

TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2022-10

RESOLUTION GRANTING *THIRD AMENDED* PRELIMINARY AND FINAL MAJOR SITE PLAN 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, 7.031, 7.032 and 7.033; and BLOCK 3301, LOTS 1, 2, 3, 4, 4.01, 4.022, 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 #2022-3

WHEREAS, PR Bridge I78 Phase II Owner Urban Renewal, LLC (hereinafter “Applicant”), has applied to the Town of Phillipsburg Planning Board (“Board”), for a Third Amended Preliminary and Final Major Site Plan Approval; and any and all design exceptions and/or waivers (collectively the “Application”), for the modification of the layout of the interior and the exterior of Bridge Point Phase 2, Building 1, located in the Phillipsburg Commerce Park Redevelopment Zone and Plan and located within the Bridge Point 78 Logistics Park; and

WHEREAS, the Applicant had applied to the Board for Preliminary and Final Major Site Plan Approval in Application #2015-4, which was granted; and

WHEREAS, the Applicant had applied to the Board for Amended Preliminary and Final Major Site Plan Approval in Application #2021-9, which was granted by Phillipsburg Land Use Board Resolution No. 2021-5, on or about July 22, 2021; and

WHEREAS, the Applicant had applied to the Board for Second Amended Preliminary and Final Major Site Plan Approval in Application #2021-3, which was granted by Phillipsburg Land Use Board Resolution No. 2022-4, on or about March 24, 2022; 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, the Applicant appeared before the Board at a regularly-scheduled meeting on July 28, 2022, where the Applicant, represented by Lawrence A. Calli, Esq., presented an explanation concerning the approvals sought by the Applicant, *to wit*, the modification of the layout of the interior and the exterior of Bridge Point 78 Phase 2, Building 1; and

WHEREAS, the Applicant’s proposal consisted of the following amendments: modification to the principal building footprint (modified to 1,249,200 square feet, with 1,249,1223 square feet previously approved) comprised of 1,224,624 square feet of warehouse space (with 1,209,122 square feet previously

approved) and 24,576 square feet of office space (with 40,000 square feet previously approved and the addition of 13,509 square feet of office mezzanine space); with the abutting groundwater treatment system structure (“GWTS”) footprint to remain at the approved at 2,900 square feet; modifications to off-street parking (851 passenger vehicle spaces proposed for warehouse and 5 for GWTS, with 750 and 5 previously approved, respectively); modifications to the loading areas (151 loading spaces and 415 trailer stalls proposed, with 200 and 502, previously approved, respectively); reduction of impervious coverage (65.9% or 2,714,423 square feet proposed, with 66.2% previously approved) and slight increase to FAR (0.31 or 1,262,709 square feet proposed, with 0.30 or 1,249,122 square feet previously approved); installation of eight feet (8’) tall perimeter fencing with anti-scaling measures; and, no changes proposed to previously approved signage or building height.

WHEREAS, the Applicant requested certain waivers from the General Submission Checklist, 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. Transmittal letter from Dynamic Engineering, dated June 24, 2022;
- B. Town of Phillipsburg – Application for Amended Preliminary and Final Conventional (Major) Site Plans, dated June 23, 2022, which included a March 31, 2022 Certification from the Collector of Taxes that realty taxes and sewer payments are current;
- C. Board Resolution No. 2021-4 for Approval of Updated Amendment to the Revised General Development Plan, dated July 22, 2021;
- D. Board Resolution No. 2021-5 Granting Amended Preliminary and Final Major Site Plan Approval and Use Variance Approval, dated July 22, 2021;
- E. Board Resolution No. 2022-4 Granting Second Amended Preliminary and Final Major Site Plan Approval and Use Variance Approval, dated March 24, 2022;
- F. Site plans entitled: “Preliminary and Final Amended Site Plan Building 1 (Phase 2),” consisting of forty-one (41) sheets and six (6) exhibits, prepared by Dynamic Engineering, dated June 9, 2021, and last revised on June 23, 2022, consisting of forty-six (46) sheets and eight (8) exhibits;
- G. 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 2022;

H. Architectural Plans prepared by Ford & Associates, consisting of nine (9) sheets, dated June 20, 2022;

I. Traffic Impact Assessment letter prepared by Dynamic Traffic, dated June 21, 2022; and

J. July 25, 2022 letter from Town of Phillipsburg Fire Chief

WHEREAS, the Applicant is not requesting any variances from the Town Ordinances; and

