

TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2022-12

**RESOLUTION GRANTING CONVENTIONAL/FINAL MAJOR SITE PLAN APPROVAL IN
NO. 2021-1**

**Peron Construction, LLC – Applicant/Owner
60 West Broad Street, Suite 201
Bethlehem, Pennsylvania 18018**

**Block 2102, Lot 2.02
170 Howard Street**

Application #2021-1

WHEREAS, Peron Construction, LLC, (“Applicant”) applied to the Town of Phillipsburg Land Use Board (“Board”) for Preliminary Conventional/Major Site Plan Approval; Bulk Variance Approval pursuant to N.J.S. 40:55D-70(c); and any and all design exceptions and/or waivers (collectively “the Application”), for the construction of an industrial building of approximately four hundred and twenty thousand square feet (420,000’) on the property identified on the Town Tax Map as Block 2102, Lot 2.02, with a street address of 170 Howard Street, Phillipsburg, Warren County, with three hundred and fifty-two (352) passenger car parking spaces, eighty-eight (88) loading docks and thirty-nine (39) spaces for trailer parking and to raze the existing structures which are located on the properties known as 560 and 562 South Main Street and identified on the Town Tax Map as Block 2015, Lots 1 and 3, in order to construct roadway improvements; and

WHEREAS, on January 27, 2022, the Board granted the Applicant Preliminary Conventional/Major Site Plan Approval and Bulk Variance Approval which was memorialized in Board Resolution No. 2022-2, on February 22, 2022; and

WHEREAS, the Applicant has applied for Final Conventional/Major Site Plan Approval; and any and all design exceptions and/or waivers (collectively “the Application”), for the construction of an industrial building of approximately four hundred and twenty thousand square feet (420,000’) on the property identified on the Town Tax Map as Block 2102, Lot 2.02, with a street address of 170 Howard Street, Phillipsburg, Warren County, with three hundred and fifty-two (352) passenger car parking spaces, eighty-eight (88) loading docks and thirty-nine (39) spaces for trailer parking and to raze the existing structures which are located on the properties known as 560 and 562 South Main Street and identified on the Town Tax Map as Block 2015, Lots 1 and 3, in order to construct roadway improvements;

WHEREAS, the Board having satisfied itself that proper notice was given to neighboring property owners, and to all others entitled to notice, as well as publication pursuant to both the Town of Phillipsburg Code and to N.J.S. 40:55D-12, on or about August of 2022; and

WHEREAS, the Applicant appeared before the Board at a regularly-scheduled meeting on July 28, 2022, at which time the following Board members announced to the public that they would be recusing themselves from consideration of the Application: Chairman Willaim Duffy, Mayor Todd Tersigni and Councilman Keith Kennedy; and

WHEREAS, the Applicant appeared before the Board at a regularly-scheduled meeting on July 28, 2022, at which time the Applicant requested certain temporary waivers from the Preliminary Site Plan checklist requirements, said waivers being summarized in the Board Engineer's May 20, 2022 and July 22, 2022 review letters, and the Board having determined that said waivers can be granted and the Application was determined by the Board to be complete; and

WHEREAS, the Applicant appeared before the Board again at a regularly-scheduled meeting on August 25, 2022, at which time the Board commenced a public hearing on the Application as more fully set forth herein below;

WHEREAS, Chairman Willaim Duffy, Mayor Todd Tersigni and Mr. Kennedy again announced to the public that they would be recusing themselves from consideration of the Application at the August 25, 2022 hearing; and

WHEREAS, as a result of the preceding recusals, nonetheless, a quorum of five (5) Board members, identified below, was established; and

WHEREAS, at the preceding hearings, the Applicant was represented by Mark R. Peck, Esq., who presented a brief explanation concerning the Applicant's intended use of the subject property and the approvals sought and further stated that the Applicant intended to comply with: (i) most of the requirements set forth by the Board's preliminary approval of this Application; (ii) all of the comments set forth in the Board Engineer's July 22, 2022 letter; and (iii) all of the comments in the Town of Phillipsburg Fire Chief's July 25, 2022 letter; and

