board grants Preliminary and Final Major Site Plan approval.

6. The Applicant's proposed Amended Preliminary and Final Site Plan is consistent with the Town of Phillipsburg's Amended General Redevelopment Plan.

NOW THEREFORE, BE IT RESOLVED THAT the Applicant's requested, are hereby **GRANTED**, on Motion of Mr. Penrose and seconded by Mr. Hanisak:

ROLL CALL VOTE

Ayes: Chairman Duffy, Mr. Zwicker, Mr. Brotzman, Mr. Rooney, Mayor Tersigni, Mr. Samirelli, Mr. Penrose, Mr. Hanisak and Mr. Turnbull

Nays: None.

Abstentions: None.

NOW THEREFORE, BE IT RESOLVED THAT the Applicant's request for waivers from the "Town of Phillipsburg's Site Plan Ordinance of 1979," for three (3) design waivers as noted above, are hereby **GRANTED**, on Motion of Mr. Brotzman and seconded by Mr. Samirelli:

ROLL CALL VOTE

Ayes: Chairman Duffy, Mr. Zwicker, Mr. Brotzman, Mr. Rooney, Mayor Tersigni, Mr. Samirelli, Mr. Penrose, Mr. Hanisak and Mr. Turnbull

Nays: None.

Abstentions: None.

NOW THEREFORE, BE IT FURTHER RESOLVED THAT the Applicant's request for Amended Preliminary and Final Major Site Plan approval, variances, design waiver as conditioned herein, is hereby **GRANTED**, on Motion of Mr. ? and seconded by Mr. ? :

ROLL CALL VOTE

Ayes: Chairman Duffy, Mr. Zwicker, Mr. Brotzman, Mr. Rooney, Mayor Tersigni, Mr. Samirelli, Mr. Penrose, Mr. Hanisak and Mr. Turnbull

Nays: None.

Abstentions: None.

AND IT IS FURTHER RESOLVED THAT the Applicant's request for Amended Preliminary and Final Major Site Plan approval, variances, design waiver as conditioned herein is granted subject to the express and unaltered conformation with the following conditions:

1. The Applicant shall be bound to comply with all comments contained in the Board Engineer's review letter dated July 9, 2021, as modified at the July 12, 2021 hearing, unless altered by this approval, including any comments contained in subsequent reports. In the event that the Applicant is unable to comply with any of the Board Engineer's requirements or recommendations, it is understood that it reserves the right to apply to this Board for relief therefrom.

2. The Applicant shall be bound to comply with all comments contained in the Bright View Engineer letter dated July 8, 2021, as modified at the July 12, 2021 hearing, unless altered by this approval, including any comments contained in subsequent reports. In the event that the Applicant is unable to comply with any of the Board Engineer's requirements or recommendations, it is understood that it reserves the right to apply to this Board for relief therefrom.

3. The Applicant shall ensure that the building is constructed and erected in strict compliance with the Final Site Plan with the understanding that any deviation therefrom which is deemed by the Board's Engineer to be a significant deviation from the plans hereby approved shall require further review and approval by this Board.

4. That the Applicant procure, and provide copies to the Board, of all applications, licenses and permits required by all federal, state and municipal agencies.

5. That a pre-construction conference be scheduled with the Town Engineer's office at least two days prior to commencement of construction.

6. That the Applicant pays all outstanding fees and deficiencies in the review escrow account and brings current all real estate taxes, sewer and water charges pertaining to this site.

7. That any portion of any prior Site Plan approvals are hereby vacated to the extent they may be inconsistent with this Site Plan.

8. That the Applicant applies for, and obtains, approval from all other agencies and governmental bodies which may have concurrent jurisdiction over this project including, but not limited to, the Town of Phillipsburg Fire Chief, the Town of Phillipsburg Chief of Police, the Warren County Planning Board, Warren County Soil Conservation District, the Phillipsburg Sewer Utility, Elizabethtown Gas, Aqua New Jersey, Jersey Central Power & Light ("JCP&L"), the New Jersey Department of Transportation and the New Jersey Department of Environmental Protection ("DEP").

9. That all necessary and proposed easements be obtained before construction commences and be shown on the site plat drawing and be approved by the Board's Attorney and the Board's Engineer.

NOW THEREFORE, BE IT FURTHER RESOLVED THAT the site plan approvals, design waivers and variances granted herein for new Phase 2 (1 Building with a total floor area of 1,842,549 sq. ft.) shall not operate to void the existing site plan approvals, design waivers and variances for the previous Phase 2 (2 Buildings totaling 1,672,818 sq. ft.), provided however, that the existing site plan approvals, design waivers and variances for the previous Phase 2 shall be deemed relinquished and voided upon the Applicant obtaining building permits for the site plan approvals, design waivers and variances granted herein for new Phase 2.

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Planning Board was duly adopted at its regular meeting on the 22nd day of July, 2021, by a majority of the aforesaid members approving the oral approval for the contents herein on July 12, 2021.

Dated: July 22, 2021


WILLIAM DUFFY, Chairman