WHEREAS, the Applicant is requesting certain temporary design waivers from the Town Ordinances which are referenced in the review letter of the Board Engineer dated July 22, 2022; and

WHEREAS, the Board has considered the review letter of the Board Engineer dated July 22, 2022, 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 with the temporary waivers requested by the Applicant; and

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

1. A waiver from the requirement that all plans are submitted on sheets in the size set forth in L.O. 510-11(A);
2. A waiver from the requirement that all plans include all existing and proposed signs, utility poles and their size, construction and location as required by L.O. 510-11(C)(3)(f);
3. A waiver from the requirement that the Applicant's ownership interest in contiguous lots be disclosed as required by L.O. 510-11(C)(3)(o);
4. A waiver from the requirement that the Applicant show plans and profiles of streets adjoining the property as required by L.O. 510-11(C)(3)(p);
5. A waiver from the requirement that all plans are drawn to scale as set forth in L.O. 510-11(D)(2);
6. 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);
7. 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
8. A waiver from the required number of parking spaces under L.O. 625-32; and

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

1. Daniel Sehnal, P.E., who is the Applicant's engineer;

2. Brent Hagan, who is an authorized representative of Shopify which is an e-commerce company that is a prospective tenant of the Applicant's at the subject property; and
3. Devin Schmitt, who is an authorized representative of the Applicant; and

WHEREAS, the following documents were marked as exhibits at the July 28, 2022 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 Daniel Sehnal, P.E.;
2. A-2: Colorized version of the overall phase site plan, sheet 6, revision 4, dated June 23, 2022, which was prepared on July 28, 2022; and
3. A-3: Drawing of proposed Guardhouse modification, dated July 27, 2022; and

WHEREAS, the waivers from the Town's Site Plan checklist as requested by the Applicant are referenced in the Board engineer's July 22, 2022 letter and the Board Engineer recommended that the Board grant temporary waivers from the Town's Preliminary Site Plan Checklist, as outlined in the July 22, 2022 letter, to items 2a, 2b and 2c; and grant temporary waivers from the Town's Final Site Plan Checklist, as outlined in the July 22, 2022 letter to items 3b, 3c, 3d, 3f and 3g; and grant a permanent waiver from the Town's General Submission Checklist as to item 1b; grant a permanent waiver from the Town's Preliminary Site Plan Checklist as to item 2a; and grant a permanent waiver from the Town's Final Site Plan Checklist as to item 3a; and

WHEREAS, by unanimous vote on July 28, 2022, the Board granted the waivers and temporary waivers referenced above; and

WHEREAS, Daniel Sehnal, P.E., a New Jersey Licensed Engineer, who after being sworn and accepted as an engineering expert, based upon his Curriculum Vitae, marked as Exhibit "A-1," provided testimony on behalf of the Applicant. Mr. Sehnal offered Exhibit A-2" entitled "Phase 2 Overall Development Plan Exhibit" dated July 28, 2022; and offered "A-3" entitled "Proposed Guardhouse Area Modification Exhibit" dated July 27, 2022; and

WHEREAS, Mr. Sehnal was also asked to address the technical comments contained in the Board Engineer's July 22, 2022 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, Mr. Sehnal testified that the property owner has diligently explored viability of installation of a bus stop at the site, however upon discussions with transit and the prospective tenant, same was deemed to be unwarranted and would not be further pursued or implemented; and,

WHEREAS, the Board was satisfied with Mr. Sehnal’s 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, Brent Hagan, who is an authorized representative of Shopify which is an e-commerce company that is a prospective tenant of the Applicant’s at the subject property was offered as the Applicant’s second witness, who after being sworn stated that Shopify business operations, inclusive of warehousing and distribution of consumer goods, would occur in shifts, with Shopify having an anticipated total employee count of approximately 750; and

WHEREAS, the Board was satisfied with Mr. Hagan’s 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, Devin Schmitt, who is an authorized representative of the Applicant was offered as the Applicant’s third witness, who after being sworn stated that the signal installation would post-date the occupancy of the Tenant, due to ongoing supply chain issues; and, the sequencing of the bridge opening would be coordinated with the commencement of tenant occupancy and business operations occurring at Building 1; and

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

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

WHEREAS, the Board asked for public comments, and having heard minimal comments which were adequately 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 Park Redevelopment Zone and Plan and is part of the existing Bridge Point 78 Logistics Park project and is known as the Phillipsburg Commerce Park Redevelopment Area (“PCRPA”).
2. N.J.S. 40A:12A-13 provides for review and approval of site plans by the Board in redevelopment areas.
3. The Applicant must obtain Amended Preliminary and Final Major Site Plan Approval from the Board before it modifies the proposed development of the subject property.
4. The Board has the authority to grant waivers from the provisions of Chapter 510 of the Town of Phillipsburg’s Ordinances, to wit, “Town of Phillipsburg’s Site Plan Ordinance of 1979” pursuant to N.J.S. 40:55D-51.