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

- A. Town of Phillipsburg Zoning Permit Application, dated July 26, 2021;
- B. Town of Phillipsburg – "Application for Minor or Conventional Site Plans" for Block 2102, Lot 2.02, dated August 5, 2021;
- C. Town of Phillipsburg – "Application for Conventional Site Plan," dated March 29, 2022;
- D. Town of Phillipsburg – Preliminary Site Plan Checklist for Conventional Site Plan, dated August 5, 2021;
- E. Town of Phillipsburg – Final Checklist for Conventional Site Plan, dated August 5, 2021;

- F. Town of Phillipsburg Tax and Sewer Certifications from Tax Collector that taxes and sewer are paid through September 30, 2022, for Block 2015, Lots 1 and 3, and Block 2102, Lot 2.02, dated July 26, 2022;
- G. Final Major Site plan entitled: "Preliminary and Final Major Site Plan for Peron Construction, LLC, Proposed Industrial Development, Map: 21, Block 2102, Lot 2.02," prepared by Bohler Engineering NJ, LLC, dated July 31, 2021, consisting of eighty-seven (87) sheets, last revised on June 6, 2022;
- H. Survey entitled: "ALTA/NSPS Land Title Survey 170 Howard Street, Lots 1, 2.01 & 2.02, Block 2102, Town of Phillipsburg, Warren County, State of New Jersey," prepared by Control Point Associates, Inc., consisting of ten (10) sheets, dated January 14, 2021, and last revised on June 10, 2022;
- I. Boundary and Topographical Survey entitled: "Boundary and Topographic Survey 170 Howard Street, Lots 1, 2.01 & 2.02, Block 2102, Town of Phillipsburg, Warren County, State of New Jersey," prepared by Control Point Associates, Inc., consisting of ten (10) sheets, dated January 14, 2020, and revised on August 5 2021;
- J. Architectural Plan entitled: "420K Spec Building," prepared by Cerminara Architects, dated August 6, 2021, consisting of three (3) sheets;
- K. Trip Generation Comparison Letter, prepared by McMahon Associates, Inc., dated July 29, 2021;
- L. Stormwater Management Report, prepared by Bohler Engineering, LLC, dated March of 2022;
- M. Stormwater Management Facility Operations & Maintenance Manual, prepared by Bohler Engineering, LLC, dated March of 2022;
- N. Truck Turning Exhibit, prepared by Bohler Engineering, dated October 13, 2021, and last revised on February 25, 2022;
- O. "Traffic Impact Study for the Phillipsburg Industrial Development, Town of Phillipsburg, Warren County, NJ," prepared by McMahon Associates, Inc., dated October of 2021, and last revised February of 2022;
- P. Correspondence from Bohler Engineering, LLC, dated June 10, 2022;
- Q. Town of Phillipsburg Ordinance 2021-14 – amending Riverfront Redevelopment Plan – District 5;
- R. July 25, 2022 and August 5, 2022 updated letters from Town of Phillipsburg Fire Chief;
- S. Aqua New Jersey, Inc. "Will-Serve" Letter dated April 7, 2021;
- T. Elizabethtown Gas "Will-Serve" Letter dated February 24, 2021;
- U. Jersey Central Power & Light "Will-Serve" Letter dated February 24, 2021; and

- V. Bohler Engineering letter dated August 15, 2022; and
- W. GZA Geo Environmental letter dated August 22, 2022;

WHEREAS, the Applicant is requesting the following design waiver from the Town Ordinances: A permanent waiver from L.O. 510-11(D)(3)(bb) which requires an environmental impact study; and

WHEREAS, the Board having considered the letters of the Board engineer dated May 20, 2022 and July 22, 2022, the contents of which the Board adopts and incorporates its finding of fact by reference herein; and

WHEREAS, the Applicant presented the sworn testimony of the following individuals on August 25, 2022:

- 1. Bradford A. Bohler, P.E. who is the Applicant's engineer;
- 2. Oliver H. Franklin, Sr., RA, who is the Applicant's architect;
- 3. John R. Wichner, P.E., who is the Applicant's traffic engineer; and
- 4. Richard Lev, who is the Applicant's environmental engineer; and

WHEREAS, the following documents were marked as exhibits at the August 25, 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: Professional Profile of Bradford A. Bohler, P.E.;
- 2. A-2: Proposed rendering "Overall Site Plan Layout" C-301;
- 3. A-3: Curriculum Vitae of Richard Lev, L.S.R.P.;
- 4. A-4: Curriculum Vitae of John R. Wichner, P.E.;
- 5. A-5: Curriculum Vitae of Oliver H. Franklin, Jr., RA;
- 6. A-6: Proposed building floor plan, dated August 6, 2021;
- 7. A-7: Architectural sheet A-2 depicting north and west elevations;
- 8. A-8: Color rendering of "eye level view;"
- 9. A-9: August 5, 2022 letter from Phillipsburg Fire Chief;

WHEREAS, Bradford A. Bohler, P.E., a New Jersey Licensed Engineer, of Bohler Engineering, LLC, was offered as the first witness, who after being sworn and accepted as an engineering expert, based upon Exhibit "A-1," provided testimony on behalf of the Applicant. Mr. Bohler discussed the following. He offered Exhibit "A-2," which is the proposed site rendering, C-301, "Overall Site Plan Layout" and explained what it represented. He provided a general description that the proposals set forth in the Application between the preliminary site plan approval and requested final site plan approval are essentially the same. Mr. Bohler stated that the only significant update addresses stormwater management which is in conformance with state and local regulations and requirements. As to design waivers, items 2j through 2m which are identified in the Board Engineer's July 22, 2022 letter at page 19, the Applicant is no longer

seeking those temporary waivers and will comply with the Town Ordinances. Mr. Bohler then stated as to item 2p that he believes the application is in compliance, but requests a waiver if the Board does not believe there is compliance. Mr. Bohler then addressed some of the technical comments which were raised in the Board Engineer's July 22, 2022 letter beginning at page 21. As to comment 1(c)(ix), which addresses the demolition plan of the application and disturbance of railroad features, Mr. Bohler testified that the Applicant will comply. Mr. Bohler stated that the Applicant will perform truck tire washing on site which is referenced in the Board Engineer's July 22, 2022 letter at comment 1(g)(i). He further testified that the Applicant will comply with street sweeping as required by the Town as set forth in comment 1(g)(iv) of the Board Engineer's July 22, 2022 letter. Mr. Bohler testified that there have not been any changes in the architectural plans between preliminary site plan approval and the final approval application. The Board Engineer the said it would be appropriate to have a street sweeper on site at all times as required by the Town Ordinances and the Applicant engineer said the "small" street sweeper requirement is fine. Mr. Bohler completed his testimony by stating the Applicant will comply with all DEP stormwater requirements. The Board Engineer then commented that the resolution will have to include a requirement that all on site lighting is in compliance with the Town's lighting ordinances; and

WHEREAS, the Board was satisfied with Mr. Bohler'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, Richard Lev, L.S.R.P., the Applicant's environmental engineer, was offered as the second witness, who after being sworn and accepted as an environmental engineer based upon his C.V., which was marked as Exhibit "A-3," provided testimony on behalf of the Applicant. Mr. Lev testified that there are contaminants on the property and that there are some areas which have been identified as "hot spots" for remediation which will be completed. Mr. Lev testified that on the ground there will be penetrable pavement and lined basins which prevents infiltration, protects the environment and complies with DEP regulations. The Board Engineer asked if the capping and remediation plan is consistent with DEP regulations for non-residential property which Mr. Lev said was the case. As for the proposed landscaping and hardscaping of the site, Mr. Lev opined that the proposal was appropriate for the site. He further testified that the environmental remediation will be recorded in the property deed; and

WHEREAS, the Board was satisfied with Mr. Lev'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, John R. Wichner, P.E., the Applicant's engineer, was the third witness, who after being sworn and accepted as an engineering expert, based upon his C.V. which was marked as Exhibit "A-