5. A waiver is an acknowledgment by the Board that conditions of the property are satisfactory and meet the requirements of the Town of Phillipsburg Ordinances.

6. It has been acknowledged by the Board that a waiver of the Town of Phillipsburg's Site Plan Ordinance requirements be granted as to each of the items contained in the Completeness Review and Technical Comments letter of the Board's Engineer, dated July 22, 2022.

7. This Board has considered its prior Resolutions Nos. 2015-4, 2021-4, No. 2021-5 and No. 2022-4.

8. The Board concurs that the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances including all Ordinances which address the Phillipsburg Commerce Park Redevelopment Area ("PCRPA").

9. The Applicant's proposed amended site plan to is consistent with the prior approved original and amended Site Plans, as concisely and clearly marked on Applicant's Exhibits "A"-2" and "A-3" and does not violate the requirements of the Town of Phillipsburg Ordinances.

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

NOW THEREFORE, BE IT RESOLVED THAT the Applicant's request for the eight (8) permanent waivers from the "Town of Phillipsburg's Site Plan Ordinance of 1979," for the design waiver as noted above, and the Applicant's request for Third Amended Preliminary and Final Major Site Plan approval are hereby **GRANTED**, on Motion of Mayor Tersigni and seconded by Mr. Penrose:

ROLL CALL VOTE

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

Nays: None.

Abstentions: None.

AND IT IS FURTHER RESOLVED THAT the Applicant's request for Amended Preliminary and Final Major Site Plan approval for modifications to Building 1 on Lot 1 as set forth in the Application, which is consistent with the original and amended Site Plans, located in the Phillipsburg Commerce Park Redevelopment Zone and Plan and located within the Bridge Point 78 Logistics Park, and is known as the Phillipsburg Commerce Park Redevelopment Area ("PCRPA"), is granted subject to the express and unaltered conformation with the following conditions:

1. That the Applicant shall be bound to comply with all comments contained in the Board Engineer's review letter dated July 22, 2022, as modified at the July 28, 2022 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. That the Applicant shall ensure that the building is constructed and erected in strict compliance with the Amended 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.

3. That the Applicant shall undertake the construction in strict compliance with the "Standards for Construction" set forth in L.O. 510-12(B)(3).

4. That the Applicant shall perform video inspection (except water main/service), pipe deflection (except water main/service), pressure (except storm) and leak testing for all installed pipes.

5. That the Applicant shall ensure LRSP is on-site monitoring soil movements and air quality and provide weekly reports to the Town Engineer.

6. That the Applicant shall provide all third-party inspection reports to the Town Engineer on a weekly basis.

7. That the Applicant provide comprehensive as-builts for improvements.

8. That the Applicant keep adequate equipment and manpower to clean all sediment from vehicle wheels prior to exiting the site and to keep the road open to the public clean of debris continuously.

9. That the Applicant complete the replacement of the Third Street entrance to the site prior to the occupancy of Building 1.

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

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

12. 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.

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

14. 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 Construction Department, 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").

15. 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.

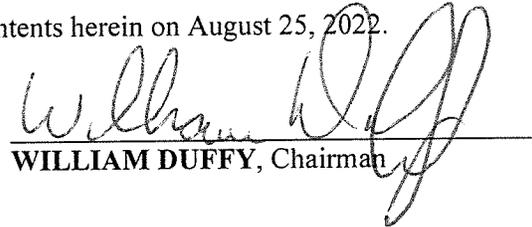
16. That a temporary certificate of occupancy may issue for Building 1 prior to and in advance of completion to the traffic signal.

17. That the Applicant shall not be required to pursue or develop the bus transit stop location on the Property.

AND IT IS FURTHER RESLOVLED THAT the amended approvals granted herein shall not operate to void the existing approvals except to the extent the prior approvals are inconsistent with the amended approvals granted herein.

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Land Use Board was duly adopted at its regular meeting on the 28th day of July, 2022, by a majority of the aforesaid members approving the oral approval for the contents herein on August 25, 2022.

Dated: August 25, 2022



WILLIAM DUFFY, Chairman