4,” provided testimony on behalf of the Applicant. Mr. Wichner testified that a revised traffic study was submitted to the Board after the application was preliminarily approval. He said that the Applicant is agreeable to a left turn prohibition at McKean Street. He further stated that he reviewed the Board Engineer’s July 22, 2022, specifically pages 44-45, which address trip generation. As to items 3a, 3b and 3d, Mr. Wichner stated that those issues have been addressed with the revised traffic study. As for item 3c, it was addressed satisfactorily to the Board Engineer based upon Mr. Wichner’s testimony; and

WHEREAS, the Board was satisfied with Mr. Wichner’s testimony such that the Board did not have any additional questions or comments; and

WHEREAS, Oliver H. Franklin, Sr., RA, the Applicant’s architect, was the fourth witness, who after being sworn and accepted as an architectural expert based upon his C.V., which was marked as Exhibit “A-5,” provided testimony on behalf of the Applicant. Mr. Franklin testified with the use of a floor plan drawing that was marked as Exhibit “A-6” and an elevations sheet that was marked as Exhibit “A-7.” He testified that the Applicant addressed industrial design standards, including retained prevailing façade setbacks (similar to properties opposite the site). He testified that the loading areas will not face or exit directly onto the street; that parking is located on the sides of building; that the trash removal area will be screened in the rear of the property; and that the rear loading docks will be screened from both the walking trail adjacent to the property and the Delaware River. He further testified that building the main entrance off Howard Street is not practical because of finished slab elevation and the Howard Street slope. For this reason, the Applicant proposed two future office locations on the northwest and northeast corners of the building, with their entrances facing east and west - which allows for direct entry and access to parking. Mr. Franklin then reviewed elevations for each façade. The west and east ends of the building are defined with raised parapets, intermittent painted banding, and windows and maroon infill color highlighting the office block. These raised parapets occur every two hundred feet with a maroon field and dark grey band. The intermediate color pattern continues every two hundred feet in between. There are clear story windows every fifty feet. Primary office entrances are highlighted by storefront-style double door entry with office windows flanking either side in a field of maroon, with a dark grey vertical band accentuating the entrance.

Mr. Franklin further testified that the fire department connections are proposed on the north and west sides of the building which are consistent with the Fire Chief’s July 25, 2022 and August 5, 2022 letters. Mr. Franklin then testified that he reviewed the Board Engineer’s July 22, 2022, to wit, pages 45-46, items under “Architectural Plans” and stated that the Applicant will comply with the technical comments contained therein. He also stated that the project will not be built to environmental green certification standards. Mr. Franklin then used Exhibit “A-8,” which is a color rendering of “eye level view” to testify that the building’s design is consistent with the development design intent by maintaining the base course with

color and reveals, cornice (parapet lines) and horizontal lines of fenestration, which break the wall surface into smaller components and humanize the building's scale. Mr. Franklin further testified that all entrances to the building are defined and articulated by architectural elements, different paint coloring, banding, storefront and flanking office windows; and

WHEREAS, the Board was satisfied with Mr. Franklin's testimony such that the Board did not have any questions or comments; and

WHEREAS, the Town of Phillipsburg Fire Chief's August 5, 2022 letter was moved by Mr. Peck into evidence and was received by the Board as Exhibit "A-9;" and

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

WHEREAS, the Board Chairman then asked for public comment and received comment from two individuals. There was comment from Mr. Kevin Keyser who owns property on South Main Street and who expressed concerns about environmental conditions on the site. He was adamantly opposed to the application. There was a second comment from David Morrisette who urged the Board to delay voting on the Application until the Board's regularly-scheduled meeting on September 22, 2022, because he stated that the lawsuit, of which he is a named-plaintiff, against the Town of Phillipsburg that is pending in the Superior Court of New Jersey and which seeks to invalidate Phillipsburg Town Council Resolution No. 2021-14, is expected to be decided by the Court within a few weeks. According to Mr. Morrisette there is no harm to all interested parties if the Board were to delay its vote on the application until that meeting whereas if the Board were to vote in favor of the application and the Resolution No. 2021-14 were invalidated by the Court, then all of the Board's efforts on this application will have been for naught. There was no further public comment; and

WHEREAS, the Board considered all of the preceding;

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 subject property is located in the Town of Phillipsburg Riverfront Redevelopment Zone, Districts 3 and 5.
2. The Town Council passed Resolution 2021-14 which is incorporated by reference herein.
3. N.J.S. 40:55D-1, *et. seq.*, the "New Jersey Municipal Land Use Law," provides for review and Approval of Preliminary and Final Conventional/Major Site Plans by the Board.

4. The "Town of Phillipsburg's Site Plan Ordinance of 1979" provides for review and Approval of Preliminary and Final Conventional/Major Site Plans by the Board, pursuant to L.O. 510-1, *et. seq.*
5. The Applicant must obtain Preliminary and Conventional/Final Major Site Plan Approval from the Board before it develops the subject property.
6. On January 27, 2022, the Board granted the Applicant Preliminary Conventional/Major Site Plan Approval and Bulk Variance Approval which was memorialized in Board Resolution No. 2022-2, on February 22, 2022, and which is incorporated by reference herein;
7. The Board has the authority to grant waivers from the provisions of Chapter 510 of the Town of Phillipsburg's Ordinances, to wit, the "Town of Phillipsburg's Site Plan Ordinance of 1979," pursuant to N.J.S. 40:55D-51.
8. N.J.S. 40:55D-51(b) states: "The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions of the site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question."
9. 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.
10. The Board has authority to grant variances from the provisions of N.J.S. 40:55D-1, *et. seq.*, the "New Jersey Municipal Land Use Law," pursuant to N.J.S. 40:55D-70 and pursuant Section 555-22 of the "Town of Phillipsburg's Site Plan Review Ordinance of 1979."
11. A variance is a deviation from the strict application of Chapter 625 of the Town of Phillipsburg's Ordinances, *to wit*, the "Town of Phillipsburg Zoning Ordinance," as set forth therein pursuant to N.J.S. 40:55D-62, *et. seq.*, and the regulations established thereto.

12. It has been acknowledged by the Board that temporary waivers of the requirements be granted as to each of the items contained in the Board's Engineer's July 22, 2022 letter.
13. The Board finds that the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances thereby authorizing the granting of waivers as requested by the Applicant.
14. The Board finds that, in all other respects, the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances.
15. The Board finds that the Applicant's Site Plan is consistent with the "Town of Phillipsburg's Site Plan Ordinance of 1979."
16. The Board finds that the Applicant's Site Plan is not inconsistent with the Town's Master Plan.
17. The Board finds that benefits of the Site Plan to the Master Plan and to the Town citizenry outweighs any detriments to the same.
18. The Board finds that the Applicant's Site Plan is consistent with N.J.S. 40:55D-1, et. seq., the "New Jersey Municipal Land Use Law."

NOW THEREFORE, BE IT FURTHER RESOLVED THAT the Applicant's request for the Permanent Waiver and Final Conventional/Major Site Plan approval, is hereby **GRANTED**, on Motion of Mr. Brotzman and Seconded by Mr. Penrose:

ROLL CALL VOTE

Ayes: Mr. Zwicker, Mr. Turnbull, Mr. Hanisak, Mr. Penrose and Mr. Brotzman.
Nays: None.
Abstentions: None.
Recused: Chairman Duffy, Mayor Tersigni and Mr. Kennedy.

AND IT IS FURTHER RESOLVED THAT the Applicant's request for Final Conventional/Major Site Plan approval for the construction of an industrial building of approximately four hundred and twenty thousand square feet (420,000') for the property identified on the Town Tax Map as Block 2102, Lot 2.02, with a street address of 170 Howard Street, Phillipsburg, Warren County, with three hundred and fifty-two (352) passenger car parking spaces, eighty-eight (88) loading docks and thirty-nine (39) spaces for trailer parking on the property known as Block 2101, Lot 2.02, located in the Town of Phillipsburg Riverfront Redevelopment Zone, District 5, and to raze the existing structures which are

located on the properties known as 560 and 562 South Main Street and identified on the Town Tax Map as Block 2015, Lots 1 and 3, in order construct roadway improvements, is granted subject to the express and unaltered conformation with the following conditions:

1. The Applicant shall be bound to comply, strictly and without deviation, with all comments contained in the Board Engineer's review letters dated May 20, 2022, and July 22, 2022, as modified at the August 25, 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. The Applicant shall ensure that the building is constructed and erected in strict compliance with the Site Plan with the understanding that any deviation therefrom which is deemed by the Board's Engineer's to be a significant deviation from the Plan hereby approved shall require further review and approval by this Board.

3. The Applicant shall apply for, and obtain, approval from all other agencies and governmental bodies which may have concurrent jurisdiction over this project including, but not limited to, the New Jersey Department of Environmental Protection, the United States Environmental Protection Agency, the United States Fish and Wildlife Service, the Town of Phillipsburg Fire Chief, the Town of Phillipsburg Chief of Police, the Warren County Planning Board, the Warren County Soil Conservation District, the Warren County Board of Health, the Phillipsburg Sewer Utility, the Shade Tree Commission of the Town of Phillipsburg, the New Jersey Department of Transportation, Elizabethtown Gas, Aqua New Jersey and Jersey Central Power & Light ("JCP&L").

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

5. The Applicant shall schedule a pre-construction conference with the Town Engineer's office at least two days prior to commencement of construction.

6. The Applicant shall pay all outstanding fees and deficiencies in the review escrow account and bring current all real estate taxes, sewer and water charges pertaining to this site before the commencement of construction.

7. The Applicant shall pay all real estate taxes, sewer and water charges pertaining to this site as they come due.

8. The Applicant shall have an on-site lighting plan which is in compliance with the Town's lighting ordinances.

9. The Applicant shall comply with the New Jersey Stormwater Management Regulations, to wit, N.J.A.C. 7:8-1, *et. seq.*

10. The Applicant shall comply with the Town of Phillipsburg's Stormwater Ordinances, to wit, L.O. 535-1, *et. seq.*
11. The Applicant shall comply with the Stormwater Management Report prepared by Bohler Engineering, LLC, dated March of 2022, to the extent the same is not inconsistent with New Jersey Stormwater Management Regulations and Phillipsburg's Stormwater Ordinances.
12. The Applicant shall comply with the Stormwater Management Facility Operations & Maintenance Manual, prepared by Bohler Engineering, LLC, dated March of 2022, to the extent the same is not inconsistent with New Jersey Stormwater Management Regulations and Phillipsburg's Stormwater Ordinances.
13. The Applicant shall comply with the Town of Phillipsburg's Soil Implementation and Placement Ordinances, to wit, L.O. 520-1, *et. seq.*
14. All necessary and proposed easements must 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 and must be recorded with the Warren County Clerk with proof of recording provided to the Board.
15. The Applicant shall record a property deed which reflects the environmental remediation that takes on the property with said language in the deed being approved by the Board's attorney and the Board's engineer and must be recorded with the Warren County Clerk with proof of recording provided to the Board prior to the issuance of a Certificate of Occupancy.
16. The Applicant shall not cause any work on the site to occur after dusk and before dawn without the express approval of the Town Council.
17. The Applicant shall not cause any blasting to occur on the site without prior approval from the Board Engineer.
18. The Applicant shall erect a six-foot (6') fence around the entire site prior to demolition and clearance of the site.
19. The Applicant shall indemnify and hold harmless the Town of Phillipsburg from any costs charged by JCP&L for any costs related to the relocation of power lines.
20. The Applicant shall provide an uninterrupted power supply to the site from JCP&L.
21. The Applicant shall obtain approvals from the New Jersey Department of Environmental Protection, the United States Environmental Protection Agency, the United States Fish and Wildlife Service and/or any other governmental agencies or departments prior to removal of trees and vegetation as the site is a potential habitat for protected species.
22. The Applicant shall erect a silt fence off the property line of the Town owned park which is adjacent to the site.

23. The Applicant shall obtain approval from the Town Council and the New Jersey Department of Environmental Protection prior to proposed construction which disturbs and/or affects the Town owned park which is adjacent to the site as the park is protected by the New Jersey Department of Environmental Protection's Green Acres Program.

24. The Applicant shall obtain approval from the New Jersey Department of Transportation and the owner of the railroad which is adjacent to the site prior to construction which disturbs and/or affects the railroad property.

25. The Applicant shall install "no parking" striping and signage along the entire frontage of the site in accordance with the directions of the Town of Phillipsburg Fire Chief and the Town of Phillipsburg Construction Official.

26. The Applicant shall install a sidewalk along the entire frontage of the site.

27. The Applicant shall provide a guiderail warrant analysis for the Howard Street frontage.

28. The Applicant shall request enforcement of New Jersey Statutes Title 39 enforcement from the Town of Phillipsburg.

29. The Applicant shall erect an eight-foot (8') fence along the length of the loading dock to screen the loading dock from the adjacent property and the Delaware River.

30. The Applicant shall provide turning movements throughout the site and the surrounding streets.

31. The Applicant shall provide proof that flood hazard areas have been reviewed and approved by the New Jersey Department of Environmental Protection and shall mark site plans accordingly.

32. The Applicant shall provide approval from the New Jersey Department of Environmental Protection regarding the "fill and cut" within the potential flood hazard areas.

33. The Applicant shall provide proof through hydraulic modeling of sufficient water flow for fire department use prior to occupancy to the satisfaction of the Town of Phillipsburg fire sub-code official and the Town of Phillipsburg Fire Chief.

34. The Applicant shall ensure that the on-site fire hydrants be the responsibility of the property owner and shall not be the responsibility of the Town.

35. The Applicant shall obtain the approval of the Town of Phillipsburg Fire Chief with regard to the number, location, size and color of all fire hydrants on site.

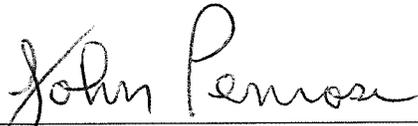
36. The Applicant shall mark the curb line along the entire rear of the proposed building as "no parking/fire lane."

37. The Applicant shall install fire hydrants at the McKean Street extension and the Howard Street extension in the event that the Howard Street extension is constructed occupancy to the satisfaction of the Town of Phillipsburg fire sub-code official and the Town of Phillipsburg Fire Chief.

38. The Applicant shall provide environmental clean-up requirements and assessments.
39. The Applicant shall provide proof that the environmental clean-up requirements will not impact the stormwater management.
40. The Applicant shall provide proof of soil testing from the New Jersey Department of Environmental Protection.
41. The Applicant shall obtain an occupation agreement from the owner of the railroad which grants the Applicant permission to cross railroad property in order to install and to maintain the proposed extension of the existing eighteen-inch (18") sewer and stormwater outfall with said language in the occupation agreement being approved by the Board's attorney and the Board's engineer and a fully executed copy of said agreement must be provided to the Board.
42. The Applicant shall provide proof that all pervious pavement complies with the New Jersey Department of Environmental Protection Regulations' Best Management Practices.
43. The Applicant shall provide proof that storage and application on-site of de-icing materials complies with the New Jersey Department of Environmental Protection Regulations' Best Management Practices.
44. The Applicant shall provide an overall analysis/report that all its Stormwater Management Plan complies with the New Jersey Department of Environmental Protection Regulations' Best Management Practices.
45. The Applicant shall provide a traffic impact and circulation verification study upon completion of construction and occupancy of building.
46. The Applicant shall document its compliance with the conditions of this Resolution and shall submit proof of said compliance upon the request of the Board.
47. Any portion of any prior Site Plan approvals are hereby vacated to the extent they may be inconsistent with this Site Plan.
48. The Board recommends to the Town Council, as the redevelopment authority, that it require the Applicant to extend Howard Street as set forth in the Consistency Review Report entitled: "Proposed Amendment to the Riverfront Redevelopment Plan," dated February 25, 2021, which was prepared by Town Planner Angela Knowles, at the direction of this Board, upon referral from the Town Council in its Resolution No. 2021-14.

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Planning Board was duly adopted at its regular meeting on the 25^h day of August, 2022, by a majority of the aforesaid members approving the oral approval for the contents herein on September 22, 2022.

Dated: September 22, 2022


JOHN PENROSE, Temporary Vice-Chairman